

# A BILL

## To

Amend the Human Organ Transplant Ordinance to provide that a donor is not to be regarded as having given consent to a proposed organ removal with the offer of inducement only because the consent has been given in consideration of a proposed organ transplant into a person chosen by the donor under a donation arrangement.

Enacted by the Legislative Council.

**1. Short title**

This Ordinance may be cited as the Human Organ Transplant (Amendment) Ordinance 2018.

**2. Human Organ Transplant Ordinance amended**

The Human Organ Transplant Ordinance (Cap. 465) is amended as set out in section 3.

**3. Section 5DA added**

After section 5D—

**Add****“5DA. Consent given in donation arrangement**

- (1) This section applies in determining, for the purposes of the board’s approval in writing under section 5C, whether the donor of a dyad in a donation arrangement has given the donor’s consent without the offer of inducement as required by section 5D(1)(c).
- (2) The donor is not to be regarded as having given consent with the offer of inducement only because the donor’s consent has been given in consideration of a proposed transplant into the beneficiary of the dyad of an organ removed from the donor of another dyad in the donation arrangement.

- (3) In this section—

**beneficiary** (受益人), in relation to a dyad in a donation arrangement, means a person who is chosen by the dyad’s donor as the recipient in relation to the donor of another dyad in the arrangement;

**donation arrangement** (捐贈安排) means a paired donation arrangement or a pooled donation arrangement;

**dyad** (兩人組合) means a group of 2 persons consisting of a donor and a beneficiary;

**paired donation arrangement** (配對捐贈安排) means an arrangement between 2 dyads under which—

- (a) an organ is to be removed from each dyad’s donor for transplant into the beneficiary of the other dyad;

- (b) each removal and each transplant is to be carried out by a registered medical practitioner in Hong Kong; and
- (c) the organs to be removed and transplanted are of the same kind;

***pooled donation arrangement*** (匯集捐贈安排) means an arrangement among 3 or more dyads under which—

- (a) for each dyad—
    - (i) an organ is to be removed from the dyad's donor for transplant into the beneficiary of any other dyad; and
    - (ii) an organ is to be transplanted into the dyad's beneficiary from the donor of any other dyad;
  - (b) each removal and each transplant is to be carried out by a registered medical practitioner in Hong Kong; and
  - (c) the organs to be removed and transplanted are of the same kind.”.
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### **Explanatory Memorandum**

Under the Human Organ Transplant Ordinance (Cap. 465) (*Ordinance*), one requirement for a transplant with the prior approval of the Human Organ Transplant Board is that the donor has given consent to the proposed organ removal without offer of inducement (sections 5C(2)(b) and 5D(1)(c) of the Ordinance). The object of this Bill is to amend the Ordinance to provide that a donor is not to be regarded as having given consent with an offer of inducement only because the consent has been given in consideration of a proposed organ transplant into a person chosen by the donor under a paired or pooled donation arrangement.

2. Clause 1 sets out the short title.
3. Clause 3 adds a new section 5DA to the Ordinance to provide that a dyad's donor in a paired or pooled donation arrangement is not to be regarded as having given consent to a proposed organ removal with the offer of inducement only because the consent has been given in consideration of a proposed transplant into the dyad's beneficiary of an organ removed from the donor of another dyad in the arrangement.