

Israel Transplant Law - ORGAN TRANSPLANT ACT, 2008

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SECTION 1: DEFINITIONS

Definitions	1. In this Act — "organ" — a human organ or part of one, or human tissue, which can be transplanted, excluding blood, bone marrow, ova and sperm;
	"hospital" — within the meaning of the People's Health Ordinance;
	"National Forensic Medicine Center" — the Ministry of Health's Forensic Medicine Center;
	"Director-General" — the Director-General of the Ministry of Health or whoever he authorizes for the purposes of this Act;
	"the Transplant Center" — The transplant center established under Section 3 of this Act;
	"organ transplant" — the transplanting of an organ removed from a donor or removed under the Anatomy and Pathology Act, into the body of a recipient;
	"Control and Quality Board" — as defined by Article 22 of the Patients' Rights Act;
	"Evaluation Board" — a Local Evaluation Board and the Central Evaluation Board;

	“Local Evaluation Board” — a board established under the provisions of Clause 14(a) of this Act;
	“Central Evaluation Board” — the board established under the provisions of Clause 14(b) of this Act;
	"Anatomy and Pathology Act" — the Anatomy and Pathology Act, 5763-1953;
	"Patients' Rights Act" — the Patients' Rights Act, 5756-1996;
	"legally incapacitated person" — within the meaning of Article 80 of the Legal Capacity and Guardianship Act, 5722-1962;
	"database" — the database established under Section 7 of this Act;
	"patient" — within the meaning of the Patients' Rights Act;
	"approved medical center" — a hospital whose terms of registration under the People’s Health Ordinance permit it to remove or transplant organs, and with respect to the removal of organs under the Anatomy and Pathology Act — also the National Forensic Medicine Center;
	"organ removal" — the act of removing an organ from a donor or of removing an organ under the Anatomy and Pathology Act for the purpose of transplanting it into the body of a recipient;
	"recipient" — a person needing an organ transplanted into his body for medical reasons;
	"People’s Health Ordinance" — the People’s Health Ordinance, 1940;
	"Physicians' Ordinance" — the Physicians' Ordinance [New Version], 5737-1976;

	"a relative" — a spouse, including a common-law spouse, parent, son or daughter, brother or sister, grandfather or grandmother, grandson or granddaughter, uncle or aunt, cousin, nephew or niece;
	"physician" — a physician qualified under the provisions of the Physicians' Ordinance;
	“consultant physician” — a physician who, on behalf of an approved medical center and in coordination with a transplant coordinator within the meaning of Article 12 of this Act, is responsible for giving medical advice and instruction on the care and treatment of donors;
	"specialist" — a physician qualified as a specialist under the provisions of the Physicians' Ordinance;
	"donor" - a person willing to make a live donation of one of his organs for transplant into the body of a recipient;
	“reward” — money, a money equivalent, a service or a benefit of any other kind;
	"the Minister" — the Minister of Health.

SECTION 2: PROHIBITED ACTIVITIES

The Specificity of this Act's Provisions and the Preservation of Other Laws	2. (a) No organ shall be removed or transplanted other than under the provisions of this Act. (b) Nothing in the provisions of this Act shall subtract from the provisions of the Anatomy and Pathology Act.
Prohibition on Trade in Organs	3. (a) No person shall receive a reward for an organ removed from his body or from the body of another person, or designated to be so removed, regardless of whether the removal be performed during the lifetime of the person or after his death.

	<p>(b) No person shall give a reward for an organ transplanted into his or another's body, or that is designated to be so transplanted.</p> <p>(c) For the purpose of this Article 3 none of the following shall be regarded as rewards:</p> <p>(1) The agreement of one person to make a live donation of an organ to a second person in return for the agreement of a relative or acquaintance of that second person to donate an organ to a relative or acquaintance of the first person;</p> <p>(2) The payment and reimbursement of expenses made to the donor under Article 22 of this Act;</p> <p>(3) A reward given by a corporation recognized by the Minister under Article 29 of this Act.</p> <p>(4) Payment of burial and transportation costs (by air or otherwise) for the body of a person, whose organs were removed after death for transplant, under the provisions of Article 30 of this Act.</p>
Prohibition on Brokering	<p>4. No person shall act as a broker between donor and recipient, directly or indirectly, for the removal or transplant of an organ, if a reward of the sort prohibited under Article 3 of this Act has been promised to another person for the organ's removal, nor shall anyone receive a reward for brokerage in the said circumstances.</p>
Qualifications to the Preceding Prohibitions	<p>5. Nothing in the provisions of this Act shall prohibit organ transplantation conducted outside Israel, including the contribution of an Israeli entity to funding such transplantation, provided both the following conditions are met:</p> <p>(1) The organ removal and transplant are carried out under the laws of the foreign country;</p> <p>(2) The provisions of this Act with regard to the trade in organs are met.</p>
Import and Export of Cadaver-Harvested	<p>6. No organ shall be brought into or taken out of Israel for the purpose of transplant into a human being other than in accordance with the directives laid down by the Minister of Health in consultation with</p>

Organs to and from Israel	the Minister of Foreign Affairs, and with the approval of the Knesset Labor, Welfare and Health Committee, unless the organ has been removed from a human body after death under the law of the state in which the organ was removed, and, if removed in Israel, under the Anatomy and Pathology Act.
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SECTION 3: THE TRANSPLANT CENTER

The Transplant Center	<p>7. (a) A national center to deal with transplants shall be established within the Ministry of Health; its purpose shall be to use all means to expand the extent of organ donation and transplant in Israel.</p> <p>(b) The Transplant Center's budget shall be fixed in the annual Budget Act as a separate program within the Ministry of Health budget; "Budget Act" and "program" —as defined in the annual Budget Act within the meaning of the Budget Foundations Act, 1985, (in this Act — the Budget Foundations Act).</p>
Duties of the Transplant Center	<p>8. The Transplant Center shall exercise oversight and control over the removal and transplant of organs, this to include:</p> <p>(1) To maintain the database;</p> <p>(2) To receive and process recipients' applications for registration in the database;</p> <p>(3) Under the provisions of Clause 26(b), to locate a suitable recipient for an organ removed under the Anatomy and Pathology Act or for an organ brought to Israel under Section 6 of this Act, in accordance with the Steering Committee's directives as laid down in Clause 9(b)(4), and to issue approval for the said transplant;</p>

	<p>(4) To collaborate with foreign countries and organizations with respect to the removal and transplant of organs;</p> <p>(5) To conduct public information/education activities to encourage the lawful donation of organs;</p> <p>(6) To carry out quality control measures in approved medical centers regarding the removal and transplant of organs;</p> <p>(7) To encouraging research and specialist training in the field of organ removal and transplantation;</p> <p>(8) To coordinate activities among approved medical centers, including their consultant physicians, these activities to include the preservation of transplant-designated organs until their removal and making available to approved medical centers where an organ is to be removed all means and services required for the said organ removal;</p> <p>(9) To carry out any other activity relating to organ removal and transplant required of the Transplant Center by the Director-General.</p>
<p>Steering Committee</p>	<p>9. (a) The Minister shall appoint a Steering Committee for the Transplant Center, of not less than ten and not more than 17 members, to include:</p> <p>(1) The committee chairman — a specialist of at least ten years experience in medicine;</p>

(2) The Transplant Center Director, appointed under Section 10 of this Act;

(3) At least two specialists with experience in organ transplants or in research in that field, at least one of whom shall be a physician from a non-government-owned hospital;

(4) At least one registered nurse employed by the Ministry of Health as a transplant coordinator in the Transplant Center;

(5) A minister of religion or other religious figure, appointed after consultation with Israel's Chief Rabbis;

(6) An attorney not in state employ and qualified to be appointed a District Court judge;

(7) At least two persons from the following fields of occupation—psychology, social work and medical ethics;

(8) A patients' representative, to be appointed from candidates put forward by patients' organizations;

(b) The Steering Committee's duties shall be as follows:

(1) To advise the Minister on all matters related to national policy making on organ removal and transplant;

(2) To draw up an annual plan of action for the Transplant Center and to submit it to the Minister for approval;

(3) To receive reports from the Transplant Center Director on the implementation of the approved annual action plan, and on the work of the Evaluation Boards, and to report to the Minister on the implementation of the said action plan; the Minister shall pass a copy of the aforementioned reports to the Knesset Labor, Welfare and Health Committee;

(4) To draw up directives in the matter of the allocation of organs removed under the Anatomy and Pathology Act or organs brought to Israel under Section 6 of this Act, provided that at the time of said allocation the following considerations, inter alia, be taken into account:

(a) The consent of a person during his life to the removal of an organ after his death, as set out in Article 28 of this Act, should he or a first-degree relative need a transplant;

(b) An organ donation under the Anatomy and Pathology Act, should a first-degree relative need a transplant;

(c) The live donation of an organ to an unspecified recipient, should the donor or a first-degree relative need a transplant;

(5) To review reports submitted by the inspecting physician appointed under Clause 12(a)(2) of this Act and to make recommendations to the Director-General in response to the said reports;

(6) To advise the Minister and Director-General on any matter relating to organ removal and transplant, as they may request.

(c) The chairman of the Steering Committee shall convene the committee at least once in three months, and also whenever the need arises or whenever requested to do so by the Director-General or by three members of the Committee.

(d) Decisions of the Steering Committee shall be taken by a majority of the members present.

(e) The Steering Committee shall determine its own operational procedures, including the size of a legal quorum, insofar as these have not been already determined by the Director-General.

(f) The members of the Steering Committee, other than the Transplant Center Director, shall serve for a period of four years; the Minister may reappoint a member for a further four years provided that, after two consecutive terms of membership, no member is appointed a third time before an interval of four years has elapsed.

(g) The directives aforementioned in Clause 9(b)(4) shall be, after their approval by the Director-General, published in the Official Gazette.

(h) The Director-General shall appoint a Quality Control Board, made up of the Steering committee chairman (who shall also chair the Board) and of the physicians on the Steering Committee appointed under Clause 9(a)(3); the Board shall inspect the quality of the approved medical centers' medical work in the field of organ removal and transplant and submit an annual report on this to the Director-General.

<p>The Transplant Center Director</p>	<p>10. (a) The Minister, in accordance with the provisions of the Civil Service Act [Appointments], 5719-1959, shall appoint a director of the Transplant Center (hereafter — the Center Director).</p> <p>(b) The Center Director shall carry out the duties designated him under this Act and shall be responsible for the direction of the Transplant Center and for the ongoing performance of its duties; in performing his own duties the Center Director shall follow the annual action plan approved by the Minister and shall be subordinate in all organizational and management matters relating to the Center to the directives given him by the Director-General, and in all professional matters to the decisions of the Steering Committee.</p>
<p>Access to Records</p>	<p>11. (a) In pursuance of their duties, the Director-General, the Center Director and Steering Committee members may examine the protocols of any Evaluation Board, as well as any document submitted to it, and may also examine the protocols and medical records maintained by any approved medical center relating to organ removal and transplant.</p> <p>(b) The directors Prof. approved medical centers and their staff shall cooperate with the Director-General, the Center Director and Steering Committee members, as the case may be, to facilitate the exercise of the powers aforementioned in Clause 11(a).</p>
<p>Transplant Coordinator and Quality Control Inspector</p>	<p>12. (a) The Center Director shall, from among Center staff, make the following appointments:</p> <p>(1) Registered nurses as Transplant Coordinators (in this Act — a transplant coordinator) in approved medical centers, whose job will be to coordinate between the Transplant Center, their approved medical center and other approved medical centers in the field of organ removal and transplant, this to be in accordance with the extent of transplant activity and the likelihood of locating organs for transplant in the medical centers; the Center Director shall notify every approved</p>

	<p>medical center who is the transplant coordinator responsible for that medical center;</p> <p>(2) A specialist physician to act as inspecting physician (in this Act — inspecting physician) with the following duties:</p> <p>(a) to examine the quality of operational procedures in the field of organ removal and transplant, from the locating of deceased persons whose organs could be suitable for transplant through to completion of removal and transplant procedures;</p> <p>(b) to submit reports to the Center Director and the Steering Committee, as to the use of all possible means to encourage organ donation in approved medical centers.</p> <p>(b) In pursuance of their duties, Transplant Coordinators, the Inspecting Physician and the Quality Control Board may examine the protocols and medical records maintained by any approved medical center relating to organ removal and transplant, including material on the medical condition of an organ recipient, and also obtain any other pertinent information they require; the Quality Control Board may also be given the information passed to the Center Director under Article 31.</p> <p>(c) Directors of approved medical centers and their staff shall cooperate with Transplant Coordinators, the Inspecting Physician, the Consultant Physician and the Quality Control Board to facilitate the performance of their duties in approved medical centers.</p>
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**SECTION 4: THE TRANSPLANT OF ORGANS REMOVED
FROM LIVING DONORS**

<p>Application to Donate an Organ</p>	<p>13. (a) A donor wishing to donate one of his organs for transplant into a particular recipient, and whom an approved medical center has found medically eligible for donating an organ to the said recipient, shall submit an application in accordance with the provisions of this Article for the approval of such an organ removal.</p> <p>(b) Applications to remove an organ from the body of a donor for transplant into a relative shall be submitted to the Local Evaluation Board in the approved medical center in which the removal and transplant of the organ is to take place.</p> <p>(c) Applications to remove an organ from the body of a donor for transplant into a non-relative and such applications when the donor is not a resident of Israel, shall be submitted to the Central Evaluation Board.</p> <p>(d) Applications under this Article shall be submitted on the application form designated by the Minister.</p> <p>(e) In this Section, “relative”— includes relatives and also a brother-in-law and sister-in-law.</p>
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<p>Evaluation Boards</p>	<p>14. (a) The director of an approved medical center shall, with the approval of the Transplant Center Director, appoint a five-member Local Evaluation Board to discuss and decide on applications to remove an organ from the body of an Israeli-resident donor for transplant into a relative.</p> <p>(b) The Transplant Center Director shall, with the approval of the Director-General, appoint a five-member Central Evaluation Board to discuss and decide on applications to remove an organ from the body of a donor for transplant into a non-relative, as well as applications to</p>
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	<p>remove an organ from the body of a non-Israeli-resident donor; the Director-General shall appoint fixed stand-ins for the members of the Central Evaluation Board.</p> <p>(c) The membership of the Local and Central Evaluation Boards shall be as follows:</p> <p>(1) Chairman — a specialist physician and head of a hospital department or unit not performing transplants;</p> <p>(2) A psychiatrist or clinical psychologist with a specialist qualification under the Psychologists Act, 5737-1977;</p> <p>(3) A social worker within the meaning of the Social Workers Act, 5756-1996;</p> <p>(4) A representative of the public: — the donor may request that the representative of the public who will hear his application shall be as far as possible of the same religious, social or cultural grouping as the donor.</p> <p>(5) An attorney, qualified to be appointed a District Court judge.</p> <p>(d) The membership term for Evaluation Board members shall be four years from the date of their appointment and no person may serve more than three such terms.</p>
<p>Conditions for Approving a Donor Application</p>	<p>15. An Evaluation Board shall disqualify an application to remove an organ from a donor unless it is satisfied that all the following obtain:</p>

	<p>(1) The donor is medically and mentally fit to make a live donation and nothing in his physical or mental condition raises the fear that the risk of the donation to his health or functioning is greater than the risk such a procedure normally incurs;</p> <p>(2) The donor has given his consent with a clear mind and of his free will, and not as the result of family, social, economic or other pressure;</p> <p>(3) Donor and recipient have given their informed consent to the medical procedures associated with organ removal and transplant, as required under Article 13 of the Patients' Rights Act;</p> <p>(4) The donor has not given his consent in return for reward or the promise of reward, of the kinds prohibited under Article 3 of this Act, nor for the purpose of receiving payment and reimbursement of expenses under Article 22 of this Act;</p> <p>(5) The donor understands that he may revoke his consent at any time before the organ is removed and that he shall bear no civil or criminal responsibility for this revoking of his consent;</p> <p>(6) The recipient is medically and mentally eligible for transplant;</p> <p>(7) There is no other impediment to granting the application, including the donor's marital status.</p>
<p>Evaluation Board Powers</p>	<p>16. (a) To ensure that the conditions listed in Article 15 above have been met an Evaluation Board shall request donor and recipient to undergo a medical and psychological examination.</p>

	<p>(b) Without detracting from the provisions of Clause 16(a), the Board may ask donor and recipient to undergo a social examination; the Board may inspect any medical, psychological or social materials relating to donor and recipient, as well as any other material passed to it by any other person, insofar as such information is needed for it to carry out its duties; it may also summon any person it sees fit, again insofar as this is required for it to carry out its duties.</p> <p>(c) Before an Evaluation Board issues its decision it shall summon donor and recipient to appear before it; if it wishes it may summon each to appear separately.</p> <p>(d) Evaluation Board decisions shall be taken by a majority of members present.</p> <p>(e) An Evaluation Board shall issue its decision within a maximum of sixty days from the date of the donor’s application under Article 13.</p> <p>(c) An Evaluation Board shall determine its own operational procedures, including what constitutes a quorum of its members, insofar as they have not already been determined by the Director-General.</p>
<p>Evaluation Board Decisions</p>	<p>17. (a) Should an Evaluation Board not be satisfied that the conditions set out in Article 15 have been met, in all or in part, it shall disqualify the application for organ removal and shall so notify donor and recipient.</p> <p>(1) Should an Evaluation Board be satisfied that the conditions set out in Article 15 have been met, it shall approve the organ-removal application and pass its decision, together with the grounds for it and all materials used in coming to that decision, to the Director-General for his approval.</p>

	<p>(2)Should the Director-General decide to approve the Board’s decision, he shall so inform the Transplant Center Director; should the Director-General not be satisfied that the conditions set out in Article 15 have been met, in all or in part, he shall disqualify the application for organ removal and shall so notify donor and recipient; the Director-General’s notification shall set out the reasons for his decision and shall be sent within seven days of the Evaluation Board having issued its approval for the application.</p> <p>(3)Should a Local Evaluation Board decide to approve a donor application against the objections of one of its members, that member may have the decision passed to the Central Evaluation Board for its verdict; should the Local Board’s decision have been so transferred, its own decision becomes null and void.</p> <p>(b) Once the Transplant Center Director has received notification from the Director-General under Clause 17(a)(2) above that a Local Evaluation Board’s decision has been approved, within 24 hours of receiving that notification he, or whoever he has authorized for this purpose, shall issue approval for the approved medical center to which the Local Evaluation Board belongs to remove and transplant the organ; should it be impossible to carry out the removal or transplant of the organ in the designated approved medical center, the Transplant Center Director, or whoever he has authorized for this purpose, shall designate which approved medical center shall remove or transplant the organ.</p> <p>(c) Once the Transplant Center Director has received notification from the Director-General under Clause 17(a)(2) above that the Central Evaluation Board’s decision has been approved, within 24 hours of receiving that notification he, or whoever he has authorized for this purpose, shall issue his approval for an approved medical center to remove and transplant the organ; in this Clause (17(c)), “approved medical center” means the medical center which removed the organ and the medical center which will transplant the organ.</p>
<p>The Right to Receive a Copy of a Decision</p>	<p>18.(a) Donor and recipient are entitled to receive, at their request, a copy of the results of the tests conducted on them under Clauses 16(a) and 16(b), also a copy of an Evaluation Board’s decision, and a copy of the Director-General’s reasoned decision under Clause 17(a)(2).</p>

		(b) The provisions of Clause 18(a) above notwithstanding, an Evaluation Board may withhold the grounds for its decision or the results of the tests conducted on donor or recipient, in all or in part, should it determine that the good of donor or recipient requires this; should an Evaluation Board decide to so withhold the grounds for its decision or the results of the said tests, it shall so notify the applicant.
Admin- istrative Appeal	19.	Any decision under this Section by an Evaluation Board or the Director-General may be appealed to the Court for Administrative Affairs.
Removing Organs from a Minor or Legally Incapacitated Person	20.	(a) The provisions of this Section of the Act shall not apply to minors or legally incapacitated persons. (b) Removing an organ for transplant from the live body of a minor or legally incapacitated person shall be carried out under the provisions of the Legal Capacity and Guardianship Act, 5722-1962, by means of an application to the Family Court; the Family Court shall not rule on the said application before receiving the Central Evaluation Board's formal opinion on the matter.

Donation to an Unspecified Recipient	21.	The provisions of this Section of the Act shall also apply, <i>mutatis mutandis</i> , to a donor willing to make a live donation of one of his organs for transplant into an unspecified recipient, and also with the following modifications: (1) The application for organ removal shall be submitted to the Central Evaluation Board; (2) The Central Evaluation Board shall not approve the application for organ removal unless the Transplant Center has confirmed to it that there is a medically suitable recipient for the donated organ; the said recipient shall be identified by the Transplant Center from its database and the provisions of Clause 26(b) of this Act shall apply, <i>mutatis mutandis</i> .
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<p>Payment and Reimbursement of Expenses</p>	<p>22. (a) With the consent of the Minister of Finance and the Knesset Labor, Welfare and Health Committee, the Minister of Health shall determine a uniform sum of money to be paid to all organ donors as compensation for the monetary loss reasonably attributable to the procedures associated with organ removal, and shall also determine rules and conditions for the reimbursement of the donor's expenses on the following —</p> <p>(1) Taking out private health care insurance, or procuring supplementary health care services under Article 10 of the National Health Insurance Act, 1994 (in this Act — the National Health Insurance Act), taking out insurance against loss of the ability to work or loss of earning power, taking out life insurance, all the above for a period and to an amount which shall be determined in the said manner;</p> <p>(2) Psychological care, under terms, for a period and to an amount which shall be determined in the said manner;</p> <p>(3) Convalescence immediately after the organ removal, under terms, for a period and to an amount which shall be determined in the said manner;</p> <p>(b) The uniform payment and reimbursement of expenses under this Article shall be paid to each donor through the agency of the Transplant Center, after removal of the organ, provided that the donor is a resident of Israel, and that he has a certificate from the Transplant Center certifying that he donated an organ for another's medical needs.</p> <p>(c) The provisions of Clause 22(a) notwithstanding, the Minister of Health, with the consent of the Minister of Finance and the approval of the Knesset Labor and Welfare Committee, may fix the monetary reimbursement for loss of earning power not at a flat rate for every donor.</p> <p>(d) Without detracting from the provisions of Clauses 22(a)-(c), for the purposes of Clause 8(a1)(2)(c)(6) of the National Health Insurance Act donors shall be deemed to be chronically ill.</p>

	(e) The uniform payment and reimbursement of expenses under this Article are not transferable, nor subject to attachment or lien.
Public Recognition for Donors	<p>23.(a) The Minister shall award each donor a Certificate of Recognition, to a formula to be determined.</p> <p>(b) Donors shall be exempt from entrance charges to national parks and nature reserves within the meaning of the National Parks, Nature Reserves, National Sites and Commemorative Sites Act, 1998, and to places regulated under Article 42 of the Antiquities Act, 1978.</p>

SECTION 5: THE TRANSPLANT OF ORGANS HARVESTED FROM CADAVERS

Application to Remove an Organ from a Cadaver

24.(a) Should a physician find that a patient needs an organ transplant, he shall inform him that he can register in the database for identifying cadaver-harvested organs suitable for transplant; should a patient desire to register in the database, he shall sign an application form to be determined by the Minister; the said form shall state whether the patient gave his consent to cadaver-harvesting as set out in Article 28, whether a first-degree relative donated the organ for harvesting after his death, or whether the patient or a first-degree relative made a live donation of an organ to an unspecified recipient.

(b) The physician shall send the duly signed form to the Transplant Center.

Minor or Legally Incapacitated

Recipients

25.(a) Should a physician find that a patient, who is a minor or legally incapacitated, requires an organ transplant, he shall, as far as possible, notify the minor or legally incapacitated person and their guardian; should the minor or legally incapacitated person have no guardian, the physician shall notify the person under whose care or custody the minor or legally incapacitated person lives and any other person that the minor or legally incapacitated person asks him to notify.

(b) An application to register in the database for identifying organs suitable for transplant shall be signed by the guardian of the minor or legally incapacitated person, and, in the absence of a guardian, by the person under whose care or custody the minor or legally incapacitated person lives, after that person has been notified under Clause 25a above; applications under Clause 25a shall be made on the form determined by the Minister.

(c) The physician shall send the duly signed form to the Transplant Center.

**Transplanting
Cadaver-Harvested
Organs**

26.(a) If the conditions of the Anatomy and Pathology Act for performing surgery on a cadaver and harvesting one of its organs for transplant into a recipient have been met, the director of the hospital in which the person died or in which the person's death was certified or to which the cadaver was brought, or the director of the Forensic Medicine Institute holding the cadaver, as the case may be, shall so notify the Transplant Center.

(b) Once the Transplant Center has received notification under Clause 26(a) above, the Center Director, or the person authorized by him for this purpose, shall locate a suitable recipient in the database, in accordance with the Steering Committee directives as aforesaid in Clause 9(b)(4) of this Act, and shall give his approval for the approved medical center designated by him to perform the transplant into that recipient.

(c) The provisions of Clause 26(b) above shall also apply, *mutatis mutandis*, to an organ removed from a cadaver outside Israel and brought to Israel under Article 6 of this Act.

**Organs Storable
Outside the Human
Body**

27.(a) An organ that can be stored outside the human body and which the Minister of Health has so designated by order, shall be stored in an organ bank, which the Director-General has given a hospital approval to administer under terms laid down by the Director-General in the said approval (in this article —‘a stored organ’).

(b) The provisions of Articles 24-26 shall not apply to the transplant of stored organs, unless the Minister of Health has determined otherwise in regulations promulgated under Sub-Clause 27(c) below.

(c) The Minister shall issue directives as to the transplantation of stored organs, including the following matters:

(1) The manner in which a recipient or a recipient's attending physician applies to have a stored organ identified for transplant into that recipient's body;

(2) The allocation of stored organs;

(3) The payment that an approved medical center transplanting a stored organ will make to the approved medical center administering the organ bank where the said organ had been stored, for the expenses of that storage.

Consent of a Person to the Post-Mortem Removal of one of his Organs

28.(a) The Transplant Center may, itself or via a body recognized by the Minister for the purpose, obtain the consent of living persons to the post-mortem removal of an organ from their body for the purpose of transplantation, and also their consent to their relative receiving a reward under Clause 29(c); after consulting with the Steering Committee, the Director-General shall determine how such consent shall be given, documented, and verified as genuine, and shall also determine the details of such consent, additional details that the consenter will be asked to provide and the way the consenter may withdraw from his given consent.

(b) For the purpose of obtaining consent as aforesaid in Clause 28(a) a minor aged 17 capable of expressing his wishes and not declared legally incapacitated shall be deemed competent to give consent, provided only that, should he die before becoming an adult,

the provisions of the Anatomy and Pathology Act shall apply as if he had not given his consent.

(c) Notification of the body recognized by the Minister under this Article shall be published in the Official Gazette.

Exception to the Prohibition of Reward

29.(a) A corporation approved by the Minister for the purposes of this Article (in this Act — an approved corporation) may give a reward to a living person, or to his relative — either during the person’s lifetime or after his death — for that person’s consent to the post-mortem removal of an organ from his body, of for his relative’s consent to the post-mortem removal of an organ from his body, but only under terms laid down by the Minister for approving that corporation; however, with respect to certain types of reward, the Minister may direct within the said terms of approval that no such reward shall not made to that person’s relative except with the person’s consent.

(b) A notice as to the corporation approved by the Minister under this Article shall be published in the Official Gazette.

(c) In this Section “corporation” does not include a corporation established in law, nor a budgetted body within the meaning of Article 21 of the Budget Foundations Act.

Paying the Costs of a Donor’s Burial and of Transporting his Body

30.The Transplant Center shall bear the costs of burying, in or outside Israel, a person whose organs have been harvested under the Anatomy and Pathology Act for the purpose of transplant into a recipient, and shall also bear the costs of transporting the donor’s body (by air or otherwise) but only if there is no other body required by law or agreement to bear the said costs, and in paying the said costs shall comply with rules to be laid down by the Director-General as part of Ministry of Health procedure.

SECTION 6: REPORTING REQUIREMENTS

Requirement to Report Harvesting

31.(a) Having removed or transplanted an organ, an approved medical center shall report the details of the harvesting or transplant and its

and Transplant of an Organ results to the Transplant Center; the Center Director may require the approved medical center to report further details regarding the conduct of the harvesting or transplant, and may also demand, from that approved medical center or other approved medical centers, any further information needed to follow-up on the condition of the organ donor or recipient.

(b) The Minister shall draw up directives for the implementation of this Article, including forms, procedures and a reporting schedule.

SECTION 7: THE DATABASE

The Database 32.A database shall be established at the Transplant Center and shall contain the following data:

(1) details of applications submitted to the Transplant Center by recipients under Section 5 of this Act;

(2) details of persons who have given consent under Article 28 of this Act .

Right of Access 33.The data in the database may be viewed by the Director-General, the Center Director, any Steering Committee member appointed under Article 9 of this Act, the consultant physician, and any Transplant Center staffer so authorized by the Center Director.

SECTION 8: MISCELLANEOUS

Revocation of Consent 34.A donor may revoke his consent to donate an organ at any time before the organ is removed and shall bear no civil or criminal liability for such a revocation.

Protection of Confidentiality 35.Anyone who in the pursuance of his duties or in the course of his work receives information under the provisions of this Act shall keep it confidential and not reveal it to another person, except inasmuch as it is required for carrying out the provisions of this Act, or the law, including the Patients' Rights Act, requires or permits this.

Penalties

36.(a) Anyone committing any of the following is liable to a penalty of three years' imprisonment or a fine as fixed by Section 61(a)(4) of the Penal Act, 5737-1977 (hereinafter – the Penal Act):

(1) Receiving reward for an organ removed or designated for removal from the body of another living person who is not his first-degree relative, in violation of the provisions of Article 3;

(2) Giving a reward for an organ transplanted or designated for transplant into another person who is not his first-degree relative, that organ having been removed from the body of a living person in violation of the provisions of Article 3;

(3) Brokering an arrangement between donor and recipient, directly or indirectly, for the removal or transplant of a prohibited organ in violation of the provisions of Article 4, or receiving reward for brokering in the said circumstances;

(4) Performing an organ removal or transplant without the approval of the Center Director, or the person authorized by him for this purpose, under Clauses 17(d) or 17(e) or 26(b) of this Act, as the case may be;

(5) Removing an organ from a legally incapacitated person or a minor in violation of the provisions of Article 20.

(b) The provisions of Clauses 36(a)(1) to 36(a)(3) shall apply whether the organ removal or transplant is intended to take place inside or outside Israel.

(c) Anyone who commits any of the following is liable to a penalty of six months' imprisonment or the fine fixed by Clause 61(a)(3) of the Penal Act:

(1) Importing an organ into Israel or exporting an organ from Israel, in violation of the provisions of Article 6;

(2) Giving reward for the consent of a person to the post-mortem removal of an organ from his body, in violation of the provisions of Article 29;

(3) Paying the burial costs of a donor or the costs of transporting his body (including by air) in violation of Article 30;

(4) Revealing information reaching him under the provisions of this Act, in violation of Article 35.

Application to the State

37.This Act shall also apply to the State.

Implement-ation and Regulations Amendment 20 to People’s Health Ordinance

38.The Minister is charged with implementing this Act.

39.In the People’s Health Ordinance, 1940, Clause 24b, —

(1) In the Preamble, “for the purpose of” is replaced by “in any of the following”;

(2) In Paragraph (1), before “reduction” shall be inserted “for the purpose of”;

(3) In Paragraph (2) before “protection” shall be inserted “for the purpose of”;

(4) After Paragraph (2) shall be inserted —

“(3) With respect to a special hospital unit performing organ removal or transplant within the meaning of the Organ Transplant Act, 5769-2008 — either the hospital or the special unit have not fulfilled one of the provisions of the said Act.”

Amendment 40 to National Health Insurance Act

40.In the National Health Insurance Act, 1994, Article 8, after Clause 7 shall be inserted—

“G(1) A donor within the meaning of the Organ Transplant Act, 5769-2008 shall be exempt from member payments in the basket as set out in the Supplement and the Order, and also from co-payments approved as aforesaid in Clause A(2) for any service included in the basket of health care services he may need in consequence of donating an organ or in consequence of its results.”

Amendment 33 to the Administrative Affairs Courts Act 41. In the First Supplement to the Administrative Affairs Courts Act, 2000, there shall be inserted after Item 32—

- “33. **Health** —a decision of an Evaluation Board or of the Director-General under Section 4 of the Organ Transplant Act, 5769-2008”.
- Coming into Effect** 42. This Act shall come into effect on 1st May, 2008 (hereafter — the date of the Act’s coming into effect).
- Transition Period Directives** 43. Anyone who before the date of the Act’s coming into effect gave his consent to the harvesting of an organ of his after his death, the details of which consent are registered in the database maintained by the Ministry of Health for this purpose, shall be regarded as having given his consent under this Act.

Signed by:

Ehud Olmert

Prime minister

Shimon Peres

State President

Ya’akov Ben-Yizri

Minister of Health

Dalia Itzik

Knesset Speaker