

Version  
as at 28 October 2021



## Compensation for Live Organ Donors Act 2016

Public Act      2016 No 96  
Date of assent      5 December 2016  
Commencement      see section 2

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#### Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

**This Act is administered by the Ministry of Health.**

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

This Act is the Compensation for Live Organ Donors Act 2016.

**2 Commencement**

- (1) This Act comes into force on the earlier of—
- (a) a date appointed by the Governor-General by Order in Council; and
  - (b) the first anniversary of the date on which this Act receives the Royal assent.
- (2) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

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**Legislation Act 2019 requirements for secondary legislation made under this section**

<b>Publication</b>	PCO must publish it on the legislation website and notify it in the <i>Gazette</i>	LA19 s 69(1)(c)
<b>Presentation</b>	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
<b>Disallowance</b>	It may be disallowed by the House of Representatives	LA19 ss 115, 116

*This note is not part of the Act.*

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Section 2(2): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

**Part 1**  
**Preliminary provisions**

**3 Purpose**

The purpose of this Act is to remove a financial deterrent to the donation of organs by live donors.

**4 Interpretation**

In this Act, unless the context otherwise requires,—

**application date—**

- (a) means the date on which an application under Part 3 is made; and

- (b) for the purposes of Schedule 2, includes a more recent date determined by the Director-General under section 18(2)

**approved overseas organ exchange programme** means an overseas organ exchange programme listed in Schedule 5

**collect**, in relation to a qualifying organ, means to remove or take that organ from a person

**Director-General** means the Director-General of Health

**donor surgery** means surgery to collect a qualifying organ for the purpose of donating it to another person

**earnings** has the meaning given by section 5

**employment**—

- (a) means work engaged in or carried out for the purposes of pecuniary gain or profit; and
- (b) in relation to an employee, includes a period of paid leave, other than paid leave on the termination of employment

**foreign-sourced amount** has the meaning given by section YA 1 of the Income Tax Act 2007

**health practitioner** has the meaning given by section 5(1) of the Health Practitioners Competence Assurance Act 2003

**medical practitioner** means a health practitioner who—

- (a) is, or is deemed to be, registered with the Medical Council of New Zealand as a practitioner of the profession of medicine; and
- (b) holds a practising certificate

**number of weeks** means—

- (a) the number of full weeks plus any part week (expressed as a portion of a week), if the period is 1 week or more; and
- (b) a part week (expressed as a portion of a week), if the period is less than 1 week

**payment period** means the number of weeks for which earnings compensation is payable under section 10 or 12

**practising certificate** has the meaning given by section 5(1) of the Health Practitioners Competence Assurance Act 2003

**qualifying donor** means a person who is a qualifying donor under section 9

**qualifying organ** means the whole or a part of any of the following types of human organ:

- (a) kidney;
- (b) liver;

- (c) any other type of human organ declared by regulations to be a qualifying organ

**reduced hours**, in relation to a qualifying donor, means the total hours of employment that the donor works over a week that are less than the donor's usual hours

**usual hours**, in relation to a qualifying donor, means—

- (a) the donor's hours of employment per week as specified in the donor's employment agreement; or
- (b) if paragraph (a) does not apply to the donor, or the donor is a shareholder employee or is self-employed, the most common number of hours that the donor works each week as assessed over the 12-week period immediately before the application date.

Section 4 **approved overseas organ exchange programme**: inserted, on 17 November 2019, by section 4 of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 4 **reduced hours**: inserted, on 17 November 2019, by section 4 of the Organ Donors and Related Matters Act 2019 (2019 No 65).

Section 4 **usual hours**: inserted, on 17 November 2019, by section 4 of the Organ Donors and Related Matters Act 2019 (2019 No 65).

## 5 Meaning of earnings

In this Act, **earnings** has the meaning given by section 6(1) of the Accident Compensation Act 2001, except that,—

- (a) for the purpose of defining the term, sections 9 to 15 of that Act must be read with the necessary modifications, including that references to the Corporation must be read as references to the Director-General; and
- (b) the term includes a foreign-sourced amount that the Director-General is satisfied would be earnings if it were treated as having a source in New Zealand under section YD 4 of the Income Tax Act 2007.

## 6 Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1 have effect according to their terms.

## 7 Act binds the Crown

This Act binds the Crown.

# Part 2

## Earnings compensation and protection of benefits during recuperation

### 8 Outline of Part

- (1) This Part is divided into 2 subparts.