



REPUBLIC OF SINGAPORE  
**GOVERNMENT GAZETTE**  
**ACTS SUPPLEMENT**  
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The following Act was passed by Parliament on 6 July 2021 and assented to by the President on 27 July 2021:—

**REPUBLIC OF SINGAPORE**

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**No. 16 of 2021.**

I assent.

HALIMAH YACOB,  
*President.*  
27 July 2021.

(LS)

An Act to amend the Mental Capacity Act and to make a related amendment to the Electronic Transactions Act.

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

**Short title and commencement**

1. This Act is the Mental Capacity (Amendment) Act 2021 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

**Amendment of section 2**

2. Section 2 of the Mental Capacity Act (called in this Act the principal Act) is amended —

(a) by deleting the definitions of “deputy” and “donee” in subsection (1) and substituting the following definitions:

““deputy” means a person appointed by the court under section 20(2)(b) to make decisions on behalf of another person (“P”) in relation to a matter or matters concerning all or any of the following in respect of which P lacks capacity:

(a) P’s personal welfare;

(b) P’s property and affairs;

“donee” means a person who is conferred authority by a donor (“P”) under a lasting power of attorney to make decisions about all or any of the following when P no longer has capacity to make such decisions:

(a) P’s personal welfare, or matters concerning P’s personal welfare that are specified in the lasting power of attorney;

(b) P’s property and affairs, or matters concerning P’s property and affairs that are specified in the lasting power of attorney;

“donor” means a person (“P”) who confers authority on a donee (or donees) under a lasting power of attorney to make decisions

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about all or any of the following when P no longer has capacity to make those decisions:

- (a) P's personal welfare, or matters concerning P's personal welfare that are specified in the lasting power of attorney;
- (b) P's property and affairs, or matters concerning P's property and affairs that are specified in the lasting power of attorney;

“electronic”, “electronic record”, “record”, “secure electronic signature”, “signed” and “signature” have the meanings given by section 2(1) of the Electronic Transactions Act;

“electronic instrument” means an electronic record that confers authority of the kind mentioned in section 11(1);

“electronic transaction system” means the electronic transaction system established by the Public Guardian under section 10B(1);”;

- (b) by inserting, immediately after the definition of “life-sustaining treatment” in subsection (1), the following definition:

““non-electronic lasting power of attorney” means a lasting power of attorney that is created using non-electronic means;”;

- (c) by inserting, immediately after the definition of “registered medical practitioner” in subsection (1), the following definition:

““Singapore public sector agency” has the meaning given by section 2(1) of the Public Sector (Governance) Act 2018;” and

(d) by inserting, immediately after subsection (2), the following subsection:

“(3) For the purposes of this Act, a reference to an instrument that confers authority of the kind mentioned in section 11(1) includes an electronic instrument made in accordance with section 11(2)(b)(ii).”.

### **New Part IIIA**

3. The principal Act is amended by inserting, immediately after section 10, the following Part:

#### **“PART IIIA**

#### **ELECTRONIC TRANSACTION SYSTEM**

#### **Interpretation of this Part**

**10A.** In this Part, unless the context otherwise requires —

“document” includes a document in electronic form;

“malfunction”, in relation to the electronic transaction system, includes any defect or breakdown in that system or in any equipment, software or telecommunication networks used in or in connection with that system;

“transaction”, in relation to the Public Guardian, means —

(a) the filing or lodging of any document with the Public Guardian, or the submission, production, delivery, furnishing or sending of any document to the Public Guardian, under or for the purposes of this Act;

(b) the making of any application, submission or request to the Public Guardian under or for the purposes of this Act;

(c) the provision of any undertaking or declaration to the Public Guardian under or for the purposes of this Act; and

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- (d) the extraction, retrieval or accessing of any document, record or information maintained by the Public Guardian under or for the purposes of this Act.

### **Establishment of electronic transaction system**

**10B.**—(1) The Public Guardian may establish an electronic transaction system —

- (a) to enable any donor to create an electronic instrument with a view to creating a lasting power of attorney;
- (b) to enable any person to carry out any transaction with the Public Guardian;
- (c) to enable a person to give a notice to another person under or for the purposes of this Act;
- (d) to enable the Public Guardian to issue any approval, certification, notice or other document under or for the purposes of this Act;
- (e) to enable the Public Guardian to attach a note to any lasting power of attorney;
- (f) to enable the Public Guardian to provide to persons entitled copies or extracts of documents filed or lodged with, submitted to, or issued by, the Public Guardian;
- (g) to enable the Public Guardian to provide a service for the supply to the public of non-confidential information relating to transactions with the Public Guardian; and
- (h) to enable the Public Guardian to carry out any of the Public Guardian's functions, or to provide any other service falling within those functions.

(2) The non-confidential information that may be provided under the service mentioned in subsection (1)(g) —