

**The State Peace and Development Council**  
**The Body Organ Donation Law**  
( **The State Peace and Development Council Law No. 1/2004** )  
**The 14th Waning Day of *Tabodwe*, 1365 M.E.**  
**( 19th February, 2004 )**

The State Peace and Development Council hereby enacts the following Law :-

**CHAPTER I**  
**Title and Definition**

1. This Law shall be called the Body Organ Donation Law.
2. The following expressions contained in this Law shall have the meanings given hereunder :-
  - (a) **Body Organ** means any part of the body composed in the human body. This expression also includes the whole of the human body;
  - (b) **Death** means the condition of termination of all brain functions of a person;
  - (c) **Body Organ Donor** means a person who has authorized to remove any body organ, if there is no danger to life by removal of such organ, or a person who has given prior consent to remove his body organ after death;

- (d) **Person who is Authorized to Procure the Body Organ** means a person prescribed by the Ministry of Health under this Law as the person authorized to remove body organ;
- (e) **Removal of the Body Organ** means removing the body organ by the person authorized in accordance with the stipulations;
- (f) **Receiving Unit** means the unit which receives donation of the body organ;
- (g) **Committee** means the committee relating to Donation of Body Organ, formed under section 4 of this Law.

## **CHAPTER II**

### **Aims**

3. The aims of this Law are as follows :—
- (a) to enable saving the life of the person who is required to undergo body organ transplant by application of body organ transplant extensively;
  - (b) to cause rehabilitation of disabled persons due to disfunctioning of body organ through body organ transplant;
  - (c) to enable carrying out research and educational measures related to body organ transplant;
  - (d) to enable increasing the number of body organ donors;
  - (e) to cooperate and to obtain assistance from government departments and organizations, international organizations, local and international non-governmental organizations, companies and individuals in body organ transplant.

**CHAPTER III**  
**Formation of the Committee relating to**  
**Donation of Body Organ**

4. The Government : –

(a) shall form the Committee relating to Donation of Body Organ consisting of the following persons : –

- |   |           |
|---|-----------|
| (1) Minister  | Chairman  |
| The Ministry of Health  |           |
| (2) Representatives from the relevant Government developments and organizations | Members   |
| (3) Appropriate experts and professional personnel                              | Members   |
| (4) A person assigned responsibility by the Minister of the Ministry of Health  | Secretary |

(b) may if necessary, determine a Vice-Chairman and a Joint Secretary in the Committee.

5. A member of the Committee relating to Donation of Body Organ who is not a Government servant is entitled to receive remuneration prescribed by the Ministry of Health.

**CHAPTER IV**  
**Functions and Duties of the Committee relating to**  
**Donation of Body Organ**

6. The functions and duties of the Committee are as follows : –

(a) laying down the policy for carrying out successfully the work of donation of body organ in accordance with the aims of this Law;

- (b) giving guidance for carrying out educative measures in order to enhance the number of body organ donors;
- (c) giving guidance to be systematic in respect of quality control, procurement, storage and issuance of body organs;
- (d) in carrying out body organ transplant giving guidance for conducting research and educational measures relating to the said task;
- (e) carrying out measures to nurture expert and research personnel and technicians for body organ transplant;
- (f) giving guidance and supervising the functions relating to donation of body organ;
- (g) stipulating terms and conditions for exporting body organs to other countries and importing body organs from other countries;
- (h) obtaining assistance from the government departments and organizations, international organizations, local and international non-governmental organizations, local and foreign companies, individuals and accepting donations and equipment, maintaining systematically, allocating and permitting use of them.

7. The Committee may direct the relevant Department to determine the receiving units in areas needing the same.

8. The Committee may form technical working committee as may be necessary, and determine duties and functions thereof.

## **CHAPTER V**

### **Donation of Body Organ**

9. A person who has attained the age of 18 may donate his own body organ.

10. The surviving wife, husband, son or daughter, parent, brother, sister or one of the relatives may donate the deceased's body organ if there is no objection in the family.
11. The receiving unit may accept donation of the body organ in accordance with the stipulations.
12. The receiving unit on accepting the donation of the body organ shall : –
  - (a) register the donor's name and particulars in the body organ donors' register;
  - (b) issue body organ donor card to the donor or the surviving wife, husband, son or daughter, parent, brother, sister or one of the relatives who donated the body organ.
13. On knowing that the deceased is the donor of the body organ, the responsible person of the hospital or clinic where the donor died, or a responsible person from home shall inform the nearest receiving unit immediately.
14. (a) The body organ donor may, by surrendering the body organ donor card inform the receiving unit to cancel the donation of the body organ.
  - (b) If the receiving unit is informed under sub-section (a), it shall cancel the name of the donor from the body organ donors' register.

## **CHAPTER VI**

### **Removal of the Body Organ**

15. Only the expert or technician who is prescribed by the Ministry of Health is authorized to remove the body organ.

16. A person who is authorized to remove the body organ has the right to remove the body organ of any of the following persons : –

- (a) person who donated his body organ;
- (b) unclaimed body of the deceased;
- (c) the deceased person whose body organ has been donated by the surviving wife, husband, son or daughter, parent, brother, sister or one of the relatives under section 10.

17. The police surgeon shall, if requested by the person who is authorized to remove the body organ, permit the removal of the body organ of the deceased person involved in any crime. However, it shall not permit on the occurrence of any of the following : –

- (a) being a person who prior to his death has written a letter of having no desire to donate the body organ;
- (b) in completeness of the post-mortem examination by the relevant police surgeon of the body organ to be removed;
- (c) objection by the surviving wife, husband, son or daughter, parent, brother, sister or one of the relatives.

18. On being informed under section 13, the receiving unit shall arrange to remove or take away the body organ within the prescribed time.

## **CHAPTER VII**

### **Storage and Distribution of the Body Organ**

19. The receiving unit shall store the body organ which is removed in accordance with the stipulations.

20. The receiving unit shall carry out the following in accordance with the stipulations : –

- (a) distribution of the body organ that has been received for transplant;
- (b) distribution of the body organ which is of no use in transplant for educational purpose or research.

### **CHAPTER VIII**

#### **Offences and Penalties**

21. Whoever sells or buys the body organ for consideration shall, on conviction, be punished with imprisonment for a term which may extend to three years, and may also be liable to a fine.

22. Whoever abets the commission of the offence provided in section 21 shall, on conviction, be punished with imprisonment for a term which may extend to three years, and may also be liable to a fine.

### **CHAPTER IX**

#### **Miscellaneous**

23. With respect to donation of the eye, which is part of the body organ, it shall be carried out in accordance with the provisions contained in the Eye Donation Law.

24. The Ministry of Health may form necessary working committees.

25. The Ministry of Health : –

- (a) shall bear the expenditures of the Committee;
- (b) shall undertake to carry out the office work of the Committee.

26. No suit or prosecution shall lie against the person who is authorized to remove the body organ for any activity which is done in good faith under this Law.

27. The provisions contained in section 21 shall not apply to the matters carried out in accordance with the terms and conditions prescribed by the Committee.

28. For the purpose of carrying out the provisions of this Law:—

- (a) the Ministry of Health may issue such rules and procedures as may be necessary, with the approval of the Government;
- (b) the Committee and the Ministry of Health may issue such notifications, orders and directives as may be necessary.

**(Sd.) Than Shwe**  
**Senior General**  
**Chairman**  
**The State Peace and Development Council**