



## Compensation for Live Organ Donors Act 2016

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

### Contents

	Page
1      Title	3
2      Commencement	3

### Part 1

#### Preliminary provisions

3      Purpose	3
4      Interpretation	3
5      Meaning of earnings	5
6      Transitional, savings, and related provisions	5
7      Act binds the Crown	5

### Part 2

#### Earnings compensation and protection of benefits during recuperation

8      Outline of Part	5
Subpart 1—Earnings compensation for qualifying donors: entitlement and discretionary earnings compensation	
9      Who are qualifying donors	6

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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.**

	<i>Entitlement to earnings compensation while recuperating</i>	
10	Qualifying donors entitled to earnings compensation for up to 12 weeks while recuperating	7
11	Rate and payment of entitlement	8
	<i>Discretionary earnings compensation for periods before donation</i>	
12	Qualifying donors may receive discretionary earnings compensation in limited circumstances	8
13	Rate and payment of discretionary earnings compensation	8
	Subpart 2—Exemptions under Social Security Act 2018 for donors who are beneficiaries	
14	Donors of qualifying organs exempt from certain obligations under Social Security Act 2018 while recuperating	8
15	Appeal to medical board	9
	<b>Part 3</b>	
	<b>Administration and other matters</b>	
	<i>Applications</i>	
16	Applications to be qualifying donor or for discretionary earnings compensation	10
17	Decisions on applications	10
18	When Director-General may revoke or revise decisions	11
19	Applicants must provide information requested by Director-General	11
20	Notice of decisions	12
	<i>Dispute resolution</i>	
21	Who may apply for review	12
22	Contents of applications for review	13
23	Applicants have 30 days to apply for review against decision	13
24	Review process and right of appeal	13
25	Effect of review or appeal on decisions	13
	<i>Miscellaneous</i>	
26	Deemed receipt of notices	13
27	Recovery of overpayments	13
28	ACC claims not affected	14
29	Regulations	14
	<i>Amendments</i>	
30	Amendments to other Acts	15
	<b>Schedule 1</b>	16
	<b>Transitional, savings, and related provisions</b>	
	<b>Schedule 2</b>	20
	<b>Setting rate of earnings compensation</b>	

<b>Schedule 3</b>	32
<b>Dispute resolution</b>	
<b>Schedule 4</b>	36
<b>Amendments to other Acts</b>	
<b>Schedule 5</b>	39
<b>Approved overseas organ exchange programmes</b>	

**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.