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Notification No. B 11 — The Mental Capacity (Amendment) Bill is hereby published for general information. It was introduced in Parliament on 29th February 2016.

Mental Capacity (Amendment) Bill

Bill No. 11/2016.

Read the first time on 4; Hgdtwct{ 42380

A BILL

i n t i t u l e d

An Act to amend the Mental Capacity Act (Chapter 177A of the 2010 Revised Edition).

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 2016 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 2

2. Section 2(1) of the Mental Capacity Act (called in this Act the principal Act) is amended —

(a) by inserting, immediately after the definition of “life-sustaining treatment”, the following definitions:

10 ““professional deputy” means a person —

(a) who offers or provides the services of a deputy for remuneration; and

(b) who is registered with the Public Guardian as a professional deputy;

15 ““professional donee” means a person —

(a) who is a professional deputy or is within a class of persons prescribed as qualified to be a professional donee; and

20 (b) who offers or provides the services of a donee for remuneration;”;

(b) by deleting the definition of “Public Guardian” and substituting the following definition:

25 ““Public Guardian” means the Public Guardian appointed under section 30(1) and, unless the context otherwise requires, includes any Assistant Public Guardian appointed under section 30(1A);”.

Amendment of section 12

3. Section 12 of the principal Act is amended —

30 (a) by deleting subsection (1) and substituting the following subsection:

“(1) A donee of a lasting power of attorney must be —

(a) where the power relates only to P’s property and affairs —

(i) an individual who has attained the age of 21 years and provides to P the services of a donee without remuneration; 5

(ii) an individual who is a professional donee and is not related to P by blood or marriage; or

(iii) a professional donee who is not an individual; and 10

(b) in any other case —

(i) an individual who has attained the age of 21 years and provides to P the services of a donee without remuneration; or 15

(ii) an individual who is a professional donee and is not related to P by blood or marriage.”;

(b) by inserting, immediately after the word “person” in subsection (8)(b), the words “(called in subsection (9) the replacement donee)”; and 20

(c) by inserting, immediately after subsection (8), the following subsection:

“(9) To avoid doubt, an instrument used to create a lasting power of attorney cannot itself appoint a person to replace the replacement donee.”. 25

Repeal and re-enactment of section 16

4. Section 16 of the principal Act is repealed and the following section substituted therefor:

“Protection of donees and others if lasting power of attorney not validly created, revoked or suspended, etc.

16.—(1) This section applies where —

5 (a) an instrument purporting to create a lasting power of attorney has been registered under the First Schedule, but a lasting power of attorney was not validly created, whether or not the registration is cancelled at the time of the act or transaction in question; or

10 (b) a lasting power of attorney, or a power under a lasting power of attorney, is revoked or suspended.

15 (2) A donee who does an act that would have been within the scope of the lasting power of attorney without knowing of the non-existence, revocation or suspension of the lasting power of attorney or the power under the lasting power of attorney does not incur any liability to P or any other person, despite the non-existence, revocation or suspension.

20 (3) If a lasting power of attorney or a power under a lasting power of attorney is non-existent, revoked or suspended, a person (called in this section a third party) who deals or otherwise transacts in good faith with the donee, without knowing of the non-existence, revocation or suspension, is entitled to rely on the lasting power of attorney or the power under the lasting power of attorney in relation to that dealing or transaction in the same manner and to the same extent as if the
25 lasting power of attorney or the power under the lasting power of attorney exists or had not been revoked or suspended.

 (4) It is conclusively presumed in favour of a purchaser from a third party who dealt or otherwise transacted with a donee that the dealing or transaction was valid if —

30 (a) the dealing or transaction was completed within 12 months after the date on which the instrument intending to create a lasting power of attorney was registered; or

35 (b) the third party makes a statutory declaration, before, on or within 3 months after, the completion of the purchase