

2022-2023

The Parliament of the
Commonwealth of Australia

THE SENATE

Presented and read a first time

**Migration Amendment (Overseas Organ
Transplant Disclosure and Other
Measures) Bill 2023**

No. , 2023

(Senator Dean Smith)

**A Bill for an Act to amend the *Migration Act 1958*,
and for related purposes**

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1 **A Bill for an Act to amend the *Migration Act 1958*,**
2 **and for related purposes**

³ The Parliament of Australia enacts:

4 1 Short title

5 This Act is the *Migration Amendment (Overseas Organ Transplant*
6 *Disclosure and Other Measures) Act 2023.*

7 2 Commencement

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	The day after the end of the period of 6 months beginning on the day this Act receives the Royal Assent.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

1 **Schedule 1—Overseas organ transplant**
2 **disclosure**
3

4 ***Migration Act 1958***

5 **1 After section 166**

6 Insert:

7 **166A Information regarding overseas organ transplants**

8 (1) The information that must be provided by a person entering
9 Australia to a clearance authority under paragraph 166(1)(b)
10 includes information in the form of answers to the following
11 questions:

12 (a) “Have you received an organ transplant outside Australia
13 within the last 5 years?”;

14 (b) if the answer to the question in paragraph (a) is affirmative—
15 “For each organ transplant you received outside Australia
16 within the last 5 years, what is the place (the country, and the
17 town or city) of the medical facility at which you received the
18 transplant?”;

19 (c) if the answer to the question in paragraph (a) is affirmative—
20 “For each organ transplant you received outside Australia
21 within the last 5 years, what is the name of the medical
22 facility at which you received the transplant?”.

23 (2) The regulations must provide for the questions mentioned in
24 subsection (1) to be included in the person’s passenger card (as
25 referred to in regulations made for the purposes of section 166).

26 (3) The Minister must cause a report on the following to be prepared
27 within one month after the end of each calendar year:

28 (a) the number of affirmative answers during the year to the
29 question mentioned in paragraph (1)(a);

30 (b) information on the places of medical facilities specified in
31 answers during the year to the question mentioned in
32 paragraph (1)(b), including the number of times each place
33 was specified.

Schedule 1 Overseas organ transplant disclosure

1 **Schedule 2—Organ trafficking**

3 ***Migration Act 1958***

4 **1 After subparagraph 5C(1)(bc)(ii)**

5 Insert:

6 (iia) an offence involving trafficking in human organs;

7 **2 After subparagraph 501(6)(ba)(ii)**

8 Insert:

9 (iia) an offence involving trafficking in human organs;

10 **3 Application of amendments**

11 (1) Subparagraph 5C(1)(bc)(iia) of the *Migration Act 1958*, as in force on
12 and after the commencement of this item, applies for the purposes of
13 subsection 336E(2) of that Act in relation to a disclosure of identifying
14 information that is made on or after that commencement.

15 (2) Subparagraph 501(6)(ba)(iia) of the *Migration Act 1958*, as in force on
16 and after the commencement of this item, applies to:

17 (a) a decision to grant or refuse to grant a visa, if:
18 (i) the application for the visa was made before that
19 commencement and had not been finally determined as
20 at that commencement; or
21 (ii) the application for the visa is made on or after that
22 commencement; and
23 (b) a decision made on or after that commencement to cancel a
24 visa.

25 (3) The provisions of the *Migration Act 1958* mentioned in subitems (1)
26 and (2) apply as mentioned in those subitems in relation to a person
27 whether the conduct constituting an offence involving trafficking in
28 human organs was engaged in before, on or after the commencement of
29 this item.

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