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GENERAL NOTICE

NOTICE 1497 OF 2004

DEPARTMENT OF HEALTH

PUBLICATION OF THE STERILISATION AMENDMENT BILL, 2004

The Minister of Health intends to introduce the Sterilisation Amendment Bill, 2004 ("the Bill") in Parliament in 2004. The full text of the Bill is hereby published in accordance with rule 241(c) of the Rules of the National Assembly.

The Bill will amend the Sterilisation Act, 1998 (Act No. 44 of 1998)

The full text, as certified, is attached.

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REPUBLIC OF SOUTH AFRICA

STERILISATION AMENDMENT BILL

*(As introduced in the National Assembly as a section 76-Bill; explanatory summary of
Bill published in Government Gazette No. of) (The English text is the official
text of the Bill)*

(MINISTER OF HEALTH)

[B - 2004]

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- _____ Words underlined with a solid line indicate insertions in existing enactments.
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BILL

To amend the Sterilisation Act, 1998, so as to substitute a definition; to make provision for a medical opinion in certain circumstances; to provide for additional information to be considered when contemplating sterilisation; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 44 of 1998

1. Section 1 of the Sterilisation Act, 1998 (hereinafter referred to as the principal Act), is hereby amended by the substitution for the definition of “sterilisation” of the following definition:

“ ‘sterilisation’ means **[a surgical procedure performed for the purpose of making the person on whom it is performed incapable of procreation, but does not include the removal of any gonad]** a procedure whereby a person could be permanently rendered incapable of fertilisation or reproduction.”

Amendment of section 2 of Act 44 of 1998

2. Section 2 of the principal Act, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) **[No]** A person [is prohibited from having sterilisation performed on him or her] may be sterilised if he or she is—

(a) capable of consenting; and

(b) 18 years of age or above.”; and

(b) by the substitution in subsection (3) for paragraph (a) of the following paragraph:

“(a) Sterilisation may **[not]** be performed on a person who is under the age of 18 years **[except where]** if failure to do so would jeopardize the person’s life or seriously impair his or her **[physical]** health.”; and

(c) by the addition to subsection (3) of the following paragraph:

“(c) A person contemplated in paragraph (a), may be sterilised if—

(i) consent is given by a person who is lawfully entitled to give consent;

and

(ii) an independent medical practitioner who has previously consulted with the person to be sterilised, has provided a written opinion to the effect that sterilisation is in the best interest of that person.”.

Amendment of section 3 of Act 44 of 1998

3. Section 3 of the principal Act is hereby amended—

(a) by the substitution for the heading to section 3 of the following heading:

“Person incapable of consenting or incompetent to consent due to **[severe]** mental disability” ; and

(b) by the substitution in subsection (1) for paragraph (b) of the following paragraph:

“(b) if a panel contemplated in subsection (2) after considering all relevant information, including **[the fact that]**—

- (i) the **[person is 18 years of]** person's age, **unless the physical health of the person is threatened; and**;
- (ii) whether there [is no] are other safe and effective [method] alternatives [of contraception except] to sterilisation;
- (iii) the person's mental and physical health and wellbeing;
- (iv) the potential effect of sterilisation on the person's mental and physical health and wellbeing;
- (v) the nature of the sterilisation procedure to be performed;
- (vi) the likelihood that the person will become capable of consenting to sterilisation;
- (vii) whether the sterilisation is in the best interests of the person to be sterilised; and
- (viii) the benefit which the person may derived from sterilisation,
concurr that sterilisation may be performed; and ”.

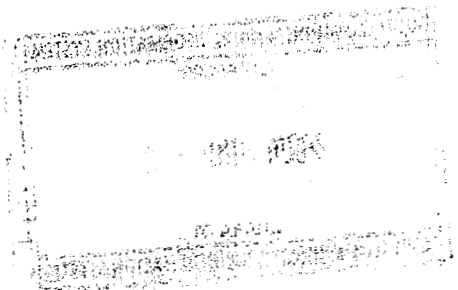
Amendment of section 4 of Act 44 of 1998

4. Section 4 of the principal Act is hereby amended by the substitution for paragraph (c) of the following paragraph:

“(c) understood and signed the prescribed consent form.”.

Short title

5. This Act is called the Sterilisation Amendment Act, 2004.



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