

Voluntary Sterilization (Amendment) Bill

Bill No. 26/2012.

Read the first time on 10th September 2012.

A BILL

i n t i t u l e d

An Act to amend the Voluntary Sterilization Act (Chapter 347 of the 1985 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 may be cited as the Voluntary Sterilization (Amendment) Act 2012 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 Amendment of section 2

2. Section 2 of the Voluntary Sterilization Act (referred to in this Act as the principal Act) is amended by deleting the definitions of “approved institution” and “registered medical practitioner” and substituting the following definitions:

10 “health institution” means —

(a) any private hospital licensed under the Private Hospitals and Medical Clinics Act (Cap. 248);

(b) any medical clinic licensed under the Private Hospitals and Medical Clinics Act to provide ambulatory surgery services; or

15 (c) any specialist medical clinic;

“registered medical practitioner” has the same meaning as in the Medical Registration Act (Cap. 174);

“specialist medical clinic” means a medical clinic —

20 (a) that is licensed under the Private Hospitals and Medical Clinics Act; and

(b) at which a registered medical practitioner, who is registered under section 22 of the Medical Registration Act as a specialist in such branches of medicine as may be prescribed, works;”.

Amendment of section 3

3. Section 3 of the principal Act is amended —

(a) by inserting, immediately after the words “this section” in subsection (1), the words “and section 4”; and

30 (b) by deleting subsections (2) and (3) and substituting the following subsections:

“(2) A registered medical practitioner may carry out treatment for sexual sterilization on any person if, and only if, the following conditions are satisfied:

- (a) subject to paragraphs (d) and (e), in the case of a married or an unmarried person who is 21 years of age or older, if the person gives consent to such treatment; 5
 - (b) subject to paragraph (d), in the case of a married person who is below 21 years of age, if the person gives consent to such treatment; 10
 - (c) subject to paragraph (e), in the case of an unmarried person who is below 21 years of age, if the person, and at least one parent or guardian of the person, both give consent to such treatment; 15
 - (d) in the case of a married person who lacks capacity within the meaning of section 4 of the Mental Capacity Act (Cap. 177A) to consent to such treatment, if, on the application of the person’s spouse, the High Court makes an order declaring that such treatment is necessary in the best interests of that person; 20
 - (e) in the case of an unmarried person who lacks capacity within the meaning of section 4 of the Mental Capacity Act to consent to such treatment, if, on the application of at least one parent or guardian of the person, the High Court makes an order declaring that such treatment is necessary in the best interests of that person. 25
- (3) Before a registered medical practitioner carries out treatment for sexual sterilization, he shall give to the person undergoing such treatment, not being a person who lacks capacity within the meaning of section 4 of the Mental Capacity Act to consent to such treatment, a full and reasonable explanation as to the meaning and consequences of that treatment, and such person shall 30 35

certify that he clearly understands the meaning and consequences of that treatment.

(4) For the purposes of this section, Part II of the Mental Capacity Act shall apply, with the necessary modifications, for the purposes of determining —

(a) whether a person lacks capacity within the meaning of section 4 of that Act to consent to treatment for sexual sterilization; and

(b) whether such treatment is in the best interests of that person.

(5) Any registered medical practitioner who carries out any treatment for sexual sterilization on a person when the requisite conditions referred to in subsection (2) in respect of that person are not satisfied shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 5 years or to both.”.

Repeal and re-enactment of section 4

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

“Sexual sterilization to be carried out in health institution

4.—(1) Subject to subsection (2), every treatment for sexual sterilization shall be carried out only —

(a) in a health institution; and

(b) by a registered medical practitioner who is authorised by the person having the management or control of the health institution to carry out such treatment.

(2) Where the treatment for sexual sterilization is carried out in a health institution that is a specialist medical clinic, the registered medical practitioner referred to in subsection (1)(b) shall in addition possess such surgical or obstetric qualifications as may be prescribed.”.

Amendment of section 5

5. Section 5(2) of the principal Act is amended by deleting “\$2,000” and substituting “\$10,000”.

Amendment of section 6

6. Section 6 of the principal Act is amended —

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(a) by deleting the words “approved institution” and substituting the words “health institution”; and

(b) by deleting the marginal note and inserting the following section heading:

“Power to inspect health institutions and examine records, etc.”.

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Amendment of section 7

7. Section 7 of the principal Act is amended by deleting “\$5,000” and substituting “\$10,000”.

Repeal and re-enactment of section 8

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8. Section 8 of the principal Act is repealed and the following section substituted therefor:

“Immunity of registered medical practitioners

8. No registered medical practitioner shall be liable civilly or criminally for carrying out treatment for sexual sterilization on any person so long as —

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(a) the conditions in section 3(2) are satisfied in respect of that person; and

(b) such treatment is not carried out in a negligent manner.”.

Amendment of section 9

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9. Section 9 of the principal Act is amended —

(a) by deleting the words “sections 87 and 320” and substituting the words “section 320”; and

(b) by deleting the marginal note and inserting the following section heading:

“Sexual sterilization not to constitute grievous hurt under section 320 of Penal Code”.

5 **Repeal of section 12**

10. Section 12 of the principal Act is repealed.

Amendment of section 13

11. Section 13(2) of the principal Act is amended —

(a) by deleting the words “registered medical practitioner under section 3(2)(d) and (e)” in paragraph (b) and substituting the words “person undergoing treatment for sexual sterilization as required under section 3(3)”; and

(b) by deleting paragraph (d) and substituting the following paragraph:

“(d) prescribing the qualifications of registered medical practitioners who may carry out treatment for sexual sterilization in specialist medical clinics, which qualifications may differ in respect of treatment for sexual sterilization on males or on females.”.

Saving and transitional provisions

12.—(1) This Act shall not apply to any treatment for sexual sterilization started before the date of commencement of this section, and the principal Act in force immediately before that date shall continue to apply to such treatment as if this Act had not been enacted.

(2) Any hospital, maternity home, clinic or other place approved before the date of commencement of section 2 to be an approved institution for the purposes of the principal Act shall be deemed to be a health institution for the purposes of the principal Act as amended by this Act until such date as that approval would have expired if this Act had not been enacted.

(3) Any consent to treatment for sexual sterilization to be carried out after the date of commencement of section 3(b), which consent is validly given under section 3(2) of the principal Act before the date of commencement of section 3(b), shall be deemed to satisfy the requisite conditions referred to in section 3(2) of the principal Act as amended by this Act. 5

(4) For a period of 2 years after the date of commencement of this section, the Minister may, by regulations published in the *Gazette*, prescribe such saving or transitional provisions as he may consider necessary or expedient. 10

EXPLANATORY STATEMENT

This Bill seeks to amend the Voluntary Sterilization Act (Cap. 347) for the following main purposes:

- (a) to align the Act with the United Nations Convention on the Rights of Persons with Disabilities by removing provisions which may lead to discrimination against disabled persons;
- (b) to impose a requirement for a court order in cases involving treatment for sexual sterilization on persons who lack mental capacity to consent to such treatment;
- (c) to introduce new definitions of “health institution” and “specialist medical clinic” and to change the definition of “registered medical practitioner”; and
- (d) to update and enhance the penalties for offences under the Act.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 by deleting the existing definitions of “approved institution” and “registered medical practitioner” and substituting new definitions of “health institution” and “registered medical practitioner”. The clause also amends section 2 by introducing a new definition for “specialist medical clinic”.

Clause 3 amends section 3 —

- (a) by requiring voluntary consent for sexual sterilization from all persons with mental capacity;
- (b) by providing that involuntary sexual sterilization can only be carried out on a person who lacks mental capacity if, on the application of the spouse,

or one of the parents or a guardian of the person, the High Court makes an order declaring that the treatment is necessary in the best interests of that person;

- (c) by indicating that the principles in Part II of the Mental Capacity Act (Cap. 177A) are to apply in determining whether a person lacks mental capacity and whether the sexual sterilization treatment is in the best interests of that person; and
- (d) by making it an offence for a registered medical practitioner to carry out treatment for sexual sterilization when the requisite conditions in the amended section 3(2) are not satisfied.

Clause 4 repeals and re-enacts section 4 by requiring a registered medical practitioner carrying out the treatment for sexual sterilization to be authorised by the health institution to carry out such treatment, and to have the prescribed surgical or obstetric qualifications if the treatment is carried out in a specialist medical clinic.

Clause 5 amends section 5(2) to increase the maximum fine for contravening section 5(1) from \$2,000 to \$10,000.

Clause 6 amends section 6 by substituting “approved institution” with “health institution”.

Clause 7 amends section 7 by increasing the maximum fine for compelling or inducing any person to undergo treatment for sexual sterilization from \$5,000 to \$10,000.

Clause 8 repeals and re-enacts section 8 to clarify that a registered medical practitioner is immune from civil or criminal liability if the conditions in the amended section 3(2) are satisfied and the treatment for sexual sterilization is not carried out in a negligent manner.

Clause 9 amends section 9 to delete the reference to section 87 of the Penal Code (Cap. 224).

Clause 10 repeals section 12.

Clause 11 makes a consequential amendment to section 13(2)(b) and amends section 13(2)(d) by limiting the prescription of qualifications of registered medical practitioners to those who carry out treatment for sexual sterilization in specialist medical clinics.

Clause 12 sets out the saving and transitional provisions.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
