

- (ii) an independent medical practitioner who, before a panel is convened in terms of section 3(2), has consulted with the person to be sterilised and has provided a written opinion to the effect that the 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";

- (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 derive from sterilisation,
concur that sterilisation may be performed; and";

- (c) by the deletion of subsection (6); and

- (d) by the substitution for subsection (7) of the following subsection:

"(7) For the purposes of this section, "**[severe]** mental disability" means a range of functioning extending from partial self-maintenance under close supervision, together with limited self-protection skills in a controlled environment through limited self care and requiring constant aid and supervision, to **[severely]** restrained sensory and motor functioning and requiring nursing care."

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.