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Voluntary Sterilisation Act, 193

(NOTE: This Bill was drafted by a special sub-committee appointed for the purpose by the Joint Committee on Voluntary Sterilisation. It has been carefully considered and revised by the Joint Committee itself, and is now issued to the various organisations represented on the Committee.

Whilst this draft embodies the recommendations and safeguards laid down by the Departmental Report on Sterilisation, it should be understood that the actual phraseology will be submitted finally to a parliamentary draftsman for revision. Meanwhile, it must be treated as a *confidential* document for the consideration only of the Councils concerned.

The Joint Committee is glad to report that at a meeting recently of representatives appointed by the County Councils Association, the Association of Municipal Corporations and the Mental Hospitals Association, to confer generally upon the subject of voluntary sterilisation, this draft was considered. It was resolved that the Councils of these three Associations should be asked to approve this Bill, subject to certain amendments, which are printed on page 16 of this document. These amendments should be considered by the Councils of the various Associations, represented on the Joint Committee, when they discuss the Bill itself.)

ARRANGEMENT OF SECTIONS.

Section

1. Classes of persons who may be sterilised.
2. Conditions to be satisfied before sterilisation is applied.
3. Duties and powers of the Minister of Health.
4. Persons by whom and places where sterilisation is not to be applied.
5. Notice of performance of operations.
6. Confidential nature of documents.
7. Provision as to expenses.
8. Protection of medical practitioners.
9. Penalties for offences.
10. Definitions.
11. Short title and extent.

SCHEDULES.

An Act to enable sexual sterilisation to be applied to certain persons at their request, or, in certain cases, at the request of their parents or guardians.

Class of persons
who may be
sterilised.

1. Subject to the provisions of this Act, sterilisation may be applied to the following classes of persons:—

- (a) Persons in whose case there exists mental defectiveness.*
- (b) Persons who have suffered from a mental disorder which is deemed to be inheritable.†
- (c) Persons who suffer from a grave physical disability deemed to be inheritable.
- (d) Persons who are deemed to be likely to transmit mental defectiveness or mental disorder or a grave physical disability to a subsequent generation.

* It was necessary to consider whether sterilisation should be permitted in the case of *all* defectives, or only in case of those whose defect was deemed to be inheritable. It may be contended on the one hand that it should be restricted to the "inheritable" group, since the non-inheritable or "secondary" type of defect is not transmissible to a subsequent generation. On the other hand, it may be held that a mentally defective person, whatever the cause of his defect, is unfitted for parenthood, and that consequently no hereditary qualifications should be laid down. It is generally accepted that the proportion of non-hereditary cases who produce offspring is small, since most of them are of the severer grades of defect, so that the exclusion of this group from the provisions of the Act is not of great eugenic importance. It is conceivable, however, that in practice there might be difficulty in saying that a given case was "inheritable." On the whole, therefore, the Drafting Sub-Committee, and afterwards the Joint Committee, were not in favour of restricting sterilisation to the "inheritable" group.

† The position in regard to cases of mental disorder is somewhat different from that in regard to cases of mental defect, for two chief reasons. First, many cases of mental disorder are the result of environmental causes, and are not inheritable. Secondly, mental disorder is not associated with the same unfitness for parenthood as is mental defect. On these grounds and for reasons of policy the Drafting Sub-Committee inclined to the view that it would be wiser to restrict sterilisation to those cases of mental disorder which are deemed to be inheritable. The Joint Committee approved this.

Conditions to
be satisfied
before sterilisa-
tion is applied.

2. Except where in the opinion of a registered medical practitioner the performance of sterilisation is necessary in the interests of the person's health, the following conditions shall be satisfied before any ster-

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ilisation is applied, for the purpose of preventing procreation or child-bearing, to any of the persons defined in Section 1 of this Act.

(1) Such persons shall transmit, or cause to be transmitted, to the Minister of Health the following documents :—

(a) An application in a prescribed form (*Cf. Form I*), signed by the applicant, stating :—

(i) His age.

(ii) That he desires to be sterilised, and the grounds upon which the application is made.

(iii) That he fully understands the nature and consequences of the operation.

(iv) That if married, he/she has informed his/her spouse of the application where it is possible to do so.

(b) Two separate medical certificates in the prescribed form (*Cf. Form III*), each of which shall state :—

(i) That the medical certifier has personally seen the applicant and enquired into the reason for his application.

(ii) The class of persons, as defined in Section 1. of this Act, to which the applicant belongs.

(iii) The facts, ascertained by himself and/or communicated to him by others, upon which the medical certifier has founded this opinion.

(iv) That the applicant has attained sexual maturity.

(v) That where the applicant is suffering from mental defectiveness he is, in the opinion of the medical certifier, a fit and proper person to live in the general community after sterilisation.

(vi) That in the opinion of the medical certifier the applicant fully understands the nature and consequences of the operation.

One of these two medical certificates shall, if possible, be furnished by the person's usual medical attendant. The second shall be furnished by a medical practitioner approved for the purpose by the Minister of Health.

- (c) Where application is made on the ground that the person has suffered from mental disorder, one of the certificates shall be signed by a registered medical practitioner experienced in psychological medicine and approved for this purpose by the (Minister of Health) (Board of Control), and shall state that the certifier has examined the person and enquired into his history and is of the opinion that no injurious results to the person's mental condition are likely to follow the operation.

(2) Permission for the performance of sterilisation shall not be granted in the case of any person who has not attained sexual maturity.

(3) Permission for the performance of sterilisation shall not be granted in the case of any person who is under the age of twenty-one years without the written consent of the parent or guardian of such person.

(4) Where the person is, by reason of mental defectiveness, deemed to be incapable of giving a reasonable consent to be sterilised, the parent or guardian of such person shall be empowered to make application on his behalf.

Provided that when such parent or guardian cannot be found, or is outside Great Britain, or is being dealt with as a person of unsound mind, or as a mental defective, under the Lunacy, Mental Treatment or Mental Deficiency Acts, the Minister of Health shall have power to act upon the application of the person or authority who is in fact responsible for the defective's maintenance.*

* This clause is in accordance with the recommendations of the Brock Report; but it may be considered open to objection on the ground that sterilisation under these conditions would not be really voluntary.

(5) Permission for the sterilisation of a person suffering from mental defectiveness shall not be granted unless the Minister of Health is satisfied by

medical certificates or such other evidence as he considers satisfactory that an enquiry has been made into the personal characteristics and circumstances of the defective, and that after sterilisation he would be a fit and proper person to live in the general community.

3. The Minister of Health shall have the following duties and powers in regard to applications for sterilisation transmitted to him in accordance with the provisions of this Act:—

**Duties and
Powers of the
Minister of
Health.**

- (a) If satisfied that the applicant is a fit and proper person to be sterilised in accordance with the provisions of this Act, the Minister of Health shall issue to him (*Cf. Form IV*) an authorisation for sterilisation, and such authorisation shall permit a registered medical practitioner to sterilise the person at any time within six months after the date of the authorisation. If sterilisation has not been performed within a period of six months, the sanction shall lapse, but may be renewed by the Minister of Health on receipt of a satisfactory explanation of the delay.
- (b) If not satisfied that the applicant is a fit and proper person to be sterilised, the Minister of Health shall refuse his consent unless and until he has been satisfied by the production of further evidence.
- (c) For the purpose of obtaining further evidence the Minister of Health may:—
 - (i) Require additional particulars from the applicant or from one or both of the medical certifiers.
 - (ii) Direct that a special examination of the applicant and/or enquiry into the circumstances of the application be made.
 - (iii) Refer the application with the documents pertaining thereto to the advisory committee referred to in paragraph (e) of this section, for its consideration and report.
- (d) Provided that where the applicant for sterilisation is suffering from mental defectiveness or is a person who has suffered from mental disorder, the Minister of Health, before coming to a decision, shall consult with the Board of Control.

- (e) Upon the coming into operation of this Act, the Minister of Health shall appoint a special advisory committee, to be known as the Advisory Committee on Sterilisation, which shall consist of specialists in psychological medicine, medical practitioners and geneticists. Such Committee shall have the duty of advising the Minister regarding any application referred to it under this Act.

Persons by whom and places where sterilisation is not to be applied.

4. (a) Sterilisation under this Act shall not be applied except by a registered medical practitioner.
- (b) Sterilisation under this Act shall not be applied in any Hospital, House, Home or institution in which persons suffering from mental defectiveness or mental disorder are detained under the provisions of the Lunacy or Mental Deficiency Acts.

Provided that this prohibition shall not apply to the case of mental defectives under guardianship or in private houses.

Notice of performance of operations.

5. (a) Where a sterilising operation has been performed in a hospital it shall be the duty of the superintendent or secretary of the hospital to forward to the Minister of Health within seven days a notice in the prescribed form (*Cf. Form V*) stating that the operation has been performed.
- (b) Where the operation has been performed elsewhere than in a hospital, it shall be the duty of the surgeon performing the operation to forward such notice (*Cf. Form V*).

Confidential nature of documents.

6. All applications, certificates and documents furnished in accordance with the provisions of this Act shall be confidential and their contents shall not be divulged to any person except those acting in an official capacity under the provisions of this Act.

Provision as to expenses.

7. Where the applicant for sterilisation is in receipt of financial assistance from a public authority, or

furnishes satisfactory proof that he is unable to bear the cost of sterilisation, the appropriate Local Authority shall be empowered to pay the whole or a portion of the costs, including medical certificates, incurred in such sterilisation.

Provided that the Authority shall have the right to recover from the person sterilised or his parent or guardian such proportion of the cost as may be deemed reasonable.

8. (a) A medical practitioner who signs a certificate or does anything under the provisions of this Act shall have protection against civil or criminal proceedings similar to that accorded by the *Mental Treatment Act, 1930*, Section 16. Protection of Medical Practitioners.

(b) Nothing in this Act shall render unlawful any surgical operation or medical treatment which before the passing of this Act could lawfully be performed or applied.

9.* (a) Any person who makes a wilful misstatement of any material fact in any application, statement or certificate under this Act or who divulges the contents of any document except as laid down by this Act shall be guilty of a misdemeanour. Penalties for offences.

(b) Any person who makes default in sending to the Minister of Health the notice of the performance of sterilisation as required by this Act shall for each day or part of a day during which the default continues be liable to a penalty not exceeding ten pounds.

* It will probably be necessary to draft clauses dealing with the procedure for prosecution and the recovery of fines for offences. This is a matter for the parliamentary draftsman.

10. In this Act, if not inconsistent with the context :— Definitions.

(a) The expression "sterilisation" shall mean :—

(i) The operations of vasectomy, salpingectomy, or any other surgical operation whereby

the patient is rendered incapable of procreation or child-bearing without any other impairment of the capacity to exercise sexual functions.

(ii) Any medical treatment which attains the same results as a surgical operation with the same limitation in its effects as regards the sexual functions.

- (b) The expression "mental defectiveness" shall have the same meaning as in the *Mental Deficiency Act, 1927*, Section I, sub-section (2).
- (c) The expression "mental disorder" shall mean any serious disorder of the mind in consequence of which the person has received treatment in a Hospital, Home, Institution or elsewhere.
- (d) The expression "parent or guardian" shall mean the father, mother, guardian or any person or Authority who is responsible for the maintenance of the applicant.

Short Title
and extent.

- 11. (a) This Act may be cited as The Voluntary Sterilisation Act, 193 .
- (b) This Act shall not apply to Scotland or Northern Ireland.
- (c) This Act shall come into force . . .

SCHEDULES.

FORM I.

APPLICATION FOR PERMISSION TO BE STERILISED.

- 1, [1]
of [2]
[3]
- [1] Full Christian name and surname.
[2] Full postal address.
[3] Description (profession or occupation).
- hereby make application for permission to be sterilised in accordance with the provisions of the Voluntary Sterilisation Act, 193 .
- I hereby declare as follows :—
1. (a) I suffer from mental defectiveness.
(b) I have suffered from mental disorder which I believe to be inheritable, namely :—
[4]
(c) I suffer from a grave physical disability which I believe to be inheritable, namely :—
[5]
(d) I believe myself to be likely to transmit to a subsequent generation (mental defectiveness) (mental disorder) (the grave physical disability of),
on the following grounds :—
[6]
- [4] State nature of mental disorder and places and dates of treatment of same.
[5] State nature of disability.
[6] Give grounds for this belief.
2. My age is years, months.
3. I fully understand that sterilisation will render me incapable of (procreating) (producing children).
4. I am married to [7]
of
(I have informed my spouse of my intention to make this application) (I have been unable to inform my spouse of my intention to make this application, for the following reason :—)
- [7] Give name and address of spouse.
5. I am not married.

6. The name and address of my usual medical attendant is as follows:—

7. The reason why one of the medical certificates in support of this application is not signed by my usual medical attendant is as follows:—

I enclose with this application two medical certificates from the following:—

[⁸] Give names and postal addresses of the medical certifiers.

(a) } [⁸]
(b) }

[⁹] Applicant's Signature.

Signed:—[⁹]

Dated:—This

(day) of

(month)

(year).

[¹⁰] Give name, address and description of witness to the applicant's signature.

I, [¹⁰]

of

hereby declare that the above signature was made in my presence, this

(day) of

(month)

(year)

[¹¹] Signature of witness.

Signed:—[¹¹]

To the Minister of Health.

N.B.—Marginal notes must be strictly followed, and inappropriate words or clauses struck out. Two medical certificates on Form III are required in support of an application. One of these certificates should, whenever possible, be signed by the usual medical attendant of the applicant. The second certificate must be signed by a medical practitioner approved for the purpose by the Minister of Health. Where the applicant has suffered from mental disorder, the second certificate must be signed by a practitioner experienced in psychological medicine approved by the Minister of Health.

FORM IA.

(To be appended to Form I.)

DECLARATION TO BE SIGNED BY THE PARENT OR GUARDIAN OF AN APPLICANT FOR STERILISATION WHO IS UNDER THE AGE OF TWENTY-ONE YEARS.

[¹] Full Christian name and surname.

I, [¹]

[²] Full postal address.

of [²]

[³] Profession or occupation.

[³]

hereby declare:—

- (a) That I am the (father) (mother) (guardian) ^{[4] Give name and address of applicant.}
of the above-named [4]
- (b) That I have read his/her application and that to the best of my knowledge and belief the statements therein are true.
- (c) That I consent to the said [5] ^{[5] Give name of applicant.}
being sterilised.

Signed :—

Dated :—This (day) of
(month) (year)

I, [6] ^{[6] Give name, address and description of witness to the above signature.}
of
hereby declare that the above signature was made in
my presence, this (day) of
(month) (year).

Signed :—[7]

^{[7] Signature of witness.}

To the Minister of Health.

N.B.—Marginal notes must be strictly followed, and inappropriate words struck out.

FORM II.

REQUEST FOR PERMISSION TO BE STERILISED MADE BY
A PARENT OR GUARDIAN ON BEHALF OF AN APPLICANT
WHO BY REASON OF MENTAL DEFECTIVENESS IS IN-
CAPABLE OF GIVING A REASONABLE CONSENT.

In the matter of [1] ^{[1] Give name of person proposed to be sterilised.}
of [2] ^{[2] Give full postal address of same.}
I, [3] ^{[3] Give name of person making this request.}
of [4] ^{[4] Give full postal address of same.}
[5] ^{[5] Give description (profession or occupation) of same.}
hereby request that permission be granted for the
above-named [1]
to be sterilised in accordance with the provisions of
the Voluntary Sterilisation Act, 193 .

I declare as follows :—

(a) That I am the (father) (mother) (guardian)
(person responsible for the maintenance) of the
above-named [1]

(b) That I make this request for the following
reasons :—

1. That the sterilisation of the said [1]
is advisable on
the following grounds :—[6]

[6] State reasons
why sterilisation
is desirable.

2. That the said [1]
is incapable of giving a reasonable consent
in consequence of suffering from mental
defectiveness.

(c) That the said [1] is
aged (years) (months).

[7] Give name of
spouse.

[8] Give address
of spouse.

[9] Give reasons.

(d) That the said [1] is
[unmarried] [married to [7]
of [8], and
(his/her spouse has been informed of this
application) (it has been impracticable to inform
the spouse for the following reasons :—[9]
)].

[10] Give name
and full postal
address of usual
medical
attendant.

(e) That the name and address of the usual medical
attendant of the said [1]
is as follows :—[10]

[11] Give reason.

(f) That the reason why one of the medical certi-
ficates in support of the application is not
signed by the usual medical attendant of the
said [1]
is as follows :—[11]

I enclose with this request two medical certificates
from the following :—

[12] Give names
and full postal
addresses of the
medical certifiers.

(a) } [12]
(b) }

[13] Signature of
person making
the request.

Signed :—[13]

Dated :—This

(day) of

(month)

(year).

I, [14]
of
hereby declare that the above signature was made in
my presence, this (day) of
(month) (year).

[14] Give name,
full postal
address and
description of
witness to the
above signature.

Signed :—[15]

[15] Signature of
witness to the
above signature.

To the Minister of Health.

N.B.—1. Two medical certificates on Form III are required in support of every application.

2. The marginal notes must be strictly followed, and the inappropriate words or clauses struck out.

FORM III.

CERTIFICATE OF MEDICAL PRACTITIONER IN SUPPORT OF AN APPLICATION FOR STERILISATION.

In the matter of [1]
of [2]

[3]
an applicant (on his/her own behalf) (through his/her
parent or guardian) for permission to be sterilised,

I, [4]
of [5]
hereby declare as follows :—

[1] Give name of
person proposed
to be sterilised.

[2] Give full
postal address
of same.

[3] Give descrip-
tion (profession
or occupation)
of same.

[4] Give name of
medical certifier.

[5] Give full
postal address of
medical certifier.

1. I am a registered medical practitioner (and the
usual medical attendant of the above-named [1]
) (and approved by the Minister
of Health) (and approved by the Minister of Health
as a practitioner experienced in psychological medi-
cine), for the purpose of signing certificates under the
Voluntary Sterilisation Act, 193 .

2. On [6]
at [7]
I personally examined the above-named [1]

[6] Give date of
examination.

[7] Give place of
examination.

and am of the opinion
that he/she is a fit and proper person to be sterilised,
on the ground that he/she [8]

[8] Strike out the
paragraphs which
do not apply.

(a) is suffering from mental defectiveness as
defined by the Mental Deficiency Act, 1927;

(b) has suffered from mental disorder which I consider to be inheritable;

[⁹] Give name of disability.

(c) is suffering from a grave physical disability which I consider to be inheritable, namely:—
[⁹]

(d) is likely to transmit to a subsequent generation (mental defectiveness) (mental disorder) (the grave physical disability of [⁹]).

3. I base my opinion on the following grounds:—

(a) Facts observed by myself, at the time of the examination:—

[¹⁰] Give details.

[¹⁰]

[¹¹] Give full particulars of the defect, disorder or disability, with names and addresses of informants.

(b) Facts communicated to me by others:—
[¹¹]

4. I have ascertained that the said [¹]
has attained sexual maturity.

[¹²] Only to be filled in where the applicant is suffering from mental defectiveness.

5. [¹²] I have enquired into the personal characteristics and circumstances of the said [¹] and am of the opinion that he/she is a fit and proper person to live in the general community after sterilisation.

[¹³] Only to be filled in where the applicant has suffered from mental disorder.

6. [¹³] I have enquired into the nature and circumstances of the mental disorder from which the said [¹] has suffered, and as a result I am of the opinion that the performance of sterilisation upon the said [¹] is not likely to be followed by any injurious results to his/her mental condition.

7. I further declare that I have questioned (the said [¹]) (the parent or guardian of the said [¹]) and am satisfied that he/she understands that the effect of sterilisation will be to prevent the said [¹] from (procreating) (producing offspring).

[¹⁴] Signature and qualifications of medical practitioner.

Signed:—[¹⁴]

Dated:—This

(day) of

(month)

(year).

To the Minister of Health.

N.B.—1. Two medical certificates are required in support of an application. One of these should, wherever possible, be signed by the usual medical attendant of the applicant. The second must be signed by a practitioner approved for the purpose by the Minister of Health. Where the applicant has suffered from mental disorder the second certificate must be signed by a practitioner experienced in psychological medicine, approved by the Minister of Health.

2. The marginal notes must be strictly followed and the inappropriate words or clauses struck out.

FORM IV.

AUTHORISATION BY THE MINISTER OF HEALTH FOR A PERSON TO BE STERILISED.

I, Minister of Health, in virtue of the powers conferred upon me by the Voluntary Sterilisation Act, 193 , having received (on his/her own behalf) (through his/her parent or guardian) an application that

(name of applicant for sterilisation) , of

(address of applicant) should undergo sterilisation, and being satisfied that the said (applicant)

is a fit and proper person to be sterilised, DO HEREBY GRANT THIS AUTHORISATION for the said

(applicant) to be sterilised by a registered medical practitioner at any time within six months of the date herein specified.

Signed :—

Dated :—

This authorisation is only valid within the time stated. If sterilisation is not performed within such time, application, stating the reason for the delay, may be made to the Minister for a renewal of the authorisation.

FORM V.

NOTICE OF THE PERFORMANCE OF STERILISATION.

I hereby give notice that in accordance with the authorisation of the Minister of Health, dated , sterilisation was

performed upon [1]

of [2]

at [3]

on [4]

Signed :—[5]

Dated :—This

(month)

(day) of

(year)

To the Minister of Health.

[1] Give name of person sterilised.

[2] Give address of same.

[3] Give place of operation.

[4] Give date of operation.

[5] Give name, full postal address and qualifications.

N.B.—This notice shall be forwarded within seven days of the performance of sterilisation to the Minister of Health, failing which the person responsible is liable to a penalty of ten pounds for each day or portion of a day during which the default continues.

Where the operation is performed in a hospital, it shall be signed and forwarded by the secretary or superintendent: if elsewhere, it shall be signed and forwarded by the surgeon performing the operation.

AMENDMENTS SUGGESTED BY REPRESENTATIVES OF THE COUNTY COUNCILS ASSOCIATION, THE ASSOCIATION OF MUNICIPAL CORPORATIONS AND THE MENTAL HOSPITALS ASSOCIATION.

Section 1.—The term "grave physical disability" in paragraph (d) of this section should be defined as meaning certain specified disabilities to be set out in a schedule to the Act and such others as the Minister of Health may by order add thereto after consultation with experts.

Section 2.—In paragraph (3) provision should be made for an appeal to the Minister of Health in the event of a parent or guardian withholding consent.

Section 3.—Words should be added to paragraph (c) (iii) to make it clear that the advisory committee's investigation is to be confined to medical questions.

Section 7.—This section should be redrafted (*mutatis mutandis*) on the lines of section 16 of the *Local Government Act, 1929*.

Section 10.—Provision should be made in this section for the expression "local authority" to be defined consistently with recommendation IX of the Departmental Committee.