

Sterilisation

What is a sterilisation?

Sterilisation is termed a ‘special treatment’ under the *Guardianship and Administration Act 1995*. It is treatment that is intended, or is reasonably likely, to have the effect of rendering permanently infertile the person on whom it is carried out.

Who can consent to a special treatment?

A person who has capacity to understand the nature and effect of the proposed treatment can make their own decision about special treatment and can give consent.

A person is incapable of giving consent to the carrying out of medical treatment (including special treatment) if the person –

- (a) is incapable of understanding the general nature and effect of the proposed treatment; or
- (b) is incapable of indicating whether or not he or she consents or does not consent to the carrying out of the treatment.

There must be a hearing by the Tribunal for a person if it is considered they are incapable of giving consent to determine whether such treatment should occur. Only the Tribunal has the power to give consent to a special treatment for a person.

What factors are used to determine whether a sterilisation may be authorised by the Tribunal?

The Tribunal must be satisfied that

- (a) the medical or dental treatment is otherwise lawful; and
- (b) that person is incapable of giving consent; and
- (c) the medical or dental treatment would be in the best interests of that person.

When it considers whether a special treatment is in the best interests of the person, the Tribunal takes into account:

- (a) the wishes of that person, so far as they can be ascertained; and
- (b) the consequences to that person if the proposed treatment is not carried out; and
- (c) any alternative treatment available to that person; and
- (d) whether the proposed treatment can be postponed on the ground that better treatment may become available and whether that person is likely to become capable of consenting to the treatment.

Who can make an application?

An application for consent for special treatment for a person with decision making disability can be made by any person who, in the opinion of the Tribunal, has a ‘proper interest’.

Making an application for consent to a special treatment

An applicant must complete and lodge the Application for Consent to a Special Treatment (sterilisation) form and Health Care Professional Form (special), which is available on the Tribunal’s website www.tascat.tas.gov.au.