



Queensland

Termination of Pregnancy Act 2018

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Termination of Pregnancy Act 2018

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Termination of Pregnancy Act 2018

An Act about the termination of pregnancies

Part 1 Preliminary

1 Short title

This Act may be cited as the *Termination of Pregnancy Act 2018*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Purposes

The purposes of this Act are—

- (a) to enable reasonable and safe access by women to terminations; and
- (b) to regulate the conduct of registered health practitioners in relation to terminations.

4 Definitions

The dictionary in schedule 1 defines particular words used in this Act.

7 Registered health practitioners who may assist

- (1) A medical practitioner may assist in the performance of a termination on a woman by another medical practitioner.
- (2) A nurse, midwife, pharmacist, Aboriginal and Torres Strait Islander health practitioner or other registered health practitioner prescribed by regulation may, in the practice of his or her health profession, assist in the performance of a termination on a woman by a medical practitioner.
- (3) However, subsections (1) and (2) do not apply in relation to a termination that the assisting registered health practitioner knows, or ought reasonably to know, is being performed by the medical practitioner other than under section 5 or 6.
- (4) A reference in this section to assisting in the performance of a termination by a medical practitioner includes dispensing, supplying or administering a termination drug on the medical practitioner's instruction.

8 Registered health practitioner with conscientious objection

- (1) This section applies if—
 - (a) a person asks a registered health practitioner to—
 - (i) perform a termination on a woman; or
 - (ii) assist in the performance of a termination on a woman; or
 - (iii) make a decision under section 6 whether a termination on a woman should be performed; or
 - (iv) advise the person about the performance of a termination on a woman; and
 - (b) the practitioner has a conscientious objection to the performance of the termination.
- (2) The registered health practitioner must disclose the practitioner's conscientious objection to the person.

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- (3) If the request is by a woman for the registered health practitioner to perform a termination on the woman, or to advise the woman about the performance of a termination on the woman, the practitioner must refer the woman, or transfer her care, to—
 - (a) another registered health practitioner who, in the first practitioner's belief, can provide the requested service and does not have a conscientious objection to the performance of the termination; or
 - (b) a health service provider at which, in the practitioner's belief, the requested service can be provided by another registered health practitioner who does not have a conscientious objection to the performance of the termination.
- (4) This section does not limit any duty owed by a registered health practitioner to provide a service in an emergency.

9 Compliance with this part relevant to professional conduct or performance

- (1) In considering a matter under an Act about a registered health practitioner's professional conduct or performance, regard may be had to whether the practitioner—
 - (a) performs a termination on a woman other than as authorised under section 5 or 6; or
 - (b) assists in the performance of a termination on a woman other than as authorised under section 7; or
 - (c) contravenes section 8.
- (2) The matters to which subsection (1) applies include matters arising in—
 - (a) a notification under the Health Practitioner Regulation National Law (Queensland); or
 - (b) a complaint under the *Health Ombudsman Act 2013*; or
 - (c) a referred matter under the Health Practitioner Regulation National Law (Queensland).

Part 3 Protection from criminal responsibility

10 **Woman does not commit an offence for termination on herself**

Despite any other Act, a woman who consents to, assists in, or performs a termination on herself does not commit an offence.

Part 4 Safe access zones

Division 1 Preliminary

11 **Purpose**

The purpose of this part is to protect the safety and well-being, and respect the privacy and dignity, of—

- (a) persons accessing services provided at termination services premises; and
- (b) persons who are employed to provide services at termination services premises or otherwise need to access the premises in the course of their duties or responsibilities.

12 **Application of part**

This part applies despite the *Peaceful Assembly Act 1992*.

13 **Meaning of *termination services premises***

In this part—

termination services premises—

- (a) means premises at which a service of performing terminations on women is ordinarily provided; but

- (b) does not include a pharmacy.

14 Meaning of *safe access zone*

- (1) A place is in the *safe access zone* for termination services premises if the place is—
 - (a) in the premises; or
 - (b) not more than the prescribed distance from an entrance to the premises.
- (2) Unless a distance is prescribed under subsection (3), the prescribed distance for subsection (1)(b) is 150m.
- (3) A regulation may prescribe a distance for subsection (1)(b) for stated termination services premises.
- (4) The Minister may recommend to the Governor in Council the making of a regulation under subsection (3) only if satisfied that, having regard to the location of the premises, a prescribed distance of 150m is insufficient, or greater than is necessary, to achieve the purpose of this part in relation to the premises.

Division 2 Offences

15 Prohibited conduct in safe access zones

- (1) A person's conduct in the safe access zone for termination services premises is *prohibited conduct* if the conduct—
 - (a) relates to terminations or could reasonably be perceived as relating to terminations; and
 - (b) would be visible or audible to another person in, or entering or leaving, the premises; and
 - (c) would be reasonably likely to deter a person mentioned in paragraph (b) from—
 - (i) entering or leaving the premises; or
 - (ii) requesting or undergoing a termination; or

-
- (iii) performing, or assisting in the performance of, a termination.
- (2) A person's conduct may be prohibited conduct whether or not another person sees or hears the conduct or is deterred from taking an action mentioned in subsection (1)(c)(i) to (iii).
- (3) A person must not engage in prohibited conduct in the safe access zone for termination services premises.
- Maximum penalty—20 penalty units or 1 year's imprisonment.
- (4) Subsection (3) does not apply to a person employed to provide a service at the termination services premises.

16 Recording persons in or near termination services premises

- (1) This section applies in relation to a recording (a *restricted recording*) that—
- (a) is an audio or visual recording of a person while the person is in, or entering or leaving, termination services premises; and
- (b) contains information that identifies, or is likely to lead to the identification of, the person.
- (2) A person must not, without reasonable excuse, make a restricted recording of another person without the other person's consent.

Example—

It may be a reasonable excuse for the occupier of premises to make a restricted recording of persons in or near the premises, without the persons' consent, for security purposes.

Maximum penalty—20 penalty units or 1 year's imprisonment.

- (3) A person must not, without reasonable excuse, publish or distribute a restricted recording of another person without the other person's consent.

Maximum penalty—20 penalty units or 1 year's imprisonment.

(4) Subsections (2) and (3) do not apply to a police officer doing a thing in the course of performing the officer's duties.

(5) In this section—

distribute includes—

- (a) communicate, exhibit, send, supply or transmit (including by live streaming), whether or not to a particular person; and
- (b) make available for access, whether or not to a particular person; and
- (c) enter into an agreement or arrangement to do a thing mentioned in paragraph (a) or (b); and
- (d) attempt to distribute.

publish means publish to the public by television, radio, the internet, newspaper, periodical, notice, circular or other form of communication.

visual recording includes a photograph.

Part 5 Miscellaneous

17 Evidentiary aids

For a proceeding for an offence against part 4, division 2, a certificate purporting to be signed by the chief executive and stating either of the following matters is evidence of the matter—

- (a) stated premises are termination services premises;
- (b) a stated place is in the safe access zone for stated termination services premises.

18 Regulation-making power

The Governor in Council may make regulations under this Act.

Schedule 1 Dictionary

section 4

Aboriginal and Torres Strait Islander health practitioner means a person registered under the Health Practitioner Regulation National Law to practise in the Aboriginal and Torres Strait Islander health practice profession, other than as a student.

employ includes engage, whether or not for payment.

entering includes attempting to enter.

leaving includes attempting to leave.

midwife means a person registered under the Health Practitioner Regulation National Law to practise in the midwifery profession, other than as a student.

nurse means a person registered under the Health Practitioner Regulation National Law to practise in the nursing profession, other than as a student.

pharmacist means a person registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession, other than as a student.

pharmacy means premises in which a pharmacy business within the meaning of the *Pharmacy Business Ownership Act 2001* is carried on.

premises means a building or part of a building.

registered health practitioner means a person registered under the Health Practitioner Regulation National Law to practise a health profession, other than as a student.

safe access zone see section 14.

termination means an intentional termination of a pregnancy in any way, including, for example, by—

(a) administering a drug; or

(b) using an instrument or other thing.

termination drug means a drug of a kind used to cause a termination.

termination services premises see section 13.

woman means a female person of any age.