



Queensland

Termination of Pregnancy Act 2018

Act No. 23 of 2018

An Act about the termination of pregnancies, and to amend this Act, the Criminal Code, the Evidence Act 1977, the Guardianship and Administration Act 2000, the Penalties and Sentences Act 1992, the Police Powers and Responsibilities Act 2000 and the Transport Operations (Road Use Management) Act 1995 for particular purposes

[Assented to 25 October 2018]



Queensland

Termination of Pregnancy Act 2018

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The Parliament of Queensland enacts—

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

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(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.

18 Regulation-making power

The Governor in Council may make regulations under this Act.

Part 6 Amendment of Acts

Division 1 Amendment of this Act

19 Act amended

This division amends this Act.

20 Amendment of long title

Long title, from ‘, and to amend’—
omit.

Division 2 Amendment of Criminal Code

21 Code amended

This division amends the Criminal Code.

22 Omission of ss 224–226

Sections 224 to 226—
omit.

23 Amendment of s 282 (Surgical operations and medical treatment)

(1) Section 282(1)—
omit, insert—

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- (1) A person is not criminally responsible for performing or providing, in good faith and with reasonable care and skill, a surgical operation on or medical treatment of a person or unborn child if performing the operation or providing the treatment is reasonable, having regard to all the circumstances of the case.
- (1A) A person is not criminally responsible for performing or providing, in good faith and with reasonable care and skill, a surgical operation on or medical treatment of a person or unborn child in an emergency if it is necessary to perform the operation or provide the treatment to save the mother's life or the life of another unborn child.
- (2) Section 282(4), definitions *medical treatment* and *surgical operation*—
omit.
- (3) Section 282(4)—
insert—

medical treatment, for subsection (1), does not include medical treatment provided by an unqualified person that is intended to adversely affect an unborn child.

surgical operation, for subsection (1), does not include a surgical operation performed by an unqualified person that is intended to adversely affect an unborn child.

unqualified person see section 319A(4).

24 Amendment of s 313 (Killing unborn child)

Section 313—

insert—

- (1A) A person does not commit an offence against subsection (1) by performing a termination, or

assisting in the performance of a termination,
under the *Termination of Pregnancy Act 2018*.

Note—

See also the *Termination of Pregnancy Act 2018*, section 10 in relation to a woman's criminal liability for a termination on herself.

25 Insertion of new s 319A

After section 319—

insert—

319A Termination of pregnancy performed by unqualified person

- (1) An unqualified person who performs a termination on a woman commits a crime.

Maximum penalty—7 years imprisonment.

- (2) An unqualified person who assists in the performance of a termination on a woman commits a crime.

Maximum penalty—7 years imprisonment.

- (3) A reference in subsection (2) to assisting in the performance of a termination includes—

(a) supplying, or procuring the supply of, a termination drug for use in a termination; and

(b) administering a termination drug.

Note—

The *Termination of Pregnancy Act 2018*, section 10 provides that a woman who consents to, assists in, or performs a termination on herself does not commit an offence.

- (4) In this section—

perform includes attempt to perform.

prescribed practitioner means a person registered

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under the Health Practitioner Regulation National Law to practise in any of the following health professions, other than as a student—

- (a) the Aboriginal and Torres Strait Islander health practice profession;
- (b) the midwifery profession;
- (c) the nursing profession;
- (d) the pharmacy profession;
- (e) the health profession of a registered health practitioner prescribed under the *Termination of Pregnancy Act 2018*, section 7(2).

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.

unqualified person means—

- (a) in relation to performing a termination on a woman—a person who is not a medical practitioner; or
- (b) in relation to assisting in the performance of a termination on a woman—a person who is not—
 - (i) a medical practitioner; or
 - (ii) a prescribed practitioner providing the assistance in the practice of his or her health profession.

woman means a female person of any age.

Division 3 Amendment of Evidence Act 1977

26 Act amended

This division amends the *Evidence Act 1977*.

27 Amendment of s 14B (Other definitions for division)

Section 14B, definition *sexual assault offence*, paragraph (a)(ii), ‘, other than section 224, 225 or 226’—

omit.

28 Amendment of s 21A (Evidence of special witnesses)

Section 21A(1), definition *sexual offence*, paragraph (b), ‘, other than section 224, 225 or 226’—

omit.

29 Amendment of s 21AC (Definitions for div 4A)

- (1) Section 21AC, definition *offence involving violence*, second dot point, after ‘319,’—

insert—

319A,

- (2) Section 21AC, definition *offence of a sexual nature*, first dot point, ‘other than section 224, 225 or 226’—

omit.

30 Amendment of s 21M (Meaning of *protected witness*)

Section 21M(3), definition *prescribed offence*, after ‘309,’—

insert—

319A,

[s 31]

Division 4 Amendment of Guardianship and Administration Act 2000

31 Act amended

This division amends the *Guardianship and Administration Act 2000*.

32 Amendment of s 71 (Termination of pregnancy)

Section 71(1), from ‘is necessary’—

omit, insert—

may be performed by a medical practitioner under
the *Termination of Pregnancy Act 2018*.

Division 5 Amendment of Penalties and Sentences Act 1992

33 Act amended

This division amends the *Penalties and Sentences Act 1992*.

34 Amendment of s 151F (When treatment order can not be made)

Section 151F(2), definition *sexual assault offence*, paragraph
(a), ‘, other than an offence against section 224, 225 or 226’—

omit.

Division 6 **Amendment of Police Powers and Responsibilities Act 2000**

35 **Act amended**

This division amends the *Police Powers and Responsibilities Act 2000*.

36 **Amendment of s 30 (Prescribed circumstances for searching persons without warrant)**

Section 30—

insert—

- (j) the person has committed, is committing, or is about to commit, an offence against the *Termination of Pregnancy Act 2018*, section 15 or 16.

37 **Amendment of s 32 (Prescribed circumstances for searching vehicle without warrant)**

Section 32(1)—

insert—

- (o) may be evidence of the commission of an offence against the *Termination of Pregnancy Act 2018*, section 15 or 16.

Division 7 **Amendment of Transport Operations (Road Use Management) Act 1995**

38 **Act amended**

This division amends the *Transport Operations (Road Use Management) Act 1995*.

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39 Insertion of new ch 7, pt 22

Chapter 7—

insert—

**Part 22 Transitional provision
for Termination of
Pregnancy Act 2018**

232 Sch 2 applies to repealed offence

Schedule 2 applies as if it included a reference to the Criminal Code, section 226 as in force at any time before its repeal by the *Termination of Pregnancy Act 2018*.

40 Amendment of sch 2 (Disqualifying offences under the Criminal Code—crossing supervisors)

(1) Schedule 2, entry for section 226—

omit.

(2) Schedule 2—

insert—

section 319A (Termination of pregnancy performed by unqualified person)

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.

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