



Termination of Pregnancy Act 2018

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Queensland

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 and students who may assist

- (1) A prescribed practitioner may, in the practice of the practitioner's prescribed health profession, assist in the performance of a termination on a woman by a medical practitioner.
- (2) A prescribed student may assist in the performance of a termination on a woman by a medical practitioner if the student provides the assistance only—
 - (a) under the supervision of—
 - (i) the medical practitioner; or
 - (ii) a prescribed practitioner lawfully assisting in the performance of the termination; or
 - (iii) the student's primary clinical supervisor; and
 - (b) to the extent necessary to complete the student's program of study for, or clinical training in, the student's health profession.
- (3) However, subsections (1) and (2) do not apply in relation to a termination that the assisting prescribed practitioner or prescribed student knows, or ought reasonably to know, is being performed by the medical practitioner other than under section 5 or 6.

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

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- (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.
- (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.

8A Prescribed student with conscientious objection

- (1) This section applies if—
- (a) a relevant person asks a prescribed student to assist in the performance of a termination on a woman; and
 - (b) the student has a conscientious objection to—
 - (i) the performance of the termination; or
 - (ii) assisting in the performance of the termination.
- (2) The student must disclose the student's conscientious objection to the relevant person.
- (3) In this section—

relevant person means—

- (a) a medical practitioner performing the termination; or
- (b) a prescribed practitioner lawfully assisting in the performance of the termination; or
- (c) the student's primary clinical supervisor.

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—

Schedule 1 Dictionary

section 4

assisting, in the performance of a termination on a woman—

- (a) includes—
 - (i) dispensing a termination drug for use in the termination; and
 - (ii) supplying, or procuring the supply of, a termination drug for use in the termination; and
 - (iii) administering a termination drug; but
- (b) does not include providing care to the woman before or after the termination is performed.

employ includes engage, whether or not for payment.

entering includes attempting to enter.

leaving includes attempting to leave.

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.

prescribed health profession means any of the following health professions under the Health Practitioner Regulation National Law—

- (a) Aboriginal and Torres Strait Islander health practice;
- (b) medical;
- (c) midwifery;
- (d) nursing;
- (e) pharmacy;
- (f) another health profession prescribed by regulation.

prescribed practitioner means a registered health practitioner whose health profession is a prescribed health profession.

prescribed student means a person whose name is entered in a student register, for a prescribed health profession, as being currently registered under the Health Practitioner Regulation National Law.

primary clinical supervisor, of a prescribed student, means a registered health practitioner who has primary responsibility for supervising the clinical work performed by the student for the student's program of study for, or clinical training in, the student's health profession.

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.

student register, for a health profession, see the Health Practitioner Regulation National Law.

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.