



# **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 persons 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.



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## 6A Medical termination by particular registered health practitioners

- (1) This section applies to each of the following registered health practitioners—
  - (a) a practitioner whose health profession is midwifery;
  - (b) a practitioner whose health profession is nursing;
  - (c) another practitioner prescribed by regulation.
- (2) The registered health practitioner may, in the practice of the practitioner's health profession, perform a termination on a person if—
  - (a) the termination is a medical termination; and
  - (b) the practitioner is authorised under the *Medicines and Poisons Act 2019*, section 54 to carry out the activity that constitutes the performance of the termination.
- (3) For subsection (2), a registered health practitioner *performs* a medical termination on a person if the practitioner—
  - (a) prescribes a termination drug for use in the termination; or
  - (b) administers, or gives a treatment dose of, a termination drug for use in the termination without a prescription.
- (4) In this section—

*give a treatment dose*, of a termination drug, has the meaning given under the *Medicines and Poisons Act 2019*, section 25(3).

## 7 Registered health practitioners and students who may assist

- (1) This section applies in relation to—
  - (a) the performance of a termination on a person by a medical practitioner; or

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- (b) the performance of a medical termination on a person by a registered health practitioner to whom section 6A applies.
- (2) A prescribed practitioner may, in the practice of the practitioner's prescribed health profession, assist in the performance of the termination.
- (3) A prescribed student may assist in the performance of the termination if the student provides the assistance only—
  - (a) under the supervision of—
    - (i) the medical practitioner or registered health 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.
- (4) However, subsections (2) and (3) 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—
  - (a) the medical practitioner other than under section 5 or 6; or
  - (b) the registered health practitioner other than under section 6A.

## **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 person; or
    - (ii) assist in the performance of a termination on a person; or



- (iii) make a decision under section 6 whether a termination on a person should be performed; or
    - (iv) advise the person about the performance of a termination on a person; 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 person for the registered health practitioner to perform a termination on the person, or to advise the person about the performance of a termination on the person, the practitioner must refer the person, or transfer the person's 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 another person; and
  - (b) the student has a conscientious objection to—
    - (i) the performance of the termination; or
    - (ii) assisting in the performance of the termination.

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- (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) for a medical termination—a registered health practitioner, to whom section 6A applies, performing the termination; or
  - (c) a prescribed practitioner lawfully assisting in the performance of the termination; or
  - (d) 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 person other than as authorised under section 5, 6 or 6A; or
  - (b) assists in the performance of a termination on a person 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).

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## Part 3                      Protection from criminal responsibility

### 10      **Person does not commit an offence for termination on themselves**

Despite any other Act, a person who consents to, assists in, or performs a termination on themselves 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*—

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- (a) means premises at which a service of performing terminations on persons 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—

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- (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.

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- (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

***assisting***, in the performance of a termination on a person—

- (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 person 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.

***medical termination*** means a termination caused by use of a termination drug.

***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.