

FACT SHEET

Reproductive Health (Access to Terminations) Bill 2013

The *Reproductive Health (Access to Terminations) Bill 2013* will introduce a new, health based, Act to regulate pregnancy terminations in Tasmania and will repeal the current provisions of the *Criminal Code* relating to terminations.

The proposed new Act will provide that upon the consent of a woman, a medical practitioner may perform a termination up to 16 weeks into the pregnancy.

After 16 weeks, two medical practitioners (one of whom must specialise in obstetrics or gynaecology) must reasonably believe that continuing the pregnancy involves a greater risk of injury to the physical or mental health of the woman than if the pregnancy were terminated. In coming to that belief, the medical practitioners are to have regard to the woman's current and future physical, psychological, economic and social circumstances.

A medical practitioner failing to comply with the above framework will face professional sanctions, not criminal ones – unless the failure relates to a lack of consent. In that case, the risk of criminal sanctions for medical practitioners will be the same as that for all other medical procedures. The Bill also includes a consequential amendment to the *Guardianship and Administration Act 1995* so it is clear that the existing provisions in that Act for substituted consent will not be altered by the Bill.

A woman will not be guilty of a crime or offence for terminating her own pregnancy. Otherwise, it will be a crime for any person other than a medical practitioner to terminate a pregnancy.

A person who supplies any medication or item knowing it will be used in a termination is not, by that supply, taken to terminate a pregnancy and as such that action alone is not a crime under termination laws. Such a person may, however, be guilty of an offence under other legislation – for example it is an offence for a person to supply medication without being lawfully permitted to do so under the *Poisons Act 1971*.

Consistent with current laws, the new Act will recognise in legislation a health practitioner's right to refuse to participate in treatment to which he or she objects on the basis of a conscientious objection (ie a fixed / firm belief). The only time this right cannot be exercised is in an emergency where the termination is necessary to save the life of a pregnant woman or prevent her serious physical injury.

A corresponding legislative responsibility will be introduced. When asked to provide a termination or pregnancy options counselling, a medical practitioner or counsellor with a conscientious objection to terminations is to refer a woman to another practitioner or counsellor who does not hold such an objection.

Failure to do so may result in professional sanctions for medical practitioners, while counsellors face a maximum fine of 250 penalty units. The different consequences for non-compliance reflect that, unlike medical practitioners, counsellors are not regulated by professional boards established under national laws for regulating health practitioners.

It will be up to the medical practitioner and counsellor to decide how to refer – neither is obliged by the Bill to write a written referral detailing the patient's medical history as one might do with a referral to a specialist – instead it will be sufficient if the woman is provided with the name and contact details of an alternative provider who does not hold a conscientious objection.

The new Act will also establish 150 metre access zones around premises providing terminations. It will be an offence for a person to engage in prohibited behaviour in an access zone.

Prohibited behaviour includes protesting in relation to terminations, harassing, intimidating or interfering with a person, or recording a person entering premises where terminations are provided without that person's consent. It will also be an offence for a person to distribute or publish such a recording. Police will have the power to search a person and seize any such recording. A person engaging in prohibited behaviour or distributing / publishing a recording faces a maximum fine of 500 penalty units and/or a maximum 12 month prison term.

The new Act will also contain standard clauses for the making of regulations and for infringement notices in respect of offences in the Act.