

# Abortion Legislation Bill

Government Bill

## Explanatory note

### General policy statement

This is an omnibus Bill introduced under Standing Order 263(a). The amendments in the Bill all relate to abortion and implement a single broad policy.

Performing an unlawful abortion is a criminal offence in New Zealand. An abortion is unlawful unless certain legal grounds are met. Two specially appointed doctors, called certifying consultants, must be satisfied that one of the grounds applies before an abortion can occur. It is also an offence, punishable by a fine, for a woman to unlawfully procure her own miscarriage or obtain an unlawful abortion.

The Bill amends the law to—

- decriminalise abortion:
- better align the regulation of abortion services with other health services:
- modernise the legal framework for abortion currently set out in the Crimes Act 1961 (the **Crimes Act**) and the Contraception, Sterilisation, and Abortion Act 1977 (the **CSA Act**).

The changes will mean that abortion is, in general, provided like other health services. The safety of health services in New Zealand is regulated by a range of legislation that provides for—

- the right of health consumers to receive an appropriate standard of care, the right to have access to information and be fully informed, and the right to give informed consent, under the Health and Disability Commissioner Act 1994 and Code of Health and Disability Services Consumers' Rights:
- mechanisms to ensure that health practitioners are suitably qualified, competent, and fit to practise their professions, under the Health Practitioners Competence Assurance Act 2003:

- limitations on who can supply or administer prescription medicine, in accordance with a prescription given by an authorised health practitioner, under the Medicines Act 1981:
- avenues for health consumers to make complaints about their care and for complaints to be independently assessed by the Health and Disability Commissioner.

This framework already applies to the provision of abortion services, alongside the specific abortion regime in the Crimes Act and CSA Act. Since the enactment of the CSA Act in 1977, there has been considerable change to legal frameworks and policy relating to the rights of health consumers, the regulation of health practitioners and medicines, and the provision of primary health care, including sexual and reproductive health services. The existing law relating to abortion has not kept up with these developments, resulting in additional layers of legislative requirements that are out of step with modern health law.

### **Summary of key changes in Bill**

#### **Changes to Contraception, Sterilisation, and Abortion Act 1977**

##### *Authorisation for abortion*

This Bill repeals the current legal grounds for authorising an abortion. It also repeals the role of, and requirement for, certifying consultants.

The effect of the changes is that,—

- for a woman who is not more than 20 weeks pregnant, there would be no statutory test that the health practitioner needs to apply. The practitioner would continue to be required to ensure that the woman makes an informed choice and gives informed consent:
- for a woman who is more than 20 weeks pregnant, the statutory test would require the health practitioner to reasonably believe that abortion is appropriate with regard to the pregnant woman's physical and mental health, and well-being. In addition, the practitioner would continue to be required to ensure that the woman makes an informed choice and gives informed consent.

In all cases, existing health law continues to recognise the right of health care consumers to receive an appropriate standard of care by a suitably qualified and competent health practitioner.

##### *Self-referral*

The Bill inserts a provision to ensure that a woman can self-refer to an abortion service provider. This removes the need for a woman to wait and first see a health practitioner (such as a general practitioner) so she can be referred to an appropriate service. This will remove some delay and cost barriers to women accessing abortion services.

### *Counselling*

The Bill makes it clear that health practitioners must advise women of the availability of counselling services if they are considering an abortion or have had an abortion, but that counselling is not mandatory. The Minister of Health must take reasonable and practicable steps to ensure that counselling services are available throughout New Zealand when entering into Crown funding agreements under the New Zealand Public Health and Disability Act 2000. That Act provides for the public funding and provision of personal health services, public health services, and disability support services.

### *Conscientious objection*

Current law imposes a duty on practitioners who object to providing services on the grounds of conscience to inform the pregnant woman about their objection, and that the woman can obtain the services elsewhere. Practitioners are not currently required to refer the pregnant woman to another practitioner.

The Bill amends the process for practitioners who object on grounds of conscience. It clarifies that practitioners who object on grounds of conscience must disclose their objection to the pregnant woman at the earliest opportunity. The Bill also introduces the requirement that a practitioner who objects on the grounds of conscience must tell the woman how she can access the contact details of a provider of the service requested. The Bill requires the Director-General of Health to maintain a list of abortion service providers, and the practitioner must tell the woman how she may access the list.

The Bill also balances the right to conscientious objection with the role of employers in providing health services. Based on the principles of the Human Rights Act 1993, it allows employers to consider how the conscientious objection would impact on their provision of abortion services when making employment decisions. Those who have a conscientious objection must be accommodated by an employer as long as it would not unreasonably disrupt the employer's ability to provide abortion services.

The Bill also provides for applicants or employees to have the option of using existing processes under the Human Rights Act 1993 or the Employment Relations Act 2000 for dealing with employment disputes that allege discrimination on the basis of conscientious objection.

### *Abortion Supervisory Committee disestablished*

The Bill disestablishes the Abortion Supervisory Committee and repeals provisions of the CSA Act relating to the duties, powers, and functions of the Abortion Supervisory Committee.

The Ministry of Health will administer the CSA Act as part of its existing role within the health sector. The Bill requires the Director-General of Health to develop standards of care for abortion services and to undertake data collection. The Bill provides a regulation-making power to support these data collection and monitoring functions if needed, to ensure that abortion data continues to be collected nationally in New Zealand.

### *Safe areas*

The Bill provides a regulation-making power to set up safe areas around specific abortion facilities, on a case-by-case basis. The purpose of this regulation-making power is to protect the safety and well-being, and respect the privacy and dignity, of women accessing abortion facilities and practitioners providing and assisting with abortion services.

The Bill defines the type of behaviour that is prohibited as—

- intimidating, interfering with, or obstructing a person with the intention of preventing them from accessing abortion facilities or providing abortion services; or
- communicating with, or visually recording a person in a manner that is intended to cause the person emotional distress and would cause emotional distress to an ordinary reasonable person in the position of the person.

It also provides that the safe area can be no more than 150 metres from any part of the protected facility.

The decision to make regulations creating a safe area would be made on the recommendation of the Minister of Health, in consultation with the Minister of Justice.

The specific size and exact location of the safe area would be determined on a case-by-case basis, as appropriate for the individual facility's circumstances. The details would be set out in the regulations made for specific premises.

### *Other changes to align regulation of abortion services with other health services*

This Bill repeals sections of the CSA Act to align the legal framework with the regulation of other health services. This removes prescriptive rules relating to: referral by medical practitioners, restrictions on where abortions may be performed, the procedure where there is a lack of capacity to consent, and the approval of counselling services. Repealing those prescriptive rules in the CSA Act has the effect of more closely aligning regulation of abortion with the general law and policy for the health system.

## **Changes to criminal offences**

### *Bill decriminalises abortion*

The policy intent is to decriminalise abortion for the pregnant woman, and for health practitioners who perform an abortion or who supply products to induce an abortion.

This Bill repeals offences under the CSA Act and the Crimes Act. It also repeals the grounds for lawfully aborting a pregnancy that are prescribed in the Crimes Act.

The Bill—

- repeals the offence relating to a woman who attempts to procure her own abortion;
- repeals the offences relating to abortions performed by health practitioners. Health practitioners who do not comply with relevant standards or processes

for performing an abortion may be sanctioned under the complaints and discipline regime for health practitioners, under the Health Practitioners Competence Assurance Act 2003:

- repeals the offences relating to persons who perform an abortion elsewhere than in an institution licensed by the Abortion Supervisory Committee, or without authorisation from 2 certifying consultants. Those requirements are not consistent with a health approach and are being removed from the regulatory framework, so offence provisions are no longer needed.

The Bill retains important criminal offences, with necessary language changes to update and align the terminology with modern drafting. It retains the offences—

- for unqualified people (ie, not health practitioners) who attempt to procure an abortion on a pregnant woman:
- for unqualified people (ie, not health practitioners) supplying the means for procuring an abortion.

There is an offence of killing an unborn child under section 182 of the Crimes Act. It makes a person liable to a maximum of 14 years' imprisonment if the person causes the death of any fetus in such a manner that they would be guilty of murder if it had become a human. Section 182 also provides that a person will not be guilty of this offence if they were acting in good faith to preserve the mother's life.

The protections for women under this offence are unchanged and sanctions remain against any person who commits an unlawful act causing the death of a fetus in such a manner that they would be guilty of murder if that fetus had become a human. The Bill makes necessary modifications to ensure that this section does not apply to abortion under the CSA Act.

### **Changes to Health Practitioners Competence Assurance Act 2003**

#### *Conscientious objection*

The Bill amends the Health Practitioners Competence Assurance Act 2003 to align that Act with the changes made to conscientious objection in the CSA Act.

### **Departmental disclosure statement**

The Ministry of Justice is required to prepare a disclosure statement to assist with the scrutiny of this Bill. The disclosure statement provides access to information about the policy development of the Bill and identifies any significant or unusual legislative features of the Bill.

A copy of the statement can be found at <http://legislation.govt.nz/disclosure.aspx?type=bill&subtype=government&year=2019&no=164>

### Regulatory impact assessment

The Ministry of Justice produced a regulatory impact assessment on 17 May 2019 to help inform the main policy decisions taken by the Government relating to the contents of this Bill.

A copy of this regulatory impact assessment can be found at—

- <http://www.justice.govt.nz/justice-sector-policy/constitutional-issues-and-human-rights/regulatory-impact-statements/>
- <http://www.treasury.govt.nz/publications/informationreleases/ria>

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause. It provides that the Bill comes into force on the day after the date of Royal assent.

## Part 1

### Amendments to Contraception, Sterilisation, and Abortion Act 1977

*Clause 3* provides that *Part 1* amends the Contraception, Sterilisation, and Abortion Act 1977 (the **principal Act**).

*Clause 4* repeals the Long Title of the principal Act.

*Clause 5* replaces section 2 of the principal Act, as a number of terms defined in that section are no longer required as a result of the amendments in this Part. There is a new definition of abortion, and other key terms defined include abortion services, conscientious objection, qualified health practitioner, and safe area.

*Clause 6* inserts *new sections 2A and 2B*. *New section 2A* relates to transitional, savings, and related provisions set out in the *new Schedule* (as set out in *Schedule 1* of the Bill). *New section 2B* provides that the principal Act binds the Crown.

*Clause 7* replaces sections 10 to 46 of the principal Act (which deal with abortion) with *new sections 10 to 21* to provide a new regime for accessing abortion services. The new regime does not continue the existing provisions relating to—

- the constitution, functions, and powers of the Abortion Supervisory Committee:
- the provision for the licensing of hospitals, clinics, and other premises that provide abortion facilities:
- the requirement for 2 certifying consultants to authorise an abortion.

*New section 10* provides that a qualified health practitioner may provide abortion services to a woman who is not more than 20 weeks pregnant. This is unconditional, with no criteria needing to be satisfied.

*New section 11* provides that a qualified health practitioner may provide abortion services to a woman who is more than 20 weeks pregnant, but this is conditional on the

health practitioner reasonably believing that an abortion is appropriate in the circumstances. The health practitioner must have regard to the woman's physical health, mental health, and well-being when considering whether an abortion is appropriate.

*New section 12* provides that the Minister of Health must, when entering into Crown funding agreements, take reasonable and practicable steps to ensure that counselling services are available throughout New Zealand in relation to the provision of abortion services.

*New section 13* provides that a health practitioner must advise a woman about the availability of counselling services if the woman—

- seeks advice or information about whether to continue or terminate a pregnancy; or
- wishes to terminate a pregnancy; or
- has terminated a pregnancy.

A qualified health practitioner cannot require, as a condition of providing abortion services to a woman, that the woman attend counselling before or after the provision of the services.

*New section 14* provides that a qualified health practitioner cannot require, as a condition of providing abortion services to a woman, that the woman be referred from a health practitioner.

*New section 15* provides that it is an offence, punishable by a fine not exceeding \$1,000, for a person to engage in prohibited behaviour in a safe area. Prohibited behaviour is defined in *new section 15* and includes intimidating, interfering with, or obstructing a person with the intention of preventing the person, or being reckless as to whether the person is prevented, from accessing abortion services or from seeking advice or information about abortion services. A safe area is defined in *new section 2* to mean any premises at which abortion services are provided, and any area around those premises, prescribed in regulations made under *new section 16*. This will enable specific premises, and specific areas around those premises, to be prescribed in which it will be an offence to engage in prohibited behaviour.

*New section 16* empowers a constable to arrest, without a warrant, a person who the constable reasonably believes is engaging in prohibited behaviour in a safe area after having been requested to stop that behaviour.

*New section 17* empowers the making of regulations for the purposes of *new section 15* to prescribe as a safe area any premises at which abortion services are provided and an area around those premises that is within a 150-metre boundary of any part of the premises. The Minister of Health may not recommend the making of regulations for the purposes of *new section 15* unless the Minister is satisfied of certain matters.

*New section 18* imposes duties on the Director-General of Health to—

- collect, collate, analyse, and publish information about the provision of abortion services and also the provision of counselling services in relation to, or in connection with, the provision of abortion services; and

- develop and publish standards for the provision of these services; and
- make and maintain a list of abortion service providers.

*New sections 19 and 20*, which deal with conscientious objection, replace existing section 46 of the principal Act, and make several significant changes. First, *new section 19* provides that a person who objects on the ground of conscience to providing, or assisting with the provision of, contraception services, sterilisation services, abortion services, or information and advisory services about continuing or terminating a pregnancy must state their objection and tell a person how they may access a provider of the service requested. Secondly, *new section 20* provides that an employer may discriminate against an applicant or employee on the basis of a conscientious objection if accommodating that objection would unreasonably disrupt the employer's activities. An applicant or employee who alleges that an employer has breached this provision may make a complaint under the Human Rights Act 1993 alleging unlawful discrimination on the basis of a conscientious objection as if the complaint were a complaint of unlawful discrimination under section 22 of that Act. Thirdly, if an applicant or employee who alleges an employer has contravened *new section 20* is entitled to pursue a personal grievance under the Employment Relations Act 2000, the applicant or employee may pursue the resolution of that grievance under that Act as an alternative to pursuing a complaint under the Human Rights Act 1993.

*New section 21* empowers the making of regulations for purposes additional to those in *new section 17*.

*Clause 8* inserts a *new Schedule* in the principal Act for transitional, savings, and related provisions.

## Part 2

### Amendments to other enactments

#### Subpart 1—Amendments to Crimes Act 1961

*Clause 9* provides that *subpart 1* amends the Crimes Act 1961.

*Clause 10* repeals the cross-heading above section 182 of the Crimes Act.

*Clause 11* amends section 182 of the Crimes Act, which provides that it is an offence to kill an unborn child. The amendment clarifies that this offence does not apply in any case where abortion services are being provided under the CSA Act.

*Clause 12* replaces the offence provisions in the Crimes Act relating to abortion with a single new provision that makes it an offence for a person who is not a health practitioner to procure or attempt to procure an abortion, or to perform or attempt to perform an abortion. This provision excludes from liability all health practitioners, not just qualified health practitioners. It is envisaged that an unqualified health practitioner who procures, or attempts to procure, an abortion would be subject to disciplinary proceedings under the Health Practitioners Competence Assurance Act 2003. The penalty for this offence is a term of imprisonment not exceeding 5 years (the current penalty in section 183 of the Crimes Act is 14 years).

## Subpart 2—Amendments to Health Practitioners Competence Assurance Act 2003

*Clause 13* provides that *subpart 2* amends the Health Practitioners Competence Assurance Act 2003.

*Clause 14* amends section 174 of the Health Practitioners Competence Assurance Act 2003, which requires a health practitioner who objects to providing contraception, sterilisation, or other reproductive health services to a person to tell the person that they can obtain the service from another health practitioner or from a family planning clinic. The amendment clarifies that abortion services are within the scope of this provision and requires the health practitioner to tell the person how they may access a provider of the service requested.

## Subpart 3—Amendment to Health and Disability Commissioner Act 1994

*Clause 15* provides that *subpart 3* amends the Health and Disability Commissioner Act 1994.

*Clause 16* amends section 2 of the Health and Disability Commissioner Act 1994, which is the interpretation provision. The definition of health services is amended to expressly include reproductive health services, and include abortion services within those services (in addition to contraception, fertility, and sterilisation services, which are already included in the definition of health services). It is intended that the Health and Disability Commissioner Act 1994 apply to abortion services and that providers of abortion services must comply with the Code of Health and Disability Services Consumers' Rights issued under that Act.

## Subpart 4—Consequential amendments and revocation

*Clause 17* consequentially amends the Act and regulations set out in *Schedule 2* of the Bill. The Abortion Regulations 1978 are also consequentially revoked.



*Hon Andrew Little*

## **Abortion Legislation Bill**

Government Bill

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**The Parliament of New Zealand enacts as follows:****1 Title**

This Act is the Abortion Legislation Act **2019**.

**2 Commencement**

This Act comes into force on the day after the date of Royal assent.

5

**Part 1****Amendments to Contraception, Sterilisation, and Abortion Act 1977****3 Principal Act**

This Part amends the Contraception, Sterilisation, and Abortion Act 1977 (the **principal Act**).

10

**4 Long Title repealed**

Repeal the Long Title.

**5 Section 2 replaced (Interpretation)**

Replace section 2 with:

**2 Interpretation**

15

In this Act, unless the context otherwise requires,—

**abortion—**

(a) means intentionally causing the termination of a woman's pregnancy by any means, including—

(i) by using a drug or combination of drugs; or

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(ii) by using an instrument; but

(b) does not include—

(i) any procedure intended to induce the birth of a live fetus believed to be viable; or

(ii) any procedure to remove a dead fetus; or

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(iii) any contraceptive

**abortion services** means services provided by a qualified health practitioner to facilitate an abortion

**conscientious objection** means an objection on the ground of conscience to the provision of contraception, sterilisation, or abortion services

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**contraceptive** means a substance, device, or technique intended to prevent conception or implantation

	<b>employer</b> includes any person acting or purporting to act on behalf of an employer	
	<b>health practitioner</b> has the meaning given to it by section 5(1) of the Health Practitioners Competence Assurance Act 2003	
	<b>hospital</b> means a hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001	5
	<b>medical practitioner</b> means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine	10
	<b>qualified health practitioner</b> , in relation to the provision of abortion services, means a health practitioner who is acting in accordance with the Health Practitioners Competence Assurance Act 2003	
	<b>safe area</b> means any premises at which abortion services are provided, and any area around those premises, prescribed in regulations made under <b>section 17</b> as a safe area	15
	<b>woman</b> means a person of any age who is capable of becoming pregnant.	
<b>6</b>	<b>New sections 2A and 2B inserted</b>	
	After section 2, insert:	
<b>2A</b>	<b>Transitional, savings, and related provisions</b>	20
	The transitional, savings, and related provisions set out in <b>the Schedule</b> have effect according to their terms.	
<b>2B</b>	<b>Act binds the Crown</b>	
	This Act binds the Crown.	
<b>7</b>	<b>Sections 10 to 46 replaced</b>	25
	Replace sections 10 to 46 with:	
<b>10</b>	<b>Provision of abortion services to women not more than 20 weeks pregnant</b>	
	A qualified health practitioner may provide abortion services to a woman who is not more than 20 weeks pregnant.	
<b>11</b>	<b>Provision of abortion services to women more than 20 weeks pregnant</b>	30
(1)	A qualified health practitioner may provide abortion services to a woman who is more than 20 weeks pregnant only if the health practitioner reasonably believes that the abortion is appropriate in the circumstances.	
(2)	In considering whether the abortion is appropriate in the circumstances, the qualified health practitioner must have regard to the woman's—	35
(a)	physical health; and	

	(b) mental health; and	
	(c) well-being.	
<b>12</b>	<b>Minister of Health to ensure availability of counselling services for abortion</b>	
	The Minister of Health must take reasonable and practicable steps to ensure that counselling services are available throughout New Zealand in relation to the provision of abortion services when entering into Crown funding agreements under the New Zealand Public Health and Disability Act 2000.	5
<b>13</b>	<b>Counselling</b>	
(1)	A health practitioner must advise a woman of the availability of counselling services if the woman—	10
	(a) seeks advice or information about whether to continue or terminate a pregnancy; or	
	(b) advises the health practitioner of the wish to terminate a pregnancy; or	
	(c) has terminated a pregnancy.	15
(2)	A qualified health practitioner may not, as a condition of providing abortion services to a woman, require the woman to attend counselling before or after the provision of those services.	
<b>14</b>	<b>Self-referral to abortion services</b>	
	A qualified health practitioner may not, as a condition of providing abortion services to a woman, require the woman to be referred from a health practitioner.	20
<b>15</b>	<b>Certain behaviour prohibited in safe areas</b>	
(1)	A person must not engage in any prohibited behaviour in a safe area.	
(2)	A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding \$1,000.	25
(3)	In this section, <b>prohibited behaviour</b> means any of the following:	
	(a) intimidating, interfering with, or obstructing a person with the intention of preventing the person, or being reckless as to whether the person is prevented, from—	30
	(i) accessing abortion services:	
	(ii) providing, or assisting with providing, abortion services:	
	(iii) seeking advice or information about abortion services:	
	(iv) providing, or assisting with providing, advice or information about abortion services:	35
	(b) communicating with, or visually recording, a person who is doing any of the things described in <b>paragraph (a)(i) to (iv)</b> in a manner that—	

	(i)	is intended to cause the person emotional distress; and	
	(ii)	would cause emotional distress to an ordinary reasonable person in the position of the person.	
<b>16</b>		<b>Power of constable to arrest without warrant</b>	
		If a constable reasonably believes that a person is engaging in prohibited behaviour in a safe area, the constable may—	5
	(a)	require the person to stop engaging in the prohibited behaviour; and	
	(b)	if the person fails to stop engaging in the prohibited behaviour, arrest the person and take the person into custody without a warrant.	
<b>17</b>		<b>Regulations: safe areas</b>	10
(1)		The Governor-General may, by Order in Council made on the recommendation of the Minister of Health after consultation with the Minister of Justice, make regulations for the purposes of <b>section 15</b> prescribing as a safe area—	
	(a)	any specified premises at which abortion services are provided; and	
	(b)	an area around those premises that is an area having a boundary of not more than 150 metres from any part of the premises.	15
(2)		The Minister may recommend the making of regulations under <b>subsection (1)</b> if the Minister is satisfied that prescribing a safe area—	
	(a)	is necessary to protect the safety and well-being, and respect the privacy and dignity, of persons—	20
	(i)	accessing abortion services:	
	(ii)	providing, or assisting with providing, abortion services:	
	(iii)	seeking advice or information about abortion services:	
	(iv)	providing, or assisting with providing, advice or information about abortion services; and	25
	(b)	can be demonstrably justified in a free and democratic society as a reasonable limitation on people's rights and freedoms.	
<b>18</b>		<b>Duties of Director-General of Health</b>	
		The Director-General of Health must—	
	(a)	collect, collate, analyse, and publish information about the provision of—	30
	(i)	abortion services in New Zealand; and	
	(ii)	counselling services in relation to, or in connection with, the provision of abortion services; and	
	(b)	develop and publish standards for the services described in <b>paragraph (a)</b> ; and	35
	(c)	make and maintain a list of abortion service providers.	

*Miscellaneous provisions***19 Conscientious objection**

- (1) This section applies to a person (A) who is requested by another person (B) to provide, or assist with providing, any of the following services:
- (a) contraception services: 5
  - (b) sterilisation services:
  - (c) abortion services:
  - (d) information or advisory services about continuing or terminating a pregnancy.
- (2) If A has a conscientious objection to providing, or to assisting with providing, to B the service requested, A must tell B of their conscientious objection at the earliest opportunity and,— 10
- (a) if the service requested is a service described in **subsection (1)(a) or (b)**, tell B how to access the contact details of another person who is a provider of the service requested; and 15
  - (b) if the service requested is a service described in **subsection (1)(c) or (d)**, tell B how to access the list of abortion service providers referred to in **section 18(c)**.

**20 Employer providing certain services must accommodate conscientious objection of applicant or employee unless it would cause unreasonable disruption to activities** 20

- (1) An employer that provides any of the services specified in **section 19(1)** may not take any of the following actions on the basis that an applicant for employment, or an employee, who is qualified for work in connection with the provision of those services, has a conscientious objection: 25
- (a) refuse or omit to employ the applicant for work that is available; or
  - (b) offer or afford the applicant or the employee less favourable terms of employment, conditions of work, superannuation or other fringe benefits, and opportunities for training, promotion, and transfer than are made available to applicants or employees of the same or substantially similar capabilities employed in the same or substantially similar work; 30  
or
  - (c) terminate the employment of the employee in circumstances in which the employment of other employees employed in the same or substantially similar work would not be terminated; or 35
  - (d) subject the employee to any detriment in circumstances in which other employees employed in the same or substantially similar work would not be subjected to such detriment; or

- (e) retire the employee, or to require or cause the employee to retire or resign.
- (2) However, if an employer considers that accommodating the applicant's or employee's objection would unreasonably disrupt the employer's activities, the employer may take any of the actions described in **subsection (1)**. 5
- (3) An applicant or employee who alleges that an employer has contravened this section may make a complaint under the Human Rights Act 1993 as if the complaint were a complaint of unlawful discrimination under section 22 of that Act.
- (4) If an applicant or employee who alleges that an employer has contravened this section is entitled to pursue a personal grievance under the Employment Relations Act 2000, the applicant or employee may take either, but not both, of the following steps: 10
- (a) apply to the Employment Relations Authority for the resolution of the grievance under that Act; or 15
- (b) make a complaint under the Human Rights Act 1993.
- 21 General regulation-making power**
- The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:
- (a) enabling the Director-General of Health to collect information that may be required to enable the Director-General to discharge the Director-General's duties specified in **section 18**: 20
- (b) providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.
- 8 New Schedule inserted** 25
- After **section 21** (as inserted by this Act), insert the **Schedule** set out in **Schedule 1** of this Act.

## Part 2

### Amendments to other enactments

- Subpart 1—Amendments to Crimes Act 1961 30
- 9 Amendments to Crimes Act 1961**
- This subpart amends the Crimes Act 1961.
- 10 Cross-heading above section 182 replaced**
- Replace the cross-heading above section 182 with:
- Killing unborn child* 35

**11 Section 182 amended (Killing unborn child)**

Replace section 182(2) with:

- (2) Nothing in subsection (1) applies to any person who before or during the birth of any child causes its death by—
- (a) a means employed in good faith to preserve the life of the child’s mother; or
  - (b) providing abortion services in accordance with **section 10 or 11** of the Contraception, Sterilisation, and Abortion Act 1977.

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**12 Sections 182A to 187A replaced**

Replace sections 182A to 187A with:

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*Abortion services*

**183 Abortion procured by person other than health practitioner**

- (1) A person commits an offence and is liable on conviction to a term of imprisonment not exceeding 5 years if the person is not a health practitioner and—
- (a) procures, or attempts to procure, an abortion for a woman; or
  - (b) performs, or attempts to perform, an abortion on a woman.
- (2) The woman is not guilty of an offence under this section.
- (3) In this section,—

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**abortion** has the meaning given to it by **section 2** of the Contraception, Sterilisation, and Abortion Act 1977

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**health practitioner** has the meaning given to it by section 5(1) of the Health Practitioners Competence Assurance Act 2003

**woman** has the meaning given to it by **section 2** of the Contraception, Sterilisation, and Abortion Act 1977.

Subpart 2—Amendments to Health Practitioners Competence Assurance Act 2003

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**13 Amendments to Health Practitioners Competence Assurance Act 2003**

This subpart amends the Health Practitioners Competence Assurance Act 2003.

**14 Section 174 amended (Duty of health practitioners in respect of reproductive health services)**

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- (1) In section 174(1)(a), after “sterilisation,”, insert “abortion,”.

- (2) Replace section 174(1)(b) with:

- (b) the health practitioner has an objection on the ground of conscience to providing the service (a **conscientious objection**).

- (3) Replace section 174(2) with:
- (2) When this section applies, the health practitioner must tell the person requesting the service of their conscientious objection at the earliest opportunity and,—
- (a) if the person is requesting abortion services, tell the person how to access the list of abortion service providers referred to in **section 18(c)** of the Contraception, Sterilisation, and Abortion Act 1977; or
- (b) if the person is requesting any other service, tell the person how to access the contact details of another person who is a provider of the service requested.

### Subpart 3—Amendment to Health and Disability Commissioner Act 1994

#### 15 Amendment to Health and Disability Commissioner Act 1994

This subpart amends the Health and Disability Commissioner Act 1994.

#### 16 Section 2 amended (Interpretation)

In section 2(1), definition of **health services**, replace paragraph (b)(ii) to (iv) with:

- (ii) reproductive health services, including—
- (A) contraception services and advice:
- (B) fertility services:
- (C) sterilisation services:
- (D) abortion services

### Subpart 4—Consequential amendments and revocation

#### 17 Consequential amendments and revocation

- (1) The Act specified in **Part 1 of Schedule 2** is consequentially amended as indicated in that schedule.
- (2) The legislative instrument specified in **Part 2 of Schedule 2** is consequentially amended as indicated in that schedule.
- (3) The legislative instrument specified in **Part 3 of Schedule 2** is revoked.

**Schedule 1**  
**New Schedule inserted into Contraception, Sterilisation, and**  
**Abortion Act 1977**

s 8

**Schedule**  
**Transitional, savings, and related provisions**

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s 2A

**Part 1**  
**Provisions relating to Abortion Legislation Act 2019**

- |          |  |          |
|----------|--|----------|
| <b>1</b> | <b>Interpretation</b><br>In this Part,—<br><b>Act</b> means the <b>Abortion Legislation Act 2019</b><br><b>commencement date</b> means the date on which the Act comes into force<br><b>Ministry</b> means the Ministry of Health.   | 10       |
| <b>2</b> | <b>Abortion Supervisory Committee disestablished</b><br>(1) On the commencement date, the Abortion Supervisory Committee is disestablished and the term of office of every member of the committee ends.<br>(2) No member of the committee is entitled to any compensation in respect of the termination of the member's office.   | 15       |
| <b>3</b> | <b>Advisory, technical, and other committees dissolved</b><br>(1) On the commencement date, all advisory, technical, and other committees appointed by the Abortion Supervisory Committee are dissolved and the term of office of every member of a committee ends.<br>(2) No member of a committee is entitled to any compensation in respect of the termination of the member's office.                                      | 20<br>25 |
| <b>4</b> | <b>Assets, liabilities, and information of Abortion Supervisory Committee</b><br>(1) On the commencement date, all assets and liabilities of the Abortion Supervisory Committee in existence immediately before the commencement date are vested in the Crown as assets and liabilities of the Ministry.<br>(2) All information held by the Committee immediately before the commencement date is transferred to the Ministry. | 30       |

<b>5</b>	<b>Final report of Abortion Supervisory Committee</b>	
(1)	As soon as is reasonably practicable after the commencement date, the Abortion Supervisory Committee must arrange for the final annual report of the Committee to be submitted to Parliament.	
(2)	The final annual report must be in respect of the Committee's activities for the period—	5
	(a) commencing on <b>1 July</b> immediately preceding the commencement date; and	
	(b) ending with the close of the day immediately preceding the commencement date.	10
(3)	Despite <b>clause 2</b> , the Abortion Supervisory Committee continues in existence for the purpose only of submitting a report to Parliament in accordance with this clause.	
<b>6</b>	<b>Certifying consultants to submit reports to Director-General of Health</b>	
(1)	This clause applies to a person who immediately before the commencement date was a certifying consultant.	15
(2)	A person to whom this clause applies must, as soon as is reasonably practicable after the commencement date, send to the Director-General of Health any information that the Director-General of Health may require relating to—	
	(a) the cases considered by the person during the pre-commencement reporting period; and	20
	(b) the performance of the person's functions in relation to those cases during the pre-commencement reporting period.	
(3)	In this clause, <b>pre-commencement reporting period</b> means the period—	
	(a) commencing on the day after the date on which the person last submitted a report to the Abortion Supervisory Committee under section 36 of the Contraception, Sterilisation, and Abortion Act 1977 (as it read immediately before its repeal by <b>section 7</b> of the Act); and	25
	(b) ending with the close of the day immediately preceding the commencement date.	30

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**Schedule 2**  
**Consequential amendments and revocation**

**s 17**

**Part 1**

**Consequential amendment to Act**

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**Official Information Act 1982 (1982 No 156)**

In Schedule 1, repeal the item relating to the Abortion Supervisory Committee.

**Part 2**

**Consequential amendment to legislative instrument**

**Medicines Regulations 1984 (SR 1984/143)**

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After regulation 58B, insert:

**58C Substances used to terminate pregnancy are medicines**

Substances used to terminate a pregnancy are medicines for the purposes of the Act.

**Part 3**

**Revocation of legislative instrument**

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**Abortion Regulations 1978 (SR 1978/50)**