

## Western Australia

### Acts Amendment (Abortion) Act 1998 and

### Health Act 1911

- Abortion is lawful up to 20 weeks with the woman's consent after counselling by a medical practitioner.
- Counselling/information must be given by a doctor (can not be one of the doctors providing the termination) prior to termination with referral for additional counselling before and after termination.
- Beyond 20 weeks at least two of a panel of six state appointed doctors must agree that either the woman or foetus has a severe medical condition necessitating a termination.
- For a minor <16yo a parent or guardian needs to be notified & allowed to participate in the counselling and decision making, unless the minor has successfully applied to the Children's Court for an order to proceed without parental notification.
- Conscientious objection clause.
- Notification of all terminations to the WA Director of Public Health (deidentified).

### Criminal Code 1913

- If a non-medical practitioner performs an abortion (whether the woman is pregnant or not) and/or failure to meet any above criteria: 5 years prison.

## Northern Territory

### Termination of Pregnancy Law Reform Act 2017 and Regulations and Chief Health Officer Credentials

- Legal decision rests with one 'suitably qualified medical practitioner' (up to 14 weeks gestation) or two 'suitably qualified medical practitioners' (14 to 23 weeks gestation) not the woman.
- 'Suitably qualified medical practitioners' must decide that a termination is appropriate in all the circumstances, having regard to: the woman's medical, current and future physical, psychological and social circumstances, and professional standards and guidelines.
- In addition, in an emergency, termination is lawful if a medical practitioner considers the termination is necessary to preserve the life of the woman.
- Terminating a pregnancy of 24 weeks gestation or more is unlawful except in a medical emergency to save the woman's life.
- 'Suitably qualified medical practitioner' is an obstetrician or gynaecologist or is 'credentialed' (as defined by the Chief Health Officer under the Regulations) in the provision of advice, performance of procedures and giving treatment in the area of fertility control. S/he may also instruct certain other health professionals (detailed in the legislation) to assist.
- Conscientious objection clause with requirement to refer to another medical practitioner.
- Prohibited conduct in 'safe access zones' (150m around clinics) maximum penalty 100 penalty units of 12 months imprisonment.
- All terminations reported to the Chief Health Officer including woman's date of birth and region of residence.

### Criminal Code Act

- Anyone who is not 'a qualified person' who procures or supplies drugs, instruments or other things or engages in actions intended to terminate a pregnancy has committed an offence with maximum penalty of 7 years imprisonment. This could apply to health professionals if they don't meet the legislative and Chief Health Officer 'credentialing' requirements.

## South Australia

### Criminal Law Consolidation Act 1935 (amended 1969)

- Legal decision rests with two doctors, not the woman. Abortion is legally justified if two doctors agree that; the pregnancy poses a greater risk to the woman's life, physical or mental health than termination (or); there is severe foetal abnormality.
- The termination must be carried out in a prescribed hospital.
- The woman must have been a resident of SA for at least two months.
- Conscientious objection clause.
- A woman who attempts to terminate her own pregnancy through any means (including mifepristone) – life imprisonment.
- Anyone who attempts to terminate a woman's pregnancy, whether she is pregnant or not – life imprisonment.
- Anyone who provides an instrument or 'noxious thing' knowing it will be used to procure an abortion – 3 years prison.



## Summary of Australian state and territory abortion laws\*

### Map key:

-  Woman's decision (at least during first trimester)
-  Doctors' decision if conditions spelt out in law are met
-  Criminal but judicial precedent effectively allows for doctors' decision if certain conditions are met



## Tasmania

### Reproductive Health (Access to Terminations) Act 2013

- Up to 16 weeks abortion can be provided by a medical practitioner with the woman's consent.
- Beyond 16 weeks two medical practitioners (one of whom must specialise in obstetrics or gynaecology) must agree that the continuation of the pregnancy would involve greater risk of injury to the physical or mental health of the pregnant woman than if the pregnancy were terminated.
- Conscientious objection clause for medical practitioners with a requirement to inform the woman of the objection and give her a list of services where she can obtain unbiased advice on all her options (the State health department provides the list of services).
- Access zones for clinics: a person must not engage in 'prohibited behaviours' within 150m of a premises from which terminations are provided (max penalty – a fine (75 penalty units) and/or 12 months prison).
- A woman who performs or assists in any way in terminating her pregnancy has not committed any offence.

### Criminal Code Act 1924

- A person who is not a medical practitioner who terminates a woman's pregnancy is guilty of an offence as is anyone who terminates a pregnancy without a woman's consent.

## Queensland

### Criminal Code 1899

- Attempting to terminate a woman's pregnancy, through any means, whether she is pregnant or not – 14 years prison.
- A woman who attempts to terminate her own pregnancy, through any means, whether she is pregnant or not – 7 years prison.
- Supplying drugs or instruments knowing they will be used to terminate a pregnancy – 3 years prison.
- Judicial precedent - Maguire Ruling (1986): an abortion is considered lawful in Queensland if carried out to prevent serious danger to the woman's physical or mental health.

## New South Wales

### Crimes Act 1900

- A woman who attempts to terminate her own pregnancy by any means – 10 years prison.
- Terminating a woman's pregnancy through any means – 10 years prison.
- Supplying instruments or drugs, knowing they will be used to attempt to terminate a pregnancy (whether the woman is pregnant or not) – 5 years prison.
- Judicial precedent - Levine Ruling (1971): abortion is considered to be lawful if two doctors agree that continuing the pregnancy would involve 'serious danger' to the woman's physical or mental health. In considering mental health the doctor may consider social and economic stresses.

## Australian Capital Territory

### Medical Practitioners (Maternal Health) Amendment Act 2002 and Health Act 1993 (amended 2005)

- Legal decision is the woman's – no gestational limits in law.
- Only a registered medical practitioner may carry out abortion (5 years imprisonment for anyone else).
- Abortion is to be carried out in a medical facility, or part of a medical facility approved by the Minister for Health (if not, a fine (50 penalty units), 6 months imprisonment or both).
- Conscientious objection clause.
- Certain behaviours are prohibited around abortion clinics subject to orders by Health Minister (max penalty – a fine of 50 penalty units or 6mths prison or both).

## Victoria

### Abortion Law Reform Act 2008 and Public Health and Wellbeing Amendment (Safe Access Zones) Act 2015

- Up to 24 weeks abortions can be performed by registered medical practitioner with the woman's consent.
- After 24 weeks two doctors must consider an abortion to be appropriate in all the circumstances.
- Registered pharmacists or nurses may supply drugs (on prescription) to terminate a pregnancy (after 24 weeks this must occur within a hospital setting and be under the written direction of a medical practitioner).
- Conscientious objection clause requires health professionals to give the patient suggestions of where she can find a health professional who does not have a conscientious objection.
- A woman who performs or assists in any way in terminating her pregnancy has not committed any offence.
- Certain behaviours are prohibited within a 150m radius of premises where abortions are provided (max penalty – a fine of 500 penalty units or up to 12mths prison).

### Crimes Act 1958

- A person who is 'not qualified to perform an abortion' (as per the above requirements) is guilty of an offence – 10 years prison. A woman who performs or assists in any way in terminating her pregnancy has not committed any offence.