



Reproductive Health

WEL believes women should have access to safe, affordable abortion and have autonomy over their bodies and their reproductive choices at all times. Legal access to abortion in Australia is the subject of State and Territory law and so varies from State to State. In many States abortion continues to be the subject of criminal law, and in some a woman, her partner and her doctor can face criminal charges that can carry up to 5 years sentences. Throughout Australia accessibility of abortion for all women is still limited. The affordability of these services throughout the country and the availability of safe services to women in rural and remote areas are major concerns.

Current legislation is a barrier to access for many women. It perpetuates the stigmatisation of abortion and can force women to undertake unsafe terminations. WEL strongly believe that any legislation covering abortion procedures should not be contained within a Criminal Code or Criminal Acts; but in health legislation like any other medical procedure. Abortion laws must be reformed to reflect the view of Australian women, the wider community and the current clinical practice. The 2003 Australian Survey of Social Attitudes (AuSSA) found that 81% of participants believed a woman should have the right to choose whether or not she has an abortion¹.

The accessibility and affordability of abortion remains a major concern, particularly in rural areas and small communities. In these communities surgical abortion can be unaffordable and the requirement of two doctors, as in some State law, to make the decision can be prohibitive. WEL welcomes RU486 being made available to Australian women and being covered by the Pharmaceutical Benefits Scheme (PBS). This has expanded women's access, particularly allowing women in rural and regional areas affordable access to safe and legal abortion. However, affordability remains an issue. The current Medicare rebate for a surgical abortion is \$416 and the Victorian government estimate that 'If you have a Medicare card, out-of-pocket expenses vary with private providers and range from around \$300 to \$500.'² The Medicare rebate for a first trimester abortion should be increased by \$200 to make the cost of abortion more reasonable.

¹ K Betts "Attitudes to Abortion in Australia: 1972 to 2003" *People and Place* 22, 2004.

² http://www.betterhealth.vic.gov.au/bhcv2/bhcarticles.nsf/pages/Abortion_services_in_Victoria



Recommendations

1. An increase of \$200 to Medicare rebate for a first trimester abortion to make the cost of abortion more reasonable;
2. The decriminalisation of abortion in all states and territories, with abortion regulated by health legislation;
3. Legislative reform to allow women control over their bodies and reproductive choices at all times rather than requiring the approval of one or two doctor as in some states and territories;
4. Funding to health services to ensure the increased availability and accessibility of abortion, with a particular focus on the affordability of abortion and access in rural areas;
5. Commitment to principle of all women's right to control their reproductive choices in making policies on foreign aid, Medicare funding, counseling, and all other areas; and
6. Establishment of Exclusion zones around clinics, as proposed in Tasmanian Draft *Reproductive Health (Access to Termination) Bill 2013* Part 2, Section 9, to ensure the safety of women seeking terminations and medical practitioners, and reduce the culture of harassment and stigmatisation;

Background

In a number of States and Territories abortion remains under criminal legislation. Women in these states are denied autonomy over their own bodies and their reproductive choices can be subject to criminal prosecution. In some states a woman, her partner and her doctor can face criminal charges that can carry up to 5 years sentence. Throughout Australia accessibility of abortion for all women is still limited. The affordability of these services throughout the country and the availability to women in rural and remote areas are major concerns.



Laws by State

ACT

In ACT women have autonomy over their reproductive choices and can legally choose to have an abortion as long as it is provided by a medical doctor.

NSW and Queensland

In NSW³ and Queensland⁴ abortion remains under the criminal code. A woman can only legally procure an abortion if her doctor believes that an abortion is necessary to protect her from serious danger to her life or her physical or mental health. NSW case law allows for doctors to consider economic and social reasons along with medical grounds. Under current NSW and QLD legislation a woman, her partner and her doctor can risk prosecution under the criminal code carrying sentences of up to 5-7 years.

Approximate costs for Queensland clinics are:

Up to 11 weeks: \$470 - \$515

11 to 14 weeks: \$485 - \$680

14 to 16 weeks: \$790 - \$1530

These prices are for Medicare card holders only and they include the Medicare rebate. They are also the costs for major cities in Queensland, regional areas are significantly higher. Costs for non-Medicare card holders is approximately double this costing.

Northern Territory

Women can legally have an abortion up to 14 weeks if two doctors agree that a woman's physical and/or mental health is endangered by pregnancy, or for serious foetal abnormality⁵. Women can access abortions up to 23 weeks only in an emergency.

South Australia

South Australia was the first Australian state to liberalise access to abortion through legislation. South Australian women can legally procure an abortion if two doctors agree that a woman's

³ NSW Crimes Act 1900 Division 12, sections 82, 83 and 84

⁴ Queensland Criminal Code, Sections 224, 225 and 226

⁵ Northern Territory Medical Services Act, section 11

physical and/or mental health is endangered by pregnancy, or for serious foetal abnormality. Women and their doctors can still face criminal prosecution for illegal abortion⁶.

Tasmania

An abortion law reform bill, *Reproductive Health (Access to Termination) Bill 2013*⁷, was passed by the Lower House in April and is currently before the Upper House. The *Bill* removes the threat of prosecution of women's reproductive choices allowing women control over their reproductive choices regarding early termination. Up to 16 weeks a woman may choose to have an abortion. After 16 weeks, the legislation requires the approval of two doctors. Currently a Tasmanian woman can legally procure an abortion if two doctors agree that a woman's physical and/or mental health is endangered by pregnancy⁸. It is compulsory to refer a woman to counseling.

Victoria

Women can legally choose to have an abortion up to 24 weeks⁹. After 24 weeks, legislation requires the approval of two doctors.

Western Australia

Women can legally choose to have an abortion up to 20 weeks, with some restrictions particularly for girls under 16 years¹⁰. After 20 weeks women's access is very restricted¹¹.

Recent Developments

As recently as October 2010 a young couple in Cairns, Queensland were tried under charges brought under the State's anti-abortion laws. The couple were charged with procuring an illegal abortion as they obtained RU486 from overseas relatives. The young woman faced charges that

⁶ South Australian Criminal Consolidation Act 1935 (Amended 1969), sections 81(1), 81(2) and 82

⁷ *Reproductive Health (Access to Termination) Bill 2013* available at http://www.parliament.tas.gov.au/bills/pdf/24_of_2013.pdf

⁸ Tasmanian Criminal Code Act 1924, sections 134, 135, 164 and 165

⁹ Victorian Abortion Law Reform Act 2008

¹⁰ Western Australian Acts Amendment (Abortion) Act 1998, section 119; Health Act 1911, sections 334 and 335. A parental notification clause stipulates that a woman under 16 years of age needs to have one parent informed of the abortion and given the opportunity to participate in counseling before the abortion can be performed.

¹¹ Two medical practitioners from a panel appointed by the Minister must agree that the mother or foetus has a severe medical condition and the abortion must be performed in a facility approved by the Minister



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carry a maximum penalty of seven years imprisonment and her partner faced a maximum penalty of three years imprisonment.

The case was heard on 14 October 2010 and a jury found the couple not guilty in less than an hour. The speed of the couple's acquittal and the public reaction at the time, including marches in solidarity around the country and letters of support for the couple to Queensland Premier Anna Bligh, demonstrated that states' anti-abortion laws are outdated and do not reflect widespread community sentiment.

RU486 has been legal in Australia for a number of years. However, women's access to this drug has been very limited as until recently no drug company ever applied to register the drug, in order to make it available to doctors in the same manner as other medications. In August 2012 the Therapeutic Goods Administration approved an application by the reproductive health group Marie Stopes International to import the drug.

Recently the current Government subsidised the cost of RU486 by making it available on the Pharmaceutical Benefits Scheme (PBS). The drug, which has previously costs between \$250 and \$350, will cost approximately \$36.10 under the PBS for each of the two pills required for a medical abortion. WEL welcomes this extended access and affordability of safer abortion options; an option that is more financially affordable and also reduces the psychological costs to a woman.

Though WEL welcomes this extension of access, women's access still remains restricted. There is still a way to go to ensure all women have access to safe affordable abortion and control over their reproductive choices. This is particularly apparent in a global context of rising attacks on women's reproductive rights in a number of countries.

Think WEL before you vote