Health (Abortion Law Reform) Amendment Bill 2016
# Health (Abortion Law Reform) Amendment Bill 2016

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2016

A Bill

for
An Act to amend the *Health Act 1937* to reform the law relating to abortion
The Parliament of Queensland enacts—

Clause 1 Short title
This Act may be cited as the Health (Abortion Law Reform) Amendment Act 2016.

Clause 2 Act amended
This Act amends the Health Act 1937.

Clause 3 Amendment of s 5 (Interpretation)
Section 5—
insert—
abortion, for part 3, see section 19.
abortion facility, for part 3, see section 19.
images, for part 3, see section 19.
registered nurse, for part 3, see section 19.

Clause 4 Insertion of new pt 3
After section 18B—
insert—
Part 3 Abortions

Division 1 Preliminary

19 Definitions for part
In this part—
abortion means causing a woman’s miscarriage
by—
(a) administering a drug; or
(b) using an instrument; or
(c) any other means.

*abortion facility* means a medical facility, or a part of a medical facility, in which abortions are performed.

*images*, of a person entering or leaving, or trying to enter or leave, an abortion facility, means moving or still images of the person captured by a camera or by another means in a way that—

(a) a recording is made of the images; or
(b) the images are capable of being published or communicated in real time, with or without retention or storage in a physical or electronic form; or
(c) the images are otherwise capable of being published or communicated.

*registered nurse* means a person registered under the Health Practitioner Regulation National Law to practice in the nursing and midwifery profession or as a midwife, other than as a student.

### Division 2 Abortion generally

#### 20 Only qualified health practitioner may perform abortion

(1) A person who is not a qualified health practitioner must not perform an abortion.

   Maximum penalty—10 years imprisonment.

(2) For subsection (1)—

   (a) a doctor is a qualified health practitioner; and
(b) a registered nurse is a qualified health practitioner to the extent the nurse performs an abortion by administering a drug at the written direction of a doctor.

(3) A woman does not commit an offence against this section by—
(a) performing an abortion on herself; or
(b) consenting to, or assisting, in the performance of an abortion on herself.

21 Abortion on woman more than 24 weeks pregnant

A doctor may perform an abortion, or direct a registered nurse to perform an abortion by administering a drug, on a woman who is more than 24 weeks pregnant only if the doctor—
(a) reasonably believes the continuation of the woman’s pregnancy would involve greater risk of injury to the physical or mental health of the woman than if the pregnancy were terminated; and
(b) has consulted at least 1 other doctor who also reasonably believes the continuation of the woman’s pregnancy would involve greater risk of injury to the physical or mental health of the woman than if the pregnancy were terminated.

Note—
A failure by a doctor to comply with this section does not constitute an offence but may constitute behaviour for which action may be taken under the Health Practitioner Regulation National Law (Queensland), Part 8 or the Health Ombudsman Act 2013.

22 Duty to perform or assist in abortion

(1) No-one is under a duty (by contract or by statutory
or other legal requirement) to perform or assist in performing an abortion.

(2) A person is entitled to refuse to assist in performing an abortion.

(3) However, a doctor has a duty to perform, and a registered nurse has a duty to assist a doctor in the performance of, an abortion on a woman in an emergency if the abortion is necessary to save the life of, or to prevent a serious physical injury to, the woman.

### Division 3 Patient protection

#### 23 Declarations for abortion facility

1. The Minister must, by written notice, declare an area around an abortion facility to be a protected area for the facility.

2. An area declared to be protected area under subsection (1) must be—
   
   a. at least 50m at any point from the abortion facility; and
   
   b. sufficient to ensure the privacy of, and unimpeded access for, anyone entering, trying to enter or leaving the abortion facility; and
   
   c. no bigger than necessary to ensure the matter mentioned in paragraph (b).

3. The Minister may, by written notice, declare a period to be a protected period for an abortion facility.

4. A notice under subsection (1) or (3) is not subordinate legislation.

5. However, the *Statutory Instruments Act 1992*, sections 49 to 51 apply to the notice as if it were...
subordinate legislation.

(6) The chief executive must publish each notice under subsection (1) or (3) for an abortion facility on the department’s website.

24 Prohibited behaviour in relation to abortion facility

(1) A person in a protected area for an abortion facility must not engage in prohibited behaviour. Maximum penalty—25 penalty units.

(2) In this section—

prohibited behaviour, in relation to an abortion facility, means—

(a) harassing, hindering, intimidating, interfering with, threatening or obstructing a person, including by capturing or attempting to capture images of the person, intended to stop the person from—

(i) entering the facility; or

(ii) having or performing an abortion in the facility; or

(b) an act that can be seen or heard by a person during the protected period for the facility, and intended to stop a person from—

(i) entering the facility; or

(ii) having or performing an abortion in the facility; or

(c) a protest, by any means, during the protected period for the facility relating to the performance of abortions in the facility.

protected area, for an abortion facility, means an area declared to be a protected area for the facility under section 23(1).

protected period, for an abortion facility,
means—

(a) if the Minister has declared a period to be the protected period for the facility under section 23(3)—the declared period; or

(b) otherwise—the period between 7 a.m. and 6 p.m. on each day the facility is open.

25 Publishing images of person entering or leaving abortion facility

(1) A person must not publish images of another person entering or leaving, or trying to enter or leave, an abortion facility—

(a) without the other person’s consent; and

(b) with the intention of stopping a person from having or performing an abortion.

Maximum penalty—50 penalty units or 6 months imprisonment.

(2) In this section—

publish, in relation to images of a person entering or leaving, or trying to enter or leave, an abortion facility—

(a) means publish or communicate the images in a way or to an extent that makes the images available to, or likely to come to the notice of, the public or a part of the public or anyone else not lawfully entitled to the images; and

(b) includes—

(i) enter into an agreement or arrangement to do a thing mentioned in paragraph (a); or

(ii) attempt to do a thing mentioned in paragraph (a) or subparagraph (i).