

Version No. 003
Abortion Law Reform Act 2008
No. 58 of 2008

Version incorporating amendments as at 1 July 2010

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The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purposes

The main purposes of this Act are—

- (a) to reform the law relating to abortion; and
- (b) to regulate health practitioners performing abortions; and
- (c) to amend the **Crimes Act 1958**—
 - (i) to repeal the provisions relating to abortion; and
 - (ii) to abolish the common law offences relating to abortion; and
 - (iii) to make it an offence for an unqualified person to perform an abortion; and
 - (iv) to amend the definition of *serious injury* to include the destruction of a foetus other than in the course of a medical procedure.

2 Commencement

This Act commences on the day after the day on which it receives the Royal Assent.

3 Definitions

In this Act—

abortion means intentionally causing the termination of a woman's pregnancy by—

- (a) using an instrument; or
- (b) using a drug or a combination of drugs; or
- (c) any other means;

registered health practitioner means—

- (a) a registered health practitioner within the meaning of the **Health Professions Registration Act 2005**;
- (b) a person registered under the Health Practitioner Regulation National Law to practise a health profession (other than as a student);

S. 3 def. of *registered health practitioner* substituted by No. 13/2010 s. 51(Sch. item 1).

registered medical practitioner means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student);

S. 3 def. of *registered medical practitioner* substituted by No. 13/2010 s. 51(Sch. item 1).

registered nurse means a person registered under the Health Practitioner Regulation National Law to practise in the nursing and midwifery profession as a nurse or as a midwife (other than as a student);

S. 3 def. of *registered nurse* substituted by No. 13/2010 s. 51(Sch. item 1).

registered pharmacist means a person registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession (other than as a student);

S. 3 def. of *registered pharmacist* substituted by No. 13/2010 s. 51(Sch. item 1).

regulated health profession means—

- (a) regulated health profession within the meaning of the **Health Professions Registration Act 2005**;
- (b) a health profession within the meaning of the Health Practitioner Regulation National Law;

woman means a female person of any age.

S. 3 def. of *regulated health profession* substituted by No. 13/2010 s. 51(Sch. item 1).

**PART 2—ROLE OF REGISTERED HEALTH
PRACTITIONERS**

**4 Termination of pregnancy by registered medical
practitioner at not more than 24 weeks**

A registered medical practitioner may perform an abortion on a woman who is not more than 24 weeks pregnant.

**5 Termination of pregnancy by registered medical
practitioner after 24 weeks**

- (1) A registered medical practitioner may perform an abortion on a woman who is more than 24 weeks pregnant only if the medical practitioner—
 - (a) reasonably believes that the abortion is appropriate in all the circumstances; and
 - (b) has consulted at least one other registered medical practitioner who also reasonably believes that the abortion is appropriate in all the circumstances.
- (2) In considering whether the abortion is appropriate in all the circumstances, a registered medical practitioner must have regard to—
 - (a) all relevant medical circumstances; and
 - (b) the woman's current and future physical, psychological and social circumstances.

**6 Supply or administration of drugs by registered
pharmacist or registered nurse—at not more than
24 weeks**

A registered pharmacist or registered nurse who is authorised under the **Drugs, Poisons and Controlled Substances Act 1981** to supply a drug or drugs may administer or supply the drug or drugs to cause an abortion in a woman who is not more than 24 weeks pregnant.

7 Supply or administration of drugs by registered pharmacist or registered nurse—more than 24 weeks

- (1) A registered medical practitioner may, in writing, direct a registered pharmacist or registered nurse, who is employed or engaged by a hospital, to administer or supply a drug or drugs to cause an abortion in a woman who is more than 24 weeks pregnant only if the medical practitioner—
 - (a) reasonably believes that the abortion is appropriate in all the circumstances; and
 - (b) has consulted at least one other registered medical practitioner who also reasonably believes that the abortion is appropriate in all the circumstances.
- (2) In considering whether the abortion is appropriate in all the circumstances, a registered medical practitioner must have regard to—
 - (a) all relevant medical circumstances; and
 - (b) the woman's current and future physical, psychological and social circumstances.
- (3) A registered pharmacist may administer or supply a drug or drugs to cause an abortion in a woman who is more than 24 weeks pregnant only if the pharmacist is employed or engaged by a hospital and only at the written direction of a registered medical practitioner.
- (4) A registered nurse may administer or supply a drug or drugs to cause an abortion in a woman who is more than 24 weeks pregnant only if the nurse is employed or engaged by a hospital and only at the written direction of a registered medical practitioner.

- (5) In this section *hospital* means a public hospital, private hospital or day procedure centre within the meaning of the **Health Services Act 1988**.

8 Obligations of registered health practitioner who has conscientious objection

- (1) If a woman requests a registered health practitioner to advise on a proposed abortion, or to perform, direct, authorise or supervise an abortion for that woman, and the practitioner has a conscientious objection to abortion, the practitioner must—
- (a) inform the woman that the practitioner has a conscientious objection to abortion; and
 - (b) refer the woman to another registered health practitioner in the same regulated health profession who the practitioner knows does not have a conscientious objection to abortion.
- (2) Subsection (1) does not apply to a practitioner who is under a duty set out in subsection (3) or (4).
- (3) Despite any conscientious objection to abortion, a registered medical practitioner is under a duty to perform an abortion in an emergency where the abortion is necessary to preserve the life of the pregnant woman.
- (4) Despite any conscientious objection to abortion, a registered nurse is under a duty to assist a registered medical practitioner in performing an abortion in an emergency where the abortion is necessary to preserve the life of the pregnant woman.

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s. 9

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**Pt 3 (Heading
and ss 9–12)
repealed by
No. 58/2008
s. 12.**

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ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 19 August 2008

Legislative Council: 12 September 2008

The long title for the Bill for this Act was "A Bill for an Act to reform the law relating to abortion, to amend the **Crimes Act 1958** and for other purposes."

The **Abortion Law Reform Act 2008** was assented to on 22 October 2008 and came into operation on 23 October 2008: section 2.

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Endnotes

2. Table of Amendments

This Version incorporates amendments made to the **Abortion Law Reform Act 2008** by Acts and subordinate instruments.

Abortion Law Reform Act 2008, No. 58/2008

Assent Date: 22.10.08
Commencement Date: S. 12 on 22.10.09: s. 12
Current State: This information relates only to the provision/s amending the **Abortion Law Reform Act 2008**

Statute Law Amendment (National Health Practitioner Regulation) Act 2010, No. 13/2010

Assent Date: 30.3.10
Commencement Date: S. 51(Sch. item 1) on 1.7.10: s. 2(2)
Current State: This information relates only to the provision/s amending the **Abortion Law Reform Act 2008**

Endnotes

3. Explanatory Details

No entries at date of publication.