

2019

The Parliament of the  
Commonwealth of Australia

SENATE

*Presented and read a first time*

**Abortion Access Standardisation Bill (No. 2)**  
**2019**  
**No. , 2019**

*The Hon tobycool2001\_1*  
*Written by tobycool2001\_1*

**An Bill for an Act to reform access to abortion services,  
and for related purposes.**

# **An Bill for an Act to reform access to abortion services, and for related purposes.**

The Parliament of Australia enacts:

## **Part 1—Preliminary**

### **1 Short title**

This Act may be cited as the *Abortion Access Standardisation Act (No. 2) 2019*.

### **2 Commencement**

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this Act	90 days after: (a) the day of the Royal Assent; or (b) the date of the Presidential Assent.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### **3 Crown to be bound**

This Act binds the Crown in all its capacities.

### **4 Constitutional basis for this Act**

This Act relies on either:

- (a) the Commonwealth's legislative powers under paragraph 51(xxiiiA) of the Constitution; or
- (b) the Commonwealth's legislative powers under section 106A of the Constitution.

### **5 Application of this Act**

Where this Act conflicts with existing Commonwealth, State, Territory or local government law, or the common law, this Act applies.

### **6 Definitions**

In this Act:

***abortion*** means intentionally causing the termination of a pregnancy by:

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

***abortion health service*** means any premises at which medical services which relate to abortion are provided, but does not include a pharmacy.

***hospital*** means a public hospital, private hospital or day procedure centre within the meaning of the state or territory legislation where the abortion takes place.

***pregnant person*** means a person of any age who has fallen pregnant.

***registered medical practitioner*** means a person who:

- (d) is registered or licensed as a medical practitioner under a State or Territory law; and
- (e) has been entitled to practise as a medical practitioner in Australia for a continuous period of not less than 5 years.

***registered pharmacist*** means a person who is registered or licensed as a pharmacist under a State or Territory law.

***registered nurse*** means a person who is registered or licensed as a nurse under a State or Territory law.

## **7 Objects of this Act**

The objects of this Act are:

- (a) to recognise the right of a mentally competent adult who is carrying a pregnancy to terminate that pregnancy;
- (b) to reform the law relating to abortion through a federal framework;
- (c) to grant a medical practitioner the right to object to providing abortion related services;
- (d) to abolish criminal offences relating to abortion; and
- (e) to provide safe access to abortion services.

## **Part 2—Role of registered health practitioners**

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

- (1) A registered medical practitioner may perform an abortion on a pregnant person who is not more than 24 week pregnant.
- (2) The registered medical practitioner must outline the process involved in abortion, the risks associated and the alternatives to abortion prior to performing the abortion.

### **9 Termination of pregnancy by registered medical practitioner after 24 weeks**

- (1) A registered medical practitioner may perform an abortion on a pregnant person who is more than 24 weeks pregnant only if the medical practitioner:
  - (a) reasonably believes that the abortion is appropriate in the circumstances; and
  - (b) has consulted at least one other registered medical practitioner who also reasonably believes that the abortion is appropriate in the circumstances.
- (2) The registered medical practitioner must outlined the process involved in abortion, the risks associated and the alternatives to abortion prior to performing the abortion.
- (3) In considering whether the abortion is appropriate in the circumstances, a registered medical practitioner must have regard to:
  - (a) consider all relevant medical circumstances; and
  - (b) the pregnant person’s current and future psychological circumstances.

### **10 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 by state or territory law to administer or supply a drug used in abortion may

administer or supply the drug to cause an abortion in a pregnant person who is not more than 24 weeks pregnant.

## **11 Supply or administration of drugs by registered pharmacist or registered nurse after 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 to cause an abortion in a pregnant person who is more than 24 weeks pregnant only if the medical practitioner:
  - (a) reasonably believes that the abortion is appropriate in the circumstances; and
  - (b) has consulted at least one other registered medical practitioner who also reasonably believes that the abortion is appropriate in the circumstances.
- (2) In considering whether the abortion is appropriate in the circumstances, a registered medical practitioner must have regard to:
  - (a) consider all relevant medical circumstances; and
  - (b) the pregnant person's current and future psychological circumstances.
- (3) A registered pharmacist or registered nurse who is authorised by state or territory law to administer or supply a drug used in abortion may administer or supply a drug to cause an abortion in a pregnant person 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.

## **12 Obligations of registered health practitioner who has conscientious objection**

- (1) If a pregnant person requests a registered health practitioner to advise on a proposed abortion, or to perform, direct, authorise or supervise an abortion for that pregnant person, and the practitioner has a conscientious objection to abortion, the practitioner must:
  - (a) inform the pregnant person that the practitioner has a conscientious objection to abortion; and

- (b) refer the pregnant person to another registered health practitioner in the same field who the practitioner knows does not have a conscientious objection to abortion.
- (2) If the health practitioner does not know of a registered health practitioner who does not have a conscientious objection to abortion they shall refer them to the Department.
- (3) If a registered pharmacist or registered nurse has a conscientious objection to abortion, they shall not be required to administer or supply the drug to cause an abortion.
- (4) Despite any conscientious objection to abortion, a registered medical practitioner, a registered pharmacist or registered nurse is under a duty to perform an abortion or administer or supply a drug to cause an abortion in an emergency where the abortion is necessary to preserve the life of the pregnant person.
- (5) For the purposes of subsection (4), an emergency where an abortion is necessary to preserve the life of the pregnant person is where two registered medical practitioners reasonably believe that abortion is the best medical course of action in order to save the pregnant person's life.

## Part 3—Safe Access Zones

### 13 Interfering with access of persons to reproductive health clinics

- (1) This section does not apply to:
- (a) an employee or other person who provides services at the abortion health service;
  - (b) conduct occurring in a church, or other building, that is ordinarily used for religious worship, or within the grounds of such a church or building;
  - (c) conduct occurring within a 200 metre radius of the sitting place of:
    - (i) the Commonwealth Parliament;
    - (ii) a State or Territory parliament; or
    - (iii) a local council meeting place; or
    - (iv) similar meeting place of a legislative significance;
  - (d) the distribution of election materials during a Commonwealth, State, Territory or local government election, referendum, plebiscite or similar poll;
  - (e) other similar conduct.
- (2) A person commits an offence if:
- (a) the person is in within a 150 metre radius around an abortion health service; and
  - (b) the person besetts, harasses, intimidates, interferes with, threatens, hinderes, obstructs, impedes or does something similar to a person while accessing or leaving, or attempting to access or leave, a abortion health service.

Penalty: 50 penalty units or 6 months in prison, or both.

- (3) A person commits an offence if:
- (a) the person is in within a 150 metre radius around an abortion health service; and
  - (b) the person obstructs or blocks a footpath or road leading to a abortion health service.

Penalty: 50 penalty units or 6 months in prison, or both.

- (4) A person commits an offence if:



- (b) the person is in within a 150 metre radius around an abortion health service; and
- (c) the person communicates about abortions, or information which relates to abortions, by any means, in a manner:
  - (i) that is able to be seen or heard by a person accessing or leaving, or attempting to access or leave, an abortion health service; and
  - (ii) that is reasonably likely to cause distress or anxiety to a person accessing or leaving, or attempting to access or leave, an abortion health service.

Penalty: 50 penalty units or 6 months in prison, or both.

- (5) A person commits an offence if:
  - (a) the person is in within a 150 metre radius around an abortion health service; and
  - (b) the person records, photographs, films, captures or does something similar to a person accessing or leaving, or attempting to access or leave, an abortion health service without their consent.

Penalty: 50 penalty units or 6 months in prison, or both.

- (6) A person commits an offence if a person distributes a recording, photograph, film, captures or something similar of a person accessing or leaving, or attempting to access or leave, an abortion health service without their consent.

Penalty: 50 penalty units or 6 months in prison, or both.

- (7) Subsection (5) does not apply to:
  - (a) the operation of a security camera, for the sole reason of security, by or on behalf of a person whose premises is adjacent or within within a 150 metre radius around an abortion health service;
  - (b) a police officer acting in the course of the officer's duties as a police officer if the officer's conduct is reasonable in the circumstances of the performance of those duties;
  - (c) a person who has another reasonable excuse.

## **Part 4—Immunities**

### **14 Immunity of any statutory or common law offences relating to rights granted under this Act**

- (1) A person who engages in conduct pursuant to this Act that complies with this Act will be immune from any statutory or common law offences that relate to abortion that arise from this conduct.
- (2) Where offences that are created or rights and obligations that are granted or created under this Act conflict with existing Commonwealth, State, Territory or local government offences or offences in the common law, this Act applies.