

Pregnancy Terminations

Summary of the new law

The Reproductive Health (Access to Terminations) Act 2013 introduces new laws to regulate access to pregnancy terminations. The new law came into effect on 12 February 2014.

It removes some of the barriers to the delivery of termination services in Tasmania to help improve the health and wellbeing outcomes of Tasmanian women.

Key elements of the new law

Health-based access laws

Access to a termination is now regulated under health-based laws in the *Reproductive Health (Access to Terminations) Act 2013*. Women accessing termination services no longer risk criminal sanctions.

A decision between a woman and her doctor

Previously in Tasmania, a woman needed the approval of two doctors to access a termination at any stage of pregnancy. This is no longer the case for terminations that occur **before the end of 16 weeks** gestation. Now, the consent of the woman will provide the legal authority for the doctor to perform the procedure.

A woman can make the decision to terminate a pregnancy based on her own needs and circumstances at the time and in consultation with anyone she chooses – a woman does not have to be referred to counselling.

A woman does not need a referral from another doctor before seeing a termination provider and

can directly contact one of the private clinics providing terminations in Tasmania.

After 16 weeks, a doctor can provide a termination with the woman's consent if the doctor reasonably believes that continuing the pregnancy would involve greater risk of injury to the physical or mental health of the woman than if the pregnancy was terminated. The doctor must consult a second doctor who agrees with this. At least one of the doctors must specialise in obstetrics or gynaecology. In assessing the risk of injury, doctors must consider the woman's physical, psychological, economic and social circumstances. A woman does not need to be referred to counselling or referred to the termination provider by another doctor.

Conscientious objection and duty to treat

On becoming aware that a woman is seeking a termination or advice about pregnancy options, a doctor who holds a conscientious objection to terminations must provide the woman with a list of prescribed health services.

Prescribed health services provide advice, counselling or information on the full range of pregnancy options. They do not provide termination procedures.

Doctors, nurses and midwives continue to have a duty to treat during an emergency if a termination is necessary to save the life of the pregnant woman or prevent serious physical injury.

Do doctors face professional or criminal sanctions?

- Doctors who do not follow the 'two doctor' requirements after 16 weeks or who hold a conscientious objection and fail to provide a woman with the list of prescribed health services risk professional (not criminal) sanctions.
- Where a woman's life is at risk from a termination procedure (rare), the doctor can only legally perform the termination with reasonable care and skill, in good faith and with the woman's consent. This substantially mirrors the existing laws that apply for all surgical operations.
- It continues to be a crime for a doctor to perform a termination without a woman's consent – unless the woman is incapable of giving consent and the termination is performed in good faith and with reasonable care and skill, is for the woman's benefit and is reasonable in the circumstances.

Other requirements

It is a crime for a person to terminate a pregnancy without a woman's consent. It is also a crime for a person who is not a medical practitioner to terminate a pregnancy. A termination does not include the supply or procurement of anything for the purpose of a termination or the administration of drugs for that purpose by a nurse or midwife acting under the direction of a medical practitioner.

Access Zones

The Act introduces access zones of 150 metres from premises where terminations are provided. It is an offence for a person to engage in *prohibited behaviour* within an access zone.

The purpose of access zones is to ensure women can access reproductive health services free from harassment, intimidation, and protest.

It is also an offence to intentionally record or distribute a recording of a woman accessing such premises without her permission. The Act details prohibited behaviour and its penalties.

For further information about the *Reproductive Health (Access to Terminations) Act 2013* please email womens.health@dhhs.tas.gov.au or visit www.dhhs.tas.gov.au/pophealth/termination_of_pregnancy.

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