

2018

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Caroline Le Couteur)

## Health (Improving Abortion Access) Amendment Bill 2018

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### A Bill for

An Act to amend the *Health Act 1993*

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The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**  
2 This Act is the *Health (Improving Abortion Access) Amendment*  
3 *Act 2018*.

4 **2 Commencement**  
5 This Act commences on the day after its notification day.  
6 *Note* The naming and commencement provisions automatically commence on  
7 the notification day (see [Legislation Act](#), s 75 (1)).

8 **3 Legislation amended**  
9 This Act amends the *Health Act 1993*.

10 **4 Part 6 heading**  
11 *substitute*

## 12 **Part 6 Terminations**

13 **5 Division 6.1**  
14 *substitute*

### 15 **Division 6.1 Terminations—generally**

#### 16 **80 Definitions—pt 6**

17 (1) In this part:  
18 *approved medical facility* means a medical facility approved under  
19 section 84.  
20 *termination* means a medical or surgical termination.

- 1 (2) In this division:
- 2 *medical termination* means the supply or administration of a  
3 termination drug.
- 4 *surgical termination* means a surgical procedure or any other  
5 procedure or act (other than the administration or supply of a  
6 termination drug) that causes a pregnancy to end prematurely.
- 7 *termination drug* means a drug or substance that causes a  
8 pregnancy to end prematurely.
- 9 **81 Offence—unauthorised supply or administration of**  
10 **termination drug**
- 11 (1) A person commits an offence if—
- 12 (a) the person supplies or administers a termination drug to  
13 another person; and
- 14 (b) the termination drug is supplied or administered by the person  
15 for the purpose of ending a pregnancy; and
- 16 (c) the person is not a doctor or nurse practitioner.
- 17 Maximum penalty: imprisonment for 5 years.
- 18 (2) Subsection (1) does not apply to—
- 19 (a) a pharmacist supplying a termination drug in accordance with a  
20 prescription; or
- 21 (b) a person assisting a pharmacist in supplying a termination drug  
22 in accordance with a prescription.
- 23 (3) For this section, it does not matter whether or not—
- 24 (a) the other person was pregnant; or
- 25 (b) the termination drug supplied or administered was sufficient to  
26 end a pregnancy.

- 1           (4) In this section:  
2                 *prescription*—see the *Medicines, Poisons and Therapeutic*  
3                 *Goods Act 2008*, dictionary.

4       **82           Offence—unauthorised surgical termination**

- 5           (1) A person commits an offence if the person—  
6                 (a) carries out a surgical termination; and  
7                 (b) is not a doctor.  
8                 Maximum penalty: imprisonment for 5 years.  
9           (2) Subsection (1) does not apply to a person assisting a doctor to carry  
10                out a surgical termination.

11       **83           Surgical termination to be carried out in approved**  
12                **medical facility**

- 13                A person commits an offence if the person carries out a surgical  
14                termination other than in an approved medical facility.  
15                Maximum penalty: 50 penalty units, imprisonment for 6 months or  
16                both.

17       **84           Approval of facilities**

- 18           (1) A person may apply to the Minister to have a medical facility, or a  
19                part of a medical facility, approved to carry out surgical  
20                terminations.  
21           (2) The Minister must approve the application if reasonably satisfied the  
22                medical facility is suitable.  
23           (3) An approval is a notifiable instrument.

24                *Note*     A notifiable instrument must be notified under the [Legislation Act](#).

- 1     **84A     Conscientious objection**
- 2           (1) Subject to subsection (2), an authorised person may refuse to supply
- 3           or administer a termination drug, or carry out or assist in carrying
- 4           out a surgical termination, on religious or other conscientious
- 5           grounds (a *conscientious objection*).
- 6           (2) An authorised person must not refuse, only because of a
- 7           conscientious objection, to carry out, or assist in carrying out, a
- 8           surgical termination in an emergency where a termination is
- 9           necessary to preserve the life of the pregnant person.
- 10          (3) There is no breach of duty (by contract or by statutory or other legal
- 11          requirement) or contravention of a territory law if an authorised
- 12          person refuses to supply or administer a termination drug, or carry
- 13          out or assist in carrying out a surgical termination, because of a
- 14          conscientious objection.
- 15          (4) However, if an authorised person refuses to supply or administer a
- 16          termination drug, or carry out or assist in carrying out a surgical
- 17          termination because of a conscientious objection, the authorised
- 18          person must tell a person requesting the drug or termination that the
- 19          authorised person refuses because of the objection.
- 20          (5) In this section:
- 21                 *authorised person* means a doctor or nurse.
- 22     **6           Definitions—div 6.2**
- 23     **Section 85 (1), definition of *approved medical facility***
- 24                 *omit*

- 1 **7 Section 85 (1), definition of *prohibited behaviour*,**  
2 **paragraphs (a) (ii) and (b) (ii) (B)**
- 3 *omit*
- 4 an abortion
- 5 *substitute*
- 6 a termination
- 7 **8 Section 85 (1), definition of *prohibited behaviour*,**  
8 **paragraph (c)**
- 9 *omit*
- 10 abortions
- 11 *substitute*
- 12 terminations
- 13 **9 Prohibited behaviour in or in relation to protected area**  
14 **Section 87 (2) (b)**
- 15 *omit*
- 16 an abortion
- 17 *substitute*
- 18 a termination
- 19 **10 Review of decisions**  
20 **New section 130 (2)**
- 21 *insert*
- 22 (2) An applicant under section 84 may apply to the ACAT for review of  
23 a decision of the Minister to refuse approval of a medical facility, or  
24 a part of a medical facility, to carry out surgical terminations.



1 **11 Pt 10 obligations—no contracting out**  
2 **Section 131**

3 *before*

4 this part

5 *insert*

6 for section 130

7 **12 New part 23**

8 *insert*

9 **Part 23 Transitional—Health (Improving**  
10 **Abortion Access) Amendment**  
11 **Act 2018**

12 **261 Meaning of *commencement day*—pt 23**

13 In this part:

14 *commencement day* means the day the *Health (Improving Abortion*  
15 *Access) Amendment Act 2018*, section 3 commences.

16 **262 Existing approvals of medical facilities**

17 (1) An existing approval is taken to be an approval under section 84.

18 (2) In this section:

19 *existing approval* means an approval—

20 (a) under section 83 (Approval of facilities) as in force  
21 immediately before the commencement day; and

22 (b) in force immediately before the commencement day.

1    **263       Expiry—pt 23**

2               This part expires on the commencement day.

3               *Note*     Transitional provisions are kept in the Act for a limited time.  
4                            A transitional provision is repealed on its expiry but continues to have  
5                            effect after its repeal (see [Legislation Act](#), s 88).

6    **13        Dictionary, note 2**

7               *insert*

- 8                            •    doctor  
9                            •    Minister (see s 162)  
10                          •    notifiable instrument (see s 10)  
11                          •    nurse practitioner  
12                          •    penalty unit (see s 133)

13   **14        Dictionary, definition of *abortion***

14               *omit*

15   **15        Dictionary, definition of *approved medical facility***

16               *substitute*

17               *approved medical facility*, for part 6 (Terminations)—see  
18               section 80 (1).

19   **16        Dictionary, new definitions**

20               *insert*

21               *medical termination*, for division 6.1 (Terminations—generally)—  
22               see section 80 (2).

23               *surgical termination*, for division 6.1 (Terminations—generally)—  
24               see section 80 (2).

25               *termination*, for part 6 (Terminations)—see section 80 (1).

