

## TABLING NOTE FOR SUBORDINATE LEGISLATION

### SUBORDINATE LEGISLATION NO. 20 OF 2017

#### TERMINATION OF PREGNANCY LAW REFORM REGULATIONS

##### **Purpose**

The *Termination of Pregnancy Law Reform Regulations* provides a framework to ensure the safe performance of terminations of pregnancy across both the public and private sectors.

The Regulations commenced on 1 July 2017 along with the *Termination of Pregnancy Law Reform Act*.

##### **Summary of key provisions**

The Regulations provide for:

- the reporting by medical practitioners to the Chief Health Officer on prescribed information within a prescribed timeframe;
- offences and penalties to be made for non-compliance in relation to the provisions of prescribed information within the prescribed timeframe, provision of false information relating to the credentials of a medical practitioner and any breach of confidentiality relating to information collected in relation to a termination of pregnancy;
- the setting and verification of the credentials for suitably qualified medical practitioners by the Chief Health Officer; and
- through Gazettal, the setting by the Chief Health Officer, of standards, guidelines or requirements about the manner of doing or performing anything required or permitted to be done or performed under the *Termination of Pregnancy Law Reform Act*.

##### **Legislative Authority**

Section 18(1) of the *Termination of Pregnancy Law Reform Act*.

NORTHERN TERRITORY OF AUSTRALIA

TERMINATION OF PREGNANCY LAW REFORM REGULATIONS

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# NORTHERN TERRITORY OF AUSTRALIA

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Subordinate Legislation No. 20 of 2017\*

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## *Termination of Pregnancy Law Reform Regulations*

I, John Laurence Hardy, Administrator of the Northern Territory of Australia, acting with the advice of the Executive Council, make the following regulations under the *Termination of Pregnancy Law Reform Act*.

Dated 29 June 2017

J. L. HARDY  
Administrator

By His Honour's Command

N. K. FYLES  
Minister for Health

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\* Notified in the *Northern Territory Government Gazette* on 29 June 2017.

**Part 1 Preliminary matters****1 Citation**

These Regulations may be cited as the *Termination of Pregnancy Law Reform Regulations*.

**2 Commencement**

These Regulations commence on the commencement of the *Termination of Pregnancy Law Reform Act 2017*.

**Part 2 Suitably qualified medical practitioners****3 Credentials for suitably qualified medical practitioners**

The CHO may set the credentials required for suitably qualified medical practitioners.

**4 Verification of credentials of suitably qualified medical practitioners**

- (1) The CHO may verify the credentials of a medical practitioner for the purpose of confirming the medical practitioner as a suitably qualified medical practitioner.

*Note for subregulation (1)*

*The CHO may delegate the power mentioned in subregulation (1) under section 69 of the Public and Environmental Health Act.*

- (2) A medical practitioner must provide true and accurate information to the CHO for the purpose mentioned in subregulation (1).
- (3) A person commits an offence if:
  - (a) the person intentionally gives information to the CHO for the purpose mentioned in subregulation (1); and
  - (b) the information is misleading and the person has knowledge of that circumstance.

Maximum penalty: 100 penalty units.

- (4) A person commits an offence if:
  - (a) the person intentionally gives a document to the CHO for the purpose mentioned in subregulation (1); and

- (b) the document contains misleading information and the person has knowledge of that circumstance.

Maximum penalty: 100 penalty units.

- (5) Strict liability applies to subregulations (3)(b) and (4)(b).
- (6) Subregulation (4) does not apply if the person, when giving the document:
  - (a) draws the misleading aspect of the document to the attention of the CHO; and
  - (b) to the extent to which the person can reasonably do so – gives the CHO the information necessary to remedy the misleading aspect of the document.
- (7) If the credentials of a medical practitioner cannot be verified for the purpose mentioned in subregulation (1), the CHO must provide written notice to the practitioner advising:
  - (a) that the practitioner's credentials could not be verified; and
  - (b) that the practitioner is not permitted to perform terminations other than in emergency situations; and
  - (c) the actions that must be performed by the practitioner in order for the practitioner's credentials to be verified.
- (8) The CHO may review the verification of the credentials of a suitably qualified medical practitioner at intervals not exceeding 2 years.
- (9) In this regulation:

***misleading information*** means information that is misleading in a material particular or because of the omission of a material particular.

## **Part 3 Standards and guidelines**

### **5 Standards**

- (1) The CHO may, by *Gazette* notice, declare that a document applies as a standard in the Territory, or a specified part of the Territory, relating to the performance of terminations.
- (2) The declaration of the standard must:
  - (a) specify if the standard applies to the whole of the Territory or part of the Territory; and

- (b) describe the subject matter of the standard; and
- (c) specify the date on which the standard applies in the Territory or part of the Territory (which may not be earlier than the date of the notice); and
- (d) specify the place where, and the times when, a person may inspect or purchase a copy of the standard.

## **6 Guidelines**

- (1) The CHO may set guidelines relating to the policies, procedures and requirements involved in the performance of terminations.
- (2) The CHO must, by *Gazette* notice, give notice of making the guidelines.
- (3) The notice must:
  - (a) describe the subject matter of the guidelines; and
  - (b) specify the date on which the guidelines take effect (which may not be earlier than the date of the notice); and
  - (c) specify the place where, and the times when, a person may inspect or purchase a copy of the guidelines.

## **7 Inspection and purchase of copies of standards and guidelines**

The CHO:

- (a) must make available copies of standards under the Act for inspection or purchase by members of the public; and
- (b) must make available copies of guidelines under the Act for inspection or purchase by members of the public.

## **Part 4 Reporting requirements**

### **Division 1 Reports to CHO**

#### **8 Prescribed information**

- (1) For section 17 of the Act, the following information is prescribed:
- (a) for a termination performed at not more than 14 weeks pregnant, using a termination drug:
    - (i) the date of birth of the woman who received the termination; and
    - (ii) the number of gestational weeks at which the termination was performed; and
    - (iii) the date the termination was initiated; and
    - (iv) the location where the termination was initiated; and
    - (v) the region of the usual place of residence of the woman who received the termination; and
    - (vi) the full name and provider number of the suitably qualified medical practitioner who performed the termination or directed the performance of the termination; and
    - (vii) whether a follow up appointment in relation to the termination was arranged;
  - (b) for a termination performed at not more than 14 weeks pregnant, by surgical procedure:
    - (i) the date of birth of the woman who received the termination; and
    - (ii) the number of gestational weeks at which the termination was performed; and
    - (iii) the date the termination was performed; and
    - (iv) the name of the premises where the termination was performed; and
    - (v) the location where the termination was performed; and



- (vi) the region of the usual place of residence of the woman who received the termination; and
  - (vii) the full name and provider number of:
    - (A) the suitably qualified medical practitioner who performed the termination; or
    - (B) if the termination was performed in an emergency situation under section 10 of the Act – the medical practitioner who performed the termination; and
  - (viii) whether a follow up appointment in relation to the termination was arranged;
- (c) for a termination performed at more than 14 weeks pregnant:
- (i) the method of termination; and
  - (ii) the date of birth of the woman who received the termination; and
  - (iii) the number of gestational weeks at which the termination was performed; and
  - (iv) the date the termination was performed; and
  - (v) the name of the premises where the termination was performed; and
  - (vi) the location where the termination was performed; and
  - (vii) the region of the usual place of residence of the woman who received the termination; and
  - (viii) the full name and provider number of:
    - (A) the suitably qualified medical practitioner who performed the termination; and
    - (B) the suitably qualified medical practitioner who was consulted and who assessed the woman prior to the termination in accordance with section 9(a) of the Act; or
    - (C) if the termination was performed in an emergency situation under section 10 of the Act – the medical practitioner who performed the termination; and
  - (ix) whether a follow up appointment in relation to the termination was arranged.

(2) In this regulation:

**gestational weeks** means the number of weeks of a woman's pregnancy as determined by a medical practitioner.

**initiated** means the point in relation to performing a termination, at which a termination drug is first administered to the woman.

**location** means a town or a suburb of a city.

**method of termination** means any of the following:

- (a) termination by surgical procedure;
- (b) termination by use of a termination drug;
- (c) termination by a combination of both means mentioned in paragraphs (a) and (b);
- (d) termination by a means other than a means mentioned in paragraph (a) or (b).

**region** means one of the following regions in the Territory:

- (a) Alice Springs;
- (b) Barkly;
- (c) Belyuen;
- (d) Central Desert;
- (e) Coomalie;
- (f) Darwin;
- (g) East Arnhem;
- (h) Katherine;
- (i) Litchfield;
- (j) MacDonnell;
- (k) Palmerston;
- (l) Roper Gulf;
- (m) Tiwi Islands;
- (n) Victoria Daly;

- (o) Wagait;
- (p) West Arnhem;
- (q) West Daly.

## **9 Prescribed time for providing information**

For section 17 of the Act, the following times are prescribed for providing the information prescribed by regulation 8:

- (a) for a termination by surgical procedure – within 28 days after the performance of the termination;
- (b) for a termination by use of a termination drug – within 28 days of the medical practitioner's last consultation with the woman in relation to the termination;
- (c) for termination by a combination of both a surgical procedure and by use of a termination drug – within 28 days after the performance of the termination;
- (d) for termination by a means other than a surgical procedure or by use of a termination drug – within 28 days of the medical practitioner's last consultation with the woman in relation to the termination.

## **10 Medical practitioner to provide information to CHO**

- (1) A medical practitioner who performs or directs the performance of a termination must provide to the CHO the information prescribed by regulation 8 in the approved form and within the time prescribed by regulation 9.

Maximum penalty: 20 penalty units.

- (2) An offence against subregulation (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subregulation (1) if the defendant has a reasonable excuse.

## **Division 2 Other reporting requirements**

### **11 Approved forms**

- (1) The CHO may approve forms for these Regulations.
- (2) The CHO must publish an approved form in a way decided by the CHO (for example, on the internet).

## 12 Disclosure of confidential information

- (1) A person commits an offence if:
- (a) the person obtains confidential information through:
    - (i) acting or assisting in any way in connection with the performance of a termination; or
    - (ii) being present at a place where a confidential matter is evident or being discussed; or
    - (iii) the administration of the Act and these Regulations; and
  - (b) the person intentionally engages in conduct; and
  - (c) the conduct results in the disclosure of the confidential information and the person is reckless in relation to that result.

Maximum penalty: 100 penalty units.

- (2) Strict liability applies to subregulation (1)(a).
- (3) Subregulation (1) does not apply if:
- (a) the person discloses the confidential information:
    - (i) with the consent of the person to whom the information relates; or
    - (ii) for legal proceedings arising out of the operation of the Act; or
    - (iii) for public health information – in a statistical form that does not identify:
      - (A) the woman to whom the information relates; or
      - (B) the medical practitioner who provided the information; or
      - (C) the premises for performing terminations to which the information relates; or
  - (b) the confidential information is otherwise available to the public.

*Note for subregulation (3)*

*In addition to the circumstances mentioned in subregulation (3), a person who discloses confidential information will not be criminally responsible for an offence if the disclosure is justified or excused by or under a law (see section 43BE of the Criminal Code).*

(4) In this regulation:

**confidential information** means any information that relates to a confidential matter.

**confidential matter** means a matter which includes any of the following:

- (a) details regarding a termination, including:
  - (i) any personal details of a woman receiving a termination; and
  - (ii) any circumstances (medical, psychological or social) relating to a termination; and
  - (iii) any personal or professional details of a person involved in the performance of a termination;
- (b) details of any advice provided to a woman in relation to anything under the Act.