

CONTRACEPTION, STERILISATION, AND ABORTION BILL

EXPLANATORY NOTE

THIS Bill is designed to give effect to those recommendations of the Royal Commission on Contraception, Sterilisation, and Abortion that can be implemented only by legislation. References in this note to—

- (a) The Royal Commission are references to that Royal Commission;
- (b) The report of the Royal Commission are references to the report of that Royal Commission dated the 5th day of March 1977;
- (c) References to recommendations are references to recommendations of that Royal Commission as set out in that report.

It has been recognised that the Royal Commission was concerned only with matters of principle, and it has been found necessary in preparing this Bill to add detail in respect of a number of the Commission's findings. Wherever this has proved necessary an attempt has been made to write the detail in such a way as to be in accord with what has been seen as the spirit of the Commission's recommendations.

The Bill is divided into 3 parts. Part I deals with those recommendations that cannot be implemented by amendment of existing enactments. It is intended that this Part, if enacted, would constitute a separate Act intituled the Contraception, Sterilisation, and Abortion Act 1977.

Part II effects certain amendments of the Crimes Act 1961. It is intended that this Part would be finally enacted as the Crimes Amendment Act 1977.

Part III contains amendments of other enactments. It is intended that this Part be separated into a number of amending Acts using the procedure usually adopted for the Statutes Amendment Bill.

Clause 1 relates to the Short Title and commencement. Clauses 14 to 46 of the Bill come into force in 1 April 1978. Otherwise the Bill comes into force on the date on which it receives the Governor-General's assent.

PART I

CONTRACEPTION, STERILISATION, AND ABORTION

Clause 2 relates to interpretation. The definitions of the terms "abortion" and "contraceptive" are of special significance. They reflect the Royal Commission's view, discussed on page 269 of its report and embodied in recommendation 1 on page 282, that the dividing line between "contraception" and "abortion" should be the point of implantation rather than of conception.

No. 57—1

Contraception

Clause 3 implements recommendations 1 to 3 set out on pages 86-87 of the report. It replaces section 2 of the Police Offences Amendment Act 1954, which is repealed.

Subclause (1) constitutes it an offence to sell or give or otherwise dispose of a contraceptive to any child under 16 years of age, or to offer to sell or give or otherwise dispose of a contraceptive to any child under that age. However, parents and guardians, medical practitioners, representatives of family planning clinics and other approved agencies and associations, and registered pharmacists (in the circumstances referred to in *paragraph (d) of subclause (1)* are exempted from this prohibition.

Subclause (2) constitutes it an offence to direct or persuade or attempt to direct or persuade any child under 16 years of age to use a contraceptive. Excluded from this prohibition are parents and guardians, medical practitioners, and representatives of family planning clinics and other approved agencies and associations.

Subclause (3) constitutes it an offence to sell or give or otherwise supply any information about, or any instruction in the use of, contraceptives to any child under 16 years of age, or to offer to sell or give or otherwise supply any such information or instruction to any child under that age.

Excluded from this prohibition are parents and guardians, medical practitioners, representatives of family planning clinics and other approved agencies and associations, registered pharmacists, and persons providing such information or instruction as part of an approved educational course or to pupils of a school with the approval of the principal or head teacher.

Subclause (4) prescribes penalties for breaches of any of *subclauses (1) to (3)* of this clause.

Subclause (5) constitutes it an offence for a child under the age of 16 years to procure or attempt to procure any contraceptive, knowing its purpose, other than from a person who is authorised under this section to supply a contraceptive to him.

Subclause (6) consequentially repeals section 2 of the Police Offences Amendment Act 1954, and section 2 (2) of the Police Offences Amendment Act 1967.

Clause 4 implements recommendation 6 set out on page 87 of the report.

Subclause (1) empowers the parent or guardian of a mentally subnormal female, or any other person having the custody or care of any such female, to administer a contraceptive to her.

Subclause (2) is an interpretative provision. For the purposes of the clause it adopts the definition of the term "mentally subnormal" set out in section 2 of the Mental Health Act 1969.

Subclause (3) provides that the authority conferred by *subclause (1)* does not apply to intra-uterine devices or the administering of contraceptives by injection.

Subclause (4) protects from criminal and civil liability persons acting with reasonable care and skill under the authority of *subclause (1)*.

Clause 5 implements recommendation 5 on page 283.

Subclause (1) provides that where a complaint of rape is made to the Police, the medical practitioner called to examine the complainant shall either give her such advice and assistance as may be appropriate to avoid the risk of pregnancy, or advise her of her right to obtain such assistance from another medical practitioner or a family planning clinic.

Subclause (2) renders a medical practitioner guilty of professional misconduct if he fails to comply with *subclause (1)*.

Clause 6 provides for the implementation of recommendation 13 on page 114.

Subclause (1) prohibits the manufacture for sale of any condom that does not comply with a standard approved by the Minister of Health.

Subclause (2) prescribes a maximum penalty of \$5,000 for a breach of *subclause (1)*.

Subclause (3) is an interpretative provision. It defines the term "condom" to include prophylactic sheaths.

Sterilisation

Clauses 7 to 11 implement recommendations 3 to 6 on page 128.

Clause 7: Subclause (1) is an interpretative provision. For the purposes of this clause and *clauses 8 to 11* of the Bill it adopts the definition of the term "mentally subnormal" set out in section 2 of the Mental Health Act 1969.

Subclause (2) empowers certain persons to apply to the Supreme Court for an order authorising the sterilisation of any person who is believed by the applicant to be mentally subnormal. The persons entitled to apply are the parent or guardian of the patient, the person in charge of any establishment in which the patient is resident, a medical practitioner, and a social worker professionally concerned with the case.

Subclause (3) requires applications to be in the prescribed form.

Subclause (4) provides that where the application is not made by the parent or guardian of the patient, the applicant shall serve a copy of the application on the parent or guardian.

Subclause (5) provides that where the application is made by a person who is not a medical practitioner, it shall be supported by a certificate by a medical practitioner to the effect that, in his opinion, the patient is mentally subnormal.

Subclause (6) requires every application to be supported by a statement by a qualified person giving his professional assessment of the patient's social adjustment and intellectual capacity.

Subclause (7) empowers the Court to give directions as to service.

Subclause (8) provides that, unless the Court otherwise orders, all costs of and incidental to any application under this section shall be met out of money appropriated by Parliament.

Clause 8 requires the Court to examine the patient and to arrange for 2 medical practitioners to examine him. The procedure prescribed is similar in effect and intent to that prescribed by section 22 of the Mental Health Act 1969 in respect of applications for reception orders.

Clause 9 requires the Court to appoint counsel to represent the interests of the patient.

Clause 10 provides that if, after receiving the certificates of the medical practitioners referred to in *clause 8*, and after considering such evidence as may be adduced on behalf of the patient, the Court is satisfied that the patient is mentally subnormal and that, for his own good, he should be sterilised, the Court may grant the application.

Clause 11 provides that the effect of such an order is to authorise the person named in the order to arrange for the sterilisation of the patient, and to give any necessary consent to an operation of sterilisation.

Clause 12 implements recommendation 10 on page 135.

Subclause (1) requires every medical practitioner who performs an operation of sterilisation to forward to the Director-General of Health a report of the operation containing the particulars specified in the subclause.

Subclause (2) prohibits the inclusion in the report of the name and address of the patient.

Subclause (3) is a supportive penal provision.

Clause 13 implements recommendation 9 on page 135.

Subclause (1) renders it unlawful to attach to the grant of any loan any condition relating to sterility.

Subclause (2) provides a remedy in damages for any person suffering loss because of a breach of *subclause (1)*.

Abortion

Clauses 14 to 46 implement recommendations 1 to 18 on pages 295 to 297.

Clause 14 provides for the appointment of the Abortion Supervisory Committee (referred to in chapter 25 of the Royal Commission's report as the Statutory Committee). The Committee is to consist of 3 members of whom 2 must be medical practitioners. Every member is to be appointed by the Governor-General on the recommendation of the Minister of Justice.

Clause 15 relates to the term of office of members of the Supervisory Committee. Subject to the provisions of the clause, each member is to hold office for 3 years, but may be reappointed.

Clause 16 provides for deputies of members during periods of temporary absence or incapacity.

Clause 17: Subclause (1) sets out the functions of the Supervisory Committee.

Subclause (2) provides that the Supervisory Committee is to have all such powers, rights, and authorities as may be reasonably necessary to enable it to carry out its functions.

Clause 18 empowers the Supervisory Committee to appoint advisory and technical committees.

Clause 19 empowers the Supervisory Committee to co-opt specialist advice.

Clause 20 empowers the Crown to provide goods and services to the Supervisory Committee.

Subclause (1) confers a general power on the Crown to provide goods and services through any Government department.

Subclause (2) requires the Secretary for Justice to provide clerical and secretarial services for the Supervisory Committee.

Clause 21 imposes restrictions on where abortions may be performed.

Subclause (1) provides that, subject to this Part of the Bill, no abortion may be performed elsewhere than in an institution licensed for the purpose under this Part.

Subclause (2) provides that no abortion shall be performed, where the pregnancy has subsisted for more than 12 weeks, otherwise than in an institution in respect of which a full (as opposed to a limited) licence is in force under this Part of this Bill.

Clause 22: Subclause (1) prescribes 2 types of licences for the purposes of this Part, a full licence and a limited licence.

Subclause (2) provides that a full licence will authorise the performance in the institution of abortions at any stage of the pregnancy.

Subclause (3) provides that a limited licence will authorise the performance of abortions during the first trimester only.

Clause 23 relates to applications for licences.

Subclause (1) states who may apply for a licence. In respect of a public hospital, the Superintendent may apply; in respect of a private hospital, the licensee may apply; and in respect of any other institution, the person in charge of the institution may apply.

Subclause (2) specifies certain procedural requirements in respect of such applications.

Clause 24 relates to the grant of licences.

Subclause (1) sets out the criteria for the grant of a full licence. Briefly, these are adequate accommodation, surgical and other facilities, and competent staff. In addition, adequate emergency facilities must be available. Finally, the Supervisory Committee must be satisfied that the person in charge of the institution is a fit and proper person to be the holder of a licence under this Part of the Bill.

Subclause (2) sets out the criteria for a limited licence. There must be a need for the institution in the area concerned; there must be adequate surgical and other facilities, and competent staff in the institution, and there must be adequate emergency facilities available, by arrangement, in another hospital or institution. In addition, the Supervisory Committee must be satisfied that the person in charge of the institution is a fit and proper person to be the holder of a licence under this Part of the Bill.

Subclause (3) authorises the Supervisory Committee, with the consent of the applicant, to grant a limited licence instead of a full licence if it is satisfied of the matters specified in *subclause (2)* of this clause, but is not satisfied of the matters specified in *subclause (1)*.

Subclause (4) provides that, subject to the right of appeal on questions of law under *clauses 29 and 30* of the Bill, the decision of the Supervisory Committee is final.

Clause 25 provides for the issue of a licence in the prescribed form.

Clause 26 provides that, subject to *clause 27* of the Bill, a licence shall be in force for 1 year.

Clause 27 provides for the renewal of a licence. The applicant is entitled to have the licence renewed if the Supervisory Committee remains satisfied in respect of the matters specified in *clause 24* of the Bill, and is also satisfied that the holder of the licence has taken all reasonable and practicable steps to ensure that the provisions of the abortion law were complied with in the institution.

Clause 28 empowers the Supervisory Committee to revoke a licence if it is no longer satisfied of any of the matters specified in *clause 24* of the Bill, or if it believes that the holder of the licence has not taken all reasonable and practicable steps to ensure compliance with the abortion law.

Clause 29 provides for a right of appeal to the Supreme Court against a decision by the Supervisory Committee to refuse to grant or renew a licence, or to cancel a licence. The appeal is on a question of law only, and is to be heard and determined by the Administrative Division of the Supreme Court.

Clause 30 provides for a further appeal on a question of law to the Court of Appeal.

Clause 31 empowers the Supervisory Committee to state a case for the opinion of the Supreme Court.

Clause 32 provides that, subject to the provisions of this Part, no abortion shall be performed unless it has been authorised by an Abortion Review Panel.

Clause 33 provides for the appointment of Abortion Review Panels throughout New Zealand.

Subclause (1) requires the Supervisory Committee to appoint the Panels.

Subclause (2) provides that each Panel shall consist of 2 medical practitioners (of whom at least 1 shall be a specialist or have experience in gynaecology or obstetrics), and 1 social worker who shall be the Counselling Supervisor for the Panel.

Subclause (3) requires the Supervisory Committee to keep lists of medical practitioners who may deputise on a Panel when necessary.

Subclause (4) points to the desirability of ensuring that members of Panels are objective, and to the desirability of having at least 1 female medical practitioner on each Panel.

Subclause (5) provides for the appointment of deputies (drawn from the list referred to in *subclause (3)*) when a member of a Panel is unable to act.

Subclause (6) empowers the Supervisory Committee to revoke any appointment to a Panel or remove the name of any medical practitioner from the list of deputies.

Clause 34 provides that the function of a Panel is to review cases referred to it by a medical practitioner or family planning clinic and determine, in accordance with *clause 37*, whether to authorise an abortion.

Clause 35 provides for the appointment or approval, by the Supervisory Committee, of persons and agencies to provide counselling for women considering having an abortion.

Clause 36 sets out the procedure to be followed where a patient seeks an abortion.

Subclause (1) provides that where a patient consults a medical practitioner or family planning clinic about an abortion, she shall be advised of her right to have her case considered by a Panel.

Subclause (2) provides that, at the request of the patient, the medical practitioner or clinic shall refer the case to a Panel, with a written statement to the effect that the patient is pregnant, and a written statement of the ground or grounds on which she seeks an abortion.

Subclause (3) provides that on receipt of an application, the Counselling Supervisor of the Panel shall arrange for counselling of the patient by an approved counselling service.

Subclause (4) requires the person giving the counselling to notify the Panel in writing when counselling has been completed.

Subclause (5) then requires the Panel to consider the case.

Clause 37 provides for the determination of cases by a Panel. The test is whether an abortion would be justified in accordance with section 187A of the Crimes Act 1961 (as inserted by *clause 54* of the Bill).

Subclause (1) provides that if the 2 medical practitioners on the Panel agree that the abortion would be justified under that section, they shall issue a certificate authorising the abortion.

Subclause (2) provides that if they are agreed that an abortion would not be justified under that section, they shall refuse to authorise an abortion.

Subclause (3) provides that, if they do not agree, they shall refer the case to another medical practitioner drawn from the list of deputies set up under *clause 33 (3)* of the Bill.

Subclause (4) provides that if that other medical practitioner agrees that an abortion would be justified under section 187A, the member of the Panel who is of the same opinion shall issue a certificate authorising an abortion.

Subclause (5) provides that every certificate issued under this clause shall be forwarded to the institution in which the patient intends to have an abortion, and a copy shall be forwarded to the patient.

Clause 38 requires the Counselling Supervisor to offer counselling and assistance to a patient whose application for an abortion is refused.

Clause 39 requires the Panels to keep records, and supply reports to the Supervisory Committee.

Clause 40 is a supportive penal provision.

Subclause (1) constitutes it an offence for a medical practitioner to perform an abortion otherwise than in a licensed institution, or otherwise than pursuant to a certificate issued by a Panel under *clause 37*.

Subclause (2) excludes emergency cases.

Subclause (3) provides a defence where the medical practitioner believed that a certificate had in fact been issued.

Clause 41 is a saving provision. The effect is that the Crimes Act 1961 is unaffected by *clauses 14 to 40* of the Bill.

Clause 42 requires the Supervisory Committee to prepare an annual report, which the Minister of Justice is required to table in Parliament.

Clause 43 protects members of the Supervisory Committee and every Panel from liability for official acts done in good faith.

Clause 44 provides for fees and travelling allowances.

Clause 45 provides for the costs of administration of this Part of the Bill to be met out of money appropriated by Parliament.

Clause 46 authorises the making of regulations.

Clause 47 implements recommendation 3 on page 283 of the report. In effect, it re-enacts section 185 of the Crimes Act 1961. As that Act is concerned with serious offences punishable by imprisonment it is not considered appropriate to leave this offence in that Act, bearing in mind that the maximum penalty is now to be a fine of \$200.

Clause 48 implements recommendations 1 to 4 on page 315 of the report.

Subclause (1) entitles medical personnel and others to object on grounds of conscience to taking part in matters relating to contraception, sterilisation, or abortion.

Subclause (2) prohibits an employer from discriminating against employees or prospective employees who object on grounds of conscience to any matter referred to in *subclause (1)*.

Subclause (3) provides a remedy in damages to any person who suffers loss from a breach of *subclause (2)*.

Subclause (4) provides, in effect, that this clause does not entitle a medical practitioner to refuse to comply with *clause 5* (contraceptive advice to rape complainants) or section 43A of the Medical Practitioners Act 1968 (as inserted by *clause 66* of the Bill) (requiring a medical practitioner to advise patients of their right to family planning advice).

PART II AMENDMENTS OF CRIMES ACT 1961

Clause 49 is a machinery provision.

Clause 50 implements recommendations 1 and 2 on page 128 of the report. It makes it clear that a person can consent to an operation for a lawful purpose, and provides that an operation performed to render the patient sterile is performed for a lawful purpose.

Clause 51 implements recommendation 1 on page 282. It defines miscarriage, for the purposes of sections 183 to 187 of the Crimes Act 1961, to mean the premature expulsion of the embryo or fetus after implantation otherwise than for the purpose of inducing a live birth or of removing a fetus that has died.

Clause 52 implements the first and third parts of recommendation 2 on pages 282 and 283 of the report. (Part 2 is implemented by *clause 54*.) It repeals sections 183 and 184 of the Crimes Act 1961 and re-enacts their provisions in one section. The only effective change is to increase the maximum penalty presently prescribed by section 184 from 10 years to 14 years.

Clause 53 repeals section 185 of the Crimes Act 1961. As stated above, this provision is re-enacted in *clause 47* of the Bill with a lesser penalty. [See recommendation 3 on page 283 of the report.]

Clause 54 implements part 2 of recommendation 2, and recommendation 4 on page 283, and recommendations 6 and 7 on page 284 of the report. The clause inserts a new section 187A in the Crimes Act 1961.

Subsection (1), in effect, prescribes the grounds on which an abortion may be performed during the first 20 weeks of pregnancy. They are those set out in recommendation 2 (2) on page 283 of the report.

Subsection (2) provides that the age and the social and economic circumstances of the woman or girl concerned, while not in themselves grounds for an abortion, may be taken into account in determining whether the continuance of the pregnancy would result in serious danger to her life or to her physical or mental health. [See recommendation 4 on page 283, and recommendation 6 on page 284.]

Subsection (3), in effect, prescribes the grounds on which an abortion may be performed where the pregnancy has subsisted for at least 20 weeks. They are those set out in recommendation 7 on page 284.

Subsection (4) provides that where a medical practitioner performs an abortion pursuant to a certificate issued by a Panel under *clause 37* of this Bill, that abortion will be regarded as lawful unless it is proved that, at the time when he performed that abortion, he did not believe it to be lawful in terms of this section. This subsection is included as being in accordance with the tenor of the report.

PART III

AMENDMENTS OF OTHER ENACTMENTS

Education

Clause 55 is a machinery provision.

Clause 56 implements recommendation 1 on page 91 of the report. It requires primary and secondary schools to include in their curricula courses on human development and relationships in accordance with regulations made under the Education Act 1964.

Food and Drug

Clause 57 is a machinery provision.

Clause 58 implements recommendation 8 on page 87 of the report. It has the effect of allowing the sale through vending machines of approved chemical contraceptives with condoms.

Guardianship

Clause 59 is a machinery provision.

Clause 60 implements recommendation 10 on page 284. It provides that a female child of whatever age may consent to the performance on her of an abortion, or refuse such consent, and her consent or refusal to consent shall have the same effect as if she were of full age.

Hospitals

Clause 61 is a machinery provision.

Clause 62 implements recommendation 2 on page 113, and recommendation 5 on page 134. It inserts 2 new sections, *64c* and *64d*.

Section 64c provides that every public hospital that has an obstetric or a gynaecological department must provide family planning advice for patients.

Section 64d requires Hospital Boards to provide in-patient and out-patient facilities for sterilisation in appropriate institutions.

Mental Health

Clause 63 is a machinery provision.

Clause 64 implements recommendation 7 on page 87. It provides for the administering of contraceptives to female patients in mental institutions as part of their treatment.

Medical Practitioners

Clause 65 is a machinery provision.

Clause 66 implements recommendation 15 on page 114, recommendation 6 on page 134, and recommendation 5 on page 315, of the report. It requires a medical practitioner who objects on grounds of conscience to providing advice on family planning matters to advise the patient of his right to obtain such advice from another medical practitioner or a family planning clinic. Failure to do so constitutes professional misconduct.

Property Law

Clause 67 is a machinery provision.

Clause 68, read with *clause 13*, implements recommendation 9 on page 135. It provides that any term in any disposition of property requiring any person to be or to become sterile is void.

Social Security

Clause 69 is a machinery provision.

Clause 70 implements recommendation 11 on page 114 of the report. It extends the general medical services benefit to include consultations about contraception.

Hon. Mr Thomson

CONTRACEPTION, STERILISATION, AND ABORTION

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A BILL INTITULED

An Act to amend certain provisions of the law, and to make further provision, relating to contraception, sterilisation, and abortion

BE IT ENACTED by the General Assembly of New Zealand 5
in Parliament assembled, and by the authority of the same,
as follows:

1. **Title and commencement**—(1) This Act may be cited as the Contraception, Sterilisation, and Abortion Act 1977.

(2) Sections 14 to 46 of this Act shall come into force on 10
the 1st day of April 1978.

(3) Except as provided in subsection (2) of this section, this Act shall come into force on the date on which it receives the Governor-General's assent.

PART I

CONTRACEPTION, STERILISATION, AND ABORTION

2. Interpretation—In this Part of this Act, unless the context otherwise requires,—

5 “Abortion” means a medical or surgical procedure carried out or to be carried out for the purpose of procuring the premature expulsion from the mother of an embryo or fetus after implantation, otherwise than for the purpose of inducing the birth of a fetus
10 believed to be viable or removing a fetus that has died:

“Abortion law” means every provision of—

(a) Sections 14 to 48 of this Act; and

(b) Sections 182 to 187A of the Crimes Act 1961:

15 “Approved counselling service” means any person or agency appointed or approved by the Supervisory Committee under section 35 of this Act:

“Contraceptive” means a substance or device or technique intended to prevent conception or implanta-
20 tion:

“Family planning clinic” means any clinic established by or affiliated to—

(a) The New Zealand Association of Natural Family Planning Centres:

25 (b) The New Zealand Family Planning Association:

(c) A Hospital Board:

(d) Any other association or agency approved for the purposes of this Act by the Minister of Health by notice in the *Gazette*:

30 “Holder”, in relation to a licence issued under this Part of this Act, means—

(a) In the case of a hospital under the control of a Hospital Board, the person who is for the time being the Superintendent of the hospital, whether or not he held that office when the licence was issued:

(b) In the case of a private hospital, the person who is for the time being the licensee (within the meaning of section 118 of the Hospitals Act 1957) of the hospital, whether or not he held that office when the licence was issued (under this Part of this Act):

40 (c) In the case of any other institution, the person who is for the time being in charge of the institution, whether or not he was in charge of it when the licence was issued:

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“Hospital Board” means a Hospital Board constituted under the Hospitals Act 1957:

“Institution” means any hospital, clinic, or other premises in which it is proposed to perform abortions:

“Licence” means a licence issued under this Part of this Act: 5

“Licensed institution” means an institution in respect of which a licence is for the time being in force under this Part of this Act:

“Panel” means an Abortion Review Panel appointed under section 33 of this Act: 10

“Private hospital” means a hospital in respect of which a licence is for the time being in force under Part V of the Hospitals Act 1957:

“Secretary”, in relation to the Supervisory Committee, means the officer of the Department of Justice for the time being acting as Secretary of the Committee: 15

“Supervisory Committee” means the Abortion Supervisory Committee constituted under section 14 of this Act. 20

Contraception

3. Sale or disposal, etc., of contraceptives to children—

(1) Every person commits an offence who sells or gives or otherwise disposes of any contraceptive to any child under the age of 16 years, or offers to sell or give or otherwise dispose of any contraceptive to any child under that age, unless that person is— 25

(a) The parent or guardian of that child, or is acting in the place of a parent of that child; or

(b) A registered medical practitioner; or 30

(c) An authorised representative of any family planning clinic, or of any agency or association from time to time approved for the purpose by the Minister of Justice by notice in the *Gazette*; or

(d) A registered pharmacist, or a person acting under his supervision and with his authority, and he sells or gives or otherwise disposes of, or offers to sell or give or otherwise dispose of, the contraceptive in accordance with— 35

(i) The written prescription of a medical practitioner; or

(ii) What he believes to be the written authority of any person referred to in paragraph (a) or paragraph (c) of this subsection. 40

(2) Every person commits an offence who directs or persuades or attempts to direct or persuade any child under the age of 16 years to use any contraceptive unless that person is—

- 5 (a) The parent or guardian of that child, or is acting in the place of a parent of that child; or
(b) A registered medical practitioner; or
(c) An authorised representative of any family planning
10 clinic, or of any agency or association from time to time approved for the purpose by the Minister of Justice by notice in the *Gazette*.

(3) Every person commits an offence who sells or gives or otherwise supplies any information about, or instruction in the use of, any contraceptive to any child
15 under the age of 16 years, or offers to sell or give or otherwise supply any such information or instruction to any child under that age, unless that person—

- (a) Is the parent or guardian of that child, or is acting
20 in the place of a parent of that child; or
(b) Is a registered medical practitioner; or
(c) Is an authorised representative of any family planning clinic, or of any agency (including any agency of the Crown) or association from time to time approved for the purpose by the Minister of Justice
25 by notice in the *Gazette*; or
(d) Is a registered pharmacist, or a person acting under his supervision and with his authority; or
(e) Does so as part of any course on social relationships, or human biology, or human development,
30 approved by the Director-General of Education or the Director-General of Health; or
(f) Does so to any pupils of a school with the prior approval of the principal or head teacher of that school.

35 (4) Every person who commits an offence against subsection (1) or subsection (2) or subsection (3) of this section is liable on summary conviction—

- (a) In the case of a first offence, to a fine not exceeding \$200;
40 (b) In the case of a second or subsequent offence to imprisonment for a term not exceeding 3 months or to a fine not exceeding \$400.

(5) Every child under the age of 16 years who, knowing its purpose, procures or attempts to procure any
45 contraceptive from any person other than a person who is

authorised under this section to supply the contraceptive to that child commits an offence and is liable on summary conviction—

- (a) In the case of a first offence, to have a conviction recorded against him; or 5
- (b) In the case of a second or subsequent offence, to a fine not exceeding \$4.

(6) The following enactments are hereby consequentially repealed:

- (a) Section 2 of the Police Offences Amendment Act 1954; 10
- (b) Section 2 (2) of the Police Offences Amendment Act 1967.

4. Administering of contraceptives to mentally subnormal females—(1) Subject to subsection (3) of this section, a parent or guardian of any female, or any person who is acting in the place of a parent of any female, or any person otherwise having the custody or care of any female, may, if that female is mentally subnormal, administer any contraceptive to that female. 15 20

(2) For the purposes of subsection (1) of this section, a female is mentally subnormal if she is suffering from subnormality of intelligence as a result of arrested or incomplete development of mind.

(3) Nothing in subsection (1) of this section shall apply to any intra-uterine device or to the administering of any contraceptive by injection. 25

(4) Every person who, with reasonable care and skill, administers any contraceptive in accordance with this section is protected from criminal and civil responsibility in respect thereof. 30

5. Supply of contraceptives to rape complainants—

(1) Where any person makes a complaint of rape to any member of the Police and that member, or any other member of the Police, calls a registered medical practitioner to examine the complainant, it shall be the duty of that medical practitioner (unless the complainant expresses a contrary wish)— 35

- (a) To advise the complainant of any contraceptive precaution she may take in order to avoid the risk of pregnancy, and to supply to her or authorise the supply to her of any contraceptive for that purpose; 40
- or

(b) To advise her of her right to obtain such service from another registered medical practitioner or a family planning clinic.

(2) Without limiting section 43 of the Medical Practitioners Act 1968, every registered medical practitioner who fails to comply with subsection (1) of this section is guilty of professional misconduct and shall be dealt with under subsection (2) of that section accordingly.

6. Standards for manufacture of condoms—(1) No person shall manufacture for sale any condom that does not comply with a standard for the time being approved for the purposes of this section by the Minister of Health by notice in the *Gazette*.

(2) Every person who manufactures for sale any condom in contravention of subsection (1) of this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

(3) For the purposes of this section the term "condom" includes a prophylactic sheath.

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Sterilisation

7. Application for order authorising sterilisation of mentally subnormal person—(1) In this section and sections 8 to 11 of this Act, a person is mentally subnormal if he is suffering from subnormality of intelligence as a result of arrested or incomplete development of mind.

(2) An application to the Supreme Court for an order authorising the sterilisation of any person (hereafter in this section and sections 8 to 11 of this Act referred to as the patient) who is believed by the applicant to be mentally subnormal may be made—

(a) By the parent or guardian of the patient, or by any person who is acting in the place of a parent of the patient:

(b) The superintendent, manager, or licensee of any hospital, home, or other establishment in which the patient is resident:

(c) A registered medical practitioner:

(d) A social worker concerned professionally with the patient.

(3) Every application shall be in the prescribed form.

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(4) Where the application is made by any person other than a person to whom subsection (2) (a) of this section applies, the applicant shall serve a copy of the application on the parent or guardian of the patient, or on any person who is acting in the place of a parent of the patient. 5

(5) Where the application is made by any person who is not a registered medical practitioner, it shall be supported by a certificate by a registered medical practitioner to the effect that, in his opinion, the patient is mentally subnormal. 10

(6) In every case, the application shall be supported by a statement by a person qualified in that behalf giving his professional assessment of the patient's social adjustment and intellectual capacity. 10

(7) On any such application the Court may give such directions as to service as it thinks fit. 15

(8) Except where the Court otherwise orders, the costs of and incidental to every application under this section shall be met out of money from time to time appropriated by Parliament for the purpose.

8. Examination by Court and two medical practitioners— 20

(1) On the lodging of the application for an order under section 7 of this Act, the Court shall examine the patient at his residence or elsewhere, and for the purpose of further inquiry shall call to its assistance 2 medical practitioners who shall either together or separately examine the person. 25

(2) Unless in the opinion of the Court there is sufficient reason to the contrary, one of the medical practitioners called to its assistance shall be the usual medical attendant of the patient.

(3) The Court may also summon as witnesses such persons as it thinks fit to give evidence touching the mental condition of the patient. 30

(4) If, after such examination, the medical practitioners are of the opinion that the patient is mentally subnormal or one of them is of that opinion, each of them, or the one that is of that opinion, shall sign and deliver to the Court a certificate to that effect in the prescribed form, setting forth in the certificate the facts observed by him upon which his opinion is based. 35

(5) Every such medical certificate shall bear the date of the day on which the certifying medical practitioner last examined the person alleged to be mentally subnormal before the signing of the certificate. 40

(6) If, after such examination, either of the medical practitioners is of the opinion that the said person is not mentally subnormal, or that he may be mentally subnormal, he shall sign and deliver to the Court a statement in writing of his opinion, and, except as provided in subsection (7) of this section, the Court shall not accept in substitution for that opinion the opinion of any other medical practitioner.

(7) Notwithstanding anything in this section, in any such inquiry the Court may, if it thinks fit, accept any medical certificate accompanying the application as if the medical practitioner who signed it had been duly called to its assistance under this section.

9. Court to appoint counsel to represent patient—On any application under section 7 of this Act, the Court shall appoint counsel to represent the interests of the patient.

10. Determination of application—If, on receiving medical certificates from 2 medical practitioners in accordance with section 8 of this Act, to the effect that the patient is mentally subnormal, and after hearing such evidence as may be adduced on behalf of the patient and such other evidence as the Court thinks fit, the Court is satisfied that the person is mentally subnormal and that, for his own good, he should be sterilised, the Court may make an order in the prescribed form granting the application.

11. Effect of order—Every such order shall be sufficient authority to the person therein named to arrange for the performance on the patient of any medical or surgical procedure intended to render the patient sterile by any person professionally qualified to carry out that procedure, and to give any necessary consent to the carrying out of that procedure.

12. Reports on sterilisations—(1) Every registered medical practitioner who performs an operation of sterilisation shall, within 1 month thereafter, forward to the Director-General of Health a report of the operation giving the following particulars:

- (a) The reasons for the operation:
- (b) The age, sex, marital status, race, and number of children of the patient:

10 *Contraception, Sterilisation, and Abortion*

- (c) Whether the patient stayed in hospital for 1 or more nights:
- (d) Whether the operation was performed post-partum:
- (e) Where the operation was carried out pursuant to an order of the Court made under section 10 of this Act, 5
that fact.

(2) No such report shall give the name or address of the patient.

(3) Every registered medical practitioner who fails to comply with subsection (1) of this section, or contravenes subsection (2) of this section, commits an offence and is liable on summary conviction to a fine not exceeding \$100. 10

13. Conditions relating to sterility not to be attached to loans—(1) It shall be unlawful for any person (in this section referred to as the lender)— 15

- (a) To require any other person (in this section referred to as the borrower), or the borrower's spouse, as a condition of granting any loan, to undertake to become sterile; or
- (b) To refuse to grant any loan to the borrower merely 20
because the borrower or the borrower's spouse is not sterile.

(2) Every person who suffers any loss by reason of any act or omission rendered unlawful by subsection (1) of this section shall be entitled to recover damages from the person 25
responsible for the act or omission.

Abortion

14. Constitution of Abortion Supervisory Committee—
(1) For the purposes of this Part of this Act there shall be a committee, to be known as the Abortion Supervisory 30
Committee.

(2) The Supervisory Committee shall consist of 3 members, of whom 2 shall be registered medical practitioners.

(3) Every member shall be appointed by the Governor-General on the recommendation of the Minister of Justice, 35
and one member shall be so appointed as Chairman of the Supervisory Committee.

(4) The powers of the Supervisory Committee shall not be affected by any vacancy in its membership.

15. Term of office of members of Supervisory Committee—

(1) Subject to the succeeding provisions of this section, every member of the Supervisory Committee shall hold office for a term of 3 years, but may from time to time be
5 reappointed.

(2) Any member of the Supervisory Committee may resign his office at any time by written notice given to the Minister.

(3) Any member of the Supervisory Committee may be
10 removed from office at any time by the Governor-General on the recommendation of the Minister for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister.

(4) If any member of the Supervisory Committee dies,
15 resigns, or is removed from office, the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made, and every person appointed under this subsection shall hold office for the remainder of the term for which his predecessor was
20 appointed.

(5) Every member of the Supervisory Committee, unless he sooner vacates his office under subsection (2) or subsection (3) of this section, shall continue in office until his successor comes into office.

25 **16. Deputies of members—**(1) In any case where the Minister is satisfied that any member of the Supervisory Committee is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may appoint a person to act in the place of that
30 member during his incapacity.

(2) Any person appointed under this section shall, while he acts as such, be deemed to be a member of the Supervisory Committee, and any person appointed in the place of the Chairman shall have all the powers of the Chairman.

35 (3) No appointment of a person under this section and no acts done by him while acting as a member of the Supervisory Committee, and no acts done by the Supervisory Committee while any person is acting as such, shall in any proceedings be questioned on the ground that the occasion
40 for his appointment had not arisen or had ceased.

17. Functions and powers of Supervisory Committee—

(1) The Supervisory Committee shall have the following functions:

- (a) To keep under review all the provisions of the abortion law, and the operation and effect of those provisions in practice: 5
- (b) To receive, consider, grant, and refuse applications for licences or for the renewal of licences under this Part of this Act, and to revoke any such licence: 10
- (c) To prescribe standards in respect of facilities to be provided in licensed institutions for the performance of abortions:
- (d) To take all reasonable and practicable steps to ensure— 15
 - (i) That licensed institutions maintain adequate facilities for the performance of abortions; and
 - (ii) That all staff employed in licensed institutions in connection with the performance of abortions are competent: 20
- (e) To take all reasonable and practicable steps to ensure that sufficient and adequate facilities are available throughout New Zealand for counselling women who may seek advice in relation to abortion:
- (f) To recommend maximum fees that may be charged by any person in respect of the performance of an abortion in any licensed institution or class of licensed institution, and maximum fees that may be charged by any licensed institution or class of licensed institutions for the performance of any services or the provision of any facilities in relation to any abortion: 25 30
- (g) To obtain, monitor, analyse, collate, and disseminate information relating to the performance of abortions in New Zealand: 35
- (h) To keep under review the procedure, prescribed by sections 36 and 37 of this Act, whereby it is to be determined in any case whether the performance of an abortion would be justified:
- (i) To take all reasonable and practicable steps to ensure that the interpretation and administration of the abortion law is consistent throughout New Zealand: 40

(j) From time to time to report to and advise the Minister of Health and Hospital Boards on the establishment of clinics and centres, and the provision of related facilities and services, in respect of contraception and sterilisation:

(k) To report annually to the Minister of Justice on the operation of the abortion law.

(2) The Supervisory Committee shall have all such reasonable powers, rights, and authorities as may be necessary to enable it to carry out its functions.

18. Supervisory Committee may appoint advisory and technical committees—(1) The Supervisory Committee may from time to time appoint advisory committees, technical committees, and other committees to advise it on such matters as it may refer to them.

(2) Every such committee may, in addition and on its own initiative, furnish to the Supervisory Committee reports on any matter in respect of which the members of the committee have special knowledge or experience.

(3) Any person may be appointed to be a member of any such committee, notwithstanding that he is not a member of the Supervisory Committee.

(4) Every such committee shall in all matters be subject to the control of the Supervisory Committee, and shall carry out all directions, general or special, of the Supervisory Committee in relation to the Supervisory Committee or its affairs.

(5) Subject to the provisions of this Act, every committee appointed under this section may regulate its procedure in such manner as it thinks fit.

19. Supervisory Committee may co-opt specialist advice—

(1) The Supervisory Committee, and any advisory or technical committee appointed by the Supervisory Committee, may from time to time invite any person, or any officer employed in any Government department, or a representative of any organisation who, in its opinion, possesses expert knowledge or is otherwise able to assist it in connection with the exercise of its functions, to attend any of its meetings or to advise it on any matter with which it is concerned.

(2) Any person attending a meeting under this section may, if invited, take part in any discussion at the meeting, but shall not participate in the determination of any question before the meeting.

20. Crown may provide services for Supervisory Committee—(1) The Crown, acting through any department of State, may from time to time, at the request of the Supervisory Committee, execute any work or enter into arrangements for the execution or provision by the department for the Supervisory Committee of any work or service, or for the supply to the Supervisory Committee of any goods, stores, or equipment, on and subject to such terms and conditions as may be agreed. 5 10

(2) Without limiting subsection (1) of this section, the Secretary for Justice shall from time to time, at the request of the Supervisory Committee, provide the Supervisory Committee with all such secretarial and clerical services as may be necessary or desirable to enable the Supervisory Committee to perform its functions efficiently. 15

21. Restrictions on where abortions may be performed— 20

(1) Subject to the provisions of this Part of this Act, no abortion shall be performed elsewhere than in an institution licensed for the purpose in accordance with this Part of this Act.

(2) Subject to the provisions of this Part of this Act, no abortion shall be performed, after the pregnancy has subsisted for at least 12 weeks, elsewhere than in an institution in respect of which a full licence is for the time being in force under this Part of this Act. 25

22. Types and effect of licences—(1) The Supervisory Committee may from time to time, in accordance with this Part of this Act, issue in respect of any institution— 30

(a) A full licence; or

(b) A limited licence.

(2) A full licence shall authorise the holder to permit the performance of abortions in the institution to which the licence relates regardless of the length of time for which the pregnancy has been continuing. 35

(3) A limited licence shall authorise the holder to permit the performance of abortions in the institution to which the licence relates only during the first 12 weeks of the pregnancy.

5 **23. Applications for licences**—(1) An application for a licence may be made by—

- (a) In the case of a hospital under the control of a hospital board, the Superintendent of the hospital;
or
- 10 (b) In the case of a private hospital, the licensee; or
- (c) In the case of any other institution, by the person for the time being in charge of the institution.

(2) Every application shall—

- 15 (a) Be addressed to the Supervisory Committee; and
- (b) Be in the prescribed form; and
- (c) State which type of licence is desired; and
- (d) Be accompanied by the prescribed fee.

24. Grant of licences—(1) On receiving an application for a full licence in respect of any institution, the Supervisory
20 Committee shall grant such a licence in respect of that institution only if it is satisfied—

- (a) That there are, in the institution, adequate facilities for the accommodation of patients for one or more
25 nights; and
- (b) That there are, in the institution, adequate surgical and other facilities, and adequate and competent staff, for the safe performance of abortions; and
- (c) That there are, in the institution, adequate accommodation, surgical and other facilities, and competent
30 staff to provide treatment and care of patients suffering complications arising while they are awaiting, undergoing, or recuperating from an abortion; and
- (d) That the person who will be the holder of the licence if the application is granted is a fit and proper person
35 to hold such a licence.

(2) On receiving an application for a limited licence in respect of any institution, the Supervisory Committee shall grant such a licence in respect of that institution only if it is satisfied—

- 40 (a) There is a need for a or another licensed institution in the area in which the institution to which the application relates is situated; and

- (b) That there are, in the institution, adequate surgical and other facilities, and adequate and competent staff, for the safe performance of abortions; and
- (c) That adequate arrangements have been made with any other hospital or institution for the transfer of any patient suffering complications arising while she is awaiting, undergoing, or recuperating from an abortion to that other hospital or institution for treatment and care; and
- (d) That the person who will be the holder of the licence if the application is granted is a fit and proper person to hold such a licence.

(3) Notwithstanding anything in subsection (1) or subsection (2) of this section, on considering an application for a full licence, the Supervisory Committee may, with the consent of the applicant, grant a limited licence if it is satisfied in respect of the matters specified in subsection (2) of this section but is not satisfied in respect of the matters specified in subsection (1) of this section.

(4) Subject to the provisions of sections 29 and 30 of this Act, the decision of the Supervisory Committee in respect of every application for a licence shall be final.

(5) Where the Supervisory Committee refuses to grant an application for a licence, it shall, if requested to do so by the applicant, give to the applicant a written statement of its reasons for refusing the application.

25. Issue of licences—Where the Supervisory Committee grants an application for a licence, it shall, on payment to it of the prescribed fee, issue to the applicant a full licence or, as the case may require, a limited licence in the prescribed form.

26. Duration of licences—Subject to the provisions of section 27 of this Act, every licence shall, unless sooner cancelled under this Act, continue in force for 1 year commencing with the date of its issue, and shall then expire.

27. Renewal of licences—(1) Every holder of a licence may from time to time apply to the Supervisory Committee for the renewal of the licence for a further period of 1 year.

(6) If, after such examination, either of the medical practitioners is of the opinion that the said person is not mentally subnormal, or that he may be mentally subnormal, he shall sign and deliver to the Court a statement in writing of his opinion, and, except as provided in subsection (7) of this section, the Court shall not accept in substitution for that opinion the opinion of any other medical practitioner.

(7) Notwithstanding anything in this section, in any such inquiry the Court may, if it thinks fit, accept any medical certificate accompanying the application as if the medical practitioner who signed it had been duly called to its assistance under this section.

9. Court to appoint counsel to represent patient—On any application under section 7 of this Act, the Court shall appoint counsel to represent the interests of the patient.

10. Determination of application—If, on receiving medical certificates from 2 medical practitioners in accordance with section 8 of this Act, to the effect that the patient is mentally subnormal, and after hearing such evidence as may be adduced on behalf of the patient and such other evidence as the Court thinks fit, the Court is satisfied that the person is mentally subnormal and that, for his own good, he should be sterilised, the Court may make an order in the prescribed form granting the application.

11. Effect of order—Every such order shall be sufficient authority to the person therein named to arrange for the performance on the patient of any medical or surgical procedure intended to render the patient sterile by any person professionally qualified to carry out that procedure, and to give any necessary consent to the carrying out of that procedure.

12. Reports on sterilisations—(1) Every registered medical practitioner who performs an operation of sterilisation shall, within 1 month thereafter, forward to the Director-General of Health a report of the operation giving the following particulars:

- (a) The reasons for the operation:
- (b) The age, sex, marital status, race, and number of children of the patient:

(c) Whether the patient stayed in hospital for 1 or more nights:

(d) Whether the operation was performed post-partum:

(e) Where the operation was carried out pursuant to an order of the Court made under section 10 of this Act, that fact. 5

(2) No such report shall give the name or address of the patient.

(3) Every registered medical practitioner who fails to comply with subsection (1) of this section, or contravenes subsection (2) of this section, commits an offence and is liable on summary conviction to a fine not exceeding \$100. 10

13. Conditions relating to sterility not to be attached to loans—(1) It shall be unlawful for any person (in this section referred to as the lender)— 15

(a) To require any other person (in this section referred to as the borrower), or the borrower's spouse, as a condition of granting any loan, to undertake to become sterile; or

(b) To refuse to grant any loan to the borrower merely because the borrower or the borrower's spouse is not sterile. 20

(2) Every person who suffers any loss by reason of any act or omission rendered unlawful by subsection (1) of this section shall be entitled to recover damages from the person responsible for the act or omission. 25

Abortion

14. Constitution of Abortion Supervisory Committee—

(1) For the purposes of this Part of this Act there shall be a committee, to be known as the Abortion Supervisory Committee. 30

(2) The Supervisory Committee shall consist of 3 members, of whom 2 shall be registered medical practitioners.

(3) Every member shall be appointed by the Governor-General on the recommendation of the Minister of Justice, and one member shall be so appointed as Chairman of the Supervisory Committee. 35

(4) The powers of the Supervisory Committee shall not be affected by any vacancy in its membership.

15. Term of office of members of Supervisory Committee—

(1) Subject to the succeeding provisions of this section, every member of the Supervisory Committee shall hold office for a term of 3 years, but may from time to time be
5 reappointed.

(2) Any member of the Supervisory Committee may resign his office at any time by written notice given to the Minister.

(3) Any member of the Supervisory Committee may be
10 removed from office at any time by the Governor-General on the recommendation of the Minister for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister.

(4) If any member of the Supervisory Committee dies,
15 resigns, or is removed from office, the vacancy so created shall be filled in the manner in which the appointment to the vacant office was originally made, and every person appointed under this subsection shall hold office for the remainder of the term for which his predecessor was
20 appointed.

(5) Every member of the Supervisory Committee, unless he sooner vacates his office under subsection (2) or subsection (3) of this section, shall continue in office until his successor comes into office.

25 **16. Deputies of members—**(1) In any case where the Minister is satisfied that any member of the Supervisory Committee is incapacitated by illness, absence, or other sufficient cause from performing the duties of his office, the Minister may appoint a person to act in the place of that
30 member during his incapacity.

(2) Any person appointed under this section shall, while he acts as such, be deemed to be a member of the Supervisory Committee, and any person appointed in the place of the Chairman shall have all the powers of the Chairman.

35 (3) No appointment of a person under this section and no acts done by him while acting as a member of the Supervisory Committee, and no acts done by the Supervisory Committee while any person is acting as such, shall in any
40 proceedings be questioned on the ground that the occasion for his appointment had not arisen or had ceased.

17. Functions and powers of Supervisory Committee—

(1) The Supervisory Committee shall have the following functions:

- (a) To keep under review all the provisions of the abortion law, and the operation and effect of those provisions in practice: 5
- (b) To receive, consider, grant, and refuse applications for licences or for the renewal of licences under this Part of this Act, and to revoke any such licence: 10
- (c) To prescribe standards in respect of facilities to be provided in licensed institutions for the performance of abortions:
- (d) To take all reasonable and practicable steps to ensure— 15
 - (i) That licensed institutions maintain adequate facilities for the performance of abortions; and
 - (ii) That all staff employed in licensed institutions in connection with the performance of abortions are competent: 20
- (e) To take all reasonable and practicable steps to ensure that sufficient and adequate facilities are available throughout New Zealand for counselling women who may seek advice in relation to abortion:
- (f) To recommend maximum fees that may be charged by any person in respect of the performance of an abortion in any licensed institution or class of licensed institution, and maximum fees that may be charged by any licensed institution or class of licensed institutions for the performance of any services or the provision of any facilities in relation to any abortion: 25 30
- (g) To obtain, monitor, analyse, collate, and disseminate information relating to the performance of abortions in New Zealand: 35
- (h) To keep under review the procedure, prescribed by sections 36 and 37 of this Act, whereby it is to be determined in any case whether the performance of an abortion would be justified:
- (i) To take all reasonable and practicable steps to ensure that the interpretation and administration of the abortion law is consistent throughout New Zealand: 40

- (j) From time to time to report to and advise the Minister of Health and Hospital Boards on the establishment of clinics and centres, and the provision of related facilities and services, in respect of contraception and sterilisation:
- 5 (k) To report annually to the Minister of Justice on the operation of the abortion law.
- (2) The Supervisory Committee shall have all such reasonable powers, rights, and authorities as may be necessary to enable it to carry out its functions.
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18. Supervisory Committee may appoint advisory and technical committees—(1) The Supervisory Committee may from time to time appoint advisory committees, technical committees, and other committees to advise it on such matters as it may refer to them.

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(2) Every such committee may, in addition and on its own initiative, furnish to the Supervisory Committee reports on any matter in respect of which the members of the committee have special knowledge or experience.

20 (3) Any person may be appointed to be a member of any such committee, notwithstanding that he is not a member of the Supervisory Committee.

(4) Every such committee shall in all matters be subject to the control of the Supervisory Committee, and shall carry out all directions, general or special, of the Supervisory Committee in relation to the Supervisory Committee or its affairs.

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(5) Subject to the provisions of this Act, every committee appointed under this section may regulate its procedure in such manner as it thinks fit.

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19. Supervisory Committee may co-opt specialist advice—(1) The Supervisory Committee, and any advisory or technical committee appointed by the Supervisory Committee, may from time to time invite any person, or any officer employed in any Government department, or a representative of any organisation who, in its opinion, possesses expert knowledge or is otherwise able to assist it in connection with the exercise of its functions, to attend any of its meetings or to advise it on any matter with which it is concerned.

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(2) Any person attending a meeting under this section may, if invited, take part in any discussion at the meeting, but shall not participate in the determination of any question before the meeting.

20. Crown may provide services for Supervisory Committee— (1) The Crown, acting through any department of State, may from time to time, at the request of the Supervisory Committee, execute any work or enter into arrangements for the execution or provision by the department for the Supervisory Committee of any work or service, or for the supply to the Supervisory Committee of any goods, stores, or equipment, on and subject to such terms and conditions as may be agreed. 5 10

(2) Without limiting subsection (1) of this section, the Secretary for Justice shall from time to time, at the request of the Supervisory Committee, provide the Supervisory Committee with all such secretarial and clerical services as may be necessary or desirable to enable the Supervisory Committee to perform its functions efficiently. 15

21. Restrictions on where abortions may be performed— 20

(1) Subject to the provisions of this Part of this Act, no abortion shall be performed elsewhere than in an institution licensed for the purpose in accordance with this Part of this Act.

(2) Subject to the provisions of this Part of this Act, no abortion shall be performed, after the pregnancy has subsisted for at least 12 weeks, elsewhere than in an institution in respect of which a full licence is for the time being in force under this Part of this Act. 25

22. Types and effect of licences— (1) The Supervisory Committee may from time to time, in accordance with this Part of this Act, issue in respect of any institution— 30

(a) A full licence; or

(b) A limited licence.

(2) A full licence shall authorise the holder to permit the performance of abortions in the institution to which the licence relates regardless of the length of time for which the pregnancy has been continuing. 35

(3) A limited licence shall authorise the holder to permit the performance of abortions in the institution to which the licence relates only during the first 12 weeks of the pregnancy.

5 **23. Applications for licences**—(1) An application for a licence may be made by—

- (a) In the case of a hospital under the control of a hospital board, the Superintendent of the hospital; or
 - 10 (b) In the case of a private hospital, the licensee; or
 - (c) In the case of any other institution, by the person for the time being in charge of the institution.
- (2) Every application shall—
- (a) Be addressed to the Supervisory Committee; and
 - 15 (b) Be in the prescribed form; and
 - (c) State which type of licence is desired; and
 - (d) Be accompanied by the prescribed fee.

24. Grant of licences—(1) On receiving an application for a full licence in respect of any institution, the Supervisory
20 Committee shall grant such a licence in respect of that institution only if it is satisfied—

- (a) That there are, in the institution, adequate facilities for the accommodation of patients for one or more nights; and
- 25 (b) That there are, in the institution, adequate surgical and other facilities, and adequate and competent staff, for the safe performance of abortions; and
- (c) That there are, in the institution, adequate accommodation, surgical and other facilities, and competent
30 staff to provide treatment and care of patients suffering complications arising while they are awaiting, undergoing, or recuperating from an abortion; and
- (d) That the person who will be the holder of the licence if the application is granted is a fit and proper person
35 to hold such a licence.

(2) On receiving an application for a limited licence in respect of any institution, the Supervisory Committee shall grant such a licence in respect of that institution only if it is satisfied—

- 40 (a) There is a need for a or another licensed institution in the area in which the institution to which the application relates is situated; and

- (b) That there are, in the institution, adequate surgical and other facilities, and adequate and competent staff, for the safe performance of abortions; and
- (c) That adequate arrangements have been made with any other hospital or institution for the transfer of any patient suffering complications arising while she is awaiting, undergoing, or recuperating from an abortion to that other hospital or institution for treatment and care; and
- (d) That the person who will be the holder of the licence if the application is granted is a fit and proper person to hold such a licence.

(3) Notwithstanding anything in subsection (1) or subsection (2) of this section, on considering an application for a full licence, the Supervisory Committee may, with the consent of the applicant, grant a limited licence if it is satisfied in respect of the matters specified in subsection (2) of this section but is not satisfied in respect of the matters specified in subsection (1) of this section.

(4) Subject to the provisions of sections 29 and 30 of this Act, the decision of the Supervisory Committee in respect of every application for a licence shall be final.

(5) Where the Supervisory Committee refuses to grant an application for a licence, it shall, if requested to do so by the applicant, give to the applicant a written statement of its reasons for refusing the application.

25. Issue of licences—Where the Supervisory Committee grants an application for a licence, it shall, on payment to it of the prescribed fee, issue to the applicant a full licence or, as the case may require, a limited licence in the prescribed form.

26. Duration of licences—Subject to the provisions of section 27 of this Act, every licence shall, unless sooner cancelled under this Act, continue in force for 1 year commencing with the date of its issue, and shall then expire.

27. Renewal of licences—(1) Every holder of a licence may from time to time apply to the Supervisory Committee for the renewal of the licence for a further period of 1 year.

(2) Every such application shall be made not earlier than 3 months and not later than 1 month before the date of expiry of the licence, and shall be accompanied by the prescribed fee.

5 (3) On receiving an application for the renewal of a licence, the Supervisory Committee shall grant the application if it is satisfied—

(a) Of the matters specified in subsection (1) or (as the case may require) subsection (2) of section 24 of this Act; and

10 (b) That the holder of the licence has, during the currency of the licence, taken all reasonable and practicable steps to ensure that the provisions of the abortion law were complied with in the institution.

15 (4) Subject to the provisions of sections 29 and 30 of this Act, the decision of the Supervisory Committee in respect of every application for the renewal of a licence shall be final.

(5) Where the Supervisory Committee refuses to grant an application for the renewal of a licence, it shall notify the applicant of its decision, and shall, if requested to do so by the applicant, give to the applicant a written statement of its reasons for refusing to renew the licence.

20 (6) Where an application for the renewal of a licence is made in accordance with subsection (2) of this section but is not determined before the date on which the licence is due to expire, the licence shall continue in force until the application is determined.

28. Cancellation of licences—(1) In any case where the Supervisory Committee believes, in respect of any licensed institution,—

30 (a) That it no longer meets the requirements of subsection (1) or (as the case may require) subsection (2) of section 24 of this Act; or

35 (b) That the holder of the licence has failed to take all reasonable and practicable steps to ensure that the provisions of the abortion law were complied with in the institution,—

it may, by notice in writing addressed to the holder, call upon him to show cause why the licence should not be cancelled.

40 (2) If, after considering any representations made to it and evidence put before it by the holder of the licence, and all

such other matters as it considers relevant, the Supervisory Committee is satisfied of either of the matters specified in subsection (1) of this section, it may cancel the licence.

(3) Where the Supervisory Committee cancels any licence, it shall notify the holder accordingly, and shall, if requested to do so by the holder, give to the holder a written statement of its reasons for cancelling the licence. 5

29. Appeals on questions of law to Supreme Court—(1) A person who is dissatisfied with a decision of the Supervisory Committee— 10

(a) Refusing an application for the issue or renewal of a licence; or

(b) Cancelling a licence,—

as being erroneous in law, may appeal to the Supreme Court by way of case stated for the opinion of the Court on a question of law only. 15

(2) Every such appeal shall be heard and determined by the Administrative Division of the Supreme Court.

(3) Within 28 days after the date of the determination or decision the appellant shall lodge a notice of appeal with the Secretary. 20

(4) Within 14 days after the lodging of the notice of appeal, or within such further time as the Chairman of the Supervisory Committee may in his discretion allow, the appellant shall state in writing and lodge with the Secretary a case setting out the facts and the grounds of the determination or decision and specifying the question of law on which the appeal is made. 25

(5) As soon as practicable after the lodging of the case, the Secretary shall cause it to be submitted to the Chairman of the Supervisory Committee. 30

(6) The Chairman shall, as soon as practicable, and after hearing the applicant if he considers it necessary to do so, settle the case, sign it, and cause it to be sent to the Secretary. The settling and signing of the case shall be deemed to be the statement of the case by the Supervisory Committee. 35

(7) The Secretary shall send the signed case to the Registrar of the Supreme Court at Wellington, and shall make a copy available to the appellant.

(8) If, within 14 days after the filing of the notice of appeal, or within such further time as may be allowed, the appellant 40

does not lodge a case pursuant to subsection (4) of this section, the Chairman of the Supervisory Committee may certify that the appeal has not been prosecuted.

5 (9) The Court or a Judge thereof may in its or his discretion, on the application of the appellant or the intending appellant, extend any time prescribed or allowed under this section for the filing of a notice of appeal or the stating of any case.

10 **30. Appeals against decisions of Supreme Court—**(1) If the appellant before the Supreme Court is dissatisfied with any final determination of the Court in respect of the appeal as being erroneous in law, he may appeal to the Court of Appeal by way of case stated for the opinion of that Court on a question of law.

15 (2) Within 14 days after the date of the determination or decision, the appellant shall file a notice of appeal with the Registrar of the Supreme Court at Wellington. The appellant shall forthwith deliver or post a copy of the notice to the Secretary.

20 (3) Within 14 days after the filing of the notice of appeal, or within such further time as the Judge before whom the proceedings were heard may in his discretion allow, the appellant shall state in writing and file with the Registrar a case setting out the facts and the grounds of the determination or decision and specifying the question of law on which the
25 appeal is made. The appellant shall forthwith deliver or post a copy of the case to the Secretary.

30 (4) As soon as practicable after the filing of the case, the Registrar shall cause it to be submitted to the Judge before whom the proceedings were heard.

35 (5) The Judge shall, as soon as practicable, and after hearing the parties if he considers it necessary to do so, settle the case, sign it, and cause it to be sent to the Registrar. The settling and signing of the case shall be deemed to be the statement of the case by the Court.

40 (6) Where, since the date of the determination or decision, the Judge before whom the proceedings were heard has ceased to hold office as such or died or left New Zealand, or is incapable by reason of sickness or otherwise from acting as such, the case may be submitted to any Judge of the Supreme Court and may be settled and signed by him.

(7) The Registrar shall send the signed case to the Registrar of the Court of Appeal, and shall make a copy available to the appellant.

(8) If within 14 days after the filing of the notice of appeal, or within such further time as may be allowed, the appellant does not file a case pursuant to subsection (3) of this section, the Judge may certify that the appeal has not been prosecuted. 5

(9) The Supreme Court or a Judge of that Court may in its or his discretion, on the application of the appellant or intending appellant, extend any time prescribed or allowed under this section for the filing of a notice of appeal or the stating of any case. 10

(10) Subject to the foregoing provisions of this section, appeals under this section shall be heard in accordance with the rules of Court. 15

31. Supervisory Committee may state case for Supreme Court—(1) The Supervisory Committee may, of its own motion or on the application of any interested party, state a case for the opinion of the Supreme Court on any question of law arising in any matter before the Supervisory Committee. 20

(2) Every such case stated shall be heard and determined by the Administrative Division of the Supreme Court.

32. Abortions not to be performed until cases reviewed by Panel—Subject to the provisions of this Part of this Act, no abortion shall be performed unless and until the case is reviewed by an Abortion Review Panel and the abortion is authorised by that Panel. 25

33. Supervisory Committee to appoint Panels—(1) For the purposes of this Part of this Act, the Supervisory Committee shall from time to time appoint Abortion Review Panels throughout New Zealand. 30

(2) Every Panel shall consist of—

(a) Two members who are registered medical practitioners, of whom at least one shall be registered as a specialist in obstetrics or gynaecology or obstetrics and gynaecology or be experienced in either or both of those branches of medicine: 35

(b) One member who is a practising social worker, and who shall be the Counselling Supervisor for the Panel. 40

(3) In respect of each panel the Supervisory Committee shall set up and maintain a list of registered medical practitioners who may be called upon to deputise for either of the members of the Panel who are registered medical practitioners during the temporary absence or incapacity of that member.

(4) In making appointments to the Panels, the Supervisory Committee shall have regard to the desirability of—

10 (a) Appointing persons whose assessment of cases coming before the Panel will not be coloured by their personal views in relation to abortion generally;

(b) Appointing at least one female medical practitioner to each Panel.

15 (5) Every member of a Panel who is a registered medical practitioner, and who is or will be prevented from carrying out his duties by reason of absence or incapacity or otherwise, shall arrange for a deputy from the list referred to in subsection (3) of this section, to act in his place. If any such member fails to appoint a deputy in such a case, the other

20 member of the Panel who is a registered medical practitioner shall arrange for such a deputy to act for that other member.
(6) The Supervisory Committee may at any time revoke the appointment of any member of a Panel or remove the name of any registered medical practitioner from the list of

25 deputies maintained under subsection (3) of this section.
34. Function of Panels—The function of every Panel is to review every case referred to it (with the consent of the patient) by a registered medical practitioner or family planning clinic and determine, in accordance with section 37 of

30 this Act, whether to authorise an abortion.
35. Supervisory Committee to appoint or approve counselling services—(1) For the purposes of this Part of this Act, the Supervisory Committee shall from time to time—

35 (a) Appoint suitably qualified persons to provide counselling services for persons considering having an abortion; or

(b) Approve any agency for the provision of such counselling services.

40 (2) In appointing or approving persons or agencies for the provision of counselling services under this section, the Supervisory Committee shall have regard to the following matters:

- (a) A counselling service may be conducted in the same building as the Abortion Review Panel conducts its work:
- (b) Every counselling service should be directed by an experienced and professionally trained social worker, who may or may not be the Counselling Supervisor of the Panel: 5
- (c) That suitably trained lay counsellors may also be used where there are insufficient professional social workers: 10
- (d) Every counsellor should be thoroughly familiar with all relevant social services and agencies, and able to advise patients, or refer them to appropriate agencies for advice, on alternatives to abortion, such as adoption and solo parenthood. 15

36. Procedure—(1) Where a registered medical practitioner or a representative of a family planning clinic is consulted by a patient who wishes to have an abortion, he shall advise her of her right to have her case considered by an Abortion Review Panel. 20

(2) At the request of the patient, the practitioner or representative shall refer the case to a Panel, and in doing so, he shall submit to the Panel in writing—

- (a) A statement that the patient is pregnant and seeks an abortion; and 25
- (b) A statement of the ground or grounds on which an abortion is sought.

(3) Where any case is referred to the Panel in accordance with subsections (1) and (2) of this section, the Counselling Supervisor shall forthwith arrange counselling of the patient by an approved counselling service. 30

(4) The person conducting the counselling shall, forthwith on its completion, give written notice to the Panel that the patient has received adequate counselling.

(5) As soon as practicable after receiving such written notice, the Panel shall consider the case and shall, unless it considers it unnecessary or undesirable to do so, interview the patient. 35

37. Determination of case—(1) If, after considering the case, the 2 members of the Panel who are medical practi- 40

tioners are of the opinion that the case is one to which any of paragraphs (a) to (e) of subsection (1), or (as the case may require) paragraph (a) or paragraph (b) of subsection (3), of section 187A of the Crimes Act 1961 applies, they
5 shall forthwith issue a certificate in the prescribed form authorising the performance of an abortion.

(2) If those members are of the contrary opinion, they shall refuse to authorise the performance of an abortion.

(3) If one of those members is of the opinion that the
10 case is one to which any of the said provisions applies and the other of those members is of the contrary opinion, they shall refer the case to another registered medical practitioner for his opinion, being a registered medical practitioner who is on the list of deputies maintained under section 33 (3) of
15 this Act.

(4) If that other registered medical practitioner is of the opinion that the case is one to which any of the said provisions applies, the member of the Panel who is of the same opinion shall issue a certificate in the prescribed form
20 authorising the performance of an abortion.

(5) Every certificate issued under this section shall be forwarded to the holder of the licence in respect of the licensed institution in which the patient intends to have an abortion, and a copy of the certificate shall be forwarded to the patient.

25 **38. Counselling where abortion refused**—In every case where a Panel refuses to authorise the performance of an abortion, the Counselling Supervisor shall take whatever steps he considers desirable to offer to the patient counselling and assistance.

30 **39. Panels to keep records and submit reports**—(1) Every Panel shall keep such records and submit to the Supervisory Committee such reports relating to cases considered by it and the performance of its functions in relation to such cases as the Supervisory Committee may from time to time require.

35 (2) No such report shall give the name or address of any patient.

40. Offences—(1) Every registered medical practitioner who—

40 (a) Performs an abortion elsewhere than in a licensed institution; or

(b) Performs an abortion otherwise than in pursuance of a certificate issued by a Panel under section 37 of this Act,—

commits an offence and is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding \$1,000. 5

(2) Nothing in subsection (1) of this section shall apply to the performance of an abortion by a medical practitioner who believes that abortion is immediately necessary to save the life of the patient or to prevent serious permanent injury to her physical or mental health. 10

(3) It shall be a defence to a charge brought under subsection (1) (b) of this section if the defendant shows that he believed that a certificate had been issued in respect of the patient. 15

41. Crimes Act 1961 not affected—Nothing in sections 14 to 40 of this Act shall limit or affect any of the provisions of the Crimes Act 1961.

42. Annual report—(1) Once in every year the Supervisory Committee shall prepare and submit to the Minister of Justice a report of its activities during the preceding 12 months. 20

(2) The Minister shall lay a copy of the report before Parliament within 28 days after he has received it if Parliament is then in session, or, if Parliament is not then in session, within 28 days after the commencement of the next ensuing session. 25

43. Protection of members—No member of the Supervisory Committee or of any Panel shall be personally liable for any act done or omitted to be done by the Supervisory Committee or Panel, or by any member of the Supervisory Committee or Panel, in good faith in pursuance of the powers of the Supervisory Committee or Panel. 30

44. Fees and travelling allowances—(1) The Supervisory Committee is hereby declared to be a statutory Board within the meaning of the Fees and Travelling Allowances Act 1951. 35

(2) There shall be paid to the members of the Supervisory Committee, and of every committee appointed by it, and of every Panel, and to every person co-opted under section 19 of this Act by the Supervisory Committee or any committee 40

appointed by it, out of money from time to time appropriated by Parliament for the purpose, remuneration by way of salary, fees, and allowances, and travelling allowances and expenses, in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if, in the case of each such committee and each Panel, the Panel or committee were a statutory Board within the meaning of that Act.

5
10 **45. Costs of administration**—(1) The costs of and incidental to the administration and operation of this Part of this Act shall be met out of money from time to time appropriated by Parliament for the purpose.

(2) All fees from time to time payable under this Part of this Act shall be paid into the Public Account.

15 **46. Regulations**—The Governor-General may from time to time by Order in Council make regulations for all or any of the following purposes:

- (a) Prescribing forms to be used for the purposes of this Part of this Act;
- 20 (b) Prescribing fees to be paid on applications under this Part of this Act;
- (c) Prescribing fees that may be charged by any person or institution or class of persons or institutions in respect of the performance of abortions and the provision of services in respect thereof;
- 25 (d) Providing for such other matters as are contemplated by or necessary for giving full effect to the provisions of this Part of this Act and for the due administration thereof.

30 **47. Female procuring her own miscarriage**—(1) Every female commits an offence and is liable on summary conviction to a fine not exceeding \$200 who, with intent to procure miscarriage, whether she is pregnant or not,—

- 35 (a) Unlawfully administers to herself, or permits to be administered to her, any poison or any drug or any noxious thing; or
- (b) Unlawfully uses on herself, or permits to be used on her, any instrument; or
- 40 (c) Unlawfully uses on herself, or permits to be used on her, any other means whatsoever.

(2) For the purposes of subsection (1) of this section "miscarriage" means the premature expulsion of the embryo or fetus after implantation otherwise than for the purpose of inducing the birth of a fetus believed to be viable or removing a fetus that has died. 5

(3) For the purpose of determining whether any act referred to in subsection (1) of this section is or is not done unlawfully the provisions of section 187A of the Crimes Act 1961, so far as they are applicable and with the necessary modifications, shall apply. 10

(4) The provisions of subsection (1) of this section shall apply whether or not the poison, drug, thing, instrument, or means administered or used was in fact capable of procuring miscarriage.

48. Conscientious objection—(1) Notwithstanding anything in any other enactment, or any rule of law, or the terms of any oath or of any contract (whether of employment or otherwise), no registered medical practitioner, registered nurse, or other person shall be under any obligation— 15

(a) To perform or assist in the performance of an abortion or any operation undertaken or to be undertaken for the purpose of rendering the patient sterile;

(b) To fit or assist in the fitting, or supply or administer or assist in the supply or administering, of any contraceptive, or to offer or give any advice relating to contraception,— 20

if he objects to doing so on grounds of conscience.

(2) It shall be unlawful for any employer—

(a) To deny to any employee or prospective employee any employment, accommodation, goods, service, right, title, privilege, or benefit merely because that employee or prospective employee objects on grounds of conscience to do any act referred to in subsection (1) of this section; or 30 35

(b) To make the provision or grant to any employee or prospective employee of any employment, accommodation, goods, service, right, title, privilege, or benefit conditional upon that other person doing or agreeing to do any thing referred to in that subsection. 40

(3) Every person who suffers any loss by reason of any act or omission rendered unlawful by subsection (2) of this section shall be entitled to recover damages from the person responsible for the act or omission.

- 5 (4) Nothing in this section shall limit or affect the provisions of section 5 of this Act or section 43A of the Medical Practitioners Act 1968.

PART II

AMENDMENTS OF CRIMES ACT 1961

- 10 **49. Part to be read with Crimes Act 1961**—This Part of this Act shall be read together with and deemed part of the Crimes Act 1961* (in this Part referred to as the principal Act).

*1961, No. 43

Amendments: 1963, No. 120; 1966, No. 98; 1969, No. 73; 1973, No. 118

50. Further provisions relating to surgical operations—

- 15 The principal Act is hereby amended by inserting, after section 61, the following section:

20 “61A. (1) Every one is protected from criminal responsibility for performing with reasonable care and skill any surgical operation upon any person if the operation is performed with the consent of that person, or of any person lawfully entitled to consent on his behalf, and for a lawful purpose.

- 25 “(2) Without limiting the term ‘lawful purpose’ in subsection (1) of this section, a surgical operation that is performed for the purpose of rendering the patient sterile is performed for a lawful purpose.”

51. Miscarriage defined—The principal Act is hereby amended by inserting, after section 182, the following section:

- 30 “182A. For the purposes of sections 183 to 187 of this Act ‘miscarriage’ means the premature expulsion of the embryo or fetus after implantation otherwise than for the purpose of inducing the birth of a fetus believed to be viable or removing a fetus that has died.”

52. Procuring abortion by any means—The principal Act is hereby amended by repealing sections 183 and 184, and substituting the following section:

“183. (1) Every one is liable to imprisonment for a term not exceeding 14 years who, with intent to procure the miscarriage of any woman or girl, whether she is pregnant or not,— 5

“(a) Unlawfully administers to or causes to be taken by her any poison or any drug or any noxious thing; or 10

“(b) Unlawfully uses on her any instrument; or

“(c) Unlawfully uses on her any means other than any means referred to in paragraph (a) or paragraph (b) of this subsection.

“(2) The woman or girl shall not be charged as a party to an offence against this section.” 15

53. Female procuring her own miscarriage—Section 185 of the principal Act is hereby repealed.

54. Meaning of “unlawfully”—The principal Act is hereby amended by inserting, after section 187, the following section: 20

“187A. (1) For the purposes of sections 183 and 186 of this Act, any act specified in either of those sections is done unlawfully unless, in the case of a pregnancy of not more than 20 weeks’ gestation, the person doing the act believes— 25

“(a) That the continuance of the pregnancy would result in serious danger (not being danger normally attendant upon childbirth) to the life, or to the physical or mental health, of the woman or girl; or 30

“(b) That there is a substantial risk that the child, if born, would be so physically or mentally abnormal as to be seriously handicapped; or

“(c) That the pregnancy is the result of sexual intercourse between— 35

“(i) A parent and child; or

“(ii) A brother and sister, whether of the whole blood or of the half blood; or

“(iii) A grandparent and grandchild; or

“(d) That the pregnancy is the result of sexual intercourse that constitutes an offence against section 131 (1) of this Act; or 40

“(e) That the woman or girl is severely subnormal within the meaning of section 138 (2) of this Act.

5 “(2) The age and the social and economic circumstances of the woman or girl concerned, while not in themselves grounds for any act specified in section 183 or section 186 of this Act, may be taken into account in determining, for the purposes of subsection (1) (a) of this section, whether the continuance of the pregnancy would result in serious danger to her life or to her physical or mental health.

10 “(3) For the purposes of sections 183 and 186 of this Act, any act specified in either of those sections is done unlawfully unless, in the case of a pregnancy of more than 20 weeks’ gestation, the person doing the act believes—

15 “(a) That there is a substantial risk that the child, if born, would be so physically or mentally abnormal as to be seriously handicapped; or

“(b) That the miscarriage is necessary to save the life of the woman or girl or to prevent serious permanent injury to her physical or mental health.

20 “(4) Where a registered medical practitioner, in pursuance of a certificate issued by a Panel under section 37 of the Contraception, Sterilisation, and Abortion Act 1977, does any act specified in section 183 or section 186 of this Act, the doing of that act shall not be unlawful for the purposes of the section applicable unless it is proved that, at the time when
25 he did that act, he did not believe it to be lawful in terms of subsection (1) or subsection (3) of this section, as the case may require.”

PART III

30 AMENDMENTS OF OTHER ENACTMENTS

Education

55. Sections to be read with Education Act 1964—This section and the next succeeding section shall be read together with and deemed part of the Education Act 1964* (in that
35 section referred to as the principal Act).

*Reprinted 1975, Vol. 3, p. 1699
Amendments: 1976, No. 42; 1976, No. 70

56. Human development and relationships courses—

(1) Section 75 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

40 “(1A) Without limiting the generality of subsection (1) of this section, every school and every department referred

to in that subsection shall include in its programme of instruction, in the manner and to the extent prescribed by regulations made under this Act, such courses and studies in human development and relationships as may be so prescribed.” 5

(2) Section 84 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) Without limiting anything in subsection (1) of this section, every school and every department referred to in that subsection shall include in its programme of instruction, 10 in the manner and to the extent prescribed by regulations made under this Act, such courses and studies in human development and relationships as may be so prescribed.”

Food and Drug

57. Sections to be read with Food and Drug Act 1969—This section and the next succeeding section shall be read together with and deemed part of the Food and Drug Act 1969* (in that section referred to as the principal Act). 15

*1969, No. 7

58. Sale of chemical contraceptives through vending machines—Section 18 (1) of the principal Act is hereby amended by adding the following proviso: 20

“Provided that any chemical contraceptive of a kind for the time being approved for the purpose by the Director-General may be sold with condoms by means of a vending machine.”

Guardianship

59. Sections to be read with Guardianship Act 1968—This section and the next succeeding section shall be read together with and deemed part of the Guardianship Act 1968* (in that section referred to as the principal Act). 25

*1968, No. 63

Amendments: 1969, No. 80; 1970, No. 67; 1971, No. 149

60. Consents to abortions—The principal Act is hereby amended by inserting, after section 25, the following section: 30

“25A. Notwithstanding anything in section 25 of this Act, a female child (of whatever age) may—

“(a) Consent to the carrying out on her of any medical or surgical procedure for the purpose of terminating her pregnancy by a person professionally qualified to carry it out; or 35

“(b) Refuse her consent to the carrying out on her of any such procedure,—

and her consent or refusal to consent shall have the same effect as if she were of full age.” 40

Hospitals

61. Sections to be read with Hospitals Act 1957—This section and the next succeeding section shall be read together with and deemed part of the Hospitals Act 1957* (in that section referred to as the principal Act).

*Reprinted 1970, Vol. 3, p. 1865

Amendments: 1971, No. 31; 1971, No. 49; 1972, No. 68; 1973, No. 43; 1975, No. 5; 1975, No. 79; 1976, No. 54

62. New heading and section (relating to provision of family planning service) inserted—The principal Act is hereby amended by inserting, after section 64B (as inserted by the Hospitals Amendment Act 1976), the following heading and sections:

“Family Planning Services

“64C. Family planning advice—Every Board shall ensure that in every hospital under its control that has an obstetric or a gynaecological department there is provided for patients confidential advice on contraception, sterilisation, and other family planning matters.

“64D. Facilities for sterilisation—Every Board shall ensure that in-patient and out-patient facilities for the sterilisation of male and female patients are provided in appropriate institutions under its control.”

Mental Health

63. Sections to be read with Mental Health Act 1969—This section and the next succeeding section shall be read together with and deemed part of the Mental Health Act 1969* (in that section referred to as the principal Act).

*1969, No. 16

Amendments: 1972, No. 22; 1975, No. 118

64. New heading and section (relating to administering of contraceptives) inserted—The principal Act is hereby amended by inserting, after section 55, the following heading and section:

“Administering of Contraceptives

“55A. Administering of contraceptives—(1) The superintendent of any hospital, or an employee acting under the direction of the superintendent, may, as part of the treatment

32 *Contraception, Sterilisation, and Abortion*

of any female under his care who is mentally subnormal, administer any contraceptive (whether by injection or otherwise) to that female.

“(2) Without limiting section 124 of this Act, every person who, with reasonable care and skill, administers any contraceptive in accordance with subsection (1) of this section is protected from criminal and civil responsibility in respect thereof.” 5

Medical Practitioners

65. Sections to be read with Medical Practitioners Act 1968—This section and the next succeeding section shall be read together with and deemed part of the Medical Practitioners Act 1968* (in that section referred to as the principal Act). 10

*1968, No. 46

Amendments: 1970, No. 142; 1972, No. 82; 1973, No. 74

66. Duty of medical practitioners in respect of family planning—The principal Act is hereby amended by inserting, after section 43, the following section: 15

“43A. (1) It is the duty of every registered medical practitioner who is requested by a patient to provide any advice or other service with respect to contraception, sterilisation, or other family planning matters, and who objects on grounds of conscience to providing that service, to inform the patient that he may obtain that service from another registered medical practitioner or a family planning clinic. 20

“(2) Without limiting section 43 of this Act, every medical practitioner who fails to comply with subsection (1) of this section is guilty of professional misconduct, and shall be dealt with by the Disciplinary Committee in accordance with subsection (2) of that section.” 25

Property Law

67. Sections to be read with Property Law Act 1952—This section and the next succeeding section shall be read together with and deemed part of the Property Law Act 1952* (in that section referred to as the principal Act). 30

*Reprinted 1970, Vol. 3, p. 2287

Amendments: 1971, No. 121; 1975, No. 36; 1976, No. 114

68. Restrictions requiring sterility—The principal Act is hereby amended by inserting, after section 33A (as inserted by section 2 of the Property Law Amendment Act 1965), the following section:

5 “33B. (1) Any provision in or in connection with any disposition of property (whether oral or in writing) made after the commencement of this section shall be void to the extent that its effect would be to require any party to the
10 any such party or successor, to be or to undertake to become sterile.

“(2) For the purposes of this section, the term ‘disposition’ has the same meaning as it has in section 33A of this Act.

15 “(3) This section shall bind the Crown.”

Social Security

69. Sections to be read with Social Security Act 1964—This section and the next succeeding section shall be read together with and deemed part of the Social Security Act
20 1964* (in that section referred to as the principal Act).

*Reprinted 1975, Vol. 4, p. 2951
Amendment: 1976, No. 40

70. General medical services benefit available for consultations on contraception—Section 88 (1) of the principal Act is hereby amended by inserting in the definition of the term “general medical services”, after the words “this Part
25 of this Act;”, the words “and includes services provided in the form of consultations on contraception;”.