

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE]

House of Representatives, 13 December 1977

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line.

Hon. Mr Thomson

CONTRACEPTION, STERILISATION, AND ABORTION

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A BILL INTITULED

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

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New

An Act to specify the circumstances in which contraceptives and information relating to contraception may be supplied and given to young persons, to define the circumstances under which sterilisations may be undertaken, and to provide for the circumstances and procedures under which abortions may be authorised after having full regard to the rights of the unborn child

10

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

15

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

Struck Out

(2) Sections 14 to 46 of this Act shall come into force on 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.

New

(2) Sections 15 to 20, 22 to 31, 33 to 35, and 41 to 46 of this Act shall come into force on the 1st day of January 1978.

(3) Sections 21, 31B, and 36 to 40 of this Act shall come into force on the 1st day of April 1978.

(4) Except as provided in subsection (2) or subsection (3) 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,—

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“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 believed to be viable or removing a fetus that has died:

New

“Abortion” means a medical or surgical procedure carried out or to be carried out for the purpose of procuring—

(a) The destruction or death of an embryo or fetus after implantation; or

(b) The premature expulsion or removal of an 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:

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- “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:
- “Approved counselling service” means any person or agency appointed or approved by the Supervisory Committee under section 35 of this Act: 5
- “Contraceptive” means a substance or device or technique intended to prevent conception or implantation:
- “Family planning clinic” means any clinic established by or affiliated to— 10
- (a) The New Zealand Association of Natural Family Planning Centres:
 - (b) The New Zealand Family Planning Association: 15
 - (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*:
- “Holder”, in relation to a licence issued under this Part of this Act, means— 20
- (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: 25
 - (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): 30
 - (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: 35
- “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: 40
- “Licensed institution” means an institution in respect of which a licence is for the time being in force under this Part of this Act:

New

5 "Operating surgeon", in relation to a woman proposing to have an abortion, means a registered medical practitioner who—
 (a) Is permitted to perform abortions in any licensed institution; and
 (b) Is willing to perform an abortion on the woman:

Struck Out

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

"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:

New

15 "Practising obstetrician or gynaecologist" means a registered medical practitioner who is registered as a specialist in obstetrics or gynaecology or obstetrics and gynaecology or, in the opinion of the Supervisory Committee, is experienced in one or both of those branches of medicine:

"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:

25 "Supervisory Committee" means the Abortion Supervisory Committee constituted under section 14 of this Act.

New

30 "Woman's own doctor", in relation to any woman seeking an abortion, means the registered medical practitioner consulted by her about her pregnancy or an abortion, or, where she has consulted more than one practitioner, the practitioner nominated by her for the purposes of section 36 of this Act.

Contraception

35 **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
 40 of any contraceptive to any child under that age, unless that person is—

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- (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 a person acting under his supervision and with his authority; or
- (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—
- (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.
- (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—
- (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 a person acting under his supervision and with his authority; or
- (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*.
- (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 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 in the place of a parent of that child; or
- (b) Is a registered medical practitioner or a person acting under his supervision and with his authority; 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 by notice in the *Gazette*; or

- (d) Is a registered pharmacist, or a person acting under his supervision and with his authority; or
5 (da) A social worker, pastoral worker, or other counsellor professionally concerned with the child; or

Struck Out

- (e) Does so as part of any course on social relationships, or human biology, or human development, 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 given after discussion with the School Committee or Board of Governors, or (in the case of an integrated school) the School Committee or Board of Governors and the Proprietor.

New

- (3B) Notwithstanding anything in subsection (2) of this section, every person referred to in paragraph (a) or paragraph (b) or paragraph (c) of that subsection commits an offence who, in any school, directs or persuades or attempts to direct or persuade any child under the age of 16 years to use any contraceptive.

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

- (a) In the case of a first offence, to a fine not exceeding \$200;
30 (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 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
40 (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:

(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 or any registered medical practitioner in the course of treatment of any female, may, if that female is mentally subnormal and it is considered in the best interest of the female to do so, administer any contraceptive to that female.

(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 to the extent that she is incapable of living an independent life or of guarding herself against serious exploitation or common physical dangers or to the extent that she is incapable of understanding the effective use of contraceptives or the desirability or need for their use.

(3) Nothing in subsection (1) of this section shall authorise any person who is not a registered medical practitioner to fit any intra-uterine device or to administer any contraceptive by injection.

(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.

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)—

- (a) To advise the complainant of (any) a 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;
- 5 or
- (b) To advise her of her right to obtain such service from another registered medical practitioner or a family planning clinic.

New

10 (1A) Without limiting subsection (1) of this section, where any patient complains of rape to any registered medical practitioner (whether or not she also lays a complaint of rape with the Police), it shall be the duty of that medical practitioner to comply with the terms of that subsection.

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

20 6. Standards for manufacture of condoms—(1) No person shall manufacture for sale or sell any condom or other contraceptive device 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*.

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

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

Sterilisation

Struck Out

35 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.

Struck Out

(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.

(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) 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.

(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.

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

(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—

(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.

Struck Out

(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.

(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.

(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.

(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.

Struck Out

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.

New

11B. Consent to sterilisation operation—Notwithstanding anything in any enactment or rule of law to the contrary, no person shall have the capacity to consent to the performance on any other person of an operation of sterilisation if that other person lacks the capacity to consent on his own behalf by reason only of his age.

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.

(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.

13. Conditions relating to sterility not to be attached to loans or employment—(1) It shall be unlawful for any person (in this subsection referred to as the lender), or any person acting or purporting to act on behalf of the lender,—

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

New

(1A) It shall be unlawful for any person (in this subsection referred to as the employer), or any person acting or pur-

- 15 (a) To require any other person (in this subsection referred to as the employee), or the employee's spouse, to undertake to become sterile as a condition of granting employment of any kind, or any conditions of work, or fringe benefits, or opportunities for training or promotion or transfer; or
- 20 (b) To refuse to grant any such employment, conditions, benefits, or opportunities merely because the employee or the employee's spouse is not sterile.

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

Abortion

30 **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.

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

(3) (Every) Subject to section 15A of this Act, every member shall be appointed by the Governor-General on the recommendation of the (Minister of Justice) House of Representatives, and one member shall be so appointed as

40 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 reappointed. 5

(2) Any member of the Supervisory Committee may resign his office at any time by written notice given to the (Minister) Speaker of the House of Representatives, or to the Prime Minister if there is no Speaker or the Speaker is absent from New Zealand. 10

(3) Any member of the Supervisory Committee may be removed from office at any time by the Governor-General (on the recommendation of the Minister) upon an address from the House of Representatives for disability, bankruptcy, neglect of duty, or misconduct, proved to the satisfaction of the Minister). 15

(4) If any member of the Supervisory Committee dies, 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 appointed. 20 25

(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. 30

New

15A. Manner of appointments—(1) If any member of the Supervisory Committee dies, or resigns his office, or is removed from office, the vacancy thereby created shall be filled in accordance with this section.

(2) If any such vacancy occurs at any time while Parliament is in session, it shall be filled by appointment by the Governor-General on the recommendation of the House of Representatives: 35

Provided that if the vacancy occurs less than 2 months before the close of that session and no such recommendation is made in that session, the provisions of subsection (3) of this section shall apply as if the vacancy had occurred while Parliament was not in session. 40

New

(3) If any such vacancy occurs at any time while Parliament is not in session, the following provisions shall apply:

- 5 (a) The Governor-General in Council may appoint a person to fill the vacancy, and the person so appointed shall, unless his office sooner becomes vacant, hold office until his appointment is confirmed by the House of Representatives:
- 10 (b) If the appointment is not so confirmed within 2 months after the commencement of the next ensuing session, the appointment shall lapse and there shall be deemed to be a further vacancy in the membership of the Supervisory Committee.

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*) Governor-General may appoint a person to act in the place of that member during his incapacity.

New

20 (1A) The power conferred by subsection (1) of this section shall be exercised only on a certificate signed by the Chairman of the Supervisory Committee to the effect that, in his opinion, the temporary appointment is necessary for the due conduct

25 of the business of the Committee.

(1B) The provisions of section 15A of this Act shall apply, with any necessary modifications, to the temporary appointment of a member under this section as if the member were being appointed under that section to fill a vacancy.

30 (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 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, and to ensure the effective operation of this Part of this Act and the procedures thereunder: 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) Parliament 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.

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.

25 (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

New

(3) Notwithstanding anything in the Hospitals Act 1957, any Hospital Board 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 Board 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. 20 25

21. Restrictions on where abortions may be performed—

(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. 30

(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. 35

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—

- 5 (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
10 the pregnancy has been continuing.
(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.

15 **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
20 (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
25 (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
30 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
35 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
40 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 to hold such a licence; and

New

- (e) That adequate counselling services are available to women considering having an abortion in the institution, and are offered to such women whether or not they ultimately have an abortion. 5

(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— 10

- (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 15
- (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 20
- (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; and 25

New

- (e) That adequate counselling services are available to women considering having an abortion in the institution, and are offered to such women whether or not they ultimately have an abortion. 30

(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. 35

(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. 40

(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. 45

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.

10 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.

Struck Out

(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

25 (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.

New

30 (3) On receiving an application for the renewal of a licence, the Supervisory Committee shall grant the application unless he is satisfied—

(a) That the institution no longer complies with the requirements of subsection (1) or (as the case may require) subsection (2) of section 24 of this Act; and

35 (b) That the holder of the licence has not, 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.

(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. 5

(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. 10

28. Cancellation of licences—(1) In any case where the Supervisory Committee believes, in respect of any licensed institution,— 15

(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

(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,— 20

it may, by notice in writing addressed to the holder, call upon him to show cause why the licence should not be cancelled. 25

(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. 30

(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. 35

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

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

(b) Cancelling a licence,— 40
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.

(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
5 Secretary.

(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
10 out the facts and the grounds of the determination or decision and specifying the question of law on which the appeal is made.

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

(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
20 the statement of the case by the Supervisory Committee.

(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,
25 or within such further time as may be allowed, the appellant 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.

(9) The Court or a Judge thereof may in its or his discretion,
30 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.

30. Appeals against decisions of Supreme Court—(1) If the
35 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.

(2) Within 14 days after the date of the determination or
40 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.

(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 appeal is made. The appellant shall forthwith deliver or post a copy of the case to the Secretary. 5

(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. 10

(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. 15

(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. 20

(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. 25

(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.

(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. 30

(10) Subject to the foregoing provisions of this section, appeals under this section shall be heard in accordance with the rules of Court. 35

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. 40

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

New

31B. Abortions not to be performed unless authorised by 2 certifying consultants—Subject to the provisions of this Part of this Act, no abortion shall be performed unless and until it is authorised by 2 certifying consultants.

Struck Out

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.

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.

(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:

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

(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—

(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.

Struck Out

(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 member of the Panel who is a registered medical practitioner shall arrange for such a deputy to act for that other member. 5

(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 deputies maintained under subsection (3) of this section. 10

New

33. Supervisory Committee to set up and maintain list of certifying consultants—(1) The Supervisory Committee shall set up and maintain a list of registered medical practitioners (in this Part of this Act termed certifying consultants) who may be called upon to consider cases referred to them by any registered medical practitioner and determine, in accordance with section 37 of this Act, whether to authorise an abortion. 15 20

(2) Before drawing up the list, the Supervisory Committee shall determine the minimum number of certifying consultants required to ensure, so far as possible, that every woman seeking an abortion has her case considered expeditiously, and shall make that number of appointments in accordance with this section. Thereafter, the Committee shall keep that number under review, and shall from time to time make such further appointments, or revoke such number of appointments, as it considers necessary to meet any change in the circumstances. 25 30

(3) Having determined the number of appointments to be made, the Supervisory Committee shall consult with the New Zealand Medical Association, and may consult with any other professional or other body, before determining whom to appoint. 35

(4) In making appointments to the list, the Supervisory Committee shall ensure that the following requirements are met:

(a) At least one half of the total number of appointees shall be practising obstetricians or gynaecologists, and the list shall be marked in such a way as to indicate which of the appointees are so qualified: 40

New

- (b) There shall be a sufficient number of appointees practising in each area of New Zealand to ensure that every woman seeking an abortion can have her case considered without involving her in considerable travelling or other inconvenience.
- (5) In addition, in making such appointments, the Supervisory Committee shall have regard to the desirability of appointing medical practitioners whose assessment of cases coming before them will not be coloured by views in relation to abortion generally that are incompatible with the tenor of this Act. Without otherwise limiting the discretion of the Supervisory Committee in this regard, the following views shall be considered incompatible in that sense for the purposes of this subsection:
- (a) That an abortion should not be performed in any circumstances:
- (b) That the question of whether an abortion should or should not be performed in any case is entirely a matter for the woman and a doctor to decide.
- (6) Every appointment to the list of certifying consultants shall be for a term of 1 year, but the Supervisory Committee may reappoint any practitioner on the expiry of his term.
- (7) The Supervisory Committee may at any time, at its discretion, revoke the appointment of any certifying consultant.

Struck Out

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 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—

(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.

(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:

Struck Out

(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*):

(c) That suitably trained lay counsellors may also be used where there are insufficient professional social workers:

(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.

Struck Out

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.

(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

(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.

(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.

New

36. Procedure—(1) Every registered medical practitioner who—

5 (a) Is consulted by a woman who wishes to have an abortion; or

(b) Proposes to perform an abortion on any woman if the abortion is authorised under this Part of this Act— shall, if requested to do so by the woman, refer the case, in accordance with the procedure for the time being prescribed
10 by the Supervisory Committee, to 2 certifying consultants (of whom at least 1 shall be a practising obstetrician or gynaecologist) with a request that they determine, in accordance with section 37 of this Act, whether or not to authorise the performance of an abortion.

15 (2) On referring a case to any certifying consultant, the practitioner shall submit to him, in writing,—

(a) A statement that the woman is pregnant and seeks an abortion; and

20 (b) A statement of the ground or grounds on which she seeks an abortion; and

(c) Such other information as may be prescribed from time to time by the Supervisory Committee.

25 (3) As soon as practicable after a case is referred to him under subsection (1) of this section, each certifying consultant shall consider the case and shall, if requested to do so by the patient, interview her; and at any such interview she shall be entitled to be accompanied by her own doctor (if he agrees).

30 (4) The woman's own doctor and the proposed operating surgeon shall be entitled (with the woman's consent) to make such representations and to adduce such medical or other reports concerning the case as he thinks fit to each certifying consultant.

35 (5) Every certifying consultant may, in considering any case with the consent of the woman, consult with any other person (whether or not a registered medical practitioner) as he thinks fit in order to assist him in his consideration of the case, but he shall not disclose the woman's identity to any such person without her consent.

37. Determination of case—(1) If, after considering the
40 case, the (2 *members of the Panel who are medical practitioners*) certifying consultants are of the opinion that the case is one to which any of paragraphs (a) to (e) of sub-

section (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 shall forthwith issue in accordance with subsection (5) of this section, a certificate in the prescribed form authorising the performance of an abortion. 5

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

(3) If one of ~~(those members)~~ the certifying consultants is of the opinion that the case is one to which any of the said provisions applies and the other ~~(of those members)~~ consultant 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))~~ certifying consultants maintained under section 33 (1) of this Act. 10 15

(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)~~ certifying consultant who is of the same opinion shall issue, in accordance with subsection (5) of this section, a certificate in the prescribed form authorising the performance of an abortion. 20

Struck Out

(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

New

(5) Where 2 certifying consultants determine that they should authorise an abortion, they shall satisfy themselves that an operating surgeon is available to the woman, and shall forward the said certificate to the holder of the licence in respect of the licensed institution in which the abortion is to be performed. 30

(6) If, in respect of any case, any certifying consultant has not reached a decision within 14 days after it was referred to him, he shall advise the Supervisory Committee in writing of the matter, and of the reasons for the delay. 35

New

37A. **Special provisions where patient mentally sub-normal**—In any case where the patient lacks the capacity to consent, by reason of any mental incapacity, to an abortion, the persons charged, under section 37 of this Act, with determining whether to authorise the abortion shall, before determining the case, consult with a registered medical practitioner or other person believed by them to be qualified and experienced in the field and able to make an assessment of the patient's condition and the likely effect on it of the continuance of the pregnancy or an abortion.

Struck Out

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.

New

38. **Counselling**—When the certifying consultants have made a decision in any case (whether they have decided to authorise or to refuse to authorise the performance of an abortion), they shall (in consultation, where practicable, with the woman's own doctor) advise her of her right to seek counselling from any appropriate person or agency.

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

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

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

- (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*) 2 certifying consultants 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.

(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. 5

(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. 10

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. 15

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

Struck Out 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

New

43. Protection of persons acting in good faith—No member of the Supervisory Committee, and no certifying consultant, shall be personally liable for any act done or omitted to be done by it or him in good faith in pursuance of the powers conferred on it or him by this Part of this Act. 35

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.

5 (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 appointed by it, and to every certifying consultant, out of
10 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
15 of each such committee (*and each Panel, the Panel or*) the committee were a statutory Board within the meaning of that Act, and as if, in the case of every certifying consultant, he were a member of such a Board.

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.

25 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;
- 30 (b) Prescribing fees to be paid on applications under this Part of this Act;
- (c) Prescribing maximum fees that may be charged by
35 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;
- (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
40 administration thereof.

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,—

- (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
- (c) Unlawfully uses on herself, or permits to be used on her, any other means whatsoever.

Struck Out

(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.

New

(2) For the purposes of subsection (1) of this section the term “miscarriage” means—

- (a) The destruction or death of an embryo or fetus after implantation; or
- (b) The premature expulsion or removal of an 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.

(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.

(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.

New

47A. Records of abortions to be forwarded to Supervisory Committee—(1) Without limiting anything in section 39 of this Act, every medical practitioner who performs an abortion, or any other medical or surgical procedure that could lead to

New

or effect a subsequent unnatural miscarriage, shall make a record thereof and of the reasons therefor, and shall, within 1 month after performing the abortion or other procedure, forward a copy of the record to the Supervisory Committee.

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

(3) The Hospitals Amendment Act 1975 is hereby repealed.

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—

(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,—

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

(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.

(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.

(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

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). 5

*1961, No. 43

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

50. Further provisions relating to surgical operations—The principal Act is hereby amended by inserting, after section 61, the following section:

“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 to the operation, and for a lawful purpose. 10 15

“(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: 20

Struck Out

“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.” 25

New

“182A. For the purposes of sections 183 to 187 of this Act the term ‘miscarriage’ means— 30

“(a) The destruction or death of an embryo or fetus after implantation; or

“(b) The premature expulsion or removal of an 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.” 35

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

5 “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,—

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

“ (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.

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

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

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

“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 25 20 weeks’ gestation, the person doing the act believes—

30 “(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, and that the danger cannot be averted by any other means; or

Struck Out

35 “(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—

40 “(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

“(e) That the woman or girl is severely subnormal within the meaning of section 138 (2) of this Act. 5

Struck Out

“(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

New

“(2) The following matters, 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: 15

“(a) The age of the woman or girl concerned is near the beginning or the end of the usual child-bearing years: 20

“(b) The fact (where such is the case) that there are reasonable grounds for believing that the pregnancy is the result of rape. 25

“(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— 30

Struck Out

“(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. 35

“(4) Where a registered medical practitioner, in pursuance of a certificate issued by (a Panel) 2 certifying consultants under section 37 of the Contraception, Sterilisation, and Abortion Act 1977, does any act specified in section 183 or 40

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 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

AMENDMENTS OF OTHER ENACTMENTS

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Education

10 **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 section referred to as the principal Act).

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

15 **56. Human development and relationships courses**—(1) Section 75 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

20 “(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.”

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

30 “(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, 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).

*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:

“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.” 5

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). 10

*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:

“25A. Notwithstanding anything in section 25 of this Act, a female child (of whatever age) may— 15

“(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

“(b) Refuse her consent to the carrying out on her of any such procedure,— 20

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

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). 25

*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: 30

“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 or a maternity unit there
5 is provided for patients without charge 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
10 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
15 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
20 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
25 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 case and skill, administers any contraceptive in accordance with subsection (1) of this section is
30 protected from criminal and civil responsibility in respect thereof.”

Medical Practitioners

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

*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:

“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. 5
10

“(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.” 15

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). 20

*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:

“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 disposition, or any of his successors in title, or the spouse of any such party or successor, to be or to undertake to become sterile. 25
30

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

“(3) This section shall bind the Crown.” 35

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
5 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 consul-
tations 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
10 of this Act;”, the words “and includes services provided in
the form of consultations on contraception;”.