

HOUSE OF REPRESENTATIVES

Supplementary Order Paper

Thursday, the 22nd Day of September 1977

CONTRACEPTION, STERILISATION, AND ABORTION BILL

Proposed Amendments

Hon. Mr. Gair, in Committee, to move the following amendments:

Clause 2: To omit the definition of the term "approved counselling service" on page 3; and also to omit the definitions of the terms "panel", "secretary", and "supervisory committee" on page 4.

Clause 3: To add to paragraph (d) of subclause (1) on page 4 the word "; or"; and also to add the following paragraph:

(e) A social worker, pastoral worker, or other counsellor professionally concerned with the child.

To add to paragraph (c) of subclause (2) on page 5 the word "; or"; and also to add the following paragraph:

(d) A social worker, pastoral worker, or other counsellor professionally concerned with the child.

To add to paragraph (d) of subclause (3) on that page the word "; or"; and also to insert, after that paragraph, the following paragraph:

(da) A social worker, pastoral worker, or other counsellor professionally concerned with the child.

Clause 12, subclause (1): To omit paragraph (a) on page 9.

Clauses 14 to 20: To omit these clauses on pages 10 to 14.

Clause 22, subclause (1): To omit from lines 30 and 31 on page 14 the words "Supervisory Committee", and substitute the words "Director-General of Health".

Clause 23, subclause (2) (a): To omit from line 14 on page 15 the words "Supervisory Committee", and substitute the words "Director-General of Health".

Clause 24: To omit from lines 19 and 20 on page 15 the words "Supervisory Committee", and substitute the words "Director-General of Health"; and also to omit from line 21 on that page the word "it", and substitute the word "he".

To add to paragraph (d) of subclause (1) on that page the word “; and”; and also to add to that subclause the following paragraph:

(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.

To omit from subclause (2), in line 37 on that page, the words “Supervisory Committee”, and substitute the words “Director-General of Health”; and also to omit from line 38 on that page the word “it”, and substitute the word “he”.

To omit paragraph (a) of that subclause.

To add to paragraph (d) of that subclause on page 16 the word “; and”; and also to add the following paragraph:

(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.

To omit from line 15 on that page, and also from line 21 on that page, and also from line 23 on that page, the words “Supervisory Committee”, and substitute in each case the words “Director-General of Health”; and also to omit from line 16 on that page, and also from line 24 on that page, the word “it”, and substitute in each case the word “he”; and also to omit from line 25 on that page the word “its”, and substitute the word “his”.

Clause 25: To omit from line 27 on page 16 the words “Supervisory Committee”, and substitute the words “Director-General of Health”; and also to omit from line 28 on that page the word “it” where it first occurs, and substitute the word “he”; and also to omit from that line the word “it” where it secondly occurs, and substitute the word “him”.

Clause 27: To omit from line 37 on that page the words “Supervisory Committee”, and substitute the words “Director-General of Health”.

To omit subclause (3) on page 17, and substitute the following subclause:

(3) On receiving an application for the renewal of a licence, the Director-General of Health 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

(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.

To omit from line 16 on that page, and also from line 18 on that page, the words “Supervisory Committee”, and substitute in each case the words “Director-General of Health”; and also to omit from line 19 on that page the word “it”, and substitute the word “he”; and also to omit from line 20 on that page, and also from line 21 on that page, the word “its”, and substitute in each case the word “his”.

Clause 28: To omit from line 29 on page 17, and also from lines 1 and 2 on page 18, and also from line 4 on that page, the words “Supervisory Committee”, and substitute in each case the words “Director-General of Health”; and also to omit from line 38 on page 17,

and also from line 1 on page 18, and also from line 3 on that page, and also from line 5 on that page, the word "it", and substitute in each case the word "he"; and also to omit from line 40 on page 17, and also from line 41 on that page, the word "it", and substitute in each case the word "him"; and also to omit from line 7 on page 18 the word "its", and substitute the word "his".

Clause 29: To omit from lines 9 and 10 on page 18, and also from line 36 on that page, the words "Supervisory Committee", and substitute in each case the words "Director-General of Health"; and also to omit from line 21 on that page, and also from line 25 on that page, and also from line 37 on that page, the word "Secretary", and substitute in each case the words "Director-General of Health"; and also to omit from lines 23 and 24 on that page, and also from line 2 on page 19, the words "Chairman of the Supervisory Committee", and substitute in each case the words "Director-General of Health"; and also to omit subclause (5) on page 18; and also to omit from line 32 on that page, the word "Chairman", and substitute the words "Director-General of Health"; and also to omit all the words in line 34 on that page, and substitute the words "settle the case and sign it".

Clause 30: To omit from line 19 on page 19, and also from line 27 on that page, the word "Secretary", and substitute in each case the words "Director-General of Health".

Clause 31: To omit from line 16 on page 20, and also from line 17 on that page, and also from lines 20 and 21 on that page, the words "Supervisory Committee", and substitute in each case the words "Director-General of Health"; and also to omit from line 17 on that page the word "its", and substitute the word "his".

Proposed clause 31A: To insert, after clause 31, the following clause:

31A. Abortion not to be performed unless 2 medical practitioners agree—(1) Subject to the provisions of this Part of this Act, no abortion shall be performed unless 2 medical practitioners have, in accordance with the provisions of this section, stated their 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.

(2) For the purposes of subsection (1) of this section,—

(a) The 2 medical practitioners shall be financially independent of one another; that is to say—

(i) They shall not be in practice with one another:

(ii) Neither shall be employed by the other:

(iii) They shall not be financially interested in the same licensed institution:

(iv) They shall not be employed or engaged by the same licensed institution in respect of the patient:

Provided that this requirement shall not apply to a licensed institution under the control of a Hospital Board:

(b) One of the medical practitioners may or may not be the medical practitioner usually consulted by the patient or her family, and one of them may or may not be the medical practitioner who will perform the abortion if it is to take place:

(c) The medical practitioners shall form their respective opinions of the case independently of one another:

(d) Each of them shall, if he is of the opinion that it is a case to which any of the said provisions of the Crimes Act 1961 applies, state that opinion, and the reasons on which it is based, in writing:

Clauses 32 to 39: To omit these clauses on pages 20 to 39.

Clause 40: To omit paragraph (b) of subclause (1) on page 24, and substitute the following paragraph:

(b) Performs an abortion otherwise than in accordance with the opinion of 2 medical practitioners given in accordance with section 31A of this Act,—

To omit all the words in lines 14 and 15 on that page, and substitute the words "believed that the opinion of 2 medical practitioners had been given in respect of the patient in accordance with section 31A of this Act".

Clauses 42 to 44: To omit these clauses on pages 24 and 25.

Clause 46: To insert in line 22 on page 25, after the word "Prescribing", the word "maximum".

Clause 47: To omit the clause on pages 25 and 26.

Clause 54: To omit all the words in line 42 on page 28, and substitute the words "128 (2), or section 131 (1), or section 132 (1), or section 134 (1), or section 136, or section 137, of this Act; or".

To insert in line 4 on page 29, after the words "the woman or girl concerned", the words "and (where such is the case) the fact that the pregnancy is the result of rape,".

To omit from lines 20 and 21 on that page the words "in pursuance of a certificate issued by a Panel under section 37", and substituting the words "in accordance with the opinion of 2 medical practitioners given in accordance with section 31A".

EXPLANATORY NOTE

The principal objects of the amendment set out in this Supplementary Order Paper are:

(a) To replace the proposed system of Panels to consider whether an abortion is justified, and to substitute a system whereby an abortion can only be performed (except in emergencies) where 2 doctors are of the opinion, formed independently, that the abortion is justified:

(b) To remove the proposed Supervisory Committee, and to transfer its licensing function to the Director-General of Health.

Clause 2: The amendments are consequent upon later amendments designed to implement the above objects.

Clause 3: The amendments add social workers to the list of persons authorised to supply contraceptives to children under 16 years of age, to direct or persuade such children to use contraceptives, and to advise such children on contraceptive matters.

Clause 12, subclause (1): The amendment omits from the list of particulars to be set out in reports of sterilisation operations the reasons for the operation.

Clauses 14 to 20: It is proposed to oppose these clauses. The effect of their omission would be to remove the proposed Supervisory Committee.

Clauses 22 and 23: The amendments are of a drafting nature only, consequent upon the proposal to transfer the licensing function of the Supervisory Committee to the Director-General of Health.

Clause 24: Most of these amendments are of a similar nature. However, paragraph (e), proposed to be added to subclauses (1) and (2), sets out a further criterion for the grant of a licence. The Director-General of Health must be satisfied that adequate counselling services are available for women considering having an abortion in the institution.

It is also proposed to remove the criterion set out in subclause (2) (a) in relation to limited licences. This requires the Supervisory Committee to be satisfied that the proposed licensed institution is needed in the area.

Clause 25: The amendments are of a consequential drafting nature only.

Clause 27: The principal amendment relates to subclause (3) which is rewritten. The intention is to reverse the onus where a licence-holder applies for a renewal of the licence. The amendment requires the Director-General of Health to grant a renewal unless he considers that there are grounds for not doing so. Under the Bill, the Supervisory Committee is required to grant the renewal if it is satisfied, in effect, that there are no grounds for not doing so.

The other amendments are of a consequential drafting nature only.

Clauses 28, 29, 30, and 31: These amendments are also of a consequential drafting nature only.

Clause 31A sets out the proposed alternative to the Panel system. It requires abortions to be authorised by 2 medical practitioners. They must be financially independent; one of them may be the patient's family doctor, and one may be the surgeon who will actually perform the abortion if it takes place; the practitioners must form their opinions independently of one another; and each is required to state in writing the grounds on which he thinks the abortion is justified. Except in the case of a public hospital, the doctors must not be employed by the same institution in respect of the patient.

Clauses 32 to 39: It is proposed to oppose these clauses if the proposed *clause 31A* is accepted. In that event, these clauses would be redundant.

Clause 40: The amendments are consequent upon the proposed *clause 31A*.

Clauses 42 to 44: These clauses are unnecessary if the proposal to establish the Supervisory Committee is defeated.

Clause 46: The amendment makes it clear that the power to prescribe fees that may be charged by licensed institutions in respect of abortions relates to maximum fees.

Clause 47: It is proposed to oppose this clause, thereby removing criminal liability from a female who attempts to procure her own miscarriage.

Clause 54: The first amendment adds further grounds on which an abortion may be performed during the first 20 weeks of the pregnancy. The overall effect is to authorise an abortion where the pregnancy is the result of intercourse that constitutes an offence against the cited provisions of the Crimes Act 1961. Rape is included.

The second amendment relates to the matters that may be taken into account when determining whether the continuance of pregnancy would result in serious danger to the life or mental or physical health of the woman or girl. In addition to the matters presently provided for in the proposed section 187A (2) of the Crimes Act 1961, on page 29 of the Bill, the amendment allows regard to be had to the fact that the pregnancy results from rape.

The third amendment is a drafting amendment, consequent upon the proposed new *clause 31A*.