

## HOUSE OF REPRESENTATIVES

## Supplementary Order Paper

Tuesday, the 11th Day of October 1977

## CONTRACEPTION, STERILISATION, AND ABORTION BILL

*Proposed Amendments*

Mr BRILL, in Committee, to move the following amendments:

*Clause 2:* To omit the definition of the term "abortion" on page 3, and substitute the following definition:

"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:

*Clause 3:* To omit subclause (2) on page 5, and substitute the following subclauses:

(2) Every person commits an offence who directs or attempts to direct any child under the age of 16 years to use any contraceptive.

(2A) Every person commits an offence who persuades or attempts to 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.

To insert in line 36 on that page, after the words "or subsection (2)", the words "or subsection (2A)".

*Clause 4, subclause (2):* To add to the subclause on page 6 the words "to the extent that she is incapable of living an independent life or of guarding herself against serious exploitation or common physical dangers".

*Clause 7, subclause (1):* To add to the subclause on page 7 the words "to the extent that he is incapable of living an independent life or of guarding himself against serious exploitation or common physical dangers".

*Clause 13:* To insert in line 14 on page 10, after the word “loans”, the words “or employment”.

To insert in line 15 on that page, after the words “as the lender)”, the words “, or any person acting or purporting to act on behalf of the lender.”.

To omit from line 16 on that page the word “section”, and substitute the word “subsection”.

“To insert, after subclause (1) on that page, the following subclause:

(1A) It shall be unlawful for any person (in this subsection referred to as the employer), or any person acting or purporting to act on behalf of the employer,—

(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

(b) To refuse to grant any such employment, conditions, benefits, or opportunities merely because the employee or the employee’s spouse is not sterile.

To insert in line 24 on that page, after the words “by subsection (1)”, the words “or subsection (1A)”.

*Clause 47, subclause (2):* To omit the subclause on page 26, and substitute the following subclause:

(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.

*Proposed clause 47A:* To insert on page 26, after clause 47, the following clause:

**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 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.

*Clause 51:* To omit all the words in lines 30 to 34 on page 27, and substitute the following:

“182A. For the purposes of sections 183 to 187 of this Act 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.”

*Clause 54:* To omit the proposed section 187A (2) of the Crimes Act 1961 on page 29, and substitute the following proposed subsection:

“(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:

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

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

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#### EXPLANATORY NOTE

*Clause 2:* The substituted definition seeks to ensure that medical and surgical procedures designed—

(a) To cause the destruction or death of the embryo or fetus while in the womb; or

(b) To remove the embryo or fetus (rather than, in the strict sense, to cause its expulsion)—

are within the ambit of the definition. Similar amendments are offered in respect of the definitions of the term “miscarriage” in *clauses 47 (2) and 54*.

*Clause 3:* The amendments—

(a) Prohibit every person from directing any child under 16 years of age to use a contraceptive; and

(b) Limit the right to persuade any such child to use a contraceptive to the parents and medical practitioners.

*Clause 4, subclause (2):* The words proposed to be added are taken from section 138 (2) of the Crimes Act 1961. Under that section, it is an offence to have intercourse with a female who is mentally subnormal within the meaning of the definition now proposed. Thus, the law considers that such a female is incapable of giving proper consent to sexual intercourse.

The effect of the proposed amendment, therefore, is to provide that contraceptives may be administered under the authority of this clause only to females who are considered incapable of consenting to sexual intercourse.

For the sake of consistency, a similar amendment is offered in respect of *clause 7 (1)*, but it is intended to oppose this clause whether or not the amendment is accepted.

*Clause 13:* The amendments make it unlawful to attach the condition of sterility to employment and related matters.

*Clauses 47 (2) and 51:* The amendments have been commented on above.

*Clause 47A:* The clause re-enacts the extant provisions of the Hospitals Amendment Act 1975 (commonly known as the Wall Act), and consequentially repeals that Act.

*Clause 54:* The effect of the substituted subsection (2) differs from that set out in the Bill in 2 respects:

(a) It removes social and economic circumstances from the matters that may be taken into account in determining whether the continuance of the pregnancy would result in serious danger to the life or physical or mental health of the woman:

(b) It includes rape as a matter that may be taken into account in making such a determination.

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