

# Access to Abortion Services in Australia

## Position Statement

### Background

Access to and information about abortion services in Australia varies across States and Territories. This is a significant hurdle for women seeking to manage their reproductive and sexual health.

Safe abortion services are those where women have timely access to health service providers who are appropriately equipped and trained in the correct technique and standards. When abortion is provided in this way, it is one of the safest medical procedures available<sup>i</sup>.

The method used to terminate a pregnancy is partly determined by the stage of the pregnancy. Medication abortion, for early pregnancies, involves the use of prescribed drugs to induce an abortion, including the foetus and the products of conception. Surgical abortion involves a surgical procedure in which the foetus and the products of conception are removed from a woman's uterus.

There is no consolidated national data on abortion in Australia. Without this data it is difficult to reliably determine abortion rates and trends. However, it is estimated that approximately 1 in 4-5 (20-25%) women in Australia will have an abortion during their lifetime and approximately 80,000 induced abortions are performed annually in Australia<sup>ii</sup>.

There are significant gaps in the provision of guidelines, education and training, and professional development for abortion health care providers<sup>iii</sup>.

There is no consistent legal framework for the provision of abortion in Australia. Each state and territory has different legal requirements with different levels of complexity. See Appendix 1 for full details regarding abortion laws in each State and Territory.

### FPAA's Position

- Abortion must be legal, safe and accessible to all women in Australia
- Better access to abortion services will reduce mortality and morbidity as a result of unsafe and illegal abortion.
- Women must have access to accurate, unbiased information needed to exercise self-determination, enable informed decision making and management of their health.
- Abortion provision needs to be a visible and required component of health professional undergraduate education.
- A National database needs to be established to provide evidence and inform policy directions.
- Where a health practitioner conscientiously objects to abortion, they must refer the client to another health professional or doctor who does not conscientiously object so that the woman's needs are met.

FPAA will advocate for improved access to abortion for women in Australia by:

- Advocating for the development and implementation of a national process for the collection of consistent data on abortions for the purpose of informing policy
- Supporting relevant partners and advocates to promote the legalisation of abortion
- Supporting awareness and education campaigns for women regarding abortion legality, access and options
- Providing access for general practitioners to appropriate training in the provision of medication abortion
- Advocating for improved access to contraception following abortions

## References

- <sup>i</sup> World Health Organization, *Safe Abortion: Technical and Policy Guidance for Health Systems* (Geneva: WHO, 2003).
- <sup>ii</sup> Family Planning NSW, *Report: Reproductive and Sexual Health in New South Wales and Australia: Differentials, Trends and Assessment of Data Sources* (Sydney: Family Planning NSW, 2011).
- <sup>iii</sup> E. C. Mulligan, 'Striving for Excellence in Abortion Services', *Australian Health Review* 30, no. 4 (2006): 468–473.
- <sup>iv</sup> Sexual Health and Family Planning: Australian Capital Territory (SHFPACT) 2013, Pregnancy Options, viewed 30 July 2015, <<http://www.shfpact.org.au/index.php/sexual-health/pregnancy-options>>
- <sup>v</sup> Family Planning New South Wales 2012, Fact Sheet: the law on abortion in NSW, Family Planning NSW, viewed 30 July 2015, <[http://www.fpnsw.org.au/law\\_on\\_abortion\\_fs.pdf](http://www.fpnsw.org.au/law_on_abortion_fs.pdf)>
- <sup>vi</sup> Family Planning Welfare Association of Northern Territory Inc. (FPWANT) n.d., Unplanned Pregnancy, viewed 30 July 2015, <[http://www.fpwnt.com.au/content\\_images/attachments/Pregnancy/unplanned%20pregnancy%20for%20website.pdf](http://www.fpwnt.com.au/content_images/attachments/Pregnancy/unplanned%20pregnancy%20for%20website.pdf)>
- <sup>vii</sup> Sexual Health Information Networking and Education South Australia (SHineSA) 2015, Information on Abortion South Australia, viewed 30 July 2015, <<http://www.shinesa.org.au/media/product/2015/04/Information-on-abortion-in-SA1.pdf>>
- <sup>viii</sup> Department of Health and Human Services 2014, Pregnancy Terminations: Summary of the new law, viewed 30 July 2015, <[http://www.fpt.asn.au/wp-content/uploads/2015/04/Pregnancy\\_Termination.pdf](http://www.fpt.asn.au/wp-content/uploads/2015/04/Pregnancy_Termination.pdf)>
- <sup>ix</sup> Children by Choice 2015, Fact Sheet: Queensland Abortion Law, viewed 30 July 2015, <<http://www.childrenbychoice.org.au/info-a-resources/facts-and-figures/queensland-abortion-law>>

- <sup>x</sup> Better Health Channel 2015, Abortion, viewed 30 July 2015, <[http://www.betterhealth.vic.gov.au/bhcv2/bhcarticles.nsf/pages/Abortion\\_in\\_Australia](http://www.betterhealth.vic.gov.au/bhcv2/bhcarticles.nsf/pages/Abortion_in_Australia)>
- <sup>xi</sup> Sexual and Reproductive Health Western Australia 2012, Unplanned Pregnancy Considering Abortion, viewed 30 July 2015, <[http://www.srhwa.com.au/wp-content/uploads/2015/05/Considering-Abortion\\_DL.pdf](http://www.srhwa.com.au/wp-content/uploads/2015/05/Considering-Abortion_DL.pdf)>

## Appendix 1

Table 1: Summary of State Laws regarding abortion in Australia

State	Summary of Current State Laws
Australian Capital Territory <sup>v</sup>	<p>Since decriminalisation in 2002, abortion in the ACT is regulated as a health service, and is legal if provided:</p> <ul style="list-style-type: none"> <li>• by registered medical practitioner</li> <li>• in an approved medical facility (approved by Minister of Health)</li> </ul> <p>ACT legislation does not impose a limit or restriction on gestation. In practice, however, services for abortion are only available up to 15 weeks gestation for surgical abortion or 9 weeks gestation for medical abortion. ACT law also specifies that no person is required to assist in or perform an abortion.</p> <p><b>Legislation:</b> <i>Health Act 1993 (ACT)</i></p>
New South Wales <sup>v</sup>	<p>Abortion is a crime for women and doctors (women are not entitled to an abortion on demand). The exception is when a doctor believes that the woman's physical/mental health is in serious danger due to pregnancy and they must consider social, economic and physical risks to the woman in the absence of a safe abortion. If a woman is deemed to require an abortion, NSW law allows for terminations up to 18-20 weeks gestation. Women must give informed consent for the termination to be performed. Women under 16 years can provide valid consent without the parent/guardian being consulted if the doctor deems the woman mature enough to understand the implications of terminating a pregnancy. Women with an intellectual disability have the same rights as women who are under 16 years of age.</p> <p><b>Legislation:</b> <i>NSW Crimes Act 1900, sections 82, 83, 84.</i></p>
Northern Territory <sup>vi</sup>	<p>Legal up to 14 weeks if 2 doctors (including a gynaecologist) agree that the woman's physical/mental health are under threat, or if there is a serious foetal abnormality. The abortion must be performed in a hospital with the woman's consent. If the woman is under 16, the hospital requires consent from a parent/guardian. Legal up to 23 weeks in case of emergency.</p> <p><b>Legislation:</b> <i>Medical Services Act, section 11.</i></p>

State	Summary of Current State Laws
South Australia <sup>vii</sup>	<p>Legal given that a medical assessment has been performed (requirement). For women who are 16 years old or younger, parental or guardian consent is required, however if circumstances are such that the woman feels they cannot discuss their pregnancy with parents/guardians, services are available to assist with individual cases (counselling, social workers, doctors). Abortions are performed in a hospital or at the Pregnancy Advisory Centre up to 12 weeks without doctor's referral. Although they are more complicated than early gestation, abortions between 14-20 weeks gestation are also provided at the Pregnancy Advisory Centre.</p> <p><b>Legislation:</b> <i>Criminal Law Consolidation Act 1935 (amended 1969), sections 81(1), 81(2) and 82.</i></p>
Tasmania <sup>viii</sup>	<p>Before the end of 16 weeks gestation, a woman can legally terminate a pregnancy by giving consent to a medical doctor who can perform the abortion. The woman does not need a referral, and is not required to seek counselling regardless of gestation period. Beyond 16 weeks, the doctor may provide an abortion if there is a greater risk of injury to the woman's physical/mental health. A second doctor must be consulted and agree, and at least one of these doctors has to be a specialist in obstetrics or gynaecology (post 16 weeks only). The doctors must consider the woman's physical, psychological, economic and social circumstances. If a doctor who has been approached for an abortion has a conscientious objection to abortions, they are required by law to refer women to alternative clinics that offer information about all pregnancy options. In an emergency situation where the woman's life is at stake, or there is a risk of serious physical injury, all doctors, nurses and midwives are required to terminate a pregnancy if necessary. It is illegal for women accessing terminations to be protested against, intimidated or harassed within 150m 'Access Zone' of a clinic/service. It is also illegal for recordings to be taken/distributed of women accessing these services without their consent.</p> <p><b>Legislation:</b> <i>Reproductive Health (Access to Terminations) Bill 2013.</i></p>
Queensland <sup>ix</sup>	<p>Abortion is currently contained in the <i>Queensland Criminal Code 1899</i>, and both women for whom the abortion is performed, and the doctor providing it, can be criminally prosecuted. Women can be jailed for 7 years and doctors for up to 14 years. Suppliers of any noxious substances that can result in a miscarriage could also be jailed for 3 years. The exception for when an abortion is legal is when a doctor believes that the woman's physical/mental health is in serious danger due to pregnancy, and they consider the physical, mental and economic circumstances of the woman.</p> <p><b>Legislation:</b> <i>Criminal Code 1899, sections 224, 225 and 226.</i></p>

State	Summary of Current State Laws
Victoria <sup>x</sup>	<p>The <i>Abortion Law Reform Act 2008</i> decriminalised abortion and determined guidelines for when abortions can take place. Although services beyond 17 weeks gestation are limited, abortions are available upon demand (with the woman's consent) throughout Victoria. Beyond 24 weeks gestation, two doctors must agree to the abortion being appropriate and they must consider the woman's medical, current and future physical, psychological and social circumstances. Conscientious objection by any doctor must not hinder a woman's access to all pregnancy options, including abortion. Doctors are required by law to provide referrals to doctors who will perform an abortion. Any nurses and doctors who are treating a pregnant woman in an emergency must perform an abortion if it is deemed appropriate in order to protect the woman's life or prevent serious physical injury. The <i>Public Health and Wellbeing Amendment (Safe Access Zone) Bill 2015</i> was passed in the Victorian Parliament in November 2015. The Bill supports women's reproductive health choices by ensuring that all women can access health services that provide abortions without fear, intimidation, harassment or obstruction.</p> <p><b>Legislation:</b> <i>Abortion Law Reform Act 2008; Public Health and Wellbeing Amendment (Safe Access Zone) Bill 2015.</i></p>
Western Australia <sup>xi</sup>	<p>Legal up to 20 weeks with informed consent and must be carried out by a qualified doctor. Beyond 20 weeks, women must gain support of two out of 6 appointed doctors from a panel appointed by Minister for Health (woman must have severe medical condition to justify termination). Women under 16 must involve a parent/guardian in decision making, but final decision is ultimately made by the pregnant woman.</p> <p><b>Legislation:</b> <i>Acts Amendment (Abortion) Act 1998, section 119; Health Act 1911, sections 334 and 335.</i></p>