

**Jersey Law 4/1997**

**TERMINATION OF PREGNANCY (JERSEY) LAW 1997**

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SCHEDULE – Amendments to Nursing and Residential Homes  
(Jersey) Law 1994

**TERMINATION OF PREGNANCY (JERSEY) LAW 1997**

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**A LAW** to codify and amend the customary law of the Island relating to the termination of pregnancy by registered medical practitioners, sanctioned by Order of Her Majesty in Council of the

**19th day of DECEMBER 1996**

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*(Registered on the 24th day of January 1997)*

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**STATES OF JERSEY**

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The 23rd day of July 1996

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**THE STATES**, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

**ARTICLE 1**

**Interpretation**

(1) In this Law, unless the context requires otherwise –

“approved place” shall be construed in accordance with Article 7;

“approved registered medical practitioner” shall be construed in accordance with paragraph (1) of Article 6;

“the Committee” means the Health and Social Services Committee;

“consult” means consult in person, and cognate terms shall be construed accordingly;

“the first consultation” shall be construed in accordance with paragraph (1) of Article 3;

“the Medical Officer of Health” means the Inspecteur Médical appointed under Article 10 of the Loi (1934) sur la Santé Publique<sup>1</sup>;

“prescribed” means prescribed by Order of the Committee;

“registered medical practitioner” has the same meaning as in the Medical Practitioners (Registration) (Jersey) Law 1960<sup>2</sup>;

“the second consultation” shall be construed in accordance with paragraph (3) of Article 3;

“termination” means termination of pregnancy.

(2) In this Law, any reference to an approved registered medical practitioner who is authorized to carry out terminations means a person authorized under paragraph (2) of Article 6.

(3) In this Law, any reference to carrying out a termination includes administering any drug for the purpose of inducing a termination.

(4) For the purposes of this Law, the extent of advancement of a pregnancy shall be calculated from the beginning of the woman’s last menstrual period.

(5) A reference in this Law to an Article by number only and without further identification is a reference to the Article of that number in this Law.

<sup>1</sup> Tome VII, page 117.

<sup>2</sup> Tome VIII, page 829, and Volume 1992–1993, page 267.

(6) A reference in an Article or any other division of this Law to a paragraph, sub-paragraph or clause by number or letter only and without further identification, is a reference to the paragraph, sub-paragraph or clause of that number or letter contained in the Article or other sub-division of this Law in which the reference occurs.

(7) Unless the context requires otherwise, a reference in this Law to any enactment is a reference to that enactment as amended, and includes a reference to that enactment as extended or applied by or under any other enactment, including any other provision of that enactment.

## ARTICLE 2

### **Circumstances in which termination is not to be unlawful**

(1) A person shall not be guilty of an offence under the law relating to abortion where a termination is carried out by a registered medical practitioner who is of the opinion, formed in good faith, that the termination is immediately necessary to save the life of the woman.

(2) A person shall not be guilty of an offence under the law relating to abortion where a termination is carried out in an approved place by an approved registered medical practitioner who is authorized to carry out terminations and either –

- (a) two approved registered medical practitioners (one of whom practises in obstetrics and gynaecology and one of whom practises in an area of medicine relevant to any medical condition of the woman which necessitates the termination) having examined the woman, are each of the opinion, formed in good faith, that the termination is necessary to save her life or to prevent grave permanent injury to her physical or mental health; or
- (b) (i) two approved registered medical practitioners (one of whom practises in obstetrics and gynaecology and one of whom practises in paediatrics), having examined the woman, are

each of the opinion, formed in good faith, that, at the time of the examination, the foetus is suffering from an incurable abnormality of such seriousness that, if born at full term, it would be likely to have an exceedingly poor quality of life, and

- (ii) the termination is carried out before the end of the twenty-fourth week of the pregnancy; or
- (c)
  - (i) the woman's condition causes her distress and the requirements for consultation in Article 3 have been complied with,
  - (ii) the termination is carried out before the end of the twelfth week of the pregnancy, and
  - (iii) on the day the termination is carried out, the woman is ordinarily resident in the Island or has been resident in the Island for the period of 90 days immediately preceding that day.

### ARTICLE 3

#### **Requirement for consultation**

(1) A pregnant woman whose condition causes her distress and who wishes to have a termination authorized by paragraph (2) of Article 2, in the circumstances described in sub-paragraph (c) of that paragraph, must consult a registered medical practitioner ("the first consultation").

(2) At the first consultation, the registered medical practitioner shall –

- (a) inform the woman of the medical risks connected with termination;

- (b) give the woman such written information as the Committee may have published for the purpose or, if none, written information about –
  - (i) the statutory rights and entitlements of, and benefits available to, families, mothers and children,
  - (ii) the counselling services available to a pregnant woman wishing to have a termination,
  - (iii) the opportunities for adoption of the child, if born, and
  - (iv) the names and addresses of approved places; and
- (c) give the woman a certificate, in such form as may be prescribed, confirming that the requirements of this paragraph have been complied with.

(3) If, following the first consultation, the pregnant woman still wishes to have a termination she must, not less than seven days after that consultation, consult an approved registered medical practitioner who is authorized to carry out terminations (“the second consultation”) and –

- (a) produce the certificate described in sub-paragraph (c) of paragraph (2); and
- (b) confirm her wish to have a termination.

(4) Production of a certificate given under sub-paragraph (c) of paragraph (2) to the approved registered medical practitioner with whom the second consultation takes place shall be sufficient proof that paragraph (1) has been complied with.

## ARTICLE 4

**Referral following compliance with requirement for consultation**

(1) Where Article 3 has been complied with and the approved registered medical practitioner with whom the second consultation takes place will not carry out the termination he shall –

- (a) give the woman a certificate of such compliance, in such form as may be prescribed; and
- (b) refer the woman to another approved registered medical practitioner who is authorized to carry out terminations.

(2) Production of a certificate given under paragraph (1) to an approved registered medical practitioner who is authorized to carry out terminations shall be sufficient proof that Article 3 has been complied with.

## ARTICLE 5

**Conscientious objection to participation in treatment**

(1) Subject to paragraph (2), no person shall be under a duty, whether by contract or by any requirement imposed by any enactment or by any other legal requirement, to participate in any treatment authorized by this Law to which he has a conscientious objection.

(2) Nothing in paragraph (1) shall affect any duty to participate in treatment which is necessary to save the life of or prevent grave permanent injury to the physical or mental health of a pregnant woman.

(3) In any legal proceedings, the burden of proof of conscientious objection shall rest on the person claiming to rely on it.

## ARTICLE 6

**Approved registered medical practitioners**

(1) The Committee may, from time to time, approve any registered medical practitioner for the purposes of this Law.

(2) The Committee may, from time to time, authorize any approved registered medical practitioner to carry out terminations of pregnancy in accordance with this Law.

(3) The Committee shall maintain a list of registered medical practitioners for the time being approved under paragraph (1) indicating which of them is authorized under paragraph (2).

## ARTICLE 7

**Approved places**

(1) “Approved place” means –

- (a) any hospital maintained or controlled by the States or any administration thereof; and
- (b) any institution for the time being registered under the Nursing and Residential Homes (Jersey) Law 1994<sup>3</sup> as a nursing home where terminations may be carried out.

(2) The Nursing and Residential Homes (Jersey) Law 1994 shall be amended in accordance with the Schedule.

<sup>3</sup> Volume 1994–1995, page 85.

## ARTICLE 8

**Supplementary provisions**

(1) A person shall not be guilty of an offence under the law relating to abortion where anything is done with intent to procure a termination authorized by Article 2.

(2) In a case where a woman is carrying more than one foetus, any treatment carried out with intent to procure the miscarriage of any foetus is authorized by Article 2 if –

- (a) the ground for termination specified in sub-paragraph (b) of paragraph (2) of that Article applies in relation to any foetus and the treatment is carried out for the purpose of procuring the miscarriage of that foetus; or
- (b) any of the other grounds for termination specified in that Article apply.

(3) A person shall not be guilty of an offence under the law relating to abortion by virtue of the fact that, when a termination is carried out, the pregnancy has advanced beyond the end of its twenty-fourth or twelfth week, as the case may be, if the approved registered medical practitioner who carries out the termination is of the opinion, formed in good faith, that the pregnancy has not so advanced.

## ARTICLE 9

**Duty of the Medical Officer of Health**

The Medical Officer of Health shall lay before the States, every calendar year, a report upon the operation of this Law in the preceding calendar year which shall include such information as may be prescribed.

## ARTICLE 10

**Orders**

(1) Subject to paragraph (2), the Committee may by Order make provision for carrying this Law into effect and in particular, but without prejudice to the generality of the foregoing, may –

- (a) prescribe any matter which may be prescribed under this Law;
- (b) require any medical opinion referred to in Article 2 to be certified in writing by the registered medical practitioner concerned;
- (c) regulate the form, content and publishing of any information to be given under sub-paragraph (b) of paragraph (2) of Article 3 where no information has been published by the Committee for the purpose;
- (d) regulate the provision of counselling services for pregnant women wishing to have a termination;
- (e) require payment of a fee where a termination is carried out in a hospital maintained or controlled by the States or any administration thereof in the circumstances described in sub-paragraph (c) of paragraph (2) of Article 2;
- (f) regulate the fees charged where a termination is carried out in any institution described in sub-paragraph (b) of paragraph (1) of Article 7 in the circumstances described in sub-paragraph (c) of paragraph (2) of Article 2;
- (g) require notice that a termination has been carried out to be given to the Medical Officer of Health and such information relating to the termination as may be specified to be supplied to him;

- (h) specify the form in which and the time within which any medical opinion must be certified, any notice given, or any information supplied;
- (j) require the keeping and disposal of any certified medical opinion or certificate required under this Law;
- (k) provide that a contravention of or failure to comply with any specified provision of the Order shall be an offence and that a person guilty of such an offence shall be liable to a fine not exceeding level 4 on the standard scale.

(2) No provision of an Order made under paragraph (1) shall require a registered medical practitioner to give any notice or supply any information to the Medical Officer of Health which would identify the woman whose pregnancy is terminated.

(3) An Order made under paragraph (1) may –

- (a) make different provision in relation to different cases or circumstances; and
- (b) contain such incidental, supplemental and transitional provision as the Committee considers necessary or expedient.

(4) The Subordinate Legislation (Jersey) Law 1960<sup>4</sup> shall apply to any Order made under this Law.

## ARTICLE 11

### **Citation and commencement**

(1) This Law may be cited as the Termination of Pregnancy (Jersey) Law 1997.

<sup>4</sup> Tome VIII, page 849.

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(2) This Law shall come into force on the seventh day following its registration.

**C.M. NEWCOMBE**

*Deputy Greffier of the States.*

*SCHEDULE***(Article 7(2))****Amendments to the Nursing and Residential Homes (Jersey) Law 1994<sup>5</sup>**

1. In Article 1 of the Nursing and Residential Homes (Jersey) Law 1994 (in this Schedule referred to as “the 1994 Law”), after paragraph (1) there shall be inserted the following paragraph –

“(1A) In this Law, any reference to carrying out a termination of pregnancy includes administering any drug for the purpose of inducing a termination.”.

2. In Article 3 of the principal Law, in paragraph (6), after sub-paragraph (a) there shall be inserted the following sub-paragraph –

“(aa) the carrying out of terminations of pregnancy;”.

3. In Article 4 of the 1994 Law –

(a) in paragraph (5), for sub-paragraph (d) there shall be substituted the following sub-paragraph –

“(d) in the case of a nursing home, shall state –

(i) whether or not it is proposed to receive in the home pregnant women or women immediately after childbirth, and

(ii) whether or not it is proposed to carry out terminations of pregnancy in the home.”;

(b) in paragraph (8), after the words “after childbirth” there shall be inserted the words “or that it is proposed to carry out terminations of pregnancy in the home”.

<sup>5</sup> Volume 1994–1995, page 85.

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4. In Article 6 of the 1994 Law, after paragraph (2) there shall be inserted the following paragraph –

“(2A) The registration of any person in respect of a home to which this Law applies and in which it is proposed to carry out terminations of pregnancy may be effected subject to such conditions as the Committee may consider appropriate.”.