



Jersey

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

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## TERMINATION OF PREGNANCY (JERSEY) LAW 1997

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Jersey

## TERMINATION OF PREGNANCY (JERSEY) LAW 1997<sup>1</sup>

A LAW to codify and amend the customary law of Jersey relating to the termination of pregnancy by registered medical practitioners

Commencement [[see endnotes](#)]

### 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 Article 6(1);
  - “consult” means consult in person, and cognate terms shall be construed accordingly;
  - “first consultation” shall be construed in accordance with Article 3(1);
  - “Medical Officer of Health” means the Inspecteur Médical appointed under Article 10 of the Loi (1934) sur la Santé Publique;<sup>2</sup>
  - “Minister” means the Minister for Health and Social Services;
  - “registered medical practitioner” has the same meaning as in the Medical Practitioners (Registration) (Jersey) Law 1960;<sup>3</sup>
  - “second consultation” shall be construed in accordance with Article 3(3);
  - “termination” means termination of pregnancy.<sup>4</sup>
- (2) In this Law, any reference to an approved registered medical practitioner who is authorized to carry out terminations means a person authorized under Article 6(2).
- (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.

**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) 2 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;
  - (b)
    - (i) 2 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 there is a substantial risk that, if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped, 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 Jersey or has been resident in Jersey for the period of 90 days immediately preceding that day.<sup>5</sup>

**3 Requirement for consultation**

- (1) A pregnant woman whose condition causes her distress and who wishes to have a termination authorized by Article 2(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 Minister 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 confirming that the requirements of this paragraph have been complied with.<sup>6</sup>
- (3) If, following the first consultation, the pregnant woman still wishes to have a termination she must, not less than 7 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 paragraph (2)(c); and
  - (b) confirm her wish to have a termination.
- (4) Production of a certificate given under paragraph (2)(c) to the approved registered medical practitioner with whom the second consultation takes place shall be sufficient proof that paragraph (1) has been complied with.

#### **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 the medical practitioner shall –
  - (a) give the woman a certificate of such compliance; and
  - (b) refer the woman to another approved registered medical practitioner who is authorized to carry out terminations.<sup>7</sup>
- (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.

#### **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 the person 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.

#### **6 Approved registered medical practitioners**

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

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

## **7 Approved places**

“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 Homes (Jersey) Law 1994<sup>8</sup> as a nursing home where terminations may be carried out.<sup>9</sup>

## **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 paragraph (2)(b) 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.

**9** <sup>10</sup>

## **10 Orders**

- (1) Subject to paragraph (2), the Minister 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)
  - (b)

- 
- (c) regulate the form, content and publishing of any information to be given under Article 3(2)(b) where no information has been published by the Minister for the purpose;
  - (d) regulate the provision of counselling services for pregnant women wishing to have a termination;
  - (e)
  - (f)
  - (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 to be supplied to the Medical Officer of Health as he or she may reasonably require for the purpose of reporting to the Minister upon the operation of this Law;
  - (h) specify the form in which and the time within which any medical opinion must be certified, any notice given, or any information supplied;
  - (i) require the keeping and disposal of any certified medical opinion or certificate required under this Law;
  - (j) 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 up to level 3 on the standard scale.<sup>11</sup>
- (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 Minister considers necessary or expedient.
  - (4) The Subordinate Legislation (Jersey) Law 1960<sup>12</sup> shall apply to any Order made under this Law.

#### **10A Forms<sup>13</sup>**

- (1) An approved registered medical practitioner shall make a record of and certify his or her opinion referred to in Article 2 by completing a form printed and made available by the Minister for the purpose.
- (2) The certificate given by a registered medical practitioner to a woman under Article 3(2)(c) or 4(1)(a) shall be in a form printed and made available by the Minister for the purpose and signed by the registered medical practitioner.
- (3) A person who fails to comply with paragraph (1) or (2) shall be guilty of an offence and liable to a fine of level 2 on the standard scale.

**11 Citation**

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

**ENDNOTES****Table of Legislation History**

<b>Legislation</b>	<b>Year and No</b>	<b>Commencement</b>
Termination of Pregnancy (Jersey) Law 1997	L.4/1997	31 January 1997
Termination of Pregnancy (Amendment) (Jersey) Law 2005	L.21/2005	12 August 2005
States of Jersey (Amendments and Construction Provisions No. 5) (Jersey) Regulations 2005	R&O.45/2005	9 December 2005
States of Jersey (Amendments and Construction Provisions No. 12) (Jersey) Regulations 2005	R&O.133/2005	9 December 2005
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	L.1/2016	20 September 2016 (R&O.98/2016)
Regulation of Care (Regulated Activities) (Jersey) Regulations 2018	R&O.118/2018	1 January 2019

**Table of Renumbered Provisions**

<b>Original</b>	<b>Current</b>
1(5), (6), (7)	spent, omitted from this revised edition
7(1)	7
(2)	spent, omitted from this revised edition
10(1)(j)	10(1)(i)
(k)	(j)
SCHEDULE	spent, omitted from this revised edition

**Table of Endnote References**

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- <sup>1</sup> *This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 5) (Jersey) Regulations 2005 and by the States of Jersey (Amendments and Construction Provisions No. 12) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government*
- <sup>2</sup> *chapter 20.875*
- <sup>3</sup> *chapter 20.600*
- <sup>4</sup> *Article 1(1) amended by L.21/2005*
- <sup>5</sup> *Article 2(2) amended by L.21/2005*
- <sup>6</sup> *Article 3(2) amended by L.21/2005*

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- <sup>7</sup> Article 4(1)      *amended by L.21/2005*  
<sup>8</sup>                      *chapter 20.725*
- <sup>9</sup> Article 7         *amended by R&O.118/2018*
- <sup>10</sup> Article 9        *repealed by L.21/2005*
- <sup>11</sup> Article 10(1)   *amended by L.21/2005, L.1/2016*  
<sup>12</sup>                      *chapter 15.720*
- <sup>13</sup> Article 10A     *inserted by L.21/2005*