

## FAQ Termination of Pregnancy Law Reform; Improving access by Northern Territory women to safe termination of pregnancy services

### Why are changes to the legislation proposed?

Termination of pregnancy (abortion) is a criminal offence in the Northern Territory under the *Criminal Code Act* except if performed as set out in Section 11 of the *Medical Services Act* (the Act).

Specific requirements of the Act limit access to termination of pregnancy services for women of the Northern Territory when compared with access for women living in other Australian states and territories. The current Act requires that termination of pregnancy can only be performed in a hospital. This requirement has limited the opportunities for women seeking an early termination of pregnancy using medications such as RU486.

### What is the Territory Government proposing to change?

Section 11 of the Act was contemporary in the 1970s when it was introduced. Since then, the Act has not kept pace with the changing nature of medicine, medical advances, society's expectations or legislation elsewhere in Australia. The Government is proposing to repeal (remove) Section 11 of the Act, introduce a new Act specifically relating to termination of pregnancy, and change some sections of the Criminal Code Act. These proposed changes aim to improve access to safe options for termination of pregnancy services for Northern Territory women in line with contemporary medical and legal practices, and to ensure the legislation keeps pace with medical advances in the future.

These proposed changes include:

- Creation of new legislation to specifically deal with termination of pregnancy.
- Changes to the criminal offence provisions under the Criminal Code Act.

### Why is new legislation necessary rather than amending Section 11?

The Act deals mainly with the public health service.

Making changes to allow treatment to be provided in more locations, such as private hospitals, day surgery facilities and clinics would require many complex changes to the existing Act and will not achieve the aim of bringing the legislation into the 21<sup>st</sup> Century.

## What should the new legislation include?

The Government proposes new legislation which includes:

- Changes to the Criminal Code so that a termination of pregnancy performed by a qualified doctor is legal, but one performed by a non-qualified person will be a criminal offence.
- Widening the definition of 'termination of pregnancy' to include surgical procedures and the use of prescribed drugs such as RU486.
- A definition of a 'qualified doctor' which recognises qualifications and training in women's reproductive health as well as formal specialist qualifications in Obstetrics and Gynaecology.
- A requirement that the doctor makes decisions in partnership with the woman based on her clinical and psychological health - including the woman's current and future physical, psychological and social circumstances.
- Requirements for assessment according to the stage of the pregnancy. There is a lower risk to the woman in early pregnancy (up to 14 completed weeks) than in later pregnancies (up to, but not more than 23 weeks). The Department of Health proposes that one qualified doctor is suitable to assess a woman who is in early pregnancy, and two qualified doctors (one of whom is an Obstetrician/Gynaecologist) should assess the woman after 14 weeks.
- A requirement that the doctor provides information and counselling about future contraceptive options.
- A requirement for the provision of informed consent before treatment, as for any other medical procedure.
- A requirement that the doctor follows long standing legal and professional practice when seeking consent from a woman who is under 16, has a disability or otherwise may be unable to make decisions for herself.
- Removal of the requirement that the doctor must perform the termination of pregnancy procedure in a hospital.
- A requirement that the doctor(s) follow the standards and best practice guidelines issued by the Therapeutic Goods Administration (TGA) and the medical profession when providing services in 'out of hospital' locations. Services may be delivered in a surgery, clinic or even at home, provided the doctor has conducted an assessment of the woman, her overall health and her ability to access emergency services.
- Ability for doctors and other health staff to conscientiously object to involvement in a women's termination of pregnancy. However, these provisions will also include a requirement for a doctor who conscientiously objects to refer the woman to a doctor who does not have a conscientious objection to providing these services.
- The setting up of 'safe access zones' in the vicinity of premises at which termination of pregnancy services are provided to prevent women being harassed when attending these premises seeking termination of pregnancy services, and to give suitable protections to those working at these premises.

## When will the changes be made?

Changes to legislation are proposed to take effect on 1 July 2017.

## Under the proposed legislation what are the requirements that must be met for a termination of pregnancy to be legal?

It is proposed that criteria for termination of pregnancy between one week and not more than 23 weeks include:

- consent by the woman
- provision of information and counselling about future contraceptive options
- consideration of medical circumstances including the woman's current and future physical, psychological and social circumstances
- decision making based on assessment of the woman:
  - by one qualified doctor for pregnancies of not more than 14 weeks or
  - by two qualified doctors, one of whom is an Obstetrician and/or Gynaecologist for pregnancies between 14 weeks and no more than 23 weeks.

## Will RU486 be available to NT women when the proposed changes come into effect in July 2017?

Yes, RU486 will be available for women who meet the criteria set out in the standards and best practice guidelines issued by the TGA and the medical profession.

The guidelines require the woman to take the first medication (RU486) under the supervision of the doctor or a registered nurse or midwife as authorised by the doctor. The woman is then given a second medication (Misoprostol) to take later in the clinic or at home. The woman needs to remain in a location where she is able to gain access to emergency surgical services. These two medications induce termination of pregnancy which has the same effect as a naturally occurring miscarriage.

## Will RU486 be available to NT women outside of Darwin and Alice Springs when the proposed changes come into effect in July 2017?

The proposed Bill includes provisions for the doctor, in discussion with the woman, to make a decision about the most suitable location for the woman to receive treatment. The doctor must follow the standards and best practice guidelines issued by the TGA and the medical profession in making this decision. The doctor bases this decision on the assessment of the woman, her health and access to emergency services.

## Will there be any changes to access to services when the proposed changes come into effect in July 2017?

Top End Health Service and Central Australia Health Service currently provide termination of pregnancy services in NT public hospitals. As these terminations of pregnancy services are delivered in the inpatient setting they are free at the point of care for Medicare eligible resident women.

If the proposed changes come into effect, it is likely that doctors will provide termination of pregnancy services in privately operated women's health services, GP clinics or day surgery facilities. Based on the situation in other States and Territories, these services will be provided through a combination of Medicare funding and private charges.

The NT Government is committed to maintaining access to affordable services for vulnerable women, regardless of their ability to pay. Accordingly, it is proposed to develop eligibility criteria for access to publically funded services.

## Will the rates of Termination of Pregnancy increase if the proposed changes are passed in Parliament?

An increase is not expected. Studies have shown that restrictive termination of pregnancy legislation is not associated with lower termination of pregnancy rates.

## Where can I find out more information?

The Department of Health has produced a Discussion Paper. The Discussion Paper discusses the proposed changes to termination of pregnancy legislation and services in more detail. The Discussion Paper is located at [www.health.nt.gov.au](http://www.health.nt.gov.au). You are invited to provide feedback at [DOH.consultation@nt.gov.au](mailto:DOH.consultation@nt.gov.au) by 27 January 2017.