

Women's Abortion Action Campaign

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Submission from Women's Abortion Action Campaign

regarding the

Draft Reproductive Health (Access to Terminations) Bill

To:

The Minister for Health, Tasmania, through the Department of Health & Human Services

Dear Minister O'Byrne,

Re: comment on *Draft Reproductive Health (Access to Terminations) Bill*

Women's Abortion Action Campaign (WAAC), was established in 1972 and in the 40+ years of our work, we have liaised and worked with abortion rights advocates in Tasmania. We have a detailed knowledge of the access and legal issues which have arisen in Tasmania since 1972 and we utilise that historical knowledge when making our comments on the Draft *Reproductive Health (Access to Terminations) Bill*.

We would first like to acknowledge the efforts of all those who have worked on the development of and progress of the Draft Bill to this stage.

We particularly commend the sensible and humane proposals within the proposed Bill to prevent harassment of people accessing premises where abortions and other women's health services are provided, which we feel provides a real standard for all Australian states to follow.

Unfortunately we are not able to make a full submission due to time constraints as the Draft bill only came to our attention one week ago, but wish to highlight several issues you may wish to consider in the furtherance of this Bill.

**Women's Abortion Action Campaign is a feminist women's health and reproductive rights organisation campaigning for a woman's right to choose abortion since 1972
RUN BY WOMEN FOR WOMEN**

1) Termination of pregnancy explicitly allowable only by a "medical practitioner" – access issues will inevitably arise:

WAAC is concerned that in several places in the proposed Bill, termination of pregnancy is explicitly allowable only by "a medical practitioner". There does not seem any apparent reason for this, especially in the light of Tasmanian women's experience across the 1970's and the 1980's wherein they found it difficult to access a termination due to the fact that the operation was then only provided by obstetric and gynaecology trained specialists.

We further find this prescription in the draft legislation to be at odds with the experience of our colleagues who established and managed the Women's Health Foundation clinic from 1991 to 2001 in Hobart. You may or may not be aware but there was considerable difficulty experienced by the Women's Health Foundation Clinic in finding medical practitioners located in Tasmania who were willing to be trained in how to perform the termination of pregnancy procedure.

The current context and reality is that there is a severe shortage in Australia of medical practitioners who, firstly, know how to perform an abortion and there is a current context wherein NO training is provided in any Australian medical school in regard to how to perform a termination of pregnancy operation.

If this legislation confines provision of the termination of pregnancy procedure, including using the abortifacient drug known as RU486 (Misoprostol and Mifepristone), then there may be, in effect, either be NO access to the procedure in parts of Tasmania OR Tasmania will remain reliant upon some medical practitioners flying in to Tasmania to provide the abortion operation.

This will potentially cause delays for Tasmanian women seeking either the termination of pregnancy operation or the use of the RU486 combination of drugs.

The shortage of appropriately trained medical practitioners who can perform the abortion operation is not only in Australia but it is an issue which has arisen in the United States and which has been the subject of many of the national meetings of the US National Abortion Federation, a well respected abortion provider organisation.

Indeed, in the United Kingdom, this shortage of appropriately trained medical practitioners for the termination of pregnancy procedure has led to proposals from respected bodies that training be developed and provided such that midwives can become providers of early termination of pregnancy procedures.

This provision in the legislation will defeat the purpose of the draft legislation (access to terminations) and it goes against the existing literature and developments across many nations in relation to ways in which better access to this simple procedure can be generated.

WAAC urges that the Draft Bill be amended to reflect these realities in relation to doctor shortages such that it, instead, refer to appropriately trained midwives and/or nurses, being authorised to perform a termination of pregnancy procedure as well as being able to administer the drugs known as RU486 for what is termed as a 'medical' abortion.

Criminalising persons who are not medical practitioners for the performance of abortions may seem an effective way of preventing "backyard abortions", however, in practical terms it will in fact prevent the development of very practical means of conducting what is a fairly routine procedure (especially in the case of medical abortion using RU486 or similar medicines), which would enable greater access to women, especially those in more remote locations, as well as reduce costs.

2) Draft Bill, in specifying only a medical practitioner can perform an abortion, then takes that one step further and proposes to criminalise "terminations by persons other than medical practitioner"

In the parts of the Draft Bill which relate to amendments to the Tasmanian *Criminal Code Act 1924* and specifically proposed additional part *178D – Terminations by persons other than medical practitioners* – this is out-of-step with worldwide trends related to doctor shortages and other solutions identified by well respected organisations such as the British Medical Association.

We draw your attention to our discussion above in relation to the well recognised shortages of doctors in Australia who actually know how to perform a termination of pregnancy procedure and the fact that NO medical school in Australia provides training at either undergraduate or postgraduate level in how to perform a termination of pregnancy procedure.

These two factors are well recognised in the field of abortion service delivery in Australia and the presence of such a provision, if it were to become part of the Criminal law in Tasmania, it can only lead to the creation of a need in the future for it to be repealed.

The future direction of abortion service delivery will of necessity be such that appropriate training will be developed for midwives and, possibly, nurses such that they can provide early termination of pregnancy procedures either as a suction curettage procedure or via oversight of administration of the combined RU486 drugs.

This provision is unnecessary and reveals a lack of understanding of the reality of what has occurred over the period from the 1980's to the present day in relation to doctor availability and doctor training.

3) Arbitrary setting of an upper limit:

WAAC believes there is no medical or practical reason for the setting of an arbitrary 24

week limit after which a woman needs the permission or agreement of two medical practitioners to terminate a pregnancy. Women wishing to terminate their pregnancy are as capable, physically and mentally, of doing so at 25 weeks as they are at 23 weeks.

This provision is also out-of-alignment with existing knowledge across many abortion rights organisations in Australia, which are aware that it is, in fact, access to termination at a later stage of pregnancy which is of major concern in Australia (and other parts of the western world).

The literature recognises that, due to the circumstances of their lives, young women, women in their early menopausal years and women with disability who seek access to later terminations may do so simply because they may be unaware that they are pregnant. By the time they do recognise that they are pregnant, it may be too late to obtain an immediate termination of pregnancy.

An arbitrary upper limit creates a significant disadvantage for such women.

4) Arbitrary setting of an upper limit also creates yet more barriers for Tasmanian women by requiring permission of two doctors:

The proposed requirement that a woman seeking an abortion after 24 weeks needs the agreement of two medical practitioners, one of them a specialist in obstetrics or gynaecology would place significant burdens on the woman. These would include cost, time and the question of access to a specialist, especially for women in remote and rural locations.

Whilst we don't support the proposal for an upper limit of 24 weeks of pregnancy and then women needing to go through more hoops to obtain a termination after 24 weeks, WAAC cannot support additional barriers being placed in the way of women who do find themselves facing the need to have a termination of an unplanned pregnancy at over 24 weeks of pregnancy.

If the proposal for an upper limit of 24 weeks of pregnancy remains in the legislation then, at least, the burden of getting approval from not one but two doctors and one of them needing to be a O and G specialist is placing far too great a barrier in the way of Tasmanian women.

5) Proposed addition to Tasmanian *Criminal Code 1924* of a Section 178E *Termination without woman's consent:*

WAAC is concerned at the wording of proposed Section 178E to be added to the *Criminal Code 1924*. We cannot see a reason for such a provision to be in the Criminal Code and, especially, at proposed Section 178E (2) (b).

This provision allows that no prosecution is to be instituted against a medical practitioner

who terminates the pregnancy of a women if the termination is-

- (a) Performed in good faith and with reasonable care and skill; and
- (b) Is for the woman's benefit; and
- (c) Is reasonable having regard to all the circumstances".

As you will be aware, the recent Federal government committee into the issues of coerced sterilisation has yet to deliver its findings.

The wordings of this particular item are not defined enough to prevent potential misuse, and seem to pre-empt the findings of the Federal committee. WAAC **recommends** that the entire proposed Section 178E be removed from the Draft Bill.

Thank you for your time and attention.

Should you or anyone working on submissions wish to contact us for fuller information and details, we would be glad to provide them at a later time.

Please do not hesitate to contact WAAC for an expanded comment on any of these matters.

Yours sincerely,

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