

Health and Other Legislation Amendment Bill (No.2) 2023

Statement of Compatibility

FOR

Amendment to be moved during consideration in detail by the Honourable Shannon Fentiman MP, Minister for Health, Mental Health and Ambulance Services and Minister for Women

Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019*, I, the Honourable Shannon Fentiman, Minister for Health, Mental Health and Ambulance Services and Minister for Women make this statement of compatibility with respect to an amendment to be moved in consideration in detail to the Health and Other Legislation Amendment Bill (No.2) 2023.

In my opinion, the amendment is compatible with the human rights protected by the Human Rights Act. I base my opinion on the reasons outlined in this statement.

Overview of the Amendment

The Health and Other Legislation Amendment Bill (No.2) 2023 (Bill) amends the *Termination of Pregnancy Act 2018* to permit a medical termination of pregnancy to be performed by a registered health practitioner whose health profession is nursing or midwifery or another practitioner prescribed by regulation (new section 6A, inserted by clause 22 of the Bill). The Bill requires a practitioner who is performing a termination of pregnancy to be authorised under section 54 of the *Medicines and Poisons Act 2019* to carry out the activity that constitutes performance of the termination.

Section 6A(3), as inserted by the Bill, provides that a registered health practitioner performs a medical termination if the practitioner prescribes, or gives a treatment dose, of a termination drug. The Medicines and Poisons Act distinguishes between the concepts of ‘give a treatment dose’ and ‘administer’ a medicine.

The amendment clarifies that a nurse practitioner, endorsed midwife, or registered nurse or midwife working under an Extended Practice Authority under the Medicines and Poisons Act, can perform a medical termination of pregnancy by ‘administering’ a termination drug without a prescription, in addition to ‘giving a treatment dose’, which is already covered by the Bill.

Human Rights Issues

Human rights relevant to the Bill

In my opinion, the human rights that are relevant to the amendment to the Bill are:

- Right to freedom of thought, conscience, religion and belief (section 20)
- Right to health services (section 37).

For the reasons outlined below, I am of the view that the amendment to the Bill protects and promotes the following human rights.

Right to freedom of thought, conscience, religion and belief (section 20, Human Rights Act); and right to health services (section 37, Human Rights Act)

The amendment to the Bill promotes the right to health services, in particular access to termination of pregnancy services, by enabling additional registered health practitioners to perform early medical terminations of pregnancy by ‘administering’ a termination drug. By expanding the range of health practitioners able to perform early medical terminations by ‘administering’ a termination drug, the Bill will allow pregnant people living in regional, rural and remote areas to have increased access to reproductive healthcare services without facing excessive barriers of cost or distance.

By clarifying that registered health practitioners are permitted to perform early medical terminations by ‘administering’ a termination drug, the amendment to the Bill also promotes the right to freedom of thought, conscience, religion and belief. The amendment will advance autonomy and choice for pregnant people and further improve the wellbeing and dignity of persons accessing reproductive healthcare.

The Bill also applies the existing ‘conscientious objections’ provisions in section 8 of the Termination of Pregnancy Act to the new practitioners authorised to perform early medical terminations, including those who ‘administer’ a termination drug. This recognises that these health practitioners have, and may exercise, the right to freedom of thought, conscience, religion and belief.

Conclusion

In my opinion, the amendment to be moved during consideration in detail of the Bill is compatible with human rights under the *Human Rights Act 2019* because it does not limit any human rights.

SHANNON FENTIMAN MP
MINISTER FOR HEALTH, MENTAL HEALTH AND AMBULANCE SERVICES
and MINISTER FOR WOMEN