

## CHAPTER 304

### THE TERMINATION OF PREGNANCY ACT

# ARRANGEMENT OF SECTIONS

#### Section

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## CHAPTER 304 *26 of* TERMINATION OF PREGNANCY 1972 *13 of* *1994*

An Act to amend and clarify the law relating to termination of pregnancy by registered medical practitioners; and to provide for matters incidental thereto and connected therewith.

[13th October, 1972]

1. This Act may be cited as the Termination of Pregnancy Act. Short title
2. In this Act, unless the context otherwise requires- Interpretation

"hospital" means any institution run as such by the Government or any other institution approved in writing for the purposes of this Act by the Permanent Secretary, Ministry of Health;

"the law relating to abortion" means sections *one hundred and fifty-* Cap. 87

*one, one hundred and fifty-two and one hundred and fifty-three* of the Penal Code, and includes any written law or rule of law relating to the procurement of abortion;

"registered medical practitioner" means a medical practitioner registered as such under the provisions of the Medical and Allied Professions Act.

Cap. 297

**3.** (1) Subject to the provisions of this section, a person shall not be guilty of an offence under the law relating to abortion when a pregnancy is terminated by a registered medical practitioner if he and two other registered medical practitioners, one of whom has specialised in the branch of medicine in which the patient is specifically required to be examined before a conclusion could be reached that the abortion should be recommended, are of the opinion, formed in good faith-

Medical  
termination of  
pregnancy

- (a) that the continuance of the pregnancy would involve-
  - (i) risk to the life of the pregnant woman; or
  - (ii) risk of injury to the physical or mental health of the pregnant woman; or
  - (iii) risk of injury to the physical or mental health of any existing children of the pregnant woman;greater than if the pregnancy were terminated; or

- (b) 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.

(2) In determining whether the continuance of a pregnancy would involve such risk as is mentioned in paragraph (a) of subsection (1), account may be taken of the pregnant woman's actual or reasonably foreseeable environment or of her age.

(3) Except as provided by subsection (4), any treatment for the termination of pregnancy must be carried out in a hospital.

(4) Subsection (3) and so much of subsection (1) as relates to the opinion of two registered medical practitioners, shall not apply to the

termination of a pregnancy by a registered medical practitioner in a case where he is of the opinion, formed in good faith, that the termination of pregnancy is immediately necessary to save the life or to prevent grave permanent injury to the physical or mental health of the pregnant woman.

4. (1) Subject to subsection (2), no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorised by this Act to which he has a conscientious objection: Conscientious objection to participation in treatment

Provided that in any legal proceedings the burden of proof of conscientious objection shall rest on the person claiming to rely on it.

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

(3) In any proceedings before a court, a statement on oath by any person to the effect that he has a conscientious objection to participating in any treatment authorised by this Act shall be sufficient evidence for the purpose of discharging the burden of proof imposed upon him by subsection (1).

5. (1) The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act and, without prejudice to the generality of the foregoing, such regulations may make provision for- Regulations

(a) anything which is to be or which may be prescribed under this Act;

(b) requiring any such opinion as is referred to in section *three* to be certified by the registered medical practitioner concerned in such form and at such time as may be prescribed by the regulations;

(c) the preservation and disposal of certificates made pursuant to the regulations;

(d) requiring any registered medical practitioner who terminates a pregnancy to give notice of the termination of pregnancy and such other information relating to the termination of pregnancy as may be prescribed;

(e) prohibiting the disclosure, except to such persons or for such purposes as may be prescribed, of notices given or information furnished pursuant to the regulations.

(2) The information furnished in pursuance of regulations made by virtue of paragraph (d) of subsection (1) shall be notified solely to the Permanent Secretary, Ministry of Health.

(3) Any person who wilfully contravenes or wilfully fails to comply with the requirements of regulations made under subsection (1) shall be guilty of an offence and on conviction shall be liable to a fine not exceeding two thousand penalty units.

*(As amended by Act No. 13 of 1994)*

6. For the purpose of law relating to abortion, anything done with intent to procure the miscarriage of a woman is unlawfully done unless it is done in accordance with the provisions of this Act. Supplementary provisions

## **SUBSIDIARY LEGISLATION**

### TERMINATION OF PREGNANCY

#### **SECTION 5-THE TERMINATION OF PREGNANCY REGULATIONS**

*Regulations by the Minister*

*Statutory  
Instrument  
219 of 1972*

1. These Regulations may be cited as the Termination of Pregnancy Regulations. Title

2. (1) Any opinion to which section *three* of the Act refers shall be certified in the appropriate form set out in the First Schedule. Certificate of opinion

(2) Any certificate of an opinion referred to in subsection (1) of section *three* of the Act shall be given before the commencement of the treatment for the termination of pregnancy to which it relates.

(3) Any certificate of an opinion referred to in subsection (1) of section *three* shall be given before the commencement of the treatment for the termination of pregnancy to which it relates or, if that is not reasonably practicable, not later than twenty-four hours after such termination.

(4) Any such certificate as is referred to in sub-regulations (2) and (3) shall be preserved by the practitioner who terminated the pregnancy to which it relates for a period of three years beginning with the date of such termination and may then be destroyed.

**3.** (1) Any registered medical practitioner who terminates a pregnancy anywhere in Zambia shall, within seven days of the termination, give to the Permanent Secretary, Ministry of Health, notice thereof and the other information relating to the termination in the form set out in the Second Schedule.

Notice of termination of pregnancy and information relating thereto

(2) Any such notice and information as is referred to in sub-regulation (1) shall be sent in a sealed envelope marked "Confidential" to the Permanent Secretary, Ministry of Health, P.O. Box 30205, Lusaka.

**4.** A notice given or any information furnished to the Permanent Secretary, Ministry of Health, in pursuance of these Regulations shall not be disclosed except that disclosures may be made-

Restriction on disclosure of information

(a) for the purposes of carrying out his duties, to an officer of the Ministry of Health authorised by the Permanent Secretary, Ministry of Health; or

(b) for the purposes of carrying out his duties in relation to offences against the Act or the law relating to abortion, to the Director of Public Prosecutions or a member of his staff authorised by him; or

(c) for the purposes of investigating whether an offence has been committed against the Act or the law relating to abortion, to a police officer not below the rank of Assistant Superintendent or a person authorised by him; or

(d) for the purposes of criminal proceedings which have begun; or

- (e) for the purposes of *bona fide* scientific research; or
- (f) to the registered medical practitioner who terminated the pregnancy; or
- (g) to a registered medical practitioner, with the consent in writing of the woman whose pregnancy was terminated.

## FIRST SCHEDULE

(Regulation 2)

IN CONFIDENCE

CERTIFICATE A

(Not to be destroyed within three years of the date of operation)

THE TERMINATION OF PREGNANCY ACT

CERTIFICATE TO BE COMPLETED BEFORE A TERMINATION OF PREGNANCY IS  
PERFORMED UNDER SECTION 3 (1) OF THE ACT

I,

*(name and qualifications of practitioner in block capitals)*  
of.

*(full address of practitioner)*  
and I,

*(name and qualifications of practitioner in block capitals)*  
of

*(full address of practitioner)*  
and I,

*(name and qualifications of practitioner in block capitals)*  
of.

*(full address of practitioner)*

hereby certify that we are of the opinion, formed in good faith, that in the case of

(full name of pregnant woman in block capitals)  
of.

(usual place of residence of pregnant woman in block capitals)

1. The continuance of the pregnancy would involve risk to the life of the pregnant woman greater than if the pregnancy were terminated;
2. The continuance of the pregnancy would involve risk of injury to the physical or mental health of the pregnant woman greater than if the pregnancy were terminated;
3. The continuance of the pregnancy would involve risk of injury to the physical or mental health of the existing child(ren) of the family of the pregnant woman greater than if the pregnancy were terminated;
4. 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.

[Ring appropriate number(s)]

This certificate of opinion is given before the commencement of the treatment for the termination of pregnancy to which it refers.

SIGNED

DATE

SIGNED

DATE

SIGNED

DATE



**IN CONFIDENCE**

**CERTIFICATE B**

(Not to be destroyed within three years of the date of operation)

**THE TERMINATION OF PREGNANCY ACT**

**CERTIFICATE TO BE COMPLETED IN RELATION TO TERMINATION OF  
PREGNANCY IN EMERGENCY UNDER SECTION 3 (4) OF THE ACT**

I,

*(name and qualifications of practitioner in block capitals)*  
of

*(full address of practitioner)*

hereby certify that I \*am/was of the opinion formed in good faith that it \*is/was necessary  
immediately to terminate the pregnancy of

*(full name of pregnant woman in block capitals)*  
of

*(usual place of residence of pregnant woman in block capitals)*

in order-

1. to save the life of the pregnant woman; or
2. to prevent grave permanent injury to the physical or mental health of the pregnant woman.

(Ring appropriate number)

This certificate of opinion is given-

- A. before the commencement of the treatment for the termination of the pregnancy to which it relates; or

B. not later than 24 hours after such termination.

SIGNED

DATE

\*Delete as appropriate

## SECOND SCHEDULE

(Regulation 3)  
**IN CONFIDENCE**

### THE TERMINATION OF PREGNANCY ACT

NOTIFICATION TO THE PERMANENT SECRETARY, MINISTRY OF HEALTH, OF A  
TERMINATION OF PREGNANCY PERFORMED UNDER SECTION 3 OF THE ACT

I,

*(name and qualifications of practitioner in block capitals)*

of

*(full address of practitioner)*

hereby give notice that I terminated the pregnancy of

*(full name of pregnant woman in block capitals)*

of.

*(usual place of residence of pregnant woman in block capitals)*

The grounds for terminating the pregnancy were certified as-

1. The continuance of the pregnancy would have involved the risk to the life of the pregnant woman greater than if the pregnancy were terminated;
2. The continuance of the pregnancy would have involved risk of injury to the physical or mental health of the pregnant woman greater than if the pregnancy were terminated;
3. The continuance of the pregnancy would have involved risk of injury to the physical or mental health of the existing child(ren) of the family of the pregnant woman greater than if the pregnancy were terminated;
4. There was a substantial risk that if the child had been born it would have suffered from such physical or mental abnormalities as to be serious handicapped.

(Ring appropriate number)

IN CASE OF EMERGENCY

The grounds for terminating the pregnancy were-

- 5. It was necessary to save the life of the pregnant woman; or
- 6. It was necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman.

PLACE OF TERMINATION

The pregnancy was terminated at-

(address)

on (date)

(signature of practitioner who terminated pregnancy)

In All Non-Emergency Cases, particulars of the practitioner(s) who joined in giving the certificate required for the purposes of section 3 should be shown below in the appropriate space(s):

(If the operating practitioner joined in giving certificate, insert at A and B particulars of the other certifying practitioner(s))

A. Name .....

Address .....

Qualifications .....

(If the operating practitioner did not join in giving certificate, insert at A, B and C particulars of the three certifying practitioners)

B. Name .....

Address .....

Qualifications .....

C. Name .....

Address .....

Qualifications .....

Other Information Relating to the Termination (Items 1 to 8 to be completed to the best of the knowledge and belief of the operating practitioner)

- 1. Hospital file number .....
- 2. Name of woman .....
- 3. Date of birth of woman .....
- 4. Marital status of woman:

For official use only
<p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>

- 1. Single 2. Married 3. Widowed
  - 4. Divorced or separated 5. Not know
- (Ring appropriate number)

5. Occupation .....

Note: (a) If woman is married, specify husband's occupation

(b) If woman is unmarried, specify her own occupation

6. Date of woman's last menstrual period .....

7. Previous pregnancies of woman:  
 Number of-  
 live births .....  
 stillbirths .....

terminations of pregnancies .....  
 If applicable, date of last termination of pregnancy under the above-mentioned Act .....

8. Number of woman's existing \*children .....

9. Date of admission to place of termination of pregnancy .....

10. Date of discharge from place of termination of pregnancy .....

11. Grounds for termination of pregnancy .....

(a) Medical condition of woman:  
 Obstetric disease  
 (specify) .....

(b) Suspected medical condition of foetus  
 (specify) .....

(c) Non-medical grounds for termination of pregnancy  
 (specify) .....

12. Type of termination of pregnancy:  
 1. Dilation and evacuation  
 2. Hysterectomy-abdominal  
 3. Hysterectomy-vaginal  
 4. Hysterectomy  
 5. Vacuum aspiration  
 6. Other

(specify) .....  
 (Ring appropriate number)

13. Was sterilisation performed? .....

14. Complications or death prior to notification:  
 1. None  
 2. Sepsis  
 3. Haemorrhage  
 4. Death  
 5. Other

(specify) .....  
 (Ring appropriate number)

15. In the case of death, specify cause .....

.....  
.....

Note: This form is to be completed by the operating practitioner and sent in a sealed envelope marked "Confidential" within seven days of the termination of the pregnancy to the Permanent Secretary, Ministry of Health, P.O. Box 30205, Lusaka.

Empty rectangular box for signature or stamp.

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\*Children mean a woman s natural children and any adopted, foster or step-children, up to the age of 16 years, living with her.

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