

SOUTH AUSTRALIA

ABORTION REGULATIONS, 1970

REGULATIONS UNDER THE CRIMINAL LAW CONSOLIDATION ACT, 1935

Abortion Regulations, 1970

being

Gaz. 8 January 1970, p. 4

as varied by

Gaz. 2 April 1970, p. 1309

Gaz. 11 June 1970, p. 2068

Gaz. 15 July 1971, p. 178

Gaz. 18 November 1971, p. 2078

Gaz. 28 September 1972, p. 1671

Gaz. 8 November 1973, p. 2808

Gaz. 10 October 1974, p. 2598

Gaz. 21 November 1974, p. 3326

Gaz. 13 March 1975, p. 1054

Gaz. 1 April 1976, p. 1678

No. 69 of 1979: *Gaz.* 14 June 1979, p. 1837¹

No. 207 of 1980: *Gaz.* 18 September 1980, p. 883

No. 220 of 1981: *Gaz.* 23 December 1981, p. 2518²

No. 189 of 1982: *Gaz.* 7 October 1982, p. 1066

No. 226 of 1982: *Gaz.* 23 December 1982, p. 1940

No. 129 of 1986: *Gaz.* 17 July 1986, p. 281

No. 80 of 1988: *Gaz.* 19 May 1988, p. 1261

No. 161 of 1988: *Gaz.* 11 August 1988, p. 698

No. 165 of 1991: *Gaz.* 18 July 1991, p. 330

¹ Came into operation 1 July 1979: reg. 5.

² Came into operation 1 January 1982: reg. 4.

2.

Preliminary

1. These regulations may be cited as the *Abortion Regulations, 1970*.

2. In these regulations, except where the context otherwise requires—

"practitioner" means a legally qualified medical practitioner; and

"the Act" means the *Criminal Law Consolidation Act, 1935-1969*.

Certificates of Opinion

3. (1) A practitioner shall not, where he is purporting to act in conformity with an opinion of the kind referred to in subparagraph (i) of paragraph (a) of subsection (1) of section 82a of the Act, commence treatment for terminating the pregnancy of a woman unless he has joined in giving a certificate in the form set out in schedule 1 to these regulations.

(2) The certificate shall be appropriate to the circumstances.

(3) Every certificate given under this regulation shall, subject to regulation 6 of these regulations, be retained by the practitioner who terminated the pregnancy to which it relates for a period of three years commencing on the date of the termination.

Notice of Termination of Pregnancy

4. Every practitioner who terminates a pregnancy shall, within fourteen days of such termination, deliver to or give by post to the Director-General of Medical Services a true copy of the certificate referred to in regulation 3 of these regulations together with notice of the termination in the form set out in schedule 1 to these regulations, and shall include in that notice all such other information relating to the termination as is shown by that form to be required.

5. A true copy of every notice given pursuant to regulation 4 of these regulations shall, subject to regulation 6 of these regulations, be preserved by the practitioner who terminated the pregnancy to which it relates for a period of three years commencing on the date of the termination.

5a. The superintendent or manager of a hospital at which a pregnancy has been terminated during any calendar month shall within 20 days of the end of such month, deliver to or give by post to the Director-General of Medical Services a notice in the form set out in schedule 2 of the regulations, indicating the total number of terminations of pregnancy performed at that hospital during the said calendar month, and the number performed by individual medical practitioners.

Prohibition on Disclosure of Information

6. A person shall not disclose or produce any certificate, notice or information given in pursuance of these regulations unless the disclosure is made—

(a) for the purpose of carrying out his duties, to an officer of the Hospitals Department of the Public Service generally or specially authorized by the Director-General of Medical Services in that behalf;

3.

- (b) for the purpose of carrying out his duties, to the Principal Registrar of Births, Deaths and Marriages; or, for the purposes of carrying out his duties, to any officer of the branch of the Public Service under the control of the Principal Registrar of Births, Deaths and Marriages and generally or specially authorized by the Principal Registrar of Births, Deaths and Marriages in that behalf;
- (c) for the purposes of investigating whether any felony or misdemeanour, or any breach of these regulations, has been committed, or for the purposes of investigating any complaint against a practitioner, to any member of the police force not below the rank of Inspector or a person authorized by him, or to any person holding the office of a Government Investigations Officer in the Public Service;
- (d) for the purposes of advising upon any investigation referred to in paragraph (c) of this regulation, to any officer of the Crown Law Department;
- (e) for the purposes of any legal proceedings which have begun, to the Court, Board, or other tribunal, having cognizance of the proceedings;
- (f) for the purposes of what, in the opinion of the Director-General of Medical Services, is *bona fide* scientific research, to the person carrying out that research;
- (g) to the practitioner who terminated the pregnancy; or
- (h) to a practitioner, with the consent in writing of the woman whose pregnancy was terminated;
- (i) to the Medical Board of South Australia for the purpose of enabling the Board to discharge its functions according to law.

7. The following hospitals are declared to be prescribed hospitals for the purposes of section 82a of the Act:

Abergeldie Private Hospital
Angaston District Hospital, Inc.
Ashford Community Hospital, Inc.
The Balaklava Soldiers' Memorial District Hospital, Inc.
Barmera District Hospital, Inc.
Berri Regional Hospital, Inc.
Blackwood and District Community Hospital, Inc.
Blyth District Hospital, Inc.
Booleroo Centre District Hospital, Inc.
Bordertown Memorial Hospital, Inc.
Burnside War Memorial Hospital, Inc.
Burra Burra Hospital, Inc.
Central Districts Private Hospital
Central Eyre Peninsula Hospital, Inc.
Clare and District Hospital, Inc.
Cleve District Hospital, Inc.
Cowell District Hospital, Inc.
Crystal Brook District Hospital, Inc.
Cummins and District Memorial Hospital, Inc.

Elliston Hospital, Inc.
 Eudunda Hospital, Inc.
 Flinders Medical Centre
 Glenelg District Community Hospital, Inc.
 Great Northern War Memorial Hospital, Inc.
 Gumeracha District Soldiers' Memorial Hospital, Inc.
 Hindmarsh Memorial Community Hospital, Inc.
 Hutchinson Hospital, Inc.
 Hutt Street Private Hospital Pty. Ltd.
 The Jamestown Hospital, Inc.
 Kangaroo Island General Hospital, Inc.
 Kapunda Hospital, Inc.
 Karoonda and District Soldiers' Memorial Hospital, Inc.
 Keith and District Hospital, Inc.
 Kiandra Private Hospital
 Kimba District Hospital, Inc.
 Kingston Soldiers' Memorial Hospital, Inc.
 Lameroo District Hospital, Inc.
 Le Fevre and Port Adelaide Community Hospital, Inc.
 Lower Murray District Hospital, Inc.
 Loxton Complex, Inc.
 Lyell McEwin Health Service
 Maitland Hospital, Inc.
 Mannum District Hospital, Inc.
 Memorial Hospital, Inc.
 Meningie and Districts Memorial Hospital, Inc.
 Millicent and District Hospital, Inc.
 Minlaton District Hospital
 Modbury Hospital
 Moonta Jubilee Hospital Incorporated
 Mount Barker District Soldiers' Memorial Hospital, Inc.
 Mount Gambier Hospital, Inc.
 Mount Pleasant District Hospital, Inc.
 Murat Bay District Hospital, Inc.
 Murray Bridge Soldiers' Memorial Hospital, Inc.
 Naracoorte Hospital, Inc.
 Noarlunga Health Services Incorporated
 North Eastern Community Hospital, Incorporated
 Northern Community Hospital, Inc.
 Onkaparinga District Hospital, Inc.
 Orreroo and Districts Hospital, Inc.
 Penola War Memorial Hospital, Inc.
 Peterborough Soldiers' Memorial Hospital, Inc.
 Pinnaroo Soldiers' Memorial Hospital, Inc.
 Port Augusta Hospital, Inc.
 Port Lincoln Health and Hospital Services, Inc.
 Port Pirie and Regional Health Service, Inc.
 The Queen Elizabeth Hospital
 The Queen Victoria Hospital, Inc.
 Quorn and District Memorial Hospital, Inc.
 Renmark and Paringa District Hospital, Inc.

5.

Repatriation General Hospital
Riverton District Soldiers' Memorial Hospital, Inc.
Royal Adelaide Hospital
Salisbury Private Hospital
The Snowtown Memorial Hospital, Inc.
South Coast District Hospital, Inc.
Southern Districts War Memorial Hospital, Inc.
Southern Yorke Peninsula Hospital, Inc.
St. Andrews Hospital, Inc.
Stirling District Hospital, Inc.
Strathalbyn and District Soldiers' Memorial Hospital and Health Services
Streaky Bay Hospital, Inc.
The Tanunda War Memorial Hospital, Inc.
Thebarton Community Hospital, Inc.
Tumby Bay Hospital, Inc.
The Vales Private Hospital
Waikerie District Hospital, Inc.
Wakefield Memorial Hospital, Inc.
Wallaroo and District Hospital, Inc.
Western Community Hospital, Inc.
The Whyalla Hospital and Health Services, Inc.

8. Any person who—

- (a) contravenes or fails to comply with any provision of these regulations;
- (b) makes any statement that is false in a material particular in, or in connection with, any certificate or notice provided for in these regulations; or
- (c) gives to the Director-General of Medical Services, in or in connection with any certificate or notice provided for in these regulations, any information which is false in any material particular

shall be liable to a penalty not exceeding two hundred dollars.

SCHEDULE 1

CRIMINAL LAW CONSOLIDATION ACT, 1935-1971

*Certificate to be Completed When an Abortion is Performed
Under Section 82a of the Act*

(A true copy to be retained by the operating practitioner for a period of three years commencing on the date of the operation.

The original copy is to be completed by the operating practitioner and delivered to or sent by post in a sealed envelope *within fourteen days of the termination of the pregnancy* to the Director-General of Medical Services, 158 Rundle Street, Adelaide, South Australia, 5000. The envelope shall be clearly marked with the words "STRICTLY CONFIDENTIAL").

ABORTION REGULATIONS, 1970

IN CONFIDENCE

I,
(Name and qualifications of practitioner in block letters)

of,
(Full address of practitioner)

and I,
(Name and qualifications of practitioner in block letters)

of,
(Full address of practitioner)

hereby certify that we are of opinion, formed in good faith that in the case of
.....
(Full name of pregnant woman in block letters)

of,

(whose period of residency in South Australia before the date of this certificate is stated by her to have been . . .
.....and whom we have personally examined) termination of pregnancy was undertaken for the following reasons:—

.....
.....
.....
.....

DIAGNOSIS (Primary condition *must* be specified)
.....

7.

The grounds for terminating the pregnancy pursuant to section 82a(1)(a) of the Act were:—

1. The continuance of the pregnancy would have involved greater risk to the life of the pregnant woman than if the pregnancy were terminated;
2. The continuance of the pregnancy would have involved greater risk of injury to the physical and mental health of the pregnant woman than if the pregnancy were terminated;
3. There was a substantial risk that, if the pregnancy were not terminated and the child were born, the child would suffer from such physical or mental abnormalities as to be seriously handicapped;

(Ring appropriate number)

In case of emergency, that is where 82a(1)(b) of the Act applies, the grounds for terminating the pregnancy were that I was of the opinion formed in good faith, that the termination:—

4. Was immediately necessary to save the life of the pregnant woman; or
5. Was immediately necessary to prevent grave injury to the physical or mental health of the pregnant woman.

(Ring appropriate number)

This certificate is for terminating the pregnancy to which it refers pursuant to section 82a of the *Criminal Law Consolidation Act*.

(The provisions of section 82a are on the back.)

Signed	Date
Signed	Date

Place of termination—The pregnancy was terminated at—

.....
(State name of hospital)

.....
(Address)

on
(Date)

.....
Signature of Practitioner who terminated
the pregnancy

OTHER INFORMATION RELATING TO THE
TERMINATION

To be completed by the operating practitioner *to the best of his knowledge and belief.*

1. Date of birth of woman: (Day, Month, Year)

2. Marital Status: (Circle one)
 1. Never married
 2. Married
 3. *De facto*
 4. Widowed
 5. Divorced or separated
 6. Not known

3. Date of last menstrual period: (Day, Month, Year)
If unknown, or uncertain, give clinical estimates in weeks of gestation when pregnancy terminated

4. Total number of previous pregnancies:
Livebirths
Stillbirths
Spontaneous miscarriages
Terminations
Record year of last termination of pregnancy in South Australia under the *Criminal Law Consolidation Act.*

5. Date of admission to place of termination of pregnancy: (Day, Month, Year)

6. Date of termination of pregnancy: (Day, Month, Year)

7. Date of discharge from place of termination of pregnancy: (Day, Month, Year)

8. Grounds for termination of pregnancy
 - (a) Medical condition of woman (specify)
 - Obstetric Disease
 - Non-obstetric disease
 - (b) Suspected medical condition of fetus (specify)
 - Genetic disorder
 - Non-genetic disorder

If account has been taken of the woman's actual or reasonably foreseeable environment, indicate reasons:

.....

.....

9.

9. Method of termination: (Circle one)

- 1. Dilation and curettage
- 2. Hysterotomy—abdominal
- 3. Hysterotomy—vaginal
- 4. Hysterectomy
- 5. Vacuum aspiration
- 6. Intra-Uterine Injection
- 7. Intravenous Infusion
- 8. Other (specify)

10. Was sterilization undertaken: (Circle one)

- 1. Yes
- 2. No.

11. Post-operative complications or death prior to notification: (Circle, up to 3)

- 1. None
- 2. Sepsis
- 3. Haemorrhage—intra-operation
- 4. Haemorrhage—post-operation
- 5. Perforation of or Trauma to Uterus
- 6. Anaesthetic complication
- 7. Other (specify)
- 8. Maternal death
- In case of death specify cause
-
-

12. If readmitted: Date of readmission: (Day, Month, Year)

Date of second discharge: (Day, Month, Year)

Reason for readmission

OFFICIAL USE ONLY

Accession number

Post Code

Residency in South Australia

- 1. less than specified time
- 2. more than specified time

Hospital where terminated

Doctor performing termination

Doctor supporting termination

Section of Act

Date of receipt of Notification by doctor.

MEDICAL TERMINATION OF PREGNANCY

Extract from the "Criminal Law Consolidation Act, 1935-1971"

82a. (1) Notwithstanding anything contained in section 81 or section 82 of this Act, but subject to this section, a person shall not be guilty of a felony or misdemeanor under either of those sections—

(a) if the pregnancy of a woman is terminated by a legally qualified medical practitioner in a case where he and one other legally qualified medical practitioner are of the opinion, formed in good faith after both have personally examined the woman—

(i) that the continuance of the pregnancy would involve greater risk to the life of the pregnant woman or greater risk of injury to the physical or mental health of the pregnant woman than if the pregnancy were terminated;

or

(ii) that there is a substantial risk that, if the pregnancy were not terminated and the child were born to the pregnant woman, the child would suffer from such physical or mental abnormalities as to be seriously handicapped,

and where the treatment for the termination of the pregnancy is carried out in a hospital or a hospital of a class declared by regulation to be a prescribed hospital or a hospital of a prescribed class for the purposes of this section;

or

(b) if the pregnancy of a woman is terminated by a legally qualified medical practitioner in a case where he is of the opinion, formed in good faith, that the termination is immediately necessary to save the life, or to prevent grave injury to the physical or mental health of the pregnant women.

(2) Paragraph (a) of subsection (1) of this section does not refer or apply to any woman who has not resided in South Australia for a period of at least two months before the termination of her pregnancy.

(3) In determining whether the continuance of a pregnancy would involve such risk of injury to the physical or mental health of a pregnant woman as is mentioned in subparagraph (i) of paragraph (a) of subsection (1) of this section, account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

(4) The Governor may make regulations—

(a) for requiring any such opinion as is referred to in subsection (1) of this section to be certified by the legally qualified medical practitioners or practitioner concerned in such form and at or within such time as may be prescribed, and for requiring the preservation and disposal of any such certificate made for the purposes of this Act;

(b) for requiring any legally qualified medical practitioner who terminates a pregnancy to give notice of the termination and such other information relating to the termination as may be prescribed to the Director-General of Medical Services;

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

(d) declaring a particular hospital or a class of hospital to be a prescribed hospital or a prescribed class of hospital for the purposes of this section;

and

(e) for providing for and prescribing any penalty, not exceeding two hundred dollars, for any contravention of, or failure to comply with any regulations.

(5) Subject to subsection (6) of this section, no person is under a duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorized by virtue of the provisions of this section to which he has a conscientious objection: But in any legal proceedings the burden of proof of conscientious objection rests on the person claiming to rely on it.

(6) Nothing in subsection (5) of this section affects any duty to participate in treatment which is necessary to save the life or to prevent grave injury to the physical or mental health of a pregnant woman.

(7) The provisions of subsection (1) of this section do not apply to or in relation to a person who, with intent to destroy the life of a child capable of being born alive, by any wilful act causes such a child to die before it has an existence independent of its mother where it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.

(8) For the purposes of subsection (7), evidence that a woman had at any material time been pregnant for a period of twenty-eight weeks or more shall be *prima facie* proof that she was at that time pregnant of a child capable of being born alive.

(9) For the purposes of sections 81 and 82 of this Act, anything done with intent to procure the miscarriage of a woman is unlawfully done unless authorized by virtue of the provisions of this section.

(10) In this section and in section 81 and 82 of this Act, "woman" means any female person of any age.

SCHEDULE 2

CRIMINAL LAW CONSOLIDATION ACT, 1935-1980

**MONTHLY NOTIFICATION TO THE DIRECTOR-GENERAL OF MEDICAL SERVICES OF
ABORTIONS PERFORMED AT HOSPITAL**

(The original copy is to be completed by the Superintendent/Manager of the Hospital and delivered to or sent by post in a sealed envelope at the completion of every calendar month in which abortions have been performed to the Director-General of Medical Services, 158 Rundle Mall, Adelaide, South Australia 5000. The envelope shall be clearly marked with the words "STRICTLY CONFIDENTIAL".)

1. Name of Hospital
2. Month of Notification: (Month and Year)
3. Total Number of Pregnancies Terminated During This Month
4. Number of Pregnancies Terminated by Individual Medical Practitioners During This Month

Name of Medical Practitioner

Number of Pregnancies
Terminated

.....

Signed
(Superintendent/Manager)

Dated
Name
Address
.....

APPENDIX**LEGISLATIVE HISTORY**

Regulation 4:	varied by <i>Gaz.</i> 18.11.71, p. 2078, reg. 1; 69, 1979, reg. 4
Regulation 5a:	inserted by 69, 1979, reg. 1
Regulation 7:	varied by <i>Gaz.</i> 2.4.70, p. 1309; <i>Gaz.</i> 11.6.70, p. 2068; <i>Gaz.</i> 15.7.71, p. 178; <i>Gaz.</i> 28.9.72, p. 1671; <i>Gaz.</i> 8.11.73, p. 2808; <i>Gaz.</i> 10.10.74, p. 2598; <i>Gaz.</i> 21.11.74, p. 3326; <i>Gaz.</i> 13.3.75, p. 1054; <i>Gaz.</i> 1.4.76, p. 1678; 207, 1980, reg. 3; 189, 1982, reg. 2; 226, 1982, reg. 2; 129, 1986, reg. 2; 80, 1988, reg. 2; substituted by 161, 1988, reg. 2; varied by 165, 1991, reg. 2
Schedule 1:	substituted by <i>Gaz.</i> 18.11.71, p. 2078, reg. 2; varied by 69, 1979, reg. 2; 220, 1981, reg. 2
Schedule 2:	revoked by <i>Gaz.</i> 18.11.71, p. 2078, reg. 2; inserted by 69, 1979,