

House of Representatives

Supplementary Order Paper

Tuesday, 3 March 2020

Abortion Legislation Bill

Proposed amendments

Agnes Loheni, in Committee, to move the following amendments:

Clause 5

In *clause 5, new section 2*, replace the definition of qualified health practitioner (page 4, lines 26 to 28) with:

qualified health practitioner, in relation to the provision of abortion services, means a health practitioner—

- (a) who is—
 - (i) a medical practitioner; or
 - (ii) a midwife; or
 - (iii) a nurse practitioner authorised to practise in obstetric nursing; and
- (b) who is acting in accordance with the Health Practitioners Competence Assurance Act 2003

In *clause 5, new section 2*, insert in the appropriate alphabetical order:

specialist medical practitioner means—

- (a) a medical practitioner who is a practising obstetrician or gynaecologist; or
- (b) a medical practitioner who has other expertise that is relevant to the performance of abortion services, such as a general practitioner who has additional experience or qualifications in obstetrics

viability means the point in a pregnancy at which a medical practitioner reasonably believes that the fetus is capable of survival out-

side the body of the woman without extraordinary life-sustaining measures

In *clause 5, new section 2*, insert as *subsection (2)* (page 4, after line 32):

- (2) In this Act, the number of **weeks pregnant** are to be calculated from the first day of the woman's last menstrual period.

Clause 7

In *clause 7*, replace *new sections 10 and 11* (page 5, line 17 to page 6, line 1) with:

10 Provision of abortion services to women not more than 20 weeks pregnant

- (1) An abortion involving the ingestion of a drug or combination of drugs may be provided to a woman by a qualified health practitioner where, having examined the woman, he or she is of the reasonable belief formed in good faith that the pregnancy has not exceeded 9 weeks of pregnancy.
- (2) An abortion may be provided to a woman by a specialist medical practitioner with relevant expertise where, having examined the woman, he or she is of the reasonable belief formed in good faith that the pregnancy has not exceeded 20 weeks of pregnancy.
- (3) An abortion must not be carried out under this section unless the relevant health practitioner has certified his or her opinion as to the matter referred to in **subsection (1) or (2)**.

11 Provision of abortion services to women more than 20 weeks pregnant

- (1) An abortion may be carried out on a woman who is more than 20 weeks pregnant only if two specialist medical practitioners, after examining the woman, have provided a certificate confirming that they have formed the reasonable belief in good faith that—
- (a) the woman is more than 20 weeks pregnant; and
 - (b) there is a risk to the life, or of serious harm to the physical or mental health, of the woman; and
 - (c) the fetus has not reached viability; and
 - (d) it is appropriate to carry out the abortion in order to avert the risk referred to in **paragraph (b)**.
- (2) The abortion referred to in **subsection (1)** must be carried out by one of the two specialist medical practitioners referred to in that subsection.

Explanatory note

This Supplementary Order Paper (SOP) amends the Abortion Legislation Bill. The amendments concern the medical practitioners who may administer abortions at different terms of gestation. The process of administering an abortion, and the risk associated with it, varies significantly depending on the stage of the pregnancy. As such, this SOP is designed to ensure that safety mechanisms are in place to ensure the woman is well cared for and the risks that accompany the process are fully taken into account throughout the advancement of the pregnancy. This is done by ensuring that the experience and qualifications of the health practitioner reflect the involvement and risk of abortions at particular stages.

The Bill clarifies the definition of qualified health practitioner. There is a wide range of health practitioners and, because there is currently no explicit clarification in the Bill about the type of health practitioner that may be a qualified health practitioner, it remains to be seen which of these professions will be deemed qualified to perform abortions and what, if any, training will be required. As noted by the Law Commission in its ministerial briefing paper, *Alternative approaches to abortion law*, “the risks to women are greater for late term abortions. For example, ... women undergoing late term abortions may experience more pain, and incomplete abortion and haemorrhages are more common.” The Law Commission went on to say that “Unsafe abortions performed by unskilled people can lead to serious complications or even death.” Appropriate safeguards are necessary to minimise potentially unsafe abortions, especially if there is a possibility that an unqualified person could perform a surgical procedure.

The purpose of the Bill is, in part, to remove regulations that currently delay women in accessing abortions in a timely manner. With the Bill amending the status quo in these ways, post-20-week abortions should be limited to the criteria proposed in the amended *section 11(1)(b)*. Access to timely abortions through medical abortion drugs for gestation periods not exceeding 9 weeks, or surgical abortions for a gestation period not exceeding 20 weeks, enable women who wish to receive an abortion to do so without the increased risks associated with surgical abortions after 20 weeks.

The purpose of this SOP is to find the appropriate balance between women being able to access abortion services while also ensuring that abortion services are safe and provided by appropriately trained staff. There is general consensus that abortions after 20 weeks should be limited to extreme situations. Minister Little has himself stated that late-term abortions are very rare and only sought in “very extreme circumstances”. The proposed *new section 11* ensures that after 20 weeks a woman can access an abortion if her life or health are at risk. It captures those extreme situations while not widening the test too far.