

Relevant Laws

Contraception	Contraception, Sterilisation and Abortion Act 1977 (CS&A Act) CS & A Amendment 1978, 1990
Abortion	Care of Children Act 04, CS&A Act 1977, Health Practitioners Competence Assurance Act 03 section 174
Sexual Crimes	Crimes Act 1961 Crimes Amendment Act 2005
Confidentiality	Health Information Privacy code 1994

CONTRACEPTION

CS & A ACT

Section 3 – Sale or disposal etc of contraceptives to children. This section, which restricted contraceptive advice and supplies to under 16 year olds, was repealed on 7 September 1990.

Section 4 – Allows the administration of contraception to mentally subnormal females

Section 5 – Ensures that contraceptive help is offered by doctors to sexual violation complainants.

Conscientious objectors have a duty to inform patients of the availability of another doctor or a family planning clinic.

Abortion

Care of Children Act 2004 Section 38

- (1) If given by a female child (of whatever age), the following have the same effect as if she were of full age:
 - (a) a consent to the carrying out on her of any medical or surgical procedure for the purpose of terminating her pregnancy by a person professionally qualified to carry it out; and
 - (b) a refusal to consent to the carrying out on her of any procedure of that kind.
- (2) This section overrides section 36.

ABORTION CS & ACT 1977

[32] Procedures where women seeks abortion –

- 1) Every registered medical practitioner who is consulted by a female who wishes to have an abortion shall, if requested to do so by or on behalf of that female, arrange for the case to be considered and dealt with in accordance with the succeeding provisions of this section and of section 33 of this Act
- 2) Women referred to 2 certifying consultants

ABORTION CS & ACT 1977

[35] Counselling –

When the certifying consultants have made a decision in any case (whether they have decided to authorise or to refuse to authorise the performance of an abortion), they shall (in consultation, where practicable, with the woman's own doctor) advise her of her right to seek counselling from any appropriate person or agency

ABORTION

Health Practitioners Competence Assurance Act 2003, section 174

It is the duty of every health practitioner who is requested by a patient to provide any advice or other service with respect to contraception, sterilisation, or other reproductive health services, and who objects on grounds of conscience to providing the service *to inform the patient that the service may be obtained from another health practitioner or family planning clinic.*

ABORTION

CS & A AMENDMENT ACT 1978

WHERE CERTIFYING CONSULTANTS DISAGREE

[33] Determination of case – if one of the certifying consultants is of the opinion that the case is one to which any of the said provisions applies and the other consultant is of the contrary opinion, they shall refer the case to another registered medical practitioner who is on the list of certifying consultants.

ABORTION

GROUNDINGS FOR ABORTION – TO 20 WEEKS

Crimes Act 1961 and Amendments 1977, 1978, 1985

- ❑ Serious danger to life
- ❑ Serious danger to physical health
- ❑ Serious danger to mental health
- ❑ Risk that the child would be seriously handicapped physically
- ❑ Risk that the child would be seriously handicapped mentally
- ❑ Incest with parent, brother, half-brother, grandparent
- ❑ Unlawful sexual relations with guardian
- ❑ Severe mental subnormality of woman or girl



ABORTION

GROUND FOR ABORTION – TO 20 WEEKS

Factors which can be taken into account:

- Extremes of age
- Sexual violation ('rape' replaced by 'sexual violation' by Crimes Amendment 1985)



ABORTION

GROUND FOR ABORTION AFTER 20 WEEKS

- To save the life of the mother
- To prevent serious, permanent injury to physical or mental health to the mother

NB: Foetal abnormality is not a ground.
The Abortion Supervisory Committee has recommended that foetal abnormality should be recognised as a ground.

SEXUAL CRIMES

Crimes Act 1981

- Section 132
- Section 134

❑ Crimes Amendment Act 2005

SEXUAL CRIMES

SECTION 132 of the CRIMES ACT

- States that it is an offence to have or attempt to have sexual connection or do an indecent act with a child under the age of 12
- It is not a defence that the child consented or that the person charged believed that the child was over 12

SEXUAL CRIMES

SECTION 134 of the CRIMES ACT

- ❑ This states that it is an offence to have or attempt to have sexual connection or do an indecent act with a young person under the age of 16.
- ❑ It is not a defence if the young person consented or if the person charged believed that the young person consented was over 16.

Consumer Rights

Code of Health and disability Services consumers' Rights

- Respect (including respect for your personal privacy)
- Fair treatment
- Dignity and independence
- Proper standards
- Communication
- Information
- It's your decision
- Support
- Teaching and Research
- Complaints

Confidentiality

- **Health Information Privacy Code 1994**
 - In the majority of circumstances, an agency that holds personal information cannot disclose it unless the person concerned has said that it may be given out, or there is a serious and imminent threat to the individual or another individual.

CONFIDENTIALITY

- **What does this mean for the Health Practitioner?**
- However in these circumstances it would be a breach of confidentiality for the health practitioner to report UNLESS required to protect against incest, violence, sexual abuse.
- (The 3 H's – I will keep confidentiality unless I have serious concerns that there is risk of Harm to yourself, Harm to others, or you may Harm others)
- Also no requirement to inform parents if they ask for information unless client consent.