



ANALYSIS

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1978, No. 5

**An Act to give effect to recommendations made by the
Abortion Supervisory Committee for the amendment of
the Contraception, Sterilisation, and Abortion Act 1977**
[10 July 1978]

BE IT ENACTED by the General Assembly of New Zealand
in Parliament assembled, and by the authority of the same,
as follows:

1. Short Title—This Act may be cited as the Contraception, Sterilisation, and Abortion Amendment Act 1978, and shall be read together with and deemed part of the Contraception, Sterilisation, and Abortion Act 1977 (hereinafter referred to as the principal Act).

2. Procedure where woman seeks abortion—(1) The principal Act is hereby amended by repealing section 32, and substituting the following section:

“32. (1) Every registered medical practitioner (in this section referred to as the woman’s own doctor) who is consulted by or in respect of 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) If, after considering the case, the woman’s own doctor considers that it may be one to which any of paragraphs (a) to (d) of subsection (1), or (as the case may require) subsection (3), of section 187A of the Crimes Act 1961 applies, he shall comply with whichever of the following provisions is applicable, namely:

“(a) Where he does not propose to perform the abortion himself, he shall refer the case to another registered medical practitioner (in this section referred to as the operating surgeon) who may be willing to perform an abortion (in the event of it being authorised in accordance with this Act); or

“(b) Where he proposes to perform the abortion himself (in the event of it being authorised in accordance with this Act), he shall—

“(i) If he is himself a certifying consultant, refer the case to 1 other certifying consultant (who shall be a practising obstetrician or gynaecologist if the woman’s own doctor is not) with a request that he, together with the woman’s own doctor, determine, in accordance with section 33 of this Act, whether or not to authorise the performance of an abortion; or

“(ii) If he is not himself a certifying consultant, refer the case to 2 certifying consultants (of whom at least 1 shall be a practising obstetrician or gynaecologist) with a request that they determine, in accordance with section 33 of this Act, whether or not to authorise the performance of an abortion.

“(3) Where an operating surgeon to whom a case is referred under subsection (2) (a) of this section is satisfied, after considering the case, that it is one to which any of paragraphs (a) to (d) of subsection (1), or (as the case may require) subsection (3), of section 187A of the Crimes Act 1961 applies, he shall, if he is willing to perform the abortion, either—

“(a) If he is himself a certifying consultant, refer the case to 1 other certifying consultant (who shall be a practising obstetrician or gynaecologist if the operating surgeon is not, and who shall not be the woman’s own doctor) with a request that he, together with the operating surgeon, determine, in accordance with section 33 of this Act, whether or not to authorise an abortion; or

“(b) If he is not himself a certifying consultant, refer the case to 2 certifying consultants (of whom at least 1 shall be a practising obstetrician or gynaecologist, and of whom 1 may be the woman’s own doctor) with a request that they determine, in accordance with section 33 of this Act, whether or not to authorise the performance of an abortion.

“(4) Where any registered medical practitioner is required to refer any case to any other practitioner under this section, he shall refer it in accordance with the procedure for the time being prescribed by the Supervisory Committee.

“(5) As soon as practicable after a case is referred to him, each certifying consultant shall consider the case and shall, if requested to do so by the patient, interview her; and at any such interview she shall be entitled to be accompanied by her own doctor (if he agrees).

“(6) The woman’s own doctor and the proposed operating surgeon shall be entitled (with the patient’s consent) to make such representations and to adduce such medical or other reports concerning the case as he thinks fit to each certifying consultant.

“(7) Every certifying consultant may, in considering any case, with the consent of the patient, consult with any other person (whether or not a registered medical practitioner) as he thinks fit in order to assist him in his consideration of the case, but he shall not disclose the patient’s identity without her consent.

“(8) Notwithstanding anything in this section, or in section 33 of this Act, no certifying consultant shall be obliged to determine any case without first interviewing and examining the patient.”

(2) Section 2 of the principal Act is hereby amended by omitting the definitions of the terms “operating surgeon” and “woman’s own doctor”.

3. Determination of case—(1) Section 33 of the principal Act is hereby amended by omitting from subsection (5) the words “satisfy themselves that an operating surgeon is available to the woman, and shall”.

(2) The said section 33 is hereby further amended by inserting, after subsection (5), the following subsection:

“(5A) Where the operating surgeon is not one of the certifying consultants issuing the certificate, he shall endorse on the certificate a statement that he is willing to perform an

abortion on the patient to whom the certificate relates, but a failure to comply with this requirement shall not invalidate the certificate for the purposes of section 37 (1) (b) of this Act or section 187A (4) of the Crimes Act 1961.”

4. Performance of abortion by other practitioner—The principal Act is hereby further amended by inserting, after section 33, the following section:

“33A. Nothing in section 32 or section 33 of this Act shall prohibit the performance of an abortion duly authorised in accordance with those sections by any registered medical practitioner who is not the operating surgeon within the meaning of section 32 of this Act.”

This Act is administered in the Department of Justice.
