



New South Wales

Abortion Law Reform (Sex Selection Prohibition) Amendment Bill 2021

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the following Acts—

- (a) the *Abortion Law Reform Act 2019* to prohibit the performance of terminations on persons for the purposes of sex selection,
- (b) the *Assisted Reproductive Technology Act 2007* to prohibit the provision of assisted reproductive technology treatment for the purposes of sex selection,
- (c) the *Health Practitioner Regulation (Adoption of National Law) Act 2009* to provide that the performance of terminations on persons for the purposes of sex selection amounts to professional misconduct of a registered health practitioner,
- (d) the *Health Care Liability Act 2001* to void approved professional indemnity insurance for a registered health practitioner to the extent the insurance provides cover for the performance of a termination on a person for the purposes of sex selection.

Outline of provisions

Clause 1 sets out the name, also called the short title, of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the day that is after 3 months from the date of assent to the proposed Act.

Schedule 1 Amendment of Abortion Law Reform Act 2019 No 11

Schedule 1[1] inserts proposed section 11A to prohibit a registered health practitioner from performing, or assisting in the performance of, a termination on a person for the purposes of sex selection.

Schedule 1[2] and [3] make consequential amendments.

Schedule 2 Amendment of Assisted Reproductive Technology Act 2007 No 69

Schedule 2[1] inserts proposed section 29A to make it an offence for an ART provider providing ART treatment, within the meaning of the *Assisted Reproductive Technology Act 2007*, to use a gamete or an embryo, or to perform the treatment in a particular way, with the purpose of producing or attempting to produce a child of a particular sex.

Schedule 2[2] requires the Minister to conduct a review of proposed section 29A as soon as possible after 2 years after the commencement of the section. The Minister must table a report on the outcome of the review in each House of Parliament within 3 years after the commencement of the proposed section.

Schedule 3 Amendment of Health Practitioner Regulation (Adoption of National Law) Act 2009 No 86

Schedule 3 provides that the performance of terminations on persons for the purposes of sex selection amounts to professional misconduct of a registered health practitioner.

Schedule 4 Amendment of Health Care Liability Act 2001 No 42

Schedule 4 voids approved professional indemnity insurance to the extent the insurance provides cover for the performance of a termination on a person for the purposes of sex selection.



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No , 2021

A Bill for

An Act to amend certain legislation to prohibit the performance of terminations and the provision of assisted reproductive technology treatment for the purposes of sex selection; and for related purposes.

The Legislature of New South Wales enacts—

1

1 Name of Act

2

This Act is the *Abortion Law Reform (Sex Selection Prohibition) Amendment Act 2021*.

3

4

2 Commencement

5

This Act commences on the day that is 3 months after the date of assent to this Act.

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Schedule 1	Amendment of Abortion Law Reform Act 2019 No 11	1
		2
[1] Section 11A		3
Insert after section 11—		4
11A Terminations for sex selection		5
Despite any provision of this Part, a registered health practitioner must not perform, or assist in the performance of, a termination on a person for the purposes of sex selection.		6 7 8
[2] Section 16, heading		9
Insert “—report to Parliament” after “selection”.		10
[3] Section 16(1) and (6)		11
Omit the subsections.		12

Schedule 2	Amendment of Assisted Reproductive Technology Act 2007 No 69	1
		2
[1] Section 29A		3
	Insert after section 29—	4
29A	Prohibition of ART treatment for purposes of sex selection	5
(1)	The object of this section is to prohibit the provision of ART treatment for the purposes of sex selection.	6 7
(2)	An ART provider must not provide ART treatment to a woman using a gamete or an embryo, or perform the treatment in a particular way, with the purpose of producing or attempting to produce a child of a particular sex.	8 9 10
	Maximum penalty—	11
(a)	for a corporation—400 penalty units, or	12
(b)	for an individual—200 penalty units or imprisonment for 5 years, or both.	13 14
[2] Section 75		15
	Insert after section 74—	16
75	Review of section 29A	17
(1)	The Minister must conduct a review of section 29A to determine if the section—	18 19
(a)	has prevented the provision of ART services for the purposes of sex selection, and	20 21
(b)	remains appropriate for securing that objective.	22
(2)	The review must be conducted as soon as possible after 2 years after the commencement of section 29A.	23 24
(3)	The Minister must table a report on the outcome of the review in each House of Parliament within 3 years after the commencement of section 29A.	25 26

Schedule 3	Amendment of Health Practitioner Regulation (Adoption of National Law) Act 2009 No 86	1
		2
Schedule 1	Modification of Health Practitioner Regulation National Law	3
	Insert at the end of Schedule 1[13], section 139E, with appropriate paragraph numbering—	4
	; or	5
	contravention of the <i>Abortion Law Reform Act 2019</i> , section 11A.	6

Schedule 4	Amendment of Health Care Liability Act 2001 No 42	1
		2
Section		3
Insert at the end of Part 3, with appropriate section numbering—		4
	Approved professional indemnity insurance void in relation to abortion for the purposes of sex selection	5
		6
	Approved professional indemnity insurance is void to the extent that it provides cover for a registered health practitioner who performs, or assists in the performance of, a termination on a person for the purposes of sex selection.	7
		8
		9