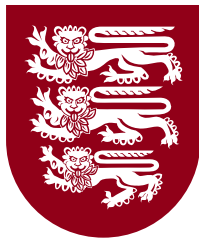


# STATES OF JERSEY



Jersey

## **DRAFT TERMINATION OF PREGNANCY (JERSEY) LAW 202-**

---

**Lodged au Greffe on 27th January 2026  
by the Minister for Health and Social Services  
Earliest date for debate: 10th March 2026**

---

**STATES GREFFE**



Jersey

## **DRAFT TERMINATION OF PREGNANCY (JERSEY) LAW 202-**

### **European Convention on Human Rights**

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000, the Minister for Health and Social Services has made the following statement –

In the view of the Minister for Health and Social Services, the provisions of the Draft Termination of Pregnancy (Jersey) Law 202- are compatible with the Convention Rights.

Signed: **Deputy T.J.A. Binet of St. Saviour**  
*Minister for Health and Social Services*

Dated: 26th January 2026

## REPORT

### SECTION 1: BACKGROUND

#### Background to report and proposition

1. Termination has been legal in Jersey since the [Termination of Pregnancy \(Jersey\) Law 1997](#) (“1997 Law”) came into force. Prior to that approximately 300 women per year travelled to the UK for a termination to avoid potential prosecution in Jersey.
2. The 1997 Law represented a significant improvement on the status quo but, even at the point of introduction, it brought forward provisions that were widely perceived to be outdated – in part because the 1997 Law was based on UK’s 1967 Abortion Act which had not been updated in accordance with the provisions of other jurisdictions and changing practice (for example, neither the 1997 Law or the 1967 Act provide for termination without justification of need; instead both restrict termination to specific, limited grounds – such as the pregnancy causing ‘distress’).
3. In 2023, the former Minister for Health and Social Services commenced a review of the 1997 Law; work that continued further to an Assembly decision in December 2024 that an amended Law should be lodged by December 2025, enabling debate in early 2026<sup>1</sup>.
4. The draft Law presented as part of the report and proposition has been informed by:
  - a. a Phase 1 public and stakeholder consultation conducted in 2023 to gather views on the current law and its provisions. The Phase 1 consultation feedback report was published in March 2024<sup>2</sup>;
  - b. a Phase 2 public consultation which ran from 17 March to 14 April 2025. The Phase 2 consultation took the form of an on-line survey which asked a series of multiple-choice questions about matters set out in the associated consultation report<sup>3</sup>, with that reporting being informed by feedback from the Phase 1 consultation alongside detailed discussions with medical professionals with experience of termination services.
5. Both Phase 1 and Phase 2 consultations evidenced strong support for modernisation of Jersey’s existing legal framework.
6. This Report and Proposition:
  - a. presents the proposed draft new law (the “draft Law”) which has been informed by the consultation process and review of provisions in other jurisdictions;
  - b. explains the provisions of that draft Law, describing how, and why, it varies from the existing 1997 Law.
7. If adopted, the existing 1997 Law will be repealed and replaced by the draft new law (see Article 23) which seeks to reflect changes in medical, practical and societal attitudes over previous decades.

#### 8. **Note: Service limitations**

While the draft Law will extend the circumstances in which termination will be legal in Jersey, it is important to recognise that amending the law does not equate to being able to provide a

<sup>1</sup> [P-51-2024-Amd-\(10\).pdf](#)

<sup>2</sup> <https://www.gov.je/SiteCollectionDocuments/Health%20and%20wellbeing/ToP%20public%20consultation%20feedback%20report.pdf>

<sup>3</sup> <https://www.gov.je/SiteCollectionDocuments/Government%20and%20administration/Termination%20of%20pregnancy%20Phase%202%20Feedback%20Report.pdf>

broader range of termination services in Jersey, particularly in relation to later stage terminations, which requires:

- a. health professionals who are willing to provide later stage terminations (all health professionals will have a right to refuse to participate in terminations except for where the termination is immediately necessary to save the woman's life);
- b. terminations to be safely provided (i.e. Jersey would need a workforce with the necessary highly specialist training and skills).

Jersey has a small health care workforce when compared to other jurisdictions and, given workforce constraints and the need to provide safe services, it is unlikely that we will be able to provide terminations post 12-week gestation in Jersey at the point at which the draft Law comes into force.

This is not unusual. In the UK most terminations post 20 weeks gestation are undertaken in specialist centres by highly trained, specialist staff, as opposed to being readily available across all NHS or private clinic settings.

Amending the law will, therefore, result in a difference between what is permitted in law in Jersey and the services provided, and hence in some regards will have limited direct benefit to woman (for example, women having late stage terminations on the grounds of foetal anomaly will still be required to travel to the UK with the potential for associated stress and trauma).

Amending the law will, however:

- a. help destigmatise termination of pregnancy by making later stage terminations lawful and removing the requirement for women to provide justification for their decision;
- b. provide a clearer framework in which professionals may operate (for example, removing the existing 24-week limit on terminations in the case of foetal anomaly will remove any ambiguity that may arise if a Jersey doctor refers a woman to the UK for post 24-week termination which is not currently legal in Jersey);
- c. provide Regulation and Order making power that will enable greater future flexibility in relation to how termination services are provided and managed, for example:
  - permitting professionals other than doctors to provide medical termination services (for example, nurse led services for medical terminations, which is common in many other jurisdictions)
  - permitting 'telemedicine' termination services on a permanent or temporary basis (for example, in the event of a pandemic)
  - allowing for the future provision of termination in private clinic settings, as opposed to HCJ settings only in the event that other providers choose to provide (as is the dominant model in many other jurisdictions).

Amending the law also provides for the legal provisions necessary to plan, at the appropriate point, for extended on-island provision – although it should be noted that there is no definitive time or date by which Jersey will be able to expand its on-island services, given the increased clinical requirements associated with later terminations, coupled with professionals right to refuse.

## SECTION 2: LAWFUL TERMINATION

9. The draft Law provides for the circumstances in which termination is legal in Jersey, as described below.

10. **Note:** For ease of reading the term ‘doctor’ is used in this report. Doctor refers to a medical practitioner who is registered with the Jersey Care Commission in accordance with the provision of the [Medical Practitioners \(Registration\) \(Jersey\) Law 1960](#).

### Age

11. A woman may have a termination at any age (i.e., the draft Law does not prevent under 18s having terminations in Jersey). This accords with the provisions of the existing 1997 Law and legislation in most other jurisdictions.

### Residency

12. The draft Law does not bring forward any residency requirements (i.e., any woman in Jersey may legally have a termination in Jersey).
13. Residency requirements were historically provided for in the 1997 Law<sup>4</sup> but were removed by a decision of the States Assembly in January 2024 ([P.79/2024](#)), as it was recognised that residency requirements created particular difficulties for specific categories of women (for example, women who are in Jersey for the purposes of short-term work).
14. Whilst the draft Law permits any woman in Jersey to have a termination in Jersey it does provide that, in the case of medical terminations, the doctor prescribing the medication must reasonably believe that the medication will be administered in Jersey and in accordance with their instructions. This is to help ensure that:
- additional medical care can be provided in the event it is required;
  - Jersey does not become a jurisdiction that facilitates terminations to take place in another jurisdiction through its prescribing and dispensing practices.

15. **Note: medical terminations and place of administration**

Medical terminations usually involve the taking of two medicines. The first medicine terminates the pregnancy by blocking the hormones that allow the pregnancy to continue (i.e., termination is ‘performed’ when the first medicine which ends the pregnancy is administered). The second medicine, which is taken between 24 and 48 hours after the first medicine, expels the terminated foetus.

The draft Law provides the doctor flexibility to determine, based on the woman’s individual circumstances, the most appropriate way to provide medical terminations. For example, by instructing the woman to:

- take the first medicine in the doctor’s presence but allowing the woman to take the second medicine, which sees the onset of bleeding, in the privacy of her own home / another suitable place; or
- take both medicines at a suitable place in Jersey if the doctor believes it is appropriate to do so.

### Consent

16. The draft Law provides that in all cases, except in relation to emergency terminations the woman must consent to having a termination, and the consent must be informed. The

---

<sup>4</sup> The 1997 Law historically provided that a woman must be ordinarily resident in Jersey, or resident for 90-days immediately prior to having a termination.

requirement for informed consent is not explicitly stated on the face of the 1997 Law, albeit securing informed consent is part of standard medical practice.

17. Specifically, the draft Law provides for matters related to informed consent when an under 16-year-old is seeking a termination, unlike the 1997 Law. The draft Law recognises that 16 year olds may consent in their own right if the doctor is satisfied that they understand the nature and implications of a termination (commonly referred to a 'Gillick competent') but also provides where the doctor is not satisfied as to their understanding, the doctor must seek consent from a person who may lawfully make decisions on their behalf (this would generally be their parent but may, for example, be someone appointed by the Court).
18. The draft Law, in requiring the woman to provide informed consent, makes it an offence for a doctor to undertake a termination without the woman's consent.

### Terminations from 22 weeks onwards

19. The draft Law states that a doctor may provide terminations over 22 weeks gestation but only on the grounds described below. For the purposes of clarity, where these grounds are met, there is no maximum gestational limit (i.e., the termination can take place at any point in the pregnancy):
  - a. the termination is necessary to save the woman's life:
    - the 1997 Law currently permits termination at any gestational limit where it is necessary to save the woman's life
  - b. the termination is necessary to prevent a significant risk to the survival of another foetus from the same pregnancy:
    - the 1997 Law does not explicitly provide for termination of a foetus to reduce risk to another foetus in a multiple pregnancy unlike the legislation in many other jurisdictions
  - c. the termination is necessary to prevent significant risk of serious injury to the woman's physical or mental health:
    - the 1997 Law currently permits termination at any gestational limit where it is necessary to prevent *grave and permanent injury* to the woman. The term *grave and permanent injury* is replaced with 'significant risk of serious injury' as it is recognised that an injury may be long-standing for many years, and have a serious impact, without being permanent
  - d. the foetus has, or has a significant risk of, a serious foetal anomaly, which means that the foetus is likely to die before, during or shortly after birth or, if born, is likely to be seriously disabled due to physical or mental impairment:
    - the 1997 Law only permits termination on the grounds that the child, if born, would 'suffer from such physical or mental abnormalities as to be seriously handicapped' up to the end of 24 weeks gestation. The removal of the 24-week limit in relation to termination on the grounds of serious foetal anomaly accords with legislation in the UK, Australia and New Zealand.
20. Where the gestational age is 22 weeks or more, the draft Law requires the doctor to:
  - a. have formed a reasonable opinion that the grounds are met, taking account of any guidance that may be issued by the Minister (see paragraph 24); and
  - b. consult a second doctor who must agree that the same grounds are met (i.e., both doctors must be of the opinion that there is a significant risk to the woman's physical

health, rather one identifying a risk to the women’s physical health and the other to her mental health).

21. The doctor must ensure the second doctor, with whom they consult, has the appropriate professional knowledge, experience and qualifications to provide their opinion (i.e., if there is a concern about foetal anomaly the second doctor must be appropriately qualified to make determinations related to foetal anomalies).
22. The 1997 law similarly requires the involvement of two doctors, however, the draft Law:
  - a. removes the requirement for the two doctors to examine the woman, thereby allowing for remote consultation / diagnosis were appropriate – the second doctor may, for example, be better placed to form an opinion based on imaging and scans than via examination. There is similarly no requirement to examine the woman in the UK, Australia or New Zealand. (Note: removing the explicit requirement for examination does not prevent either doctor from determining that they must examine the woman to form their opinion – i.e., the requirement for examination is a matter for clinical judgement);
  - b. provides that the second doctor may be based in a jurisdiction other than Jersey (for example, a UK based specialist in foetal medicine may make a remote diagnosis).

### 23. **Note: Foetal anomaly**

The reference to “suffer[ing] from such physical or mental abnormalities as to be seriously handicapped”, as used in the 1997 Law, is updated to refer to “serious foetal anomaly” and, in line with the Northern Ireland Abortion Regulations defines “serious foetal anomaly” as:

- a. the foetus is likely to die before, during or shortly after birth; or
- b. if born, the child would be likely to be seriously disabled due to a physical or mental impairment.

The definition provided in the draft Law:

- a. references an *anomaly* which is a deviation from the expected norm, as opposed to an *abnormality* which is a deviation from what is considered typical and which usually implies a problematic or negative deviation; and
- b. works to remove some of the ambiguity associated with the lack of definition in 1997 Law but it nevertheless continues to require a degree of clinical judgement as to when the threshold is met.

Permitting terminations on the grounds of serious anomalies at any point in the pregnancy gives rise to concerns about when an anomaly is sufficiently serious to permit late-stage termination, and how this is assessed. For this reason, the UK’s British Medical Association and Royal College of Obstetricians and Gynaecologists (RCOG) have produced assessment guidelines to support doctors’ decision-making.

The UK Select Committee on Science and Technology previously considered whether a ‘list’ of anomalies should be established in order to provide greater certainty but rejected this proposal as unworkable due to variation in all conditions (i.e., a condition may be serious in one incident but non-serious in another).

Permitting termination of a foetus at any point of pregnancy on the grounds of foetal anomalies also gives rise to concerns about human rights compliance, however, in 2021, UK Court of Appeal ruled that the right to abort a foetus with down syndrome does not interfere with the human rights of disabled people.

#### 24. **Note: Guidance**

The draft Law provides that the Minister may issue guidance to any person who has a function under the draft Law (Article 19) and does not limit the matters on which guidance can be issued, although these may include the following:

##### Grounds for termination

The draft Law provides that a doctor must have regard to any guidance issued by the Minister when determining whether the grounds for a termination at 22 weeks onwards are met.

It is envisaged that any such guidance will require the doctors to give consideration to the following matters which aim to help ensure a balance ending a viable pregnancy and protecting a woman whose physical and mental health is at risk, or whose pregnancy is unplanned and who is vulnerable or at risk of harm. These matters, which are based on provisions in law in South Australia<sup>5</sup> include:

- a. whether it is essential to perform a termination of an affected foetus in a multiple pregnancy at a gestation that does not risk severe prematurity and its attendant consequences for the surviving foetus / s;
- b. whether there are serious foetal anomalies that were not identifiable, diagnosed or fully evaluated before the pregnancy reached 21 weeks and 6 days or whether the foetus has been exposed to infective agents, chemicals or radiation which may damage or limit the gestation and development of the foetus;
- c. whether the woman has had difficulty accessing timely and necessary specialist services before the pregnancy reached 21 weeks and 6 days, including but not limited to the woman experiencing significant socio-economic disadvantage, cultural or language barriers;
- d. whether the woman has been denied agency over the decision to continue a pregnancy or not, including (but not limited to) circumstance such as the abuse of minors, or sexual and physical violence including rape, incest and sexual slavery, and whether this abuse includes circumstances in which the abuse is not apparent, or the pregnancy is not diagnosed until an advanced gestational age;
- e. whether medical or psychiatric conditions may become apparent or deteriorate during the pregnancy to the point where they are a threat to the woman's life;
- f. whether the woman has a deteriorating maternal medical condition, or late diagnosis of a disease requiring treatment incompatible with an ongoing pregnancy (such as malignancies).

##### Sexual selection (the intentional aborting of a foetus of a certain gender)

Extending the gestational limit to before 22 weeks for terminations on any grounds creates a potential opportunity for termination on the grounds of sexual selection – because the sex of the foetus can be readily known before 22 weeks of pregnancy.

Consideration has been given to introducing a ban on termination on the grounds of sexual selection however there are circumstances where termination of a foetus of a specific sex may be medically recommended due to the possibility of a sex-linked medical condition.

It is for this reason that sexual selection terminations are not banned on the face of the law in the UK or other jurisdictions including Canada, Australia and New Zealand. Attempts to

---

<sup>5</sup> [Termination of Pregnancy Act 2021](#)

introduce a sexual selection ban in 2021 in New South Wales were rejected on the basis that, there may be circumstances where sexual selection termination is appropriate. The 1997 Law is similarly silent on the issue.

Jurisdictions where sexual selection terminations are banned include those where there has been a considered attempt by legislatures to tackle long held cultural attitudes that favour male children, for example, India.

The amended law does not, therefore, prohibit termination on the grounds of sexual selection but it provides that the Minister may bring forward guidance if the Minister deems it necessary to do so.

#### Compliance with guidance

A breach of guidance issued by the Minister itself is not in itself, a breach of the law but it may be used as evidence in an investigation or in any disciplinary proceedings by an employer or a professional registration body.

### **Terminations before 22 weeks (without grounds)**

25. In addition to permitting termination at / post 22 weeks gestation on the grounds specified in paragraph 19 above, the draft Law also permits termination at less than 22 weeks gestation on any grounds (i.e., there is no requirement in law for the woman to have a reason / state the reason why she is having a termination).
26. This is significantly different to the 1997 Law which currently only permits termination on the grounds and gestation period set out above OR on the grounds that the woman's condition causes her distress and the termination is carried out before the end of 12 weeks pregnancy.

#### Citing of grounds

27. The draft Law removes the requirement for the pregnant woman to cite grounds for a termination at less than 22 weeks (i.e., she does not have to state she is "distressed" to have a termination) on the basis that requiring a woman to justify their decision impinges on the woman's autonomy and right to make decisions, and reinforces the stigma associated with termination.
28. The requirement to cite grounds is:
  - a. opposed by the World Health Organisation who state that termination should be available without justification of need (albeit the WHO take this position in relation to termination at any gestational period including post 22 weeks);
  - b. contrary to Phase 1 consultation feedback; almost three quarters (74%) of respondents stated termination should be available without justification of need (i.e. without the requirement to cite distress as a ground to have a termination)<sup>6</sup>.

#### Gestational limit

29. In addition to removing the requirement to cite grounds, it is also proposed that the existing end of 12-week limit is extended on the basis that this limit (which is restrictive in comparison to many other jurisdictions) is known to be problematic for women who are seeking a termination for non-medical reasons, on the basis that some women may:

<https://www.gov.je/SiteCollectionDocuments/Health%20and%20wellbeing/ToP%20public%20consultation%20feedback%20report.pdf>

- a. not initially know they are pregnant (this may be due to irregular periods or contraceptive methods that stop or mask periods); or
  - b. require more time to decide whether to proceed with the pregnancy.
30. This is evidenced by the fact that every year a small number of Jersey residents travel to the UK<sup>2</sup> to have a termination where the gestational limit is 24 weeks, despite a UK termination costing a Jersey resident £480 – £1,510 (before travel and accommodation) as opposed to £185 in Jersey (or £511 if the woman has been in Jersey less than six months).
  31. The majority of Phase 2 consultation respondents who agree that termination services should be provided in Jersey supported an increase to the current 12-week limit (68% of people and 54% of professionals)
  32. In determining what the gestational limit should be, it is important to recognise that under the draft Law, earlier stage terminations (i.e., at less than 22 weeks pregnancy) may be for:
    - a. medical reasons (i.e., based on the grounds set out in paragraph 19 above); or
    - b. non-medical reasons (for example, due to the woman’s personal circumstances like timing, financial issues, relationship status).
  33. Whilst the gestational limits for termination on the basis of medical reasons is often up to the end of the pregnancy, the gestational limits for terminations for non-medical reasons vary widely between different jurisdictions, and the rationale for these variations is not always evident. Published materials indicate that jurisdictions do consider multiple factors including social acceptance and healthcare professionals’ willingness to perform terminations at the point at which life is viable. Furthermore, in dispersed and rural communities (such as Australia) consideration is also given to ease of access to termination and obstetrics services.

**Table 1: Gestational limits for non-medically necessary termination**

Iceland	end of 22 weeks
New Zealand	end of 20 weeks
New South Wales, Australia	up to 22 weeks (21 weeks and 6 days)
South Australia	up to 22 weeks and 6 days
Victoria / Singapore / Netherlands / UK	up to 24 weeks
Italy, Austria	90 days
France, Belgium, Germany	14 weeks
Sweden	18 weeks

34. In amending Jersey’s legislation, consideration has been given to the question of how to balance the right of a woman to have bodily autonomy and choose not to proceed with a pregnancy for non-medical reasons, and the viability of life of the foetus. As indicated by the variation between gestational limits in other jurisdictions, this is not necessarily a straightforward matter.

<sup>2</sup> In 2023 fewer than 5 abortions were performed in the UK for Jersey residents but since 2003 this number has fluctuated between 5 to 25 per year.

35. The draft Law is, therefore predicated on the principle that terminations for non-medical grounds should be one week before the end of 22 weeks gestation, which international consensus cites as the “cut off” for viability of life (i.e. a baby that is born prematurely before the end of the 22nd week of gestation will not live).
36. The rationale for bringing forward a limit which is one week before viability of life (i.e., at less than 22 weeks, as opposed to at the end of 22 weeks) is to provide a margin for uncertainty noting that a very small percentage of babies, if born, at 22 weeks may survive to the point of discharge from neonatal care, albeit with permanent, serious disability. [Note: The British Association of Perinatal Medicine published data indicates that whilst 43% of babies born at 22 weeks are born alive, only 5% survive to discharge from neonatal care.
37. The proposed limit of less than 22 weeks was supported by the majority of respondents to the Phase 2 consultation (when taking into account respondents who support reform of Jersey’s existing legislation).

#### Consultation requirements

38. The draft Law provides that, where the termination is at less than 22 weeks, the woman is only required to consult one doctor in advance of the termination taking place, which may be with the doctor performing the termination. This contrasts with the 1997 Law which requires the woman to have a minimum of two consultations – which are usually with the woman’s GP and a doctor approved by the Minister to undertake terminations.
39. The requirement for the woman to consult more than one doctor in all cases:
  - a. creates potential delayed access to termination due to the logistics associated with arranging more than one appointment, particularly for women who are required to take time off work / make alternative childcare arrangements;
  - b. imposes an additional financial burden on the woman, as she is required to pay for the GP appointment in addition to the termination; and
  - c. places additional strain on limited medical resources;
  - d. is out of step with legislation in other jurisdictions including Ireland, Isle of Man, NSW, South Australia, Guernsey, Northern Ireland.
40. Generally, facilitating timely access to termination services is widely regarded as a marker of quality care, hence the requirement to remove unnecessary barriers to timely access. This is particularly the case when accessing an early medical termination before the woman is 10 weeks pregnant (see note on early medical terminations paragraph 43).
41. Whilst the draft Law provides for does not require consultation with two doctors for a termination before 22 weeks, Article 4 (6) provides that a doctor may nevertheless take any steps they determine are necessary to decide any matter relating to the provision of a termination or to exercising their right to refuse. For example, a doctor may require a woman to be examined by second doctor with relevant medical expertise or undergo additional scans or tests to confirm matters relating to the pregnancy and / or the woman’s health and/ or the foetus. This may include where the doctor, in exercising their right to refuse, will only provide medically necessary terminations over any given gestation period.
42. The draft Law provides that the pre-termination consultation must be in-person (i.e., face-to-face as opposed to remote consultation via phone or video link), however:
  - a. the Minister may, by Order, allow for remote consultation for a time limited period only, where the Minister determines it is necessary to do so (for example, during a pandemic the Minister could allow a woman to consult a health care professional via video call, with the medication than being posted to woman to take at home);

- b. the Assembly may, by Regulation, allow for remote consultation at any point, for example, if the Assembly chooses to make alternative arrangements in relation to early medical terminations (see note on early medical terminations in paragraph 43).

**43. Note: Early medical terminations / telemedicine**

An early medical termination is a medical termination that takes place before the woman is 10 weeks pregnant. Early medical terminations are widely regarded as clinically safe and effective and, as such, some jurisdictions provide less stringent controls on access to facilitate uptake in the early weeks of pregnancy.

In 2022 the UK's 1967 Act was amended on a permanent basis to provide that women in England and Wales can have an early medical termination at home without the need to attend a termination clinic or hospital. The updated 'telemedicine' arrangements provide:

- for one pre-termination consultation with a doctor, nurse or midwife, which may be by telephone or video
- the medicine to be sent by post for the woman to take at home
- any post-termination follow-up to be provided remotely, unless in-clinic care is required.

The changes to the UK Act were initially introduced in on temporary basis during COVID but were made permanent as subsequent studies<sup>8</sup> found that the telemedicine model reduced waiting times by an average of four days, with more terminations being provided at less than six weeks' gestation. In addition, studies indicate that treatment success, serious adverse events and the number of ectopic pregnancies does not differ between the telemedicine model and the traditional service model.

The draft Law mirrors the UK provisions in that only one pre-termination consultation is required, however, arrangements for a full telemedicine service are not provided for on the face of the draft Law on the basis that:

- Jersey residents do not face the same practical difficulties that can occur where they do not live in close proximity to termination services providers, hence there are less compelling reasons to provide end-to-end telemedicine termination services
- some professionals in Jersey have expressed concerns about remote consultation on the basis that the woman's pregnancy may be more advanced than the woman realises or because the woman may deliberately conceal the advancement of her pregnancy. Remote consultation does not readily support accurate determination of advancement of pregnancy, and it may be more difficult for the professional to spot other potential risks, for example, coercion – although remote consultation should never prevent a professional, having spoken to the woman, requiring the woman to attend in person.

The draft Law instead, provides that:

- the Minister may, by Order, permit telemedicine termination services on a temporary basis, or
- the Assembly may, by Regulations, permit telemedicine termination services on a permanent basis. It is anticipated that any future decision of the States to bring forward Regulations permitting end-to-end telemedicine termination services, would be based on increased societal acceptance and / or evidence that lack of remote provision is creating barriers to access in Jersey (particularly for vulnerable groups).

<sup>8</sup> [CBP-9496.pdf](#)

It is also important to be recognised that the proposed draft Law does not criminalise women whose termination does not accord with the provision of the law (unlike the UK law), and hence retaining in-person consultation may be a sensible and proportionate safeguard to counterbalance the absence of any deterrent effect associated with criminal offences should a woman deliberately conceal the advancement of her pregnancy.

Furthermore, it should be noted that respondents to the 2024 consultation were almost evenly split between whether the pre-termination consultation for early medical termination should be by phone / video link (47%) or in-person (50%), with the preference for in-person consultation rising to almost three quarters (74%) amongst people with professional experience of termination services.

### Counselling

44. The draft Law provides that before any termination is performed (except for an emergency termination) the woman must be provided information about the availability of, and access to, counselling services. A doctor who fails to ensure the woman has been provided this information before performing a termination commits an offence.
45. For the purpose of clarity, whilst the woman must be provided information about counselling, participation in counselling is not mandatory, unlike in some European countries.

### Post-termination care

46. The draft Law does not set out any requirements related to post-termination follow up. In accordance with the 1997 Law and legislation in other jurisdictions it will be for the doctor to:
  - a. determine if in-person follow up is required, and whether this should be in-person or remote; and
  - b. issue instructions to the woman on matters related to post-termination care including on matters related to the provision of urine pregnancy tests to exclude ongoing pregnancy.

### 47. **Note: Emergency terminations**

An emergency termination is a termination that is immediately necessary to save the pregnant woman's life. The draft Law provides that emergency terminations do not need to comply with various requirements including the requirement:

- a. for a woman to consent to the termination in advance (she may, for example, be unconscious);
- b. for the provision of counselling information in advance;
- c. for consultation with a second doctor in the case of termination at 22 weeks or more;
- d. for the termination to take place in an approved place.

Exemptions related to the provision of emergency terminations accord with existing provisions of the 1997 Law and with legislation in other jurisdictions.

### SECTION 3: HEALTH CARE PROFESSIONALS

#### Requirement to approve

48. The draft Law and the 1997 Law both provide that only registered medical practitioners may provide terminations in Jersey (i.e., doctors who are registered with the Jersey Care Commission), however, the 1997 Law further requires the doctor to be:
  - a. approved by the Minister for any purpose related to the 1997 Law; and
  - b. authorised by the Minister to undertake terminations.
49. This requirement for approval and / or authorisation is removed from draft Law on the basis that is out of step with:
  - a. legislation in many other jurisdictions (including the UK, New Zealand and Australia) whose laws simply set out the classes of health care professionals who can perform terminations (i.e. doctors and / or nurse) without any associated approval or authorisation requirement;
  - b. the provision of other medical procedures in Jersey. The Minister does not approve doctors who undertake more serious and complex medical procedures; this is a matter for professional practice standards and training.

#### Other professionals

50. Whilst termination services can only be provided by doctors (i.e., registered medical practitioners) the draft Law does provide Regulations and Order making powers that can be used to permit other health care professionals – including nurses, midwives and prescribing pharmacists – to provide medical terminations (but not surgical terminations).
51. Many other jurisdictions (Isle of Man, Guernsey, New Zealand, Australia and Northern Ireland) already permit other healthcare professionals to provide early medical terminations with the UK currently also permitting nurses and midwives to provide termination care with a doctor authorising the prescribing of necessary medication.
52. Permitting a broader range of professionals to perform early medical termination allows health care professionals to practice at the top of their professional competencies, which is good for professional development and staff retention and supports jurisdictions to make the most effective use of their professional workforce.
53. Consideration was given to providing on the face of the law that independent nurse prescribers (including those who are midwives) could perform medical terminations, however, making such provisions requires detailed consideration of matters related to medicine management, professional training and professional indemnity – hence the draft Law provides for the future expansion of the workforce once these matters have been addressed.
54. As such, the amended law will not provide that independent nurse prescribers (and / or other independent prescribers) may perform medical terminations at this point in time, but it will provide that the Minister may by Order amend the categories of health care professionals who may provide medical terminations, or the Assembly may do so by Regulation. The provision of Order making powers, in addition to Regulation making powers, provides the Minister flexibility to make changes in a timely manner such as the Article 14 (3) which requires the Minister to have consulted relevant professional leads and professional registration bodies in advance.

### Right to refuse to participate

55. The draft Law provides that any person may refuse to provide termination services, termination related services or associated counselling services on any grounds. They can refuse to provide:
  - a. services at any point in the pregnancy; or
  - b. in any given circumstance (for example, they could agree to provide terminations up to a given gestation period but not beyond that period).
56. This right broadly mirrors the provisions of the 1997 Law, except that a person may refuse to participate for any reason, not just on the grounds of conscious objection (i.e., a moral, ethical or religious objection).
57. The right to refuse does not extend to the provision of assistance in a medical emergency (i.e., an emergency termination is needed to immediately save the woman's life) or to provision of other medical/nursing care to a person who has requested a termination or who has had a termination.

### **58. Note: Termination services / termination related services**

The draft Law makes a distinction between termination services (i.e., ending a pregnancy by prescribing or administering medicine and performing a procedure) and termination-related services (i.e., the services that are required to provide a safe termination such as dispensing medicine or supporting surgical procedure). It does so primarily for the purpose of the right to refuse provisions, it allows, for example, a theatre nurse to refuse to support a doctor to undertake a surgical termination.

### Employment and partnership protections

59. The draft Law also introduces:
  - a. associated protections for employees and partners (for example, a partner in a GP surgery) who exercises their right to refuse to provide termination services or, conversely, who choose to provide termination services;
  - b. powers for the Assembly, by Regulations, to create civil remedies associated with a breach of those employment protections.
60. These protections, which broadly mirror those provided in the draft assisted dying law, provide that a person must not suffer any employment determinant (for example, be treated less favourably or having their employment terminated), except for where it is a condition of their contract of employment that they will provide services, and they choose not to.

## **SECTION 4: APPROVED PLACES AND SAFE ACCESS ZONES**

### Approved places

61. The draft Law provides that terminations must be performed in an approved place which broadly mirrors the provision of the 1997 Law, the UK Act and legislation in some other jurisdictions.
62. The law also provides that the Assembly may, by Regulations, provide for the Health Minister to approve places which are not automatically approved by virtue of them being facilities that are administered by the Minister, such as Jersey General Hospital.
63. Currently all terminations in Jersey are provided at the hospital unlike many other jurisdictions where terminations are regularly provided in other settings, particularly early

medical terminations. The provision of regulation making powers enables the Assembly to permit non-hospital-based terminations if it decides it is appropriate.

64. The Regulation making powers are sufficient to allow for the Assembly to make arrangements related to the inspection and regulation of any approved termination clinics in the event they are not regulated by the Jersey Care Commission (Note: the existing hospital termination service will be regulated by the Jersey Care Commission when the new Regulations under the Regulation of Care Law 2014 come into effect).

#### Safe access zones

65. The draft Law provides that the States may, by Regulations, introduce safe access zones. A safe access zone is a designated area at or around a termination clinic in which certain activities are prohibited, to protect users and providers of termination services from intimidation, harassment, or obstruction.
66. The 1997 Law makes no reference to safe access zones but 80% of respondents to the 2024 consultation thought safe access zones should be introduced in Jersey, as per UK, Australia, New Zealand, Canada and the US. Safe access zones are also proposed in the forthcoming assisted dying law.
67. The Regulation making power would permit the Assembly to:
- a. prohibit certain activities from taking place in a safe access zone (for example, activities that are intended to obstruct, harass or prevent access such as protests and demonstrations, recording or photographing people entering or leaving the premises etc);
  - b. determine activities that should not be banned (for example, silent individual prayer);
  - c. create criminal offences associated with banned activities;
  - d. permit the Minister, by Order, to design areas that are safe access zones.

### **SECTION 5: OFFENCES**

68. The draft Law abolishes any customary offences related to termination (Article 22) and introduces new offences which relate to:
- a. actions or omissions of the doctors providing termination services or termination related services (termination related services includes the services required to support provision for a termination, for example, by providing anaesthesia for a surgical termination) (Articles 6, 7 and 8); and
  - b. actions of other people in relation to termination (Article 20).

#### Offences related to actions or omissions of doctors

69. The draft Law provides that it will be an offence if a doctor:
- a. knowingly provides termination services in circumstances that do not accord with Article 3(1) of the draft Law (for example, if they provide a termination, which is not an emergency termination, at later than 22 weeks gestation on grounds other than those set out in law). They do not commit this offence if acting in good faith and within their professional duties;
  - b. provides a termination service without having secured informed consent unless it is an emergency termination;
  - c. provides a termination service without having ensured consultation requirements are complied with;

- d. prescribes medication to terminate a pregnancy unless they reasonably believe that medication will be administered in Jersey;
  - e. provides a termination service outside of an approved place;
  - f. fails to consult a second doctor if the woman is 22 weeks pregnant or more (and it is not an emergency termination) or provides a termination if the second doctor does not agree the grounds for termination;
  - g. fails to ensure the woman is provided information about the availability of counselling services;
  - h. fails to comply with requirement to report matters related to provision of terminations to the Medical Officer of Health (Article 9).
70. An offence is only committed if the doctor knowingly or recklessly does something that does not accord with the law, or if they fail to do something without reasonable excuse. The draft Law does not provide for strict liability / absolute offences (i.e., offences where there is requirement to prove intention, knowledge, or recklessness) as it recognised that doctors, when making decisions that require them to use clinical judgement, require the defence of honest and reasonable mistake. To provide otherwise would have a chilling effect on the willingness of doctors to provide termination services.
71. An addition to offences above, it will also be an offence for a doctor to:
- a. provide termination related services (i.e., supporting a surgical termination) if they know that termination does not accord with the law. They do not commit this offence if acting in good faith and within their professional duties;
  - b. state that the grounds for a termination from 22 weeks onwards are met when they know this to be false, or where they recklessly state it is the case.

#### Offences related to actions of others

72. Article 20 provides for offences that may be committed by other people (for example, the woman's partner, a third party, or a health care professional who is not permitted in law to provide terminations services).
73. These offences include internationally or recklessly taking an action that causes a termination or is likely to cause a termination (for example, administering medication or poison to a woman; using implements or devices; kicking or beating). The offence applies regardless of whether or not the woman has consented to the action (for example, the woman may have asked her parent to procure and administer abortion pills over the internet) with the associated penalty ranging from imprisonment, for the most serious of offences, to a fine for the lesser offences.
74. Furthermore, it is an offence to use force, undue threat or undue coercion in order to cause or attempt to cause a woman to have a termination. The wording of this offence (including the reference to 'undue') is cast in such a way as to ensure it does not capture, for example: a parent trying to persuade their daughter to have a termination (i.e., undue threat is required as distinct from parental anger) or a professional trying to explain the reasons why a woman may consider having a termination.

#### Pregnant woman does not commit an offence

75. Article 21 of the draft Law provides that the pregnant woman does not commit an offence in respect of any action taken in relation to her own pregnancy, which echoes Article 2 (3) of the draft Law which sets out that any action taken by a woman in relation to her own

pregnancy is not a termination for the purposes of the law. This means, for example, a woman who:

- a. consents to a termination on themselves that they know does not accord with the provisions of the law does not commit an offence;
  - b. assists in, performs or attempts to perform, a termination on themselves does not commit an offence even when that termination does not accord with the provisions of the law.
76. Providing that a woman does not commit an offence in relation to her own pregnancy accords with the legislation in Northern Island, New Zealand and Australia, but is a deviation from the existing 1997 Law which allows for criminalisation of the woman, in part because that Law is based on the now outdated provisions of the UK 1967 Act.
77. The criminalisation of women in relation to their own pregnancy is highly controversial; it is widely recognised that a woman who takes such action is highly likely to be extremely vulnerable and in urgent need of support and assistance, and that any investigation will most likely serve to compound her associated trauma.
78. Over recent years there has been a significant increase in the numbers of women subject to investigations in England and Wales (although very few of those investigations lead to conviction) which, in part, prompted the UK's Royal College of Obstetricians and Gynaecologists to issue new guidance in 2024 urging medical professionals not to report women to the police if they suspected the woman may have illegally ended their pregnancy.
79. Further to this, in June 2025, MPs voted in favour of an amendment to the UK Act to ensure that women cannot be criminalised in future, with this amendment due to come into force shortly.

## **SECTION 6: REPORTING, DUTIES OF THE MINISTER, REGULATORY POWERS**

### Reporting / published report requirements

80. The draft Law (Article 9) provides that a doctor must notify the Medical Officer of Health when they perform a termination or refer a woman to another jurisdiction for a termination. If the doctor fails to do so, they will commit an offence.
81. The Minister must, by Order:
- a. set out the information to be provided by the doctor which cannot include information that would allow the woman to be identified to protect her privacy (e.g., it cannot include her name);
  - b. set out the records which must be kept by the doctor and the associated time period. The current Order, provided under the 1997 Law, states that all references to a termination must be removed from the woman's health record after 3 years (i.e., it is a temporary record to support safe clinical practice in the period immediately following a termination but is not necessary to record beyond that period).
82. The draft Law further provides that the Medical Officer for Health must publish a report on terminations in accordance with a schedule to be set out by Order of the Minister. Currently reports are published on an annual basis and, it is envisaged that annual reporting will be required in the first 3 years post implementation of the new law to support identification of changes in service uptake and / or potential issues with the provision of termination services. After this initial period the Minister may, subject to consultation, move to report on a two-yearly basis to ensure best use of public resources (Article 13).

### Duty of the Minister to ensure provision

83. The draft Law provides that the Minister must take all reasonable steps to ensure that termination services and associated counselling services (in person or remote) are available in Jersey. This duty does not, however, extend to requiring that all services permitted under the law are available on-island where there are grounds to only provide a more limited service (for example, where it is not safe to provide services due to workforce, safety or budget constraints).
84. The draft assisted dying law similarly provides that the Minister must make every effort to establish and maintain an Assisted Dying Service, whilst recognising that there may be practical constraints to doing so. In the case of assisted dying, the Minister must present a report to the Assembly stating why an Assisted Dying Service cannot be provided in Jersey, but there is no mirroring provision in the draft termination of pregnancy law on the basis that, in the event that limited termination services are provided, Jersey residents can access more extensive services in the UK, which is not the case for assisted dying.
85. If the Minister is unable to provide all services that are lawfully permitted in Jersey, the Minister is not obligated in law to arrange or fund access to those services outside Jersey – although the Minister will fund UK access to medically necessary terminations as per current arrangements.

### Fees

86. The costs of providing HCJ's termination service is currently offset by the fees paid by women who have a termination which is not medically required. The current fees, which have not been subject to increase since 2012, are:
  - a. £185 for a woman who is qualified for free HCJ non-emergency care;
  - b. £511 for a woman who is not qualified for free HCJ non-emergency care.
87. The following groups of women are exempt from paying these fees:
  - a. under 18 years olds;
  - b. full-time students;
  - c. women living in a household in receipt of income support;
  - d. where the pregnancy is a result of rape or incest (the woman may self-declare without the need to provide evidence of rape or incest);
  - e. where the termination is medically necessary.
88. Termination has historically been a paid for service in Jersey, and there are currently no plans to provide the service free of charge (except to women who fall within one of the exempt categories). This mirrors the policy requiring women to pay for contraception, as is currently the case. Providing terminations for free could result in unintended consequences and would require further review if considered.
89. Whilst terminations are provided free of charge in the UK and France – in line with contraception policy – this is not universally the case:
  - a. in New Zealand termination is partly state funded, but women pay associated prescription and ultrasound charges;
  - b. in Australia some states charge around £400 for a termination (although some states provide terminations for free);
  - c. in Germany terminations cost around £170 to £470.

90. Terminations provided by HCJ will remain a paid-for service with the draft Law providing that fees will be set by Order, as opposed to just being a matter of ministerial policy, in order to help ensure greater transparency.
91. The power to set fees by Order only relates to services provided by the Minister or under a contract of services arranged by the Minister for Health and Social Services – if early medical terminations are, in future, provided for in state subsidised primary care settings. Fees charged by private clinics that are established in Jersey, if any, would be a matter for those clinics.

#### Amendments to the law

92. Article 14 of the draft Law provides the Assembly general powers to amend the law by Regulations in addition to the specific regulation making powers referenced in the paragraphs above. This includes the power to:
  - a. amend the gestational limits, which could include increasing or decreasing those limits (e.g., reduce the permitted limit for termination on any grounds from before 22 weeks to 16 weeks);
  - b. amend the grounds for termination;
  - c. vary any of the requirements related to the provision of termination services and related service.
93. These powers include the power to make consequential amendments to other enactments.

#### Commencement

94. The draft Law's commencement arrangements are designed to take account of the forthcoming 2026 election and the requirement to under make all necessary adjustments to operational processes. The draft Law, if adopted, will come into force on 1 September 2026 or on an earlier date specified by the Minister by Order.

### **SECTION 7: FINANCIAL AND RESOURCE IMPLICATIONS**

95. The resources required to develop and bring forward the necessary supporting Orders, and to develop Regulations and Guidance if required, will be found within existing departmental allocations.
96. Resources associated with reporting are existing costs, as reporting is currently required under the 1997 Law.
97. As set out above, women currently pay for non-medically necessary terminations in Jersey (subject to exemptions) and, on enactment of the draft Law those fees will be provided for by Order. This will not have any direct financial implications as there is no anticipated fee uplift in 2026, and the introduction of the draft Law will not drive an increase in numbers of terminations provided.
98. If HCJ's on-island services provision is extended in future to allow for later stage terminations on island, any associated resources implications will be managed either via the Government Plan process or via adjustments to the fees charged.

#### **Children's Rights Impact Assessment**

99. A Children's Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the States Assembly Website.

**Human Rights**

100. The notes on the human rights aspects of the draft Law in the **Appendix** have been prepared by the Law Officers' Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

**APPENDIX TO REPORT****Human Rights Notes on the draft Termination of Pregnancy (Jersey) Law 202-**

These Notes have been prepared in respect of the draft Termination of Pregnancy (Jersey) Law 202- (the “**draft Law**”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law is compatible with the European Convention on Human Rights (“**ECHR**” or the “**Convention**”).

**These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.**

**Introduction**

1. This memorandum sets out our advice on the compatibility of the draft Law with the European Convention on Human Rights (the “**ECHR**” or the “**Convention**”).
2. For the reasons set out below, we consider that the draft Law is compatible with the Convention. The Solicitor General has also confirmed that he is content with the criminal penalties proposed in the draft Law. Suggested human rights notes for publication as an appendix to the Minister’s report in the *Projet de loi* are provided in Schedule 1 at the end of this advice.
3. The draft Law, if adopted, would replace the Termination of Pregnancy (Jersey) Law 1997 and the Termination of Pregnancy (General Provisions) (Jersey) Order 2005. The draft Law also abolishes the customary law of the Island concerning abortion.
4. The draft Law engages certain articles of the ECHR and an outline analysis of each right as it is engaged by the draft Law is provided below. It is our view in respect of the draft Law that any potential interferences can be justified in principle and as such the draft Law is compatible with the Convention. Accordingly, the Minister can make the compatibility statement required by Article 16(1)(a) of the Human Rights (Jersey) Law 2000.
5. No decision to terminate a pregnancy will be an easy one. However, it might perhaps be argued that the practical effect of the draft Law is to make it easier, as a matter of practice, to proceed with the termination of a pregnancy. While there may be different political and philosophical perspectives on whether that is appropriate, the ECHR has no material bearing on the determination of this issue in relation to the draft Law.

**C. Article 2 ECHR: The right to life**

Given the subject matter of the draft Law, Art 2 ECHR is the most obviously engaged right prescribed by the ECHR with regard to the Law as a whole.

1. Article 2(1) of the Convention states:

*“1. Everyone’s right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.”*
2. The right in Article 2 is fundamental to the other rights afforded under the ECHR. However, unlike some other human rights instruments Article 2 is silent as to the temporal limitations of the right to life and does not define “everyone” whose “life” is protected.

3. In *Vo v. France the European Court of Human Rights* (the “Court”) reviewed its previous decisions in relation to abortion and held that:  
*“the unborn child is not regarded as a “person” directly protected by Article 2 of the Convention and that if the unborn do have a “right” to “life”, it is implicitly limited by the mother’s rights and interests.”*
4. The Court in *Vo* went on to hold that in the absence of any European consensus on the scientific and legal definition of the beginning of life, that it is within the margin of appreciation that States enjoy, to determine the extent of protection accorded to the right to life of an unborn child under national law. Consequently, in *Vo*, where the applicant had to undergo a therapeutic abortion because of medical negligence, the Court considered it unnecessary to examine whether the abrupt end to the applicant’s pregnancy fell within the scope of Article 2 of the ECHR.
5. Following this theme, in *Evans v. the United Kingdom*, where the applicant complained that British legislation authorised her ex-partner to withdraw his consent to the storage and use of jointly created embryos, the Court found that, under English law, an embryo did not have independent rights or interests and could not claim – or have claimed on its behalf – a right to life under Article 2 of the ECHR.
6. It follows from the principles above that the draft Law does not give rise to issues of compatibility with Article 2 of the ECHR.

#### **B. Article 5 ECHR: The right to liberty and security**

1. The criminal offences prescribed under Articles 6, 7, 8 and 20 of the draft Law engage Article 5 ECHR in relation to a person’s arrest on suspicion of committing an offence, as well as where the imposition of a custodial sentence is available to the Royal Court, following conviction; in either case, there is potential for the individual to be deprived of their liberty.
2. Article 5 of the ECHR concerns the right to liberty and security with Article 5(1) providing, inter alia:
  - “1. *Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:*
    - (b) *the lawful detention of a person after conviction by a competent court;*
    - (c) *the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so; ...”*
3. Article 5(1)(a) ECHR provides for the deprivation of a person’s liberty resulting from their lawful detention after conviction by a competent court. Article 5(1)(c) ECHR provides for the deprivation of a person’s liberty resulting from their lawful arrest and detention for the purpose of bringing him before a competent legal authority on reasonable suspicion of having committed an offence. The arrest and detention of a person accused or convicted of the offences is compatible with Article 5(1)(a) and (c) ECHR as it would be in accordance with a procedure prescribed by law, i.e. in accordance with the draft Law and the criminal justice system of Jersey.
4. Whilst it is for the State, not the Court, to decide what the appropriate sentence in law for any given offence is, the maximum penalty must not be arbitrary. The offences are capable

of being committed only in the clearly defined circumstances set out in Articles 6, 7, 8 and 20 of the draft Law. The proposed penalties for the offences are proportionate to the nature and severity of the offending, for example, a maximum penalty of life imprisonment where a registered medical practitioner knowingly or recklessly provides termination services in circumstances other than those set out in Article 3(1) (Article 6(1)) but a maximum penalty of a fine on level 3 of the standard scale for breaching reporting requirements (Article 9). Therefore, any deprivation of liberty resulting from a sentence of imprisonment will not be arbitrary. Further, the Court will be able to take account of all the relevant circumstances of the offence and the offender in the usual way when handing down a sentence, which provides an important safeguard for Article 5 ECHR purposes. Moreover, the procedural safeguards required by Article 5(2) to (4) ECHR will be assured through the ordinary procedures of the criminal justice system in Jersey law.

5. Given that the penalties are prescribed by law and would only be imposed after a conviction by a competent Court, the potential penalty of imprisonment provided for in Articles 6, 7, 8 and 20 of the draft Law would be an authorised deprivation of liberty under Article 5(1)(a) ECHR and therefore do not raise any issues of compatibility.

### C. Article 6 ECHR: The right to a fair trial

1. Article 6(2) of the Convention is engaged by Articles 6, 7, 8 and 20 of the draft Law. Article 6 of the ECHR concerns the right to a fair trial with Article 6(1) providing, inter alia:

*“In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.”*

2. Article 6(2) of the Convention provides that:

*“Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.”*

3. However, Article 6(2) of the draft Law provides:

*“A registered medical practitioner does not commit an offence under paragraph (1) if the practitioner, acting in good faith and within their professional duties, reasonably believes that the termination services are provided in the circumstances described in Article 3(1).”*

4. Article 7(3) of the draft Law provides:

*“A person does not commit an offence under paragraph (2) if the person, acting in good faith and within their professional duties, reasonably believes that the termination services are provided in the circumstances described in Article 3(1).”*

5. The defence to each of the above offences is based around a reverse burden of proof as it is for the defendant to prove that an element of the offence is not applicable i.e. that he held a reasonable belief that the circumstances described in Article 3(1) existed, and did not provide the termination or termination-related services either knowingly or recklessly as to whether those circumstances did exist, which would avoid the criminal conduct being made out.
6. The European Court of Human Rights has stated that moving the burden of proof from the prosecution to the defendant is a violation of the principles relating to the presumption of innocence. However, Article 6(2) of the Convention does not prohibit statutory provisions

which transfer the burden of proof to the accused to establish the defence, provided the overall burden of establishing guilt remains with the prosecution. Any rule transferring the burden of proof must be confined within “reasonable limits which take into account the importance of what is at stake and maintain the rights of the defence”. When determining this issue, the question is whether the burden imposed on the accused relates to something which is likely to be within his knowledge or to which he has ready access. The defendant is likely to have knowledge of the relevant circumstances required to prove the defence as the defences rely upon the reasonable belief of the defendant at the time of the termination. Therefore, only a defendant can speak to why, and on what basis, he believed the gestational age of the foetus to be at the time of the termination, as well as what informed his opinion as to which of the grounds in Article 3(1)(b) were applicable for example, why did he believe the termination to be necessary to save the pregnant woman’s life or to prevent a significant risk of injury to her physical or mental health. A defendant wishing to avail themselves of the defence provisions should therefore be able to explain and evidence his reasoning. As such, there is no incompatibility with the ECHR arising from the offences prescribed by the draft Law.

**D. Article 8 ECHR: Right to respect for private and family life, home and correspondence**

1. Article 8 is engaged predominantly by virtue of Articles 3, 4 and 5 of the draft Law as the requirements of these Articles, as applicable in the individual’s circumstances, must be complied with in order to be provided with a termination. The necessity for such compliance restricts an individual’s ability to be provided with termination services or termination-related services and thereby interferes with the individual’s private life. Article 8 of the Convention provides that:
  - “1. *Everyone has the right to respect for his private and family life, his home and his correspondence.*
  2. *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*”
2. The ECtHR has found that the notion of “private life” within the meaning of Article 8 of the Convention is a broad concept which encompasses, inter alia, the right to personal autonomy and personal development, a person’s physical and psychological integrity, as well as decisions to have or not have a child or to become genetic parents. Further, that legislation regulating the termination of pregnancy touches upon the sphere of a woman’s private life, since whenever a woman is pregnant, her private life becomes closely connected with the developing foetus. A woman’s right to respect for her private life should be weighed against other competing rights and freedoms invoked, including those of the unborn child, as in A3 above. Accordingly, while Article 8 cannot be interpreted as conferring a right to abortion, abortion sought for reasons of health and well-being comes within the scope of the right to respect for private life.
3. Any interference with the Article 8(1) ECHR right must be justified under Article 8(2) of the Convention, meaning it must be: (a) in accordance with the law; (b) in pursuit of one of the legitimate aims set out in Article 8(2); and (c) necessary in a democratic society. ‘Necessity’ requires the identification of a pressing social need and the existence of “relevant and sufficient” reasons to justify the interference at issue. A measure will only be proportionate to the legitimate aim if supported by sufficiently persuasive reasons.

4. The draft Law may be interpreted as an interference with the right to respect for private life by prescribing the circumstances in which and the conditions on which, a termination of pregnancy may be lawfully carried out. However, the interference will be deemed ‘in accordance with the law’; those powers will have a basis in domestic law and can be viewed as sufficiently precise and accessible, therefore being foreseeable. The interference pursues the legitimate aims of the protection of morals and the rights and freedoms of others including the protection of pre-natal life, as well as the protection of health, given the obligations placed upon those providing termination services and termination related services. As to whether there is a “pressing social need” for the interference, the State enjoys a wide margin of appreciation, which will vary in the light of the nature of the issues and the seriousness of the interests at stake. A restriction on a Convention right cannot be regarded as “necessary in a democratic society” – two hallmarks of which are tolerance and broadmindedness – unless, amongst other things, it is proportionate to the legitimate aim pursued. The required proportionality is demonstrated by the imposition of additional reasoning in Articles 3(1)(b) of the draft Law where a termination is sought at 22 weeks or more, as well as the additional safeguards imposed for such terminations by Article 5 of the draft Law, with the termination being carried out at an approved place, with the agreement of a second medical practitioner as to the reasoning and the obligation for the woman to be given information and access to counselling services. The draft Law seeks to balance the rights between the pregnant individual and the unborn foetus, proportionately, by placing, quite limited, restrictions on the circumstances in which a mother may be provided with a termination, with the restrictions themselves being required to protect the mother and /or the unborn foetus. Therefore, the interference in the Article 8 right would be justified.

#### **E. Article 9 ECHR: Freedom of thought, conscience and religion**

1. Article 9 ECHR is engaged by Articles 10 and 11 of the draft Law, which give a person the right to refuse to provide termination services, termination-related services or counselling services in connection with termination services (Article 10 of the draft Law) and provides employment and partnership protections where that right is exercised (Article 11 of the draft Law).

Article 9 ECHR provides:

1. *Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.*
  2. *Freedom to manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.*
2. The Court has emphasised the importance of freedom of thought, conscience and religion on many occasions and this right is one of the foundations of democratic society and the European Commission of Human Rights, being the predecessor to the Court, acknowledged that Article 9 ECHR may be applicable to beliefs that oppose terminations. Whilst Article 9(1) ECHR is an absolute right, not all interference with its exercise will be a breach, given the provisions of Article 9(2) ECHR. However, where there is interference, it must be strictly within the terms of the latter; there must be a legitimate aim behind the interference. Articles 10 and 11 of the draft Law give effect to Article 9(1) ECHR, by granting a right to

refuse and providing protections where that right is exercised but the right is subject to Article 10(2)(b) of the draft Law, which provides:

“(2) *The right to refuse –*

*(b) does not override a duty that a person has to –*

- (i) provide prompt and appropriate medical assistance to a person in a medical emergency; or*
- (ii) provide other medical or nursing care to a person who has requested a termination or has had a termination.”*

The foregoing limitation is in accordance with Article 9(2) ECHR given that it’s prescribed by law and is clearly necessary in the interests of public safety for the protection of the health of a pregnant woman and/or the health of a woman who has undergone a termination. Therefore, the interference with Article 9(1) would be justified in accordance with Article 9(2) ECHR.

## EXPLANATORY NOTE

---

This Law, if adopted, would replace the Termination of Pregnancy (Jersey) Law 1997. It provides for the circumstances in which a termination may legally be performed and introduces offences related to providing terminations outside of those circumstances.

*Part 1* (interpretation) contains *Articles 1 and 2*.

*Article 1* is the general interpretation provision. It defines terms used in the Law, including “approved place”, “Minister”, “pregnant woman” and “termination”.

*Article 2* defines “termination services” and “termination-related services” and provides that those terms do not include an action taken by a pregnant woman in relation to her own pregnancy.

*Part 2* (provision of termination services) contains *Articles 3 to 9*.

*Article 3* sets out the circumstances in which a registered medical practitioner may provide termination services. A registered medical practitioner may provide termination services if, at the time of the termination, the gestational age of the foetus is less than 22 weeks without any other criteria needing to be met. If the gestational age of the foetus is 22 weeks or more, a registered medical practitioner may provide termination services only if certain circumstances (set out in paragraph (1)(b)) apply. A registered medical practitioner must obtain consent before performing a termination.

*Article 4* sets out the requirements that a termination of a foetus with a gestational age of less than 22 weeks must comply with. The termination services must be provided in an approved place. Before the termination, the pregnant woman must have consulted, in person, a registered medical practitioner and been provided with information about counselling services. If the termination is performed by administering medication, a registered medical practitioner must not prescribe the medication unless they reasonably believe that the medication will be administered in Jersey and in accordance with their instructions.

*Article 5* sets out the requirements that a termination of a foetus with a gestational age of 22 weeks or more must comply with. The termination services must be provided in an approved place. Before the termination, the pregnant woman must have consulted, in person, a registered medical practitioner (the “first practitioner”), the first practitioner must have consulted another medical practitioner and both practitioners must agree that 1 of the required circumstances applies. The pregnant woman must also be provided with information about counselling services before the termination is performed.

*Article 6* contains offences for registered medical practitioners who provide termination services other than as allowed by the Law. The penalties for these offences range from imprisonment for 5 years to life imprisonment.

*Article 7* contains an offence for people who, in their professional capacity, provide termination-related services, if those services are provided in relation to a termination that is not allowed by the Law. A person who commits this offence is liable to imprisonment for a term of 7 years and to a fine.

*Article 8* contains an offence for a medical practitioner who is consulted in relation to a termination of a foetus with a gestational age of 22 weeks or more and who gives false or reckless information. A person who commits this offence is liable to imprisonment for a term of 5 years and to a fine.

*Article 9* requires a registered medical practitioner who provides termination services to notify the Medical Officer of Health of each termination that the practitioner performs and of each referral made by that practitioner for a person to receive a termination outside of Jersey. Failure to notify the Medical Officer of Health, or failure to comply with an Order made by the Minister

for Health and Social Services (the “Minister”) under this Article, is an offence with a penalty of a fine of level 3 on the standard scale.

*Part 3* (right to refuse and employment protections) contains *Articles 10 and 11*.

*Article 10* provides that a person may, on any grounds, refuse to provide termination services, termination-related services or counselling services provided in connection with termination services.

*Article 11* requires an employer to ensure that an employee does not suffer an employment detriment (defined in paragraph (2)) as a result of the employee providing, or refusing to provide, termination services, termination-related services or counselling services provided in connection with termination services. An equivalent obligation is imposed on partnerships in respect of partners.

*Part 4* (duties of minister, annual reports, Regulations, Orders and guidance) contains *Articles 12 to 19*.

*Article 12* requires the Minister to take all reasonable steps to ensure that termination services, termination-related services and counselling services provided in connection with those services are available in Jersey. But the Minister may provide a limited range of services if certain conditions are met. The Minister is permitted to charge fees for the services.

*Article 13* allows the Minister to require the Medical Officer of Health to publish reports on termination services provided in Jersey.

*Article 14* allows for the Law to be amended by Regulations or Order. The States may amend the Law by Regulations to amend the gestational age limits in Article 3; amend the grounds on which termination services may be provided; introduce a gestational age limit beyond which termination services must not be provided; impose, remove or vary requirements that termination services and termination-related services must comply with; allow certain people other than registered medical practitioners to provide certain termination services; and to create or amend criminal offences. The Minister may, by Order, amend the Law to allow certain people other than registered medical practitioners to provide certain termination services and to create or amend criminal offences to apply to those people. The Minister may also, in temporary extraordinary circumstances such as a pandemic, amend the Law by Order to temporarily remove or vary requirements that termination services and termination-related services must comply with.

*Article 15* allows the States to make Regulations to provide for the Minister to approve places for the provision of termination services and to impose obligations on operators of approved places. Regulations may confer Order making powers on the Minister.

*Article 16* allows the States to make Regulations to provide for safe access zones at or around approved places.

*Article 17* allows the Minister, by Order, to provide for fees to be charged for termination services, termination-related services or counselling services provided in connection with termination services.

*Article 18* allows Regulations and Orders made under the Law to make consequential amendments to this Law and to other enactments.

*Article 19* allows the Minister to issue guidance for registered medical practitioners, operators of approved places or any other person who has a function or duty under the Law. A person does not necessarily breach the Law if they do not comply with guidance, but the person’s compliance or breach of guidance may be used as evidence in the prosecution of an offence or in disciplinary proceedings about the person’s practice by their employer or a body that regulates their profession.

*Part 5* (further offences, abolition of customary law offence of abortion, repeals, citation and commencement) contains *Articles 20 to 24*.

*Article 20* contains an offence for a person who is not a registered medical practitioner who intentionally or recklessly takes an action that causes a termination. A person who commits this offence is liable to imprisonment for a term of 14 years and to a fine, if the pregnant woman consented to the action with the knowledge that it could result in the termination, or to life imprisonment if the woman did not consent. Article 20 also contains an offence for a person who forces, threatens or coerces a pregnant woman to have a termination. A person who commits this offence is liable to life imprisonment.

*Article 21* makes it clear that a pregnant woman does not commit an offence under the Law in respect of any action taken in relation to her own pregnancy.

*Article 22* abolishes any customary law offence relating to abortion.

*Article 23* repeals the Termination of Pregnancy (Jersey) Law 1997 and the Termination of Pregnancy (General Provisions) (Jersey) Order 2005.

*Article 24* gives the title of the Law and provides that it comes into force on 1 September 2026 or on an earlier date specified by the Minister by Order.



Jersey

## DRAFT TERMINATION OF PREGNANCY (JERSEY) LAW 202-

### Contents

#### Article

<b>PART 1</b>		<b>33</b>
<hr/>		
	INTERPRETATION	33
1	Interpretation .....	33
2	Termination services and termination-related services .....	34
<b>PART 2</b>		<b>34</b>
<hr/>		
	PROVISION OF TERMINATION SERVICES	34
3	Circumstances in which termination services may be provided .....	34
4	Requirements for terminations before 22 weeks .....	35
5	Requirements for terminations from 22 weeks onwards .....	36
6	Offences related to provision of termination services by registered medical practitioners.....	36
7	Offences related to termination-related services .....	37
8	Offence of providing false or reckless information .....	37
9	Reporting requirements .....	37
<b>PART 3</b>		<b>38</b>
<hr/>		
	RIGHT TO REFUSE AND EMPLOYMENT PROTECTIONS	38
10	Right to refuse to provide termination services .....	38
11	Employment and partnership protections .....	38
<b>PART 4</b>		<b>40</b>
<hr/>		
	DUTIES OF MINISTER, REPORTS, REGULATIONS, ORDERS AND GUIDANCE	40
12	Minister to ensure provision of termination services .....	40
13	Reporting on termination services .....	40
14	Amendment of this Law by Regulations or Order .....	41
15	Approved places Regulations.....	42
16	Safe access zones Regulations .....	43
17	Fees Orders .....	43
18	Regulations and Orders may make consequential amendments to this Law and other enactments .....	43

---

19	Guidance .....	43
<b>PART 5</b>		<b>44</b>
FURTHER OFFENCES, ABOLITION OF CUSTOMARY LAW OFFENCE OF ABORTION, REPEALS, CITATION AND COMMENCEMENT		44
20	Further offences .....	44
21	Pregnant woman does not commit offence in relation to termination .....	44
22	Customary law offence of abortion abolished .....	44
23	Repeals.....	44
24	Citation and commencement .....	44



Jersey

## DRAFT TERMINATION OF PREGNANCY (JERSEY) LAW 202-

A LAW to replace the [Termination of Pregnancy \(Jersey\) Law 1997](#), to provide for the circumstances in which a termination may be legally performed and to introduce offences related to providing terminations outside of those circumstances.

---

<i>Adopted by the States</i>	<i>[date to be inserted]</i>
<i>Sanctioned by Order of His Majesty in Council</i>	<i>[date to be inserted]</i>
<i>Registered by the Royal Court</i>	<i>[date to be inserted]</i>
<i>Coming into force</i>	<i>[date to be inserted]</i>

**THE STATES**, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following Law –

### PART 1

#### INTERPRETATION

#### 1 Interpretation

In this Law –

“approved place” –

- (a) in relation to the termination of a foetus that has a gestational age of less than 22 weeks, means –
  - (i) a place administered by the Minister for the purposes of delivering health services; or
  - (ii) a place approved by the Minister in accordance with Regulations made under Article 15; or
- (b) in relation to the termination of a foetus that has a gestational age of 22 weeks or more, means –
  - (i) a hospital administered by the Minister; or
  - (ii) a hospital approved by the Minister in accordance with Regulations made under Article 15;

“emergency termination” means a termination that is immediately necessary to save the pregnant woman’s life;

“Minister” means the Minister for Health and Social Services;

“Medical Officer of Health” means the person appointed under Article 10 of the Loi (1934) sur la Sante Publique;

“pregnant woman”, in relation to a termination, means the person who is pregnant with the foetus that is to be terminated;

“registered medical practitioner” means a person registered as a medical practitioner under the [Medical Practitioners \(Registration\) \(Jersey\) Law 1960](#);

“termination”, in relation to a pregnancy, means intentionally ending the pregnancy by any means but does not include –

- (a) a procedure to induce the birth of a live foetus if, having regard to the level of care available, the person performing the procedure reasonably believes the foetus is capable of surviving outside of the uterus;
- (b) a procedure to remove a dead foetus; or
- (c) the use of a method of contraception to prevent an embryo from being conceived or implanted;

“termination services” is defined in Article 2(1);

“termination-related services” is defined in Article 2(2).

## **2 Termination services and termination-related services**

- (1) “Termination services” means –
  - (a) prescribing or administering medication to terminate a pregnancy; or
  - (b) performing a procedure to terminate a pregnancy.
- (2) “Termination-related services” means services that are not termination services, but are provided in direct connection with a termination and are required for the performance of the termination, including –
  - (a) dispensing medication that has been prescribed to terminate a pregnancy;
  - (b) providing anaesthesia or sedation;
  - (c) providing operative or procedural assistance; or
  - (d) undertaking essential monitoring, imaging or stabilisation before, during or after the procedure.
- (3) An action taken by a pregnant woman in relation to her own pregnancy is not a termination service or a termination-related service.

## **PART 2**

### **PROVISION OF TERMINATION SERVICES**

## **3 Circumstances in which termination services may be provided**

- (1) A registered medical practitioner may provide termination services if –
  - (a) the gestational age of the foetus at the time of the termination is less than 22 weeks; or
  - (b) the gestational age of the foetus at the time of the termination is 22 weeks or more and, in the reasonable opinion of the registered medical practitioner –

- (i) the termination is necessary to save the pregnant woman's life;
  - (ii) the termination is necessary to prevent a significant risk to the survival of another foetus from the same pregnancy;
  - (iii) the termination is necessary to prevent a significant risk of serious injury to the pregnant woman's physical or mental health; or
  - (iv) the foetus has, or has a significant risk of, a serious foetal anomaly.
- (2) In forming an opinion as to whether a circumstance in paragraph (1)(b) applies, the registered medical practitioner must have regard to any guidance issued by the Minister on the matter.
- (3) In paragraph (1)(b)(iv), "serious foetal anomaly" means that –
- (a) the foetus is likely to die before, during or shortly after birth; or
  - (b) if born, the foetus would be likely to have a serious disability due to a physical or mental impairment.
- (4) A registered medical practitioner who provides termination services must ensure that, except in the case of an emergency termination –
- (a) the medical practitioner has obtained the necessary consent; and
  - (b) the termination services comply with –
    - (i) Article 4, if the gestational age of the foetus is less than 22 weeks; or
    - (ii) Article 5, if the gestational age the foetus is 22 weeks or more.
- (5) A medical practitioner has obtained the necessary consent if –
- (a) the pregnant woman is aged 16 years or over and does not lack capacity and has given her informed consent;
  - (b) the pregnant woman is aged 16 years or over and lacks capacity and the medical practitioner has complied with the [Capacity and Self-Determination \(Jersey\) Law 2016](#); or
  - (c) the pregnant woman is aged under 16 years and –
    - (i) does not lack capacity, has given her informed consent and the medical practitioner is satisfied that the woman understands the nature and implications of having a termination; or
    - (ii) the medical practitioner has obtained informed consent from a person who is legally authorised to make medical decisions on behalf of the woman.
- (6) In this Article, "informed consent" means consent given freely after receiving information on the risk and benefits of termination.

#### **4 Requirements for terminations before 22 weeks**

- (1) This Article applies to the termination of a foetus that has a gestational age of less than 22 weeks.
- (2) The termination services must be provided at an approved place.
- (3) A termination must not be performed unless the pregnant woman has consulted, in person, a registered medical practitioner (regardless of whether that registered medical practitioner is the person who provides the termination services).
- (4) If the termination is performed by administering medication, a registered medical practitioner must not prescribe the medication unless they reasonably believe that

the medication will be administered in Jersey and in accordance with the registered medical practitioner's instructions.

- (5) Before the termination is performed, the pregnant woman must be provided with information about the availability of, and access to, counselling services.
- (6) Nothing in this Article prevents a registered medical practitioner from taking any other steps they consider necessary in order to decide any matter relating to the provision of the termination services or whether to exercise their right to refuse in Article 10.

## **5 Requirements for terminations from 22 weeks onwards**

- (1) This Article applies to the termination of a foetus that has a gestational age of 22 weeks or more.
- (2) The termination services must be provided at an approved place.
- (3) A registered medical practitioner must not provide termination services unless, before providing the services –
  - (a) the pregnant woman has consulted, in person, a registered medical practitioner (the “first practitioner”);
  - (b) the first practitioner has consulted another medical practitioner (the “second practitioner”) who, in the reasonable opinion of the first practitioner, has the appropriate professional knowledge, experience and qualifications to consult on the matter; and
  - (c) the second practitioner agrees that Article 3(1)(b) applies, on the same grounds that the registered medical practitioner believes that provision applies.
- (4) The second practitioner does not need to be registered in Jersey but must be registered in the jurisdiction in which they provide health services.
- (5) Before the termination is performed, the pregnant woman must be provided with information about the availability of, and access to, counselling services.

## **6 Offences related to provision of termination services by registered medical practitioners**

- (1) A registered medical practitioner who, except in the case of an emergency termination, knowingly or recklessly provides termination services in circumstances other than those described in Article 3(1) commits an offence and is liable to life imprisonment.
- (2) A registered medical practitioner does not commit an offence under paragraph (1) if the practitioner, acting in good faith and within their professional duties, reasonably believes that the termination services are provided in the circumstances described in Article 3(1).
- (3) A registered medical practitioner who knowingly or recklessly provides termination services without the necessary consent required by Article 3(4)(a) commits an offence and is liable to life imprisonment and to a fine.
- (4) A registered medical practitioner commits an offence and is liable to imprisonment for a term of 7 years and to a fine if –
  - (a) the registered medical practitioner provides termination services in circumstances in which Article 4(3) applies; and

- (b) the registered medical practitioner knows that Article 4(3) has not been complied with or is reckless as to whether Article 4(3) has been complied with.
- (5) A registered medical practitioner who prescribes medication to terminate a pregnancy without reasonably believing that the medication will be administered in Jersey and in accordance with the registered medical practitioner's instructions commits an offence and is liable to imprisonment for a term of 5 years and to a fine.
- (6) A registered medical practitioner who, except in the case of an emergency termination, knowingly or recklessly provides termination services outside of an approved place commits an offence and is liable to imprisonment for a term of 5 years and to a fine.
- (7) A registered medical practitioner commits an offence and is liable to imprisonment for a term of 5 years and to a fine if –
  - (a) the registered medical practitioner provides termination services in circumstances in which Article 5(3) applies; and
  - (b) the registered medical practitioner knows that Article 5(3) has not been complied with or is reckless as to whether Article 5(3) has been complied with.
- (8) A registered medical practitioner who, without reasonable excuse, fails to ensure that a pregnant woman is provided with information about counselling services under Article 4(5) or 5(5) commits an offence and is liable to imprisonment for a term of 5 years and to a fine.

## **7 Offences related to termination-related services**

- (1) This Article applies to a person who, in their professional capacity, provides termination-related services.
- (2) A person who, except in the case of an emergency termination, knowingly or recklessly provides termination-related services in circumstances other than those described in Article 3(1) commits an offence and is liable to imprisonment for a term of 7 years and to a fine.
- (3) A person does not commit an offence under paragraph (2) if the person, acting in good faith and within their professional duties, reasonably believes that the termination services are provided in the circumstances described in Article 3(1).

## **8 Offence of providing false or reckless information**

A medical practitioner who is consulted under Article 5(3) (referred to in that Article as the “second practitioner”) commits an offence and is liable to imprisonment for a term of 5 years and to a fine if the medical practitioner states that Article 3(1)(b) applies, knowing, or being reckless as to whether, that is false.

## **9 Reporting requirements**

- (1) A registered medical practitioner who provides termination services must notify the Medical Officer of Health of each termination performed by the practitioner and each referral made for a person to receive a termination outside of Jersey.
- (2) The Minister must, by Order, prescribe –
  - (a) the information that must be contained in the notification;
  - (b) the manner in which and the time by which a notification must be made;

- (c) records that a registered medical practitioner must, or must not, keep in relation to the provision of termination services; and
  - (d) the length of time for which records must be retained, or after which records must be destroyed.
- (3) A registered medical practitioner commits an offence and is liable to a fine of level 3 on the standard scale if the registered medical practitioner –
- (a) fails to notify the Medical Officer of Health under paragraph (1); or
  - (b) fails to comply with a requirement of an Order made under paragraph (2).
- (4) Before making an Order, the Minister must consult –
- (a) the Medical Officer of Health; and
  - (b) any person who the Minister determines is responsible for monitoring the safety, efficiency and effectiveness of termination services provided in Jersey.
- (5) An Order must not require a registered medical practitioner to provide information that would identify a person who has received termination services.

### **PART 3**

#### **RIGHT TO REFUSE AND EMPLOYMENT PROTECTIONS**

##### **10 Right to refuse to provide termination services**

- (1) A person may, on any grounds –
- (a) refuse to provide termination services, termination-related services or counselling services provided in connection with termination services; or
  - (b) refuse to provide termination services, termination-related services or counselling services provided in connection with termination services except in certain circumstances (for example, a person may refuse to provide services after a certain gestational age, or may choose to provide services only if the pregnant woman's life is at risk).
- (2) The right to refuse –
- (a) overrides any obligation under another Article of this Law or under a contract (of employment or otherwise); but
  - (b) does not override a duty that a person has to –
    - (i) provide prompt and appropriate medical assistance to a person in a medical emergency; or
    - (ii) provide other medical or nursing care to a person who has requested a termination or has had a termination.
- (3) A registered medical practitioner who refuses to provide termination services must, if requested to provide termination services or to provide information about termination services, comply with any guidance issued by the Minister about how to respond to the request.

##### **11 Employment and partnership protections**

- (1) An employer must ensure that there is no employment detriment to their employee as a result of the employee's actual or potential –

- (a) provision of termination services or termination-related services;
  - (b) exercise of the right to refuse to provide termination services or termination-related services under Article 10.
- (2) There is an employment detriment to an employee if –
- (a) the employer decides not to employ them or to end their employment; or
  - (b) they are treated less favourably in that employment.
- (3) There is no employment detriment to an employee if –
- (a) it is a condition of the employment contract that the employee provide the services; and
  - (b) either –
    - (i) the employer decides not to employ the employee because the employer believes that the employee has exercised, or will exercise, the right to refuse to provide the services under Article 10; or
    - (ii) the employer ends the employee’s employment because the employee has exercised the right to refuse to provide the services under Article 10.
- (4) A partner in a partnership must ensure that there is no partnership detriment to another partner as a result of the other partner’s actual or potential –
- (a) provision of termination services or termination-related services; or
  - (b) exercise of the right to refuse to provide termination services or termination-related services under Article 10.
- (5) There is a partnership detriment to a partner if –
- (a) they are not invited to become a partner in the partnership;
  - (b) they are offered less favourable terms or conditions in being invited to become a partner in the partnership;
  - (c) their access to a benefit arising from being a partner in the partnership is denied or limited;
  - (d) they are expelled from the partnership; or
  - (e) they are otherwise treated less favourably, or subjected to any other detriment, in the partnership.
- (6) There is no partnership detriment to a partner if –
- (a) it is a condition of the partnership agreement that the partner provide the services; and
  - (b) either –
    - (i) the partnership decides not to invite the partner to join the partnership because the partnership believes that the partner has exercised, or will exercise, the right to refuse to provide the services under Article 10; or
    - (ii) the partnership expels the partner from the partnership because the partner has exercised the right to refuse to provide the services under Article 10.
- (7) In this Article –
- “employment” –
- (a) has the meaning given in the [Employment \(Jersey\) Law 2003](#), including as affected by Article 1A of that Law;

- (b) for a natural person to whom Article 1(2)(a) and (c) of that Law apply (if they are supplied by an agent to do work for a principal), includes both –
  - (i) their relationship with the agent; and
  - (ii) their relationship with the principal; and
- (c) includes prospective employment;  
“partnership” –
  - (a) means a partnership described in Article 12(4) of the [Discrimination \(Jersey\) Law 2013](#); and
  - (b) includes prospective partnership.
- (8) The States may, by Regulations, create a civil remedy, for an employee or a partner who experiences detriment under this Article, that can be awarded by a tribunal or a court, including matters such as –
  - (a) a right to compensation or continued employment or partnership (as under Article 77 of the [Employment \(Jersey\) Law 2003](#), for example); and
  - (b) provision for appeals.

## PART 4

### DUTIES OF MINISTER, REPORTS, REGULATIONS, ORDERS AND GUIDANCE

#### 12 Minister to ensure provision of termination services

- (1) The Minister must take all reasonable steps to ensure that termination services, termination-related services and counselling services provided in connection with those services are available in Jersey.
- (2) This Article does not require the Minister to ensure that all termination services and termination-related services permitted under this Law are available in Jersey if the Minister reasonably believes that there are grounds to provide a more limited range of services because –
  - (a) it is not possible to provide certain services safely due to limitations in the workforce or facilities available in Jersey;
  - (b) the resources required to provide certain services cannot reasonably be expended within available government funds.
- (3) This Article does not prevent the Minister from charging fees for the provision of termination services, termination-related services and counselling services provided in connection with those services.
- (4) This Article does not require the Minister to pay, or make arrangements, for Jersey residents to access termination services or termination-related services in another jurisdiction (but does not prevent the Minister from doing so).
- (5) In this Article, counselling services are “available in Jersey” if a person is able to access the service in person or remotely from within Jersey.

#### 13 Reporting on termination services

- (1) The Minister may, by Order, require the Medical Officer of Health to publish a report on termination services provided in Jersey on or by a specified date.

- (2) The Medical Officer of Health must publish a report in compliance with the Order.
- (3) The report –
  - (a) must contain information that the Medical Officer of Health considers supports the identification of trends or potential issues with the provision of termination services; but
  - (b) must not include information that could identify a person who has received termination services.

#### **14 Amendment of this Law by Regulations or Order**

- (1) The States may, by Regulations, amend this Law to –
  - (a) amend the gestational age limits in Article 3(1);
  - (b) amend the grounds on which termination services may be provided under Article 3(1)(b);
  - (c) introduce a gestational age limit beyond which termination services must not be provided on any grounds;
  - (d) impose, remove or vary requirements that termination services and termination-related services must comply with;
  - (e) allow a person who is registered under the [Health Care \(Registration\) \(Jersey\) Law 1995](#) or a person who is registered under the [Pharmacists and Pharmacy Technicians \(Registration\) \(Jersey\) Law 2010](#) to provide termination services that consist of prescribing or administering medication up to a specified gestational age; and
  - (f) provide for any other matter that the States consider necessary to give effect to the purpose of this Law or any of its provisions, including creating or amending criminal offences.
- (2) The Minister may, by Order, amend this Law to –
  - (a) allow a person who is registered under the [Health Care \(Registration\) \(Jersey\) Law 1995](#) or a person who is registered under the [Pharmacists and Pharmacy Technicians \(Registration\) \(Jersey\) Law 2010](#) to provide termination services that consist of prescribing or administering medication up to a specified gestational age; and
  - (b) create or amend criminal offences to apply to a person who is allowed to provide those services.
- (3) Before lodging Regulations to be made under paragraph (1)(e) or making an Order under paragraph (2), the Minister must consult –
  - (a) the Medical Officer of Health;
  - (b) the professional registration body in the United Kingdom for the relevant registrable occupation (as that term is defined in Article 1(1) of the [Health Care \(Registration\) \(Jersey\) Law 1995](#)); and
  - (c) a senior professional in Health and Care Jersey who has responsibility for other professionals and expertise in governance or professional practice and standards, such as the following (or their equivalents) –
    - (i) the Chief Pharmacist;
    - (ii) the Chief Nurse;
    - (iii) the Medical Director in Health and Care Jersey.

- (4) If the Minister determines that there are temporary extraordinary circumstances that make doing so necessary, the Minister may, by Order, temporarily remove or vary requirements that termination services and termination-related services must comply with (for example, during a pandemic).
- (5) In this Article, “Health and Care Jersey” means the administration of the States (as defined in Article 1 of the [Employment of States of Jersey Employees \(Jersey\) Law 2005](#)) –
  - (a) that relates to health; and
  - (b) for which the Minister is assigned responsibility.
- (6) The Minister may, by Order, amend this Law to change the references in this Article to Health and Care Jersey to reflect a change in name of that administration of the States.

## 15 Approved places Regulations

- (1) The States may, by Regulations –
  - (a) provide for the Minister to approve a place for the provision of termination services; and
  - (b) impose obligations on operators of approved places.
- (2) Regulations may provide for –
  - (a) how applications for approval may be made, the information applications must contain, and fees associated with applications;
  - (b) the process the Minister must follow in considering an application;
  - (c) the grounds on which the Minister may or must approve or refuse an application;
  - (d) the period for which an approval is valid;
  - (e) the renewal of an approval;
  - (f) the ability of the Minister to place conditions on an approval, and to remove or vary conditions;
  - (g) the ability of the Minister to withdraw or suspend an approval;
  - (h) the processes the Minister must follow in placing conditions on an approval, removing or varying conditions or withdrawing or suspending an approval;
  - (i) a process to appeal a decision of the Minister related to an approval;
  - (j) duties and powers of the Minister in relation to approved places, including the power of inspection;
  - (k) how information that is obtained under this Law may be used or must not be used;
  - (l) the issuing of guidance by the Minister and the consequences of failing to comply with guidance;
  - (m) the creation of criminal offences; and
  - (n) any other matter the States consider necessary or expedient in relation to approved places.
- (3) Regulations may allow the Minister, by Order, to provide for any matter that may be provided for by Regulations made under this Article, except for the creation of criminal offences.

## **16 Safe access zones Regulations**

- (1) The States may, by Regulations, provide for safe access zones at or around approved places.
- (2) Regulations may –
  - (a) allow the Minister, by Order, to designate an area at or around an approved place as a safe access zone, either at all times or at specified times;
  - (b) prohibit specified activities within safe access zones; and
  - (c) create criminal offences for undertaking prohibited activities within safe access zones.

## **17 Fees Orders**

- (1) The Minister may, by Order, provide for fees to be charged for termination services, termination-related services or counselling services provided in connection with termination services.
- (2) An Order may –
  - (a) set fees for some or for all services;
  - (b) set different fees for different services or for the same services provided in different circumstances;
  - (c) provide for exemptions from fee payment, including how exemptions are applied and how decisions relating to exemptions may be appealed.
- (3) An Order must not apply to termination services, termination-related services or counselling services provided in connection with termination services other than services –
  - (a) provided or arranged on behalf of the Minister; or
  - (b) provided under a contract for services arranged by the Minister for Social Security.

## **18 Regulations and Orders may make consequential amendments to this Law and other enactments**

Regulations and Orders made under this Law may make consequential amendments to this Law and to any other enactment.

## **19 Guidance**

- (1) The Minister may issue guidance for registered medical practitioners, operators of approved places or any other person who has a function or duty under this Law.
- (2) A person's compliance with or breach of guidance –
  - (a) does not in itself mean that the person has complied with or breached a requirement under this Law; but
  - (b) may be used as evidence in –
    - (i) the prosecution of an offence; or
    - (ii) disciplinary proceedings about the person's practice by their employer or a body that regulates their profession.

## PART 5

### FURTHER OFFENCES, ABOLITION OF CUSTOMARY LAW OFFENCE OF ABORTION, REPEALS, CITATION AND COMMENCEMENT

#### 20 Further offences

- (1) This Article applies to actions taken with the intent of causing a termination or being reckless as to whether a termination will be caused.
- (2) A person who is not a registered medical practitioner commits an offence if they intentionally or recklessly take an action that causes or is likely to cause a termination (regardless of whether that action is a termination service).
- (3) A person who commits an offence under paragraph (2) is liable to –
  - (a) imprisonment for a term of 14 years and to a fine, if the pregnant woman consented to the action, with the knowledge that it could result in the termination; or
  - (b) life imprisonment, in any other case.
- (4) A person who causes, or attempts to cause, a pregnant woman to have a termination by using force, undue threat or undue coercion commits an offence and is liable to life imprisonment and to a fine.

#### 21 Pregnant woman does not commit offence in relation to termination

To avoid doubt, a pregnant woman does not commit an offence under this Law in respect of any action taken in relation to her own pregnancy.

#### 22 Customary law offence of abortion abolished

- (1) Any customary law offence relating to abortion is abolished.
- (2) Article 5 of the [Legislation \(Jersey\) Law 2021](#) applies in relation to the abolition in paragraph (1) as if it were the repeal of Jersey legislation.

#### 23 Repeals

The [Termination of Pregnancy \(Jersey\) Law 1997](#) and the [Termination of Pregnancy \(General Provisions\) \(Jersey\) Order 2005](#) are repealed.

#### 24 Citation and commencement

This Law may be cited as the Termination of Pregnancy (Jersey) Law 202- and comes into force –

- (a) on 1 September 2026; or
- (b) on an earlier date specified by the Minister by Order.