



Termination of pregnancy: Summary of proposed law changes

This summary sets out a high-level description of proposed provisions of the amended law. An explanation of the provisions can be found in the full consultation document: *Termination of pregnancy: proposed law changes*.

IMPORTANT NOTE: The amended law will set out the circumstances in which termination will be legal in **Jersey**.

It is important to recognise that whilst the amended law may permit something (for example, terminations on any grounds up to 21 weeks and 6 days) they can only be provided in Jersey if:

- health professionals are prepared to provide them. All health professionals will have a right to refuse to participate in terminations over any given gestation period except for where the termination is immediately necessary to save the woman's life
- health professionals can safely provide them (i.e. they have the necessary training, facilities etc).

Jersey has a small health care workforce when compared to other jurisdictions. Given workforce constraints and the need to provide safe services, we know that we will not be able to provide terminations after 12 weeks and 6 days in Jersey at the point at which the amended law comes into force (except for some urgent medically recommended terminations, as is currently the case).

There will be a difference between what is permitted in law and what is provided in Jersey because we do not have the facilities and skills required to safely deliver later stage terminations in Jersey.

Where a service cannot be, or is not, provided in Jersey the Minister is under no obligation to pay, or make arrangements, for Jersey residents to access the service in another country (note: this will not apply to medically necessary terminations).

Where a Jersey resident travels to another country for a termination, that termination must comply with the laws of that country, not Jersey.

1. The amended law will provide that termination of pregnancy ("termination") is legal in Jersey if the termination is in accordance with the provisions of the law.

Access to termination

2. Any woman in Jersey may have a termination in Jersey. This includes people under 18 years and people who are not ordinarily resident in Jersey.
3. The Minister must take reasonable steps to ensure that termination services (and associated counselling services) are provided in Jersey but, in doing so, it is

recognised that there may be circumstances where this is not possible, for example, if the Minister is unable to secure registered medical practitioners who are willing to perform terminations up to the gestation periods permitted in law.

4. The Minister may, by Order, determine fees associated with the provision of termination services that are provided by the Minister, including exemptions from fees.

Termination up to 21 weeks and 6 days pregnant

5. A registered medical practitioner may perform a surgical termination or medical termination on a woman who is not more than 21 weeks and 6 days pregnant.
6. The registered medical practitioner must consult in-person with the woman prior to the registered medical practitioner performing the termination, but there is no requirement for:
 - a. the woman to consult with any health care professional other than the registered medical practitioner performing the termination
 - b. the registered medical practitioner to consult any other health care professional prior to performing the termination (although the registered medical practitioner may do so if they deem it necessary)
 - c. the woman to cite grounds / provide justification for the termination. (i.e. the termination can be on any grounds; it does not need to relate to the woman's physical or mental health, in response to their economic or social circumstances or in response to foetal abnormalities).
7. 21 weeks and 6 days limit for a termination on any grounds is related to viability of life. International consensus is that a baby born prematurely before the end of the 22nd week of gestation will not live.
8. The termination must take place in an approved place. An approved place may or may not be a hospital.

Early medical termination (up to 9 weeks and 6 days pregnant)

9. A registered medical practitioner may perform an early medical termination on a woman who is no more than 9 weeks and 6 days pregnant.
10. A registered medical practitioner, registered nurse or registered midwife must consult in-person with the woman before an early medical termination takes place. This may be the registered medical practitioner performing the termination or another registered medical practitioner.
11. Performing an early medical termination means prescribing the termination medicine to the woman.
12. As with other termination up to 21 weeks and 6 days there is no requirement for further consultation or to cite grounds / provide justification for the termination.

13. The registered medical practitioner performing the termination must, prior to prescribing the termination medicine:
 - a. be of the opinion that if the termination medicine is administered / self-administered in accordance with their instructions, the pregnancy will end on or before 9 weeks and 6 days, and
 - b. be satisfied that:
 - the required consultation has taken place, and
 - the woman's current place of residence is in Jersey, and
 - c. where the medicine is to be self-administered, be satisfied that the woman will, in accordance with their instructions self-administer the termination medicine:
 - in an approved place, or
 - in an appropriate place. An appropriate place is a place in Jersey which the registered medical practitioner is satisfied is an appropriate place. This may be the woman's current place of residence in Jersey.

14. The Minister may, by Order, provide that professionals other than registered medical practitioners may perform early medical terminations through the prescribing of termination medicine and may also provide for the categories of professionals who may dispense termination medicines and / or the places where those termination medicines may be dispensed (for example; community pharmacists to support the provision of early medical terminations in the community).

Termination at more than 21 weeks and 6 days pregnant (termination on specified grounds)

15. A registered medical practitioner may perform a termination on a woman who is more than 21 weeks and 6 days pregnant where the registered medical practitioner is of the opinion that one of the following criteria are met:
 - a. the termination is necessary to save the life of the woman; or
 - b. the termination is necessary to save another foetus; or
 - c. the continuance of the pregnancy would involve significant risk of injury to the physical or mental health of the woman, or
 - d. there is a case, or significant risk, of serious foetal anomalies associated with the pregnancy.

16. The registered medical practitioner must, prior to performing the termination, consult at least one other medical practitioner and that other medical practitioner must also be of the opinion that the criteria is met. The exception to this is, if consulting another medical practitioner would cause delay and the termination is immediately necessary to save the woman's life.

17. The registered medical practitioner may, in determining whether one of the criteria is met, consider the following matters:

- 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 abnormalities 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
 - e. whether the abuse outlined in the paragraph above includes circumstances in which such abuse is not apparent, or the pregnancy is not diagnosed until an advanced gestational age
 - f. 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
 - g. 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).
18. A termination at more than 21 weeks and 6 days pregnant that is performed in Jersey must be performed in a hospital, unless that termination is a medical emergency termination.

Medical emergency termination

19. Where a registered medical practitioner is of the opinion, formed in good faith, that a termination is immediately necessary to save the woman's life, the requirements above do not apply (i.e.. there is not a requirement to consult another medical practitioner or have regard to circumstances other than the requirement to save the woman's life).
20. A medical emergency termination may be performed in the place where the woman is being provided care and treatment if that place is suitable for the safe provision of a termination.

Amending the gestational limit

21. The States may, by Regulations, lower or increase the gestational limit at which terminations are permitted if, for example, advances in medical technologies result in earlier viability of life (for example lowering from 21 weeks and 6 days to 20 weeks and 6 days).
22. The Minister may, by Order, change the gestational limit for an early medical termination (lower or raise) if deemed clinically appropriate. For example, advances in medical technologies may result in the introduction of termination medicines that can be safely taken at more than 10 weeks pregnancy without the need for clinical oversight.

Other requirements relating to termination

23. The woman must be provided information about access to counselling services prior to the termination being performed.
24. A woman may self-refer to a termination clinic. They do not need to be referred by their GP or another professional.

Consultation

25. The woman must have at least one in-person consultation with a registered medical practitioner (or in the case of an early medication termination with a registered nurse or registered midwife) but the law will not prevent the practitioner requiring the woman to have more than one consultation, where the practitioner determines it is clinically necessary, or necessary to the woman's wellbeing.
26. The Minister may, by Order, permit remote consultation for early medical termination (i.e. consultations by phone or video link) and / or permit the termination medicine to be posted to the woman's address in Jersey. The Minister may make an Order in extraordinary circumstances (for example, in the event of a pandemic restricting access to services).
27. The States may, by Regulations, permit remote consultation for early medical termination and / or permit termination medicine by post to the woman's appropriate place address in Jersey if the Assembly determines it is appropriate to do so, for example, in response to increased societal acceptance.

Right to refuse to participate / protections for health care professionals

28. No person is under a duty to participate in the provision of a termination service. A person can refuse to participate on any grounds, including on the grounds of conscientious objection.
29. The right to refuse to participate does not include:

- a. refusing to provide or assist in the provision of usual care to a woman who is anticipating having a termination, having a termination or who has had a termination
 - b. refusing to provide or assist in the provision of a termination that is immediately necessary to save the woman's life.
30. A person who exercises their right to refuse to participate must not suffer employment detriments as a consequence of:
- a. exercising their right to refuse to participate in the provision of a termination service or
 - b. participating in the provision of a termination service.
31. Employment detriments include having employment terminated; being treated less favourably by their employer; being denied a contract of employment solely based on having exercised their right to refuse to participate or having participated in the provision of termination services.

Approved places

32. A termination that is performed in Jersey must be performed in an approved place. This includes early medical terminations as the termination medicine must be prescribed by a registered medical practitioner in the approved place.
33. All places operated by the Minister are automatically approved as places where terminations may be performed (although this does not mean that terminations will be performed in all places operated by the Minister), and other places may be approved by the Minister.
34. Where the Minister approves a place, the approval must specify whether it is approved for early medical terminations, medical terminations and / or surgical terminations.
35. The Minister must set out the standards which an approved place must operate to.
36. The States may by Regulations provide for matters related to
- a. approval of the place to perform terminations
 - b. processes for withdrawal or suspension of approvals and appeals
 - c. conditions of approval and amending conditions of approval.

Safe Access Zones

37. A safe access zone is a designated area (or "zone") around an approved place in which certain activities are banned, to protect people who are approaching, entering and leaving the approved place from intimidation, harassment, or obstruction.
38. The law will provide that a person commits an offence if they undertake an activity in a safe access zone that the States have, by Regulations, specified they should not undertake in a safe access zone.

39. The Regulations may provide for:
- a. the description of the activities that are banned in a safe access zone (for example, obstruction, harassment)
 - b. the time period in which the activities are banned
 - c. matters related to the boundaries around an approved place that form a safe access zone (for example, no less than, or no more than 100 meters of the boundary of the approved place premises)
 - d. requirements on the Minister to consult before imposing a safe access zone around an approved place.
40. The Minister may, by Order, impose a safe access zone around an approved place, in accordance with the Regulations.

Reporting

41. Providers of termination services are required to notify the Medical Officer of Health that a termination has been undertaken.
42. The Minister may by Order provide for the notification requirements including:
- a. the timeframe in which the notification must be made
 - b. the information contained within the notification.
43. The Medical Officer for Health must produce an annual report on termination of pregnancy in Jersey. This report must be published no later than 30 September of the preceding year.

Offences

44. A woman who:
- a. consents to a termination on themselves that they know or believe 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
 - c. does not self-administer the termination medicine as instructed (including where they self-administer in a place other than as instructed or take the medicine at a different date) does not commit an offence.
45. A person commits an offence if they knowingly:
- a. perform or attempt to perform a termination on another woman which does not accord with the law. For example:
 - a person who is not a registered medical practitioner
 - a health care practitioner other than one permitted in law to perform terminations
 - a health care practitioner permitted to perform terminations but doing so in a way that does not accord with the law (a registered medical

practitioner knowingly performing a termination at more than 9 weeks and 6 days)

- b. assist in the performance of a termination on a woman which does not accord with the law. For example: a health care practitioner assisting with a termination they know does not accord with the law
 - c. persuade or cause a woman, or attempt to persuade or cause a woman, to have a termination which can include through the use of threat, force or coercion or through the procurement and supply of termination medicine.
46. Offences include where a woman, who has been lawfully prescribed termination medicine for the purposes of an early medical termination, provides or attempts to provide that medicine to another woman for the purpose of terminating the other woman's pregnancy or causing the other woman to terminate their pregnancy.
47. Offences do not include:
- a. a registered medical practitioner or other professional who, in their course of their profession and duties, provides advice or opinion about whether a termination is or may be advisable or necessary to save the woman's life, to save another foetus, to avoid significant risk of injury or where there is significant risk of serious foetal anomalies
 - b. a person who undertakes an act which they reasonably believe accords with the provisions of the law (for example, a health and care practitioner acting in the course of their profession and duties assists in performing a termination which they believe accords with the law)
 - c. a registered medical practitioner who performs a termination where the pregnancy is more advanced than permitted limits, but they were of the opinion, formed in good faith, that the pregnancy was not so advanced
 - d. a registered medical practitioner who terminates a pregnancy, where they are of the opinion, formed in good faith, that the termination is immediately necessary to save the woman's life.