

PROJET DE LOI

ENTITLED

The Abortion (Alderney) Law, 2022

ARRANGEMENT OF SECTIONS

1. Use of poisons or instruments to cause abortion.
2. Supplying or procuring poisons or instruments to cause abortion.
3. Medical termination of pregnancy.
4. Records and notification.
5. Conscientious objection to participation in treatment.
6. Supplementary provision.
7. Concealment of birth.
8. Interpretation.
9. General provisions as to regulations.
10. Repeals.
11. Citation.

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THE STATES OF ALDERNEY, in pursuance of their Resolution of the 20th day of July 2022^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Alderney.

Use of poisons or instruments to cause abortion.

1. Subject to section 3, any person who, with intent to procure the miscarriage of any other person, being a woman, whether she is pregnant or not –

(a) unlawfully administers to her or causes to be taken by her any poison or other noxious thing, or

(b) unlawfully uses any instrument or other means whatsoever,

is guilty of an offence and liable on conviction to imprisonment for life.

Supplying or procuring poisons or instruments to cause abortion.

2. Subject to section 3, any person who unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing whatsoever, knowing

^a Item I of the Billet d'État of 20th July, 2022.

that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any other person, being a woman, whether she is pregnant or not, is guilty of an offence and liable on conviction to imprisonment for a term not exceeding three years.

Medical termination of pregnancy.

3. (1) An authorised person is not guilty of an offence under section 1 or 2 where the authorised person terminates a pregnancy in any case where a registered practitioner is of opinion, formed in good faith –

- (a) that the termination is immediately necessary to save the life of the pregnant woman,
- (b) that the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman,
- (c) that, at the time of the diagnosis, there is a substantial risk that if the child were born it would suffer from a significant physical or mental impairment that would have a seriously debilitating effect on the child, or
- (d) that the pregnancy has not exceeded its twenty-fourth week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of the pregnant woman or any existing children of her family.

(2) For the purposes of subsection (1)(d), whether or not a pregnancy has exceeded its twenty-fourth week is to be determined and calculated in accordance with any guidance published by the Committee in any manner it considers appropriate for this purpose.

Records and notification.

4. (1) An authorised person who terminates a pregnancy must keep an accurate medical record of the termination.

- (2) The Committee may by regulation provide –
- (a) for requiring any such opinion as is referred to in section 3 to be certified by the practitioner concerned in such form and at such time as may be prescribed,
 - (b) for requiring the preservation and disposal of certificates made for the purposes of the regulations,
 - (c) for requiring any authorised person who terminates a pregnancy to give notice of the termination and such other information relating to the termination as may be prescribed,
 - (d) for prohibiting the disclosure, except to such persons or for such purposes as may be prescribed, of certificates, notices or information given pursuant to the regulations.
- (3) The information furnished in pursuance of regulations made

under subsection (2)(c) must be notified solely to the Director of Public Health.

(4) A person who wilfully contravenes any provision of regulations under subsection (2) is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the Alderney uniform scale.

Conscientious objection to participation in treatment.

5. (1) Subject to subsections (3) and (4) and any regulations made under subsection (6), no person is under any duty, whether arising by contract or by statutory or other legal requirement, to participate in any treatment of a woman authorised by this Law to which the person has a conscientious objection.

(2) In any legal proceedings the burden of proof of conscientious objection rests on the person claiming to rely on it.

(3) Nothing in subsection (1) affects any duty to participate in treatment which is necessary –

(a) to save the life of the woman concerned, or

(b) to prevent serious injury to the physical or mental health of the woman concerned.

(4) Subsection (1) does not apply unless the person who has a conscientious objection, without delay –

(a) in any case where the woman concerned has requested the person to participate in the treatment –

- (i) informs that woman that she has a right to see another person who is lawfully authorised to participate in the treatment and does not have a conscientious objection, and
 - (ii) ensures that that woman has sufficient information to enable her to exercise the right mentioned in subparagraph (i), and
- (b) in any other case, makes any arrangements necessary to allow another person, who is lawfully authorised to participate in the treatment and does not have a conscientious objection, to participate in the treatment in place of the person who has a conscientious objection.

(5) In any proceedings before a court, a statement on oath by a person to the effect that the person has a conscientious objection to participating in any treatment authorised by this Law is sufficient evidence for the purpose of discharging the burden of proof imposed by subsection (2).

(6) The Committee may by regulations –

- (a) designate or limit the persons who may exercise the right to conscientious objection provided for in subsection (1),
- (b) impose any condition or requirement for the exercise of that right, and

- (c) otherwise limit or restrict the exercise of that right in any manner that it thinks fit.

(7) In this section, for the avoidance of doubt, a reference to participation in any treatment includes a reference to provision of the treatment.

Supplementary provision.

6. For the purposes of sections 1 and 2, anything done by a person with intent to procure the miscarriage of another person, being a woman, is unlawfully done unless authorised by section 3.

Concealment of birth.

7. If any woman be delivered of a child, any person who, by any secret disposition of the dead body of the child, whether such child died before, at or after its birth, endeavours to conceal the birth thereof, is guilty of an offence and liable on conviction to a term of imprisonment for a term not exceeding two years.

Interpretation.

8. In this Law, unless the context requires otherwise –

"authorised person" means –

- (a) a registered practitioner, or
- (b) a person who is registered as a nurse or midwife in the register maintained by the Committee under

section 3 of the Registered Health Professionals Ordinance, 2006^b,

"the Committee" means the States of Guernsey Committee for Health & Social Care,

"contravention" includes failure to comply, and cognate expressions are to be construed accordingly,

"prescribed" means prescribed by the Committee by regulations, and

"registered practitioner" has the meaning given by section 26 of the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015^c.

General provisions as to regulations.

9. Regulations under this Law must be laid before a meeting of the States as soon as possible after being made and, if at that or the next meeting, the States resolve to annul the regulations, the regulations cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

Repeals.

10. The Loi sur L'Avortement of 1910^d is repealed in respect of the Island of Alderney.

^b Ordinance No. III of 2006. This enactment has been amended.

^c Ordinance No. XXII of 2015. This enactment has been amended.

^d Ordres en Conseil Vol. IV, p. 359.

Citation.

11. This Law may be cited as the Abortion (Alderney) Law, 2022.

Commencement.

12. This Law shall come into force on the day appointed by regulations made by the Committee; and different dates may be appointed for different provisions and for different purposes.

LAW NOT YET IN FORCE