

# ORDER IN COUNCIL

**VI**  
**1997**

ratifying a Projet de Loi

ENTITLED

## **The Abortion (Guernsey) Law, 1997**

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(Registered on the Records of the Island of Guernsey  
on the 18th March, 1997.)

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1997

## ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

*The 18th day of March, 1997 before Sir Graham Dorey, Bailiff; present:—  
Stanley Walter John Jehan, John Edward Morris, Charles Anthony  
Spensley, Lawrence Oscar Ozanne, John Richard Rowe Henry, Esquires,  
Mrs. Eileen May Glass, Derek Martin Le Page, Stephen Edward Francis  
Le Poidevin and Alan Cecil Bisson, Esquires, Jurats.*

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 12th day of February, 1997, approving and ratifying a *Projet de Loi* entitled "The Abortion (Guernsey) Law, 1997" THE COURT, after the reading of the said Order in Council and after having heard Her Majesty's Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island of which Order in Council the tenor followeth:—

# At the Court at Buckingham Palace

The 12th day of February, 1997

PRESENT.

## The Queen's Most Excellent Majesty in Council

WHEREAS, there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey dated the 14th day of January 1997 in the words following, viz.:—

"YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey setting forth:—

"1. That, in pursuance of their Resolution of the 13th day of June 1996, the States of Deliberation at a meeting held on the 31st day of October 1996 approved a Bill or "Projet de Loi" entitled "The Abortion (Guernsey) Law, 1997", and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or "Projet de Loi" is as set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or "Projet de Loi" of the States of Guernsey entitled "The Abortion (Guernsey) Law 1997", and to order that the same shall have force of law in the Islands of Guernsey, Herm and Jethou."

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY, having taken the said Report into consideration, is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, and it is hereby ordered, that the same shall have the force of Law within the Islands of Guernsey, Herm and Jethou.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed), be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers for the time being in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

*N. H. Nicholls*

## **The Abortion (Guernsey) Law, 1997**

**THE STATES**, in pursuance of their Resolution of the 13th day of June 1996<sup>a</sup>, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

### **Use of poisons or instruments to cause abortion.**

**1.** Subject to the provisions of section 3-

- (a) any pregnant woman who, with intent to procure her own miscarriage-
  - (i) unlawfully administers to herself any poison or other noxious thing; or
  - (ii) unlawfully uses any instrument or other means whatsoever; and
- (b) any person who, with intent to procure the miscarriage of any woman, whether she is pregnant or not-
  - (i) unlawfully administers to her or causes to be taken by her any poison or other noxious thing; or

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<sup>a</sup> Billet d'État No. VIII of 1996.



- (ii) unlawfully uses any instrument or other means whatsoever;

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

**Supplying or procuring poisons or instruments to cause abortion.**

2. Subject to the provisions of section 3, any person who unlawfully supplies or procures any poison or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she is pregnant or not, shall be guilty of an offence and liable on conviction to imprisonment for a term not exceeding three years.

**Medical termination of pregnancy.**

3. (1) Subject to the provisions of this section, a person shall not be guilty of an offence under section 1 or 2 when a pregnancy is terminated by a recognised medical practitioner if two recognised medical practitioners are 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 the pregnancy has not exceeded its twenty-fourth week and that, at the time of the diagnosis, there is a substantial risk that if the child were born it would

suffer from such physical or mental abnormalities as to be seriously handicapped; or

- (d) that the pregnancy has not exceeded its twelfth 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) Any treatment for the termination of pregnancy must be carried out in the Princess Elizabeth Hospital (or such other place as the States may by Ordinance specify) or in a place approved for the purposes of this section by the Board.

(3) The power under subsection (2) to approve a place includes power, in relation to treatment which consists primarily of the use of such medicines as may be specified in the approval and which is carried out in such manner as may be so specified, to approve a class of places.

#### **Records and notification.**

4. (1) A recognised medical practitioner who terminates a pregnancy shall keep an accurate medical record of the termination.

(2) The Board may by regulation provide-

- (a) for requiring any such opinion as is referred to in section 3 to be certified by the practitioners 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 recognised medical practitioner 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) shall be notified solely to the Medical Officer of Health.

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

**Conscientious objection to participation in treatment.**

5. (1) Subject to the provisions of subsection (3), no person shall be under any duty, whether arising by contract or by statutory or other legal requirement, to participate in any treatment authorised by this Law to which he has a conscientious objection.

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



(3) Nothing in subsection (1) shall affect any duty to participate in treatment which is necessary to save the life of a pregnant woman.

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

**Supplementary provision.**

6. For the purposes of sections 1 and 2, anything done with intent to procure the miscarriage of 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, shall be 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-

"**the Board**" means the States Board of Health or such other committee of the States as may be specified by the States by Ordinance;

"**contravention**" includes failure to comply, and cognate expressions shall be construed accordingly;

"**prescribed**" means prescribed by the Board by regulations;

**"recognised medical practitioner"** means a recognised medical practitioner within the meaning of the Doctors, Dentists and Pharmacists Ordinance, 1987<sup>b</sup>.

**General provisions as to regulations.**

**9. Regulations under this Law-**

- (a) may be amended or repealed by subsequent regulations hereunder;
- (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Board to be necessary or expedient;
- (c) shall 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 shall 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<sup>c</sup> is hereby repealed in respect of the Islands of Guernsey, Herm and Jethou.

**Citation.**

**11.** This Law may be cited as the Abortion (Guernsey) Law, 1997.

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<sup>b</sup> Recueil d'Ordonnances Tome XXIV, p. 79.

<sup>c</sup> Ordres en Conseil Vol. IV, p. 359.