

# **Contraception, Sterilisation, and Abortion (Safe Areas) Amendment Bill**

Member's Bill

## **Explanatory note**

### **General policy statement**

All New Zealanders deserve to have the right to access health services with their safety, privacy, and dignity protected. Many people have spoken about their experiences accessing abortion services where they have not been afforded that protection.

Protests at and around abortion clinics are common place in New Zealand. These protests amount to targeted harassment of those people who choose to access essential health services. No other group is subjected to protest simply for going to their doctor, nor should these people be.

The Bill provides a regulation-making power to set up safe areas around specific abortion facilities, on a case-by-case basis. The purpose of this regulation-making power is to protect the safety and well-being, and respect the privacy and dignity, of women accessing abortion facilities and practitioners providing and assisting with abortion services.

The Bill defines the type of behaviour that is prohibited as—

- intimidating, interfering with, or obstructing a protected person either with the intention of frustrating the purpose for which the protected person is in the safe area, or in a manner that an ordinary reasonable person would know would cause emotional distress to a protected person:
- communicating with, or visually recording, a person in a manner that an ordinary reasonable person would know would cause emotional distress to a protected person.

It also provides that the safe area can be no more than 150 metres from any part of the protected facility.

The decision to make regulations creating a safe area would be made on the recommendation of the Minister of Health, in consultation with the Minister of Justice. The specific size and exact location of the safe area would be determined on a case-by-case basis, as appropriate for the individual facility's circumstances. The details would be set out in the regulations made for specific premises.

Safe access zone laws are becoming common place around the world. This Bill will not put New Zealand at the forefront of the reproductive rights movement, it will not make us world leaders. It will allow us to follow the lead of certain states and provinces in Australia, Canada, and the United States, in ensuring that people are able to access essential health services with their safety, privacy and dignity protected.

### Clause by clause analysis

*Clause 1* is the Title clause.

*Clause 2* is the commencement clause and provides for this Bill to come into force on the day after it receives Royal assent.

*Clause 3* identifies the Contraception, Sterilisation, and Abortion Act 1977 (the **principal Act**) as the Act being amended by the bill.

*Clause 4* amends the definition of **safe area** in section 2 of the principal Act to fix a cross reference.

*Clause 5* inserts *new sections 13A to 13C* into the principal Act to provide for safe areas. *New section 13A* provides that it is an offence, punishable by a fine not exceeding \$1,000, for a person to engage in prohibited behaviour in a safe area. *New section 13B* empowers a constable to arrest, without a warrant, a person who the constable reasonably believes is engaging in prohibited behaviour in a safe area after having been requested to stop that behaviour. *New section 13C* empowers the making of regulations for the purposes of *new section 13A* to prescribe as a safe area any premises at which abortion services are provided and an area around those premises that is within a 150 metre boundary of any part of the premises.

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### **The Parliament of New Zealand enacts as follows:**

- 1 Title**  
This Act is the Contraception, Sterilisation, and Abortion (Safe Areas) Amendment Act **2020**.
- 2 Commencement** 5  
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act** 10  
This Act amends the Contraception, Sterilisation, and Abortion Act 1977 (the **principal Act**).

**4 Section 2 amended (Interpretation)**

In section 2, definition of **safe area**, replace “section 17(1)” with “section 13C(1)”.

**5 New sections 13A to 13C inserted**

After section 13, insert:

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**13A Certain behaviour prohibited in safe areas**

- (1) A person must not engage in any prohibited behaviour in a safe area.
- (2) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding \$1,000.

- (3) In this section,—

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**prohibited behaviour** means—

- (a) intimidating, interfering with, or obstructing a protected person—
  - (i) with the intention of frustrating the purpose for which the protected person is in the safe area; or
  - (ii) in a manner that an ordinary reasonable person would know would cause emotional distress to a protected person: 15
- (b) communicating with, or visually recording, a person in a manner that an ordinary reasonable person would know would cause emotional distress to a protected person

**protected person** means a person who is in a safe area for the purpose of—

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- (a) accessing abortion services; or
- (b) providing, or assisting with providing, abortion services; or
- (c) seeking advice or information about abortion services; or
- (d) providing, or assisting with providing, advice or information about abortion services. 25

**13B Power of constable to arrest without warrant**

If a constable reasonably believes that a person is engaging in prohibited behaviour in a safe area, the constable may—

- (a) require the person to stop engaging in the prohibited behaviour; and
- (b) if the person fails to stop engaging in the prohibited behaviour, arrest the person and take the person into custody without a warrant. 30

**13C Regulations: safe areas**

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister of Health after consultation with the Minister of Justice, make regulations for the purposes of **section 13A** prescribing as a safe area—

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- (a) any specified premises at which abortion services are provided; and

- (b) an area around those premises that is an area having a boundary of not more than 150 metres from any part of the premises.
- (2) The Minister of Health may recommend the making of regulations under **subsection (1)** if the Minister is satisfied that prescribing a safe area—
- (a) is necessary to protect the safety and well-being, and respect the privacy and dignity, of persons—
- (i) accessing abortion services:
- (ii) providing, or assisting with providing, abortion services:
- (iii) seeking advice or information about abortion services:
- (iv) providing, or assisting with providing, advice or information about abortion services; and
- (b) can be demonstrably justified in a free and democratic society as a reasonable limitation on people’s rights and freedoms.
- (3) Not later than 5 years after making any regulations under **subsection (1)** prescribing a particular safe area, and then at subsequent intervals of not more than 5 years, the Director-General, in consultation with the Secretary for Justice, must—
- (a) review the regulations (if they are still in force) to determine whether that prescribed safe area is still—
- (i) necessary for the purpose specified in **subsection (2)(a)**; and
- (ii) demonstrably justified as specified in **subsection (2)(b)**; and
- (b) report to the Minister of Health and the Minister of Justice on whether the regulations should be—
- (i) continued without amendment; or
- (ii) continued with amendment; or
- (iii) revoked.