

**FIJI**

**Crimes Decree 2009, 4 November 2009.**

**PART 14 — ABORTION OFFENCES**

***Abortion***

**234.** (1) A person commits an indictable offence if he or she unlawfully performs an abortion.

Penalty: Imprisonment for 14 years.

(2) The performance of an abortion by a medical practitioner is not unlawful for the purposes of this section if:

- (a) the abortion is performed by a medical practitioner in good faith and with reasonable care and skill; and
- (b) the pregnancy is the result of sexual intercourse between—
  - (i) a parent and child; or
  - (ii) a brother and sister (whether of the whole blood or half blood); or
  - (iii) a grandparent and grandchild; or
- (c) the pregnancy is the result of sexual intercourse that constitutes the offence of rape under this Decree.

(3) In this section: “medical practitioner” means any person lawfully registered under a law of Fiji to practise as a medical practitioner.

(4) A reference in this section to performing an abortion includes a reference to:

- (a) attempting to perform an abortion; and
- (b) doing any act with intent to procure an abortion, whether or not the woman concerned is pregnant.

(5) Subject to sub-section (9), the performance of an abortion is justified for the purposes of this section if:

- (a) serious danger to the physical or mental health of the woman concerned will result if the abortion is not performed; or
- (b) the pregnancy of the woman concerned is causing serious danger to her physical or mental health.

(6) Sub-section (5)(a), (b) or (c) do not apply unless the woman has given informed consent, or in the case of paragraphs (b) or (c) it is impracticable for her to do so.

(7) In this section: “informed consent” means consent freely given by the woman where:

- (a) a medical practitioner has properly, appropriately and adequately provided her with counselling about the medical risk of termination of pregnancy and of carrying a pregnancy to term;
- (b) a medical practitioner has offered her the opportunity of referral to appropriate and adequate counseling about matters relating to termination of pregnancy and carrying a pregnancy to term, if such counseling is available to the woman.

(8) A reference in sub-section (7) to a medical practitioner does not include a reference to:

- (a) the medical practitioner who performs the abortion; nor
- (b) any medical practitioner who assists in the performance of the abortion.

(9) If at least 20 weeks of the woman's pregnancy have been completed when the abortion is performed, the performance of the abortion is not justified unless—

- (a) 2 medical practitioners have agreed that the mother, or the unborn child, has a severe medical condition that, in the clinical judgment of those medical practitioners, justifies the procedure; and
- (b) the abortion is performed in a facility approved by the Minister for Health.

(10) For the purposes of this section:

- (a) subject to sub-section (11), a woman who is a dependent minor shall not be regarded as having given informed consent unless a custodial parent of the woman has been informed that the performance of an abortion is being considered and has been given the opportunity to participate in a counseling process (if such counselling is available) and in consultations between the woman and her medical practitioner as to whether the abortion is to be performed;
- (b) a woman is a dependent minor if she has not reached the age of 16 years and is being supported by a custodial parent or parents; and
- (c) a reference to a parent includes a reference to a legal guardian.

(11) A woman who is a dependent minor may apply to a magistrate for an order that a person specified in the application, being a custodial parent of the woman, should not be given the information and opportunity referred to in sub-section (10)(a) and the magistrate may, on being satisfied that the application should be granted, make an order in those terms.

### ***Abortion by woman with child***

**235.** A woman commits a summary offence if she, being pregnant, with intent to procure her own miscarriage:

- (a) administers to herself any poison or other noxious thing; or
- (b) uses any force of any kind; or
- (c) uses any other means; or
- (d) permits any such thing or means to be administered or used to her.

Penalty — Imprisonment for 7 years.

***Supplying drugs or instruments to procure abortion***

**236.** A person commits a summary offence if he or she unlawfully supplies to or procures any thing for any person, knowing that it is intended to be unlawfully used with intent to procure the miscarriage of a woman (whether she is or is not pregnant).

Penalty — Imprisonment for 3 years.