

Subsidiary Legislation made under s.163B.

## **Abortion Regulations 2021**

**LN.2021/329**

*Commencement*

**15.7.2021**

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### **ARRANGEMENT OF REGULATIONS.**

#### Regulation

1. Title.
2. Commencement.
3. Interpretation.
4. Certificate of Opinion.
5. Notice of termination of pregnancy and information relating to the termination.
6. Restriction on disclosure of information.

#### **Schedule 1** Certificates A & B

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*In exercise of the powers conferred upon her by section 163B of the Crimes Act 2011 the Minister has made the following Regulations-*

**Title.**

1. These Regulations may be cited as the Abortion Regulations 2021.

**Commencement.**

2. These Regulations shall come into operation on the day of publication.

**Interpretation.**

3. In these regulations-

“electronic communication” means a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa)-

- (a) by means of an electronic communications network; or
- (b) by other means but while in electronic form;

“General Medical Council” means the General Medical Council established under the laws of the United Kingdom;

“Government Statistician” has the meaning given in section 2 of the Statistics Act;

“Medical Registration Board” means the Medical Registration Board established under section 4 of the Medical and Health Act, 1997;

“practitioner” means a registered medical practitioner.

**Certificate of Opinion.**

- 4.(1) Any opinion to which section 163A of the Act refers shall be certified-

- (a) in the case of a pregnancy terminated in accordance with section 163A(1) of the Act, either-
  - (i) in the form set out in Part I of Schedule 1 to these Regulations, or

- (ii) in a certificate signed and dated by both practitioners jointly or in separate certificates signed and dated by each practitioner stating-
  - (A) the full name and the Medical Registration Board registration number or General Medical Council reference number of each practitioner,
  - (B) the full name and address of the pregnant woman,
  - (C) whether or not each practitioner has seen or examined, or seen and examined, the pregnant woman, and
  - (D) that each practitioner is of the opinion formed in good faith that at least one and the same ground mentioned in paragraph (a) to (d) of section 163A(1) of the Act is fulfilled;
- (b) in the case of a pregnancy terminated in accordance with section 163A(5) of the Act, either-
  - (i) in the form set in Part II of Schedule 1 to these Regulations, or
  - (ii) in a certificate giving the full name and the Medical Registration Board registration number or General Medical Council reference number of the practitioner and containing the full name and address of the pregnant woman and stating that the practitioner is of the opinion formed in good faith that one of the grounds mentioned in section 163A(5) of the Act is fulfilled.

(2) Any certificate of an opinion referred to in section 163A(1) of the Act shall be given before the commencement of the treatment for the termination of the pregnancy to which it relates.

(3) Any certificate of an opinion referred to in section 163A(5) of the Act shall be given before the commencement of the treatment for the termination of the pregnancy to which it relates or, if that is not reasonably practicable, not later than 24 hours after such termination.

(4) Any such certificate as is referred to in subregulations (2) and (3) shall be preserved by the practitioner who terminated the pregnancy to which it relates for a period of not less than three years beginning with the date of the termination.

(5) A certificate which is no longer to be preserved shall be destroyed by the person in whose custody it then is.

**Notice of termination of pregnancy and information relating to the termination.**

5. Any practitioner who terminates a pregnancy in Gibraltar shall give to the Director of Public Health-

- (a) notice of the termination; and
- (b) such other information relating to the termination as is specified in Schedule 2 to these Regulations,

and shall do so by sending them to him within 14 days of the termination either in a sealed envelope or by an electronic communication transmitted by an electronic communications system suitable for the transfer of confidential information to him.

**Restriction on disclosure of information.**

6. A notice given or any information furnished to the Director of Public Health in pursuance of these Regulations shall not be disclosed except that disclosure may be made-

- (a) for the purposes of carrying out their duties-
  - (i) to an individual authorised by the Director of Public Health who is engaged in setting up, maintaining and supporting a computer system used for the purpose of recording, processing and holding such notice or information;
  - (ii) to the Government Statistician provided that the information does not readily identify the individual;
- (b) for the purposes of carrying out his duties in relation to offences under the law relating to abortion or section 163B of the Act, to the Director of Public Prosecutions or a member of his staff authorised by him;
- (c) for the purposes of investigating whether an offence has been committed under the law relating to abortion or section 163B of the Act, to a police officer not below the rank of superintendent or a person authorised by him;
- (d) pursuant to a court order, for the purposes of proceedings which have begun; or
- (e) to the practitioner who terminated the pregnancy;
- (f) to a practitioner, with the consent in writing of the woman whose pregnancy was terminated;

- (g) when requested by the Chairman of the Medical Registration Board for the purpose of matters relating to the registration of a practitioner, to the Chairman of the Medical Registration Board or a member of the Board;
- (h) when requested by the President of the General Medical Council for the purpose of investigating whether the fitness to practice of the practitioner is impaired, to the President of the General Medical Council or a member of its staff authorised by him; or
- (i) to the woman whose pregnancy was terminated, on her supplying to the Director of Public Health written details of her date of birth and proof of identity.

Schedule 1

Regulation 4(1)

Part I

**IN CONFIDENCE**

**CERTIFICATE A**

ABORTION REGULATIONS 2021

**Not to be destroyed within three years of the date of operation**

**Certificate to be completed before an abortion is performed under Section 163(A)(1) of the Act**

I, .....  
(Name, qualifications and MRB or GMC number of practitioner in block capitals)

of the Gibraltar Health Authority

have/have not (delete as appropriate) seen/and examined (delete as appropriate) the pregnant woman to whom this certificate relates at

.....

(full address of place at which patient was seen or examined)

on (date). .....

and

I .....

(Name, qualifications and MRB or GMC number of practitioner in block capitals)

of the Gibraltar Health Authority

have/have not (delete as appropriate) seen/and examined (delete as appropriate) the pregnant woman to whom this certificate relates at.

.....

(full address of place at which patient was seen or examined)

on (date).. . . . .

We hereby certify that we are of the opinion, formed in good faith, that in the case of

. . . . .  
(full name of pregnant woman in block capitals)

of .. . . .  
(usual place of residence of pregnant woman in block capitals)

(Circle appropriate letter(s))

A the continuance of the pregnancy would involve risk to the life of the pregnant woman greater than if the pregnancy were terminated;

B the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman;

C the pregnancy has NOT exceeded its 12th 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;

D there is a substantial risk that the foetus is suffering from a fatal foetal abnormality.

**This certificate of opinion is given before the commencement of the treatment for the termination of pregnancy to which it refers and relates to the circumstances of the pregnant woman's individual case.**

Signed .. . . . Date .. . . .

Signed .. . . . Date .. . . .

Part II

**IN CONFIDENCE**

**CERTIFICATE B**

**ABORTION REGULATIONS 2021**

**Not to be destroyed within three years of the date of operation**

**Certificate to be completed in relation to abortion performed in emergency under section 163A(5) of the Act**

I, .....  
(Name, qualifications and MRB number or GMC number of practitioner in block capitals)

of the Gibraltar Health Authority

hereby certify that I am/was (delete as appropriate) of the opinion formed in good faith that it is/was (delete as appropriate) necessary immediately to terminate the pregnancy of

.....  
(full name of pregnant woman in block capitals)

of.....  
(Usual place of residence of pregnant woman in block capitals)

(Circle appropriate number)  
in order

1 to save the life of the pregnant woman; or

2 to prevent grave permanent injury to the physical or mental health of the pregnant woman.

This certificate of opinion is given-

(Circle appropriate letter)  
A before the commencement of the treatment for the termination of the pregnancy to which it relates; or,

if that is not reasonably practicable, then

B not later than 24 hours after such termination.



Signed .....

Date .....

**Schedule 2**

Regulation 5

**Information to be supplied in an Abortion Notification**

1. Full name of the practitioner who terminated the pregnancy and the Medical Registration Board registration number or the General Medical Council reference number of the practitioner.

2. In non-emergency cases particulars of the practitioners who gave a certificate of opinion pursuant to section 163A(1) of the Act and whether they saw or examined, or saw and examined the patient before giving the certificate.

3. Patient's details-

- (a) patient's hospital or clinic number;
- (b) date of birth;
- (c) in the case of a patient resident outside Gibraltar, her country of residence;
- (e) ethnicity (if disclosed by the patient);
- (f) marital status; and
- (g) parity,

If the patient's hospital or clinic number is not available then the patient's full name should be provided.

4. Name and address of place of termination.

5. Whether or not the patient was offered counselling.

6. Date and method of foeticide if appropriate.

7. In a case where the termination is by surgery-

- (a) date of termination;
- (b) the method of termination used; and

- (c) in cases where the dates are different, the date of admission to the place of termination and the date of discharge from the place of termination.

8. In a case where the termination is by non-surgical means-

- (a) the date of treatment with antiprogesterone;
- (b) the date of treatment with prostaglandin;
- (c) the date on which the termination is confirmed;
- (d) in cases where the place of treatment with prostaglandin is different from the place of treatment with antiprogesterone, the name and address at which the prostaglandin was administered;
- (e) details of other agents used and the date of administration; and
- (f) the date of discharge if an overnight stay is required.

9. Number of complete weeks of gestation.

10. The ground(s) certified for terminating the pregnancy contained in the certificate of opinion given pursuant to section 163A(1) of the Act together with the following additional information in the case of-

- (a) the ground specified in paragraph (a), whether or not there was a risk to the patient's mental health and if not, her main medical conditions;
- (b) the grounds specified in paragraphs (b) and (c), the main medical condition(s) of the patient;
- (c) the ground specified in paragraph (d), any foetal abnormalities diagnosed, together with method of diagnosis used, and any other reasons for termination.

11. The ground(s) certified for terminating the pregnancy contained in the certificate of opinion given pursuant to section 163A(5) of the Act and the patient's main medical conditions.

12. In cases of selective termination the original number of foetuses and the number of foetuses remaining.

13. Whether or not the patient was offered chlamydia screening.

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14. Particulars of any complications experienced by the patient up to the date of discharge.
15. In the case of the death of the patient the date and cause of death.