

In Confidence

Office of the Associate Minister of Health

Chair, Cabinet Legislation Committee

## **CONTRACEPTION, STERILISATION AND ABORTION (INFORMATION COLLECTION) REGULATIONS 2021**

### **Proposal**

- 1 I seek agreement to submit to the Executive Council the *Contraception, Sterilisation and Abortion (Information Collection) Regulations 2021* (the Regulations).

### **Policy**

- 2 On 24 May 2021, Cabinet [CAB-21-MIN-0179 refers] agreed to make regulations under section 23(a) of the Contraception, Sterilisation and Abortion Act 1977 (the CSA Act) to require:
  - 2.1 abortion providers to submit information to the Director-General of Health about each abortion within a month of the abortion being provided;
  - 2.2 abortion providers to submit information to the Director-General of Health annually about their services; and
  - 2.3 sterilisation service providers to submit information to the Director-General of Health annually about their services.
- 3 Cabinet agreed the specific types of information to be collected from abortion and sterilisation providers, within the timeframes outlined in 2.1 to 2.3 above.
- 4 The Regulations (Appendix One) give effect to these Cabinet decisions.
- 5 The power to make regulations to collect information about abortion and sterilisation services was added to the CSA Act by the Abortion Legislation Act 2020. This was to enable the Ministry of Health to continue collecting information previously collected by the Abortion Supervisory Committee (ASC) under the previous version of the Contraception, Sterilisation and Abortion Act. The ASC was disestablished by the Abortion Legislation Act 2020.
- 6 The Abortion Legislation Act 2020 inserted the following provisions into the CSA Act to help support the improvement of timely and equitable access to services:
  - 6.1 statutory information collecting, reporting and publishing obligations for the Director-General of Health;
  - 6.2 temporary reporting requirements for abortion providers to submit notifications to the Director-General about each abortion within a month of each abortion being performed for 18 months while regulations were developed;
  - 6.3 requirement that the Minister of Health take reasonable steps to ensure that contraception, sterilisation, abortion and abortion advisory and counselling services are available throughout New Zealand.

7 The Regulations will come into force on 24 September 2021, when the existing temporary reporting requirements for abortion providers are due to expire. The Regulations will enable the Director-General of Health and the Minister of Health to uphold the obligations set out in 6.2 and 6.3 above.

8 In accordance with section 19(2) of the CSA Act, information collected under the Regulations will not be published in any form that could be reasonably expected to identify any individual recipient of abortion or abortion counselling services. While there is no similar provision under the CSA Act regarding sterilisation or abortion advisory services, the same rule has been applied to those services in order to maintain privacy.

### **Timing and 28-day rule**

9 I propose that the Regulations will come into force on 24 September 2021. This complies with the 28-day rule.

### **Compliance**

10 The proposed changes comply with:

10.1 the principles of the Treaty of Waitangi;

10.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;

10.3 the principles and guidelines set out in the Privacy Act 2020;

10.4 relevant international standards and obligations;

10.5 the Legislation Guidelines (2018 edition), which are maintained by the Legislation Design and Advisory Committee.

### **Regulations Review Committee**

11 There are no anticipated grounds for the Regulations Review Committee to draw the regulations to the attention of the House of Representatives under Standing Order 327.

### **Certification by Parliamentary Counsel**

12 The regulations are certified by the Parliamentary Counsel Office as being in order for submission to the Executive Council.

### **Impact Analysis**

13 The Regulatory Quality Team at the Treasury has determined that a separate Regulatory Impact Statement is not required for the regulatory proposals in this paper because the impacts of the proposals are minor, and it would substantively duplicate the Abortion Law Reform Regulatory Impact Assessment.

### **Publicity**

14 The Ministry of Health will communicate these changes directly to stakeholders.

### **Proactive release**

15 I intend to proactively release this Cabinet paper, subject to any redactions consistent with the Official Information Act 1982 and Cabinet Office agreement, no later than 30 business days after final Cabinet decisions.

## Consultation

- 16 The following agencies were consulted in the development of this paper: the Department of the Prime Minister and Cabinet, the Treasury, the Ministries of Justice and Social Development (Office for Disability Issues, Ministry of Youth Development), the Ministries for Women and Pacific Peoples, Te Puni Kōkiri, the Office of the Privacy Commissioner and Oranga Tamariki.

Proactively released

## Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 note that on 24 May 2021, Cabinet [CAB-21-MIN-0179] agreed to make regulations requiring abortion and sterilisation providers to submit information to the Director-General of Health. Cabinet agreed:
  - 1.1 the information abortion providers will be required to submit to the Director-General of Health about each abortion within a month of the abortion being provided;
  - 1.2 the information abortion and sterilisation service providers will be required to submit to the Director-General of Health annually about their services.
- 2 note that the *Contraception, Sterilisation and Abortion (Information Collection) Regulations 2021* will give effect to the decisions referred to in paragraph 1 above
- 3 authorise the submission to the Executive Council of the *Contraception, Sterilisation and Abortion (Information Collection) Regulations 2021*
- 4 note that the *Contraception, Sterilisation and Abortion (Information Collection) Regulations 2021* will come into force on 24 September 2021.

Authorised for lodgement

Hon Dr Ayesha Verrall

Associate Minister of Health