



Public Health Amendment (Safe Access Zones) Act 2021

The *Public Health Amendment (Safe Access Zones) Act 2021* (“Amendment Act”) inserts a new part into the *Public Health Act 2016* for the purpose of:

- creating safe access zones around premises at which abortions are provided, to ensure that those who want to access abortion services can do so in a safe and private manner;
- prohibiting publication and distribution of certain recordings to protect the privacy and dignity of those who access abortion services.

The new provisions take effect from 18 August 2021.

Why are safe access zones being introduced?

The Amendment Act addresses a gap in the statute book that meant that patients and staff accessing abortion services were not always able to access these services in a safe and private manner.

What service types does the Amendment Act apply to?

Safe access zones will apply to “premises at which abortions are provided”, which may include public and private hospitals, outpatient services, such as general practitioners and abortion clinics, but will exclude pharmacies.

What are the key changes provided for by the Amendment Act?

The new provisions provide for a safe access zone of 150 metres around premises providing abortions.

- The following types of behaviour are prohibited within a safe access zone:
 - besetting, harassing, intimidating, interfering with, threatening, hindering and obstructing or impeding a person accessing premises at which abortions are provided; or
 - communicating by any means in relation to abortion in a manner that can be seen or heard by a person accessing the premises and is reasonably likely to cause distress or anxiety; or
 - impeding a footpath, road or vehicle in relation to abortion, without reasonable excuse; or
 - recording by any means another person accessing premises at which abortions are provided, without reasonable excuse or without that other person's consent.

Publishing or distributing a recording of a person accessing or leaving premises providing abortions, without that person's consent or without a reasonable excuse, is also an offence, if the recording could identify that person.

Breaching any of the new prohibitions could attract a maximum penalty of \$12,000 and 12 months imprisonment.

A copy of the legislation can be accessed on the WA Legislation website at: legislation.wa.gov.au.

What types of behaviour could be permitted in safe access zones, in some circumstances?

The Amendment Act was developed around the principle that people accessing or leaving premises providing abortions should be able to do so freely and, in a manner which protects their safety, wellbeing, privacy and dignity. This context is important in considering what behaviours may be permitted within a safe access zone, in certain circumstances. Some examples are outlined below:

Communicating about abortions

- There is an exception for staff members, so it is not an offence for staff to speak to patients or between staff members in a safe access zone about abortion.
- A scenario, such as a sermon about abortions inside a church located in a safe access zone that cannot be heard from the outside, is unlikely to constitute prohibited behaviour.

Impeding a footpath, road or vehicle

The following situations are likely to constitute 'reasonable excuses' for the purposes of the Amendment Act:

- obstructing a street to undertake road maintenance works;
- emergency services workers who obstruct a footpath or road in the course of their duties;
- a lawful industrial action by staff outside a hospital.

Recording a person accessing a premise at which abortions are provided

- Activities, such as a clinic undertaking a recording of its premises for security purposes, or a journalist reporting on a matter of public interest for publication in a reputable news medium, are likely to constitute 'reasonable excuses' for the purposes of the Amendment Act.

Publication of recordings

The following scenarios might be permitted under the Amendment Act:

- Posting a visual recording of a person, who is identified as a person accessing an abortion clinic, without the person's consent, may not be an offence if the person's identity is unlikely to be able to be ascertained, for example, if the person's face is obscured.

Where is the 150 metre safe access zone perimeter measured from?

The 150 metre safe access zone will be measured from the perimeter of the land where the premises providing abortions is situated.

Nevertheless, the meaning of the word “premises” in any given case would depend upon the facts and the context. For example, for a clinic in a shopping centre or similar multi-use complex, it is expected that the 150 metre safe access zone is measured from the boundary of the clinic land rather than being measured from the perimeter of the entire complex.

Who will enforce the new offences?

The Western Australia Police Force will be the agency responsible for enforcing the new offences.

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