



**AN BILLE SLAINTE (BEARTU MUIRINE), 1978
HEALTH (FAMILY PLANNING) BILL, 1978**

*Mar a ritheadh ag dhá Theach an Oireachtais
As passed by both Houses of the Oireachtas*

ARRANGEMENT OF SECTIONS

Section

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ACTS REFERRED TO

Censorship of Publications Act, 1929	1929, No. 21
Censorship of Publications Act, 1946	1946, No. 1
Criminal Law Amendment Act, 1935	1935, No. 6
Criminal Procedure Act, 1967	1967, No. 12
Customs Consolidation Act, 1876	1876, c. 36
Health Acts, 1947 to 1977	
Medical Practitioners Act, 1978	1978, No. 4
Medical Practitioners Acts, 1927 to 1961	
Offences Against the Person Act, 1861	1861, c. 100
Pharmacy Act, 1951	1951, No. 30
Pharmacy Act (Ireland), 1875	1875, c. 57
Pharmacy Acts, 1875 to 1977	



AN BILLE SLAINTE (BEARTU MUIRINE), 1978
HEALTH (FAMILY PLANNING) BILL, 1978

BILL

entitled

AN ACT TO MAKE PROVISION FOR FAMILY PLANNING 5
SERVICES AND, WITH A VIEW TO ENSURING THAT
CONTRACEPTIVES ARE AVAILABLE ONLY FOR THE
PURPOSE, *BONA FIDE*, OF FAMILY PLANNING OR
FOR ADEQUATE MEDICAL REASONS, TO REGULATE 10
AND CONTROL THE SALE, IMPORTATION, MANUFAC-
TURE, ADVERTISEMENT AND DISPLAY OF CON-
TRACEPTIVES AND TO PROVIDE FOR CERTAIN
OTHER MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Interpretation.

1.—In this Act—

15

“the Act of 1946” means the Censorship of Publications Act, 1946;

“contraceptive” means any appliance, instrument, drug, preparation or thing designed, prepared or intended to prevent pregnancy resulting from sexual intercourse between human beings;

“dispensing chemist and druggist” means a person registered in the register of dispensing chemists and druggists established under the Pharmacy Act, 1951; 20

“family planning service” means a service for the provision of information, instruction, advice or consultation in relation to any one or more of the following : 25

(a) family planning,

(b) contraception,

(c) contraceptives;

“pharmaceutical chemist” means a person registered in the register of pharmaceutical chemists for Ireland established under the Pharmacy Act (Ireland), 1875; 30

“registered medical practitioner” means a person registered in the register established under the Medical Practitioners Acts, 1927 to 1961, or the Medical Practitioners Act, 1978;

“regulations” means regulations made by the Minister under *section 16* of this Act; 35

“sell” includes agree or offer to sell or invite an offer to buy and cognate words shall be construed accordingly.

2.—The Minister shall—

General duty of
Minister.

- (a) secure the orderly organisation of family planning services,
and
- 5 (b) provide a comprehensive natural family planning service,
that is to say, a comprehensive service for the provision
of information, instruction, advice and consultation in
relation to methods of family planning that do not involve
the use of contraceptives.

3.—(1) For the purposes of *section 2* of this Act, the Minister
10 may, without prejudice to the generality of that section, provide by
regulations for the purposes of this subsection for the making avail-
able by a health board in accordance with the regulations of a
family planning service.

Family planning
services.

15 (2) A person other than a health board may make available a
family planning service for the provision of information, instruction,
advice and consultation in relation to methods of family planning
that do not involve the use of contraceptives.

20 (3) (a) A person other than a health board may, with the consent
of the Minister and in accordance with regulations for the
purposes of this subsection, make available a family plan-
ning service, not being exclusively a family planning
service such as is referred to in *subsection (2)*.

25 (b) The Minister shall not give his consent to the making avail-
able of a family planning service under this subsection
unless he is satisfied that it is in the public interest to
give it and that the service is reasonably required to meet
a particular need.

30 (4) Information, instruction, advice or consultation in relation to
the use of contraceptives shall not be provided in a family planning
service under this section except under the general direction and
supervision of a registered medical practitioner.

35 (5) A health board or other person making available a family
planning service under *subsection (1)* or (3), as the case may be, of
this section shall ensure that the service includes information, instruc-
tion, advice and consultation in relation to methods of family plan-
ning that do not involve the use of contraceptives.

40 (6) A family planning service shall not be made available except
in accordance with the provisions of this section but this subsection
shall not be construed as restricting the discretion of a registered
medical practitioner in his clinical relations with a patient or of a
pharmaceutical chemist in relation to the provision of information,
instruction or advice to a person to whom he is selling contraceptives
in accordance with this Act.

45 (7) A person who contravenes this section, or regulations for the
purposes of this section, shall be guilty of an offence.

4.—(1) A person shall not sell contraceptives unless—

Control of sale
and supply of
contraceptives.

- (a) the sale is in accordance with regulations for the purposes
of this subsection relating to the sale of contraceptives,
and
- 50 (b) (i) he is, or is a servant or agent acting as such of, a
pharmaceutical chemist, or a dispensing chemist and
druggist, who keeps open shop for the compounding
and dispensing of medical prescriptions in accordance
with the provisions of the Pharmacy Acts, 1875 to
55 1977, and the sale is made at the place where he
keeps open shop or he is such a pharmaceutical
chemist, or dispensing chemist and druggist, as afore-
said, and the sale is made, in connection with the

service provided by the person in keeping such open shop as aforesaid, at a place where family planning services are made available under *section 3* of this Act, and

(ii) the person to whom the contraceptives are sold is named in a prescription or authorisation in writing for the contraceptives of a registered medical practitioner and is a person who, in the opinion of the practitioner formed at the time of the giving of the prescription or authorisation, sought the contraceptives for the purpose, *bona fide*, of family planning or for adequate medical reasons and in appropriate circumstances and the prescription or authorisation bears an indication that it is given for the purposes of this Act, or

(c) (i) he is, or is a servant or agent acting as such of, a person who holds a licence granted to him under *section 5* or *6* of this Act and for the time being in force and the sale is in accordance with the licence, and

(ii) the sale is to a person specified in *subparagraph (i)* of *paragraph (b)* of this subsection.

(2) A registered medical practitioner may, for the purposes of this Act, give a prescription or authorisation for a contraceptive to a person if he is satisfied that the person is seeking the contraceptive, *bona fide*, for family planning purposes or for adequate medical reasons and in appropriate circumstances and, where a prescription or authorisation of a registered medical practitioner in relation to a contraceptive bears an indication that it is given for the purposes of this Act, it shall be conclusively presumed, for the purposes of this section, that the person named in it is a person who, in the opinion of the practitioner formed at the time of the giving of the prescription or authorisation, sought the contraceptive for the purpose, *bona fide*, of family planning or for adequate medical reasons and in appropriate circumstances.

(3) A person shall not supply contraceptives otherwise than by way of sale under and in accordance with this section.

(4) A person who contravenes this section, or regulations for the purposes of this section, shall be guilty of an offence.

Control of
importation of
contraceptives.

5.—(1) A person shall not import contraceptives into the State unless—

(a) they are part of his personal luggage accompanying him when he is entering the State and their quantity is not such as to indicate that they are not solely for his own use, or

(b) he is, or is the servant or agent acting as such of, a person who holds a licence granted to him under this section and for the time being in force and the importation is in accordance with the licence.

(2) (a) Subject to *paragraph (b)* of this subsection, the Minister may, on the application in writing of a person therefor and on payment of such fee as may be specified in regulations for the purposes of this subsection, grant to the person a licence authorising the importation of specified quantities of specified contraceptives if—

(i) the Minister is satisfied that the contraceptives are required by the person for sale to persons specified in *section 4 (1) (b) (i)* of this Act, or

(ii) the person is a person specified in the said *section 4 (1) (b) (i)*.

(b) The Minister may refuse to grant a licence under this section to a person who has been convicted of an offence under this Act or of another offence of such a character

that, in the opinion of the Minister, it would be inappropriate that he should hold such a licence.

(3) A licence under this section, if not previously revoked, shall continue in force for such period as the Minister determines and specifies in the licence.

(4) (a) A licence under this section may contain such conditions (if any) as the Minister determines and specifies in the licence.

(b) The Minister may at any time insert a condition into a licence under this section, delete a condition therefrom or amend a condition in the licence.

(c) A person who holds a licence under this section shall comply with the conditions of the licence.

(5) The Minister may revoke a licence under this section if he is satisfied that a condition of the licence is being or has been contravened or if the person to whom it was granted is convicted of an offence under this Act or of another offence of such a character that, in the opinion of the Minister, it is inappropriate that he should continue to hold such a licence.

(6) Contraceptives, the importation of which is not authorised under this section, shall be deemed to be included among the goods enumerated and described in the Table of Prohibitions and Restrictions Inwards contained in section 42 of the Customs Consolidation Act, 1876, and the provisions of that Act (as amended or extended by subsequent Acts) relating to the importation of prohibited goods shall apply accordingly.

(7) A person who contravenes this section, or regulations for the purposes of this section, shall be guilty of an offence.

6.—(1) A person shall not manufacture contraceptives unless he is, or is the servant or agent acting as such of, a person who holds a licence granted to him under this section and for the time being in force and the manufacture is in accordance with the licence.

Control of
manufacture of
contraceptives.

(2) (a) Subject to paragraph (b) of this subsection, the Minister may, in accordance with any regulations for the purposes of this section, on the application in writing of a person therefor and on payment of such fee as may be specified in the regulations, grant a licence authorising the manufacture by the person of contraceptives if the Minister is satisfied that—

(i) the contraceptives will be sold to persons specified in section 4 (1) (b) (i) of this Act, or

(ii) the person is a person specified in the said section 4 (1) (b) (i).

(b) The Minister may refuse to grant a licence under this section to a person who has been convicted of an offence under this Act.

(3) A licence under this section, if it is not previously revoked, shall continue in force for such period as the Minister determines and specifies in the licence.

(4) A licence under this section may contain such conditions (if any), including conditions in relation to standards of manufacture, as the Minister determines and specifies in the licence.

(5) The Minister may at any time insert a condition into a licence under this section, delete a condition therefrom or amend a condition in the licence.

(6) The Minister may revoke a licence under this section if he is satisfied that a condition of the licence is being or has been contravened or if the person who holds it is convicted of an offence under this Act.

(7) A person who holds a licence under this section shall comply with the conditions specified in the licence. 5

(8) A person who contravenes this section, or regulations for the purposes of this section, shall be guilty of an offence.

Control of advertising and display of contraceptives.

7.—(1) A person shall not take any part in, or procure, the publication of an advertisement or notice in relation to contraception or contraceptives, or display, or procure the display of, contraceptives, except to such extent as may be allowed by, and in accordance with, regulations for the purposes of this section. 10

(2) A person who contravenes this section, or regulations for the purposes of this section, shall be guilty of an offence. 15

Forged or fraudulently altered prescriptions or authorisations.

8.—(1) In this section “a specified document” means a prescription or authorisation given by a registered medical practitioner for the purposes of this Act.

(2) A person shall not forge a document purporting to be a specified document. 20

(3) A person shall not with intent to deceive either alter or use a specified document.

(4) A person shall not have in his possession a forged document purporting to be a specified document, or a specified document which has been altered with intent to deceive. 25

(5) The Minister may by regulations declare that in circumstances specified in the regulations *subsection (4)* of this section shall not apply to persons who are of a specified class or description and, for so long as regulations under this section are in force, the said *subsection (4)* shall be construed in accordance with and have effect subject to the regulations. 30

(6) A person who contravenes this section, or regulations for the purposes of this section, shall be guilty of an offence.

Grants for research.

9.—The Minister may, out of moneys provided by the Oireachtas, make a grant to a person to finance, or assist in the financing of, research into methods of family planning that do not relate to the use of contraceptives. 35

Saver in relation to abortion.

10.—Nothing in this Act shall be construed as authorising—

(a) the procuring of abortion,

(b) the doing of any other thing the doing of which is prohibited by section 58 or 59 of the Offences Against the Person Act, 1861 (which sections prohibit the administering of drugs or the use of instruments to procure abortion or the supplying of drugs or instruments to procure abortion), or 40

(c) the sale, importation into the State, manufacture, advertising or display of abortifacients. 45

11.—Nothing in this Act shall be construed as obliging any person to take part in the provision of a family planning service, the giving of prescriptions or authorisations for the purposes of this Act, or the sale, importation into the State, manufacture, advertising or display of contraceptives.

Conscientious objections.

12.—(1) Section 16 (1) of the Censorship of Publications Act, 1929, is hereby amended by the deletion of “the unnatural prevention of conception or” and “such prevention or” and the said section 16 (1), as so amended, is set out in the Table to this subsection.

Amendment of Censorship of Publications Act, 1929, and Act of 1946.

10 TABLE

16.—(1) It shall not be lawful for any person, otherwise than under and in accordance with a permit in writing granted to him under this section—

- 15
- (a) to print or publish or cause or procure to be printed or published, or
 - (b) to sell or expose, offer, or keep for sale, or
 - (c) to distribute, offer or keep for distribution,

20 any book or periodical publication (whether appearing on the register of prohibited publications or not) which advocates or which might reasonably be supposed to advocate the procurement of abortion or miscarriage or any method, treatment or appliance to be used for the purpose of such procurement.

25 (2) Section 17 (1) of the Censorship of Publications Act, 1929, is hereby amended by the deletion of “or preventing conception” and the said section 17 (1), as so amended, is set out in the Table to this subsection.

TABLE

30 17.—(1) The reference contained in section 3 of the Indecent Advertisements Act, 1889, to printed matter which is of an indecent or obscene character shall be deemed to include advertisements which relate or refer or may be reasonably supposed to relate or refer to any disease affecting the generative organs of either sex, or to any complaint or infirmity arising from or relating to sexual intercourse, or to the prevention or removal of irregularities in menstruation, or to drugs, medicines, appliances, treatment or methods for procuring abortion or miscarriage.

35 (3) Section 7 of the Act of 1946 is hereby amended by the deletion in paragraph (b) of “the unnatural prevention of conception or” and “prevention or” and the said paragraph (b), as so amended, is set out in the Table to this subsection.

TABLE

7.—If the Censorship Board, having duly examined a book, are of opinion—

- 15
- (a) that it is indecent or obscene, or
 - (b) that it advocates the procurement of abortion or miscarriage or the use of any method, treatment or appliance for the purpose of such procurement,

50 and that for any of the said reasons its sale and distribution in the State should be prohibited, they shall by order prohibit such sale and distribution.

(4) Section 9 (1) of the Act of 1946 is hereby amended by the deletion in paragraph (b) of “the unnatural prevention of conception or” and “prevention or”, and the said section 9 (1), as so amended, is set out in the Table to this subsection.

TABLE

9.—(1) The Censorship Board shall examine the issues recently theretofore published of every periodical publication in respect of which a complaint is made to them in the prescribed manner by any person, and if they are of opinion that the said issues—

- (a) have usually or frequently been indecent or obscene, or
- (b) have advocated the procurement of abortion or miscarriage or the use of any method, treatment or appliance for the purpose of such procurement, or
- (c) have devoted an unduly large proportion of space to the publication of matter relating to crime,

and that for any of the said reasons the sale and distribution in the State of the said issues and future issues of that periodical publication should be prohibited, they shall by order prohibit the sale and distribution thereof accordingly.

Repeal of section 17 of Criminal Law Amendment Act, 1935.

13.—Section 17 of the Criminal Law Amendment Act, 1935, is hereby repealed.

Penalties.

14.—(1) A person guilty of a first offence under this Act shall be liable, on summary conviction, to a fine not exceeding £500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both the fine and the imprisonment.

(2) A person guilty of a second or subsequent offence under this Act shall be liable, on conviction on indictment, to a fine not exceeding £5,000 together with, in the case of a continuing offence, a fine not exceeding £250 for each day or part of a day for which the offence is continued after the first such day or, at the discretion of the court, to imprisonment for a term not exceeding 12 months or to both the fine or fines and the imprisonment.

(3) A Justice of the District Court shall have jurisdiction to try summarily a second or subsequent offence under this Act if—

- (a) the Justice is of opinion that the facts proved or alleged against a defendant charged with such an offence constitute a minor offence fit to be tried summarily,
- (b) the Director of Public Prosecutions consents, and
- (c) the defendant (on being informed by the Justice of his right to be tried by a jury) does not object to being tried summarily,

and, upon conviction under this subsection, the said defendant shall be liable to a fine not exceeding £500 or, at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both the fine and the imprisonment.

(4) Section 13 of the Criminal Procedure Act, 1967, shall apply in relation to a second or subsequent offence under this Act as if, in lieu of the penalties specified in subsection (3) of that section, there were specified therein the penalties provided for by subsection (3) of this section, and the reference in subsection (2) (a) of that section to the penalties provided for by subsection (3) of that section shall be construed accordingly.

Offences by bodies of persons.

15.—Where an offence under this Act is committed by a body corporate or by a person purporting to act on behalf of a body corporate or an unincorporated body of persons and the offence is

proved to have been committed with the consent or approval of, or to have been facilitated by any neglect on the part of any person, who when the offence was committed was a director, member of the committee of management or other controlling authority of the body concerned, or the manager, secretary or other officer of the body, that person shall also be deemed to have committed the offence and may be proceeded against and punished accordingly.

16.—(1) The Minister may make regulations for the purposes of this Act in relation to any matter referred to in this Act as being subject to, allowed by, declared by, specified in or by or in accordance with regulations or in relation to any matter ancillary or incidental to any such matter. Regulations.

(2) Regulations in relation to fees shall not be made without the consent of the Minister for Finance.

15 (3) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next subsequent twenty-one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder.

17.—(1) This Act may be cited as the Health (Family Planning) Act, 1979.

Short title, construction, collective citation and commencement.

(2) The Health Acts, 1947 to 1977, and this Act may be cited together as the Health Acts, 1947 to 1979.

(3) The Health Acts, 1947 to 1977, and this Act shall be construed together as one Act.

(4) This Act shall come into operation on such day or days as by order or orders made by the Minister under this section, may be fixed therefor either generally or with reference to any particular purpose or provision and different days may be so fixed for different purposes and different provisions.

BILLE

dá ngairtear

Acht do dhéanamh socrú le haghaidh seirbhísí beartaithe muiríne agus, d'fonn a áirithiú nach mbeidh frithghiniúnaigh ar fáil ach, *bona fide*, chun críche beartaithe muiríne nó ar leorchúiseanna liachta, do rialáil agus do rialú díol, allmhairiú, monarú, fógart agus taisealbhadh frithghiniúnach agus do dhéanamh socrú i dtaobh nithe áirithe eile.

*Ritheadh ag dhá Theach an Oireachtais,
17 Iúil, 1979*

BAILE ÁTHA CLIATH:

ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR.

Le ceannach díreach ón Oifig Díolta Fojlseachán Rialtais, An Stuara, Árd Oifig an Phoist, Baile Átha Cliath, nó trí aon d'foltóir leabhar.

Cló-bhuailte ag CAHILL PRINTERS LIMITED.

30p

BILL

entitled

An Act to make provision for family planning services and, with a view to ensuring that contraceptives are available only for the purpose, *bona fide*, of family planning or for adequate medical reasons, to regulate and control the sale, importation, manufacture, advertisement and display of contraceptives and to provide for certain other matters.

*Passed by both Houses of the Oireachtas,
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