

MAURITIUS
Criminal Code 2012

235. Unlawful Termination of Pregnancy

(1) Except in the cases provided for in section 235A, any person who, by any food, drink, medicine, or by violence, or by any other means, procures the miscarriage of any pregnant woman, or supplies the means of procuring such miscarriage, whether the woman consents or not, shall be punished by penal servitude for a term not exceeding 10 years.

(2) The like punishment shall be pronounced against any woman who procures her own miscarriage, or who consents to make use of the means pointed out or administered to her with that intent, if such miscarriage ensues.

(3) Except in the cases provided for in section 235A, any medical practitioner who points out, facilitates or administers the means of miscarriage shall, where miscarriage has ensued, be liable, on conviction, to penal servitude.

235A. Authorised Termination of Pregnancy

(1) No person shall provide treatment to terminate a pregnancy unless he —

- (a) is a specialist in obstetrics and gynaecology who is registered as such under the Medical Council Act;
- (b) provides the treatment in a prescribed institution; and
- (c) complies with all the requirements of this section.

(2) The specialist referred to in subsection (1)(a) may only provide treatment to terminate a pregnancy where another specialist in obstetrics and gynaecology and another specialist in the relevant field share his opinion, formed in good faith, that —

- (a) the continued pregnancy will endanger the pregnant person's life;
- (b) the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant person;
- (c) there is a substantial risk that the continued pregnancy will result in a severe malformation, or severe physical or mental abnormality, of the foetus which will affect its viability and compatibility with life; or
- (d) the pregnancy has not exceeded its fourteenth week and results from a case of rape, sexual intercourse with a female under the age of 16 or sexual intercourse with a specified person which has been reported to the police.

(3) Notwithstanding sections 297 and 298, any person who, for the purpose of procuring treatment to terminate pregnancy, knowingly makes a false declaration of rape, sexual intercourse with a female under 16 or sexual intercourse with a specified person to the police shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 10 years.

- (4) (a) Subject to subsections (5) and (6), the specialist referred to in subsection (1)(a) shall not carry out a termination of pregnancy under this section except with the informed consent of the pregnant person.
- (b) (i) Subject to subparagraph (ii), consent under paragraph (a) shall be given in writing.
- (ii) Where the pregnant person is unable to read or write, she may give her consent by affixing her thumbprint to a written statement which is read out to her.

(5) Where a request for treatment to terminate a pregnancy under this section is made by a pregnant person who is under the age of 18, no treatment shall be provided to terminate the pregnancy except with the written informed consent of one of her parents or her legal guardian, as the case may be.

(6) Where a woman is, in the opinion of the specialists referred to in subsection (2) —

(a) severely mentally disabled to such an extent that she is incapable of understanding the nature of, or the consequences of undergoing, the treatment to terminate her pregnancy; or

(b) in a state of continuous unconsciousness and there is no reasonable prospect that she will regain consciousness in time to request, and to consent to, treatment to terminate her pregnancy,

the specialist referred to in subsection (1)(a) may terminate her pregnancy upon the request and with the written informed consent of her partner, spouse, parents or legal guardian, as the case may be.

(7) Counseling shall be provided to a pregnant person before and after a termination of pregnancy.

(8) No person shall, by means of coercion or intimidation, compel or induce a pregnant person to undergo treatment to terminate a pregnancy against her will.

(9) Any person who contravenes this section shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 5 years and to a fine not exceeding 100,000 rupees.

(10) In this section—

“informed consent” means consent, obtained freely and without threat or improper inducement, to receive treatment to terminate a pregnancy after the risks, benefits and alternatives have been adequately explained to the person concerned;

“prescribed institution” has the same meaning as in section 38A of the Medical Council Act;

“specified person” has the same meaning as in section 249(5).

Source: "The Criminal Code (Amendment) Act 2012," Act No. 11 of 2012, Proclaimed by [Proclamation No. 44 of 2012] w.e.f. 15 October 2012. Assented to by Mrs. Monique Agnes Ohsan Bellepeau, Gosk, *Acting President of the Republic*, on 19 June 2012.
<http://dpp.govmu.org/English/Documents/Legislation/crmcode2012.pdf>

Criminal Code 1838

235. Abortion

(1) Any person who, by any food, drink, medicine, or by violence, or by any other means, procures the miscarriage of any woman quick with child, or supplies the means of procuring such miscarriage, whether the woman consents or not, shall be punished by penal servitude for a term not exceeding 10 years.

(2) The like punishment shall be pronounced against any woman who procures her own miscarriage, or who consents to make use of the means pointed out or administered to her with that intent, if such miscarriage ensues.

(3) Any physician, surgeon, or pharmacist who points out, facilitates or administers the means of miscarriage shall, where miscarriage has ensued, be liable, on conviction, to penal servitude.