

Briefing - Abortion Bill

A Bill to amend the law relating to abortion in England and Wales, and Northern Ireland; to remove criminal liability in respect of abortion performed with the consent of the pregnant woman up to the twenty-fourth week of pregnancy; to repeal sections 59 and 60 of the Offences Against the Person Act 1861; to create offences of termination of a pregnancy after its twenty-fourth week and non-consensual termination of a pregnancy; to amend the law relating to conscientious objection to participation in abortion treatment; and for connected purposes.

Top Lines

In England, Wales, and Northern Ireland today, any woman who ends her own pregnancy at any stage can be sent to prison for life under the Offences Against the Person Act 1861 – a law created before women could even vote.

Thousands of women across the UK are risking prosecution every year by ordering pills to end their own pregnancy from online providers, 25% of whom report being in abusive relationships.

Several women have been prosecuted under abortion laws in the last three years, including a woman in Northern Ireland who bought pills online for her then-15 year old daughter who was in an abusive relationship.

The Abortion Act 1967 does not extend to Northern Ireland, meaning that women are almost entirely unable to access abortion within their own nation.

On 23 October 2018, Diana Johnson MP and a cross-party coalition of MPs will introduce a Ten Minute Rule Bill to decriminalise abortion in England, Wales, and Northern Ireland.

What the Bill will do

Abortion is currently governed by the oldest statutory framework regulating any area of medical practice. This Bill will create law that is based on women's welfare and best medical practice.

This Bill ensures that:

- Abortion up to 24 weeks would no longer be a crime in England, Wales, or Northern Ireland
- After 24 weeks, healthcare professionals would remain subject to the same restrictions as those contained in the current law
- No crime would be committed by a woman who ends her own pregnancy
- Non-consensual abortion caused either on purpose or recklessly by violence or administration of abortion pills without consent will be subject to a new criminal offence that would carry a life sentence
- The current law allowing healthcare professionals to conscientiously object to hands-on participation in abortion treatment would be retained in England and Wales and extended to Northern Ireland

What the Bill will not do

The Bill will not remove regulation of abortion

Decriminalisation does not mean deregulation. Abortion would be treated like any other clinical procedure and would be governed by long-standing medical regulation.

Abortion would need to be **performed in line with professional guidance and only by qualified**

healthcare professionals; any service or individual involved in poor practice would face disciplinary and potentially criminal sanctions.

There is nothing in the 1967 Abortion Act that makes provision for the safeguarding of young or vulnerable women, access to counselling services, or specifies that informed consent must be obtained before an abortion can be lawfully performed. The Act is entirely silent on these issues.

These provisions and safeguards are all contained in entirely separate bodies of regulation, common law and legislation, which would remain firmly in place were abortion decriminalised.

The Bill will not make it harder to prosecute abusive partners

On the contrary, this Bill would **introduce new laws specifically aimed at abusive partners – carrying a life sentence** for recklessly or purposefully using violence, the threat of violence, or the administration of abortion pills to end a pregnancy.

The only thing decriminalised under this bill is consensual abortion – that is, a woman must give consent to end her pregnancy, as is the case with all medical procedures

The Bill will not undermine the devolution settlement

There is no constitutional impediment to the UK Parliament legislating to reform the law on abortion in Northern Ireland. Devolution is based on there being functioning devolved bodies in place. This means a First Minister, a deputy First Minister and a Northern Ireland Executive. None of these has operated since January 2017. **There have been no Northern Ireland Ministers since March 2017.**

Even if there were functioning devolved bodies, the Secretary of State for Northern Ireland retains the power to order a Northern Ireland department to take any action which is necessary to give effect to any international obligations. The term “international obligations” includes those arising under the **UN Committee on the Elimination of Discrimination against Women which has described Northern Ireland’s near total abortion ban as constituting “...violence against women that may amount to torture or cruel, inhuman or degrading treatment,”** and recommended the UK government should decriminalise abortion by repealing sections 58 and 59 of the Offences Against the Person Act, as this Bill provides.

The Bill will not reduce the role of healthcare professionals in abortion provision

If abortion were removed from the criminal law, abortion as a medical procedure would remain a healthcare matter and only those qualified to perform the relevant medical procedure would lawfully be able to do so

All women attending an abortion service would continue to have a discussion about their pregnancy options, their decision about whether to continue or to end the pregnancy, and in the latter case, their understanding of the available procedures and associated risks as part of the process of gaining informed consent. **Informed consent is entirely separate from - although often confused with - the requirements in the Abortion Act for 2 doctors to certify that a woman meets the grounds for abortion.**

The Bill will not change the rights of healthcare professionals to conscientiously object

On the contrary, this Bill extends the right of conscientious objection to healthcare professionals working in Northern Ireland.

The provisions of conscientious objection in England and Wales will remain in place. The interpretation of these provisions was laid out by the Supreme Court in 2014 and allow anybody to refuse, on conscientious grounds, to perform a hands-on role in abortion provision.