

ABORTION – A GUIDE FOR PARLIAMENTARIANS

For many, abortion law in the UK is a settled issue. The law has remained largely unchanged since it was introduced in 1967. However, practise has changed significantly, even during the last Parliament, with medical abortions at home now being the most common method. The last few years have also seen changes to abortion law in Northern Ireland, and in the right to protest abortion outside clinics. Events in other countries have also brought the issue to the fore.

Abortion has been a live political issue in the last year, with proposals to decriminalise it only stalled by the calling of the election. MPs were also suggesting changes around time limits, grounds for abortion, and restoring in-person appointments. As such, abortion is likely to remain an important issue in the next Parliament. This briefing lays out the current situation, and explores some of the issues likely to arise.

WHAT IS THE CURRENT ABORTION LAW IN THE UK?

Prior to 1967, abortion was regulated by sections of the 1861 Offences Against the Person Act, and the 1929 Infant Life Preservation Act. The 1967 Abortion Act legalised abortion on certain grounds, by registered practitioners, in England, Wales and Scotland. In 1990, The Human Fertilisation and Embryology Act lowered the gestation limit for abortions from 28 weeks to 24 weeks for most abortions, but removed any limit on abortions carried out under Ground E (disability).

In 2016, abortion law was devolved to Scotland under Section 53 of the Scotland Act. In 2019, abortion was decriminalised in Northern Ireland, after MPs voted on an amendment to the Northern Ireland (Executive Formation, etc) Act, in the absence of the devolved assembly at Stormont.

HOW MANY ABORTIONS ARE THERE?

In 2022, the latest year for which statistics are available, there were 251,377 abortions for women resident in England and Wales – the highest number since the Abortion Act was introduced and an increase of 17% over the previous year.¹ In Scotland, statistics for 2023 have been published, and show an increase of 10% in 2023 (18,207) compared to 16,607 in 2022.

The combined totals since 1967 reach over ten million.

WHAT ARE THE REASONS WOMEN HAVE ABORTIONS?

The legal grounds for abortions are as follows:

Ground	Definition
Ground A	That the continuance of the pregnancy would involve risk to the life of the pregnant woman greater than if the pregnancy were terminated.
Ground B	That the termination is necessary to prevent grave permanent injury to the physical or mental health of the pregnant woman.
Ground C	That the pregnancy has not exceeded its 24th week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of the pregnant woman.
Ground D	That the pregnancy has not exceeded its 24th week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of any existing child (or children) of the family of the pregnant woman.
Ground E	That there is substantial risk that, if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.
Ground F	To save the life of the pregnant woman.
Ground G	To prevent grave permanent injury to the physical or mental health of the pregnant woman.

In 2022, 98% of abortions (247,440) were performed under ground C. A further 1% were carried out under ground E alone or with A, B, C or D, (3,124 abortions), with 0.3% (692 abortions) under ground D (alone or with C). The remaining grounds account for very few abortions: 121 in total across grounds A, B, F and G.

The vast majority (99.9%) of abortions carried out under ground C alone were reported as being performed because of a risk to the woman's mental health. These were classified as F99 (mental disorder, not otherwise specified) under the International Classification of Disease version 10 (ICD-10).²

The real reasons that women have abortions are obviously more complex than the official data records. Deciding to have an abortion is far more complex than simply not intending to become pregnant.³ In most cases, no single factor motivates women to seek abortion. Rather, a variety of factors are involved. These include relationship problems, pressure from partners and family members, study and career aspirations, financial difficulties, lack of confidence as a mother, and lack of community support.^{4,5}

By far the majority of women cite multiple reasons for their abortion that work together to inform decision making. In addition, some women report multiple disruptive events in their lives at the time of the abortion, including unemployment, separation from a partner, falling behind on rent or mortgage payments, and moving house.⁶

CURRENT ISSUES

Pills by Post

In March 2020, regulations were made allowing women in England and Wales to take both abortion medications, mifepristone and misoprostol, at home for early medical abortion (up to 9 weeks and 6 days' gestation), without the need to first attend a hospital or clinic. Despite the Government deciding to end the pills-by-post policy following a public consultation, on 30 March 2022, Parliament voted in favour of an amendment to the Health and Care Bill, making the temporary approval allowing home use of both pills for early medical abortions permanent in England and Wales.

Pills by post represents a significant change in practise. Medical abortions, compared to surgical, have increased by 38 percentage points since 2012 (48%). In 2022, 86% of abortions were medically induced. 61% of all abortions were carried out at home.⁷

This policy has been found to have many failings.

Analysis of Freedom of Information requests from 17 hospitals, 2 ambulance services and the Care Quality Commission (CQC), published in February 2021, revealed on average 39 calls a month being made to 999 ambulance services from distressed women having taken these pills; on average 20 ambulances per month being sent to attend these women; 495 women a month attending hospital due to incomplete abortion; 250 women a month requiring surgery to remove "retained products of conception".⁸

Most notably, there is a risk that these DIY abortions will take place after the limit for the policy (9 weeks 6 days gestation), or even the legal limit (24 weeks gestation), because women may, intentionally or otherwise, report the wrong gestational age. This was made evident in the case of Carla Foster, who obtained pills through this policy and aborted her daughter, Lily, at between 32 and 34 weeks pregnant. Cases like Foster's have led abortion campaigners to push for the decriminalisation of abortion.

Decriminalisation

Although the current pressure to decriminalise abortion is a result of this recent case, proposals to do so have been debated since 2017, when Diana Johnson brought forward a ten-minute rule bill. Plans to decriminalise usually involve repealing some combination of the relevant sections of the Offences Against the Person Act, and the Infant Life Preservation Act.

The most recent attempts to decriminalise came in the form of amendments to the Criminal Justice Bill. The calling of the election put an end to this particular avenue, but these or similar proposals are likely to return in the next Parliament.

The amendments, proposed by Labour MPs Diana Johnson and Stella Creasy, sought in different ways to grant legal immunity to any woman in relation to her own abortion.

- This would mean that a woman could abort for any reason, including the sex of the baby.
- It would apply at any stage of pregnancy, effectively legalising abortion up to birth.
- She could use abortion drugs unlawfully obtained or any other method and she would not commit an offence, provided she procured the abortion herself.
- One proposal even sought to prevent women from being charged under legislation used to prosecute infanticide

These proposals do not seem to command public support. Polling shows that only 1% of the general public support abortion up to birth, and 70% of women would like to see a reduction (rather than removal) of UK time limits.⁹

Abortion and Coercion

The reasons why women “choose” abortion can be complex, but many women are pressured or coerced by others, to a greater or lesser degree, into undergoing abortions. A 2022 BBC poll found that 15% of British women had been coerced into having an abortion that they did not want.¹⁰ Pressure can come from many sources, including family members, friends, employers, and support agencies. Pressure to abort is not always overt – a lack of emotional support to keep a pregnancy may be experienced as pressure “forcing” a woman to choose abortion.¹¹

Coercion and pressure are well-established risk factors for women coming to terms with their abortion. “Perceived pressure from others to terminate a pregnancy” has been identified as a factor “associated with more negative psychological reactions”.¹²

More research is needed, but the data we have is shocking. Coercion in abortion decisions is a threat to women’s health and well-being and is an often-unrecognised form of domestic abuse. As such, addressing it should be a key priority in the health policy of the new Government. The issue has become even more urgent with the rapid expansion of the pills-by-post policy, as women are not screened in person for coercion and abuse, and it is now possible for a third party to obtain abortion pills and control every aspect of the abortion.

CONCLUSION

Abortion is a live political issue, and one that MPs will have to grapple with in the next Parliament. The pills-by-post policy is in urgent need of review, and more must be done to protect women from coerced abortion. The dangers of decriminalising abortion will also need to be considered when any such proposals are brought before Parliament.

If you need any more information, please contact Alithea Williams, SPUC’s Public Policy Manager, by emailing alitheawilliams@spuc.org.uk, or calling 0207 820 3121

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