



## Decriminalising abortion

### Criminal Justice Bill – Cross-party amendment briefing

*NC1 laid in the name of Diana Johnson would ensure that vulnerable women in England and Wales would no longer be subject to years-long investigation, criminal charges, and custodial sentences for ending their own pregnancy.*

#### Top lines

1. **Women are being criminally prosecuted on suspicion of ending their own pregnancy under a law passed before women even had the right to vote.** In the past year in England, 6 women have appeared in court charged with ending or attempting to end their own pregnancy outside abortion law. Abortion providers have reported that in recent years they have received c.50 requests for women's medical records from the police in relation to suspected abortion offences.
2. **Westminster voted to repeal the laws criminalising women in Northern Ireland in 2019.** These laws still remain in place in England and Wales.
3. **Voting in favour will not change the abortion time limits or provision in any way.** It is solely a question of whether women should be sent to jail for ending their own pregnancies.

#### The current law

Abortion in England and Wales is still a criminal offence. Under the Offences Against the Person Act 1861, as well as the Infant Life (Preservation) Act 1929 (which criminalises later abortions), having or providing an abortion remains a crime that carries a life sentence. This is despite these laws having been repealed for Northern Ireland by Westminster in 2019 and 2020.

Women accessing abortion in Great Britain do so under the Abortion Act 1967. But this law did not decriminalise abortion – it simply made it legal in certain, fixed circumstances.

Under current law, abortions must be signed off by two doctors, they must take place in a hospital or premises approved by the Secretary of State for Health, and women must meet one of seven criteria that allows abortion.

Any woman who undergoes an abortion without the permission of two doctors – for example by ordering pills online – can be prosecuted and receive a life sentence as her abortion takes place outside of the provisions of the Act.

## The women affected

Women who seek to end their pregnancies outside the current law are doing so because they're desperate. We know that many of these women are mothers already, and were in the most desperate of situations which deserved care and compassion, not punishment. Other women have been investigated after experiencing stillbirth, adding extreme stress to an already distressing experience. Examples include:

- Seven police officers arrived at the home of a woman who had called an ambulance when her baby was born prematurely, about 18 months ago. They searched her bins and provided no assistance while she performed mouth-to-mouth on her unconscious child, who was still attached to her placenta by umbilical cord. Mother and baby survived;
- A vulnerable 17-year-old girl presented to abortion services in the early days of the pandemic. She was unable to travel to a clinic on two occasions owing to Covid restrictions so passed the legal abortion limit and was referred to children's services and antenatal care. Soon after, she delivered a stillborn baby at home. She was investigated by the police on suspicion of abortion law offences;
- A woman was taken to hospital by ambulance owing to complications from early medical abortion medication that she was given after a medical consultation this year. She believed she was ten weeks pregnant, but it emerged she was actually at 19 weeks. Despite being within five weeks of the legal abortion limit when she was discharged from hospital in the early hours, she returned home to find a police cordon and officers searching her property.

## The impact on abortion laws and provision

The changes proposed here would have **no impact on the provision of abortion care**, or the laws that govern doctors, nurses and midwives. Specifically:

- There would be **no change to the 24-week time limit** and in exceptional circumstances beyond;
- There would be **no change to the 10-week limit on telemedicine**, agreed by Parliament in 2022;
- Abortions would still **require two doctors' signatures** to be legally provided;
- Women would still have to **meet one of the grounds** laid out in the Abortion Act 1967;
- Non-consensual abortion would **remain a crime** at any gestation;
- Those experiencing any form of violence **against women and girls would no longer face prison time** for having an abortion and;
- Anybody, including a medical professional, who assisted a woman in obtaining an abortion outside the law would be **liable for prosecution**.

## The global context

As it stands, England and Wales has the most severe penalty for having an 'illegal' abortion in the world – a maximum sentence of life in prison. Other countries that criminalise abortion, but have a lesser maximum sentence than the UK include:



### Afghanistan

*"A pregnant woman who...deliberately uses drugs or other means or allows someone else to apply these means to her, as a result of which abortion takes place, shall be sentenced to **short imprisonment** or shall be fined"*

### South Sudan

*"A pregnant woman, who voluntarily participates in causing the miscarriage, commits an offence, and upon conviction shall be sentenced to **imprisonment for a term not exceeding seven years** and a fine."*



### Syria

*"Every woman aborted herself, or used by other means consenting to abortion, punished with **imprisonment from six months to three years.**"*

### Texas

Despite a law banning abortion from six weeks of pregnancy, the law specifically excludes the woman herself, saying: *"This chapter **may not be construed to authorize the imposition of criminal, civil, or administrative liability or penalties on a pregnant female** on whom an abortion is performed, induced, or attempted."*



Across the world, nearly 50 countries do not criminalise women who seek to end their pregnancy outside the law. These include Northern Ireland, France, Ireland, Australia, Canada, and New Zealand.

Even countries with strong anti-abortion laws do not criminalise women under their strict abortion laws, including the USA and Poland. When, in 2016, Donald Trump indicated he wished to see women criminalised, the most vehemently anti-abortion organisations across the USA made clear that this was not their position, with the Susan B Anthony list saying: *"We have never advocated, in any context, for the punishment of women who undergo abortion...let us be clear: punishment is solely for the abortionist"*.

## Proposals for change

We believe that it is never in the public interest to prosecute women for ending their own pregnancies. The laws under which abortion is criminalised are up to 161 years old with the origins of some parts dating back to 1623 – they do not reflect society, and treat desperate women as having committed the same crime as a violent partner ending a pregnancy without consent.

For every woman who ends up in court, at least 10 others are subjected to prolonged police investigations which can prevent them from getting the mental health support they desperately need and which have resulted in existing children being separated from women whose cases never make it to court. Women deserve better, and we are therefore calling for:

**Women to be removed from the Offences Against the Person Act 1861 and the Infant Life Preservation Act 1929 in relation to their own pregnancies – bringing England and Wales into line with Northern Ireland.**