
The Abortion (Northern Ireland) (No. 2) Regulations 2020

Briefing for debate

Recommendation

It is expected that the regulations will be pushed to a vote. We recommend members should vote **aye**.

Abortion is legal in Northern Ireland. The regulations simply establish a framework of provision.

The regulations have been made using the 'made affirmative' procedure. As a result, the regulations are **already in operation** in Northern Ireland (since 31st March) and are underpinning existing health services. **If these regulations are voted down, there is a high chance that current provision will cease** and women will be unable to access abortion care in Northern Ireland at all.

With the dangers of and restrictions on travel between Northern Ireland and the rest of the UK as a result of Covid-19, this will mean women may be unable to access abortion care at all and be forced to continue with unwanted pregnancies. Prior to the establishment of local services, **two women who were unable to travel in April attempted suicide** as a result of their inability to access abortion care.

Regulations in brief

The regulations provide a framework for abortion provision in Northern Ireland. Under these regulations, abortion is allowed in the following circumstances:

- **Prior to 12 weeks** on a woman's request and with the certification of a healthcare professional such as a doctors, nurse, or midwife, in line with the Republic of Ireland.
- **Between 12 weeks and 24 weeks** on the same grounds as in the rest of the UK - that continuing with the pregnancy would involve a risk of injury to the physical or mental health of the woman greater than if the pregnancy was terminated. This must be certified by two healthcare professionals.
- **Beyond 24 weeks** along the same lines as the rest of the UK- if the life or health of the woman is in serious danger, or if there has been a diagnosis of severe or fatal foetal abnormality. This must be certified by two healthcare professionals.

Abortions **must take place at an HSC (Northern Ireland NHS) site** or premises registered for the purpose by the Northern Ireland Department of Health.

Every abortion must be legally certified by at least one healthcare professional, and must be **notified to the Chief Medical Officer** in writing.

The regulations **extend the right to Conscientious Objection to Northern Ireland**, enabling individuals to opt out of taking a hands-on role in abortion procedures. This is a well-established provision in the rest of the UK and ensures that the rights of healthcare professionals are protected without compromising the care of individual women. These provisions have been fully tested in the courts up to and including the Supreme Court (*Greater Glasgow Health Board vs Doogan [2014]*).

Abortion provision in Northern Ireland

Until Westminster passed the Northern Ireland (Executive Formation Etc.) Act 2019, abortion in Northern Ireland was illegal in almost all circumstances. The law criminalised both doctors and the woman.

All health trust areas in Northern Ireland are now providing Early Medical Abortion services.

The organisation Informing Choices NI is acting as an interim Central Access Point – enabling women to contact a single telephone number to access pregnancy options counselling and care up to 10 weeks (9 weeks 6 days) gestation.

At the current time, there are no routine services beyond 10 weeks of pregnancy and women are still being forced to travel to England via a scheme funded by the Government Equalities Office.

These regulations provide the framework for provision of these services within Northern Ireland and it is now within the powers of Northern Ireland Department of Health, Health and Social Care Board and Health Trusts to commission these services and ensure they are accessible to all who need them.

If the regulations are voted down, there is a serious risk that provision would cease. There is a long history in Northern Ireland of criminalisation of abortion, and a resultant ‘chill factor’ which means women and healthcare professionals need a solid framework to reassure them that they are acting within the law.

Background to regulations

In July 2019, the Westminster Parliament passed the Northern Ireland (Executive Formation) Act 2019. s9 of this Act provided for reform of Northern Ireland’s abortion law in the event that the Northern Ireland Executive was not restored by 21st October 2019.

The Executive was re-established by this date and as a result, the underlying law that criminalised abortion was repealed and the SoS had a duty to develop regulations to govern abortion provision. There was a full public consultation in November and December 2019, and these regs are the fulfilment of that legal duty.

Prior to the change in abortion law, any woman in Northern Ireland who ended her own pregnancy at any stage could be sent to prison for life under the Offences Against the Person Act 1861. This law carried the harshest penalty in the world for women who ended their own pregnancies. At least three women in Northern Ireland had been prosecuted in recent years.

In 2018, the Supreme Court found that the law on abortion in Northern Ireland was ‘untenable and intrinsically disproportionate’ and ‘clearly needs radical reconsideration’. The Court stated that the law was incompatible with Article 8 (right to a private and family life) of the European Convention on Human Rights.

Prior to the change in law, **66% of people in Northern Ireland believed Westminster should act** to reform abortion law in Northern Ireland.

A motion was narrowly passed in the Northern Ireland Assembly at the beginning of June which indicated opposition to the new law. **This motion has no impact on these regulations**, which are not changing the law on abortion but only establishing a framework for service provision.

About us

We are a group of professional medical bodies, service providers, and human rights organisation involved with establishing, advocating for, and providing abortion reform and services within Northern Ireland.