

# Abortion

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# B I L L

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.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

## **1 Amendment of criminal law in relation to consensual termination of pregnancy**

(1) In this Act—

- (a) “the 1861 Act” means the Offences Against the Person Act 1861,
- (b) “the 1967 Act” means the Abortion Act 1967.

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(2) For section 58 of the 1861 Act (administering drugs or using instruments to procure abortion) substitute the following—

### **“58 Causing abortion after twenty-four weeks**

(1) A person (A) commits an offence if—

- (a) the pregnancy of a woman (B) has exceeded its twenty-fourth week,
- (b) A uses an instrument or performs any other procedure on B, or administers to B any substance capable of causing abortion,
- (c) B’s abortion results, and
- (d) A intends to cause B’s abortion.

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(2) If—

- (a) proceedings for an offence under subsection (1) are brought against a person (D) who, at the time of the alleged offence, was a registered medical practitioner, and

- (b) the prosecution proves that the pregnancy had exceeded its twenty-fourth week,  
it is a defence to prove that D believed, in good faith, that the pregnancy had not exceeded its twenty-fourth week.
- (3) A person guilty of an offence under subsection (1) is liable on conviction on indictment to imprisonment for life or for any shorter term.” 5
- (3) Sections 59 (procuring drugs, &c., to cause abortion) and 60 (concealing the birth of a child) of the 1861 Act are repealed.
- (4) The 1967 Act is amended as follows – 10
- (a) paragraph (a) of section 1(1) (medical termination of pregnancy) is repealed;
- (b) in section 1(2), omit “(a) or”;
- (c) for paragraph (b) of section 2(1) (notification) substitute – 15
- “(b) for requiring a person of such description as may be so prescribed to give such notice of the termination of a pregnancy, and such other information relating to the termination, as may be so prescribed;”;
- (d) after section 5(2) (supplementary provisions), insert the following subsection – 20
- “(3) Nothing in section 1 or 3, or in subsection (2) of this section, applies to conduct which, as a result of the Abortion Act 2018, ceases to be an offence under the Offences Against the Person Act 1861;
- (e) in section 6, for “sections 58 and 59” substitute “section 58”. 25

## 2 Non-consensual termination of pregnancy

- (1) A person (A) commits an offence if –
- (a) in relation to a woman (B) A commits any unlawful act involving the use or threat of force, or the administration of any substance capable of causing abortion, 30
- (b) A believes that B is pregnant or is reckless as to whether she is pregnant, and
- (c) A intends to cause B’s abortion or is reckless as to whether her abortion results.
- (2) For the purposes of subsection (1) – 35
- (a) an act done by, or with the assistance or consent of, B, or done in good faith by a registered medical practitioner, registered nurse or registered midwife, is not to be considered unlawful,
- (b) but B is not to be treated as consenting to the administration of a substance unless she is aware of its nature as a substance capable of causing abortion. 40
- (3) A person guilty of an offence under subsection (1) is liable on conviction on indictment to imprisonment for life or for any shorter term.

**3 Conscientious objection to participation in treatment**

- (1) Subsections (1) and (2) of section 4 of the 1967 Act (conscientious objection to participation in treatment) are repealed.
- (2) Subject to subsection (3), no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment for the termination of pregnancy to which that person has a conscientious objection; provided that in any legal proceedings the burden of proof of conscientious objection shall rest on the person claiming to rely on it. 5
- (3) Nothing in subsection (2) affects any duty to participate in treatment which is necessary to save the life, or to prevent grave permanent injury to the physical or mental health, of a pregnant woman. 10
- (4) The duty of –
  - (a) the Secretary of State under section 1 of the National Health Service Act 2006 (Secretary of State’s duty to promote health service), and
  - (b) the Welsh Ministers under section 1 of the National Health Service (Wales) Act 2006 (Welsh Ministers’ duty to promote health service)includes a duty to provide or secure services such that the timely access to treatment for the termination of pregnancy is not impeded by the operation of subsection (2). 15

**4 Short title, commencement, and extent** 20

- (1) This Act may be cited as the Abortion Act 2018.
- (2) This Act comes into force at the end of the period of six months beginning with the day on which it is passed.
- (3) Sections 1(4), 3(1) and 3(4) extend to England and Wales only.
- (4) The other provisions of this Act extend to England and Wales and Northern Ireland only. 25

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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.

*Ordered to be brought in by Diana Johnson,  
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Dr Sarah Wollaston, Stella Creasy,  
Nicky Morgan, Liz Saville Roberts,  
Norman Lamb, Jo Stevens,  
Anna Soubry, Christine Jardine,  
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*Ordered, by The House of Commons,  
to be Printed, 23 October 2018.*

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