

## Abortion Law in Northern Ireland

As well as being subject to the wide range of laws that govern other areas of medical practice, abortion is currently subject to a specific legal regime. The Abortion Act 1967 was never extended to Northern Ireland.

### 1) The Offences Against the Person Act (1861)

Abortion is illegal by virtue of the Offences Against the Person Act (1861). The 1861 Act prohibits abortion (s.58), supply of the means of performing an abortion (s.59), and concealment of birth (s.60). Under the Act:

- Abortion is illegal from the point of implantation (6-12 days after fertilisation);
- Abortion is punishable by life imprisonment;
- Women who self-induce their own abortion, as well as abortion providers, are potentially liable for criminal sanction.

### 2) The Criminal Justice Act (Northern Ireland) 1945

Section 25 provides a separate offence of “child destruction”. This applies where an abortion is performed after viability and is potentially punishable by life imprisonment. No offence occurs where actions are undertaken in good faith to preserve the life of the pregnant woman.

### 3) Caselaw

A series of cases in the early 1990s clarified that the ‘Bourne Exception’ applied in Northern Ireland. Abortion was held to be unlawful in the jurisdiction except where it is necessary to preserve the life of the woman or there is a risk of real and serious adverse effect on physical or mental health which is either long term or permanent.

In 2004, the Northern Ireland Court of Appeal imposed a duty on the Department of Health to provide guidance to medical professionals stating the law in relation to the lawful termination of pregnancy. After much delay guidance was finally issued in 2016.

### 4) Devolution

As part of the transfer of powers from Westminster to Stormont, criminal justice and policing, the sphere within which abortion law is currently regulated, was devolved in 2010.

### 5) Human Rights

In July 2015 the Northern Ireland Human Rights Commission sought a judicial review of the law on abortion in Northern Ireland. In November of 2015 the Horner, J found that article 8 of the European Convention on Human Rights is breached by the absence of exceptions to the general prohibition on abortions in the cases of fatal foetal anomaly and pregnancies which resulted from sexual crime.