

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

Monday 8 June 2020

About the BMA

The BMA (British Medical Association) is a professional association and trade union representing and negotiating on behalf of all doctors and medical students in the UK. It is a leading voice advocating for outstanding health care and a healthy population. It is an association providing members with excellent individual services and support throughout their lives.

The Abortion (Northern Ireland) (No. 2) Regulations 2020: a new legal framework for Northern Ireland

We welcome the greater clarity that the new legal framework gives on the provision of abortion services within Northern Ireland, including the right to conscientious objection; and we support its aim of protecting the health, safety and human rights of women and girls.

The new framework, therefore, marks an important step forward for the provision of abortion services in Northern Ireland, and the BMA hopes that the regulations will receive Parliament's approval. Nevertheless, we would like to highlight two aspects of the new legal framework for ongoing review:

- the inclusion of criminal sanctions against healthcare professionals in the regulations; and
- the omission of the creation of exclusion zones outside confidential abortion services.

The decriminalisation of abortion

The BMA believes that abortion should be decriminalised across the UK: it should be regulated in the same way as other clinical procedures, which are already subject to an extensive range of professional standards, regulations, criminal and civil laws.

We appreciate that these regulations represent a huge step forward in terms of partially decriminalising abortion in Northern Ireland. However, we regret that, in our view, they have fallen short of the fuller spirit of decriminalisation set out in the United Nations' Committee on the Elimination of Discrimination Against Women (CEDAW) recommendations, which the Government was required to use as the parameters for this new legal framework.

We do not believe that criminal sanctions¹ against healthcare professionals should have been re-introduced (including, as they have been, for minor procedural irregularities). We appreciate that there are some reassurances in the explanatory memorandum² as to when these sanctions will apply. We would ask that the Government provides further reassurances to Parliament, when the regulations are brought to parliamentarians for their approval, that the reintroduction of a criminal

¹ At sections 9, 10 and 11 of the Regulations.

² For example, that proceedings can only be brought by, or with the consent of, the Northern Ireland Director of Public Prosecutions.



offence cannot be used to prosecute healthcare professionals who are following clinical guidelines and acting in good faith, given that decisions can, at times, be finely balanced.

More detailed information on the regulation of clinical procedures and the BMA's views can be found in the BMA resource '[How will abortion be regulated in the United Kingdom if the criminal sanctions for abortion are removed?](#)'.³

The intimidation and harassment of staff and patients outside abortion services

The BMA will continue to seek the introduction of exclusion zones outside confidential abortion services, UK-wide, to prevent the unacceptable harassment and intimidation of patients and staff.

The BMA has long supported the creation of exclusion zones outside confidential abortion services, across the whole of the UK, and is disappointed that provision for these is not included within the regulations. We note, however, that the UK Government has committed to keeping the power to establish exclusion zones in Northern Ireland 'under review', responding to 'any challenges as needed' once the new framework has embedded.⁴

We hope that the UK Government will liaise with relevant departments in Northern Ireland to introduce exclusion zones as an important measure to prevent any unacceptable intimidation and harassment of staff and patients who are providing, and accessing, a confidential, lawful and necessary service.

We are aware of anti-abortion picketers harassing women in a variety of different ways where abortion services are already established in the UK, including filming individuals approaching clinics which provide abortion services, and providing grossly erroneous information about clinical risks, such as linking abortion with breast cancer. We continue to be concerned by the Government's reluctance to protect women and healthcare staff from this type of harassment.

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³ BMA. *How will abortion be regulated in the United Kingdom if the criminal sanctions for abortion are removed?* (October 2018). Available at www.bma.org.uk/advice/employment/ethics/ethics-a-to-z/abortion

⁴ Northern Ireland Office (NIO). *A new legal framework for abortion services in Northern Ireland. Implementation of the legal duty under section 9 of the Northern Ireland (Executive Formation etc) Act 2019: UK Government consultation response*, March 2020. Available at www.gov.uk/government/consultations/a-new-legal-framework-for-abortion-services-in-northern-ireland