

Abortion time limit amendment to the Health and Care Bill (NC31)

Key points

- Fiona Bruce MP, alongside a number of cross-party MPs, has **tabled an amendment (NC31) to the Health and Care Bill to reduce the upper gestational limit for abortion in most cases from 24 to 22 weeks' gestation¹**:
 - (1) *The Infant Life (Preservation) Act 1929 is amended as follows.*
In section 1(2) for "twenty-eight" substitute "twenty-two".
 - (2) *The Abortion Act 1967 is amended as follows.*
In section 1(1)(a) for "twenty-fourth" substitute "twenty-second".
- This time limit amendment would replace the current 24-week time limit for abortions on the grounds where there is a greater risk of injury to the physical or mental health of the pregnant woman or any of her children, under section 1(1)(a) of the *Abortion Act 1967*.² Currently 98% of abortions are performed under this section of *Abortion Act 1967*.³
 - It will not affect the time limit for abortions on the grounds of risk to the life of the pregnant woman, threat of grave permanent injury to her physical or mental health, and substantial risk of serious disability for the child (currently, and under this amendment, abortion is and would remain legal up to birth in those circumstances).
- The current 24-week limit is based on an **outdated understanding of the viability of premature babies** and needs to be updated with urgent effect.
 - The current 24-week time limit for abortion was set in 1990, when 24 weeks was considered the point of viability outside the womb. **The latest guidance from the British Association of Perinatal Medicine establishes 22 weeks' gestation to be the point of viability and enables doctors to intervene to save premature babies from 22 weeks..⁴**
 - The latest research indicates that a significant number of babies born at 22 weeks' gestation can survive outside the womb, and this number only increases with proactive perinatal care.⁵
- **Our gestational limits on abortion are more extreme than the majority of other European countries, where the median time limit is 12 weeks' gestation.⁶**
- Polling has shown that **70% of British women favour a reduction in the time limit from 24 weeks to 20 weeks or below**, and the largest number of women (24%) preferred a reduction to 12 weeks.⁷

What is the current law on abortion in England and Wales?

- Section 1 of the *Abortion Act 1967* states that "a person shall not be guilty of an offence under the law relating to abortion when a pregnancy is terminated by a registered medical practitioner if two registered medical

¹ See: [Health and Care Bill, As Amended](#), pp. 31-32.

² See: [Abortion Act 1967](#), section 1.

³ See: [Abortion Statistics for England and Wales 2020](#), Table 2.

⁴ See: [British Association of Perinatal Medicine: Perinatal Management of Extreme Preterm Birth before 27 weeks of gestation \(October 2019\)](#), p. 26.

⁵ See: [Håkansson S. et al., 'Proactive Management Promotes Outcome in Extremely Preterm Infants: A Population-Based Comparison of Two Perinatal Management Strategies', *Pediatrics* \(2004\), 114 \(1\).](#)

⁶ See: [What are the abortion time limits in EU countries? – Right To Life UK](#).

⁷ See: [Savanta ComRes: ABORTION POLLING For WHERE DO THEY STAND?](#), Table 12.

practitioners are of the opinion, formed in good faith” that the abortion is being performed on one of the following grounds [...]

- **“the pregnancy has not exceeded its twenty-fourth week and that the continuance of the pregnancy would involve risk, greater than if the pregnancy were terminated, of injury to the physical or mental health of the pregnant woman or any existing children of her family; or**⁸
- The time limit of 24 weeks on abortion in the cases of greater risk to the physical or mental health of the mother or any of her children was introduced by section 37 of the *Human Fertilisation and Embryology Act 1990*,⁹ which amended the *Abortion Act 1967* to:
 - Remove the previous de facto time limit of 28 weeks for all abortions, which had been effectively set by the *Infant Life (Preservation) Act 1929* that made it illegal to “destroy the life of a child capable of being born alive” and defined 28 weeks’ gestation as proof of viability.¹⁰
 - Institute a 24-week time limit for abortion in most instances (in cases of greater risk to the physical or mental health of the mother or any of her children).
 - Allow abortion up to birth in three cases (risk to the life of the pregnant woman, threat of grave permanent injury to her physical/ mental health, and substantial risk of serious disability).
- The introduction of a 24-week gestational limit in 1990 appears to have been significantly based on the results of a Royal College of Obstetricians and Gynaecologists (RCOG) working party report into neonatal survival rates before 28 weeks of gestation.¹¹

Why is this change to abortion law necessary?

- **The latest guidance from the British Association of Perinatal Medicine establishes 22 weeks’ gestation to be the point of viability and enables doctors to intervene to save premature babies from 22 weeks.**¹²
- **Upper gestational limits on abortion should be driven by the latest science on fetal viability**, which indicates that there have been significant improvements in neonatal survival rates at 22 weeks’ gestation in the thirty years since the upper gestational limit was set to 24 weeks in 1990.
 - Neonatal survival rates at 22 and 23 weeks’ gestation have improved from 0% in the period between 1981-1985 to 19% in the period 1986-1990, and to 54% in the period 1996-2000, according to a study based on a neonatal intensive care unit in London.¹³
 - A 2019 study has shown that 54% of all babies born at 22 weeks’ gestation and admitted to a neonatal intensive care unit in Great Britain in 2016 survived at least up to one year.¹⁴
 - Neonatal survival outcomes between 22 and 25 weeks’ gestation significantly improve when neonatal hospital staff take a proactive approach in the care of premature babies, according to research that compared different approaches to the management of perinatal care in cases of extremely premature babies across Sweden.¹⁵

⁸ See: [Abortion Act 1967](#), section 1.

⁹ See: [Human Fertilisation and Embryology Act 1990](#), section 37.

¹⁰ See: [Infant Life \(Preservation\) Act 1929](#), section 1(2).

¹¹ See: [House of Commons Select Committee on Science and Technology - Twelfth Report: Upper gestational limit](#), 21.

¹² See: [British Association of Perinatal Medicine: Perinatal Management of Extreme Preterm Birth before 27 weeks of gestation \(October 2019\)](#), p. 3.

¹³ See: [Riley K., Roth S., Sellwood M., Wyatt JS, Survival and neurodevelopmental morbidity at 1 year of age following extremely preterm delivery over a 20-year period: a single centre cohort study, *Acta Paediatrica* 2008, 97 \(2\), Table 2.](#)

¹⁴ See: [MBRRACE-UK Supplementary report on survival up to one year of age for babies born before 27 weeks gestational age – For Births in Great Britain from January to December 2016, Maternal, Newborn and Infant Clinical Outcome Review Programme](#), Table 2.

¹⁵ See: [Håkansson S. et al., ‘Proactive Management Promotes Outcome in Extremely Preterm Infants: A Population-Based Comparison of Two Perinatal Management Strategies’, *Pediatrics* \(2004\), 114 \(1\).](#)