

# Are full home abortions legal?

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**P**ARTIAL home medical abortions have been available since 2017 in Scotland. These usually take place in the first 10 weeks of gestation whereby a woman is given two sets of pills. The first (mifepristone) is generally taken in a clinic and obstructs a hormone which is necessary for the uterus to support the implanted embryo/foetus. The second pill (misoprostol) is taken at home (if the woman so wishes) two days later and causes the lining of the womb to break down resulting in the expulsion of the dead embryo/foetus.

The Scottish Government was able to authorise these partial home abortions because the Abortion Act 1967 indicates that a minister can approve a "class of place" where a medical abortion can be undertaken, such as at home. But since March 2020, and in the light of the risks of Covid-19 infection, a woman seeking a medical abortion can now, if appropriate, ask a healthcare practitioner through a phone or video call to receive both abortion pills, which can then be taken at home. And because of this precedent, the Government has been consulting until today whether this arrangement should be made permanent even after the threat of Covid-19.

But uncertainty has now arisen whether these full home abortions, where both pills are taken at home, are actually legal. This is because with such abortions it is the woman, and not a registered medical practitioner, who is basically taking full responsibility for the abortion. Such a development is important because Section 1(1) of the Abortion Act 1967 states that: "a person shall not be guilty of an offence ... [only] when a pregnancy is terminated by a

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registered medical practitioner [and not by the woman wanting the termination]”.

Moreover, in law, the identity of the person responsible for the actual act of terminating life matters. Even in Scotland a difference exists between (1) euthanasia (whereby a person is responsible for ending, directly, the life of another) which would generally be considered as a form of murder and (2) assisted suicide (whereby a person only provides another with lethal drugs for him or her to take at home) which could be considered as a form of culpable homicide.

In addition, when the Scottish Government was asked, in November 2020, to clearly confirm that full home abortions were not illegal, it simply responded, in December 2020, that it “does not believe that women having an abortion under the current approval ... would be committing an offence”. However, a belief is completely different from a legal confirmation and such an ambiguous response from Government is both surprising and wholly inappropriate.

The Abortion Act 1967 was enacted, amongst other reasons, to address illegal and dangerous backstreet or home abortions. It is unacceptable, therefore, for the Government to propose, as in its present consultation, to go back to a situation which may be similar. A situation where women may be led to consider inappropriately supervised abortions which may actually be illegal.

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