



## BRIEFING PAPER

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# Registration of stillbirth

By Catherine Fairbairn

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## Summary

### Registration of birth and subsequent death of baby born alive

The birth of a baby who is born alive must be registered, whatever the length of the completed pregnancy. The death of a baby born alive must be registered in the same way as any other death.

### Registration of stillbirth after 24 weeks pregnancy

When a baby is stillborn (born dead) after 24 weeks pregnancy, the stillbirth must be registered in the stillbirth register. The process for registering a stillbirth combines features of both birth and death registration.

### Stillbirth before 24th week of pregnancy

There is no provision to allow the registration of stillbirths before the 24th week of pregnancy. The charity Sands (Stillbirth and Neonatal Death charity) provides forms of certificate that health care staff may use or adapt for a baby stillborn before 24 weeks pregnancy.

### Government position

On a number of occasions, the Government has indicated that it has no plans to change the definition of stillbirth, which is based on clinical evidence and the age of viability.

### Calls for change

In January 2014, Tim Loughton (Conservative) introduced a Private Members' Bill, intended to enable registration of a baby stillborn before the threshold of 24 weeks. The definition of stillbirth was to be based on the experience of giving birth. This Bill did not progress any further.

Tim Loughton has also raised the issue of registration of stillbirth before 24 weeks of pregnancy in other Parliamentary debates, speaking of the arbitrary nature of the 24 week threshold. He highlighted one particular case where twins had been stillborn either side of the threshold and were treated differently for registration purposes.

There have been a number of petitions calling for the law to be changed, to allow the registration of a stillbirth before the 24th week of pregnancy.

### Civil Partnerships, Marriages and Deaths (Registration Etc.) Bill 2017-19

In July 2017, having come fifth in the Private Members' Bill ballot which took place in June 2017, Tim Loughton introduced the [Civil Partnerships, Marriages and Deaths \(Registration Etc.\) Bill 2017-19](#) (the Bill). [Explanatory Notes](#) have been prepared by the Home Office with the consent of Tim Loughton. The Bill is due to have its second reading on 2 February 2018.

Among other things, the Bill would require the Secretary of State to "make arrangements for the preparation of a report on whether, and if so how, the law ought to be changed to require or permit the registration of pregnancy losses which cannot be registered as still-births under the Births and Deaths Registration Act 1953". The Secretary of State would be required to publish the report.

#### 4 Registration of stillbirth

Another Library briefing paper provides further information about the Bill, which also deals with other matters: [Commons Library analysis: Civil Partnerships, Marriages and Deaths \(Registration Etc.\) Bill](#) (CPB 08217, 1 February 2018).

# 1. Registration of live births

The birth of a baby who is born alive must be registered, whatever the length of the completed pregnancy.

If a baby lives for even a short time after being born, and then dies, both the birth and death must be registered.<sup>1</sup>

A neonatal death generally means a death within the first 28 days of life. This is distinguished from a stillbirth, where there are no signs of independent existence.

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<sup>1</sup> *Births and Deaths Registration Act 1953*

## 2. Registration of stillbirth

### 2.1 Definition of “stillborn child”

The definition of “stillborn child” in England and Wales is contained in the *Births and Deaths Registration Act 1953* section 41 as amended by the *Stillbirth (Definition) Act 1992* section 1(1) and is as follows:

“a child which has issued forth from its mother after the 24th week of pregnancy and which did not at any time breathe or show any other signs of life”.<sup>2</sup>

Similar definitions apply in Scotland<sup>3</sup> and Northern Ireland.<sup>4</sup>

### 2.2 Registration of stillbirth after 24 weeks of pregnancy

When a baby is stillborn (born dead) after 24 weeks pregnancy, the stillbirth must be registered in the stillbirth register. The process for registering a stillbirth combines features of both birth and death registration.

Information about how to register a stillbirth is available on the following websites:

- [Gov.UK, Register a stillbirth](#) (England and Wales);<sup>5</sup>
- [National Records of Scotland, Registering a stillbirth](#) (Scotland);<sup>6</sup>
- [NIDirect, Registering a stillbirth](#) (Northern Ireland).<sup>7</sup>

### 2.3 No registration of stillbirth before 24 weeks of pregnancy

There is no provision to allow the registration of stillbirths before the 24th week of pregnancy.

The charity Sands (Stillbirth and Neonatal Death charity) provides forms of [certificate](#) that health care staff may use or adapt for a baby born dead before 24 weeks pregnancy.

### 2.4 Guidance

The Royal College of Obstetricians and Gynaecologists’ good practice note, [Registration of stillbirths and certification for pregnancy loss before 24 weeks of gestation](#), includes a statement on the interpretation and implementation of registration law:

...the legal advisors for the Department of Health and the Office for National Statistics have agreed that a fetus that is expelled

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<sup>2</sup> Previously the threshold had been 28 weeks

<sup>3</sup> Section 56(1) of the *Registration of Births, Deaths and Marriages (Scotland) Act 1965*, as amended by the *Stillbirth (Definition) Act 1992*

<sup>4</sup> *Births and Deaths Registration (Northern Ireland) Order 1976*, as amended by the *Stillbirth Definition Northern Ireland Order 1992*

<sup>5</sup> Gov.UK, [Register a stillbirth](#), [accessed 29 January 2018]

<sup>6</sup> National Records of Scotland, [Registering a stillbirth](#) [accessed 29 January 2018]

<sup>7</sup> Nldirect, [Registering a stillbirth](#) [accessed 29 January 2018]

after 24 weeks of pregnancy, provided it was no longer alive at the 24th week of pregnancy (this fact being either known or provable from the stage of development reached by the dead fetus), does not fall within the category of births to be registered as stillbirths under the above Acts. This interpretation is also accepted by the General Register Office for Scotland and the General Register Office for Northern Ireland.<sup>8</sup>

The Practice Note also includes a number of questions and answers.

The Royal College of Midwives has also published a guidance paper on the subject, [Registration of stillbirths and certification for pregnancy loss before 24 weeks' gestation](#).<sup>9</sup>

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<sup>8</sup> Royal College of Obstetricians and Gynaecologists, [Registration of stillbirths and certification for pregnancy loss before 24 weeks of gestation](#), Good Practice No 4, January 2005

<sup>9</sup> June 2005

## 3. Calls for change

### 3.1 Registration of Stillbirths Bill 2013-14

In January 2014, Tim Loughton (Conservative) introduced a Private Members' Bill under the Ten Minute Rule, the [Registration of Stillbirths Bill 2013-14](#).<sup>10</sup> Information about the Bill is provided on the [Bill page on the Parliament website](#).

The Bill would have enabled parents to register the death of a stillborn baby before the threshold of 24 weeks gestation, by amending the Births and Deaths Registration Act 1953.

On 14 January 2014, at first reading of the Bill, Tim Loughton said that the definition of stillbirth would be based on the experience of giving birth:

My Bill would provide for the official registration of stillborn babies below 24 weeks' gestation. It would not be based on a crude time threshold of what is deemed a viable foetus, but on the experience of giving birth.<sup>11</sup>

Mr Loughton said that the Bill was not intended to change the law on abortion. He considered that the measure could be helpful to many people:

My Bill proposes a modest measure that requires minimal changes to legislation and little cost to the state, but for mums like [...], and her partner, and thousands of others struggling to have children, it has the potential to make a huge difference in helping them to handle the grief of a loss that most of us could not imagine.<sup>12</sup>

The Bill did not proceed any further.

### 3.2 Parliamentary debate

Tim Loughton has raised the issue of registration of stillbirth before 24 weeks of pregnancy in other Parliamentary debates.

#### October 2016

On 13 October 2016, in a debate on [Baby Loss](#), Mr Loughton spoke of the arbitrary nature of the 24 week threshold:

If someone happens to give birth to a stillborn child after 23 weeks, six days and 23 hours, that child never existed in the eyes of the state and is to all intents and purposes a miscarriage. If that child had clung on for another couple of hours and been stillborn beyond the 24-week threshold, it would be a child in the eyes of the state. That is an extraordinary anomaly in the law which we need to address.<sup>13</sup>

Tim Loughton highlighted one particular case where twins had been stillborn and were treated differently for registration purposes:

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<sup>10</sup> Bill 153 of 2013-14

<sup>11</sup> [HC Deb 14 January 2014 c728](#)

<sup>12</sup> [HC Deb 14 January 2014 c728](#)

<sup>13</sup> [HC Deb 13 October 2016 c505](#)

When I launched [the Private Member's] Bill, I got, as we all do, a wave of extraordinary, tragic experiences from mums and dads around the country, including one from a woman who had twins, one of whom was stillborn before 24 weeks. The other survived and was tragically born stillborn after 24 weeks, but in the eyes of the law she only had one baby. How absurd is that? That is why the law needs to be changed.

That stark difference surely cannot be right. It adds insult to the unimaginable pain that the parents have already had to suffer.<sup>14</sup>

## March 2017

On 21 March 2017, in a debate on [Baby Loss \(Public Health Guidelines\)](#), Tim Loughton said that there had been some discussion of the subject, but still no change of law:

Following some very helpful responses from predecessor Ministers and officials at the Department of Health and having convened various roundtables—with the Royal College of Midwives, the Royal College of Obstetricians and Gynaecologists and other key players, as well as various stillborn charities—I thought we had got to a place where the law could be changed to emulate what has been done in New South Wales in Australia. However, we still have a iniquitous and highly distressing situation: somebody who has gone through the trauma of carrying a child as far as 23 weeks and six days will find, if the child is, tragically, born prematurely and stillborn, that the child is not recognised in the eyes of the state, although a child born just after the 24-week threshold will be recognised as a stillborn child.

(...)

The fact is that the state has still, so far, failed to take the straightforward and fairly cost-free step of coming up with a simple registration scheme for those for whom such a scheme would help to provide some form of closure.<sup>15</sup>

## 3.3 Petitions

There have been a number of petitions calling for the law to be changed, to allow the registration of a stillbirth before the 24th week of pregnancy, including:

### Change.org

- [Allow registered birth certificates for children born from 20 weeks](#) – received 372,394 signatures.

### UK Government and Parliament Petitions

Petitions usually run for six months. The Government responds to petitions that get more than 10,000 signatures.

- [The rights of all stillborn babies to be given a proper birth certificate and a death certificate regardless of gestation and better support](#) – petition closed on 12 August 2012 with 1,245 signatures;
- [The Right To Register A Miscarriage / Stillbirth Before 24 Weeks!](#) – petition closed on 20 February 2013 with 374 signatures;

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<sup>14</sup> Ibid

<sup>15</sup> [HC Deb 21 March 2017 c836-7](#)

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- [Birth and death certificates to be given to parents of stillborns from 21 weeks](#) - petition closed on 11 August 2016 with 2,679 signatures;
- [Class babies that have passed from 12 weeks on as stillbirth not miscarriage!](#) – petition closed on 18 January 2017 with 143 signatures;
- [Issue birth certificates for all babies born still from 16 weeks gestation](#) - petition closed early on 3 May 2017, because of General Election, with 2,923 signatures;
- [Amend the Births and Deaths Registration Act 1953 to include all pregnancy loss](#) - petition closed early on 3 May 2017, because of General Election, with 10,850 signatures;
- [Provide certificates for stillborn babies born before 24 weeks](#) – petition runs until 10 July 2018 – it has 51 signatures as at 29 January 2018.

## 4. The Government's position

### 4.1 Definition based on age of viability

In March 2016, the then junior Health Minister, Ben Gummer, indicated that the Government had no plans at that time to change the definition of stillbirth which is based on the age of viability:

The Births and Deaths Registration Act 1953, as amended, provides for the registration of babies born without signs of life after 24 weeks' gestation, which is the legal age of viability. Parents of babies who are stillborn after 24 weeks' gestation receive a medical certificate certifying the stillbirth and, upon registration, can register the baby's name and receive a certificate of registration of stillbirth.

Parliament supported a change to the stillbirth definition from "after 28 weeks" to "after 24 weeks" in 1992, following a clear consensus from the medical profession at that time that the age at which a foetus should be considered viable should be changed from 28 to 24 weeks. Medical opinion does not currently support reducing the age of viability below 24 weeks of gestation. Therefore, there are no plans to amend the stillbirth definition.<sup>16</sup>

Ben Gummer went on to acknowledge the distress this might cause to some parents. He spoke of the certificate a hospital might issue, and set out what the Government was doing to reduce the rates of stillbirths, neonatal and maternal deaths, and brain injuries occurring during or soon after birth.<sup>17</sup>

In February 2017, the Government confirmed that there were still no plans to amend the stillbirth definition.<sup>18</sup>

On 21 March 2017, responding to the debate on [Baby Loss \(Public Health Guidelines\)](#), the then Health Minister, Philip Dunne, said that he would write to Tim Loughton with the Government's position:

My hon. Friend [Tim Loughton] finished with a request that we consider once more the registration date for stillbirths, and his example of the twins falling either side of the 24-week definition puts the points very concisely and starkly. Again, I am not in a position to give him comfort on that issue here and now, but I will write to him, having consulted colleagues in the Department of Health on where we stand on it.<sup>19</sup>

### 4.2 Government response to petition

The Government responded to a petition on the UK Government and Parliament Petitions website which closed on 3 May 2017, [Amend the Births and Deaths Registration Act 1953 to include all pregnancy loss](#). The Government reiterated that, at that time, it had no plans to change the law so that every woman who gave birth to a stillborn baby, no matter the period of gestation, had a right to register the event and receive a certificate.

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<sup>16</sup> [PO 29604 \[on Perinatal Mortality\], 11 March 2016](#)

<sup>17</sup> [Ibid](#)

<sup>18</sup> [PO 62995 \[on Childbirth\], 10 February 2017](#)

<sup>19</sup> [HC Deb 21 March 2017 c842](#)

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The Government confirmed that it was guided by clinical evidence:

Regarding the registration of stillbirths, the definition of stillbirth is based on the age at which a baby is considered viable. The Government has no plans to change the definition of stillbirth to include babies born before 24 weeks of gestation.

We are guided on this issue by the clinical evidence which shows that, whilst there have been medical advances in caring for premature babies, only a small number of babies born at under 24 weeks gestation survive.

The Government also noted that some parents would not wish to register a stillbirth before 24 weeks:

The Department of Health is aware that some parents find it very distressing that they may not register the birth of a baby born before 24 weeks. However, it is important to recognise there would also be parents distressed at the possibility of having to do so.

## 5. Civil Partnerships, Marriages and Deaths (Registration Etc.) Bill 2017-19

Tim Loughton came fifth in the Private Members' Bill ballot which took place in June 2017. In July 2017, he introduced the [Civil Partnerships, Marriages and Deaths \(Registration Etc.\) Bill 2017-19](#) (the Bill).<sup>20</sup> The Bill was published on 31 January 2018 as Bill 11 of 2017-19 and is due to have its second reading on 2 February 2018.

[Explanatory Notes](#) have been prepared by the Home Office with the consent of Tim Loughton.

Information about the Bill is provided on the [Bill page on the Parliament website](#).

The long title to the Bill includes "to make provision about the registration of stillborn deaths".

**Clause 3** would require the Secretary of State to "make arrangements for the preparation of a report on whether, and if so how, the law ought to be changed to require or permit the registration of pregnancy losses which cannot be registered as still-births under the Births and Deaths Registration Act 1953".

The Secretary of State would be required to publish the report.

The Bill would also deal a number of other matters. Another Library briefing paper provides further information:

[Commons Library analysis: Civil Partnerships, Marriages and Deaths \(Registration Etc.\) Bill](#) (CPB 08217, 1 February 2018).

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<sup>20</sup> [HC Deb 19 July 2017c875](#)

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