

# Scottish Government submission of 19 October 2022

## PE1969/A: Amend the law to fully decriminalise abortion in Scotland

I refer to your email of 22 September asking for the Scottish Government's views on the action called for in the above petition.

The petition calls for action to fully 'decriminalise' abortion in Scotland and to make provision to ensure abortion services are available up to 24 weeks' gestation across all parts of Scotland. The Scottish Government has made clear that all women should be able to access abortion services, as set down within the limits of the law, where they wish.

We have committed through the [Women's Health Plan](#) to work with NHS Boards to support women having later stage abortions. The Healthcare Improvement Scotland (HIS) sexual health standards now make clear that all Boards should be able to offer abortions up to at least 20 weeks' gestation. Where NHS Boards cannot offer abortions services above 20 weeks' gestation locally, they must work to provide an appropriate, person-centred care pathway for all patients seeking abortions up to the legal limits.

The Scottish Government wrote to Health Board Chief Executives in June to make clear it expects them to meet the HIS standards and support patients upfront with travel and accommodation costs if they do need to go to England for treatment. We are working with NHS Boards to look at all options to try and ensure that services up to 24 weeks are established here so that women can access all forms of abortion services in Scotland.

In addition, we have committed through the [Programme for Government](#) to support Gillian Mackay MSP with the development and drafting of her proposed Member's Bill to protect safe access for women to healthcare facilities that provide abortion services, subject to the detail of a forthcoming Supreme Court judgement.

The Scottish Government understands and appreciates the concerns raised and has indicated that it may be open to reviewing the law on abortion in future. The Programme for Government published in September notes that we will consider what further actions we need to

take to embed women's rights to safe access to healthcare in the future. This consideration would follow delivery of the actions set out above and as such we have no immediate plans to amend the Abortion Act 1967 at this time. I note the petitioner has stated that '*The conditions of the Abortion Act 1967 ignores a great many reasons for seeking an abortion including rape, incest, poverty or simply not wanting to be pregnant. This means women remain at risk of prosecution for choosing to end their pregnancy*'. However, I would like to make clear that women can lawfully access abortion in Scotland up to 24 weeks' gestation in all the circumstances listed above, in accordance with the terms of the Abortion Act 1967.

In the meantime, the Scottish Government continues to focus its attention on the key priority issues outlined above and in the Women's Health Plan to ensure that women can access abortion services safely and in a way which meets their needs. Once these key issues have been resolved, we can consider further if other actions are needed.

It is also worth clarifying that the petitioner has stated that abortion is a criminal offence under the '[Offences against the Person Act 1861](#)'. This is factually inaccurate as the relevant part of that Act does not apply to Scotland. Whilst there is a common law offence in relation to abortion, it does not necessarily follow that if a termination of pregnancy was obtained outwith the requirements of the Abortion Act 1967 that an offence would have been committed and the patient would be prosecuted.

I hope this response is helpful.