

Abortion Services (Safe Access Zones) (Scotland) Bill

Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

Groupings of amendments

Purpose of the Act

42

Definition of “protected premises”

6, 7, 15, 16, 35, 36, 37, 38

Changes to terminology and other minor changes

8, 9, 10, 11, 12, 13, 14, 44, 45, 26, 27, 28, 29, 30, 47, 32, 48, 49, 40, 41

Measurement of safe access zones

43

Signage

51

Offences, exceptions and defences

17, 18, 52, 19, 53, 20, 54, 55, 21, 56, 57, 22, 23, 24, 25

Changes to safe access zones

31, 1, 2, 33, 3, 4, 5, 34

Reporting and review

39, 50, 58

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Amendments in debating order

Purpose of the Act

Rachael Hamilton

42 Before section 1, insert—

<Purpose

Purpose of the Act

The purpose of this Act is to protect the right of—

- (a) persons to safely access abortion services, a form of essential healthcare, without fear of intimidation or harassment, and
- (b) persons providing or facilitating the provision of abortion services to be able to access their place of work without fear of intimidation or harassment.>

Definition of “protected premises”

Jenni Minto

6 In section 1, page 1, line 6, leave out from <that> to end of line 7 and insert <—

<() that is, contains or forms part of a hospital, and

() in which abortion services are provided, or>

Jenni Minto

7 In section 1, page 1, line 9, leave out <other than> and insert <but does not include>

Jenni Minto

15 In section 3, page 2, line 37, after <is> insert <, contains>

Jenni Minto

16 In section 3, page 2, line 39, leave out <other than> and insert <but does not include>

Jeremy Balfour

35 In section 10, page 6, line 12, at beginning insert <Subject to subsection (1A),>

Jenni Minto

36 In section 10, page 6, line 14, after <place> insert <, or a place forming part of a class of place,>

Jeremy Balfour

37 In section 10, page 6, line 17, at end insert—

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<(1A) The Scottish Ministers may not exercise the power in subsection (1) to modify the definition of “protected premises” in section 1 to include—

- (a) a building or place which is a registered pharmacy within the meaning of section 74 of the Medicines Act 1968,
- (b) a building or place used to provide primary medical services in accordance with arrangements under the National Health Service (Scotland) Act 1978.>

Sandesh Gulhane

38 Leave out section 10

Changes to terminology and other minor changes

Jenni Minto

8 In section 2, page 1, line 16, leave out <of the protected premises>

Jenni Minto

9 In section 2, page 1, line 18, leave out <edge of the protected premises> and insert <boundary of the protected site>

Jenni Minto

10 In section 2, page 2, line 1, leave out <of the protected premises>

Jenni Minto

11 In section 2, page 2, line 3, leave out <edge of the protected premises> and insert <boundary of the protected site>

Jenni Minto

12 In section 2, page 2, leave out lines 20 to 28

Jenni Minto

13 In section 2, page 2, line 29, leave out <in the vicinity of> and insert <adjacent to>

Jenni Minto

14 In section 2, page 2, line 30, at end insert—

<“protected site” means the protected premises and its grounds,>

Emma Harper

44 In section 3, page 3, line 5, leave out from <to> to end of line 9

Emma Harper

45 In section 3, page 3, line 14, leave out from <to> to end of line 18 and insert—

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<() Where the Scottish Ministers update the list in accordance with subsection (3) or (4), the day specified for the purposes of section 2(4)(e) as the day on which the safe access zone takes effect must be no earlier than the end of the period of 14 days beginning with the day on which the list is updated.>

Jenni Minto

26 In section 7, page 5, line 5, leave out <edge of the protected premises> and insert <boundary of the protected site>

Jenni Minto

27 In section 7, page 5, line 10, leave out <edge of the protected premises> and insert <boundary of the protected site>

Jenni Minto

28 In section 7, page 5, line 13, leave out <for the protected premises>

Jenni Minto

29 In section 7, page 5, line 15, after second <the> insert <related>

Jenni Minto

30 In section 7, page 5, line 19, leave out <edge of the protected premises> and insert <boundary of the protected site>

Emma Harper

47 In section 7, page 5, line 26, leave out from <to> to end of line 30 and insert—

<() Where the Scottish Ministers update the list in accordance with subsection (7), the day specified for the purposes of section 2(4)(e) as the day on which the extended safe access zone takes effect must be no earlier than the end of the period of 14 days beginning with the day on which the list is updated.>

Jenni Minto

32 In section 8, page 5, line 32, leave out <edge of the protected premises> and insert <boundary of the protected site>

Emma Harper

48 In section 8, page 5, line 36, leave out from <to> to end of line 41 and insert—

<() Where the Scottish Ministers update the list in accordance with subsection (2), the day specified for the purposes of section 2(4)(e) as the day on which the reduced safe access zone takes effect must be no earlier than the day on which the list is updated.>

Emma Harper

49 In section 9, page 6, line 8, leave out from first <to> to end of line 10

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Jenni Minto

- 40 In section 13, page 7, leave out line 32

Jenni Minto

- 41 In section 13, page 8, line 10, at end insert—
<“protected site” has the meaning given in section 2(7),>

Measurement of safe access zones

Rachael Hamilton

- 43 In section 2, page 1, line 17, leave out <200> and insert <150>

Signage

Meghan Gallacher

- 51 After section 3, insert—
<Signage for safe access zones

Signage for safe access zones

- (1) An operator of protected premises must display signage which—
 - (a) clearly demarcates the safe access zone for the protected premises,
 - (b) summarises the restrictions which apply by virtue of this Act within the safe access zone and any relevant area relating to the protected premises.
- (2) The operator of protected premises must display the signage under subsection (1) no later than the day on which the safe access zone takes effect.
- (3) The Scottish Ministers may by regulations make provision about the signage to be displayed by operators of protected premises.
- (4) Regulations under subsection (3) are subject to the affirmative procedure.
- (5) In this section, “relevant area” has the same meaning as in section 5.>

Offences, exceptions and defences

Sandesh Gulhane

- 17 In section 4, page 3, line 22, at beginning insert <Subject to subsection (1A),>

Sandesh Gulhane

- 18 In section 4, page 3, line 34, at end insert—
<(1A) A person does not commit an offence under subsection (1) where it is not reasonably foreseeable that the act would have any of the effects mentioned in that subsection.>

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Meghan Gallacher

- 52 In section 5, page 4, line 3, at beginning insert—
<(1ZA) The Scottish Ministers may by regulations specify protected premises for the purposes of the offence under subsection (1).>

Sandesh Gulhane

- 19 In section 5, page 4, line 3, at beginning insert <Subject to subsection (1A),>

Meghan Gallacher

- 53 In section 5, page 4, line 3, after <to> insert <specified>

Sandesh Gulhane

- 20 In section 5, page 4, line 18, at end insert—
<(1A) A person does not commit an offence under subsection (1) where it is not reasonably foreseeable that the act would have any of the effects mentioned in that subsection.>

Meghan Gallacher

- 54 In section 5, page 4, line 29, at end insert—
<() Regulations under subsection (1ZA) are subject to the affirmative procedure.>

Meghan Gallacher

- 55 In section 5, page 4, line 33, at end insert—
<() “specified” means specified in regulations under subsection (1ZA).>

Jeremy Balfour

- 21 Leave out section 5

Rachael Hamilton

- 56 After section 5, insert—
<Offence of filming a person in a safe access zone
(1) It is an offence for a person to film any person without their consent if the person does so with the intention of, or is reckless as to whether doing so has the effect of—
(a) influencing the decision of another person to access, provide or facilitate the provision of abortion services at the protected premises,
(b) preventing or impeding another person from accessing, providing or facilitating the provision of abortion services at the protected premises, or
(c) causing harassment, alarm or distress to another person in connection with the other person’s decision to access, provide or facilitate the provision of abortion services at the protected premises,

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where in each case the other person is in the safe access zone for the protected premises for the purpose of accessing, providing or facilitating the provision of abortion services at the protected premises.

- (2) A person who commits an offence under subsection (1) is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum,
 - (b) on conviction on indictment, to a fine.>

Meghan Gallacher

57 After section 5, insert—

<Offence of recording etc a person in a safe access zone

- (1) Where subsection (2) applies, it is an offence for a person to—
 - (a) sketch,
 - (b) photograph,
 - (c) record,
 - (d) store,
 - (e) broadcast,
 - (f) transmit,images, audio, likenesses or personal data of any person (P) without their express consent.
- (2) This subsection applies where P is in a safe access zone for the purpose of accessing, providing or facilitating the provision of abortion services at the protected premises.
- (3) A person who commits an offence under subsection (1) is liable—
 - (a) on summary conviction, to a fine not exceeding the statutory maximum,
 - (b) on conviction on indictment, to a fine.>

Jeremy Balfour

22 In section 6, page 4, line 41, at end insert—

<() providing chaplaincy services at protected premises,>

Jeremy Balfour

23 In section 6, page 4, line 43, at end insert—

<() A person does not commit an offence under section 4(1) or 5(1) where—

- (a) the act takes place while the protected premises is closed, and
- (b) the act does not have a continuing effect that extends to a time when the protected premises is open.>

Jeremy Balfour

24 In section 6, page 4, line 43, at end insert—

<() A person does not commit an offence under section 4(1) or 5(1) where the act is—

- (a) engaging in silent prayer, and

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(b) not undertaken as part of a group or organised event.>

Jeremy Balfour

25 After section 6, insert—

<Defence of reasonableness

- (1) It is a defence for a person charged with an offence under section 4(1) or 5(1) to show that the act was, in the particular circumstances, reasonable.
- (2) For the purposes of subsection (1), in determining whether an act was reasonable, particular regard must be had to the importance of the right to freedom of expression by virtue of Article 10 of the European Convention on Human Rights, including the general principle that the right applies to the expression of information or ideas that offend, shock or disturb.
- (3) For the purposes of subsection (1), it is shown that an act was, in the particular circumstances, reasonable if—
 - (a) evidence adduced is enough to raise an issue as to whether that is the case, and
 - (b) the prosecution does not prove beyond reasonable doubt that it is not the case.>

Changes to safe access zones

Gillian Mackay

31 In section 7, page 5, line 23, at end insert—

- <() Before extending a safe access zone under subsection (2), the Scottish Ministers must consult such persons as they consider appropriate.
- () Before extending a safe access zone under subsection (3) or (5), the Scottish Ministers must consult—
 - (a) either—
 - (i) the operator of the protected premises, or
 - (ii) such persons as they consider representative of the interests of operators, and
 - (b) such other persons as they consider appropriate.>

Alex Cole-Hamilton

1 Leave out section 7 and insert—

<Power to extend safe access zones

- (1) If the Scottish Ministers consider that the condition in subsection (4) is met, they may by regulations extend the distance between the edge of the protected premises and the boundary of the safe access zone for one or more protected premises to an extent that they consider appropriate.
- (2) The Scottish Ministers may exercise the power under subsection (1) either—
 - (a) following an application from an operator of protected premises for an extension of the safe access zone, or
 - (b) of their own accord.

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- (3) An operator of protected premises may only make an application under subsection (2)(a) if it is satisfied that the condition in subsection (4) is met.
- (4) The condition referred to in subsections (1) and (3) is that the safe access zone for the protected premises does not adequately protect persons who are accessing, providing or facilitating the provision of abortion services at the protected premises from any act of a type mentioned in section 4(1) or 5(1).
- (5) Regulations under subsection (1) may extend the safe access zone by a different extent for different premises.
- (6) Regulations under subsection (1) are subject to the affirmative procedure.
- (7) Where a draft of a Scottish statutory instrument containing regulations under subsection (1) is approved by resolution of the Scottish Parliament, the Scottish Ministers must—
 - (a) update the list maintained under section 2(3)(b) to include details of the extended safe access zone,
 - (b) specify in the list the day on which the extended safe access zone is to take effect (being no earlier than 14 days after the list is published under paragraph (c)), and
 - (c) publish the updated list.>

Alex Cole-Hamilton

- 2 Leave out section 7

Gillian Mackay

- 33 In section 8, page 5, line 34, at end insert—

- <() Before reducing a safe access zone under subsection (1), the Scottish Ministers must consult—
- (a) either—
 - (i) the operator of the protected premises, or
 - (ii) such persons as they consider representative of the interests of operators, and
 - (b) such other persons as they consider appropriate.>

Alex Cole-Hamilton

- 3 Leave out section 8 and insert—

<Power to reduce safe access zones

- (1) The Scottish Ministers may by regulations reduce the distance between the edge of the protected premises and the boundary of the safe access zone for one or more protected premises if they consider it appropriate to do so.
- (2) Regulations under subsection (1) may reduce the safe access zone by a different extent for different premises.
- (3) Regulations under subsection (1) are subject to the affirmative procedure.

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- (4) Where a draft of a Scottish statutory instrument containing regulations under subsection (1) is approved by resolution of the Scottish Parliament, the Scottish Ministers must—
- (a) update the list maintained under section 2(3)(b) to include details of the reduced safe access zone,
 - (b) specify in the list the day on which the reduced safe access zone is to take effect (being no earlier than the day on which the list is published under paragraph (c)), and
 - (c) publish the updated list.>

Alex Cole-Hamilton

- 4 Leave out section 8

Alex Cole-Hamilton

- 5 After section 8, insert—

<Power to set limit on extension or reduction of safe access zones

- (1) The Scottish Ministers must by regulations specify a limit on—
- (a) the maximum distance between the edge of the protected premises and the boundary of the safe access zone that is permitted when extending a safe access zone under section 7,
 - (b) the minimum distance between the edge of the protected premises and the boundary of the safe access zone that is permitted when reducing a safe access zone under section 8.
- (2) Regulations under subsection (1) are subject to the affirmative procedure.>

Gillian Mackay

- 34 After section 9, insert—

<Report on changes to safe access zone

- (1) Subsection (2) applies where the Scottish Ministers have updated the list maintained under section 2(3)(b) in accordance with section 7(7) or 8(2).
- (2) The Scottish Ministers must, no later than 7 days after the day on which the list is updated, lay a report before the Scottish Parliament setting out the reasons for the change to the safe access zone (or zones) concerned.>

Reporting and review

Gillian Mackay

- 39 After section 11, insert—

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<Review of Act

Review of Act

- (1) The Scottish Ministers must, as soon as reasonably practicable after the end of the review period—
 - (a) undertake a review of the operation and effectiveness of the Act, and
 - (b) prepare a report on that review.
- (3) The Scottish Ministers may delegate their function under subsection (1) to such a person as they consider appropriate.
- (4) The Scottish Ministers must, as soon as reasonably practicable after the report is prepared—
 - (a) publish the report, and
 - (b) lay it before the Scottish Parliament.
- (5) In this section, “the review period” means—
 - (a) the period of 2 years beginning on the day on which section 2 comes into force, and
 - (b) each subsequent period of 5 years.>

Rachael Hamilton

50 After section 11, insert—

<Reporting

Report on effectiveness of safe access zones

- (1) The Scottish Ministers must, at the end of each reporting period, prepare and publish a report on the effectiveness of safe access zones.
- (2) A report under subsection (1) must include, for each safe access zone for a protected premises, whether, in the opinion of the Scottish Ministers, the safe access zone has been effective in protecting the right of—
 - (a) persons to safely access abortion services, a form of essential healthcare, without fear of intimidation or harassment, and
 - (b) persons providing or facilitating the provision of abortion services to be able to access their place of work without fear of intimidation or harassment.
- (3) For the purposes of this section, a reporting period is—
 - (a) the period of one year beginning with the day on which section 2 comes into force,
 - (b) each subsequent period of one year.>

Tess White

58 After section 11, insert—

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<Reporting

Report on safe access zones

- (1) The Scottish Ministers must, for each reporting period, prepare and publish a report setting out—
 - (a) in relation to each safe access zone for a protected premises, whether, in the opinion of the Scottish Ministers, the safe access zone has been effective in protecting the safety and dignity of persons accessing, providing or facilitating the provision of abortion services at the protected premises,
 - (b) the impact of the Act on persons engaged in protests and vigils related to abortion services,
 - (c) in relation to each offence under the Act—
 - (i) the number of arrests,
 - (ii) the number of prosecutions,
 - (iii) the number of convictions,
 - (iv) whether, in the opinion of the Scottish Ministers, the penalty for the offence remains appropriate,
 - (d) whether, in the opinion of the Scottish Ministers, the operation of the Act is compliant with the Human Rights Act 1998,
 - (e) such other information as the Scottish Ministers consider appropriate.
- (2) When preparing a report under subsection (1), the Scottish Ministers must consult—
 - (a) the chief constable of the Police Service of Scotland,
 - (b) Health Boards,
 - (c) local authorities,
 - (d) such other persons as the Scottish Ministers consider appropriate.
- (3) For the purposes of this section, a reporting period is—
 - (a) the period of one year beginning with the day on which section 2 comes into force,
 - (b) each subsequent period of one year.>

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