

Health, Social Care and Sport Committee
Monday, 11 November 2024
30th Meeting, 2024 (Session 6)

Assisted Dying for Terminally Ill Adults (Scotland) Bill

Note by the Clerk

Background

1. Liam McArthur MSP introduced the Assisted Dying for Terminally Ill Adults (Scotland) Bill in the Scottish Parliament on 27 March 2024. The Health, Social Care and Sport Committee was designated as lead committee for Stage 1 consideration of the Bill on 16 April 2024.
2. Under the Parliament's Standing Orders Rule 9.6.3, it is for the lead committee to report to the Parliament on the general principles of the Bill. In doing so, it must take account of views submitted to it by any other committee. The lead committee is also required to report on the Bill's Financial Memorandum, taking account of any views submitted to it by the Finance and Public Administration Committee.
3. The Bill and its accompanying documents are available on the [Scottish Parliament website](#).
4. The Scottish Parliament Information Centre (SPICe) have published a [briefing on the Bill](#).

Purpose of the Bill

5. According to the [policy memorandum accompanying the Bill](#): "The aim of the Assisted Dying for Terminally Ill Adults (Scotland) Bill is to allow mentally competent terminally ill eligible adults in Scotland to voluntarily choose to be provided with assistance by health professionals to end their lives".
6. The policy memorandum further states: "The Bill establishes a lawful process for an eligible person to access assisted dying, which is safe, controlled and transparent, and which the Member believes will enable people to avoid the existential pain, suffering and symptoms associated with terminal illness, which will in turn afford the person autonomy, dignity and control over their end of life".
7. The Bill contains 33 sections and 5 schedules, which can be broken down as follows:

Sections 1 to 3 establish the lawfulness of the provision of assistance to a terminally ill eligible adult to end their own life, and deal with the criteria which must be met in order for a terminally ill adult to be eligible to request, and be

provided with, assistance to end their life in accordance with the provisions of the Bill.

Sections 4 to 14 set out the preliminary procedural steps which must be taken, and how criteria will be assessed and determined, in order for a person to be eligible to be provided with assistance to end their life.

Sections 15 to 20 deal directly with the provision of assistance to an eligible terminally ill adult for them to end their life by self-administered means. This includes provision that there is no duty on anyone, including registered medical practitioners and other health professionals, to participate in the process if they have a conscientious objection to doing so, and also provides that it is not a crime to provide an eligible person with assistance where the requirements of the Bill have been met, and that there is also no equivalent civil liability. These sections also deal with the process after a terminally ill adult has died as a result of taking the substance supplied, including the completion of a final statement and how to record the death on the death certificate.

Sections 21 to 33 deal with general and final provisions which include making it an offence to coerce or pressure a terminally ill adult into requesting an assisted death, provisions relating to the collection and reporting of data, the publication of an annual report, and a requirement to review the Act after five years of operation.

Schedules 1 to 4 contain the forms which are required to be completed, signed and witnessed at various stages of the process. These consist of a first and second declaration form, in which a terminally ill adult asks to be provided with assistance to end their life, two medical assessment statement forms, to be completed by registered medical practitioners, which assess eligibility, and a final statement form, to be completed after a death has taken place.

Schedule 5 sets out reasons why a person is disqualified from being a witness or proxy for the purposes of the Bill.

8. Further details on the Bill can be found in the [Explanatory Notes](#) and [Policy Memorandum](#) accompanying the Bill.

Scrutiny

9. The Committee issued two calls for evidence which were open for submissions between Friday 7 June and Friday 16 August 2024:
 - A short survey for people who wished to express general views about the Bill as a whole.
 - A detailed call for evidence for people, groups, bodies or organisations who wished to comment on specific aspects of the Bill.
10. The Committee received 13,821 responses to the short survey. Individual responses to this survey were not published, instead a summary of these responses will be published on the Committee's webpage.

11. The Committee received 7,236 responses to the detailed call for evidence, published on Citizen Space. The published submissions can be reviewed here: [Assisted Dying for Terminally Ill Adults \(Scotland\) Bill: Detailed Consultation – Call for Views - Scottish Parliament - Citizen Space](#)
12. The Scottish Parliament Information Centre (SPICe) produced an [overview of high-level quantitative results](#) from both calls for views. SPICe is in the process of producing summary analysis of written submissions to both calls for evidence, to be published in due course.
13. The Committee agreed the following programme of evidence at its meeting on 1 October 2024:

Week 1	<ul style="list-style-type: none"> • Introduction by the Non-Government Bills Unit (in private) • Consideration of the implementation of Assisted Dying in other jurisdictions
Week 2	<ul style="list-style-type: none"> • Legal, human rights and equalities considerations • Mental health considerations, including safeguards, assessing capacity and psychological support
Week 3	<ul style="list-style-type: none"> • Impact on, and considerations for, healthcare professionals • Impact on, and considerations for, palliative care
Week 4	<ul style="list-style-type: none"> • Informal engagement with adults with learning disabilities (in private)
Week 5	<ul style="list-style-type: none"> • Impact on, and considerations for, those with long-term conditions • Impact on, and considerations for, disabled people
Week 6	<ul style="list-style-type: none"> • Groups that support assisted dying • Groups that oppose assisted dying
Week 7	<ul style="list-style-type: none"> • Considerations of the Bill for law enforcement • Scottish Government
Week 8	<ul style="list-style-type: none"> • The Member in charge of the Bill

14. The Finance and Public Administration Committee issued a [call for views](#) on the estimated financial implications of the Bill as set out in its accompanying [Financial Memorandum](#). This was open for submissions between 10 June 2024 and 16 August 2024 and received 22 submissions published on [Citizen Space](#).
15. At its meetings on 28 May and 10 September 2024, the Delegated Powers and Law Reform (DPLR) Committee considered the delegated powers contained in

the Bill at Stage 1. The DPLR Committee published its [report](#) on 20 September 2024.

Today's meeting

16. During today's session, the Committee will consider the implementation of Assisted Dying in Canada.

Assisted Dying in Canada

17. Further information about the application of assisted dying law in different jurisdictions, including Canada, is provided in the [SPICe briefing on the Bill](#).

18. In relation to Canada specifically, the Supreme Court of Canada ruled in February 2015 in *Carter v. Canada* that parts of the Criminal Code would need to change to satisfy the Canadian Charter of Rights and Freedoms.

19. This meant that the parts of the code that prohibited medical assistance in dying would no longer be valid and the Supreme Court gave the Federal Government until 6 June 2016 to create a new law.

20. The Canadian Parliament subsequently passed federal legislation in June 2016 that allowed eligible adults to request [medical assistance in dying \(MAID\)](#).

21. Since then, the law on MAID has continued to evolve in response to court rulings and public consultation. Notably, the [Superior Court of Quebec found](#) the qualifying criterion for determining eligibility for MAID of 'reasonable foreseeability of natural death' to be unconstitutional.

22. This led to a Bill ([Bill C-7](#)) in 2021 to amend the criminal code further to remove the requirement that a natural death must be foreseeable in order to be eligible for MAID.

23. To be eligible for MAID now, a person must:

- have a grievous and irremediable medical condition, and meet all of the following criteria;
 - have a serious and incurable illness, disease or disability,
 - be in an advanced state of irreversible decline in capability, and
 - experiencing enduring physical or psychological suffering that is caused by their illness, disease or disability or by the advanced state of decline in capability, that is intolerable to them and that cannot be relieved under conditions that they consider acceptable.
- be eligible for publicly funded health services,
- be at least 18 years old,

- have capacity,
- make one request in writing and signed by two independent witnesses,
- be assessed as eligible by two independent doctors/nurse practitioners,
- make the decision free from pressure or coercion,
- give informed consent,
- wait 90 days between starting the assessment and receiving MAID if the death is not reasonably foreseeable (there is no minimum waiting period for those whose death is reasonably foreseeable).

24. Any residency requirements are set by each of the provinces and territories but, generally, visitors to Canada are not eligible for MAID.

25. Self-administration is available in all jurisdictions except Quebec, and clinician administration is permissible in all jurisdictions.

26. Following another court ruling, there were plans to further extend the eligibility to those with a mental illness as the sole underlying medical condition. However, the Federal Government legislated ([Bill C-39](#)) to delay the implementation of this change until March 2024, and then until 17 March 2027 ([Bill C-62](#)).

27. Additional data and information on the implementation of Medical Assistance in Dying in Canada is available in [annual reports on MAID in Canada](#) which the Canadian Minister of Health is required by regulations to publish.

Clerks to the Committee

November 2024