

Abortion Services (Safe Access Zones) (Scotland) Bill

[AS PASSED]

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Amendments to the Bill since the previous version are indicated by sidelining in the right margin. Wherever possible, provisions that were in the Bill as introduced retain the original numbering.

Abortion Services (Safe Access Zones) (Scotland) Bill

[AS PASSED]

An Act of the Scottish Parliament to create safe access zones around premises that provide treatment for the termination of pregnancy authorised under the Abortion Act 1967.

Establishment of safe access zones for protected premises

1 Meaning of “protected premises”

In this Act, “protected premises” means—

(a) a building—

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

(ii) in which abortion services are provided, or

(b) a place that is approved under section 1(3) of the Abortion Act 1967 for the purposes of that section but does not include a place forming part of a class of place that is so approved (see section 1(3A)(a) of that Act).

2 Establishment of safe access zones

(1) A safe access zone is established for each protected premises in accordance with this section.

(2) A safe access zone for protected premises consists of—

(a) the protected premises,

(b) the public area of the grounds (if any), and

(c) each public area of land within 200 metres (or such other distance as extended under section 7 or reduced under section 8) of the boundary of the protected site.

(3) The Scottish Ministers must—

(a) on the day on which this section comes into force, publish a list of protected premises and the safe access zone for each protected premises, and

(b) maintain the list in accordance with this Act.

(4) The list maintained under subsection (3)(b) must, for each protected premises—

(a) identify the protected premises by name and address,

- (b) if there are grounds, identify the boundary of the grounds by reference to a map,
- (c) specify the distance of the boundary of the safe access zone from the boundary of the protected site,
- (d) identify the boundary of the safe access zone by reference to a map, and
- (e) specify the day on which the safe access zone takes effect.

(5) In subsection (4), references to “protected premises” include references to proposed protected premises notified under section 3(2).

(6) A safe access zone for protected premises (or proposed protected premises) takes effect—

- (a) at the beginning of the day on which this section comes into force except in a case mentioned in paragraph (b),
- (b) at the beginning of the day specified in the list maintained by the Scottish Ministers under subsection (3)(b) in the case of—
 - (i) the notification of proposed protected premises under section 3(2),
 - (ii) the updating of the list in accordance with section 3(4) where the Scottish Ministers become aware of protected premises without such notification,
 - (iii) the extension of a safe access zone under section 7(2), (3) or (5),
 - (iv) the reduction of a safe access zone under section 8(1).

(7) In this section—

“grounds”, in relation to protected premises, means land adjacent to and associated with the protected premises,

“protected site” means the protected premises and any grounds,

“public area”, in relation to land, means—

- (a) an outdoor area of land that the public may access, and
- (b) any partially enclosed structure on the land that the public may access.

3 Notification of proposed protected premises etc.

(1) Subsection (2) applies where, after section 1 comes into force, abortion services are intended to be provided at premises (“proposed protected premises”) being—

- (a) a building that is, contains or forms part of a hospital, or
- (b) a place that is approved under section 1(3) of the Abortion Act 1967 for the purposes of that section but does not include a place forming part of a class of place that is so approved (see section 1(3A)(a) of that Act).

(2) The operator of the proposed protected premises must notify the Scottish Ministers of the day on which the operator intends to start providing abortion services at the proposed protected premises.

(3) Where the Scottish Ministers receive notification under subsection (2), they must update the list maintained under section 2(3)(b).

(4) If, after section 1 comes into force, the Scottish Ministers become aware that abortion services are being provided at protected premises and no notification has been given in respect of the protected premises in accordance with subsection (2), the Scottish Ministers must update the list maintained under section 2(3)(b).

- (5) 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.

5 *Offences relating to safe access zones*

4 Offence of influencing, preventing access or causing harassment etc. in safe access zone

- 10 (1) A person who is in a safe access zone for protected premises commits an offence if the person does an act with the intention of, or is reckless as to whether the act 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

15 (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,

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

- (2) Where a person does an act in a safe access zone constituting an offence under subsection (1) and the act has a continuing effect, it does not matter for the purpose of that subsection whether the other person referred to in the subsection is in the safe access zone at the time the person does the act.

- 25 (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.

5 Offence of influencing, preventing access or causing harassment etc. in area visible or audible from safe access zone

- 30 (1) A person who is in a relevant area relating to protected premises commits an offence if the person—

(a) does an act that is capable of being seen or heard by another person who is within the safe access zone for the protected premises, and

35 (b) does so with the intention of, or is reckless as to whether the act has the effect of—

(i) influencing the decision of another person to access, provide or facilitate the provision of abortion services at the protected premises,

(ii) preventing or impeding another person from accessing, providing or facilitating the provision of abortion services at the protected premises, or

40 (iii) 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,

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.

- 5 (2) In subsection (1), the reference to an act that is capable of being seen or heard by another person does not include an act that is capable of being seen or heard by the other person only indirectly by means of seeing or hearing a recording or transmission of the act received by the other person by electronic means.
- 10 (3) Where a person does an act in a relevant area relating to protected premises constituting an offence under subsection (1) and the act has a continuing effect, it does not matter for the purpose of that subsection whether any other person referred to in the subsection is in the safe access zone for the protected premises at the time the person does the act.
- (4) 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.
- 15 (5) In this section, “relevant area”, in relation to protected premises, means an area that is not a public area (within the meaning of section 2(7)) forming part of the safe access zone for the protected premises but which is situated within the area between the protected premises and the boundary of the safe access zone.

6 Exceptions to offences

- 20 A person does not commit an offence under section 4(1) or 5(1) where the person does anything in the course of—
- (a) accompanying with permission another person who is accessing (or attempting to access) abortion services at protected premises but only to the extent that the person’s act affects the other person,
- 25 (b) providing, or facilitating the provision of, abortion services at protected premises,
- (c) providing other health care at protected premises,
- (d) engaging in conduct that is lawful under section 220 (peaceful picketing) of the Trade Union and Labour Relations (Consolidation) Act 1992.

Changes to safe access zones

30 7 Extension of safe access zones

- (1) If an operator of protected premises considers that the condition mentioned in subsection (4) is met, the operator may apply to the Scottish Ministers for an extension of the distance between the boundary of the protected site and the boundary of the safe access zone to an extent that the operator considers appropriate.
- 35 (2) The Scottish Ministers may approve an application made under subsection (1) if they are satisfied that it is appropriate to do so.
- (3) If the Scottish Ministers consider that the condition mentioned in subsection (4) is met, they may of their own accord extend the distance between the boundary of the protected site and the boundary of the safe access zone to an extent that they consider appropriate.
- 40 (4) The condition referred to in subsections (1) and (3) is that the safe access zone does not adequately protect persons who are accessing, providing or facilitating the provision

of abortion services at the related protected premises from any act of a type mentioned in section 4(1) or 5(1).

- 5 (5) Where the Scottish Ministers extend a safe access zone for protected premises under subsection (2) or (3), they may, for one or more other protected premises, extend the distance between the boundary of the protected site and the boundary of the safe access zone (to an extent that they consider appropriate) if they consider it appropriate to do so.
- (6) The Scottish Ministers may extend the distance mentioned in subsection (5) in relation to other protected premises by a different extent for different premises.
- 10 (6A) Before extending a safe access zone under subsection (2), the Scottish Ministers must consult such persons as they consider appropriate.
- (6B) Before extending a safe access zone under subsection (3) or (5), the Scottish Ministers must consult—
- (a) either—
- 15 (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.
- (7) Where the Scottish Ministers extend a safe access zone under subsection (2), (3) or (5), they must update the list maintained under section 2(3)(b).
- 20 (8) 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.

25 **8 Reduction of safe access zones**

- (1) The Scottish Ministers may reduce the distance between the boundary of the protected site and the boundary of the safe access zone for one or more protected premises if they consider it appropriate to do so.
- 30 (1A) 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
- 35 (b) such other persons as they consider appropriate.
- (2) Where the Scottish Ministers reduce a safe access zone under subsection (1), they must update the list maintained under section 2(3)(b).
- (3) 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.
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9 Cessation of safe access zones

- (1) If an operator of protected premises intends to cease providing abortion services at the protected premises, the operator must, as soon as practicable, notify the Scottish Ministers of the day on which abortion services will cease to be provided at the protected premises.
- (2) Where the Scottish Ministers receive notification under subsection (1), they must as soon as practicable after abortion services cease to be provided at the protected premises update the list maintained under section 2(3)(b).

9A 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.

10 Power to modify meaning of “protected premises”

- (1) The Scottish Ministers may by regulations modify the definition of “protected premises” in section 1 to include—
- (a) a class of place, or a place forming part of a class of place, mentioned in section 1(3A)(a) of the Abortion Act 1967 that is approved under section 1(3) of that Act for the purposes of that section,
 - (b) a building or place at which treatments or services relating to abortion services are provided.
- (2) The Scottish Ministers may exercise the power in subsection (1)(b) in relation to a building or place mentioned in that subsection only if they consider that it is necessary to establish a safe access zone in relation to that building or place to protect persons who are accessing, providing or facilitating the provision of treatments or services relating to abortion services at the building or place against an act mentioned in subsection (3).
- (3) The act referred to in subsection (2) is an act of a type mentioned in section 4(1) or 5(1) but the references in those subsections to—
- (a) “protected premises” are to be read as if they were references to a building or place mentioned in subsection (1)(b), and
 - (b) “abortion services at the protected premises” are to be read as if they were references to treatments or services relating to abortion services at a building or place mentioned in subsection (1)(b).
- (4) Before laying a draft of a Scottish statutory instrument containing regulations under subsection (1)(b) before the Scottish Parliament in relation to a building or place, the Scottish Ministers—
- (a) must consult—
 - (i) the provider of the treatments or services at the building or place, or
 - (ii) the operator of the building or place, and
 - (b) if they consider it appropriate to do so, must consult—
 - (i) the Health Board in whose area the building or place is situated,

- (ii) the local authority in whose area the building or place is situated,
- (iii) any other person they consider has an interest in the building or place becoming protected premises for the purpose of this Act.

(5) Regulations under subsection (1) may—

- (a) make incidental, supplementary, consequential, transitional, transitory or saving provision,
- (b) make different provision for different purposes.

(6) Regulations under subsection (1)(b) may modify this Act where such modification is consequential to the modification of the definition of “protected premises”.

(7) Regulations under subsection (1) are subject to the affirmative procedure.

Ministerial guidance

11 Ministerial guidance

(1) An operator of protected premises (or proposed protected premises) must have regard to any guidance given by the Scottish Ministers in relation to protected premises (or proposed protected premises) and the establishment, extension, reduction or cessation of safe access zones for protected premises.

(2) The Scottish Ministers—

- (a) must publish any such guidance, and
- (b) may revise or revoke that guidance.

Review of Act

11A 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.

(2) The Scottish Ministers may delegate their functions under subsection (1) to such a person as they consider appropriate.

(2A) When undertaking a review under subsection (1)(a), the Scottish Ministers (or, if applicable, the person to whom the function is delegated under subsection (2)) must consult—

- (a) the chief constable of the Police Service of Scotland,
- (b) the Crown Office and Procurator Fiscal Service,
- (c) operators of protected premises or such persons as are considered representative of the interests of operators, and
- (d) such other persons as are considered appropriate.

(3) 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.

- (4) 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 3 years.

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*General provisions***12 Ancillary power**

- (1) The Scottish Ministers may by regulations make any incidental, supplementary, consequential, transitional, transitory or saving provision they consider appropriate for the purposes of, in connection with or for giving full effect to this Act or any provision made under it.
- (2) Regulations under subsection (1) may modify any enactment (including this Act).
- (3) Regulations under subsection (1)—
- (a) are subject to the affirmative procedure if they add to, replace or omit any part of the text of an Act (including this Act), but
 - (b) otherwise, are subject to the negative procedure.

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13 Interpretation

- (1) In this Act—
- “abortion services” means any treatment for the termination of pregnancy authorised under the Abortion Act 1967,
- “Health Board” means a Health Board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978,
- “hospital” means a hospital vested in the Scottish Ministers for the purpose of their functions under the National Health Service (Scotland) Act 1978,
- “operator”, in relation to protected premises or proposed protected premises, means—
- (a) where the premises are or form part of a hospital, the Health Board in whose area the hospital is situated,
 - (b) where the premises are a place approved under section 1(3) of the Abortion Act 1967 to provide abortion services, the person who is registered by virtue of section 10P of the National Health Service (Scotland) Act 1978 as managing the services,
- “proposed protected premises” has the meaning given in section 3(1),
- “protected premises” has the meaning given in section 1,
- “protected site” has the meaning given in section 2(7),
- “safe access zone”, in relation to protected premises, is to be construed in accordance with section 2.

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14 Crown application

- (1) Nothing in this Act makes the Crown criminally liable.

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- (2) But the Court of Session may, on the application of the Lord Advocate, declare unlawful any act or omission for which the Crown would be criminally liable if it were not for subsection (1).
 - (3) Subsection (1) does not affect the criminal liability of persons in the service of the Crown.

15 Commencement

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- (1) This section and sections 12, 13, 14 and 16 come into force on the day after Royal Assent.
 - (2) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
 - (3) Regulations under subsection (2) may—
 - (a) include transitional, transitory or saving provision,
 - (b) make different provision for different purposes.

16 Short title

15 The short title of this Act is the Abortion Services (Safe Access Zones) (Scotland) Act 2024.

Abortion Services (Safe Access Zones) (Scotland) Bill

[AS PASSED]

An Act of the Scottish Parliament to create safe access zones around premises that provide treatment for the termination of pregnancy authorised under the Abortion Act 1967.

Introduced by: Gillian Mackay
On: 5 October 2023
Bill type: Member's Bill

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