

Scottish Government submission of 16 January 2023

PE1996/A: Take action to prevent discriminatory abortions for disability in Scotland

The petition asks the Scottish Government to amend section 1(1)(d) of The Abortion Act 1967¹ (the 1967 Act). This section allows a termination to be provided if two registered medical practitioners are of the opinion, formed in good faith, that there is a “substantial risk that if the child were born it would suffer from such physical or mental abnormalities as to be seriously handicapped”².

The Court of Appeal in the recent case of *Crowter -v- Secretary of State for Health and Social care* confirmed that section 1(1)(d) of the Abortion Act 1967 is not discriminatory nor does it interfere with the Article 8 rights of disabled people to a private and family life, as the legislation does not interfere with the living rights of a disabled person nor treat those born with severe disabilities differently from persons born without such disabilities. As highlighted by the Court the focus of the legislation is on the balance to strike between the protection of the rights of women and the protection of the unborn. It is recognised that the balance to be struck in relation to these issues is a sensitive matter.

The Scottish Government recognises that issue of women terminating their pregnancy where a foetus is likely to have severe physical or mental abnormalities, which would make it likely that the child when born would be seriously disabled, is deeply emotive.

The Scottish Government is committed to ensuring that women can access the care and treatment that they need and that women are fully informed of the choices available to them and supported in their decision whatever that may be, without judgement, at what is an extremely difficult and distressing time.

The Scottish Government equally values the contribution of all members of society and opposes any discrimination on the basis of disability. Our commitment to ensuring all members of society can lead a full and fulfilling life is evidenced by our commitment to the reform of social care,

¹ [Abortion Act 1967 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1967/37/section/1)

² [Abortion Act 1967 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1967/37/section/1)

via the National Care Service Bill, to ensure that social care is fit for purpose.

I would refer you to the Scottish Government's response to PE1969 of 19 October 2022³. As is noted in the response, the Scottish Government does not have any plans to amend the 1967 Act at this time.

The Scottish Government understands and appreciates the concerns raised with the petition. However, our position remains that we will continue to support women to access abortions as and when they choose to terminate a pregnancy, in line with the current law.

I hope you have found this response useful.

³ https://www.parliament.scot/-/media/files/committees/citizen-participation-and-public-petitions-committee/correspondence/2022/pe1969/pe1969_a.pdf