

# Abortion Services (Safe Access Zones) (Scotland) Bill

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## Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 16

Long Title

Amendments marked \* are new (including manuscript amendments) or have been altered.

### Before section 1

**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.>

### Section 1

**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>

### Section 2

**Jenni Minto**

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

**Rachael Hamilton**

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

**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,>

**Section 3**

**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>

**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—  
<( ) 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.>

### After section 3

**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.>

### Section 4

**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.>

### Section 5

**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

**After 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,

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.>

**Section 6**

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

**After section 6**

**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.>

### Section 7

#### 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>

#### 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.>

## **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.>

## **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.
- (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

## Section 8

### Jenni Minto

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

### 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.>

### 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.>

### 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.
  - (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



## After 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.>

## Section 9

### Emma Harper

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

## After section 9

### 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.>

## Section 10

### 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—

<(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

**After section 11**

**Gillian Mackay**

39 After section 11, insert—

*<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—

*<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.>

**Section 13**

**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),>

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