

# Right to Addiction Recovery (Scotland) Bill

[AS INTRODUCED]

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**THE FOLLOWING ACCOMPANYING DOCUMENTS ARE ALSO PUBLISHED:  
Explanatory Notes (SP Bill 48-EN), a Financial Memorandum (SP Bill 48-FM), a Policy  
Memorandum (SP Bill 48-PM), a Delegated Powers Memorandum (SP Bill 48-DPM) and  
statements on legislative competence (SP Bill 48-LC).**

# Right to Addiction Recovery (Scotland) Bill

## [AS INTRODUCED]

An Act of the Scottish Parliament to make provision about the rights of persons addicted to drugs or alcohol to receive treatment for addiction; and for connected purposes.

### *Right to recovery*

#### **1 Right to recovery**

- 5 (1) It is the right of every person diagnosed as having a drug or alcohol addiction to—
- (a) receive a treatment determination, and
  - (b) be provided with the treatment described in subsection (3).
- 10 (2) For the purposes of subsection (1), a person has been diagnosed as having a drug or alcohol addiction when that person has been diagnosed by a relevant health professional as having an illness that involves an addiction to, or dependency on, a drug or alcohol.
- (3) The treatment to be provided in accordance with subsection (1) is the treatment that is determined by a relevant health professional as appropriate for the patient under the procedure set out in section 2.
- 15 (4) A treatment to which a person is entitled by virtue of this Act is to be regarded as a service provided under the 1978 Act and section 98 of the 1978 Act is to be construed accordingly.
- (5) For the purposes of subsection (3), “treatment” includes any service or combination of services that may be provided to individuals for or in connection with the prevention, diagnosis or treatment of illness including, but not limited to—
- 20 (a) residential rehabilitation,
  - (b) community-based rehabilitation,
  - (c) residential detoxification,
  - (d) community-based detoxification,
  - (e) stabilisation services,
  - 25 (f) substitute prescribing services, and
  - (g) any other treatment the relevant health professional deems appropriate.
- (6) The Scottish Ministers may by regulations add to the treatments listed in subsection (5).

**2 Procedure for determining treatment**

- (1) In making a treatment determination, a relevant health professional must ensure that—
- (a) they explain to the patient each of the treatment options listed in section 1(5) and the suitability of each to the patient's needs,
  - 5 (b) the patient is allowed and encouraged to participate as fully as possible in the treatment determination including by being able to give feedback, provide comments and raise concerns,
  - 10 (c) the patient is provided with such information and support as is necessary to enable them to participate in accordance with paragraph (b) and in relation to any related processes,
  - (d) the treatment determination is made following a meeting in person between the relevant health professional and the patient,
  - (e) the treatment determination takes into account the patient's needs, and
  - 15 (f) the treatment determination is made with regard to the importance of providing the optimum benefit to the patient's health and wellbeing.
- (2) The patient may request one or more of the treatments listed in section 1(5) and the relevant health professional must consider the appropriateness of any such treatment requested by the patient in making the treatment determination.
- (3) Where the relevant health professional determines either that no treatment is appropriate or that a treatment requested by the patient is not appropriate for the patient—
- 20 (a) the relevant health professional must provide the patient with a written statement of reasons for that decision in a form prescribed by the Scottish Ministers in a code of practice under section 6, and
  - 25 (b) the patient has the right to consult another relevant health professional who must make their own treatment determination following the procedure set out in subsection (1).
- (4) A written statement of reasons under subsection (3)(a) must include an explanation of—
- 30 (a) the patient's right to consult a second relevant health professional as provided by subsection (3)(b), and
  - (b) the procedure for consulting a second relevant health professional.
- (5) A relevant health professional consulted by a patient under subsection (3)(b) must make a treatment determination in accordance with this section save that subsections (3)(b) and (4) do not apply to that treatment determination.

**3 Provision of treatment**

- 35 (1) The treatment described in section 1(3) is to be made available to the patient as soon as reasonably practicable and in any event no later than 3 weeks after the treatment determination is made.
- (2) A treatment described in section 1(3) may not be refused to a patient on the basis of any matter, other than an assessment by a relevant health professional of the best interests of the patient, including—
- 40 (a) the cost of the treatment,
  - (b) any medical history of misuse of alcohol or other substances,

- (c) any criminal record involving misuse of alcohol or other substances,
  - (d) any other matter concerning any involvement by the patient in the criminal justice system,
  - (e) any ongoing misuse of alcohol or other substances,
  - 5 (f) any medical history of mental illness,
  - (g) any existing prescription for opioid replacement, or
  - (h) the patient being in receipt of substitute prescribing services, regardless of the volume of prescription.
- (3) The Scottish Ministers may by regulations add to the matters listed in subsection (2).

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*Duties of Scottish Ministers***4 Duty to secure delivery**

- (1) The Scottish Ministers must secure the delivery of the rights conferred by this Act.
- (2) Within 2 months of this section coming into force, the Scottish Ministers must lay draft regulations before the Parliament setting out the arrangements that are in place, or are to be put in place, by the Scottish Ministers to ensure that they comply with the duty under subsection (1).
- 15 (3) Draft regulations under subsection (2) may, in particular, make provision in connection with conferring functions on the following bodies—
- (a) a Health Board,
  - 20 (b) a Special Health Board,
  - (c) the Agency,
  - (d) a local authority,
  - (e) an integration joint board.

**5 Duty to report to Parliament**

- 25 (1) As soon as practicable after the end of each reporting period, the Scottish Ministers must—
- (a) publish, and
  - (b) lay before the Scottish Parliament,
- a report setting out progress made in the reporting period towards achieving the provision of the treatments described in section 1 to patients in accordance with this Act.
- 30 (2) A report prepared under subsection (1) must—
- (a) set out how any powers conferred by the provisions of this Act have been exercised,
  - (b) set out the steps the Scottish Ministers have taken to meet the requirements in this Act, and
  - 35 (c) specify in respect of each Health Board area—
    - (i) the number of patients in the Health Board's area,

- (ii) the number of patients in respect of whom a treatment determination has been made, by reference to the type of treatment specified in the treatment determination,
- 5 (iii) the number of patients receiving the treatment specified in the treatment determination made in respect of them, by reference to the type of treatment specified in the treatment determination,
- 10 (iv) the number of patients who have made themselves available for but are not receiving the treatment specified in the treatment determination made in respect of them, by reference to the type of treatment specified in the treatment determination,
- (v) the average waiting time during the reporting period for each type of treatment specified in a treatment determination (whenever made),
- 15 (vi) the longest waiting time experienced by a patient during the reporting period for each type of treatment specified in a treatment determination (whenever made),
- (vii) the number of patients who have received a written statement of reasons under section 2(3)(a), and
- (viii) the number of patients who have exercised their right to consult a second relevant health professional under section 2(3)(b).
- 20 (3) Before preparing a report under subsection (1), the Scottish Ministers—
- (a) must consult—
- (i) such persons as appear to them to represent the interests of patients,
- (ii) persons with lived experience of drug or alcohol addiction, and
- (iii) the bodies listed in section 4(3),
- 25 (b) may consult any other person they consider appropriate.
- (4) A report under this section must include a summary of how the views of those consulted under subsection (3) were taken into account by the Scottish Ministers in preparing their report.
- (5) Each of the following is a “reporting period”—
- 30 (a) the period of 12 months beginning with the day on which regulations made under section 4 come into force, and
- (b) each successive period of 12 months.

## **6 Code of practice**

- 35 (1) The Scottish Ministers must prepare a draft code of practice in connection with the discharge by the bodies listed in section 4(3) of the duties imposed on them by regulations made under section 4.
- (2) The Scottish Ministers must lay the draft code of practice before the Parliament at the same time as laying draft regulations under section 4(2).
- 40 (3) The Scottish Ministers must publish the code of practice at the same time as regulations are made under section 4.
- (4) The Scottish Ministers must, as soon as practicable after publication, lay the code of practice before the Parliament.

- (5) The bodies mentioned in section 4(3) must comply with the code of practice.
- (6) The code of practice must specify the form of the written statement of reasons to be provided under section 2(3)(a).
- (7) The Scottish Ministers may from time to time publish a revised code of practice, and references in this Act to a code of practice include references to a revised code of practice.

### *Final provisions*

#### **7 Ancillary provision**

- (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.
- (2) Regulations under this section may make different provision for different purposes.

#### **8 Regulations**

- (1) Any power of the Scottish Ministers to make regulations under section 1(6), 3(3) or 4(2) includes the power to make—
- (a) incidental, supplementary, consequential, transitional, transitory or saving provision,
  - (b) different provision for different purposes.
- (2) Regulations under any of the following sections are subject to the affirmative procedure: section 1(6), 3(3) or 4(2).
- (3) Regulations under section 7 are subject to the negative procedure.
- (4) This section does not apply to regulations under section 10.

#### **9 Interpretation**

- (1) In this Act, unless the contrary intention appears—
- “the 1978 Act” means the National Health Service (Scotland) Act 1978,
- “alcohol” has the meaning given in section 2 of the Licensing (Scotland) Act 2005,
- “community-based detoxification” means any course of treatment in which the patient is gradually returned to homeostasis under medical supervision following addiction, other than residential detoxification,
- “community-based rehabilitation” means any course of treatment in which the patient is assisted to address a dependence on a drug or alcohol, other than residential rehabilitation,
- “drug” includes any intoxicant other than alcohol,
- “medical practitioner” means a registered medical practitioner within the meaning of schedule 1 of the Interpretation and Legislative Reform (Scotland) Act 2010,
- “nurse independent prescriber” has the meaning given in regulation 8 of the Human Medicines Regulations 2012 (S.I. 2012/1916),
- “opioid replacement” means any course of treatment which involves replacing one or more opioids with a prescribed replacement opioid,

“patient” means a person who has received a diagnosis under section 1(2),

“pharmacist independent prescriber” has the meaning given in regulation 8 of the Human Medicines Regulations 2012 (S.I. 2012/1916),

“relevant health professional” means a medical practitioner, nurse independent prescriber or pharmacist independent prescriber,

“residential detoxification” means any course of treatment in which the patient is gradually returned to homeostasis under medical supervision in a residential facility following addiction,

“residential rehabilitation” means any course of treatment which takes place in a residential facility in which the patient is assisted to address a dependence on a drug or alcohol,

“stabilisation services” means any course of treatment in which the patient is assisted in reducing their consumption of a drug or alcohol,

“substitute prescribing services” means any course of treatment in which the patient is prescribed one or more products or substances which are intended to substitute for the consumption of a drug or alcohol,

“treatment determination” means the determination of a relevant health professional under section 1(3).

- (2) In this Act, unless the contrary intention appears, the following terms have the meaning given by section 108 of the 1978 Act—

“the Agency”,

“Health Board”,

“illness”,

“integration joint board”,

“local authority”,

“Special Health Board”.

## **10 Commencement**

- (1) This section and sections 4, 6, 7, 8, 9 and 11 come into force the day after Royal Assent.
- (2) The remaining provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.
- (3) Regulations under this section may—
- (a) include transitional, transitory or saving provision,
  - (b) make different provision for different purposes.

## **11 Short title**

The short title of this Act is the Right to Addiction Recovery (Scotland) Act 2024.





# **Right to Addiction Recovery (Scotland) Bill**

[AS INTRODUCED]

An Act of the Scottish Parliament to make provision about the rights of persons addicted to drugs or alcohol to receive treatment for addiction; and for connected purposes.

Introduced by: Douglas Ross  
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