



SPICe Briefing

Pàipear-ullachaidh SPICe

Abortion Services (Safe Access Zones) (Scotland) Bill

SPICe Research

The Abortion Services (Safe Access Zones) (Scotland) Bill creates the status of "protected premises" around facilities where abortion services are provided, and establishes safe access zones around these premises. Any activity that could prevent a person from accessing an abortion, or cause feelings of harassment or intimidation when accessing or providing abortion services, would be prohibited within these zones. This briefing provides an overview of the provisions made in the Bill, and highlights some of the areas Members might wish to consider in scrutiny of the Bill at Stage 1.

Abortion Services (Safe Access Zones) (Scotland) Bill

[AS INTRODUCED]

CONTENTS

Section

Establishment of safe access zones for protected premises

- 1 Meaning of "protected premises"
- 2 Establishment of safe access zones
- 3 Notification of proposed protected premises etc.

Offences relating to safe access zones

- 4 Offence of influencing, preventing access or causing harassment etc. in safe access zone
- 5 Offence of influencing, preventing access or causing harassment etc. in area visible or audible from safe access zone
- 6 Exceptions to offences

Changes to safe access zones

- 7 Extension of safe access zones
- 8 Reduction of safe access zones
- 9 Cessation of safe access zones
- 10 Power to modify meaning of "protected premises"

Ministerial guidance

- 11 Ministerial guidance

General provisions

- 12 Ancillary power
- 13 Interpretation
- 14 Crown application
- 15 Commencement
- 16 Short title

Contents

Summary	3
Scottish Parliament consideration of the Bill at Stage 1	5
A note on language	6
Introduction	7
The context of the Bill	8
Abortion provision in Scotland	8
Anti-abortion activity in Scotland	9
Key organisations supporting and opposing the Bill	10
Consideration of alternatives to introducing legislation	11
Gillian Mackay MSP's consultation on safe access zones legislation	12
Human rights considerations	13
The legal and constitutional position of the rights contained in the European Convention on Human Rights	13
What is covered by the rights engaged by the Bill	14
Article 8: the right to respect for private and family life	15
Article 9: freedom of thought, conscience and religion	15
Article 10: freedom of expression	16
Article 11: freedom of assembly and association	17
Restricting and balancing human rights	18
UK court judgments in relation to restrictions on protest around abortion clinics	19
Dulgheriu and Orthova v the London Borough of Ealing	19
Reference by the Attorney General of Northern Ireland – Abortion Services (Safe Access Zones) (Northern Ireland) Bill	19
What the Bill would do	21
The aims of the Bill	21
Establishment of safe access zones for protected premises	21
Criminal offences created by the Bill	22
Behaviours covered by the offences	23
Exceptions to the offences	24
Penalties for the offences	24
Changes to safe access zones	25
Ministerial guidance	26
General provisions	26
Financial memorandum	27
Bibliography	28

Summary

The [Abortion Services \(Safe Access Zones\) \(Scotland\) Bill](#) ¹ was introduced on 5 October 2023 by Gillian Mackay MSP as a [Members' Bill](#). The [policy memorandum](#) ², [explanatory notes](#) ³, [financial memorandum](#) ⁴, and [delegated powers memorandum](#) ⁵ accompanying the Bill are available on the Scottish Parliament website.

In addition, the Scottish Government has published a series of impact assessments related to the Bill:

[Equality Impact Assessment](#) ⁶

[Business and Regulatory Impact Assessment](#) ⁷

[Child Rights and Wellbeing Impact Assessment](#) ⁸

[Fairer Scotland Duty Summary](#) ⁹

[Islands Communities Screening Assessment](#) ¹⁰

The Bill creates the status of “protected premises” for buildings and places in which abortion services are provided, and establishes safe access zones around these buildings. Similar legislation already exists in England, Wales, and Northern Ireland.

Safe access zones will usually consist of the protected premises, their public grounds and any other public land within 200 metres of the protected premises. However, the Bill includes provisions to extend or reduce the 200-metre radius of a safe access zone if necessary.

The Bill makes it an offence for people within a safe access zone to act in a way that might influence the decision of another person to access abortion services, prevent a person from accessing abortion services, or cause harassment, alarm, or distress to a person while they are accessing or providing abortion services. This might include holding up signs with anti-abortion messages, protesting in relation to abortion, or blocking the entrance to a protected premises.

The Bill also makes it an offence for someone within 200 metres of protected premises but not on public land (therefore outwith the safe access zone) to act in a way that might cause harassment, alarm, or distress to someone within a safe access zone who is accessing or providing abortion services, influence their decision to access abortion services, or prevent them from accessing services. This could include displaying anti-abortion messaging from a balcony or window that can be seen from inside the safe access zone, or using a loudspeaker to protest in a way that can be heard from within a safe access zone.

People who are convicted of offences in relation to this Bill would be subject to a fine.

The [policy memorandum accompanying the Bill](#) ² further notes that pro-abortion activity could also be captured by offences set out in the Bill. The Bill prohibits any activity that carries the potential to influence the decision of another person to access or provide

abortion services within a safe access zone.

The Policy Memorandum acknowledges (paragraph 13) that these restrictions impact on some of the human rights protected by the European Convention on Human Rights. The rights affected are freedom of religion, freedom of expression and freedom of assembly. The Scottish Government argues that these restrictions are necessary to protect access to abortion services, which engages the right to respect for private life.

Scottish Parliament consideration of the Bill at Stage 1

The lead committee for this Bill is the [Health, Social Care, and Sport Committee](#)¹¹. The Committee conducted a call for views to gather written evidence to support its scrutiny of the Bill, which closed on 20 December 2023. A summary of the evidence collected will be published in February 2024. The Committee plans to take oral evidence on the Bill in February and March 2024, and produce its Stage 1 report in April 2024.

A note on language

The wording used in this briefing mirrors the language of the documents accompanying the Abortion Services (Safe Access Zones) (Scotland Bill). As [the policy memorandum](#)² states, terms such as “people who access or provide services”, “anti-abortion”, and “protester” were used to describe the actions of individuals and groups, rather than their motivations.

Introduction

The [Abortion Services \(Safe Access Zones\) \(Scotland\) Bill](#) ¹ was introduced by Gillian Mackay MSP on 5 October 2023. [Ms Mackay said](#) ¹² :

“There is no excuse for the harassment that far too many people have had to endure when accessing healthcare. These protests should not be happening, and, today, we are an important step closer to ending them for good.

“We have learned from those who have worked to deliver buffer zones in other countries, particularly in Northern Ireland. The legal precedent that was set when the Supreme Court upheld their bill is one that we have taken a lot of confidence from.

“The bill I have lodged builds on these experiences, and I am confident that it will provide the best protections anywhere in the UK.”

The Minister for Public Health and Women’s Health, Jenni Minto MSP, added:

“It is unacceptable for women to face any fear of intimidation, harassment or unwanted influence when accessing essential healthcare services. It goes without saying that the same goes for healthcare staff doing their job.

“The Scottish Government is grateful to Ms Mackay for the work she has undertaken to reach this stage and we will continue supporting her Member’s Bill as it makes its way through Parliament. This Bill is not an attempt to restrict freedom of expression, but to safeguard public health and protect the right of women to access healthcare without obstruction. The Bill is targeted at activity opposing abortion outside premises providing abortion services and will not limit the ability to oppose abortion in any other locations.”

The context of the Bill

This section provides an overview of abortion provision and anti-abortion activity in Scotland, along with a list of key organisations who have campaigned in support of, or opposition to, the Bill. Additionally, this section outlines the steps taken by Gillian Mackay MSP and the Scottish Government prior to the decision to introduce the Abortion Services (Safe Access Zones) (Scotland) Bill.

Abortion provision in Scotland

Although the Abortion Services (Safe Access Zones) (Scotland) Bill does not concern the legality of abortion provision in Scotland, understanding of the current legal status and provision of abortion services in Scotland may offer useful context regarding this topic.

Under Section 1(1)(d) of the [Abortion Act 1967](#)¹³, which currently applies to Scotland, England, and Wales, an abortion can legally be accessed up to 24 weeks of pregnancy if continuing with a pregnancy would pose a greater risk to the mental or physical health of the person accessing the service than seeking an abortion. Beyond 24 weeks' gestation, abortions can only be conducted if there is a significant risk to the life of the person accessing abortion services, or evidence of foetal abnormality. Abortion law was devolved to Scotland under the [Scotland Act 2016](#)¹⁴. The Scottish Government's [2023-24 Programme for Government](#)¹⁵ committed to "undertake a review of abortion law to identify potential proposals, by the end of this parliamentary term, for reforms to ensure that abortion services are first and foremost a healthcare matter."

Public Health Scotland's [most recent report on abortion provision in Scotland](#)¹⁶ stated that 16,584 abortions were performed in Scotland in the year ending 31 December 2022. This represents an increase of 19% from 2021. Before an abortion is conducted, [two doctors must provide signatures](#)¹⁷ to confirm that the terms of the Abortion Act 1967 will not be breached by carrying out the procedure, and that continuing with a pregnancy would pose a greater risk to the person's mental or physical health than accessing an abortion. [98.2% of abortions](#)¹⁶ conducted before 24 weeks' gestation in Scotland in 2022 were performed under this criterion.

[Abortion services in Scotland](#)¹⁸ are usually provided by NHS health boards, though people accessing later gestation abortions (after 20 weeks) may be referred to specialist clinics in England. There are two types of abortion services conducted in Scotland:

Medical abortion: This type of procedure can be used up to 20 weeks' gestation. [The process involves](#)¹⁸ an initial assessment at a clinic where abortion services are offered, followed by taking two different medicines, [mifepristone and misoprostol](#)¹⁹, 24 to 48 hours apart to induce an abortion. The medication can often be taken at home before 12 weeks' gestation, but is administered in a clinical setting when taken between 12 and 20 weeks of pregnancy.

Surgical abortion: This procedure is generally only offered up to 13 weeks' gestation in Scotland. Surgical abortion involves using gentle suction to remove pregnancy tissue from the womb, and can be carried out under local anaesthetic, sedation, or general anaesthetic.

A small number of abortions are performed at 18 weeks' gestation or later, often for medical reasons. [Public Health Scotland's most recent data](#) ¹⁶ suggests that 1% of abortions accessed in Scotland in 2022 were performed after 18 weeks' gestation. Patients based in Scotland who require abortion services after 20 weeks' gestation are usually referred to specialist clinics in England, as the procedure is more complex. In these cases, the process involves the administration of medication, followed by a surgical procedure the next day.

The procedures conducted to end a pregnancy are similar, and often carried out in the same facilities, whether they are used to end a pregnancy by choice, facilitate a termination due to medical reasons, or to remove pregnancy tissue following a [missed miscarriage](#) ²⁰.

Public Health Scotland's latest report observed that women living in Scotland's most deprived areas were twice as likely to access abortion services as those living in the least deprived areas. The report also noted that women from black and Caribbean backgrounds were more likely than white women to access multiple abortions. Women experiencing socioeconomic deprivation, and those from some ethnic minority backgrounds, may therefore be [disproportionately affected by anti-abortion activities](#) ⁹.

Anti-abortion activity in Scotland

Events including the [overturning of the constitutional right to abortion](#) ²¹ in the United States, and the recent increase in the number of women [charged with offences in relation to the Abortion Act 1967](#) ²² in the UK, have [refocused attention on abortion provision in Scotland](#) ²³. A [YouGov poll published in October 2023](#) ²⁴ showed that 87% of British people surveyed agreed that abortion should be allowed. 74% of respondents supported a change in legislation to enshrine the right to abortion in law, and 77% of respondents were in favour of a ban on anti-abortion protests in the vicinity of clinics.

Anti-abortion protests outside clinics in Scotland [have increased in recent years](#) ⁷, with documented anti-abortion activity occurring outside a number of premises including Queen Elizabeth University Hospital in Glasgow, Chalmers Clinic in Edinburgh, and Aberdeen Maternity Hospital. Anti-abortion activity includes actions such as holding vigils, praying, protesting, and holding banners and signs with anti-abortion messaging and imagery. Many of these protests and vigils are part of [wider international anti-abortion movements](#) ²⁵.

People who participate in anti-abortion activities often perceive their actions to be [positive and supportive](#) ²⁶, offering an alternative source of information to people considering accessing abortion. Additionally, they may feel that they are [exercising their rights](#) ²⁷ to religious expression and freedom of speech. Some of the respondents to [Gillian Mackay MSP's consultation](#) ²⁸ expressed concern that the Bill as introduced may infringe on their right to express their religious beliefs. However, the Scottish Government's [Equality Impact Assessment](#) ⁶ concluded that the Bill would only impact on the expression of religious beliefs within the safe access zone, and did not prohibit people from expressing their views on abortion in other ways. The Equality Impact Assessment further noted that the Bill may positively affect people who hold religious views and access abortion services, as they

may feel disproportionately impacted by perceived judgement from fellow religious individuals.

The presence of anti-abortion activists outside places where abortion services are provided [can cause feelings of harassment and intimidation](#)²⁹ among those accessing or providing abortion services, and can [compromise the privacy and confidentiality](#)²⁶ expected by people accessing healthcare services. In some cases, the presence of anti-abortion activists can [deter patients from accessing](#)²⁹ medically necessary abortions, posing a risk to their physical health.

Some respondents to Ms Mackay's consultation who expressed opposition to the Bill felt that participating in peaceful prayer should not be considered an act of harassment or protest, as no direct confrontation is taking place. However, others who expressed support for the Bill stated that the presence of activists quietly or silently praying near clinics still created feelings of judgement, fear, and humiliation, whilst acknowledging that this may not be the intention or perception of those participating in prayer vigils. Some respondents also questioned the necessity of prayer taking place outside abortion clinics, as the act of praying could be conducted in any location.

People accessing other forms of healthcare at clinics where abortion services are provided may also experience harassment. Respondents to Gillian Mackay MSP's consultation shared their experiences of intimidation and trauma after being confronted by protesters whilst receiving miscarriage care. Additionally, some respondents shared their experiences of feeling harassed when attending a clinic for sexual health care and menopause support services.

The presence of anti-abortion activists can also [impact upon healthcare staff](#)³⁰ who work at premises where abortion services are provided, whether or not they are directly involved in providing these services. In addition to experiencing harassment themselves, healthcare staff also report having to offer emotional support to people who have been confronted by protesters when accessing abortion services.

Key organisations supporting and opposing the Bill

The Abortion Services (Safe Access Zones) (Scotland) Bill has attracted support and opposition from a number of campaign groups and other organisations. The grassroots organisation [Back Off Scotland](#)³¹ was established in 2020 to campaign for the introduction of safe access zones around clinics that provide abortion services, and to give voice to people who have experienced harassment when accessing services. The Humanist Society Scotland has also expressed its support for safe access zones legislation, and [has provided advice and financial support](#)²⁵ to Back Off Scotland's campaign.

The [British Pregnancy Advisory Service](#)³² (BPAS) has worked closely with Back Off Scotland and Gillian Mackay MSP to support the campaign for safe access zones in Scotland. BPAS is an independent healthcare charity that advocates and cares for people who decide to end a pregnancy. The organisation has been campaigning for the introduction of safe access zones throughout the UK since 2014.

Several membership bodies for healthcare professionals have expressed their views on

safe access zones surrounding abortion clinics. The [Royal College of General Practitioners Scotland](#) ³³ has expressed its support for the Bill, stating that current legislation is insufficient to address the harassment reported by staff and patients outside abortion clinics. The Royal College of Obstetricians and Gynaecologists and the Faculty of Sexual and Reproductive Healthcare [produced a joint report](#) ²⁹ in January 2023 calling for the implementation of safe access zones around abortion clinics throughout the UK, citing the need to protect patients and staff from harassment and intimidation.

Opposition to the Bill has been expressed by some faith-based organisations, particularly those who engage in or support anti-abortion activity. The United States-based Christian group [40 Days for Life](#) ³⁴ has held biannual prayer vigils at abortion clinics in Scotland since 2016. The group's Chief Executive [has described the proposed Bill](#) ³⁵ as a form of "bigotry" and challenged the perception that members of the group have acted in an intimidating manner by holding prayer vigils.

The organisation Right to Life UK, which focuses its attention on "life issues" including abortion and assisted dying, [has campaigned against the Bill](#) ³⁶, referring to the proposed safe access zones as "censorship zones".

The Society for the Protection of Unborn Children (SPUC) has [campaigned against the introduction](#) ³⁷ of "discriminatory" safe access zones across the UK. The organisation believes that anti-abortion campaigners should have the right to hold peaceful vigils in public, and that people seeking abortion services should be able to receive information regarding alternative options.

[A statement released](#) ³⁸ by the faith-based legal advocacy organisation ADF UK expressed its opposition to "censorial" safe access zones, and its view that praying and offering information about alternatives to abortion should not be considered harassment. ADF UK has [provided legal and financial support](#) ³⁹ to people charged in relation to safe access zones legislation in England and Wales.

The lobbying group Christian Action Research and Education (CARE) for Scotland, which aims to bring a Christian insight to law and policy-making, [has expressed concern](#) ⁴⁰ that the proposed Bill will undermine the right to freedom of speech, and direct attention away from abortion-related issues that it considers to be more significant, such as the increasing number of abortions taking place in Scotland.

Consideration of alternatives to introducing legislation

The Scottish Government formed a [Ministerial Working Group on Safe Access Zones](#) ⁴¹ in 2021 to consider short, medium, or long-term actions to address harassment outside abortion clinics. The group, convened by the then-Minister for Public Health, Women's Health, and Sport, Maree Todd MSP, explored three non-legislative options to examine their potential to meet the policy aim of protecting access to abortion services:

- Option 1: reliance on local authority byelaws

- Option 2: reliance on existing police powers
- Option 3: reliance on mediation and enhanced guidance

Although these options carried advantages including removing the need for new legislation and avoiding additional interference with articles 9, 10, or 11 of the European Convention on Human Rights, they [were ultimately considered insufficient](#)² to meet the intended policy aim. In the Scottish Government's view, none of the proposed approaches provided a consistent national approach, and each required evidence of harm before action could be taken, rather than seeking to prevent harm. Additionally, it noted that these existing powers have not so far prevented groups from engaging in anti-abortion activity outside clinics, indicating that they are not an effective deterrent.

Gillian Mackay MSP's consultation on safe access zones legislation

Gillian Mackay MSP conducted a public consultation on the draft proposal for the Abortion Services (Safe Access Zones) (Scotland) Bill, which ran from 19 May to 11 August 2022. The consultation exercise was run by her parliamentary office, and the Scottish Parliament's Non-Government Bills Unit supported the drafting of [the consultation document](#)⁴².

The consultation received 11,879 responses. A [summary of responses](#)²⁸ was published on the Scottish Parliament website, and responses were published in full on [bufferzones.scot](#)⁴³. 99.6% of the responses received were submitted by individuals, including clinicians, people who have accessed abortion services, people who have taken part in anti-abortion activity, and wider members of the public. The remaining 0.4% of responses were submitted by organisations.

56.1% of respondents were fully supportive of the proposal, with 42.6% fully opposed. 0.3% were partially supportive, with 0.4% partially opposed. Among those who were in favour of the proposal, the most common reason for their position was supporting the right of women to access healthcare services without harassment, intimidation, or judgement. Respondents also expressed concern for the welfare of people accessing other services in the same building where abortion services are provided. Some respondents shared their personal experiences of distress caused by encounters with anti-abortion protesters.

Those who expressed opposition to the proposal shared concerns that the Bill would restrict freedoms, impact the right to peaceful prayer, and would limit access to information on alternatives to abortion. Many individuals who indicated their opposition to the proposal expressed strong Christian beliefs, though some respondents who stated their support for the proposal also identified as Christian. Many of the respondents who expressed religious opposition to the proposal stated that they objected to abortion in principle, and felt that the presence of protesters outside abortion clinics offered alternative choices and support to people seeking abortion services.

Human rights considerations

The Bill engages several of the human rights guaranteed in the European Convention on Human Rights (ECHR). In particular, its provisions could be seen as restricting the right to protest, the right to practice a religion and the right to freedom of assembly.

Public bodies in the UK - including the police, the NHS and the Scottish Government - must respect the rights contained in the ECHR. Individuals whose rights are affected can take court action to challenge the decisions of public bodies. It is also outwith the competence of the Scottish Parliament to legislate in a way which breaches the rights in the ECHR.

This part of the briefing looks at:

- [the legal and constitutional position of the rights contained in the ECHR](#)
- [what is covered by the rights engaged by the Bill and how they have been developed by the case law of the European Court of Human Rights](#)
- [restricting and balancing human rights](#)
- [UK court judgments in relation to restrictions on protest around abortion clinics.](#)

The legal and constitutional position of the rights contained in the European Convention on Human Rights

The rights in the ECHR can be enforced via court action. They are also a key consideration in relation to the legislative competence of the Scottish Parliament.

The Human Rights Act 1998 creates a framework for enforcing human rights

As a signatory to the ECHR, the UK Government is required to uphold the rights it contains. However, the Human Rights Act 1998 created a legal framework to allow the UK courts to consider the rights contained in the Convention in disputes between citizens and public bodies. This is sometimes referred to as "incorporating" the ECHR into UK law.

Individuals can raise court action where they believe their human rights have been breached. The courts can also consider human rights issues when settling other disputes between individuals and public bodies (and, in some limited contexts, disputes between individuals or private bodies).

The 1998 Act also puts courts under an obligation to interpret legislation as far as possible in line with human rights requirements. Provisions in subsidiary legislation that cannot be interpreted in line with human rights requirements - including Acts of the Scottish Parliament - can be struck down by the courts so that they no longer have legal effect.

Acts of the UK Parliament cannot be struck down in this way. However, the courts can issue a "declaration of incompatibility". The expectation is that the UK Parliament will then act to fix the problem.

The provisions in the 1998 Act only apply to the rights in the ECHR, not to human rights more generally. Thus, ECHR human rights - sometimes called "Convention rights" - have a special status.

It is beyond the competence of the Scottish Parliament to pass legislation which is not compliant with the rights in the ECHR

The Scotland Act 1998 sets out various restrictions on the legislative competence of the Scottish Parliament. Legislative provisions which are outwith competence are, according to section 29 of the 1998 Act, "not law". Thus, they have no legal effect.

One of the requirements of legislative competence is that legislation cannot be incompatible with any of the human rights contained in the ECHR. Thus, ECHR human rights also have a constitution significance in relation to the work of the Scottish Parliament.

What is covered by the rights engaged by the Bill

The Bill clearly engages four of the rights contained in the ECHR. These are also identified in the Policy Memorandum to the Bill at (among other places), paragraphs 13 and 15. This part of the briefing looks at the wording of those rights and how they have been developed by the decisions of the European Court of Human Rights.

When senior courts make judgments in individual cases before them, this is seen as developing the law in an authoritative way. For example, the judgment might clarify what a particular phrase means, or it might make clear that a particular situation is covered. Courts which sit below the court making the decision in the judicial hierarchy will, in most cases, be expected to follow the terms of the judgment in their future decision-making.

Decisions of the European Court of Human Rights are authoritative in relation to the interpretation of the ECHR. UK courts, including the UK Supreme court, are required to take into account its judgments when they are making decisions on related subjects. However, they are not technically bound to follow them.

The key rights engaged by the Bill are:

- [Article 8: right to respect for private and family life](#)
- [Article 9: freedom of thought, conscience and religion](#)
- [Article 10: freedom of expression](#), and
- [Article 11: freedom of assembly and association](#).

Article 8: the right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 8 requires the state to ensure (among other things) that an individual is protected against interference in their private life. In the context of this Bill, private life would include a decision to access abortion services. It can also encompass a person's right to pursue employment, including in providing abortion services.

Article 8 creates what is called a negative obligation on the state. It must refrain from interfering. However, the state also has a positive obligation to create a framework where respect for private life is protected even, in some contexts, in situations involving other individuals or private bodies.

Article 8 also includes a procedural requirement. This means that states must have in place a fair process for weighing up decisions in relation to the right. Individuals affected by the decision must be able to engage in these processes.

The European Court of Human Rights has stated that, while Article 8 cannot be interpreted as conferring a right to an abortion, restrictions on access to abortion do engage citizens' Article 8 right to respect for private life. However, states have wide discretion as to how they choose to balance the competing interests in this area ([A, B and C v Ireland](#) (App. No. 25579/05, ECtHR 16 Dec 2010)).

The Court has also found that, where states provide for abortion to be lawful in certain circumstances, they must provide a procedural framework which allows pregnant women to exercise their right to access lawful abortions ([P and S v Poland](#) (App. No. 57375/08, ECtHR 30 Jan 2013)).

Article 9: freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

The right to hold and change beliefs is absolute. This means there is no justification for interference by the state. However, the right to manifest a belief can be subject to restrictions as described in paragraph 2. Note though that the right protects both the freedom to hold, and to not hold, particular beliefs.

As well as a negative obligation to not interfere, Article 9 creates a positive obligation. The state must have in place frameworks which protect freedom of thought, religion and conscience, including, in some contexts, from interference by other individuals or private bodies.

Manifestations of religion are not limited to generally recognised acts of worship. They can include other activities where there is a sufficiently close and direct link between the act and the underlying belief ([Eweida and Others v United Kingdom](#) (App No. 42420/10, ECtHR 15 Jan 2013)). However, Article 9 is primarily designed to protect the personal sphere of religious practice. This means that it will not always protect someone's ability to behave in public in a way motivated by their religion ([Van Den Dungan v The Netherlands](#) (App No. 22838/93, Commission 22 Feb 1995)).

Article 10: freedom of expression

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises..
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 10 and [article 11, covering freedom of assembly and association](#), are closely linked.

Freedom of expression covers freedom to express ideas which are offensive, shocking or disturbing, not just those which are acceptable to society. However, article 17 of the ECHR emphasises that rights cannot be exercised in a way which is intended to destroy the rights and freedoms of others. Therefore, expressions which seek to incite or justify hatred based on intolerance are not protected

Article 10 has a positive and negative aspect. The state must refrain from interfering in freedom of expression and must also ensure that a framework exists for citizens to be able to exercise freedom of expression. A range of measures – “ a formality, condition, restriction or penalty” – can limit freedom of expression ([Wille v Lichtenstein](#) (App no. 28396/95, ECtHR 28 October 1999)).

There is also a procedural aspect – requiring a process to enable restrictions on freedom of expression to be fully considered. Procedural safeguards are particularly important

when balancing the right to freedom of expression against other rights guaranteed in the Convention.

In the case of *Van Den Dungan v The Netherlands* (op. cit.), Mr Van Den Dungan was the subject of an injunction which prevented him protesting within 250m of a particular abortion clinic. The European Commission of Human Rights held that the purpose of the injunction was not to prevent Mr Van Den Dugan exercising his right to freedom of expression but only restricted how and where he could do so to protect the rights of others. The state's action was therefore proportionate.

Article 11: freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

Article 11 rights are closely related to the [article 10 right of freedom of expression](#) (as well as, in some contexts, article 9 rights relating to religion and belief). Whether a complaint to the European Court of Human Rights is examined under article 10 or article 11, or both, will depend on the circumstances.

Article 11 protects the right to peaceful assembly. However, an assembly can be disruptive - eg. causing a traffic go-slow, or occupying a building - and still be covered. The issue of whether an assembly is peaceful can be assessed separately from an individual's or particular group's conduct at that demonstration.

Article 11 places a negative obligation not to interfere in the rights to freedom of association and assembly, but it can also include a positive obligation to facilitate citizens exercising those rights. In particular, minority groups or people with unpopular opinions may need additional support. The state must also take positive steps to support demonstrations being conducted peacefully, such as facilitating dialogue with organisers or deploying the police.

Both administrative requirements (such as requiring permission or regulating conduct) and enforcement (such as dispersing or arresting protesters) constitute interference with Article 11 rights. However, they may be justified on the grounds set out in paragraph 2.

As with Article 10, Article 11 protects assemblies which promote views which are annoying or offensive to others (but not to the extent that they prevent other people from exercising their rights under the Convention).

In the case of [Faber v Hungary](#) (App no. 40721/08, ECtHR 24 Jul 2012), Mr Faber

received a fine for displaying a flag with fascist connotations near a demonstration against racism. The decision of the court involved balancing rights to freedom of expression and freedom of assembly. The court held that the state should adopt the least restrictive measures to allow both sides to exercise their rights. Displaying the flag may have been offensive to some but, in the absence of intimidation, it did not create circumstances which interfered in others' right to freedom of assembly. The state's action was therefore disproportionate.

Restricting and balancing human rights

None of the human rights engaged by the Bill are absolute. They can all be restricted on various grounds outlined in the ECHR. The European Court of Human Rights has laid down a methodology for judging whether restrictions are justified.

Articles 8, 9, 10 and 11 of the ECHR can all be restricted

The basis for restrictions are set out in the second paragraph to each of the rights. The wording is similar - but not the same - across all of these rights, reflecting the specific nature of each of them. In particular, each right can be restricted to protect the rights of other people.

The European Court of Human Rights has set out a three-stage process for judging whether restrictions on Convention rights are proportionate. To meet the requirements of the ECHR, restrictions must:

- **be prescribed in (or in accordance with) law** - the law should be accessible. It should also be clear enough that it is possible for a citizen to foresee - with the help of appropriate advice if necessary - how it would apply to them
- **pursue a legitimate aim** - the legitimate aim must be one of the justifications detailed in paragraph 2 of the right - such as the protection of health or the rights of others
- **be necessary in a democratic society** - the European Court of Human Rights has developed several tests relating to this. However, broadly, restrictions must be proportionate to the legitimate aim pursued.

National authorities have principal responsibility for balancing competing interests in relation to rights, but their decisions are supervised by the European Court of Human Rights

The European Court of Human Rights recognises that states have what is called a "margin of appreciation" in reaching decisions about balancing competing interests in relation to rights. This principle accepts that national authorities are better placed than an international court to understand how the balance should be struck in the specific context of their society. The court will therefore not unduly interfere in the decisions states reach.

However, states must still demonstrate, under the assessment outlined above, that restrictions are proportionate. They must also sufficiently justify their decisions.

Procedural protections are particularly important in showing that an appropriate balancing exercise has been undertaken. This includes - but is not limited to - court hearings in relation to particular cases.

UK court judgments in relation to restrictions on protest around abortion clinics

There have been two decisions from senior UK courts which dealt with objections to buffer zones around abortion clinics. In both cases, the courts found the imposition of buffer zones to be lawful.

The judgments in the two cases are discussed in more detail in the following sections:

- [Dulgheriu and Orthova v the London Borough of Ealing](#)
- [Reference by the Attorney General of Northern Ireland – Abortion Services \(Safe Access Zones\) \(Northern Ireland\) Bill.](#)

Dulgheriu and Orthova v the London Borough of Ealing

Neutral case citation: [\[2019\] EWCA Civ 1490](#)

Ealing Council was the first council in the country to introduce a buffer zone, of 100m, in relation to an abortion clinic in its area. It did so using a Public Spaces Protection Order under the Anti-Social Behaviour, Crime and Policing Act 2014. This option exists in England and Wales but the legislation does not cover Scotland.

The protests in question involved vigils, praying and handing out leaflets as well as taking photographs and actively blocking visitors from accessing the clinic without engagement. Counter protests by people supporting access to abortion had also been organised, creating an atmosphere of tension.

There was evidence that the interventions had caused lasting psychological harm to some service users and of people cancelling appointments with the service.

The Court of Appeal held that service-users' Article 8 right to respect for private life was engaged by the activities of the protesters. It did not reach a decision on whether the Article 8 rights of other visitors, staff and local residents were also engaged.

It upheld the initial decision of the High Court that the significant interference with activists' rights under Articles 9,10 and 11 of the ECHR was justified by the very serious and uninvited invasion of privacy that the protests entailed. In the particular circumstances of the case, the initial judge's conclusion that the article 8 rights of service users outweighed the Article 9,10 and 11 rights of protesters was justified.

Reference by the Attorney General of Northern Ireland – Abortion Services (Safe Access Zones) (Northern Ireland) Bill

Neutral case citation: [\[2022\] UKSC 32](#)

Under the constitutional arrangements in place for Northern Ireland, the Attorney General for Northern Ireland can refer a bill to the Supreme Court to decide whether it is within legislative competence. As with the Scottish Parliament, it would be outwith the competence on the Northern Ireland Assembly to legislate in a way which is incompatible with the ECHR.

This reference was made on specific grounds; that failure to include a “reasonable excuse” defence to one strand of the criminal offence created by the Bill (influencing a person accessing, providing or accompanying someone accessing abortion services) made it incompatible with the ECHR. It was argued that a reasonable excuse defence was necessary in order for courts to carry out an assessment of the proportionality of any interference with ECHR rights in individual cases.

The Supreme Court held that, in order for a criminal offence to be compatible with the ECHR, it was not always necessary for consideration of proportionality to take place in each case. Proportionality can be dealt with more generally, including through the way an offence was worded in legislation or by the tests set out in related court judgments.

The Supreme Court also noted that not all criminal charges in relation to protests engage Convention rights. For example, protests which are violent or promote hatred based on intolerance are not protected.

It concluded that the provision in the Bill, where it resulted in interference with ECHR rights, was proportionate.

What the Bill would do

This section examines the provisions of the Bill as introduced, including the creation of safe access zones, changes that can be made to the zones, and criminal offences created by the Bill.

The aims of the Bill

The [policy memorandum](#)² states that the Bill aims to:

- “protect access to abortion services across Scotland;
- ensure that people can access abortion services without fear of, and free from, intimidation, harassment or public judgement;
- ensure that at the point of access users are protected from attempts to influence or persuade them in relation to their decision to access services;
- take a preventative approach so all abortion services are covered, including those that have not experienced protests;
- ensure that providers or facilitators of the service are protected from attempts to influence their decision to provide or facilitate abortion related services at their place of work or where those services are delivered;
- prevent providers or facilitators from being reluctant to provide or facilitate services for fear of such protests occurring.”

The Scottish Government states that the Bill does not seek to prohibit the expression of views regarding abortion, or restrict the religious expression of views on this topic outwith the spaces covered by this legislation.

Establishment of safe access zones for protected premises

Sections 1-3 of the Bill concern the establishment of safe access zones for protected premises. Section 1 defines protected premises as “a building that is or forms part of a hospital at which abortion services are provided”, “or a place that is approved under [section 1\(3\) of the Abortion Act 1967](#)¹³ for the purposes of that section other than a place forming part of a class of place that is so approved.”

Section 2 of the Bill provides a definition of a safe access zone, which consists of the protected premises, their public grounds, and any other public land within 200 metres of the protected premises. The safe access zones proposed in the Bill are larger than the 150 metre safe access zones introduced around abortion service providers in England and Wales under [Section 9 of the Public Order Act 2023](#)⁴⁴, and the minimum distance of 100 metres established by the [Abortion Services \(Safe Access Zones\) \(Northern Ireland\) Act 2023](#)⁴⁵. Some respondents to [Gillian Mackay MSP’s consultation](#)²⁸ suggested that the

150-metre safe access zone originally proposed in the consultation document would be insufficient to protect people accessing or providing services in some Scottish hospitals, particularly for buildings situated within large hospital grounds.

This section also details the requirement for the Scottish Ministers to publish and maintain a list of protected premises. On the day that section 2 of the Bill comes into force, Ministers are required to publish a list containing the names and addresses of protected premises and maps of their corresponding safe access zones and boundaries. The list must also include the date on which the safe access zone comes into effect.

Section 3 of the Bill outlines the actions to be taken by Ministers should a new protected premises be proposed. The operator of the proposed protected premises must inform the Scottish Ministers of the date from which abortion services will begin to be offered at the protected premises. Ministers must then add the proposed location to the list of protected premises and publish the updated list. The listing must specify the date from which the new safe access zone will take effect, which must be at least 14 days after the publication of the updated list.

If Ministers become aware that abortion services are being provided at a new location without the operator having submitted prior notification, the list of protected premises must be updated with the details of this new location, including the date from which the new safe access zone will take effect. Again, this date must be at least 14 days after the publication of the updated list.

Why is this list necessary?

As the [policy memorandum accompanying the Bill](#) ² notes, it is important to clearly communicate what the safe access zones around each protected premises look like in practice. Although a uniform boundary of 200 metres has been established, some fully enclosed structures (such as other hospital buildings) and private dwellings within this area may be excluded from the safe access zone. Each safe access zone may therefore look different according to the location and surroundings of the individual protected premises. Providing a list of protected premises and accompanying maps of their safe access zones will help to ensure that service users and providers are aware of the level of protection they can expect, and to enable those who wish to conduct anti-abortion activity close to a safe access zone to select a location outwith the zone in question.

The Scottish Government intends to engage with stakeholders throughout the passage of the Bill to identify other effective ways of communicating the layout of safe access zones to those affected by them.

Criminal offences created by the Bill

The Bill would create two criminal offences, relating to influencing, preventing access or causing harassment in a safe access zone.

Section 4 of the Bill would create an offence covering people's behaviour in a safe access zone

The [Policy Memorandum which accompanies the Bill](#) (paragraph 60)² notes that the offence is wide enough to cover behaviour which takes place at a time when no-one accessing or providing abortion services is present, but has an ongoing effect. The example given is putting up posters on the doors to a service at night which will be seen by those accessing the premises in the morning.

Section 5 of the Bill would create an offence covering the same behaviour from premises within the area of, but not covered by, a safe access zone

Safe access zones do cover public spaces and partially enclosed areas such as bus shelters. But they don't cover other fully-enclosed buildings - such as other buildings within a hospital compound, or private premises within a safe access zone. The purpose of the section 5 offence is to ensure that activities within premises like these, which can be seen or heard from within the safe access zone, would also be covered by the offence.

This part of the briefing looks at:

- [the behaviours covered by the offences](#)
- [exceptions to the offences](#)
- [penalties for the offences](#).

Behaviours covered by the offences

Both offences cover the same range of behaviours. They are set out as behaviours, rather than a definitive list of the types of protest covered, to maintain flexibility

An offence is committed if a person engages in the prohibited behaviours in a safe access zone (or from premises within the area of a safe access zone but not covered by it, where the behaviour can be seen or heard from the safe access zone).

Behaviours are prohibited where a person engages in them with the intention to (or being reckless as to whether the effect is to):

- influence the decision of another person to access, provide or facilitate the provision of abortion services
- prevent or impede another person from accessing, providing or facilitating the provision of abortion services
- cause harassment, alarm or distress to another person in relation to that person's decision to access, provide or facilitate the provision of abortion services.

The person affected must be in the safe access zone for the purpose of accessing, providing or facilitating the provision of abortion services. However, they do not have to be there at the same time as the behaviour happens.

In practice this means that the offence would cover a wide range of actions aimed at influencing people in relation to abortion services. Behaviour directed at both service-users and staff who provide or support the provision of abortion services would be covered.

The offence would apply to actions which could be seen as supportive of abortion, as well as those which could be seen as anti-abortion.

However, actions which take place in private premises (such as homes or places of worship) which are in the area of a safe access zone would not be covered, so long as they could not be seen or heard from the safe access zone.

The Scottish Government argues there is a need for a flexible approach

The [Policy Memorandum](#)² states (paragraph 57):

“ Such flexibility reflects the reality that it is not practicable to define all potential kinds of anti-abortion activity that could be carried out within a zone, and also allows enforcement agencies to account for the nuances of particular situations.”

However, the Scottish Government does give examples of the sorts of behaviour it expects to be covered by the offences at paragraph 63 of the Policy Memorandum. These include (where they have one of the intentions above, or are reckless as to whether they have that effect):

- holding up placards or banners
- religious preaching
- audible praying
- silent vigils.

Exceptions to the offences

Section 6 of the Bill would create four exceptions to the offences in the Bill. Note that these exceptions are specifically defined. There is no exception on the grounds of "reasonable excuse" or similar terms.

The exceptions are:

- where the behaviour comes from another person who has the permission of the person accessing abortion services to accompany them. However, it only applies to the extent that the behaviour affects the person who they have permission to accompany, not service users or providers more generally
- where the behaviour comes from a person who is providing or facilitating the provision of abortion services at the premises
- where the behaviour comes from a person who is providing other healthcare services at the premises
- where the behaviour relates to peaceful picketing flowing from a trade dispute recognised under the UK's labour relations laws.

Penalties for the offences

The penalty for committing an offence under the Bill would be a fine. There is no provision for a prison sentence.

There are two types of court procedure for dealing with criminal charges in Scotland

Summary procedure covers less serious offences, with cases being heard in the Justice of the Peace or sheriff courts without a jury. Solemn procedure covers more serious offences. Cases are heard in the sheriff courts or High Court of Justiciary, in the presence of a jury.

The Bill provides for maximum fines in both types of procedure

The maximum fine where someone has been charged with an offence in the Bill under summary procedure is the statutory maximum fine. This is set in legislation and is updated every so often. The current statutory maximum fine in this context is £10,000.

Where someone is charged with a Bill offence under solemn procedure, there is no limit to the fine they can receive.

Note though that these are the maximum fines that can be levied. The courts will take into account the specific circumstances of a case before setting the fine. This will include an assessment of the convicted person's financial circumstances.

The Scottish Government acknowledges in the [Policy Memorandum](#) (paragraph 69)² that the maximum penalties are significant. However, it states:

“ Whilst it is acknowledged that conviction potentially carries very significant penalties, the maximum penalties are not requirements. They exist to provide flexibility, so that higher fines can be imposed if necessary. Each case will be considered on its own merits, and the level of fines will be determined accordingly.”

Nevertheless, the penalties are higher than those in place for similar initiatives. The fine for breaching the restrictions in place in Ealing Council's Public Spaces Protection Order is a maximum of £1,000. For the offences in the Abortion Services (Safe Access Zones) (Northern Ireland) Act 2023, it is £500 in most cases (and £2,500 in others).

Changes to safe access zones

Sections 7-10 of the Bill outline the circumstances under which changes may be made to safe access zones. As [the policy memorandum explains](#)², these measures are intended to “future-proof” the Bill, making sure that safe access zones continue to be effective even if circumstances change.

In section 7, the process by which a safe access zone can be extended is outlined. If an operator of a protected premises feels that the default 200-metre safe access zone is not sufficient to provide protection for people accessing or providing abortion services at the premises, they may apply to the Scottish Ministers for an extension of the zone. Requests to extend a safe access zone will only be granted if Ministers decide that the request is appropriate. The Bill also grants Ministers the authority to extend a safe access zone of their own accord. Similarly, Section 8 grants Ministers the ability to reduce a safe access zone if they consider it appropriate.

The process for cessation of a safe access zone is detailed in section 9 of the Bill. If abortion services are no longer going to be provided at a protected premises, the operator should inform Ministers of the date on which they will stop providing services as soon as

possible.

Whenever a safe access zone is extended, reduced, or ceased, the Scottish Ministers must update and publish the list of safe access zones and accompanying maps.

Section 10 gives the Scottish Ministers the power to modify the definition of “protected premises” established in section 1 of the Bill. This provision ensures that if new settings, such as pharmacies, are approved to provide abortion services under the Abortion Act 1967, these locations could be incorporated into the definition of “protected premises”, and a safe access zone could be established around it. This section also gives permission for Ministers to modify the definition of “protected premises” to include places where services related to abortion, such as counselling services, are provided. It is important to note that there are no current plans to extend the definition of “protected premises” to encompass these settings. However, as [the policy memorandum](#)² notes, such provisions ensure that the protections granted by the Bill could adapt to changes in abortion service delivery.

Ministerial guidance

Section 11 designates responsibility to the Scottish Ministers for the publication of guidance related to the establishment, extension, reduction, or cessation of safe access zones. Ministers are required to publish any guidance related to the Bill, and are able to revise or revoke the guidance. Operators of protected premises have a duty to be aware of and adhere to any published guidance.

General provisions

Section 12 grants power to Scottish Ministers to make any appropriate changes to the Act by regulations. A list of definitions of the terms used in the Bill and accompanying documents can be found in Section 13. Section 14 confirms that nothing in the Act makes the Crown criminally liable. Section 15 outlines when the provisions of the Act would come into force, and Section 16 shares the short title of the Act.

Financial memorandum

The [financial memorandum](#)⁴ accompanying the Bill was prepared by the Scottish Government on behalf of Gillian Mackay MSP. It provides an estimate of the costs associated with the measures introduced by the Bill. The costs were determined using information obtained from organisations including Police Scotland, the Crown Office and Procurator Fiscal Service (COPFS), and NHS Health Boards, in addition to data from other jurisdictions in which safe access zones legislation has been implemented. The evidence gathered during the Scottish Government's stakeholder engagement sessions and Gillian Mackay MSP's consultation was also used to inform the cost estimates published in the financial memorandum.

The financial memorandum states that the majority of the costs associated with the measures introduced by the Bill will fall to COPFS, the Scottish Courts and Tribunal Service (SCTS), and the Scottish Legal Aid Board (SLAB), as they will experience costs relating to prosecutions under the Bill.

The Parliament's [Finance and Public Administration Committee](#) is responsible for conducting scrutiny of the financial memorandum accompanying the Bill.

Bibliography

- 1 Scottish Parliament. (2023). Abortion Services (Safe Access Zones) (Scotland) Bill as introduced. SP Bill 34, Session 6, 2023. Retrieved from <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/abortion-services-safe-access-zones-scotland-bill/introduced/bill-as-introduced.pdf> [accessed 20 December 2023]
- 2 Scottish Parliament. (2023). Abortion Services (Safe Access Zones) (Scotland) Bill: Policy Memorandum. SP Bill 34-PM, Session 6 (2023). Retrieved from <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/abortion-services-safe-access-zones-scotland-bill/introduced/policy-memorandum-accessible.pdf> [accessed 19 December 2023]
- 3 Scottish Parliament. (2023). Abortion Services (Safe Access Zones) (Scotland) Bill: Explanatory Notes. SP Bill 34 - EN, Session 6 (2023).. Retrieved from <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/abortion-services-safe-access-zones-scotland-bill/introduced/explanatory-notes-accessible.pdf> [accessed 20 December 2023]
- 4 Scottish Parliament. (2023). Abortion Services (Safe Access Zones) (Scotland) Bill: Financial Memorandum. SP Bill 34 - FM, Session 6 (2023). Retrieved from <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/abortion-services-safe-access-zones-scotland-bill/introduced/financial-memo-accessible.pdf> [accessed 20 2023]
- 5 Scottish Parliament. (2023). Abortion Services (Safe Access Zones) (Scotland) Bill: Delegated Powers Memorandum. SP Bill 34: DPM. Session 6 (2023). Retrieved from <https://www.parliament.scot/-/media/files/legislation/bills/s6-bills/abortion-services-safe-access-zones-scotland-bill/introduced/delegated-powers-memorandum-accessible.pdf> [accessed 20 2023]
- 6 Scottish Government. (2023). Abortion Services (Safe Access Zones) (Scotland) Bill: Equality Impact Assessment. Retrieved from <https://www.gov.scot/publications/abortion-service-safe-access-zones-scotland-bill-equality-impact-assessment-results/pages/7/> [accessed 20 December 2023]
- 7 Scottish Government. (2023). Abortion Services (Safe Access Zones) (Scotland) Bill: Business and Regulatory Impact Assessment. Retrieved from <https://www.gov.scot/binaries/content/documents/govscot/publications/impact-assessment/2023/10/abortion-services-safe-access-zones-scotland-bill-business-regulatory-impact-assessment/documents/abortion-service-safe-access-zones-scotland-bill-business-regulatory-impact-assessment/abortion-service-safe-access-zones-scotland-bill-business-regulatory-impact-assessment/govscot%3Adocument/abortion-service-safe-access-zones-scotland-bill-business-regulatory-impact-assessment.pdf> [accessed 20 December 2023]
- 8 Scottish Government. (2023). Abortion Services (Safe Access Zones) (Scotland) Bill: Child Rights and Wellbeing Impact Assessment. Retrieved from <https://www.gov.scot/publications/abortion-services-safe-access-zones-scotland-bill-child-rights-wellbeing-impact-assessment/> [accessed 20 December 2023]

- 9 Scottish Government. (2023). Abortion Services (Safe Access Zones) (Scotland) Bill: Fairer Scotland Duty Summary. Retrieved from <https://www.gov.scot/binaries/content/documents/govscot/publications/impact-assessment/2023/10/abortion-services-safe-access-zones-scotland-bill-fairer-scotland-duty-summary/documents/abortion-services-safe-access-zones-scotland-bill-fairer-scotland-duty-summary/abortion-services-safe-access-zones-scotland-bill-fairer-scotland-duty-summary/govscot%3Adocument/abortion-services-safe-access-zones-scotland-bill-fairer-scotland-duty-summary.pdf> [accessed 20 December 2023]
- 10 Scottish Government. (2023). Abortion Services (Safe Access Zones) (Scotland) Bill: Islands Communities Screening Assessment. Retrieved from <https://www.gov.scot/binaries/content/documents/govscot/publications/impact-assessment/2023/10/abortion-services-safe-access-zones-scotland-bill-island-communities-impact-assessment/documents/abortion-services-safe-access-zones-scotland-bill-islands-communities-screening-assessment/abortion-services-safe-access-zones-scotland-bill-islands-communities-screening-assessment/govscot%3Adocument/abortion-services-safe-access-zones-scotland-bill-islands-communities-screening-assessment.pdf> [accessed 20 December 2023]
- 11 Scottish Parliament. (2023). Scottish Parliament Health, Social Care, and Sport Committee Webpage. Retrieved from <https://www.parliament.scot/chamber-and-committees/committees/current-and-previous-committees/session-6-health-social-care-and-sport-committee> [accessed 20 December 2023]
- 12 Scottish Greens. (2023, October 6). Scottish Greens news article: "Buffer zone bill will deliver strongest protections in the UK". Retrieved from <https://greens.scot/news/buffer-zone-bill-will-deliver-strongest-protections-in-the-uk> [accessed 20 December 2023]
- 13 UK Government. (2023). Legislation.gov.uk: Abortion Act 1967. Retrieved from <https://www.legislation.gov.uk/ukpga/1967/87/contents> [accessed 20 2023]
- 14 UK Government. (2023). Legislation.gov.uk: Scotland Act 2016. Retrieved from <https://www.legislation.gov.uk/ukpga/2016/11/contents/enacted> [accessed 20 2023]
- 15 Scottish Government. (2023). Equality, Opportunity, Community: Our Programme for Government. Retrieved from <https://www.gov.scot/binaries/content/documents/govscot/publications/strategy-plan/2023/09/programme-government-2023-24/documents/equality-opportunity-community-programme-government/govscot%3Adocument/equality-opportunity-community-programme-government.pdf> [accessed 20 December 2023]
- 16 Public Health Scotland. (2023). Termination of pregnancy year ending December 2022: A National Statistics release for Scotland. Retrieved from <https://publichealthscotland.scot/media/19737/2023-05-30-terminations-2022-report.pdf> [accessed 20 December 2023]
- 17 Royal College of Obstetricians and Gynaecologists. (2012). Patient Information: Abortion Care. Retrieved from <https://www.rcog.org.uk/for-the-public/browse-our-patient-information/abortion-care/> [accessed 20 December 2023]
- 18 NHS Scotland. (2023). NHS Inform: Abortions in Scotland. Retrieved from <https://www.nhsinform.scot/tests-and-treatments/surgical-procedures/abortion/> [accessed 20 December 2023]

- 19 National Institute for Health and Care Excellence. (2023). British National Formulary: Mifepristone and Misoprostol. Retrieved from <https://bnf.nice.org.uk/drugs/mifepristone-and-misoprostol/> [accessed 20 December 2023]
- 20 Tommy's. (2023). Tommy's Baby Loss Support Information: Missed Miscarriage. Retrieved from <https://www.tommys.org/baby-loss-support/miscarriage-information-and-support/types-of-miscarriage/missed-miscarriage-information-and-support> [accessed 20 December 2023]
- 21 BBC. (2022, June 24). Roe v Wade: US Supreme Court ends constitutional right to abortion. Retrieved from <https://www.bbc.co.uk/news/world-us-canada-61928898> [accessed 20 December 2023]
- 22 The Guardian. (2023, November 10). The women being prosecuted in Great Britain for abortions: 'Her confidentiality was completely destroyed'. Retrieved from <https://www.theguardian.com/world/2023/nov/10/the-women-being-prosecuted-in-great-britain-for-abortions-her-confidentiality-was-completely-destroyed> [accessed 20 December 2023]
- 23 Law Society of Scotland. (2022, August 15). The Roeing back of women's rights?. Retrieved from <https://www.lawscot.org.uk/members/journal/issues/vol-67-issue-08/the-roeing-back-of-women-s-rights/> [accessed 20 December 2023]
- 24 YouGov. (2023, October 12). Where does the British public stand on abortion in 2023?. Retrieved from <https://yougov.co.uk/politics/articles/47568-where-does-the-british-public-stand-on-abortion-in-2023> [accessed 20 December 2023]
- 25 Humanist Society Scotland. (2023). Abortion Clinic Buffer Zones. Retrieved from <https://www.humanism.scot/campaigns/abortion-clinic-buffer-zones/> [accessed 20 December 2023]
- 26 Lowe, P., & Hayes, G. (2019). Anti-Abortion Clinic Activism, Civil Inattention and the Problem of Gendered Harassment. *Sociology*, 53(2). doi: <https://doi.org/10.1177/0038038518762075>
- 27 Lowe, P., & Page, S.J. (2019). Rights-based Claims Made by UK Anti-abortion Activists. *Health and Human Rights Journal*, 21(2), 133-144.
- 28 Scottish Parliament. (2023). Proposed Abortion Services (Safe Access Zones) (Scotland) Bill – Gillian Mackay MSP Consultation Summary. Retrieved from <https://www.parliament.scot/-/media/files/legislation/proposed-members-bills/buffer-zone-consultation-summary.pdf> [accessed 20 December 2023]
- 29 The Faculty of Sexual and Reproductive Healthcare and the Royal College of Obstetricians and Gynaecologists. (2023). Safe access zones around abortion clinics: The impact of harassment outside abortion clinics and the need for safe access zones to protect women and healthcare professionals. Retrieved from <https://www.rcog.org.uk/media/iouempf3/fsrh-rcog-safe-access-zones-around-abortion-clinics-report.pdf> [accessed 20 December 2023]
- 30 Nursing Standard. (2016). Abortion clinic staff 'run the gauntlet' of protests. Retrieved from <https://www.proquest.com/openview/ef1ba3409c15a33847633b3f6d4c5f35/1?pq-origsite=gscholar&cbl=2042228> [accessed 20 December 2023]

- 31 Back Off Scotland. (2023). Back Off Scotland website. Retrieved from <https://www.backoffscotland.com/> [accessed 20 December 2023]
- 32 British Pregnancy Advisory Service. (2023). BPAS Safe Access Zones Scotland campaign page. Retrieved from <https://bpas-campaigns.org/campaigns/safe-access-zones-scotland/> [accessed 20 December 2023]
- 33 Healthandcare.scot. (2022, July 22). GPs back abortion protest buffer zones bill. Retrieved from <https://healthandcare.scot/default.asp?page=story&story=3171> [accessed 20 December 2023]
- 34 40 Days for Life. (2023). 40 Days for Life website. Retrieved from <https://www.40daysforlife.com/en/> [accessed 20 December 2023]
- 35 STV. (2023, June 4). US pro-life campaigner brands Scottish Parliament Bill as 'bigotry'. Retrieved from <https://news.stv.tv/politics/us-pro-life-campaigner-brands-scottish-parliament-buffer-zone-bill-as-bigotry> [accessed 20 December 2023]
- 36 Right to Life UK. (2022). Respond to the consultation on the Scotland censorship zone Bill. Retrieved from <https://righttolife.org.uk/scottishconsultation> [accessed 20 December 2023]
- 37 Society for the Protection of Unborn Children. (2023). Say No to Buffer Zones campaign page. Retrieved from <https://www.spuc.org.uk/Get-Involved/Campaigns/Say-NO-To-Buffer-Zones> [accessed 20 December 2023]
- 38 ADF UK. (2023). Scottish “buffer zones” bill launched amidst “thoughtcrime” prosecutions in England. Retrieved from <https://adf.uk/scottish-censorship-bill/> [accessed 2023 December 2023]
- 39 ADF UK. (2023, April 14). “Excessive” bail conditions dropped for charity volunteer arrested for silent prayer. Retrieved from <https://adf.uk/excessive-bail-conditions-dropped/> [accessed 20 December 2023]
- 40 Christian Action, Research and Education. (2022, August 8). CARE: Scotland Buffer Zone Bill endangers free speech. Retrieved from <https://care.org.uk/news/2022/08/care-scotland-buffer-zone-bill-endangers-free-speech> [accessed 20 December 2023]
- 41 Scottish Government. (2021). Abortion Safe Access Zones: Ministerial Working Group. Retrieved from <https://www.gov.scot/groups/ministerial-working-group---abortion-buffer-zones/> [accessed 20 December 2023]
- 42 Scottish Parliament. (2022). Proposed Abortion Services (Safe Access Zones) (Scotland) Bill: Consultation Document. Retrieved from https://www.parliament.scot/-/media/files/legislation/proposed-members-bills/abortion-services-safe-access-zones-consultation-document_final.pdf [accessed 20 December 2023]
- 43 BufferZones.scot. (2022). Proposed Abortion Services (Safe Access Zones) (Scotland) Bill: Consultation responses. Retrieved from <https://www.bufferzones.scot/consultation-results> [accessed 20 December 2023]
- 44 UK Government. (2023). Legislation.gov.uk: Public Order Act 2023, Section 9. Retrieved from <https://www.legislation.gov.uk/ukpga/2023/15/section/9/enacted> [accessed 20 December 2023]

- 45 UK Government. (2023). Legislation.gov.uk: Abortion Services (Safe Access Zones) Act (Northern Ireland) 2023. Retrieved from <https://www.legislation.gov.uk/nia/2023/1/section/4> [accessed 20 December 2023]

Scottish Parliament Information Centre (SPICe) Briefings are compiled for the benefit of the Members of the Parliament and their personal staff. Authors are available to discuss the contents of these papers with MSPs and their staff who should contact Members of the public or external organisations may comment on this briefing by emailing us at SPICe@parliament.scot. However, researchers are unable to enter into personal discussion in relation to SPICe Briefing Papers. If you have any general questions about the work of the Parliament you can email the Parliament's Public Information Service at sp.info@parliament.scot. Every effort is made to ensure that the information contained in SPICe briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

