TERMINALLY ILL ADULTS (END OF LIFE) BILL EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Terminally Ill Adults (End of Life) Bill introduced in the House of Commons on 16 October 2024 (Bill 12).

- These Explanatory Notes have been prepared by Kim Leadbeater MP, the member in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Bill will mean in practice; provide background information on the development of policy; and provide additional information on how the Bill will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Bill. They are not, and are not intended to be, a comprehensive description of the Bill.

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These Explanatory Notes relate to the Terminally Ill Adults (End of Life) Bill introduced in the House of Commons on 16 October 2024 (Bill 12).

Overview of the Bill

1. The Terminally Ill Adults (End of Life) Bill makes provision for a person who is terminally ill and meets the eligibility criteria to choose to request and lawfully be provided with assistance to end their own life.

Policy background

2. There has been extensive discussion of the policy options related to choice at the end of life for many years, in Parliament, in the media, among academics, legal experts and health professionals. There is now also extensive experience from other jurisdictions around the world that provide evidence of how assisted dying (AD) can work in practice under different approaches with regard to eligibility and application.

3. The first attempt to reform the law in the UK was proposed by Lord Arthur Ponsonby in 1936.[1] Legislation was debated in both Houses of Parliament in 1969 and 1970 and a vote was taken in the Commons in December 1997 on a 'Doctor Assisted Dying Bill', proposed by the Labour MP Joe Ashton.[2]

4. In this decade parliamentary discussion has included:

   - 23 January 2020 – a Westminster Hall debate led by Christine Jardine MP.[3]
   - 22 October 2021 – Baroness Meacher's Assisted Dying Bill given its Second Reading by the House of Lords after nearly eight hours of debate.[4]
   - 4 July 2022 – a Westminster Hall debate granted by the Petitions Committee on an e-petition relating to assisted dying, which received over 150,000 signatures.[5]
   - 5 December 2022 – The Health and Social Care Select Committee launched an inquiry into assisted dying.
   - 29 February 2024 – After 14 months of deliberation and taking evidence, the Health and Social Care Select Committee published its report.[6]
   - 29 April 2024 – A further Westminster Hall debate was granted by the Petitions Committee after a second petition received well over 200,000 signatures.[7]

5. The House of Commons has not voted on the issue since September 2015.[8]

6. This Bill, the 'Terminally Ill Adults (End of Life) Bill', offers those who are already dying a

[1] https://api.parliament.uk/historic-hansard/lords/1936/dec/01/voluntary-euthanasia-legalisation-bill-hl

[2] https://publications.parliament.uk/pa/cm199798/cmhansrd/vo971210/debtext/71210-25.htm

[3] https://hansard.parliament.uk/commons/2020-01-23/debates/B0F8B659-0411-45E7-9341-05C2B3529102/AssistedDyingLaw

[4] https://hansard.parliament.uk/Lords/2021-10-22/debates/11143CAF-BC66-4C60-B782-38B5D9F42810/AssistedDyingBill

[5] https://petition.parliament.uk/archived/petitions/604383

[6] https://committees.parliament.uk/publications/43582/documents/216484/default/

[7] https://petition.parliament.uk/archived/petitions/653593

[8] https://publications.parliament.uk/pa/cm201516/cmhansrd/cm150911/debtext/150911-0001.htm

choice over the manner of their death. NHS guidance draws a clear distinction between euthanasia ("the act of deliberately ending a person's life to relieve suffering") and assisted suicide ("the act of deliberately assisting another person to kill themselves").[9]

7. Assisted dying is now available to nearly 300 million people in 30 jurisdictions worldwide.[10]

8. Since 2014, eighteen jurisdictions passed laws on assisted dying and a further six are considering law change:

Laws passed	
1. California[11]	2015
2. Canada[12]	2015
3. Colorado[13]	2016
4. Washington DC[14]	2016
5. Victoria, Australia[15]	2017
6. Western Australia[16]	2019
7. New Jersey[17]	2019
8. Maine[18]	2019
9. Hawai'i[19]	2019
10. New Zealand[20]	2019

[9] https://www.nhs.uk/conditions/euthanasia-and-assisted-suicide/

[10] BMJ October 2024 - https://www.bmj.com/content/387/bmj.q2382

[11] https://www.cdph.ca.gov/Programs/CHSI/pages/end-of-life-option-act-.aspx

[12] https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/14637/index.do

[13] End of Life Options Act

[14] Death With Dignity Act

[15] Death With Dignity Act

[16] Voluntary Assisted Dying Act 2019

[17] Medical Aid in Dying for the Terminally Ill Act

[18] Death With Dignity Act

[19] Our Choice, Our Care Act

[20] End of Life Choice Act 2019

11. South Australia[21]	2021
12. New Mexico[22]	2021
13. Tasmania[23]	2021
14. Queensland[24]	2021
15. Spain[25]	2021
16. Austria[26]	2021
17. Portugal[27]	2021
18. New South Wales[28]	2022
Considering/in the process of law change	
1. Cuba[29]	2023
2. Scotland	2023
3. Ireland[30]	2023
4. Isle of Man	2024
5. Jersey	2024
6. Ecuador[31]	2024

21 Voluntary Assisted Dying Act 2021

22 Elizabeth Whitefield End-of-life Options Act

23 End-of-Life Choices (Voluntary Assisted Dying) Act 2021

24 Voluntary Assisted Dying Act 2021

25 Organic Law 3/2021 (on the regulation of euthanasia in Spain)

26 https://www.vfgh.gv.at/downloads/G_139-2019_EN_shortened_Version_Website.pdf

27 https://wfrtds.org/wp-content/uploads/2021/02/2021-01-21-Draft-law.pdf

28 Voluntary Assisted Dying Bill 2022

29 https://www.reuters.com/world/americas/cuba-quietly-authorizes-euthanasia-2023-12-22/

30 https://www.oireachtas.ie/en/debates/debate/dail/2024-10-17/37/

31 https://www.reuters.com/world/americas/ecuador-top-court-recognizes-right-euthanasia-2024-02-07/

9. The model of assisted dying proposed in this bill would give choice to terminally ill, mentally competent adults only. It is the model used in Australia, New Zealand and the United States. Two-thirds of all assisted dying laws worldwide require terminal illness for a person to be eligible[32]. By way of an example, the state of Victoria in Australia legalised assisted dying in 2017. Data from Victoria's most recent annual report records that:

    - Assisted deaths accounted for 0.65% of all deaths in the state that year
    - 76% of applicants had late-stage cancer
    - 81% of applicants had access to palliative care services
    - 54% of applicants were male, 46% female[33]

10. This bill is different from legislation in Canada and some European countries which do not limit eligibility to terminally ill adults with mental capacity in the last few months of their lives but allow for wider eligibility including 'unbearable suffering'.

11. The Health and Social Care Select Committee found no evidence of what is sometimes referred to as a 'slippery slope'. It said: "jurisdictions which have introduced AD…on the basis of terminal illness have not changed the law to include eligibility on the basis of 'unbearable suffering'. None of the jurisdictions which have introduced it have revoked the legislation."[34]

12. Similar legislation is currently also under consideration in Scotland[35], Jersey[36] and the Isle of Man[37].

13. The question of protections and safeguards against coercion are recognised as important by all those engaged in the debate. The current legal situation offers no safeguards and where coercion is suspected it can only be investigated after a person has travelled to another country or taken their own life.

14. There have been a number of policy developments since MPs last voted in the issue in 2015:

    - September 2019– New data from the Office of Health Economics quantified the extent of suffering people face even with access to the highest quality palliative care[38]
    - April 2021 – In the response to a request from the Health Secretary, to inform the assisted dying debate, the Office for National Statistics began to compile data on suicides by terminally ill people. The study found those with severe and potentially terminal conditions were twice as likely to die by suicide than a match control

[32] https://www.bmj.com/content/387/bmj.q2385

[33] https://www.safercare.vic.gov.au/sites/default/files/2023-08/VADRB%20Annual%20Report%202022-23.pdf

[34] https://committees.parliament.uk/publications/43582/documents/216484/default/ at [142]

[35] https://www.parliament.scot/bills-and-laws/bills/s6/assisted-dying-for-terminally-ill-adults-scotland-bill

[36] https://www.gov.je/Caring/AssistedDying/pages/assisteddying.aspx

[37] https://tynwald.org.im/business/bills

[38] https://www.ohe.org/publications/unrelieved-pain-palliative-care-england/

group.[39]

- October 2021 –Dignity in Dying published research estimating that every year in the UK up to 650 terminally ill people end their own lives.[40]
- May 2022 – The coroner for Wiltshire and Swindon said at an inquest that so-called 'suicide pacts' between couples who want to die were increasingly common in the absence of an assisted dying law, and questioned if it is "is a failing on the part of parliament".[41]
- March 2024 – The largest ever poll on assisted dying by Opinium Research found majority support for a change in the law in every constituency in the country. 10,897 UK were asked their views. The results showed:
    - Three-quarters of respondents (75%) said that they would support making it lawful for dying adults to access assisted dying in the UK, with only around one in eight people (14%) stating that they would oppose such a move.
    - Support for changing the law was consistently high across those who planned to vote Conservative (78%), Labour (77%), Liberal Democrat (77%), SNP (83%), Plaid Cymru (84%), Green (79%) and Reform (78%).
- September 2024 – England's first ever citizens jury on assisted dying overwhelmingly recommended a change in the law. The Nuffield Council on Bioethics published the findings from an eight week-long deliberative process where a jury, representative of the English population, was exposed to arguments on all sides of the debate and encouraged to scrutinise evidence.
    - Over 70% of the jury members (20 out of 28 who voted) backed a change in the law for terminally ill, mentally competent people.
    - Support for law change and strength of support grew over the course of the process, disproving claims that public support for assisted dying stems from a lack of understanding of the issue.[42]

15. Since MPs last voted a number of Royal Colleges and the BMA have changed their position following consultation with their members:
    - March 2019 – the Royal College of Physicians adopted a neutral policy on assisted dying, dropping its opposition after it found no majority view amongst its members.[43]
    - February 2020 – the Royal College of General Practitioners found a very large shift in

39 https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/suicidesamongpeoplediagnosedwithseverehealthconditionsengland/2017to2020

40 https://www.dignityindying.org.uk/news/hundreds-of-terminally-ill-brits-take-their-own-lives-in-uk-each-year-latest-estimates-suggest/

41 https://www.bbc.co.uk/news/uk-england-wiltshire-61434964

42 https://www.nuffieldbioethics.org/publication/interim-report-citizens-jury-on-assisted-dying/

43 https://www.rcp.ac.uk/news-and-media/news-and-opinion/the-rcp-clarifies-its-position-on-assisted-dying/

views compared to previous surveys. Despite finding no majority view amongst its members it maintained its policy of opposition. As of November 2024, RCGP Council are planning to review this position.[44]

- September 2021 – the British Medical Association dropped its opposition to assisted dying and moved to a position of neutrality, following a membership survey that found more doctors support assisted dying than oppose it.[45]
- June 2023 – the Royal College of Surgeons dropped its opposition and moved to neutrality, following a membership engagement exercise.[46]
- June 2024 – the Royal College of Nursing at its annual congress adopted a motion in support of the principles of assisted dying, having already moved to neutrality in 2009.[47]

16. The Government remains neutral on the issue citing the long-standing convention for issues of conscience. The Cabinet Secretary issued guidance to ministers on 3 October 2024 stating: "The Government will therefore remain neutral on the passage of the Bill and on the matter of assisted dying. At the despatch box, ministers should reiterate that this is a question for Parliament, on which the official Government position is to remain neutral. Outside of Parliament, all ministers should take the same approach in all forms of media, including social media. Though ministers need not resile from previously stated views when directly asked about them, they should exercise discretion and should not take part in the public debate."[48]

Legal background

17. The Suicide Act 1961 makes it an offence for a person to do an act capable of encouraging or assisting the suicide or attempted suicide of another person. A person guilty of this offence is liable to imprisonment for a term of up to 14 years.[49]
18. The European Convention on Human Rights, which is part of UK domestic law, provides that the right to take your own life, including the right to be assisted to do so, can only be restricted to the extent that restriction is necessary, proportionate and non-discriminatory.
19. The European Court of Human Rights has taken the attitude that assisted dying is an issue on which different countries can take different views. They accord each member state the widest latitude ('margin of appreciation') to determine how they wish to deal with it and emphasise it is for member states' legislatures to determine what stance they

[44] https://www.rcgp.org.uk/representing-you/policy-areas/assisted-dying

[45] https://www.bma.org.uk/advice-and-support/ethics/end-of-life/physician-assisted-dying

[46] https://www.rcseng.ac.uk/about-the-rcs/government-relations-and-consultation/position-statements-and-reports/assisted-dying/

[47] https://www.rcn.org.uk/congress/congress-events/assisted-dying-2024

[48] https://www.gov.uk/government/publications/cabinet-secretary-letter-to-uk-government-ministers

[49] https://www.legislation.gov.uk/ukpga/Eliz2/9-10/60

take. [50]

20. That is the position as it applies in all five assisted dying laws already in force in Europe. None of the five laws on assisted dying already in force within the Court's jurisdiction has been expanded by the European Court on grounds of discrimination.

21. This approach is echoed in the UK courts, most recently in the Court of Appeal in England, in the case of Conway, where it said Parliament is the best place to decide the law, not the courts:

    "There can be no doubt that Parliament is a far better body for determining the difficult policy issue in relation to assisted suicide in view of the conflicting, and highly contested, views within our society on the ethical and moral issues and the risks and potential consequences of a change in the law."[51]

22. Lord Steyn, in the Judicial House of Lords said in the Pretty case, subsequently approved in the Conway judgement:

    "In our Parliamentary democracy, and I apprehend in many member states of the Council of Europe, such a fundamental change cannot be brought about by judicial creativity. If it is to be considered at all, it requires a detailed and effective regulatory proposal. In these circumstances it is difficult to see how a process of interpretation of Convention rights can yield a result with all the necessary inbuilt protections. Essentially, it must be a matter for democratic debate and decision-making by legislatures."[52]

Territorial extent

23. The Bill extends to England and Wales only.

Commentary on provisions of Bill

Clause 1: Assisted dying: eligibility

Clause 1 sets out the circumstances in which assistance can be provided to a person to end their own life.

The person must:

- be terminally ill (as defined by clause 2);
- have the necessary capacity to make the decision (which is determined by the existing provisions of the Mental Capacity Act 2005);
- be aged 18 or over,
- be ordinarily resident in England and Wales and has been ordinarily resident there for at least 12 months, and
- be registered as a patient with a GP practice in England or Wales.

[50] Para 107- 109 - https://hudoc.echr.coe.int/eng#_Toc168911993

[51] Para 186 - https://www.judiciary.uk/wp-content/uploads/2018/06/conway-judgment-27062018.pdf

[52] Lord Steyn, para 57 - https://publications.parliament.uk/pa/ld200102/ldjudgmt/jd011129/pretty-3.htm

Under the general law, the place where a person is "ordinarily resident" is the place where they reside in the ordinary course of their day to day life.

The assistance must be provided in accordance with clauses 5 to 22. Those clauses, amongst other things, require steps to be take to ensure that the person-

- has a clear, settled and informed wish to end their own life, and
- has made the decision that they wish to end their own life voluntarily and has not been coerced or pressured by any other person in making that decision.

Clause 2: Terminal illness

Subsection (1) defines when a person is "terminally ill" for the purposes of the Bill. The person must have an inevitably progressive illness, disease or medical condition that cannot be reversed by treatment. The person must also be expected to die within 6 months.

Subsection (2) makes it clear that a person is not to be regarded as terminally ill by reason of them being mentally ill or having a disability.

Clause 3: Capacity

Clause 3 provides that the test of whether a person has capacity to make a decision to end their own life is to be determined in accordance with the Mental Capacity Act 2005. Sections 1 and 2 of that Act establish the principles and criteria for assessing a person's capacity to make decisions.

Section 2 of that Act provides that a person lacks capacity in relation to a particular matter if the person is unable to make a decision for themselves in relation to that matter because of an impairment of, or a disturbance in the functioning of, the mind or brain. Section 3 of that Act defines what it means to lack capacity. Section 3 provides that a person lacks capacity if they are unable to:

- Understand the information relevant to the decision,
- Retain that information,
- Use and weigh that information as part of the decision-making process, or
- Communicate their decision.

Clause 4: Initial discussions with registered medical practitioners

Subsection (1) makes clear that no doctor is under a duty to raise the subject of the provision of assistance under the Bill with a patient. But that does not prevent a doctor exercising their professional judgement to discuss the matter with a patient (see subsection (2)).

Subsection (3) provides that, where a patient indicates to a doctor that they wish to seek assistance end their own life in accordance with the Bill, the doctor may (but is not required to) discuss the matter with the patient.

If the discussion takes place, subsection (4) provides that it must cover, amongst other things, the available palliative, hospice or other care.

If the doctor is unwilling or unable to conduct the discussion, subsection (5) requires them to refer the patient to another doctor who is willing and able to conduct the discussion.

Clauses 5 to 15 (procedure, safeguards and protections)

Clauses 5 to 15 set out steps that must be taken, and safeguards and protections that operate, when a person decides to seek assistance to end their own life in accordance with the Bill. In summary, assistance can only be provided if:

- The person has made a first declaration under clause 5;
- Two registered medical practitioners have carried out assessments of the person to ensure, amongst other things, that the person
    - has a terminal illness,
    - has the capacity to make the decision to end their own life,
    - has a clear, settled and informed wish to end their own life, and
    - has made the decision voluntarily and has not been coerced or pressured by anyone else;
- There is a period of at least 7 days ("the first period of reflection") between the first and second assessments;
- The High Court or Court of Appeal has made a declaration under clause 12;
- The person has made a second declaration under clause 13;
- There is a period of at least 14 days ("the second period for reflection") between the court declaration and the person making the second declaration (or if the person is expected to die within one month of the court declaration, a period of at least 48 hours).

Clause 5: Initial request for assistance: first declaration

A person who wishes to be provided with assistance to end their own life must make a declaration under this clause (a "first declaration"). The form of the declaration is set out in Schedule 1. The person must sign the declaration. Where the person is unable to sign, clause 15 enables it to be signed by a proxy.

The declaration must also be witnessed by the coordinating doctor and another independent person.

The coordinating doctor is a registered medical practitioner who meets the requirements set out in subsection (3). In particular, the Secretary of State can set out in regulations the training, qualifications and experience that are required by any coordinating doctor.

Subsection (3) and clause 36 ensure that neither the coordinating doctor nor the independent witness can be a relative of the person seeking the assistance nor can they know or believe that they are a beneficiary under that person's will or may otherwise benefit from the person's death.

Clause 6: Requirement for proof of identity

This clause requires a person making a first declaration under clause 5 to provide both the coordinating doctor and the independent witness with two forms of proof of identity. The Secretary of State can set out in regulations what forms of proof of identity can be used.

Clause 7: First doctor's assessment (coordinating doctor)

Where a first declaration is made by a person, the coordinating doctor who witnessed the first declaration must carry out an assessment of the person. The purpose of the assessment is to establish whether the person:

- Is terminally ill;
- Has capacity to make the decision to end their own life;
- Is aged 18 or over;
- Is ordinarily resident;
- Is registered with a GP practice;
- Has a clear, settled and informed with to end their own life; and
- Made the first declaration under clause 5 voluntarily and has not been coerced or pressured by another person into making it.

If the coordinating doctor is satisfied that all those requirements are met, they must make a statement in the form set out in Schedule 2. They must also refer the person for a second assessment by another registered medical practitioner (referred to in the Bill as "the independent doctor").

Clause 9 makes further provision about first assessments.

Clause 8: Second doctor's assessment (independent doctor)

This clause applies where the coordinating doctor refers the person under clause 7(3)(c) for a second assessment by the independent doctor. The purpose of the second assessment of the person carried out by the independent doctor is to establish whether the person:

- Is terminally ill;
- Has capacity to make the decision to end their own life;
- Is aged 18 or over;
- Has a clear, settled and informed with to end their own life; and
- Made the first declaration under clause 5 voluntarily and has not been coerced or pressured by another person into making it.

The second assessment must take place after "the first period for reflection". This period begins with the day the coordinating doctor makes their statement under clause 7 and lasts for 7 days.

The independent doctor must carry out the second assessment independently of the coordinating doctor.

If the independent doctor is satisfied that all the requirements are met, they must make a statement in the form set out in Schedule 3.

A registered medical practitioner can only act as the independent doctor if they meet the requirements set out in subsection (6). In particular, the Secretary of State may set out in regulations the training, qualifications and experience which the practitioner must have. To ensure independence, the practitioner must not have provided the person with treatment or care in relation to their terminal illness and must not be in the same medical practice or clinical team as the

coordinating doctor. The independent doctor must also not know or believe that they are a beneficiary under the person's will or may otherwise benefit from that person's death.

Clause 9 makes further provision about second assessments.

Clause 9: Doctors' assessments: further provision

This clause makes provision about the assessment by the coordinating doctor under clause 7 and the assessment by the independent doctor under clause 8.

In particular, subsection (2) sets out things the doctor carrying out the assessment must do. These include a requirement to explain to and discuss with the person the possible treatments, the palliative, hospice and other care available and the nature of the substance that might be provided to assist the person to end their own life (including how it will bring about death). The doctor must also explain the further steps that would need to be taken if the person wished to be provided with assistance to end their own life and that those steps may be cancelled by the person at any time. The doctor is also to advise the person to inform their GP and, so far as the doctor considers it appropriate, advise the person to discuss the request with their next of kin and other people they are close to.

If the doctor carrying out the assessment has a doubt as to whether the person being assessed is terminally ill, the doctor must obtain an opinion from a specialist in the illness, disease or condition in question. If the doctor carrying out the assessment has doubt as to the capacity of the person being assessed, they may refer the person for assessment by a psychiatrist or other suitably qualified person but are not required to do so. This is because there may be circumstances in which the doctor making the assessment does not require a specialist opinion to determine that the person does not have the necessary capacity.

Clause 10: Another independent doctor – second opinion

If the independent doctor carries out the second assessment of the person and is not satisfied of the matters set out in clause 8(2), this clause enables the person to request a second opinion from another independent doctor. The provisions of clauses 8 and 9 also apply to this assessment.

Subsection (3) provides that only one referral for a second opinion can be made under this clause.

Clause 11: Replacing the coordinating doctor on death etc

The coordinating doctor who witnesses the first declaration under clause 5 has a variety of functions under the Bill. This clause enables the Secretary of State to make regulations providing for cases where the original coordinating doctor becomes unable or unwilling to continue to carry out these functions part way through the process. This will ensure continuity of care for the person who made the first declaration.

Equivalent provision is not needed for the independent doctor, as their functions are confined to the second assessment under clause 8. If they become unable or unwilling to continue to act before the second assessment is completed, a new referral could be made to an independent doctor for a second assessment.

Clause 12: Court approval

This clause applies where a person has made a first declaration (and it has not been cancelled), the coordinating doctor has made the statement in Schedule 2 and the independent doctor has made the statement in Schedule 3.

The person may apply to the High Court for a declaration that the requirements of the Bill have been met in relation to the first declaration.

The High Court must make the declaration if, and only if, it is satisfied that—

(a) the requirements of sections 5 to 9 have been met;

(b) the person is terminally ill;

(c) the person has capacity to make the decision to end their life;

(d) the person is aged 18 or over;

(e) the person is ordinarily resident;

(f) the person is registered with a GP practice in England or Wales;

(g) the person has a clear, settled and informed wish to end their own life; and

(h) the person made the first declaration voluntarily and has not been coerced or pressured by any other person into making it.

The court may hear from and question the person, and must hear from the coordinating doctor or the independent doctor (or both). For the purposes of determining if it is satisfied that the person has a clear, settled and informed wish to end their own life and that they have made the first declaration and court application voluntarily and have not been coerced or pressured, the court may also hear from and question any other person or ask a person to report to the court on any relevant matter.

If the High Court refuses to make the declaration, the person can appeal to the Court of the Appeal. The Court of Appeal can confirm the decision of the High Court or make the declaration. There is no appeal against a decision of the High Court to make the declaration.

Clause 13: Confirmation of request for assistance: second declaration

Where a person who wishes to be provided with assistance to end their own life has obtained a court declaration under clause 12, they may then make a further declaration under this clause ("the second declaration"). But the second declaration cannot be made until "the second period for reflection" has ended. The second period for reflection begins on the day the court declaration is made and last for 14 days. But, if the coordinating doctor is of the opinion that the person is likely to die within one month of the court declaration, the period for reflection is reduced to 48 hours.

The second declaration must be in the form set out in Schedule 4. It must be witnessed by the coordinating doctor and by an independent witness. The coordinating doctor may only witness the second declaration if they are still satisfied that the person making the declaration-

- is terminally ill,
- has the capacity to make the decision to end their own life,
- has a clear, settled and informed wish to end their own life, and
- is making the declaration voluntarily and has not been coerced or pressured by any other person into making it.

The coordinating doctor must sign a statement in the form set out in Schedule 5 confirming all those things and that must be witnessed by the same independent witness as witnessed the second declaration. Neither the coordinating doctor (see clause 5(3)) nor the independent witness (see clause 34) may be a relative of the person signing the second declaration, and neither must know or believe they are a beneficiary under their will or may otherwise benefit from that person's death.

Clause 14: Cancellation of declarations

This clause enables a person who has made a first or second declaration to cancel the declaration by giving notice to the coordinating doctor or to a doctor at their GP's practice. Notice may be given orally or in writing, or the cancellation indicated by a means of communication known to be used by the person concerned. A cancellation takes effect as soon as the notice or indication is given, and no further steps are then taken in reliance on the declaration.

Clause 15: Signing by proxy

This clause makes provision for cases where the person intending to make a first declaration or a second declaration is unable to sign their own name. They can authorise another person to sign the declaration on their behalf. That other person may be someone they have known personally for at least 2 years or someone they consider to be of good standing in the community.

Clause 36 provides that a proxy:

- must be aged 18 or over,
- must not be a relative of the person making the declaration, and
- must not know or believe that they are a beneficiary under that person's will or may otherwise benefit from the death of the person.

Clause 16: Recording of declarations and statements etc

This clause provides for the making of declarations and statements made under the Bill to be recorded in the person's medical records. The original statement or declaration is to be included as part of that record.

Clause 17: Recording of cancellations

This clause provides for a cancellation of a first or second declaration to be recorded in the person's medical records.

Clause 18: Provision of assistance

This clause applies where the High Court or Court of Appeal has made a declaration under clause 12, the second period for reflection (see clause 13) has ended and the person has made a second

declaration (which has not been cancelled). It governs the provision of assistance in the form of an approved substance (see clause 21) with which the person may end their own life.

Subsection (3) provides that the approved substance must be provided directly, and in person, by the coordinating doctor.

Subsection (4) provides that at the time the approved substance is provided the coordinating doctor must be satisfied that the person:

- has capacity to make the decision to end their own life,
- has a clear, settled and informed wish to end their own life, and
- is requesting provision of that assistance voluntarily and has not been coerced or pressured by any other person into doing so.

Subsection (6) provides the coordinating doctor may:

- prepare that substance for self-administration by that person,
- prepare a medical device which will enable that person to self-administer the substance, and
- assist that person to ingest or otherwise self-administer the substance.

But subsections (7) and (8) make clear that the decision to self-administer the approved substance and the final act of doing so must be taken by the person themselves not by the coordinating doctor. Subsection (6) does not authorise the coordinating doctor to administer an approved substance to another person with the intention of causing that person's death.

Subsections (9) and (10) provide that the coordinating doctor must remain with the person after the approved substance has been provided, although they need not be in the same room.

Subsection (11) ensures that if the person decides not to take the approved substance it is removed by the coordinating doctor.

Clause 19: Authorising another doctor to provide assistance

Subsection (1) provides that the coordinating doctor may authorise another named registered medical practitioner to exercise the coordinating doctor's functions under clause 18 in connection with the provision of assistance to a person. The authorisation must be in writing.

An authorisation can only be made with the consent, in writing, of the person who wishes to be provided with assistance. The Secretary of State can also set out in regulations the training, qualification and experience which the practitioner would require before they could be authorised under subsection.

Clause 20: Meaning of "approved substance"

Subsection (1) requires the Secretary of State to make regulations specifying drugs or other substances for the purposes of the Bill.

Subsection (2) provides that in the Bill "approved substance" means a substance which is specified in regulations under subsection (1).

Clause 21: Final statement

Where a person has been provided with assistance to end their own life and the person has died as a result, this clause requires the coordinating doctor to make a statement in the form set out in Schedule 6. The making of the declaration must be recorded in the person's medical records, and the original statement included as part of that record.

Clause 22: Other matters to be recorded in medical records

This clause ensures that, where a person decides not to take an approved substance provided under clause 18 or the procedure fails for any reason, appropriate records are made in the person's medical record.

Clause 23: No obligation to provide assistance etc

Subsection (1) ensures that no registered medical practitioner or other health professional (defined in clause 37(1)) is required to participate in the provision of assistance under the Bill.

Subsection (2) provides that an employee cannot be discriminated against because they choose not to participate in the provision of assistance under the Bill or because they choose not to participate in the provision of that assistance.

Clause 24: Criminal liability for providing assistance

Subsection (1) makes it clear that a person is not guilty of an offence by virtue of providing assistance in accordance with the Bill.

Accordingly, subsection (3) amends the Suicide Act 1961 to ensure that the provision of assistance to a person in accordance with this Act is not an act which constitutes an offence under section 2 of that Act (criminal liability for complicity in another person's suicide).

The offence under section 2 of the Suicide Act 1961 will continue to operate for other cases where assistance is provided. But the amendment made by subsection (3) to that Act also provides a defence to a charge under section 2 of the Suicide Act 1961 where the person proves that they:

- reasonably believed they were acting in accordance with the Bill, and
- took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

Clause 25: Civil liability for providing assistance

This clause ensures that providing assistance to a person to end their own life in accordance with the Bill does not give rise to any civil liability.

Clause 26: Dishonesty, coercion or pressure

This clause creates two new criminal offences.

Firstly, subsection (1) provides a person commits an offence if, by dishonesty, coercion or pressure, they induce another person to make a first or second declaration under the Bill, or to not cancel a first or second declaration.

Secondly, subsection (2) provides a person commits an offence if, by dishonesty, coercion or pressure, they induce another person to self-administer an approved substance provided in accordance with the Bill.

Clause 27: Falsification or destruction of documentation

This clause creates three new criminal offences relating to documentation in connection with the provision of assistance under the Bill.

Subsection (1) makes it an offence to make or knowingly use a false instrument which purports to be a first or second declaration or a court declaration under clause 12, or to wilfully conceal or destroy a first or second declaration made by another person.

Subsection (2) makes it an offence to knowingly or recklessly provide, in relation to a person who has made a first declaration, a medical or other professional opinion which is false or misleading in a material particular.

Subsection (3) makes it offence to wilfully ignore or otherwise conceal knowledge of a cancellation of a first or second declaration.

Clause 28: Prescribing, dispensing, transporting etc of approved substances

The clause enable the Secretary of State to make regulations regulating the prescribing, dispensing, transportation, handling and disposal of approved substances.

Clause 29: Inquests, death certification etc

Subsection (1) provides that the duty to investigate a death under section 1(2)(a) or (b) of the Coroners and Justice Act 2009 does not arise just because the person died as a consequence of the provision of assistance in accordance with the Bill. Section 1(2)(a) of that Act covers where the deceased died a violent or unnatural death, and section 1(2)(b) covers where the cause of death is unknown.

Subsection (2) amends the Births and Deaths Registration Act 1953 to enable the Secretary of State to make regulations to modify the operation of that Act in relation to deaths which arise from the provision of assistance in accordance with the Bill. For example, the regulations may modify the information that needs to be provided in relation to these deaths, or the form and manner in which the cause of such deaths is to be certified. The regulations must provide for the cause of death to be recorded as “assisted death” along with a record of the person’s terminal illness by reason of which they were entitled to be provided with assistance to end their own life..

Subsection (3) requires the Registrar General to report annually to Parliament with a statistical analysis of deaths which have arisen from the provision of assistance in accordance with this Act.

Clause 30: Codes of practice

This clause authorises the Secretary of State to issue codes of practice in relation to various matters relating to the operation of the Act, such as assessment of whether a person has a clear and settled intention to end their own life and the assistance which a person may be given to ingest or self-administer an approved substance.

A code of practice cannot come into force until it has been laid before Parliament and the regulations bringing it into force have been approved by a resolution of each House of Parliament.

Clause 31: Guidance from Chief Medical Officers

The Chief Medical Officer for England and the Chief Medical Officer for Wales are required to provide guidance relating to the operation of the Bill. In particular, they must have regard to the need to provide practical and accessible information about the operation of the Bill, advice and guidance to persons considering requesting assistance under the Bill, their families, and the general public.

Clause 32: Secretary of State's powers to ensure assistance is available

This clause enables the Secretary of State to secure that arrangements are in place for assistance to be provided in accordance with the Bill, including arrangements for the funding of any provision made. This would enable the Secretary of State to provide for services to be provided through the health service or by a separate service.

Clause 33: Notifications to Chief Medical Officers

This clause enables the Secretary of State to make regulations to ensure the Chief Medical Officers are notified of steps taken under the Bill. The information will enable the Chief Medical Officers to monitor and report on the operation of the Bill under clause 34.

Clause 34: Monitoring by Chief Medical Officers

Under subsection (1), the Chief Medical Officer for England and the Chief Medical Officer for Wales are required to:

- monitor the operation of the Bill,
- investigate and report to the Secretary of State or, in the case of Wales, the Welsh Ministers, on matters relating to the Bill which are referred for investigation, and
- submit an annual report to the Secretary of State or, in Wales, the Welsh Ministers on the operation of the Bill.

Subsection (2) sets out matters the annual report must deal with, including information about cases where the High Court or Court of Appeal has refused to make a declaration under the Bill.

Subsection (3) provides the Chief Medical Officers may produce a combined annual report.

Subsection (4) provides the annual reports must be published and laid before Parliament or, as the case may be, Senedd Cymru.

Subsection (5) requires the Secretary of State to publish a written response to any report of a Chief Medical Officer under this clause, and to lay it before Parliament. If the response is to a report made

by the Chief Medical Officer for Wales, the Secretary of State's response is also sent to the Welsh Ministers who must lay it before Senedd Cymru.

Clause 35: Review of this Act

This clause provides that the Secretary of State must review the operation of the Bill. The review must take place at least 5, but not more than 6, years after the passing of the Bill. The report of the review must be laid before Parliament.

The report must, in particular, set out:

- the extent to which the Act has successfully met its aim of allowing adults who are terminally ill, subject to safeguards and protections, to request and be provided with assistance to end their own lives,
- an assessment of the availability, quality and distribution of appropriate health services to persons with palliative care needs;
- any concerns with the operation of this Act; and
- recommendations for changes to codes of practice, guidance or any enactment, including the Bill.

Clause 36: Disqualification from being witness or proxy

This clause makes provision for disqualifying persons from being witnesses or proxies under the Bill. It prevents a person (A) acting as a witness or proxy for a person (B) making a first or second declaration under the Bill if:

- A is a relative of B (as defined in clause 40);
- A knows or believes they are a beneficiary under Bill's will or may otherwise benefit from B's death;
- A is a health professional who has provided treatment or care for the person in relation to their terminal illness;
- A has not attained the age of 18.

Clause 37: Modification of form of declarations and statements

This clause confers power on the Secretary of State, by regulations, to amend the forms set out in the Schedules of the Bill.

Clause 42: Commencement

Subsection (1) lists the provisions that come into force as soon as the Bill is passed.

Subsection (2) provides that the other provisions come into force on the day (or days) specified by the Secretary of State by regulations.

But, if any provision has not been brought fully into force at the end of the period of 2 years beginning with the day the Bill is passed, it automatically comes fully into force at the end of that 2 year period.

TERMINALLY ILL ADULTS (END OF LIFE) BILL EXPLANATORY NOTES

These Explanatory Notes relate to the Terminally Ill Adults (End of Life) Bill introduced in the House of Commons on 16 October 2024 (Bill 12).

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