

These notes refer to the Abortion Services (Safe Access Zones) Act (Northern Ireland) 2023 (c.1) which received Royal Assent on 6 February 2023

Abortion Services (Safe Access Zones) Act (Northern Ireland) 2023

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Abortion Services (Safe Access Zones) Act (Northern Ireland) 2023 which received Royal Assent on 6 February 2023. They have been completed by the Northern Ireland Assembly Bill Office. They do not form part of the Act and have not been endorsed by the Assembly.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So, where a section or part of a section does not seem to require any explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. This Act establishes ‘safe access zones’ around abortion clinics in order to protect the women using those clinics as well as the people who work in them. It will be a criminal offence to harass people in a safe access zone around those clinics. The topic of the Act is health.
4. The Member proposes the establishment of ‘safe access zones’ around registered pregnancy advisory bureaux and clinics, in which anti-abortion activity cannot take place. This would stop activity directly outside centres, ensure women are not approached unsolicited and prevent other activities designed to cause distress including (but not limited to) filming, recording, unsolicited ‘counselling’ and pamphlet distribution.
5. The Act ensures safe access for those who wish to avail of non-directive sexual and reproductive health services in Northern Ireland. The Act does not include provision for protestors.
6. In terms of the legal structure there will be ‘protected premises’ (e.g. abortion clinics), ‘safe access zones’, and ‘protected persons’ (e.g. the people who will be protected from harassment).
7. The Act has six policy objectives.

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- a) to ensure that buildings which house organisations offering sexual and reproductive health services have a safe access zone appropriate to their specific location and environment;
- b) to ensure women and others visiting or working in the premises with legitimate reason (and those accompanying them) are not approached in an unsolicited manner within this zone;
- c) to prevent activities designed to cause distress or to deter a person from approaching a building – e.g. filming, recording, unsolicited ‘counselling’ and pamphlet distribution;
- d) to place an obligation on the Department of Health to publish and maintain a list of all protected premises and the extent of the safe access zone for each premise, in such manner as it deems appropriate;
- e) to create a series of obligations on constables in relation to the monitoring and enforcing of safe access zones; and
- f) to require the Department of Health to publish an annual report highlighting the effectiveness of the safe access zones in protecting people attending protected premises.

OVERVIEW

8. The Act has 11 sections. Commentary is not provided for sections that are self-explanatory.

COMMENTARY ON SECTIONS

Section 1 – Premises where abortion treatments are carried out

An abortion clinic will become a “protected premises” when notice is given to the Department of Health by the operator that they wish to become one. This means a place where treatments for termination are actually carried out in accordance with the Abortion (Northern Ireland) (No.2) Regulations 2020. A “protected premise” will remain as such unless that notice is withdrawn by the operator.

Section 2 – Premises where information, advice or counselling about abortion treatments are provided

The definition of “protected premises” can also extend to a place where advice, information or counselling about abortion is provided. These places will generally be hospitals or clinics. These places will also become protected if the operator of the clinic gives notice to the Department of Health that they wish to be protected. A “protected premise” will remain as such unless that notice is withdrawn by the operator.

Section 3 – Protected persons

The following people will be “protected persons”:

- The women attending the clinics
- A person accompanying a woman attending the clinic
- Staff or workers at the clinic

Section 4 – Establishment of safe access zone

The safe access zone will be the protected premises themselves, as well as an area of 100m in the immediate vicinity of the protected premises. This can be extended by a further 150m if 100m is not sufficient to afford safe access at a particular site, when the operator gives notice to the Department of Health to that effect. The Department is required to make an entry or amend an existing entry as required when notified of a premise becoming protected or a safe access zone being extended beyond 100m.

Section 5 – Offences in respect of a safe access zone

This is a key section which criminalises certain behaviour in the safe access zone. This is designed to protect women and staff from being harassed whilst they are visiting an abortion clinic.

There is a broad and a specific offence. The broad offence makes it a crime to do anything in a safe access zone that might influence a person in their decision to attend an abortion clinic, or which might prevent or impede access to the clinic, or which might harass, alarm or distress that person. For example, a protest group handing out leaflets to visitors to the clinic in the safe access zone, or individual protestors haranguing visitors to the clinic, or blocking the entrance point to a clinic.

The specific offence is recording a person who is in the safe access zone if that might also have the effect of influencing their decision to attend, preventing or impeding access, or that might harass, alarm or distress them.

The punishment is a level 2 fine. The punishment does not include a jail term.

Section 6 – Enforcement of safe access zone by a constable

This section gives powers to the police to enforce a safe access zone. If a police officer believes an offence is being committed, the police officer can direct the offender to leave the safe access zone, and may also use force to remove them from the safe access zone. If a police officer believes a person is recording in breach of the law, the officer may direct that person to cease recording.

Refusing to follow a direction, or resisting being removed will be a criminal offence, with a level 4 fine. The punishment does not include jail time.

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Section 7 – Publication of list of protected premises and safe access zones

This section sets out the obligation on the Department of Health to maintain a list of and publish details of protected premises and their respective safe access zones, including ensuring that the existence of zones is publicised appropriately by both themselves and operators.

Section 8 – Monitoring of effectiveness of safe access zones

The Department of Health must publish an annual report stating whether the safe access zones have been effective in protecting people attending the clinics.

HANSARD REPORTS

9. The following table sets out the dates of the Hansard reports for each stage of the Act's passage through the Assembly and the date Royal Assent was received.

<i>STAGE</i>	<i>DATE</i>
First Stage	13 September 2021
Second Stage	12 October 2021
Committee Report	27 January 2022
Consideration Stage	2 March 2022
Further Consideration Stage	14 March 2022
Final Stage	24 March 2022
Royal Assent	6 February 2023