# 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 as brought from the House of Commons on 23 June 2025 (HL Bill 112).

- These Explanatory Notes have been prepared by Lord Falconer of Thoroton with the support of Kim Leadbeater MP, the member in charge of the Bill in the House of Commons, in order to assist the reader of the Bill and to help inform debate on it. The Department of Health and Social Care and Ministry of Justice have contributed to these Explanatory Notes to describe clauses added or amended on the basis of Government advice to ensure legal and practical workability. 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.

# Table of Contents



*These Explanatory Notes relate to the Terminally Ill Adults (End of Life) Bill as brought from the House of Commons on 23 June 2025 (HL Bill 112).*

# 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 and lawfully be provided with assistance to end their own life.

# Policy background

2 In this century, Parliament has examined, debated and voted on the issue a number of times

## House of Lords

3 In 2003 Lord Joffe introduced his Patient (Assisted Dying) Bill, which included provisions for a competent adult who was suffering unbearably as the result of a terminal or serious, incurable and progressive illness to receive medical help to die at his or her own request. The Bill was given a Second Reading but did not proceed further.

4 On 10 March 2004 Lord Joffe introduced a second Assisted Dying for the Terminally Ill Bill, the provisions of which were limited to terminally ill patients and which included a requirement for a discussion with applicants of the option of palliative care. The Bill was given a Second Reading

5 In April 2005 the Lords Select Committee on the Assisted Dying for the Terminally Ill Bill published its report. The Report recommended that new legislation is considered in the next session and given a Second Reading so that it can be examined in detail in Committee.

6 The Second Reading debate on Lord Joffe's Assisted Dying for the Terminally Ill Bill took place in May 2006. An amendment tabled by Lord Carlile of Berriew, a member of the Select Committee, was accepted and, as a result, the Bill's progress was stalled.

7 In July 2009, Lord Falconer of Thorton brought forward an amendment to the Government's Coroners and Justice Bill to decriminalise those who assist terminally ill adults to access assisted dying overseas. The amendment was voted down.

8 In June 2013 Lord Falconer introduced an Assisted Dying Bill but was not allocated time for debate. It was then reintroduced in June 2014 and debated for the first time in July 2014. It passed its Second Reading after nearly 10 hours of debate, and a motion passed referring it to Committee, the first time a Bill to legalise assisted dying had reached this stage.

9 In November 2014, on the first day of Committee Stage debate on Lord Falconer's Bill, an amendment tabled by Lord Pannick to introduce judicial oversight was accepted unanimously.

10 The Bill fell with the Dissolution of Parliament ahead of General Election in 2015.

11 In 2021 Baroness Meacher introduced an Assisted Dying Bill which was given a Second Reading after nearly eight hours of debate In October. It fell when no further time was given to it in this session.

12 Lord Forsyth of Drumlean brought an amendment to the Government's Health and Care Bill in March 2022 to require the Government to bring forward assisted dying legislation. It was opposed by the Government and was defeated.

## House of Commons

13 In 2015 Rob Marris MP introduced an Assisted Dying Bill under the Private Members' Bill procedure based on Lord Falconer's 2014 Bill. It had its Second Reading on 11th September and was defeated by 330 votes to 118..

14 A Westminster Hall debate led by Christine Jardine MP took place in January 2020. [1]

15 Another Westminster Hall debate was granted by the Petitions Committee in July 2022 on an e-petition relating to assisted dying, which received over 150,000 signatures.

16 In December 2022 the Health and Social Care Select Committee launched an inquiry into assisted dying. After 14 months of deliberation and taking evidence, the Health and Social Care Select Committee published its report in February 2024. [2]

17 A further Westminster Hall debate was granted by the Petitions Committee in April 2024 after a second petition received well over 200,000 signatures.

18 In September 2024, Kim Leadbeater MP came top in the private members' bill ballot and on October 3rd announced that she would introduce the Terminally Ill Adults (End of Life) Bill.

## The Bill

19 This Bill, the 'Terminally Ill Adults (End of Life) Bill', offers those who are already dying a choice over the manner of their death. It amends the 1961 Suicide Act under section 2 of which a person commits an offence if he or she does an act capable of encouraging or assisting the suicide or attempted suicide of another person, and that act was intended to encourage or assist suicide or an attempt at suicide.

20 An assisted death under the Terminally Ill Adults (End of Life) Bill would be lawful under criteria and subject to safeguards. It would not constitute euthanasia (which NHS guidance defines as "the act of deliberately ending a person's life to relieve suffering") as the substances that ended a person's life would be self-administered. It would be available only to those who are already dying, as defined in the Bill.

21 Assisted dying is now available to nearly 300 million people in 30 jurisdictions worldwide.[3]

22 Since 2014, 22 jurisdictions passed laws on assisted dying and a further 8 are considering law change. Of these, 3 jurisdictions have changed the law since November 2024 (Tuscany, Delaware and the Isle of Man) and 5 have made progress since that point (Uruguay, Scotland, France, Cyprus and New York).

In total, 30 jurisdictions have passed laws on assisted dying and a further 8 are considering law change.

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

[2] [2] https://committees.parliament.uk/publications/43582/documents/216484/default/

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

| Jurisdiction | Year legalised |
|---|---|
| 1. Switzerland | 1941 |
| 2. Oregon | 1997 |
| 3. Netherlands | 2001 |
| 4. Belgium | 2002 |
| 5. Washington (State) | 2008 |
| 6. Luxembourg | 2009 |
| 7. Montana | 2009 |
| 8. Vermont | 2013 |
| 9. California | 2015 |
| 10. Canada | 2015 |
| 11. Colorado | 2016 |
| 12. Washington, DC | 2016 |
| 13. Victoria | 2017 |
| 14. Western Australia | 2019 |
| 15. New Jersey | 2019 |
| 16. Maine | 2019 |
| 17. Hawai'i | 2019 |
| 18. New Zealand | 2019 |
| 19. South Australia | 2021 |
| 20. New Mexico | 2021 |
| 21. Tasmania | 2021 |
| 22. Queensland | 2021 |
| 23. Spain | 2021 |
| 24. Austria | 2021 |
| 25. Portugal | 2021 |
| 26. New South Wales | 2022 |
| 27. Cuba | 2024 |
| 28. Tuscany | 2025 |
| 29. Isle of Man | 2025 |
| 30. Delaware | 2025 |
| **Considering/in the process of law change** | |
| 1. Ireland (Joint Committee recommended legalisation) | 2024 |
| 2. Jersey (approved in principle) | 2024 |
| 3. Ecuador (decriminalised by courts) | 2024 |
| 4. Uruguay | 2025 |
| 5. Scotland (approved at Stage 1) | 2025 |
| 6. France (passed in National Assembly) | 2025 |
| 7. Cyprus | 2025 |
| 8. New York (approved in State Legislature, subject to Governor veto) | 2025 |

23 The Government's impact assessment on the Terminally Ill Adults (End of Life) Bill, published on 2 May 2025[4] , compared 10 jurisdictions with similar provisions and concluded, in relation to jurisdictions where the availability of assisted dying services was limited to those who were terminally ill, that 'This IA did not identify any significant changes made to VAD services in the 10 comparable jurisdictions. Where changes were made, this was limited to: removing or reducing the waiting period where this is expected to exceed the applicant's life expectancy; allowing non-residents of the jurisdiction to apply to access the service; expanding the workforce permitted to deliver VAD services to include Advanced Nurse Practitioners.'

24 The House of Commons Health and Social Care Select Committee which examined Assisted Dying services internationally as part of a 14-month investigation said in its report, published on 20 February 2024, that it found no evidence of what is sometimes referred to as a 'slippery slope'.

25 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."

26 Based on experience in other jurisdictions with similar legislation, the IA estimated:[5]

## Number of applicants

27 It is assumed that the number of people ("applicants") coming forward to use the assisted dying service across England and Wales would range from between 273 and 1,311 in Year 1 (October 2029 to March 2030), increasing to between 1,737 and 7,598 in Year 10 (April 2038 to March 2039). See section titled "Cohort Estimates" for further information.

## Number of assisted deaths

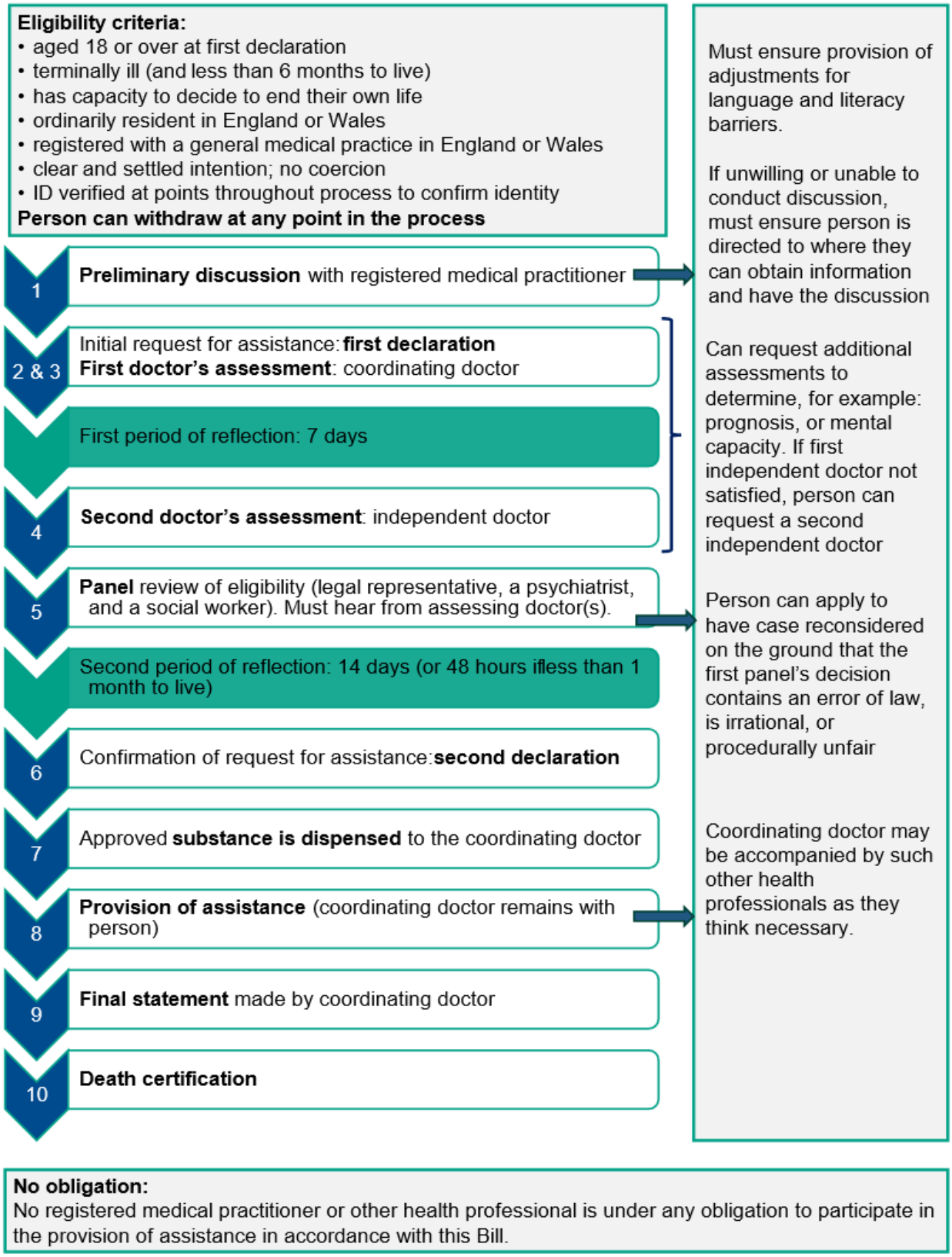
28 It is assumed that 3 in 5 applicants (60%) would complete the process and have an assisted death. The estimated number of assisted deaths across England and Wales ranges from between 164 and 787 in Year 1 (October 2029 to March 2030), to between 1,042 and 4,559 in Year 10 (April 2038 to March 2039).

29 The estimated proportion of assisted deaths out of the total number of projected deaths range between 0.03% to 0.13% in Year 1 (which is half a year), and between 0.16% to 0.68% in Year 10.

30 The Impact Assessment included an overview of the steps an applicant would need to follow under the Bill's provisions:

[4] Terminally Ill Adults (End of Life) Bill: impact assessment - GOV.UK

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


Eligibility criteria:
• aged 18 or over at first declaration
• terminally ill (and less than 6 months to live)
• has capacity to decide to end their own life
• ordinarily resident in England or Wales
• registered with a general medical practice in England or Wales
• clear and settled intention; no coercion
• ID verified at points throughout process to confirm identity
Person can withdraw at any point in the process
1
Preliminary discussion with registered medical practitioner
2 & 3
Initial request for assistance: first declaration
First doctor's assessment: coordinating doctor
First period of reflection: 7 days
4
Second doctor's assessment: independent doctor
5
Panel review of eligibility (legal representative, a psychiatrist, and a social worker). Must hear from assessing doctor(s).
Second period of reflection: 14 days (or 48 hours if less than 1 month to live)
6
Confirmation of request for assistance: second declaration
7
Approved substance is dispensed to the coordinating doctor
8
Provision of assistance (coordinating doctor remains with person)
9
Final statement made by coordinating doctor
10
Death certification
Must ensure provision of adjustments for language and literacy barriers.
If unwilling or unable to conduct discussion, must ensure person is directed to where they can obtain information and have the discussion
Can request additional assessments to determine, for example: prognosis, or mental capacity. If first independent doctor not satisfied, person can request a second independent doctor
Person can apply to have case reconsidered on the ground that the first panel's decision contains an error of law, is irrational, or procedurally unfair
Coordinating doctor may be accompanied by such other health professionals as they think necessary.
No obligation:
No registered medical practitioner or other health professional is under any obligation to participate in the provision of assistance in accordance with this Bill.

# Legal background

31 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.[6]

32 The European Convention on Human Rights, which is part of UK domestic law, dictates 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.

33 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 take.[7]

34 That is the position as it applies in all seven 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.

35 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."* [8]

36 Lord Steyn, in the Judicial Committee of the 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."*[9]

## The public and assisted dying

37 Public opinion polls have reflected consistently high public support for legislative reform to offer choice at the end of life.

38 In 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 people in the 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.

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

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

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

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

- 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%).

- More than half (52%) would personally consider travelling to Switzerland for an assisted death if they were terminally ill, but less than 3 in 10 (28%) would be able to afford it, with costs rising to around £15,000 in the last five years.10

39 In 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. 11

40 Polling released by YouGov in June 2025 reaffirmed that public support remained high for the legalisation of assisted dying both in principle and in accordance with the criteria and safeguards outlined in the Bill. Support levels remained 'unmoved' according to YouGov in comparison to the high public support for the Bill in November 2024.

- 75% said they believed that assisted dying should in principle be legal in some form in the UK, while one in seven (14%) felt it should not be legal in principle.

- 73% of respondents, when given an outline of the safeguards and criteria included within the Bill, compared to 16% who were opposed.

- Nearly six in ten (57%) said they supported assisted dying in both principle and in practice, while one in five (20%) said they backed it in principle but were sceptical that adequate laws could be created to regulate it. A further 8% opposed it in principle but were willing to support it for those who wanted it, while 7% opposed it in both principle and practice.[12]

# Territorial extent and application

41 Subject as follows, this Act extends to England and Wales only.

42 Sections 37, 43, 54, 56, 57, 58 and 59 extend to England and Wales, Scotland and Northern Ireland.

43 Section 31(8) and Schedule 3 extend to England and Wales and Scotland.

[10] https://www.opinium.com/wp-content/uploads/2024/03/UK25298-Dignity-in-Dying-Nationally-Representative-Tables.xlsx

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

[12] https://ygo-assets-websites-editorial-emea.yougov.net/documents/Internal_AssistedDying_250516_w.pdf

# Commentary on provisions of Bill

## Eligibility to be provided with lawful assistance to voluntarily end own life

### Clause 1 Assisted dying eligibility

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

45 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,
- be registered as a patient with a GP practice in England or Wales, and
- be in England or Wales.

46 A person is considered ordinarily resident if they are living in England and Wales: lawfully; voluntarily; and for settled purposes as part of the regular order of their life for the time being, whether for a long or short duration

47 The assistance must be provided in accordance with clauses 8 to 30. Those clauses, amongst other things, require steps to be taken 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.

48 Subsection (3) requires that the steps taken under clauses 8 (first declaration), 10 (first doctor's assessment), 11 (second doctor's assessment) and 19 (second declaration) must be taken when the terminally ill person is in England or Wales, and that the steps taken under clauses 10 and 11 - first and second doctor's assessment - must be made by persons in England or Wales.

### Clause 2 Terminal illness

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

50 Subsection (2) provides that a person who would not otherwise meet the requirements of subsection (1) shall not be considered to meet them solely as a result of not eating or drinking.

51 Subsection (3) sets out that treatment which only relieves the symptoms of the inevitably progressive illness or disease temporarily is not to be regarded as treatment which can reverse that illness or disease.

52 Subsection (4) provides that a person is not considered to be "terminally ill" only because they have a disability or mental disorder or both. A person would need to meet the requirements in subsection (1) to qualify for assistance.

### Clause 3 Capacity

53 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.

54 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.

## Voluntary Assisted Dying Commissioner

### Clause 4 Voluntary Assisted Dying Commissioner

55 Clause 4 provides for there to be a Voluntary Assisted Dying Commissioner (the Commissioner), who would oversee the assisted dying process in England and Wales.

56 The Commissioner would be appointed by the Prime Minister (subsection (2)) and must hold or have held office as a judge of the Supreme Court, the Court of Appeal, or the High Court (subsection (3)).

57 Subsection (4) lists the principal functions of the Commissioner: receiving documents made under the Bill; making appointments to a list of persons eligible to sit on Assisted Dying Review Panels (schedule 2); referring cases to such panels (clause 16); monitoring the operation of the Bill and reporting annually on it (set out in clause 47).

## Preliminary discussions

### Clause 5 Preliminary discussions with registered medical practitioners

58 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 person. But that does not prevent a doctor exercising their professional judgement to discuss the matter with a person (see subsection (2)).

59 Subsection (3) provides that, where a person in England or Wales 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.

60 Subsection (4) provides for adjustments for language and literacy barriers, including the use of interpreters.

61 If a preliminary discussion takes place, subsection (5) provides that the registered medical practitioner must explain to and discuss with the person:

a. the person's diagnosis and prognosis;

b. any available treatment and its likely effect; and

c. all appropriate palliative, hospice or other care, including symptom management, psychological support, and offer of a referral to a specialist for further discussion.

62 A preliminary discussion cannot be said to have taken place for the purposes of this Bill unless it has included an explanation of and discussion about the matters mentioned in (a) to (c) above.

63 If the doctor is unwilling or unable to conduct the discussion, subsection (6) requires them to ensure that the person who has requested it is directed to where they can find information and have the preliminary discussion.

### Clause 6 No health professional shall raise assisted dying with a person under 18

64 Under this clause no health professional is able to raise the subject of provision of assistance to end one's own life with a person under 18.

### Clause 7 Recording of preliminary discussion

65 Clause 7 applies where a registered medical practitioner conducts a preliminary discussion with a person (subsection 1).

66 If the registered medical practitioner who conducts the preliminary discussion is a practitioner at the person's GP practice, subsection (2) requires them to record the preliminary discussion in the person's medical records as soon as practicable.

67 Where a registered medical practitioner who conducts the preliminary discussion is not a practitioner at the person's GP practice, subsection (3) requires them to provide a written record of the preliminary discussion to a registered medical practitioner with the person's GP practice as soon as practicable. The practitioner at the person's GP practice must then include the record of the preliminary discussion it in the person's medical records as soon as practicable.

## Procedure, safeguards and protections

68 Clauses 8 to 30 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 8;
- 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 Multidisciplinary Panel has granted a certificate of eligibility;
- The person has made a second declaration under clause 19;
- 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 8 Initial request for assistance: first declaration

69 A person who wishes to be provided with assistance to end their own life must make a declaration under this clause (a "first declaration")

70 Subsection (2) requires that a first declaration must be:

a. in the form set out in regulations made by the Secretary of State;

b. signed and dated by the person making the declaration (where the person is unable to sign, clause 21 enables the declaration to be signed by a proxy); and

c. witnessed by the coordinating doctor and another person (clause 52 sets out factors that disqualify a person from acting as a witness or proxy).

71 Subsection (3) requires the coordinating doctor to provide a copy of the first declaration to the Commissioner as soon as reasonably practicable.

72 Subsection (4) requires regulations made under subsection (2)(a) to provide that the first declaration contains particular information, including the full name, address, NHS number and contact details of the GP practice for the person seeking assistance. Those regulations must also provide the first declaration contains further declarations by the person, including a declaration that the person meets the initial conditions for eligibility.

73 Subsection (5) sets out that the "initial conditions for eligibility" are that the person making the declaration: is aged 18 or over; is ordinarily resident in England and Wales and has been so for at least 12 months; and is registered with a general medical practice in England or Wales.

74 Subsection (6) gives a definition for "the coordinating doctor" in the Bill, as a registered medical practitioner who meets the eligibility criteria listed in paragraphs (a) to (d). This includes that the practitioner meets the requirements specified in regulations under subsection (7); who has indicated to the person making the declaration that they are able and willing to carry out the functions of the coordinating doctor under the Bill; who is not a relative of the person; and is not a beneficiary under a will of the person or who may otherwise benefit (financially or in any other material way) from the death of the person.

75 Subsection (7) places a duty on the Secretary of State to make regulations which make provision about the training, qualifications and experience that a registered medical practitioner must have in order to act as a coordinating doctor.

76 Subsection (8) requires that regulations (made under subsection (7)) provide that the practitioner must have had training about assessing capacity; assessing whether a person has

been coerced or pressured by any other person; providing reasonable adjustments and safeguards for autistic people and people with a learning disability; and domestic abuse.

77 Under subsection (9), regulations may provide that the required training, qualifications or experience be determined by a person that is specified in the regulations. A specified person could include a regulatory body which sets professional training.

78 Training in respect of domestic abuse, including coercive control and financial abuse, is mandatory under subsection (10)

79 Subsection (11) sets out that a person may not witness a first declaration if they are disqualified under clause 52 from being a witness

## Clause 9 Witnessing first declaration: requirements

80 This clause requires a person making a first declaration under clause 8 to provide both the coordinating doctor and the independent witness with two forms of proof of identity.

81 Subsection (3) enables the Secretary of State to make provision about acceptable forms of proof of identity in regulations.

82 Subsections (4) and (5) allow the coordinating doctor to witness the first declaration only if:

a. they have been provided with two forms proof of identity by the person seeking assistance;

b. a preliminary discussion with the person has been conducted by the coordinating doctor or another registered medical practitioner;

c. and the coordinating doctor has made or seen a written record of the preliminary discussion.

## Clause 10 First doctor's assessment (coordinating doctor)

83 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;
- Was aged 18 or over at the time the first declaration was made;
- Is in England and Wales;
- Is ordinarily resident;
- Is registered with a GP practice in England or Wales;
- Has a clear, settled and informed wish to end their own life; and
- Made the first declaration under clause 8 voluntarily and has not been coerced or pressured by another person into making it.

84 After carrying out the first assessment, subsection (3) requires the coordinating doctor to make a report about the first assessment and give a copy of that report to: the person who was assessed; if the coordinating doctor is not a practitioner with the person's GP practice, a

registered medical practitioner with that practice; and any other person that Secretary of State specifies in regulations.

85 If the coordinating doctor is satisfied that all the matters in subsection (2) have been met), they must refer the person to an independent doctor to conduct the second assessment. The independent doctor must be a registered medical practitioner who is able and willing to carry out the second assessment, and who meets all of the requirements set out in clause 11(8).

86 Subsection (4) places a duty on the Secretary of State to make provision through regulations about the content and form of the coordinating doctor's report.

87 Subsection (5) requires the regulations to provide that the coordinating doctor's report must include particular information, such as whether the coordinating doctor is satisfied that all the matters in subsection (2) have been met and the reasoning for their decision. The coordinating doctor must also confirm that a record of the preliminary discussion and the making of a first declaration have been recorded in the person's medical records. They must also confirm that the first declaration has not been cancelled. The report must be signed and dated by the coordinating doctor.

88 Subsections (6) and (7) enable a second referral to be made if the independent doctor dies or through illness is unable or unwilling to carry out their functions. Where a new referral is made, the new independent doctor is required to carry out the same functions as the independent doctor to whom the first referral was made. These functions are set out in clauses 11 (second doctor's assessment) to 13 (second opinion) and 15 (replacing the coordinating doctor or the independent doctor where unable or unwilling to continue to act).

## Clause 11 Second doctor's assessment (independent doctor)

89 This clause applies where the coordinating doctor refers the person under clause 10(3)(c) for a second assessment by the independent doctor (subsection 1). 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 wish to end their own life; and
- Made the first declaration under clause 8 voluntarily and has not been coerced or pressured by another person into making it.

90 The second assessment must take place after "the first period for reflection". This period begins with the day the coordinating doctor makes their report under clause 10 and lasts for 7 days.

91 Subsection (4) sets out that the independent doctor must carry out the second assessment independently of the coordinating doctor.

92 After carrying out the second assessment, subsection (5) requires the independent doctor to make a report about the assessment. They give a copy to the person who was assessed; the coordinating doctor; if neither the independent doctor nor coordinating doctor is a practitioner with the person's GP practice, a registered medical practitioner with that practice; and any other person that the Secretary of State may specify in regulations.

93 Subsection (6) places a duty on the Secretary of State to make provision through regulations about the content and form of the report.

94 Subsection (7) requires the regulations to provide that the independent doctor's report must include particular information, such as whether the independent doctor is satisfied of all the matters in subsection (2) and an explanation of their decision. Additionally, the report should contain a statement indicating whether the independent doctor is satisfied:

a. that a record of the preliminary discussion has been included in the person's medical records;

b. that the person signed the first declaration;

c. that the making of the first declaration has been recorded in the person's medical records; and

d. that the first declaration has not been cancelled.

95 The report should also be signed and dated by the independent doctor.

96 A registered medical practitioner can only act as the independent doctor if they meet the requirements set out in subsection (8) In particular, they must meet the requirements (about the training, qualifications and experience) specified by the Secretary of State in regulations under subsection (9). 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.

97 Subsection (9) places a duty on the Secretary of State to make provision through regulations about the training, qualifications and experience that a registered medical practitioner must have to carry out the functions of an independent doctor.

98 Subsection (10) requires these regulations provide that the practitioner must have had training about mental capacity, coercion or pressure by another person, and domestic abuse.

99 Under subsection (11), the regulations may provide that the required training, qualifications or experience is to be determined by a person that is specified in the regulations. A specified person could include a regulatory body which sets professional training.

100 Subsection (12) sets out that the reference to "terminal illness" in subsection (8)(b) means the illness or disease mentioned in section 2(1)(a).

101 Subsection (13) requires that the regulations required under subsection (9) specify that training in respect of domestic abuse, including coercive control and financial abuse is mandatory.

## Clause 12 Doctors' assessments: further provision

102 Clause 12 makes provision about the assessment by the coordinating doctor under clause 10 and the assessment by the independent doctor under clause 11 (subsection 1).

103 In particular, subsection (2) sets out things each of the doctors carrying out an assessment under the Act must do. These include a requirement to:

a. examine the person and their relevant medical records;

b. make enquiries of any health and social care professionals who are providing or have recently provided care to the person as the assessing doctor considers appropriate;

c. explain to and discuss with the person their diagnosis and prognosis; any treatment available and the likely effects; any available palliative, hospice or other care; the nature of the substance that is to be provided to assist the person to end their own life (including how it will bring about the death and its administration);

d. discuss with the person what their wishes are in the event of complications;

e. inform the person of the further steps that must be taken before assistance to end their own life in accordance with the act can be provided; and that the person may decide at any time not to take those steps (and how to cancel the first declaration and any further steps)

f. advise the person to inform a registered medical practitioner with the person's GP practice that the person is requesting assistance to end their own life;

g. if appropriate, to advise the person to consider discussing the request with their next of kin and any other persons they are close to.

104 Subsections (3) and (4) require the assessing doctor to consult a health or social care professional with relevant qualifications or experience, if they consider there is a need to do so. Where such a consultation takes place, the assessing doctor must give a written record of the consultation to the other assessing doctor.

105 Under subsection (5) it is provided that an assessing doctor must make provision of adjustment for language and literacy barriers

106 Subsection (6) sets out that 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 must refer the person for assessment by a psychiatrist or other suitably qualified person. The assessing doctor must take account of any opinion provided by the above mentioned medical practitioners.

107 Subsections (7) and (8) require that any opinion provided to one assessing doctor under subsection (6) is shared with the other assessing doctor and that if the independent doctor is required to obtain an opinion under subsection (6)(a) then that duty may either be discharged by an opinion sought by the coordinating doctor or by their own referral.

## Clause 13 Another independent doctor: second opinion

108 Clause 13 applies where the independent doctor has carried out the second assessment and made a report stating that they are not satisfied that all the matters in section 11(2) have been met (subsection 1).

109 Subsections (2) and (3) permit the coordinating doctor to refer the person, if they request, to another registered medical professional who meets the requirements for the independent doctor for a further assessment. This independent doctor must be provided with the report from the initial independent doctor and if they disagree with that doctor's assessment then must produce their own report both of which must be made available to any subsequent decision makers.

110 Subsection (4) provides that where a referral is made to a doctor under this section they shall be treated as the independent doctor and the provisions of clauses 11, 12 and 15 also apply to this assessment.

111 Subsection (5) provides that only one referral for a second opinion can be made under this clause. This is subject to clause 13(6) and 15(6)(a)(ii). which applies in circumstances where the independent doctor is unwilling or unable to continue to act.

112 Subsection (6) permits a further referral in circumstances where, after the first referral was made under subsection (2), the independent doctor dies or through illness is unable or unwilling to act as the independent doctor, and so has not made a report.

## Clause 14 Replacing the coordinating doctor on death etc

113 The coordinating doctor who witnesses the first declaration under clause 8 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.

114 Equivalent provision is not needed for the independent doctor, as their functions are confined to the second assessment under clause 11. 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 15 Replacing the coordinating or independent doctor where unable or unwilling to continue to act

115 Clause 15 applies where after a first declaration has been witnessed by a coordinating doctor that doctor is unable or unwilling to continue with their functions after they have witnessed the first declaration, or where an independent doctor is unable or unwilling to carry out their functions after a referral is made under clause 10(3)(c) or clause 13(4) but before a report under clause 11 has been made (subsection 1). In this clause they are referred to as "the outgoing doctor".

116 Subsection (2) requires the outgoing doctor to give written notice of their inability or unwillingness to continue to carry out their functions to the person seeking assistance; the Commissioner; and, where the outgoing doctor is the independent doctor, to the coordinating doctor. This must be done as soon as practicable.

117 Subsection (3) provides that once the outgoing doctor gives written notice, their functions under the Bill cease, except for their duties under subsections (8) or (9).

118 Subsections (4) and (5) enable the Secretary of State to make regulations relating to the appointment (with agreement of the person seeking assistance) of a replacement coordinating doctor who meets the requirements of clause 8(6) and who is able and willing to carry out the functions of the coordinating doctor. The regulations may make provision to ensure continuity of care for the person seeking assistance despite the change in the coordinating doctor.

119 Subsection (6) provides that where an independent doctor gives written notice that they are unable or unwilling to continue with their functions, a further referral may be made, and the registered medical practitioner to whom that referral is made becomes the independent doctor and replaces the outgoing doctor.

120 Subsections (7), (8) and (9) provide that where the coordinating doctor gives notice that they are unable or unwilling to continue with their functions, or a coordinating doctor receives such notice from an independent doctor, it is the original coordinating doctor's responsibility to take steps to ensure that the giving of notice is recorded in the person's medical records.

121 If the coordinating doctor is already a registered medical practitioner at the person's GP practice, they must record that notice in the person's medical records as soon as practicable. If the coordinating doctor is not a practitioner with the person's GP practice, they must notify a practitioner with that practice that notice has been given. The practitioner who is notified must then record the notice in the person's medical records as soon as practicable.

## Clause 16 Referral by Commissioner of case to multidisciplinary panel

122 Clause 16 sets out the process for the referral of a case from the Commissioner to an Assisted Dying Review Panel (panel). As per subsection (1) and (2), where the Commissioner receives a first declaration made by a person seeking assistance and the reports of the coordinating and independent doctors confirming their eligibility (under clauses 10 and 11), the Commissioner must, as soon as reasonably practicable, convene a panel from the list of eligible members, and refer the person's case to that panel.

123 Subsection (3) provides that where the Commissioner is notified that a first declaration has been cancelled, they must not refer the case to a panel, or must notify the panel of the cancellation if the case has already been referred.

124 Subsection (4) signposts to schedule 2 for further provision about the panels.

## Clause 17 Determination by panel of eligibility for assistance

125 Clause 17 sets out the process for the consideration of a case by an Assisted Dying Review Panel (subsection 1).

126 Subsection 2 requires the panel to determine whether it is satisfied of the same matters assessed by the coordinating and independent doctor in clauses 10 and 11. The panel must also determine:

a. whether the requirements on the coordinating and independent doctor to determine eligibility under clauses 8 to 12 have been met in regard to the first declaration, the first and second assessments, and the report on these assessments; and

b. that before making the first declaration, but when the person was aged 18 or over, a registered medical practitioner conducted a preliminary discussion with the person.

127 Subsection 3 allows a panel to adopt a procedure as it considers appropriate for the case (subject to the following and Schedule 2).

128 Subsection (4) sets out that the panel must hear from and may question the coordinating doctor or the independent doctor, and the person seeking assistance (unless exceptional circumstances apply (as outlined in subsection (6)).

129 The panel may also hear from and may question the proxy of the person seeking assistance, and any other person, including those with relevant knowledge or experience relating to the person. This could include family members or other individuals interested in the welfare of the person, as well as other experts.

130 When hearing from the person seeking assistance, the doctors, and the person's proxy, this must be in person or by live video or audio link. Where the panel consider it appropriate for medical reasons, subsection (5) allows for the use of pre-recorded audio or video material.

131 Subsections (7) and (8) provide that only where a panel is satisfied (with the agreement from all three panel members as laid out in schedule 2), that the requirements of the Bill have been met, it must grant a certificate of eligibility. It must also notify the person to whom the referral relates, the coordinating doctor, the Commissioner, and any other person specified in regulations.

132 If notified that a first declaration has been cancelled, subsection (9) requires that the panel must cease to act and must not grant a certificate.

## Clause 18 Reconsideration of panel decisions refusing certificate of eligibility

133 Under clause 18, where a panel refuses to grant a certificate of eligibility, the person seeking assistance may apply to the Commissioner for their case to be reconsidered. Such an application can only be made once (subsections (1) and (2)).

134 If the Commissioner is satisfied that any of the following grounds apply, subsections (3) and (4) requires that they, as soon as is reasonably practicable, refer the case to a second panel for a fresh determination:

a. error of law;

b. Irrationality; and

c. procedural unfairness.

135 As detailed in subsections (5) and (6), the Commissioner must provide written reasons for their decision as to whether the application meets the criteria to be referred to a second panel. They must also notify the person who made the application, the coordinating doctor, and any person specified in regulations of their decision.

## Clause 19 Confirmation of request for assistance: second declaration

136 Under subsection (1), where a person who wishes to be provided with assistance to end their own life has been granted a certificate of eligibility by a panel, and the second period of reflection has come to an end, the person must 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.

137 The second period for reflection begins on the day the certificate of eligibility is granted and lasts for 14 days, or, where the coordinating doctor reasonably believes that the person's death is likely to occur within one month, begins on the day the certificate was granted and lasts for 48 hours (subsection (2)).

138 Subsection (3) requires that the second declaration must be in the form set out in regulations made by the Secretary of State. It must be signed and dated by the person making the declaration and both the coordinating doctor and the witness must see the declaration being signed.

139 Subsection (4) requires the regulations to provide that the second declaration must contain particular information, including the person's full name, address and NHS number. It must also contain further declarations from the person seeking assistance, confirming that they have made a first declaration and have not cancelled it; they understand that they must make a second declaration; they are making the second declaration voluntarily and have not been coerced and pressured by any other person into making it; and that they understand that they may cancel the second declaration at any time.

140 As per subsection (5), the coordinating doctor may only witness the second declaration if the coordinating doctor is 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.

141 Under subsection (5) the coordinating doctor must make a statement to the effect that they are satisfied of the above if they are.

142 Subsection (7) requires that the statement must be in the form set out by the Secretary of State via regulations. It must be signed and dated by the coordinating doctor and witnessed by the same person who witnessed the second declaration under subsection 3(c).

143 Subsection (8) requires the regulations under subsection (7)(a) to provide that a statement under subsection (6) contain particular information, including the person's full name, address and NHS number. It must also contain the following declarations by the coordinating doctor (in addition to a declaration that they are satisfied the criteria in clause (5) are met):

a. a declaration that the coordinating doctor is satisfied that a certificate of eligibility has been granted;

b. a declaration that the second declaration was made after the end of the second period of reflection;

c. if the second declaration was made before the end of the period of 14 days, a declaration that they believe that the person's death is likely to occur before the end of the period of one month (beginning with the day the certificate of eligibility was granted); and

d. a declaration that neither the first declaration nor the second declaration has been cancelled.

144 Subsection (9) prevents a person from witnessing a declaration under subsection (3)(c)(ii) if they are disqualified from being a witness under clause 52.

145 Under subsection (10), where the coordinating doctor has witnessed a second declaration or has made or refused to make a statement under subsection (6), they must notify the Commissioner and provide a copy of the second declaration or any other statement under subsection (6).

## Clause 20 Cancellation of declarations

146 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.

147 Subsection (2) provides that where the coordinating doctor receives a notice or an indication that the person seeking assistance wishes to cancel their declaration, they must notify the Commissioner of the cancellation as soon as practicable.

148 Where notice or an indication that the person wishes to cancel their declaration is given to a registered medical practitioner, subsection (3) requires that practitioner to notify the coordinating doctor and the Commissioner of the cancellation as soon as practicable.

149 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 21 Signing by proxy

150 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.

151 Subsection (1) provides that they can authorise another person to sign the declaration on their behalf.

152 Subsection (2) sets out that a declaration signed by a person's proxy in that person's presence and in accordance with subsection (3) has the same effect as if signed by the person themselves.

153 Subsection (3) requires that the proxy add their full name and address, the capacity in which they qualify as a proxy, a statement that they have signed as a proxy, and the reason why the person was unable to sign their own name.

154 Under subsection (4) a proxy may not sign a declaration

a. unless they are satisfied that the person understands the nature and effect of the declaration,

b. if disqualified from being a proxy under section 52,

c. if it is a second declaration and the proxy signed the first declaration as a witness.

155 Under subsection (5), "proxy" is given the definition of a person who has known the person making the declaration personally for at least two years, or someone who meets the description specified in regulations made by Secretary of State.

156 Subsection (6) sets out that the provisions for the signing of declarations by proxies also include their cancellation.

157 Clause 52 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 22 Independent advocate

158 This clause sets out the appointment of an independent advocate whose role is to provide support and advocacy to qualifying persons to enable them to effectively understand and engage with the Act.

159 Subsection (1) requires the Secretary of State to make provision for the appointment of persons as independent advocates through regulations.

160 Subsection (2) sets out what may, in particular, be included in regulations including who may appoint independent advocates, the training of those advocates, payments made for or in

relation to carrying out the role, and obligations for persons performing functions included in the Act to ensure the presence of an independent advocate for qualifying persons.

161 Subsection (3) provides a description of the role of the independent advocate as providing support and advocacy for a qualifying person to enable them to effectively engage with and understand the Act.

162 Under subsection (4) are the qualifications for a person to have an independent advocate. A person is a "qualifying person" if they

a. have a learning disability, a mental disorder under section 1 of the Mental Health Act 1983, or autism

b. may experience substantial difficulty in understanding the process as set out under the Act and information relating to it or in communicating their views, wishes, or feelings

c. meet the qualifications as set out by the Secretary of State in regulations.

163 Subsection (5) requires that the regulations be made through the affirmative procedure.

# Information in medical records

## Clause 23 Recording of declarations, reports etc

164 Clause 23 provides a list of "recordable events", which are events which must be recorded in a person's medical records if they occur. These events are listed in subsection (1) and include where:

a. a first declaration is made;

b. a report about a first or second assessment is made under clause 10 or 11 respectively;

c. a certificate of eligibility has been granted;

d. a panel has refused to grant a certificate of eligibility;

e. a second declaration is made by a person;

f. and a statement is made under clause 19(6) or the coordinating doctor refuses to make such a statement.

165 Subsection (2) makes clear that "recordable event" means those events mentioned in subsection (1).

166 Where a coordinating doctor is a registered medical practitioner with the person's GP practice, subsection (3) requires them to record the occurrence of a recordable event in the person's medical records.

167 Where the coordinating doctor is not a registered medical practitioner with the person's GP practice, subsection requires them to notify a registered medical practitioner with that practice of the occurrence of the recordable event. The practitioner who has been notified must then record the occurrence of the recordable event in the person's medical records as soon as practicable.

168 Subsection (5) requires that a record made under subsection (3) or (4) include the original declaration, report or statement.

### Clause 24 Recording of cancellations

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

170 Subsections (1) to (3) set out that if a notice or indication of a cancellation of a first or second declaration is given to a doctor at the person's GP practice then they must record it in the person's medical records as soon as practicable. If the doctor to whom the cancellation is given is not with the person's GP practice then they must notify a doctor who is and they must enter it into the persons medical records.

## Provision of assistance to end life

### Clause 25 Provision of assistance

171 This clause applies where a certificate of eligibility has been granted, the second period for reflection (see clause 19 (2)) has ended, the person has made a second declaration (which has not been cancelled) and the coordinating doctor has made the statement under clause 19(6). It governs the provision of assistance in the form of an approved substance (see clause 27), with which the person may end their own life.

172 If requirements under subsection (1) have been met, subsection (2) permits the coordinating doctor to provide that person with an approved substance with which they can end their own life.

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

174 When providing an approved substance, subsection (4) requires the coordinating doctor to explain to the person that they do not have to proceed with an assisted death and may still cancel their declaration.

175 Subsection (5) 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.

176 Subsection (6) permits the coordinating doctor to be accompanied by other persons, including health professionals as the coordinating doctor thinks necessary.

177 Subsection (7) permits an approved substance to be provided to the person to whom assistance is being provided through a device to help with self-administration of the substance. The device must be provided directly, and in person, by the co-ordinating doctor.

178 Subsection (8) permits the coordinating doctor to prepare the approved substance for self-administration by the person, and to assist that person to ingest or self-administer the substance.

179 Subsections (9) makes clear that the decision to self-administer the approved substance, and the final act of doing so, must be taken by the person who has been given the substance.

180 Subsection (10) prohibits a coordinating doctor from administering an approved substance to another person with the intention of causing that person's death.

181 Subsection (11) provides that the coordinating doctor must remain with the person until either: the person has self-administered the substance and has either died or the procedure has failed; or the person has decided not to self-administer the approved substance.

182 Subsection (12) provides that the coordinating doctor conducting functions under subsection (11) does not need to be in the same room as the person who has been given assistance.

183 If the person informs or indicates to the coordinating doctor that they do not want to self-administer the approved substance, subsection (13) requires the coordinating doctor to remove the approved substance immediately from that person.

## Clause 26 Authorising another doctor to provide assistance

184 Subsection (1) provides that the coordinating doctor may authorise another named registered medical practitioner to exercise the coordinating doctor's functions under clause 25 in connection with the provision of assistance to a person. The authorisation must be in writing.

185 Subsection (2) sets out that an authorisation can only be made with the consultation and 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 (1).

186 Subsection (3) enables regulations made under subsection (2)(b) to provide that the required training, qualifications, and experience of an authorised registered medical practitioner is to be determined by a person specified in the regulations. A specified person could include a regulatory body which sets professional training.

187 Subsection (4) provides that the provisions under section 25 apply to the doctor authorised under subsection (1) as if they were the coordinating doctor.

188 Subsection (5) provides that where an authorised registered medical practitioner is not satisfied that all the matters mentioned in clause 25(5) have been met, they must notify the coordinating doctor immediately.

189 Subsection (6) disqualifies someone from providing written consent as required under subsection (2)(a) as a proxy if they have acted as a witness to the person's first or second declarations.

190 Under subsection (7) it is specified that regulations under subsection (2)(b) must include that training in respect of domestic abuse, including coercive control and financial abuse is mandatory.

## Clause 27 Meaning of "approved substance"

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

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

193 Subsection (3) signposts to clause 37, which contains powers to make provision about approved substances and devices for use in connection with the self-administration of approved substances.

### Clause 28 Final Statement

194 Where a person has been provided with assistance to end their own life and the person has died as a result, subsections (1), (2) and (3) require the coordinating doctor to make a 'final statement' which must be in the form set out in regulations by the Secretary of State and signed and dated by the coordinating doctor.

195 Subsection (4) requires the coordinating doctor to give a copy of the final statement to the Commissioner as soon as practicable.

196 Subsection (5) requires regulations under subsection (3)(a) to provide that a final statement contains certain information, including the person's full name, date of birth, sex, ethnicity, last permanent address, and whether the person had a disability (other than a disability consisting of the illness or disease which caused the person to be terminally ill). This information could be potentially included by the Commissioner under duties laid out on clause 49.

197 Under subsections (6), (7) and (8) the making of the statement must be recorded in the person's medical records, and the original statement included as part of that record.

### Clause 29 Report where assistance not provided because coordinating doctor not satisfied of all relevant matters

198 As per subsection (1), clause 29 applies where a person is not provided with assistance to end their own life (clause 25) because the coordinating doctor is not satisfied that all the matters mentioned in clause 25(5) have been met.

199 In such circumstances, subsection (2) requires the coordinating doctor to make a report setting out why they are not satisfied.

200 Subsection (3) enables the Secretary of State to make provision through regulations about the content or form of the coordinating doctor's report.

201 Under subsection (4), the coordinating doctor is required to provide a copy of this report to the person denied assistance; if the coordinating doctor is not a practitioner with the person's GP's practice, a registered medical practitioner with that practice; and the Commissioner.

### Clause 30 Other matters to be recorded in medical records

202 This clause ensures that, where a person decides not to take an approved substance provided under clause 25 or the procedure fails for any reason, appropriate records are made in the person's medical record.

203 Subsection (2) requires that the coordinating doctor must notify the Commissioner, as soon as practicable, if a person decides not to take an approved substance or the procedure fails.

204 Subsection (3) and (4) require that, if the coordinating doctor is a practitioner in the person's GP practice, then they must record that a person has been provided with assistance to end their own life in their medical records as soon as practicable. If the coordinating doctor is outside of the person's GP practice then they must inform a doctor within it as soon as practicable who must enter the record into the person's medical records.

## Protections for health professionals and others

### Clause 31 No obligation to provide assistance etc

205 Subsection (1) provides that no person is required to participate in the provision of assistance under the Bill.

206 Subsection (2) makes it clear that no registered medical practitioner is under a duty to become a coordinating doctor or independent doctor.

207 Subsection (3) provides that no registered medical practitioner, apart from the coordinating doctor or the independent doctor, is under any duty to perform any function in the Bill other than the giving of notifications and the recording of matters in medical records (as laid out in subsection (7)).

208 Subsection (4) provides that no health professional or social care professional is required to assist an assessing doctor who seeks their view under clause 12(3)b (requirement for assessing doctor to consult professional with relevant qualifications or experience).

209 Under subsection (5), registered pharmacists and registered pharmacy technicians are not required to participate in the supply of an approved substance for use in accordance with clause 25 (provision of assistance).

210 Subsection (6) provides that no one is obligated to act as a witness or as a proxy under the Bill.

211 Subsection (7) lists certain activities that cannot be opted out of and must be complied with. These relate to the giving of notifications under the Bill or the recording of matters in a person's medical records; keeping records or to provide information; and a professional responding to an assessing doctor about the health or social care they are providing, or have recently provided, to a person seeking an assisted death.

212 Subsection (8) amends the Employment Rights Act 1996 to protect workers from being subjected to detriment from their employer in the provision of assistance under the Bill or for exercising their right to refuse to do so.

213 Subsection (9) defines a "duty" in section 31 to include requirements arising from any contract, statute or otherwise. Subsection (9) also defines a "registered pharmacist" and "registered pharmacy technician" as having the same definition as in the Pharmacy Order 2010 (S.I. 2010/231).

## Clause 32 Criminal liability for providing assistance

214 Subsection (1) provides that a person is not guilty of an offence by virtue of:

a. providing assistance to a person in accordance with the Bill; or performing any other function under and in accordance with the Bill; or

b. assisting a person seeking to end their own life in accordance with the Bill, in connection with the doing of anything under the Bill

215 Subsection (2) provides that subsection (1) does not limit the circumstances in which a court can otherwise find a person who has assisted another to end their life has not committed an offence.

216 Additionally, subsection (3) amends the Suicide Act 1961 to insert a new section 2AA.

217 Section 2AA(1) provides that the following acts will not amount to an offence under section 2 of that Act (criminal liability for complicity in another person's suicide):

a. providing assistance to a person in accordance with the Bill;

b. performing any other function under and in accordance with the Bill; or

c. assisting a person seeking to end their own life in accordance with the Bill, in connection with the doing of anything under the Bill.

218 The offence under section 2 of the Suicide Act 1961 will continue to apply to other cases where a person encourages or assists the suicide or attempted suicide of another person. The new section 2AA inserted by clause 29(3) 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 33 Civil liability for providing assistance etc

219 Under subsection (1), providing assistance to a person to end their own life; performing any other function under the Bill; and assisting a person seeking to end their own life does not by its very nature give rise to any civil liability.

220 Subsection (2) makes clear that acts done dishonestly or not in good faith or that gives rise to a liability in tort from a breach of duty of care, such as clinically negligent healthcare, are not excused from civil liability.

221 Subsection (3) sets out that subsection (1) does not limit the circumstances in which a court can otherwise find a person not subject to civil liability.

## Offences

### Clause 34 Dishonesty, coercion or pressure

222 This clause creates two new criminal offences.

223 Firstly, subsection (1) provides that 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 induce them not to cancel such a declaration. The maximum penalty for this offence is 14 years imprisonment (subsection (3)).

224 Secondly, subsection (2) provides that 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. The maximum penalty for this offence is life imprisonment (subsection (4)).

225 Proceedings for an offence under this clause may be brought only by or with the consent of the Director of Public Prosecutions as per subsection (5).

### Clause 35 Falsification or destruction of documentation

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

227 Subsection (1)(a) makes it an offence to make or knowingly use a false instrument which purports to be a first or second declaration or a certificate of eligibility.

228 Subsection (1)(b) makes it an offence to intentionally or recklessly conceal or destroy a first or second declaration made by another person.

229 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 in respect of a relevant matter and is false or misleading in a way that is significant.

230 Subsection (3) makes clear that the offence under subsection (2) relates only to an opinion about a matter relating to a function under the Bill (rather than, for example, a separate medical issue that the person seeking assistance under the Bill may happen to have).

231 Subsection (4) makes it an offence for a medical practitioner to fail to comply with an obligation under clause 20(2) or (3), which relate to the notification of a cancellation of declaration, or an obligation under clause 24, which relates to the recording of such a cancellation.

232 Under subsection (5) a person who commits an offence under this section is liable to imprisonment for a term not exceeding the general limit un a magistrate's court or a fine or both is on a summary conviction. On conviction on indictment they are liable to imprisonment for a term not exceeding five years, or a fine, or both.

233 Proceedings for an offence under this clause may be brought only by or with the consent of the Director of Public Prosecutions, as per subsection (6).

### Clause 36 Falsification of documentation etc with intent to facilitate provision of assistance

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

235 Subsection (1) creates offences where a person acts with an intention to facilitate the provision of assistance to another person under the Bill to end their own life and does one of the following things:

- makes or knowingly uses a false instrument which purports to be a first declaration, a second declaration or a certificate of eligibility (subsection (1)(a));
- provides a false or misleading medical or other professional opinion in respect to the other person seeking assistance (subsection (1)(b); or
- fails to comply with an obligation under clause 20(2) or (3), which relate to the notification of a cancellation of a declaration (subsection (1)(c)).

236 Subsection (2) makes clear that reference in subsection (1) to assistance under the Bill also includes assistance purporting to be under the Bill.

237 Subsection (3) creates a maximum penalty of 14 years' imprisonment for an offence under this clause.

238 Proceedings for an offence under this clause may be brought only by or with the consent of the Director of Public Prosecutions, as per subsection (4).

## Regulatory regime for approved substances

### Clause 37 Regulation of approved substances and devices for self-administration

239 Subsection (1) and (2) require that the Secretary of State makes regulations about approved substances. The regulations must include provisions about:

a. the supply of approved substances;

b. the transportation, storage, handling and disposal of approved substances; and

c. record keeping relating to approved substances.

240 Subsection (3) enables provision to be made through regulations about:

a. the manufacture, importation, preparation or assembly of approved substances;

b. the monitoring of matters relating to approved substances; and

c. requiring specified persons, in specified cases, to give information to the Secretary of State.

241 Subsection (4) allows regulations to make provision about approved substances that is similar to or corresponds with any provision of the Human Medicines Regulations 2012, with or without modifications.

242 Subsection (5) enables the Secretary of State to make regulations providing for devices used for the self-administration of approved substances.

243 As per subsection (6), regulations must be made about enforcement relating to approved substances (such as imposing civil penalties).

244 Subsection (7) that regulations under this clause may make any provision that could be made by Act of Parliament.

245 Subsection (8) defines 'device' as including information in electronic form for use in connection with device.

# Investigation of deaths etc

## Clause 38 Investigation of deaths etc

246 Subsection (1) requires that a death resulting from the self-administration of an approved substance, provided in accordance with the Bill, is not to be treated as "unnatural" for the purposes of the duty to investigate deaths under Chapter 1 of the Coroners and Justice Act 2009. Therefore, such a death, when occurring under the lawful framework established by the Bill, does not automatically trigger a coroner's duty to investigate under section 1(2)(a) of the 2009 Act (which applies where a death is suspected to have been violent or unnatural). This does not prevent anyone from referring a death to the coroner where they have concerns that the death has not occurred in line with the provisions of the Bill. Deaths which are not investigated by a coroner are instead scrutinised by a medical examiner.

247 Subsection (2) amends section 20 of the 2009 Act to enable the Secretary of State to make regulations concerning the certification of deaths that arise from assistance provided under the Bill. The regulations may replicate or adapt existing provisions relating to medical certificates of cause of death, and may include additional measures deemed appropriate by the Secretary of State. The regulations must require that where it appears, to the best of the knowledge and belief of the certifying individual, that the cause of death was the self-administration of an approved substance under the Bill, the certificate must record the cause of death as "assisted death" and include details of the person's terminal illness or disease under the terms of the Bill.

248 Subsection (3) amends Schedule 1 to the 2009 Act, which deals with the suspension of coroner investigations where criminal proceedings for a "homicide offence" are likely or have been brought. It expands the definition of a "homicide offence" for these purposes to include offences under clauses 32 (criminal liability for providing assistance etc), 33 (civil liability for providing assistance etc), or 34 (dishonesty, coercion or pressure) of this Bill.

# Codes and guidance

## Clause 39 Codes of practice

249 Subsection (1) requires the Secretary of State to issue codes of practice in relation to various matters relating to the operation of the Bill, including:

- the assessment of whether a person has a clear and settled intention to end their own life, including assessing the person's capacity and recognising and taking effect of depression and other mental disorders;
- the information made available under sections 5 and 12 (on treatment or palliative, hospice or other care) and under section 12 (on consequences of deciding to their own life);
- the provision of information and support to persons with learning disabilities, including the role of independent advocates;
- ensuring effective communication in connection with persons seeking assistance, including the use of interpreters;
- the arrangements for providing approved substances, and assistance which may be given to ingest or self-administer them;
- the arrangement for receiving the support of an independent advocate under section 22;
- responding to unexpected complications in administering the approved substance under section 25, including when the procedure fails;
- the forms of proof and identity that are acceptable for the purposes of section 9.

250 Subsection (2) enables the Secretary of State to also issue one or more codes of practice in connection with any other matters relating to the operation of the Bill which are not mentioned in subsection (1).

251 Subsection (3) requires the Secretary of State to consult such persons as the Secretary of State considers appropriate before issuing any code under this section.

252 Subsection (4) provides that codes under this section do not come until force until the Secretary of State by regulations so provides.

253 Subsection (5) provides that the code to which draft regulations relate must be laid before Parliament at the same time as the draft regulations.

254 Subsection (6) requires any person performing any function under the Bill to have regard to any relevant provision of a code.

255 Subsection (7) provides that a failure to have regard to a relevant provision of a code does not of itself cause a person to be liable to criminal or civil proceedings, but may be taken into account in such proceedings.

## Clause 40 Guidance about operation of Act

256 Subsection (1) requires the Secretary of State to issue guidance relating to the operation of the Bill.

257 Subsection (2) clarifies that the guidance need not (but may) relate to Welsh devolved matters.

258 Subsection (3) requires the Secretary of State, before issuing guidance, to consult:

a. the Chief Medical Officer for England and the Chief Medical Officer for Wales;

b. persons with learnings disabilities and other persons who have protected characteristics (defined in subsection (9)) as the Secretary of State considers appropriate;

c. representatives of health and care providers (including providers of palliative or end of life care) as the Secretary of State considers appropriate;

d. the Welsh Ministers, but only if the guidance relates to Welsh devolved matters; and

e. such other persons as the Secretary of State consider appropriate.

259 Subsection (4) enables the Welsh Ministers to issue guidance relating to the operation of the Bill, but only about matters within devolved competence.

260 Subsection (5) explains that "within devolved competence" means a matter that would be within the legislative competence of Senedd Cymru if it was contained in an Act of the Senedd.

261 Before issuing guidance, subsection (6) requires that Welsh Ministers consult the same descriptions of persons as the Secretary of State must consult under subsection (3), except they do not have to consult themselves or the Chief Medical Officer for England, and they must consult the Secretary of State.

262 Subsection (7) puts a duty on the "appropriate national authority"(defined in subsection (9) as the Secretary of State or the Welsh Ministers) to, when preparing guidance, have regard to the need to provide practical and accessible information to persons (including persons with learning disabilities) requesting assistance to end their own lives, the next of kin and families of such persons, and the general public.

263 Subsection (8) requires the appropriate national authority to publish any guidance they issue.

# Provision of and about voluntary assisted dying services

## Clause 41 Voluntary assisted dying services: England

264 Subsections (1) and (2) requires the Secretary of State to make regulations, to secure that arrangements are made for the commissioning of voluntary assisted dying (VAD) services in England, referred to as commissioned VAD services.

265 Under subsection (3), the Secretary of State may also make regulations about voluntary assisted dying services in England (whether or not those are commissioned VAD services).

266 Subsection (4) gives an example of what may be done by regulations made under this section - that particular references in the National Health Services Act 2006 to the health service include references to commissioned VAD services.

267 Subsection (5) requires that regulations must provide that section 1(4) of the National Health Service Act 2006 (services to be provided free of charge except where charging expressly provided for) applies in relation to commissioned VAD services.

268 Subsection (6) provides that regulations under this section may make any provision that could be made by an Act of Parliament, but they cannot amend this Bill.

269 Subsection (7) defines, "voluntary assisted dying services" as:

a. services for or in connection with the provision of assistance in accordance with this Bill, and

b. any other services provided by health professionals for the purposes of sections 5 to 30 except section 17.

### Clause 42 Voluntary assisted dying services: Wales

270 Subsections (1) and (2) enable Welsh Ministers to make regulations, about VAD services in Wales. Such regulations may make any provision that could be made by an Act of Senedd Cymru, provided it is within the legislative competence of the Senedd.

271 Subsections (3), and (4)) give the Secretary of State the power to make regulations about voluntary assisted dying services in Wales. Such regulations may make any provision that could be made by an Act of Parliament, provided it is within the legislative competence of the Senedd.

272 Subsection (5) provides that regulations under section 42 cannot amend the Bill.

273 Subsection (6) gives "voluntary assisted dying services" the meaning given in clause 41 (7) – that is, services for or in connection with providing assistance in accordance with this Bill, and any other services provided by health professionals for the purposes of sections 5 to 30 except section 17. Subsection (6) also makes clear that regulations made under this clause may include provision securing that arrangements are made for the commissioning of VAD services.

## Advertising

### Clause 43 Prohibition on advertising

274 Subsection (1) imposes a duty on the Secretary of State to make regulations prohibiting advertisements whose purpose or effect is to promote a voluntary assisted dying service.

275 Subsection (2) provides that these regulations may include exemptions, such as providing certain information to users or providers of services.

276 Subsection (3) provides that regulations made under clause 43 may make any provision that could be made by an Act of Parliament. This would enable future regulations to amend other legislation in order to achieve the desired prohibitions on advertising.

277 Under subsection (4), any offence created by regulations must be punishable with a fine.

278 A "voluntary assisted dying service" is defined in subsection (5) as:

a. any service for or in connection with the provision of assistance to a person in accordance with the Bill, or

b. any other service provided for the purposes of any sections 5 to 30.

## Notifications and information

### Clause 44 Notifications and provision of information to Commissioner

279 Subsection (1) enables the Secretary of State to make regulations requiring a registered medical practitioner to notify the Commissioner of specified information.

280 Subsection (2) enables the Secretary of State to make regulations conferring on the Commissioner the ability to mandate specified persons to provide specified information.

281 Subsections (3) and (4) provide that regulations may set out the specific information required in such notifications; how the notifications are given; and the means to enforce the regulations.

### Clause 45 Information sharing

282 Subsections (1) and (2) authorises the sharing of information between the Commissioner and certain persons.

283 Subsection (3) enables the sharing of information between the Commissioner and the Care Quality Commission, the General Medical Council, the General Pharmaceutical Council, and the Nursing and Midwifery Council for the purposes of any of their functions. The Secretary of State may also specify in regulations any other persons that the Commissioner may share information with and vice versa for the purposes of their respective functions.

284 Subsection (4) enables the sharing of information between the Commissioner and the Secretary of State for the purposes of any function of the Commissioner or any function of the Secretary of State relating to the operation of the Bill.

### Clause 46 Obligations of confidence etc

285 Subsection (1) clarifies that where there is a disclosure of information that is required or authorised under the Bill, this will not breach any obligation of confidence or other restriction on disclosure.

286 Subsection (2) clarifies that the data protection legislation still applies and must be complied with.

287 Subsection (3) notes that "the data protection legislation" under this Bill has the same definition as in the Data Protection Act 2018.

## Monitoring and review

### Clause 47 Reporting on implementation of Act

288 Subsection (1) places a duty on Secretary of State to, as soon as reasonably practicable after the end of each reporting period, prepare and publish, and lay before Parliament, a report about:

a. progress made in that period in connection with the implementation of the Bill; and

b. the Secretary of State's plans for implementing the Bill in subsequent reporting periods (including the expected timetable for implementation).

289 Subsections (2) and (3) set out the reporting periods as the first anniversary of the Bill from the day it has passed, and every six months thereafter, until the sixth and final reporting period.

### Clause 48 Disability Advisory Board on the implementation and implications of the Act for disabled people

290 Subsection (1) requires the Commissioner to appoint a Disability Advisory Board within six months of their appointment.

291 Subsection (2) sets out that the Board must include people who have a disability under the Equality Act 2010, representatives from disabled people's organisations, and other members that the Commissioner considers relevant.

292 Under subsection (3) the Board is required to report to the Secretary of State and the Commissioner on the implementation of the Act within six months of its appointment and then annually report on the Act's operation on disabled people.

293 The Secretary of State must, under subsection (4), lay the report before both Houses of Parliament within three months of its receipt.

## Clause 49 Monitoring by Commissioner

294 Under subsection (1), the Voluntary Assisted Dying Commissioner is required to:

a. monitor the operation of the Bill – including the provision of assisted dying and compliance with the provisions in the Bill, regulations and/or Codes of Practice;

b. 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;

c. submit an annual report to the Secretary of State or, in Wales, the Welsh Ministers on the operation of the Bill (see subsections 2 and 3); and

d. subsection (2) sets out the information that the annual report must give account of, including:

i. where the coordinating doctor has assessed in their first assessment, and similarly where the independent doctor has assessed in the second assessment, that they are not satisfied the person requesting assistance sufficiently meets the eligibility criteria;

ii. where the Voluntary Assisted Dying Panel has refused to grant a certificate of eligibility; and

iii. where the coordinating doctor refuses to make a statement that they are satisfied that a person's second declaration (which is only when their eligibility under their first declaration has been granted and the second period for reflection has concluded) meets the eligibility criteria.

295 Subsection (3) requires that the annual report also include information on people who have sought and/or been provided with assistance pertaining to their protected characteristics (subsection 7) and other descriptions specified in the regulations.

296 Subsection (4) requires that when preparing the annual report, the Commissioner must consult the Chief Medical Officers for England and Wales and persons who represent the interests of groups with protected characteristics – this could include the Disability Advisory Board.

297 Subsection (5) requires the Secretary of State or, in Wales, the Welsh Ministers, to publish the annual report and the Government response to the annual report, and make both the annual report and the Government responses accessible to members of both Houses of Parliament in the UK or, in Wales, the Senedd Cymru.

298 Subsection (6) confirms that the 'appropriate national authority' to which the Commissioner is required to report to is the Secretary of State or, in Wales, Welsh Ministers.

299 Subsection (7) provides that the definition of 'protected characteristics' that must be included in the Commissioner's annual report are the same as those set out in Part 2 of the Equality Act 2010.

### Clause 50 Review of this Act

300 This clause provides that the Secretary of State must review the operation of the Bill. Subsections (1) and (2) set out that 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.

301 Under subsection (3) the report must, in particular, set out:

- the extent to which the Bill 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 and end of life care needs;
- an assessment of the impact on this Act on persons with learning disabilities;
- any concerns with the operation of this Bill; and
- recommendations for changes to codes of practice, guidance or any enactment, including the Bill.

## General and final

### Clause 51 Provision about the Welsh language

302 Subsections (1), (2) and (3) together deal with providing voluntary assisted dying services in Welsh in certain cases. Where Welsh Ministers make regulations about the provision of voluntary assisted dying services in Wales, those regulations must ensure that all reasonable steps are taken to allow a person in Wales to communicate in Welsh if they wish to. In particular, all reasonable steps must be taken to secure that communications made by persons providing voluntary assisted dying services are in Welsh, and that any report about the first or second assessment is in Welsh.

303 For cases where a person in Wales seeking assistance under the Bill informs the Voluntary Assisted Dying Commissioner that they wish to communicate in Welsh, subsection (4) requires the Commissioner to take all reasonable steps to secure that communications made by the Commissioner and by the panel are in Welsh; that each member of the panel speaks Welsh; and that any certificate of eligibility issued by the panel is in Welsh.

304 Under subsection (5), regulations which specify the form of a first or second declaration, the form of a report about the first or second assessment, or the final statement must also specify the form in Welsh as well as English.

305 Subsection (6) requires the Secretary of State to consult the Welsh Ministers before making regulations under clause (51).

### Clause 52 Disqualification from being witness or proxy

306 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. A is a relative of B;

b. A knows or believes they are a beneficiary under Bill's will or may otherwise benefit from B's death;

c. A is a health professional who has provided treatment or care for the person in relation to their terminal illness;

d. A has not attained the age of 18.

## Clause 53 Power to make consequential and transitional provision etc

307 Under this section the Secretary of State may make (by regulations) supplementary, incidental, or consequential provisions, or such transitory, transitional, or saving provisions as they consider appropriate for the purposes of or in consequence of any provision made by this Act.

## Clause 54 Regulations

308 Subsection (1) provides that regulations made under any provision of the Bill may include a different provision for different purposes; and incidental, consequential, transitional or saving provision.

309 Subsection (2) requires that regulations made under this Bill are made by statutory instrument, which is a form of secondary legislation made by the Secretary of State and scrutinised by Parliament.

310 Subsection (3) sets out the parliamentary procedure which is to apply to some of the regulations made under this bill. Regulations made under clauses 8(7), 11(9), 37, 39(4), 41, 42 and 43 must be laid before, and approved by a resolution of, each House of Parliament before they become law. Those clauses relate to training for the coordinating and independent doctors; to the approved substances; codes of practice; provision of the assisted dying service in England and in Wales; and to advertising.

311 Subsection (4) provides that all other regulations will become law on the day the Secretary of State signs them and they remain law unless a motion to reject them is passed by either House within 40 sitting days.

312 Subsection (5) requires that regulations under clause 42 (Voluntary Assisted Dying Services: Wales) must be laid before, and approved, by resolution of Senedd Cymru.

313 Subsection (6) excludes clause 58, which relates to commencement, from provisions under clause 54.

## Clause 55 Duty to consult before making regulations

314 When making regulations under clauses 8 (first declaration), 10 (coordinating doctor's assessment)), 11 (independent doctor's assessment), 19 (second declaration) , 26 (authorising another doctor to provide assistance), or 28 (Final Statement), subsection (1) of clause 55 puts a duty on Secretary of State to consult the Commission for Equality and Human Rights, and other persons the Secretary of State considers appropriate.

315 Subsection (2) puts a duty on Secretary of State to consult with experts in matter relating to assessing mental capacity and identifying coercion unless it is inappropriate to do so.

## Clause 56 Interpretation

316 Subsections (1) to (3) sets out definitions for the following terms: approved substance; capacity; certificate of eligibility; the Commissioner; the coordinating doctor; first assessment;

first declaration; GP practice; health professional; the independent doctor; learning disability; preliminary discussion; relative; second assessment; second declaration.

317 Subsection (4) sets out the circumstances in which a registered medical practitioner is not to be regarded as benefiting financially or in any other way from the death of a person.

## Clause 57 Extent

318 Subsection (1) provides that the bill extends to England and Wales.

319 Subsection (2) extends some of the provisions of the Bill to England, Wales, Scotland and Northern Ireland. Those provisions are clauses 37 (regulation of approved substances and devices for self-administration), 43 (prohibition on advertising), 54 (regulations) and 56 (Interpretation).

320 Subsection (3) extends provisions under clause 31(8) and schedule 3 to England and Wales and Scotland. Those provisions relate to the no obligation to provide assistance under the Bill, and protection from detriment for doing or not doing so.

## Clause 58 Commencement

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

322 Subsection (2) provides that clause 4 (with the exception of subsection (4)) and all of schedule 1 come into force one year after the Bill is passed.

323 Subsection (3) provides that the other provisions come into force on the day (or days) specified by the Secretary of State by regulations.

324 But, if any provision has not been brought fully into force at the end of the period of 4 years beginning with the day the Bill is passed, it automatically comes fully into force at the end of that 4 year period after the Bill is passed (subsection 4).

325 Subsection (5) excludes clauses 42 and 51 (i.e. clauses conferring power on the Welsh Ministers to make provision about voluntary assisted dying services and Welsh language provision) from subsections (3) and (4). Welsh Ministers may commence those clauses at their discretion.

326 Subsection (6) provides that, in Wales, provisions of this Act not brought into force by subsection (1) may be implemented on such a day or days as the Welsh Ministers appoint through regulations (that have been laid before and approved by the Senedd Cymru).

327 Subsections (7-9) sets out that regulations made under this section are to be made by statutory instrument, that the Secretary of State may make transitional or saving provisions, and that the power to make regulations under this section includes the power to make different provision for different purposes.

## Clause 59 Short title

328 This Act may be cited as the Terminally Ill Adults (End of Life) Act 2025

## Schedule 1 — The Voluntary Assisted Dying Commissioner

**Status**

329 Schedule 1, paragraph 1 sets out that the status of the Commissioner is a corporation sole (an individual person who represents an official position which has a single separate legal entity). The Commissioner is not to be regarded as the servant or agent of the Crown (an individual or

organisation acting on behalf of the Crown, which represents the UK government and its various functions and monarch), nor to enjoy any status, immunity or privilege of the Crown.

## General Powers

330 Schedule 1, paragraph 2 establishes that the Commissioner has the power to take any actions they believe are needed to fulfil their responsibilities.

## Deputy Commissioner

331 Schedule 1, paragraph 3 specifies that the Prime Minister must appoint a Deputy Voluntary Assisted Dying Commissioner (the Deputy Commissioner), who must hold or have held office as a judge of the Supreme Court, the Court of Appeal, or the High Court in the same way as the Commissioner, and must carry out the functions of the Commissioner if the Commissioner's role is vacant, or if the Commissioner cannot or is unwilling to act. The Commissioner can delegate some of their responsibilities to the Deputy Commissioner, based on the limits and conditions the Commissioner sets, however the Commissioner still retains the right to exercise the delegated functions.

## Appointment and tenure of office

332 Schedule 1, paragraph 4 sets out that the Secretary of State sets the terms and conditions for the appointment of the Commissioner and Deputy Commissioner, and specifies that the appointment term for each role is to not exceed five years. A person cannot be appointed as the Commissioner or Deputy Commissioner if they have previously held either role twice. The Commissioner or Deputy Commissioner may resign by giving written notice to the Secretary of State.

333 The Secretary of State can provide a notice in writing to the acting Commissioner or Deputy Commissioner if they have behaved in a way that is not compatible with the conduct of their continuing office, or is unfit, unwilling or unable to carry out their functions effectively.

## Remuneration

334 Schedule 1, paragraph 5 states that the Secretary of State can pay the Commissioner or Deputy Commissioner their renumeration, allowances and pension benefits.

## Staff: appointed by Commissioner

335 Schedule 1, paragraph 6 establishes that the Commissioner can appoint their own staff, selected based on merit, through fair and open competition, and set the terms and conditions of their staff, including remuneration, allowances and pension benefits. The Commissioner is not required to provide insurance under the Employer's Liability (Compulsory Insurance) Act 1969.

## Staff: secondment to the Commissioner

336 Schedule 1, paragraph 7 enables the Commissioner to make arrangements to use staff on secondment.

## Staff: general

337 Schedule 1, paragraph 8 outlines that, before appointing staff under sections 6 and 7, the Commissioner must have approval from the Secretary of State on the number of staff, and their pay and staff terms and conditions. The Commissioner's functions may be delegated to the Commissioner's staff, except for the appointment of Panel members and making decisions on applications for reconsideration of Panel decisions on requests for assisted deaths.

**Financial and other assistance from the Secretary of State**

338 Schedule 1, paragraph 9 states that the Secretary of State can provide financial support to the Commissioner that they deem appropriate, and provide the office space, equipment or other forms of support to the Commissioner, based on agreement.

**Accounts**

339 Schedule 1, paragraph 10 sets out that the Commissioner must keep accurate financial records and prepare a statement of accounts each financial year. The Commissioner must send a copy of each statement of accounts to both the Secretary of State and the Comptroller and Audit General by the end of August, following the end of the financial year, or by an earlier date if the Treasury directs. [The first financial year starts when the Commissioner is established and runs until the second 31st March after that date. After that, each financial year is a regular 12-month period ending on the 31st March]. The Comptroller and Auditor General must then examine, certify and report on the statements of accounts and send the final copy of the certified statement and the report to the Secretary of State. Finally, the Secretary of State must present these certified accounts and report from the Comptroller and Auditor General to Parliament.

**Application of seal and proof of documents**

340 Schedule 1, paragraph 11 states that the Commissioner's official seal must be confirmed either by the Commissioner's own signature or the signature of an individual that the Commissioner has authorised to seal documents on the Commissioner's behalf. A document that has been sealed or signed on the Commissioner's behalf will be accepted as genuine evidence in legal settings unless proven that it should be treated otherwise.

**Public Records Act 1958, House of Commons Disqualification Act 1975, Freedom of Information Act 2000 and Equality Act 2010**

341 Schedule 1, paragraphs 12-15 provide that:

a) in part 2 of the table in paragraph 3 for the First Schedule to the Public Records Act 1958 (bodies whose records are public records), 'The Voluntary Assisted Dying Commissioner' should be added in the appropriate place; and

b) in Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying individuals from being members of the House of Commons), 'the Voluntary Assisted Dying Commissioner or the Deputy Voluntary Assisted Dying Commissioner' should be added in the appropriate place.

342 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities for the purposes of the Act), "The Voluntary Assisted Dying Commissioner." should be added in the appropriate place.

343 In Part 1 of Schedule 19 to the Equality Act 2010 (public authorities subject to public sector equality duty), at the end of the group of entries for bodies whose functions relate to health, social care and social security, "The Voluntary Assisted Dying Commissioner." should be inserted.

## Schedule 2 — Assisted Dying Review Panels

**Introduction**

344 Schedule 2, paragraph 1 confirms that the meaning of 'referral' is either in relation to the referral by the Commissioner of cases (applications for assistance which have been approved

by two doctors) to the multidisciplinary Assisted Dying Panel (under section 14), and/or a referral by the Commissioner cases (applications that have been approved by the Commissioner) to the Panel for reconsideration when the Panel in the first instance reject eligibility (under section 16). Further, that the meaning of 'Panel' is the Assisted Dying Review Panel.

## List of persons eligible to be panel members

345 Schedule 2, paragraph 2 outlines that the Commissioner must only appoint members of the Panel who meet the eligibility criteria.

346 The 'legal panel member', who would always act as the Panel chair, must:

- hold or have held a position in high judicial office (a judge or Deputy High Court, a Court of Appeal judge and/or a Supreme Court judge);
- is a member of His Majesty's Counsel/a King's Counsel lawyer (a senior lawyer appointed by the monarch); or
- have, at any time, been requested to act as a judge of the Court of Appeal or the High Court.

347 The psychiatrist member of the Panel must be:

- a registered medical practitioner (registered with the General Medical Council),
- a practising psychiatrist (medical doctor specialising in the diagnosis, treatment and prevention of mental and emotional disorders),
- registered in one of the psychiatry specialisms in the 30 Specialist Register kept by the General Medical Council.

348 The social worker member must be:

- registered as a social worker in a register maintained by Social Work England or Social Work Wales.

## Tenure of persons appointed to list

349 Schedule 2 paragraph 3 states that panel members will be appointed based on the terms and condition set upon being appointed, that each position will be held for up to five years, and that any member of the Panel who has previously been appointed can be reappointed for one more term not exceeding five years.

## Membership of panels

350 Schedule 2, paragraph 4 sets out, as above, that the Commissioner is responsible for appointing a multidisciplinary panel consisting of a legal member, a psychiatrist member and a social worker member, and ensure that they are trained in domestic abuse, including coercive control and financial abuse.

## Decisions of Panels

351 Schedule 2, paragraph 5 that panel decisions on the eligibility of a person seeking assistance must be based on a majority vote, however if one of the Panel members votes against granting a certificate of eligibility than the application must be refused.

**Panel sittings**

352 Schedule 2, paragraph 6 outlines that Panel proceedings will be public as the default, but that if an applicant requests, the Panel Chair decide to hold the meeting in private.

**Staff and facilities**

353 Schedule 2, paragraph 7 states that the Commissioner can provide the Panels with staff and other appropriate facilities.

**Practice and procedure**

354 Schedule 2, paragraph 8 sets out that the Commissioner can provide panels with guidance on the practice and procedure of panels (such as how the Panels should operate and make decisions) and that the Panels will be required to have regard to this guidance when carrying out their duties.

**Reasons**

355 Schedule 2, paragraph 9 establishes that the Panels must provide their decisions, and the rationale for what they have determined, in writing.

**Money**

356 Schedule 2, paragraph 10 states that the Commissioner can pay the Panel members and cover their allowances and pensionable benefits.

**House of Commons Disqualification Act 1975**

357 Schedule 2, paragraph 11 suggests that in Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (offices disqualifying persons from membership of House of Commons), "Person on the list of those eligible for membership of an Assisted Dying Review Panel." should be inserted.

## Schedule 3 — Protection from detriment

358 Paragraphs 1 and 2 of Schedule 3 amend the Employment Rights Act (ERA) 1996 by inserting new section 43N into the ERA which gives right to workers not to be subjected to a detriment by their employer for participating in the provision of assistance to a person to end their own life, or performing any other function under the Bill, or for exercising (or proposing to exercise) their right to refuse to do so. There is no right to bring a claim where the worker is an employee and the detriment in question is their dismissal.

359 This is because there is a separate right to bring a claim for unfair dismissal. The extended definitions of the terms 'worker' and 'employer' in section 43K of the ERA are adopted for the purposes of new section 43N and in relation to sections 48 and 49 of the ERA (in so far as they relate to section 43N).

360 Schedule 3, paragraph 3 amends section 48 of the ERA to give a worker the right to bring a claim that they have been subjected to a detriment contrary to new section 43N(1) before an employment tribunal.

361 Schedule 3, paragraph 4 amends section 49 of the ERA to enable the employment tribunal to award the remedies within section 49(1) i.e. to make a declaration that the claim is well founded and to award for compensation in a successful detriment claim. New subsection (5YA) is also inserted into section 49 of the ERA, to provide that where the detriment complained of is the termination of a the worker's contract, and that contract is not a contract of employment, then any compensation awarded must not exceed the amount which would

be payable in a dismissal claim brought by an employee who had been dismissed for a reason specified in new section 98C of the ERA.

362 Schedule 3, paragraph 5 amends the ERA to insert new section 98C which provides that dismissing an employee for participating in the provision of assistance to a person to end their own life, or performing any other function under the Bill or for exercising their right to refuse to do so will be regarded as unfairly dismissed.

363 Schedule 3, paragraph 6 amends section 105 of the ERA to provide that selecting an employee for redundancy on the basis that they participated in the provision of assistance to a person to end their own life or for performing any other function under the Bill, or for exercising their right to refuse to do so (will render their dismissal automatically unfair.

364 Schedule 3, paragraph 7 amends section 108 of the ERA to provide that an employee does not need to have undertaken a qualifying period of employment before they can bring an unfair dismissal claim.

365 Schedule 3, paragraph 8 amends section 205 of the ERA to insert new subsection (1XA) which provides that, in relation to the right conferred by new section 43N(1) of the ERA. the reference in subsection 1 of section 205 to an 'employee' has effect as a reference to a 'worker'. Schedule 3, at paragraph 9 amends section 230 of the ERA to insert references to new section 43N(3) and 43N into subsection 6 of section 230. This is done in consequence of the adoption of the extended definition of 'worker' and 'employer' (in section 43K of the ERA) in new section 43(N).

# TERMINALLY ILL ADULTS (END OF LIFE) BILL

## EXPLANATORY NOTES

These Explanatory Notes relate to the Terminally Ill Adults (End of Life) Bill as brought from the House of Commons on 23 June 2025 (HL Bill 112).

---

Ordered by the House of Lords to be printed, 23 June 2025

---



PUBLISHED BY AUTHORITY OF THE HOUSE OF LORDS