

Terminally Ill Adults (End of Life) Bill

AMENDMENTS

TO BE MOVED

IN COMMITTEE OF THE WHOLE HOUSE

[Supplementary to the Second Marshalled List]

After Clause 9

LORD HARPER

After Clause 9, insert the following new Clause—

“Ordinary residency requirement

- (1) Before a person can make a first declaration, the relevant organisation providing the assisted dying service must be satisfied that the person is ordinarily resident in England and Wales and has been so resident for at least 12 months.
- (2) An assessment under subsection (1) must confirm various details of the person, including their immigration status, residence status and verification of documentation.
- (3) For the purposes of this Act, a person cannot be considered ordinarily resident in England or Wales if they—
 - (a) require leave to enter or remain in the United Kingdom but do not have it, or
 - (b) have leave to enter or remain in the United Kingdom for a limited period (unless that leave was granted by virtue of residence scheme immigration rules).”

Member's explanatory statement

This amendment recognises that assessing whether a person satisfies the residency requirements is an administrative and not clinical function and therefore seeks to shift responsibility from the medical professional to the providing body. It responds to written evidence from the Medical Defence Union. The amendment also more closely aligns the definition of “ordinary residency” with that used for NHS overseas charging purposes under section 39 of the Immigration Act 2014.

Clause 10

LORD HARPER

Clause 10, page 6, line 25, leave out paragraph (e)

Member's explanatory statement

This amendment is connected to another in the name of Lord Harper related to residency requirements.

LORD HARPER

Clause 10, page 7, line 22, after “illness” insert “or for the reasons in section 10(8)”

Member's explanatory statement

This amendment, connected to another in the name of Lord Harper, seek to probe the reasons why a doctor may be unable or unwilling to continue.

LORD HARPER

Clause 10, page 7, line 29, at end insert —

- “(8) A practitioner who is still living may be unable or unwilling to continue for reasons including, but not limited to —
- (a) a conscientious, moral, ethical, or religious objection;
 - (b) a lack of professional competence, experience, or training necessary to perform the required function;
 - (c) a conflict of interest, or a perceived conflict of interest, affecting the practitioner’s ability to continue;
 - (d) a change in professional circumstances affecting their capacity, including workload, availability, or scope of practice;
 - (e) personal circumstances, including pregnancy, caring responsibilities, or serious illness within the family;
 - (f) concerns relating to the practitioner’s own physical or mental health or wellbeing;
 - (g) institutional or employment restrictions limiting their ability to participate;
 - (h) a reasonable belief that further involvement may compromise the practitioner’s clinical independence or professional judgement;
 - (i) observations, during the course of the practitioner’s involvement, that give rise to concerns about the patient’s eligibility, voluntariness, or safety, including but not limited to —
 - (i) indicators of impaired decision-making capacity;
 - (ii) signs of coercion, undue influence, or external pressure;
 - (iii) evidence of mental disorder that may be affecting the patient’s ability to make a voluntary and informed decision;
 - (iv) inconsistencies in the patient’s account or expressed wishes that require further assessment;

- (v) concerns about the adequacy of information the patient has received or understood;
 - (vi) any circumstance suggesting that the request may not be free, voluntary, or enduring.
- (9) Where the reason for withdrawal includes any matter listed in subsection (8) the practitioner must record that reason in the patient’s medical record and notify the coordinating practitioner and the Voluntary Assisted Dying Commissioner, so that any concerns raised may be considered and addressed.”

Member's explanatory statement

This amendment, connected to another in the name of Lord Harper, seek to probe the reasons why a doctor may be unable or unwilling to continue.

Clause 11

LORD HARPER

Clause 11, page 8, line 17, at end insert –

- “(5A) If the independent doctor is satisfied as to all of the matters mentioned in subsection (2), the person’s GP practice must give, as soon as practicable, a written record of the preliminary discussion to the Commissioner.”

Member's explanatory statement

This amendment and the other in Lord Harper’s name to Clause 16, page 13, line 22, ensures that any significant information in the preliminary discussion is made directly available to the Commissioner and to the panel.

Clause 13

LORD HARPER

Clause 13, page 11, line 33, after “illness” insert “or for the reasons listed in section 13(7)”

Member's explanatory statement

This amendment, connected to another in the name of Lord Harper, seek to probe the reasons why a doctor may be unable or unwilling to continue.

LORD HARPER

Clause 13, page 11, line 36, at end insert –

- “(7) A practitioner may be unable or unwilling to continue for reasons including, but not limited to –
- (a) a conscientious, moral, ethical, or religious objection;
 - (b) a lack of professional competence, experience, or training necessary to perform the required function;

- (c) a conflict of interest, or a perceived conflict of interest, affecting the practitioner's ability to continue;
 - (d) a change in professional circumstances affecting their capacity, including workload, availability, or scope of practice;
 - (e) personal circumstances, including pregnancy, caring responsibilities, or serious illness within the family;
 - (f) concerns relating to the practitioner's own physical or mental health or wellbeing;
 - (g) institutional or employment restrictions limiting their ability to participate;
 - (h) a reasonable belief that further involvement may compromise the practitioner's clinical independence or professional judgement;
 - (i) observations, during the course of the practitioner's involvement, that give rise to concerns about the patient's eligibility, voluntariness, or safety, including but not limited to –
 - (i) indicators of impaired decision-making capacity;
 - (ii) signs of coercion, undue influence, or external pressure;
 - (iii) evidence of mental disorder that may be affecting the patient's ability to make a voluntary and informed decision;
 - (iv) inconsistencies in the patient's account or expressed wishes that require further assessment;
 - (v) concerns about the adequacy of information the patient has received or understood;
 - (vi) any circumstance suggesting that the request may not be free, voluntary, or enduring.
- (8) Where the reason for withdrawal includes any matter listed in subsection (7) the practitioner must record that reason in the patient's medical record and notify the coordinating practitioner and the Voluntary Assisted Dying Commissioner, so that any concerns raised may be considered and addressed."

Member's explanatory statement

This amendment, connected to another in the name of Lord Harper, seeks to probe the intent of Clause 13 by (1) specifying the reasons that a doctor may be unable or unwilling to continue, and (2) requiring these reasons to be recorded.

Clause 16

LORD HARPER

Clause 16, page 13, line 22, at end insert –

“(aa) a copy of the record of the preliminary discussion,”

Member's explanatory statement

This amendment and the other in Lord Harper's name to Clause 11, page 8, line 17, ensures that any significant information in the preliminary discussion is made directly available to the Commissioner and to the panel.

Clause 17

LORD HARPER

Clause 17, page 14, line 34, leave out first “may” and insert “must”

Member's explanatory statement

This amendment requires the panel to hear from the person's proxy, where applicable.

Clause 18

BARONESS FINLAY OF LLANDAFF

Clause 18, page 15, line 24 at end insert “or has granted a certificate of eligibility, but another person has additional information relevant to that decision”

LORD HARPER

Clause 18, page 15, line 25, after “apply” insert “within 10 calendar days of the first panel's notification of the refusal of the grant of a certificate”

Member's explanatory statement

This amendment, connected with another in the name of Lord Harper, seeks to place a time limit on applications, as is the case for tribunal and administrative appeals.

BARONESS FINLAY OF LLANDAFF

Clause 18, page 15, line 25, leave out “their” and insert “the”

BARONESS FINLAY OF LLANDAFF

Clause 18, page 15, line 30, leave out “without a hearing”

LORD HARPER

Clause 18, page 15, line 33, after “applies” insert “and the application was made within the period specified in subsection (2)”

Member's explanatory statement

This amendment, connected with another in the name of Lord Harper, seeks to place a time limit on applications, as is the case for tribunal and administrative appeals.

BARONESS FINLAY OF LLANDAFF

Clause 18, page 15, line 36, leave out paragraph (b)

Clause 19

LORD HARPER

Clause 19, page 16, line 6, at end insert –

- “(c) not more than five months has passed since the issuing of the certificate of eligibility,”

Member's explanatory statement

This amendment seeks to probe whether it is appropriate for there to be no maximum time between the issuing of a certificate of eligibility and the provision of assistance, particularly given (1) the co-ordinating doctor is not required to confirm that the patient is still terminally ill with six months to live at the time when the approved substance is administered, and (2) prognoses are not always accurate.

Clause 25

LORD HARPER

Clause 25, page 21, line 33, at end insert –

- “(7A) No device, prepared by the coordinating doctor and of the type referred to in subsection (7), may be used in the provision of assistance except where it is in compliance with any applicable regulations of the Secretary of State regarding such devices (see section 37) and has been approved by the Commissioner in a reasoned, published decision.
- (7B) Where a coordinating doctor has prepared a novel device not previously approved by the Commissioner, the coordinating doctor cannot use the device except if –
- (a) the coordinating doctor has sent to the Commissioner a report containing photographs and a detailed description of the operation and function of the device, and an explanation of why the coordinating doctor feels the device is safe and humane, and
 - (b) the Commissioner, after considering the report, any relevant factors, and consulting with the Medicines and Healthcare products Regulatory Agency, is satisfied on the balance of probabilities that the device is –
 - (i) safe for humane medical use in administering the approved substance, and
 - (ii) complies with all applicable regulations of the Secretary of State.”

Member's explanatory statement

This amendment seeks to provide a process for the approval of devices, in order to supplement and strength the optional power to make regulations relating to them in Clause 37. It seeks to provide a safeguard against doctors developing devices with no regulatory oversight or prior approval, in contrast to approved substances, despite any potential to create harm or suffering.

After Clause 27

LORD HARPER

After Clause 27, insert the following new Clause—

“Approved substance: compensation

The Secretary of State must, prior to the specification of one or more approved substances under section 27, create, advertise, and administer an indefinite scheme for fairly compensating individuals (or their survivors) who—

- (a) were administered an approved substance under this Act which failed to be effective, or
- (b) experienced suffering causing pain, degradation, or psychological injury as the result of the administration of an approved substance under this Act.”

Member's explanatory statement

This amendment seeks to ensure that anyone hurt by an approved substance (or the survivor thereof) can be adequately compensated, in the light of the experimental nature of drug regimes used to end patients' lives.

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