

Botulinum Toxin and Cosmetic Fillers (Children) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department of Health and Social Care with the consent of Baroness Wyld, the member in charge of the Bill, have been ordered to be published as HL Bill 180 – EN.

Botulinum Toxin and Cosmetic Fillers (Children) Bill

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TO

Make provision about the administration to persons under the age of 18 of botulinum toxin and of other substances for cosmetic purposes; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Offence of administering certain substances to a child

- (1) It is an offence for a person to administer, in England, to another person (“A”)—
- (a) botulinum toxin, or
 - (b) a subcutaneous, submucous or intradermal injection of a filler for a cosmetic purpose, 5
- where A is under the age of 18.
- (2) A “filler” is any substance used for dermal or mucous membrane filling (whether or not designed to be so used).
- (3) For the purposes of subsection (1)(b), an injection of a filler is, in particular, to be taken to be for a cosmetic purpose if— 10
- (a) the filler is generally used for such a purpose, or
 - (b) the likely effect of the injection is to alter the appearance of the person injected.
- (4) It is a defence for a person charged with an offence under subsection (1) to show that at the time of the alleged offence— 15
- (a) the defendant was a registered medical practitioner,
 - (b) the defendant was a regulated health professional who, in administering the botulinum toxin or the filler (as the case may be), was acting in accordance with the directions of a registered medical practitioner, or 20
 - (c) the defendant—
 - (i) had taken reasonable steps to establish A’s age, and
 - (ii) reasonably believed that A was aged 18 or over.

- (5) A person is taken to have shown a matter mentioned in subsection (4) if –
- (a) sufficient evidence of the matter is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (6) A person who commits an offence under subsection (1) is liable on summary conviction to a fine. 5
- (7) In this section “regulated health professional” means –
- (a) a registered nurse;
 - (b) a registered dentist within the meaning of the Dentists Act 1984 (see section 53 of that Act); 10
 - (c) a registered pharmacist within the meaning of the Pharmacy Order 2010 (S.I. 2010/231) (see article 3 of that Order);
 - (d) a registered person within the meaning of the Pharmacy (Northern Ireland) Order 1976 (S.I. 1976/1213 (N.I. 22)) (see Article 2 of that Order). 15

2 Offence by persons carrying on a business

- (1) A person (a “business owner”) commits an offence if in the course of the business owner’s business –
- (a) a person other than an approved person administers, in England, to another person (“A”) – 20
 - (i) botulinum toxin, or
 - (ii) a subcutaneous, submucous or intradermal injection of a filler for a cosmetic purpose,
 where A is under the age of 18;
 - (b) arrangements are made, in England, by or on behalf of the business owner, for a person other than an approved person to administer, in England, to another person (“A”) – 25
 - (i) botulinum toxin, or
 - (ii) a subcutaneous, submucous or intradermal injection of a filler for a cosmetic purpose, 30
 where A is under the age of 18.
- (2) For the purposes of subsection (1), an injection of a filler is, in particular, to be taken to be for a cosmetic purpose if –
- (a) the filler injected, or arranged to be injected, is generally used for such a purpose, or 35
 - (b) the likely effect of the injection is, or would be, to alter the appearance of the person injected.
- (3) A person who commits an offence under subsection (1) is liable on summary conviction to a fine.
- (4) It is a defence for a business owner charged with an offence under subsection (1) to prove that the business owner took all reasonable precautions and exercised all due diligence to avoid committing it. 40
- (5) In this section –
- “approved person” means –
- (a) a registered medical practitioner; 45

- (b) a regulated health professional who, in administering the botulinum toxin or the filler (as the case may be), is or would be acting in accordance with the directions of a registered medical practitioner;

“filler” has the same meaning as in section 1;

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“regulated health professional” has the same meaning as in section 1.

3 Offences by bodies corporate

- (1) This section applies where an offence under section 2 is committed by a body corporate.
- (2) If the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- (a) any director, manager or secretary of the body corporate, or
- (b) any person who was purporting to act in any such capacity,
- that director, manager, secretary or person purporting to act as such (as well as the body corporate) commits the offence and is liable to be proceeded against and punished accordingly. 15
- (3) The reference in subsection (2) to the director, manager or secretary of the body corporate includes a reference to any other similar officer of the body corporate.

4 Enforcement

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- (1) A local weights and measures authority may enforce in its area the provisions of section 2.
- (2) For the investigatory powers available to local weights and measures authorities for the purpose of enforcing that provision, see Schedule 5 to the Consumer Rights Act 2015. 25
- (3) In paragraph 10 of Schedule 5 to the Consumer Rights Act 2015 (duties and powers to which Schedule 5 applies), at the appropriate place insert “section 4 of the Botulinum Toxin and Cosmetic Fillers (Children) Act 2021.”

5 Power to make consequential provision

- (1) The Secretary of State may by regulations made by statutory instrument make provision that is consequential on this Act. 30
- (2) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

6 Extent, commencement and short title

- (1) Subject to subsection (2), this Act extends to England and Wales only. 35
- (2) Sections 4(3) and 5 extend to England and Wales, Scotland and Northern Ireland.
- (3) Sections 1 to 4 come into force on such day or days as the Secretary of State may by regulations made by statutory instrument appoint.
- (4) Section 5 and this section come into force on the day on which this Act is passed. 40

- (5) This Act may be cited as the Botulinum Toxin and Cosmetic Fillers (Children) Act 2021.

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