

PATIENT RIGHTS (SCOTLAND) ACT 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 20: Protections and limitations

62. Subsection (1) provides that the Act does not prejudice the exercise of clinical judgement; the effective and efficient use of the health service organisation or resources or any relevant legislation or rule of law.
63. Subsection (2) provides that nothing in the Act affects any other relevant legislation or rule of law. This is, however, subject to the provisions of sub-section (3), which excludes the right to pursue specified legal remedies to enforce the rights in the Act.
64. Subsection (3)(a) provides that the rights set out in the Act are not of a nature that will impose any liability on any person to pay damages. This means that a patient could not claim damages from a Health Board for an alleged failure to deliver health care in the manner set out in the Act.
65. Subsection 3(b), (c), (d) and (e) provide that no person could enforce the rights set out in the Act by an action for specific implement, specific performance of a statutory duty, interdict or suspension.
66. The interaction of the provisions in subsections (2) and (3) do not alter or affect a person's rights to take action to enforce rights which they have on grounds other than those conferred by this Act, for example a right to claim damages in the case of medical negligence.
67. Subsections (4) and (5) clarify that patients have other rights when receiving health care (beyond those rights set out in the Act) and that the Act does not affect those other rights.
68. Subsection (6) specifies that references to this Act, in section 20, also include references to any orders, regulations or directions made under this Act.