

Patient Safety Commissioner for Scotland Bill

Marshalled List of Amendments for Stage 3

The Bill will be considered in the following order—

Sections 1 to 25
Long Title

Schedules 1 and 2

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 2

Jackie Baillie

9 In section 2, page 1, line 12, at end insert—

<() to advocate for those affected by a major incident in relation to the safety of health care.>

Jackie Baillie

10 In section 2, page 2, line 3, at end insert—

<() Subsection (3) does not apply to a major incident.>

Section 3

Tess White

11 In section 3, page 2, line 11, at end insert—

<() The statement of principles must include the principle that the Commissioner will consider ways of engaging with staff working in the National Health Service Scotland to obtain their views on patient safety concerns.>

After section 7

Jackie Baillie

3 After section 7, insert—

<Charter

Patient Safety Charter

(1) The Commissioner must—

5 (a) have a charter, and

(b) make the latest version of the charter publicly available.

- (2) The charter is to set out what the Commissioner expects of health care providers in terms of standards and good practice.
- (3) The charter may, in particular, make provision in relation to the way that health care providers engage with patients and their families.
- (4) The Commissioner must take the expectations set out in the charter into account when considering a health care provider's handling of an incident.>

10

Jackie Baillie

3A As an amendment to amendment 3, line 12, at end insert—

<() The Commissioner may prepare and publish a report on the compliance of a health care provider with the charter insofar as such compliance impacts on the safety of health care.>

Section 7A

Tess White

12 In section 7A, page 3, line 11, at end insert—

<() the committee of the Scottish Parliament within whose remit patient safety falls,>

Paul Sweeney

13 In section 7A, page 3, line 16, at end insert—

<() In considering who it would be appropriate to consult for the purposes of subsection (1), the Commissioner is to give particular consideration to groups whose needs are, in the Commissioner's opinion, under-represented or given insufficient weight in discourses around health care.>

Jackie Baillie

4 In section 7A, page 3, line 19, at end insert—

<() a charter (see section (*Patient Safety Charter*)).>

After section 11

Paul Sweeney

14 After section 11, insert—

<Special report

- (1) This section applies where recommendations have been made in a report under section 10.
- (2) If, following the making of the report, it appears to the Commissioner that any of the recommendations have not been, or will not be, implemented, the Commissioner may make a special report on the issue.

- (3) The Commissioner must—
 - (a) send a special report made under subsection (2) to the persons to whom the report was sent under section 10(3), and
 - (b) lay a copy of the report before the Scottish Parliament.
- (4) The Commissioner may, in whatever manner the Commissioner considers appropriate, make publicly available (in full or in part) a special report made under subsection (2).>

Section 12

Paul Sweeney

15 In section 12, page 5, line 34, at end insert—

- <(3B) The Scottish Ministers may by regulations amend subsection (3A) to add or modify a person to whom that subsection applies.
- (3C) Regulations under subsection (3B) may in particular be made following consideration by the Scottish Ministers of how to enable the Commissioner to require information from providers of medicine or medical devices.
- (3D) Regulations under subsection (3B) are subject to the affirmative procedure.>

Section 12A

Jenni Minto

5 Leave out section 12A

Section 15

Carol Mochan

6 In section 15, page 7, line 25, at end insert—

- <() professional regulators,
() the Health and Safety Executive,>

After section 15

Carol Mochan

7 After section 15, insert—

<Duty to co-operate

Duty to co-operate in exercise of functions

- (1) Each person named in section 15(2)(d) must co-operate with the Commissioner in the exercise of their respective functions.
- (2) The Commissioner must co-operate with each person named in section 15(2)(d) in the exercise of their respective functions.>

Carol Mochan

16 After section 15, insert—

<Duty to co-operate

Duty to co-operate in exercise of functions

- (1) The following persons must co-operate with the Commissioner in the exercise of their respective functions—
 - (a) Healthcare Improvement Scotland,
 - (b) the Scottish Public Services Ombudsman.
- (2) The Commissioner must co-operate with each person named in section 15(2)(d) in the exercise of their respective functions.>

Jackie Baillie

17 After section 15, insert—

<Major incidents

Major incidents

- (1) On becoming aware of a major incident, the Commissioner must determine whether, in their opinion, it would be in the public interest for the Commissioner to respond to the major incident.
- (2) If the Commissioner determines under subsection (1) that it is in the public interest to respond, the Commissioner must take such steps as the Commissioner considers appropriate to—
 - (a) ensure that, so far as reasonable and practicable, patients affected by the major incident and family members of patients who died as a result of the major incident, are aware of the Commissioner’s role in relation to major incidents,
 - (b) provide relevant information including—
 - (i) sources of support for affected patients and bereaved families,
 - (ii) information on accessing legal advice and representation,
 - (iii) details of any investigations or inquiries relating to the major incident,
 - (iv) information for whistleblowers on how to disclose information relating to the major incident.
- (3) Within one year of becoming aware of a major incident, the Commissioner must consider whether to initiate a formal investigation under section 8.
- (4) Any formal investigation in relation to a major incident must include consideration of whether public bodies complied with their duties under the charter produced under section (*Patient Safety Charter*).>

Jackie Baillie

18 After section 15, insert—

<Information sharing: major incidents

Reports following major incidents

- (1) Where the Commissioner has completed a formal investigation under section 8 into a major incident, the Commissioner must provide a copy of the report prepared under section 10 to—
 - (a) the chief constable of the Police Service of Scotland,
 - (b) the Crown Office and Procurator Fiscal Service.
- (2) For the avoidance of doubt, information contained in such a report may be used for the purposes of legal proceedings, whether civil or criminal, including for the purposes of investigating an offence or suspected offence.>

Section 21

Paul Sweeney

- 19** In section 21, page 9, line 21, after *<illness,>* insert *<including, for the avoidance of doubt, such services when provided in a social care setting,>*

Jackie Baillie

- 20** In section 21, page 9, line 22, at end insert—
<“major incident” means a specific incident, either unexpected or avoidable, in connection with health care safety that resulted in the death, injury or serious harm of multiple patients.>

After section 21

Jackie Baillie

- 21** After section 21, insert—
- <Interpretation: family member**
- (1) For the purposes of sections (*Major incidents*) and (*Patient Safety Charter*), a person is a member of a patient’s family if at the time of the major incident the person was—
 - (a) married to, or in a civil partnership with the patient,
 - (b) living with the patient as though they were married,
 - (c) a sibling of the patient,
 - (d) a parent or step-parent of the patient,
 - (e) a grandparent of the patient,
 - (f) a child or step-child of the patient,
 - (g) a grand-child of the patient,
 - (h) a cousin of the patient.
 - (2) For the purposes of this section—
 - (a) a relationship of the half blood is to be regarded as a relationship of the whole blood,

- (b) a person (“A”) is to be regarded as the child of another person (“B”), if A is being or has been treated by B as B’s child.>

Schedule 1

Emma Harper

1 In schedule 1, page 11, line 31, at end insert—

<(1A) The Scottish Parliament must make arrangements for inquiring into whether a person whom the Parliament is considering nominating for appointment to the office of Commissioner is, or has been within the year preceding the date on which the appointment is to take effect, an individual of a kind mentioned in sub-paragraph (1B).

(1B) The kind of individual referred to in sub-paragraph (1A) is an individual with a financial interest in (including by reason of being remunerated by)—

- (a) a health care provider,
- (b) a body constituted by virtue of the National Health Service (Scotland) Act 1978,
- (c) a supplier or manufacturer of medicines or medical devices.>

Emma Harper

2 In schedule 1, page 12, leave out line 9

Tess White

22 In schedule 1, page 16, line 14, at end insert—

<*Resource sharing*

(1) The Commissioner must consider whether it would be economical, efficient, and effective for the Commissioner’s resources (including, for the avoidance of doubt, staff) to be shared with other Commissioners who are appointed by His Majesty on the nomination of the Scottish Parliament.

(2) If the Commissioner considers under sub-paragraph (1) that such resource sharing would be economical, efficient, and effective, the Commissioner must take such steps as the Commissioner considers necessary to implement resource sharing.>

Tess White

23 In schedule 1, page 17, line 19, at end insert—

<() As soon as practicable after the annual report is laid before the Scottish Parliament, the committee of the Scottish Parliament into whose remit patient safety falls must consider the annual report.>

Schedule 2

Jenni Minto

8 In schedule 2, page 18, line 17, at end insert—

<Health and Care (Staffing) (Scotland) Act 2019

- (1) The Health and Care (Staffing) (Scotland) Act 2019 is modified as follows.
- (2) In section 2(3), after “Ministers” insert “and the Patient Safety Commissioner for Scotland”.>

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