Patient Rights (Scotland) Bill

Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 4       Schedule
Sections 5 to 22      Long Title

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

Before section 1

Dr Richard Simpson

19 Before section 1, insert—

<Patient Rights Charter>

Patient Rights Charter

(1) The Scottish Ministers must make an order containing a charter of rights and responsibilities to be conferred upon patients, to be known as the Patient Rights Charter, (“the Charter”).

(2) The Charter, as contained within an order under subsection (1), must, subject to subsection (3), include all existing statutory rights and responsibilities conferred upon patients and may also confer new rights and responsibilities upon patients.

(3) The Charter must not include rights and responsibilities in relation to specific treatments or medicines and subsection (1) does not enable the Scottish Ministers to confer such rights and responsibilities upon patients.

(4) The rights and responsibilities contained within the Charter are to apply to all patients of relevant NHS bodies, but may also include rights and responsibilities to apply to specific groups of patients only.

(5) The Scottish Ministers must—

(a) from time to time review the Charter, and

(b) when they consider it appropriate to do so, make an order containing revisions to the Charter or a revised Charter.

(6) Before making an order under subsection (1) or subsection (5)(b), the Scottish Ministers must consult such persons as they consider appropriate.

Section 1

Dr Richard Simpson

20 In section 1, page 1, line 16, at end insert <, taking all reasonable steps to ensure that the patient is supplied with information and support in a form that is appropriate to the patient’s needs.>

SP Bill 42-ML
1
Session 3 (2010)
Dr Richard Simpson
21 In section 1, page 1, line 16, at end insert—

<have regard to and respect for the rights and responsibilities conferred on patients by the Charter to be made by the Scottish Ministers under section (Patient rights charter)(1).>

Dr Richard Simpson
22 In section 1, page 1, line 17, leave out from <make> to <feedback> in line 18 and insert <give feedback or comments, or raises concerns or complaints>

Section 3

Mary Scanlon
23 In section 3, page 2, line 5, leave out <have regard to> and insert <uphold>

Dr Richard Simpson
24 In section 3, page 2, line 5, after <principles> insert <and the charter>

Mary Scanlon
25 In section 3, page 2, line 8, leave out <has regard to> and insert <upholds>

Dr Richard Simpson
26 In section 3, page 2, line 8, after <principles> insert <and the charter>

Mary Scanlon
27 In section 3, page 2, line 19, leave out <have regard to> and insert <uphold>

Schedule

Dr Richard Simpson
28 In the schedule, page 10, line 15, at end insert—

<Health care is provided in such a way as to avoid unnecessary harm or injury to the patient. Patients are cared for in an appropriate, clean and safe environment at all times.>

Dr Richard Simpson
29 In the schedule, page 10, line 18, after <wellbeing> insert <, including sharing accurate information and agreeing actions required from joint decisions>

Dr Richard Simpson
30 In the schedule, page 10, line 20, after <participate> insert <and take action>
In the schedule, page 10, line 22, leave out <encouraged> and insert <expected>.

In the schedule, page 10, line 23, after <respect> insert <and to engage with the health bodies in a responsible manner>.

In the schedule, page 10, line 31, at end insert—

<Systems are in place for patients to provide feedback, make a comment, raise a concern or make a complaint about their experience of health care in order to improve quality. Patients are provided with feedback in response to any comment, concern or complaint they make.>

Section 5

In section 5, page 2, line 21, after <principles> insert <and the charter>.

In section 5, page 2, line 22, after <principles> insert <and the charter>.

In section 5, page 2, line 25, after <principles> insert <and the charter>.

Section 6

In section 6, page 2, line 36, at end insert—

<(  ) appropriately prioritising the start of the patient’s agreed treatment taking account of the patient’s clinical needs and the clinical needs of other eligible patients awaiting agreed treatments in accordance with the treatment time guarantee,>

Leave out section 6 and insert—

<Patient guarantee

(1) In pursuance of the right conferred by section 1(1), a patient is to—

(a) be offered a first appointment of the kind requested by the patient’s general practitioner in accordance with subsection (2),>
(b) be offered such appointments as are necessary for the carrying out of diagnostic tests in accordance with subsection (2), and
(c) start to receive treatment within the maximum waiting time specified for the purposes of this paragraph.

(2) An appointment is offered in accordance with this subsection if the date of the appointment falls within the maximum waiting time specified for the purposes of subsection (1)(a) or, as the case may be, (b).

(3) A maximum waiting time specified for the purposes of subsection (1)(c) must be expressed as a maximum waiting time from the time of referral by the patient’s general practitioner.

(4) A guarantee described in subsection (1) is to be known as a patient guarantee.

(5) A Health Board must take all reasonably practicable steps to ensure that it complies with a patient guarantee.

(6) Those steps include in particular, steps for—
(a) monitoring each patient guarantee,
(b) making such arrangements as are necessary to enable a patient guarantee to be met either—
   (i) within its own area, or
   (ii) if it is unable (or anticipates that it will be unable) to make those arrangements in its own area, through another Health Board or a suitable alternative provider of treatment.

(7) Before making an order under this section, the Scottish Ministers must consult such persons as they consider appropriate.

(8) A Health Board may offer a patient a guarantee—
(a) of a shorter waiting time in relation to the matters mentioned in subsection (1) than the maximum waiting time specified by virtue of subsections (1) and (2),
(b) in relation to a waiting time in connection with matters other than those mentioned in subsection (1).

(9) In this section, “specified” means specified in an order made by the Scottish Ministers.

Section 7

Dr Richard Simpson
38 In section 7, page 3, line 9, leave out <treatment time> and insert <patient>

Dr Richard Simpson
39 In section 7, page 3, leave out lines 11 and 12

Dr Richard Simpson
40 In section 7, page 3, line 17, leave out <treatment time> and insert <patient>
In section 7, page 3, line 22, leave out <treatment time> and insert <patient>

In section 7, page 3, line 24, leave out <treatment time> and insert <patient>

In section 7, page 3, leave out subsection (4)

In section 8, page 3, line 36, leave out <treatment time> and insert <patient>

In section 8, page 3, line 39, leave out from <agreed> to end of line 40 and insert <patient guarantee is met as soon as is reasonably practicable.>

In section 8, page 4, line 1, leave out from <treatment> to end of line 2 and insert <patient guarantee was not met,>

In section 8, page 4, leave out line 6 and insert—

<( ) how to give feedback or comments or raise concerns or complaints.>

In section 8, page 4, line 8, leave out <the start of any treatment> and insert <a patient guarantee>

In section 8, page 4, line 10, leave out <for treatment>

In section 8, page 4, line 11, leave out from <and> to end of line 12

In section 9, page 4, line 14, leave out from <when> to <time> in line 16 and insert <in meeting a patient guarantee, have regard to any guidance issued by the Scottish Ministers which relates to the guarantee.>
Mary Scanlon

52 In section 9, page 4, line 14, leave out <have regard to> and insert <comply with>

Dr Richard Simpson

53 In section 9, page 4, line 18, leave out <treatment time> and insert <patient>

54 In section 9, page 4, line 20, leave out <treatment time> and insert <patient>

Section 10

Dr Richard Simpson

55 In section 10, page 4, leave out lines 24 to 28

Dr Richard Simpson

56 In section 10, page 4, leave out lines 30 and 31

Dr Richard Simpson

57 In section 10, page 4, line 31, at end insert—

<“patient guarantee” has the meaning given in section (Patient guarantee)(1);>

Dr Richard Simpson

58 In section 10, page 4, leave out line 35

Section 11

Dr Richard Simpson

59 In section 11, page 5, line 4, leave out <complaints> and insert <and responding to feedback, comments, concerns or complaints on health care>

Dr Richard Simpson

60 In section 11, page 5, line 7, at end insert—

<( ) identifying best practice,>

Dr Richard Simpson

61 In section 11, page 5, line 8, after <how> insert <feedback and comments are to be given, or concerns and>

Dr Richard Simpson

62 In section 11, page 5, line 9, leave out <makes a complaint> insert <gives feedback or comments, or raises concerns or complaints>
Dr Richard Simpson

63 In section 11, page 5, line 13, after <the> insert <feedback, comments, concerns or>

Nicola Sturgeon

2 In section 11, page 5, line 20, at end insert—

<( ) Directions under subsection (4)(b) may, in particular, include provision for the resolution of complaints by conciliation or mediation.>

Dr Richard Simpson

64 Move section 11 to after section 12

Section 12

Dr Richard Simpson

65 In section 12, page 5, line 29, leave out <raise any concerns or give feedback> and insert <provide feedback, comments, concerns or complaints>

Dr Richard Simpson

66 In section 12, page 5, line 31, leave out from <raise> to end of line 33 and insert <provide such feedback, comments, concerns or complaints to—

(a) the relevant NHS body,

(b) a member of the relevant NHS body as nominated by that body, or

(c) the patient advice and support service.>

Dr Richard Simpson

67 In section 12, page 5, line 34, leave out from first <a> to <feedback> in line 35 and insert <feedback, comments, concerns or complaints are given to a member of staff of the relevant NHS body as nominated by that body or the patient advice and support service, the member of staff or patient advice and support service may pass the information>

Dr Richard Simpson

68 In section 12, page 5, line 37, leave out <all concerns raised and feedback> and insert <feedback, comments, concerns or complaints>

Dr Richard Simpson

69 In section 12, page 5, line 38, at end insert—

<( ) Where feedback, comments, concerns or complaints are given to a member of staff of the relevant NHS body as nominated by that body or the patient advice and support service, the member of staff or patient advice and support service must report back to the relevant NHS body and the patient concerned.>
Dr Richard Simpson 70 In section 12, page 5, line 38, at end insert—
  <(  ) The Scottish Ministers may require a relevant NHS body to provide them with information regarding the performance of the duties under subsections (1) and (4).>

Section 14

Dr Richard Simpson 71 In section 14, page 6, leave out line 17 and insert—
  <(  ) The patient advice and support service may be provided by Citizens Advice Bureaux or any other such source of independent advice and information.>

Section 15

Dr Richard Simpson 72 In section 15, page 7, line 7, leave out subsection (3)

Section 16

Dr Richard Simpson 73 Leave out section 16

Section 17

Nicola Sturgeon 3 In section 17, page 8, line 1, after <as> insert <providers of>

Nicola Sturgeon 4 In section 17, page 8, line 3, leave out from beginning to <body> and insert <The Agency must secure that providers of the patient advice and support service give relevant bodies>

Nicola Sturgeon 5 In section 17, page 8, line 5, leave out <it provides> and insert <providers of the patient advice and support service provide>

Nicola Sturgeon 6 In section 17, page 8, line 6, leave out <the relevant body> and insert <relevant bodies>
After section 17

Dr Richard Simpson

74 After section 17, insert—

<No-fault compensation scheme in relation to patient rights

No-fault compensation scheme in relation to patient rights

(1) The Scottish Ministers must by regulations establish a scheme for the purpose of enabling compensation to be provided to patients of NHS bodies, where such patients consider that their rights under this Act have not been met or have been breached, without recourse to civil proceedings.

(2) Regulations under subsection (1) must include—

(a) the circumstances in which the scheme would apply,
(b) the grounds on which patients would be eligible for the scheme,
(c) the grounds for membership of the scheme on the part of any body or other person to whose liability the scheme applies,
(d) the form proceedings under the scheme would take,
(e) the forms of compensation to be made available,
(f) where financial compensation is to be given to a patient, the upper limit for that compensation, and
(g) the assistance to be made available to patients seeking compensation under the scheme.

(3) The scheme applies only in relation to patient rights under this Act and does not extend to other matters in which a patient considers that there has been negligence on the part of an NHS body.>

Section 18

Nicola Sturgeon

7 In section 18, page 8, line 15, at end insert—

<(1A) Subject to subsection (2), nothing in this Act prejudices>

Dr Richard Simpson

75 In section 18, page 8, line 17, after <Act> insert <, with the exception of section (No-fault compensation scheme in relation to patient rights).>

Nicola Sturgeon

8 In section 18, page 8, line 19, at end insert—

<(  ) any right of action for specific performance of a statutory duty,>
Nicola Sturgeon

9 In section 18, page 8, line 21, at end insert—

<(3) The rights conferred on a patient by this Act are in addition to, and do not affect, any other rights in relation to health care that a patient has, or may acquire, under any other enactment or rule of law.

(4) Subsection (3) does not affect the generality of subsection (1A).>

After section 18

Nicola Sturgeon

10 After section 18, insert—

<Inquiries and default and emergency powers

Powers of the Scottish Ministers

(1) In sections 76, 77, 78 and 78A of the 1978 Act (inquiries and default and emergency powers) references to that Act include references to this Act.

(2) Section 77 of the 1978 Act applies to a Special Health Board in relation to the functions conferred or imposed on it by or under this Act.>

Section 19

Dr Richard Simpson

76 In section 19, page 8, line 26, at end insert—

<“feedback” means appreciation by the patient of the service provided by the relevant NHS body,>
Dr Richard Simpson

78* In section 21, page 9, line 17, leave out <or 4(2)> and insert <, (Patient rights charter)(1) and (4)(b), 4(2) or (Patient guarantee)(1)>.

Nicola Sturgeon

14 In section 21, page 9, line 17, leave out from first <or> to end and insert <, 4(2) or 7(4).>

Nicola Sturgeon

15 In section 21, page 9, line 17, at end insert—

<( ) regulations are to be made under section 7(1) or (3), or>

Dr Richard Simpson

15A As an amendment to amendment 15, line 2, leave out <section> and insert <sections (No-fault compensation scheme in relation to patient rights)(1),>

Nicola Sturgeon

16 In section 21, page 9, line 18, at beginning insert <order is to be made under>

Nicola Sturgeon

17 In section 21, page 9, line 20, leave out <order> and insert <statutory instrument containing the order or regulations>

Section 22

Nicola Sturgeon

18 In section 22, page 9, line 36, leave out from <and> to end of line 37