

PATIENT SAFETY COMMISSIONER FOR SCOTLAND ACT 2023

EXPLANATORY NOTES

COMMENTARY ON PROVISIONS

Final provisions

Section 21: Interpretation

53. **Section 21** provides definitions of the key terms of “health care”, “forensic medical examination” and “patient”. The definition of “health care” mirrors other commonly used definitions of health care in the statute book and ties it to the “prevention, diagnosis or treatment of illness” therefore excluding purely cosmetic procedures and treatments from the Commissioner’s remit.
54. “Forensic medical examination” is to be construed as defined in the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021 which states that it is “a physical medical examination carried out for purposes including the collection of evidence for use in connection with—
- (a) any investigation of the incident which gave rise to the need for the examination,
or
 - (b) any proceedings in relation to the incident.”
55. “Patient” is to be construed in accordance with the National Health Service (Scotland) Act 1978 which relies on the ordinary meaning of the word and, for the sake of clarity since pregnant women and breastfeeding mothers cannot (in most instances) be described as being “ill” when receiving antenatal, neonatal and postnatal health care, specifically includes “an expectant or nursing mother and a lying-in woman” in the meaning of patient in section 108.
56. As forensic medical examinations under the Forensic Medical Services (Victims of Sexual Offences) (Scotland) Act 2021 are also included in the definition of health care in the Act, any person to whom a forensic medical examination is provided is also a patient.