

Article Summaries

The Healthcare Quality, Complaints and Disputes Act: a new Dutch procedure to compensate care-related harm

Rolinka P Wijne

Civil liability law in medical cases offers patients a possibility to attain compensation. Nevertheless, patients often decide not to recover damages because it is a very complicated, difficult, time-consuming and costly enterprise. To accommodate the needs of patients in light of this situation, the Healthcare Quality, Complaints and Disputes Act was adopted. This Act contains a complaints and disputes procedure to meet the patient's problems. One of the main topics of this procedure is that a dispute settlement body can award compensation up to €25,000 if liability of the care provider is plausible.

This article offers a description and analysis of compensation under the Act. It explains the Act by focusing on the new complaints and disputes procedure, and the changes regarding recovery that have been introduced. The author concludes by considering the practical effects to date of the measures under the Act.

Understanding the relationship between duties in contract and the tort of negligence

Matthew Isaacs

This article argues that concurrent duties in contract and the tort of negligence must be kept distinct, except that duties in tort are subject to the joint intention between the parties. It then reviews recent case law involving concurrent liability in contract and the tort of negligence, highlighting the issues caused when the duties are not kept distinct. The article rejects an 'assumption of responsibility' as an explanation for the duty to take reasonable care in tort, and doubts the Court of Appeal's analysis in *Wellesley Partners LLP v Withers LLP* which replaced the test of remoteness in tort with the contractual test.