



# Cancer Act 1939

1939 CHAPTER 13 2 and 3 Geo 6

An Act to make further provision for the treatment of cancer, to authorise the Minister of Health to lend money to the National Radium Trust, to prohibit certain advertisements relating to cancer, and for purposes connected with the matters aforesaid. [29th March 1939.]

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

## **1 Duty of local authorities**

- (1) It shall be the duty of the council of every county and county borough in England and Wales to make arrangements to secure that the facilities for the treatment of persons suffering from cancer are adequate for the needs of the county or borough, and to submit its arrangements for the approval of the Minister within one year from the commencement of this Act or such longer period as the Minister may in any case allow.
- (2) The arrangements so submitted by any such council shall include arrangements—
  - (a) for facilitating the diagnosis of cancer;
  - (b) for the treatment of cancer either in hospitals maintained by the council or in hospitals maintained by other councils or local authorities or in voluntary hospitals;
  - (c) for the payment, in such cases as the council considers necessary, of all or any travelling expenses (including the travelling expenses of a companion) reasonably incurred by persons for the purpose of availing themselves of the services provided under the arrangements;
  - (d) for such other matters as appear incidental to or consequential on the arrangements for the treatment of cancer.
- (3) Before submitting arrangements to the Minister under this section a council shall consult—

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*Status: This is the original version (as it was originally enacted).*

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- (a) such committees or other bodies as the council considers to represent both the governing bodies and the medical and surgical staffs of the voluntary hospitals providing services in or for the benefit of its area; and
  - (b) such local organisations of registered medical practitioners as the council considers to represent the opinions of such practitioners practising in its area on the questions to be considered in making the arrangements.
- (4) The Minister may approve, either with or without modifications, any arrangements submitted to him by a council under this section, and it shall be the duty of the council to carry its arrangements as approved by the Minister into effect.
- (5) A council may from time to time, and shall when required by the Minister, make and submit to the Minister alterations or extensions of the arrangements made by the council under this section, and subsections (3) and (4) of this section shall apply to any such alterations or extensions as they apply to the original arrangements.
- (6) Nothing in this section shall authorise the establishment by any council of a general domiciliary service by medical practitioners.
- (7) The Public Health Act, 1936, shall have effect as if this section, except in so far as it relates to the London County Council, were included in Part V of that Act.
- (8) Without prejudice to the provisions of any enactment enabling councils of counties and county boroughs to co-operate or combine, the Minister may require two or more such councils to combine, to such extent and on such terms as he may, in default of agreement between the councils concerned, direct, for the purpose of making arrangements under this section.
- (9) Any order or agreement constituting under any enactment a joint board or joint committee to discharge the functions of two or more councils under this section may provide for the co-option of such number of members of the board or committee as may be specified in the order or agreement:

Provided that the number so specified shall not exceed one-third of the total number of the members of the board or committee.

## 2 Financial provisions

- (1) The following provisions of this section shall have effect with a view to fulfilling the intentions of the Local Government Act, 1929, as declared by section one hundred and thirty-five thereof, namely, that in the event of material additional expenditure being imposed on any class of local authorities by reason of the institution of a new service after the commencement of that Act, provision should be made for increased contributions out of moneys provided by Parliament.
- (2) In respect of the year ending on the thirty-first day of March nineteen hundred and forty and of each subsequent year in the third and fourth fixed grant periods, there shall be paid out of moneys provided by Parliament, to the council of every county and county borough in England and Wales (hereafter in this section referred to as a "council ") on which additional expenditure is imposed by this Act in respect of that year, a grant calculated to the nearest pound by—
- (a) multiplying by the weighting factor one-half the amount of the additional expenditure so imposed on the council, and
  - (b) dividing the product by the average weighting factor:

Provided that the amount of the grant payable under this subsection to any council shall not exceed seventeen-twentieths of the additional expenditure so imposed on that council.

- (3) For the fifth and every subsequent fixed grant period, the General Exchequer Contribution shall include such increased contribution by reason of the additional expenditure imposed on any council by this Act as Parliament may hereafter determine.
- (4) Grants payable under this section shall be payable at such times and in such manner as the Treasury may direct and subject to such conditions as to records, certificates, audit or otherwise as the Minister may, with the approval of the Treasury, determine.
- (5) For the purpose of section one hundred and four of the Local Government Act, 1929 (which authorises the reduction of grants payable under Part VI of that Act to a council which fails to maintain an efficient service), grants payable under this section shall be deemed to be payable under the said Part VI.
- (6) In determining for the purpose of section one of the Local Government (Financial Provisions) Act, 1937, the amount of the rate and grant borne expenditure in the year ending on the thirty-first day of March nineteen hundred and forty-one, no account shall be taken of the additional expenditure imposed on any council in respect of that year by this Act.
- (7) For the purpose of this section, expenditure incurred by a council in respect of any year in the provision of treatment for persons suffering from cancer shall be deemed to be additional expenditure imposed by this Act on that council in respect of that year if, and to the extent that, it is estimated to exceed the expenditure so incurred by that council in respect of the year ended on the thirty-first day of March nineteen hundred and thirty-eight.
- (8) Any such estimate as aforesaid made for the purpose of subsection (2) or subsection (6) of this section shall be made to the satisfaction of the Minister in accordance with directions given by him after consultation with such associations of local authorities as appear to him to be concerned and with any council with which consultation appears to him to be desirable, and any such directions—
  - (a) may provide that expenditure incurred by any council in the provision of treatment for persons suffering from cancer shall for the purposes of this section require the approval of the Minister; and
  - (b) may also provide that the amount of any expenditure so incurred in respect of any particular services by a council, or by a council of any class specified in the directions, shall be estimated by reference to the estimated average net annual expenditure incurred in respect of those services by all councils or by councils of that class.
- (9) In this section the following expressions have the meanings hereby respectively assigned to them :—
  - " Average weighting factor " means the quotient obtained by dividing the aggregate weighted population of all the counties and county boroughs in England and Wales by their aggregate estimated population;
  - " Weighting factor ", in relation to a county or county borough, means the quotient obtained by dividing the weighted population thereof by the estimated population thereof;

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" Estimated population ", " weighted population ", " fixed grant period " and " General Exchequer Contribution " have the same meanings as in the Local Government Act, 1929, as amended by any subsequent enactment.

### **3 Loans to National Radium Trust**

- (1) The Minister may lend money to the National Radium Trust, on such conditions as the Treasury may determine, for the purpose of enabling that Trust to purchase radium and other radio-active substances and apparatus and appliances required for radio-therapeutic treatment:

Provided that—

- (a) the sums lent under this section shall not in the aggregate exceed five hundred thousand pounds; and
  - (b) no money shall be lent under this section after the expiration of ten years from the commencement of this Act.
- (2) Any sums required by the Minister for the purpose of loans under this section shall be paid out of moneys provided by Parliament.
- (3) The principal of and the interest on any sums lent under this section shall by virtue of this Act be charged on the undertaking and all the revenues of the said Trust.
- (4) Any sums received by the Minister by way of repayment of a loan under this section or by way of interest thereon shall be paid into the Exchequer.

### **4 Prohibition of certain advertisements**

- (1) No person shall take any part in the publication of any advertisement—
- (a) containing an offer to treat any person for cancer, or to prescribe any remedy therefor, or to give any advice in connection with the treatment thereof; or
  - (b) referring to any article, or articles of any description, in terms which are calculated to lead to the use of that article, or articles of that description, in the treatment of cancer.
- (2) If any person contravenes any of the provisions of the foregoing subsection, he shall be liable on summary conviction, in the case of a first conviction, to a fine not exceeding fifty pounds, and, in the case of a subsequent conviction, to a fine not exceeding one hundred pounds or to imprisonment for a term not exceeding three months, or to both such a fine and such imprisonment.
- (3) Where, in any proceedings for a contravention of subsection (1) of this section it is proved—
- (a) that an advertisement was published referring to any article, or articles of any description, in terms calculated to lead to the use of that article or articles of that description in the treatment of cancer; and
  - (b) that the advertisement also referred to the article or articles in terms calculated to indicate that it or they were manufactured, produced, imported, sold or offered for sale, by the person charged;

then, unless the contrary is proved, it shall be presumed for the purpose of those proceedings that that person took part in the publication of the advertisement, but without prejudice to the liability of any other person.

- (4) In any proceedings for a contravention of subsection (1) of this section, it shall be a defence for the person charged to prove—
- (a) that the advertisement to which the proceedings relate was published only so far as was reasonably necessary to bring it to the notice of persons of the following classes or of one or some of them, that is to say,—
    - (i) members of either House of Parliament or of a local authority or of the governing body of a voluntary hospital;
    - (ii) (without prejudice to the generality of the foregoing sub-paragraph) persons concerned in making or carrying into effect arrangements under section one of this Act;
    - (iii) registered medical practitioners;
    - (iv) registered nurses;
    - (v) registered pharmacists and authorised sellers of poisons;
    - (vi) persons undergoing training with a view to becoming registered medical practitioners, registered nurses or registered pharmacists;
    - (vii) persons carrying on a business which includes the sale or supply of surgical appliances; or
  - (b) that the said advertisement was published only in a publication of a technical character intended for circulation mainly amongst persons of the classes mentioned in the last preceding paragraph or one or some of those classes; or
  - (c) that the said advertisement was published in such circumstances that he did not know and had no reason to believe that he was taking part in the publication thereof.
- (5) Nothing in this section shall apply in respect of any advertisement published by a local authority or by the governing body of a voluntary hospital or by any person acting with the sanction of the Minister.
- (6) A prosecution for an offence under this section shall not be instituted in England or Wales without the consent of the Attorney-General or the Solicitor-General.
- (7) Subject to the provisions of the last foregoing subsection, it shall be the duty of the council of every county and county borough to institute proceedings under this section.
- (8) In this section the expression " advertisement " includes any notice, circular, label, wrapper or other document, and any announcement made orally or by any means of producing or transmitting sounds.

## **5 Interpretation**

- (1) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—
- " Hospital " includes a clinic, dispensary or other institution for the reception of the sick whether as in-patients or as out-patients;
  - " The Minister " means the Minister of Health;
  - " The National Radium Trust " means the body incorporated by that name by royal charter.
- (2) In this Act references to persons suffering from cancer shall be construed as including references to persons suspected to be so suffering.

## 6 Application to London

The Public Health (London) Act, 1936, shall have effect as if section one of this Act, in so far as it relates to the London County Council, were included in Part IX of that Act immediately before section two hundred and nineteen thereof, and the following sections of that Act shall have effect as if references to tuberculosis included references to cancer, namely—

- (a) section two hundred and twenty (which provides for the powers of the Minister in case of failure by the said council to make adequate arrangements for the treatment of tuberculosis);
- (b) section two hundred and twenty-two (which enables the said council to enter into agreements as respects the treatment of tuberculosis with other councils);
- (c) section two hundred and twenty-three (which relates to the expenses incurred by the said council in the treatment of tuberculosis).

## 7 Application to Scotland

The following provisions shall have effect for the purpose of the application of this Act to Scotland :—

- (a) section one of this Act (except subsection (7) thereof) and section two of this Act shall apply to Scotland subject to the following modifications :—
  - (i) for any reference to England and Wales there shall be substituted a reference to Scotland;
  - (ii) for any reference to a county borough there shall be substituted a reference to a large burgh within the meaning of the Local Government (Scotland) Act, 1929, and every other burgh shall be deemed to be included in the county in which it is situated;
  - (iii) any reference to a county or to a county council shall, in the case of counties combined for the purposes mentioned in subsection (7) of section ten of the Local Government (Scotland) Act, 1929, be construed as a reference to the combined county or to the joint county council;
  - (iv) for references to the Local Government Act, 1929, and to section one hundred and four, section one hundred and thirty-five and Part VI thereof, there shall be substituted respectively references to the Local Government (Scotland) Act, 1929, and to section sixty-six, section seventy-eight and Part III thereof; for any reference to section one of the Local Government (Financial Provisions) Act, 1937, there shall be substituted a reference to section one of the Local Government (Financial Provisions) (Scotland) Act, 1937; and for any reference to the thirty-first day of March there shall be substituted a reference to the fifteenth day of May;
- (b) for any reference to the Minister of Health, except in section three of this Act, there shall be substituted a reference to the Department of Health for Scotland;
- (c) a county or a town council may, for the purpose of any arrangements made by it and approved by the Department of Health for Scotland under section one of this Act, exercise the like powers as the council is entitled to exercise for the purpose of provision of hospitals for persons suffering from infectious disease;

- (d) any expenses incurred by a county or a town council for the purposes of this Act shall be defrayed in like manner as expenditure incurred by such council under the Public Health (Scotland) Act, 1897;
- (e) section one hundred and forty-seven of the Public Health (Scotland) Act, 1897, shall have effect as if section one of this Act were part of that Act;
- (f) subsection (7) of section four shall not apply.

## **8 Short title, citation and extent**

- (1) This Act may be cited as the Cancer Act, 1939.
- (2) Section one of this Act, in so far as it relates to the council of a county in England and Wales, other than the London County Council, or to the council of a county borough, may be cited together with the Public Health Acts, 1936 and 1937, as the Public Health Acts, 1936 to 1939.
- (3) Section one of this Act, in so far as it relates to the London County Council, and section six of this Act may be cited together with the Public Health (London) Act, 1936, as the Public Health (London) Acts, 1936 and 1939.
- (4) This Act shall not extend to Northern Ireland.