



Public Health Act 1936

1936 CHAPTER 49

PART VI

HOSPITALS, NURSING HOMES, &C.

Nursing homes.

187 Registration of nursing homes.

- (1) If any person carries on a nursing home without being registered under this Part of this Act in respect thereof, he shall be liable to a fine not exceeding fifty pounds or, in the case of a second or subsequent offence, to imprisonment for a term not exceeding three months, or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine:

Provided that a person who immediately before the commencement of this Act was registered in respect of a nursing home under the corresponding enactments repealed by this Act shall be deemed to have been registered in respect of that home under this Part of this Act.

- (2) An application for registration shall be made to the council of the county or county borough in which the home is situate, and shall be accompanied by a fee of five shillings.
- (3) Subject as provided in this Part of this Act, the council of the county or county borough shall, on the receipt of an application for registration, register the applicant in respect of the nursing home named in the application and issue to him a certificate of registration:

Provided that the council may by order refuse to register the applicant if they are satisfied—

- (a) that he or any person employed, or proposed to be employed, by him at the home is not a fit person, whether by reason of age or otherwise, to carry on or to be employed at a nursing home of such a description as the nursing home named in the application; or

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- (b) that for reasons connected with situation, construction, state of repair, accommodation, staffing or equipment, the home or any premises used in connection therewith are not fit to be used for a nursing home of such a description as the nursing home named in the application, or that the home or premises are used or proposed to be used for purposes which are in any way improper or undesirable in the case of such a nursing home; or
 - (c) in the case of a nursing home not being a maternity home, that the home is not, or will not be, under the charge of a person who is either a registered medical practitioner or a qualified nurse and is or will be resident in the home, or that there is not, or will not be, a proper proportion of qualified nurses among the persons having the superintendence of, or employed in the nursing of the patients in, the home; or
 - (d) in the case of a maternity home, that the person who has, or will have, the superintendence of the nursing of the patients in the home is not either a qualified nurse or a certified midwife, or that any person employed, or proposed to be employed, in attending any woman in the home in childbirth, or in nursing any patient in the home, is not either a registered medical practitioner, a certified midwife, a pupil midwife, or a qualified nurse.
- (4) The certificate of registration issued in respect of a nursing home shall be kept affixed in a conspicuous place in the home and, if default is made in complying with this subsection, the person carrying on the home shall be liable to a fine not exceeding five pounds and to a further fine not exceeding forty shillings for each day on which the offence continues after conviction therefor.

188 Cancellation of registration.

- (1) Subject to the provisions of this Part of this Act, the council of a county or county borough may by order at any time cancel the registration of a person in respect of a nursing home on any ground which would entitle them to refuse an application for the registration of that person in respect of that home, or on the ground that that person has been convicted of an offence against the provisions of this Part of this Act relating to nursing homes or against any byelaw made under those provisions, or on the ground that any other person has been convicted of such an offence in respect of that home:

Provided that, in the case of a nursing home which was in existence on the first day of July, nineteen hundred and twenty-eight, the registration of a person in respect of that home shall not be cancelled on the ground that the provisions of paragraph (c) or paragraph (d) of subsection (3) of the last preceding section are not complied with unless, in the case of a nursing home not being a maternity home, the nursing of the patients in the home is not under the superintendence of a qualified nurse who is resident in the home.

- (2) For the purpose of this section, a nursing home shall not be deemed to be a home which was in existence on the first day of July, nineteen hundred and twenty-eight if, in the case of a home which was carried on at that date by an individual, it has ceased since that date or ceases to be carried on by that individual solely, or, in the case of a home which was carried on at that date by a body corporate, it has ceased since that date or ceases to be under the charge of the individual under whose charge it was at that date.

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189 Procedure, and right of appeal, where registration refused or cancelled.

- (1) Before making under the provisions of this Part of this Act relating to nursing homes an order refusing an application for registration or an order cancelling any registration, the council of the county or county borough shall give to the applicant or to the person registered, as the case may be, not less than fourteen days notice of their intention to make such an order, and every such notice shall state the grounds on which the council intend to make the order and shall contain an intimation that, if within fourteen days after the receipt of the notice the applicant or person registered informs the council in writing that he desires so to do, the council will, before making the order, give him an opportunity of showing cause, in person or by a representative, why the order should not be made.
- (2) If the council, after giving to the applicant or to the person registered an opportunity of being heard by them, decide to refuse the application for registration or to cancel the registration, they shall make an order to that effect and shall send a copy of the order to the applicant or the person registered.
- (3) A person aggrieved by an order refusing an application for registration or cancelling any registration may appeal to a court of summary jurisdiction.

190 Byelaws as to nursing homes.

The council of a county or county borough may make byelaws prescribing—

- (a) the records to be kept of the patients received into a nursing home, and, in the case of a maternity home, of any miscarriages occurring in the home, and of the children born therein, and of the children so born who are removed from the home otherwise than to the custody or care of a parent, guardian, or relative;
- (b) the notices to be given when any death occurs in a nursing home.

191 Inspection of nursing homes.

The medical officer of health of a county or county borough, or a qualified nurse or other authorised officer of the council thereof, may, subject to such conditions, if any, as may be laid down by the council, at all reasonable times enter and inspect any premises which are used, or which that officer has reasonable cause to believe to be used, for the purposes of a nursing home, and inspect any records required to be kept in accordance with the provisions of this Part of this Act:

Provided that nothing in this Part of this Act shall be deemed to authorise any such officer to inspect any medical record relating to a patient in a nursing home.

192 Power of registration authority to exempt certain institutions.

- (1) The council of a county or county borough may grant exemption from the operation of the provisions of this Part of this Act relating to nursing homes in respect of any hospital or institution not carried on for profit, and may attach conditions to any exemption granted by them.
- (2) An exemption granted under this section, or under any enactment repealed by this Act, in respect of any hospital or institution may be withdrawn at any time and, unless previously withdrawn, shall cease to have effect on the expiration of one year from the

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date on which it is granted, without prejudice, however, to the power of the council to grant a further exemption :

Provided that, if a council deem it convenient that all such exemptions should expire on the same date in any year, they may, for the purpose of securing that object, grant exemptions for any period not being less than six months and not exceeding eighteen months.

- (3) Any person aggrieved by the refusal of a council to grant an exemption under this section, or by any conditions attached by them to an exemption, or by their withdrawal of an exemption, may appeal to the Minister, and the Minister, after considering the matter, shall give such directions as he thinks proper, and the council shall comply with any directions so given.

193 Power of Minister to exempt Christian Science nursing homes.

- (1) The Minister may grant exemption from the operation of the provisions of this Part of this Act relating to nursing homes in respect of any nursing home as respects which he is satisfied that it is being, or will be, carried on in accordance with the practice and principles of the body known as the Church of Christ Scientist.
- (2) It shall be a condition of any exemption granted in respect of a nursing home under this section that the nursing home shall adopt and use the name of Christian Science house.
- (3) An exemption granted under this section in respect of a nursing home may at any time be withdrawn by the Minister, if it appears to him that that home is no longer being carried on in accordance with the said practice and principles.

194 Delegation of powers as to nursing homes by county council to council of county district.

- (1) A county council may, on the application of the council of any county district within the county, by agreement delegate to the council of that district, either with or without restrictions or conditions, any of the functions of the county council under the provisions of this Part of this Act relating to nursing homes.
- (2) If the council of a county district who have made an application under the preceding subsection are aggrieved by the refusal of the county council to delegate functions, or by any conditions or restrictions which the county council propose to impose, the council of the county district may make a representation to the Minister, and the Minister, after consultation with the county council, may by order direct the county council to delegate to the council of the county district, either with or without restrictions or conditions, such functions under this Part of this Act relating to nursing homes as the Minister thinks proper, and the county council shall comply with any direction so given.

The Minister may at any time by order revoke an order previously made by him under this subsection.

- (3) Where any functions of a county council are delegated under this section to the council of a county district, the references in the last but two preceding section to the medical officer of health of the county and to officers of the county council shall as respects those functions be construed as references to the medical officer of health of the county district and to officers of the council thereof.

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- (4) Any expenses incurred by the council of a county district in the discharge of functions delegated to them under this section shall, up to an amount not exceeding such sum as may be fixed by the county council, or, on an appeal, by the Minister, be repaid to the council of the county district by the county council.
- (5) Any fees received under this Part of this Act in respect of the registration of nursing homes by the council of a county district shall, as the county council may direct, either be paid to that council or be applied in reduction of the sum to be repaid under this section by that council to the council of the county district.

195 Offences by companies under provisions of Part VI relating to nursing homes.

Where a person convicted of an offence against any of the provisions of this Part of this Act relating to nursing homes, or against any byelaw made thereunder, is a company, the chairman and every director of the company and every officer of the company concerned in its management shall be guilty of the like offence, unless he proves that the act constituting the offence took place without his knowledge or consent.