



Public Health Act 1936

1936 CHAPTER 49

PART VI

HOSPITALS, NURSING HOMES, &C.

Hospitals.

181 Provision of hospital accommodation by county councils and local authorities.

- (1) A county council or a local authority may provide hospital accommodation for persons in their county or district who are sick.
- (2) The power of a county council or local authority under this section to provide hospital accommodation for persons who are sick includes power to provide—
 - (a) clinics, dispensaries and out-patient departments; and
 - (b) in the case of the council of a county or county borough, and in the case of any other council who are a welfare authority for the purposes of Part VII of this Act, maternity homes.
- (3) A county council or a local authority may give reasonable donations or subscriptions to a voluntary hospital or institution, but the expenses incurred by them under this subsection shall not in any year exceed an amount equal to the produce (calculated in accordance with rules made under section nine of the Rating and Valuation Act, 1925) of a rate of one and one-third pence in the pound, or of such higher rate-poundage as the Minister may in any particular case from time to time approve, levied in the area chargeable with the expenses.

182 Consultation with voluntary hospitals as to accommodation to be provided.

A county council or local authority, when making provision for hospital accommodation under this Part of this Act, other than hospital accommodation for persons suffering from an infectious disease, shall consult such committee or other body as they consider to represent both the governing bodies and the medical and surgical staffs of the voluntary hospitals providing services in, or for the benefit of,

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their county or district as to the accommodation to be provided and as to the purposes for which it is to be used.

183 Power to provide houses for officers of a hospital.

A county council or local authority who provide a hospital may provide houses for officers employed by them at the hospital, and any expenses incurred by them in so doing shall be defrayed as expenses incurred in the provision of the hospital.

184 Recovery of expenses of maintenance in certain institutions.

- (1) In the case of a patient who has become an inmate of an institution for the purpose of receiving treatment for infectious disease, a county council or local authority may, and in the case of any other patient maintained by them in an institution shall, recover from the patient, or from any person legally liable to maintain him, or from the patient's estate, if he has died, any expenses incurred by the council or authority in providing for his maintenance in the institution, not being expenses recoverable from any other source, or, if the council or authority are satisfied that the persons from whom the expenses are under this subsection recoverable cannot reasonably, having regard to their financial circumstances, be required to pay the whole of those expenses, such part, if any, of the expenses as those persons are in the opinion of the council or authority able to pay :

Provided that any such council or authority may, by agreement with the governing body of any association or fund established for the purpose of providing benefits to members or other beneficiaries thereof, accept from the association or fund, in respect of the expenses incurred by the council or authority in the maintenance of any member or beneficiary of the association or fund, payment of such sums as may be provided by the agreement in lieu of recovering the whole or any part of the said expenses from, or from the estate of, the member or beneficiary, or from any person legally liable to maintain him.

- (2) For the purposes of this section—
- (a) the expression " institution " means any hospital, maternity home or other residential institution wherein accommodation is provided by a county council or local authority under this Act; and
 - (b) the expenses incurred by a county council or local authority in providing for the maintenance of a patient in an institution shall, in respect of each day of maintenance therein, be taken to be a sum representing the average daily cost per patient of the maintenance of the institution and the staff thereof and the maintenance and treatment of the patients therein, and may include a reasonable charge for the patient's removal to or from the institution.
- (3) Expenses recoverable under this section may be recovered as a civil debt, either summarily or otherwise, in proceedings commenced within twelve months from the date of the patient's discharge from the institution or, if he dies in the institution, from the date of his death.
- (4) Nothing in this section affects the provisions of this Act relating to the removal to hospital of infectious persons suffering from tuberculosis of the respiratory tract.

185 County schemes for provision of hospital accommodation for infectious disease.

- (1) Where as respects any county such a scheme as is mentioned in section sixty-three of the Local Government Act, 1929, has not been prepared before the commencement of this Act, the county council shall, for the purpose of securing the provision of suitable means for the proper isolation and treatment of persons suffering from infectious disease, make a survey of the hospital accommodation for the treatment of infectious disease provided by the council and by any of the councils of county districts within the county.
- (2) Upon the completion of the survey, the county council shall prepare, in consultation with the councils of all county districts in the county, and, if they deem it desirable, with the council of any county borough adjoining the county, and submit to the Minister for his approval, a scheme for the provision of adequate hospital accommodation for the treatment of persons suffering from infectious disease within the county.
- (3) The scheme may provide—
 - (a) for the arrangements under which, and the terms upon which, accommodation in any existing hospital belonging to the council of a county district shall be made available for the use of persons resident in any part of the county outside that district;
 - (b) for the provision by the county council, or by the council of any county district, of new accommodation for the treatment of persons suffering from infectious disease;
 - (c) for embodying arrangements made between the county council, or the council of any county district, and the council of any adjoining county borough for the reception of persons residing in the county borough into hospitals provided by the county council or the council of the county district, or for the reception of persons residing within the county into hospitals provided by the council of the county borough;
 - (d) for any expenses incurred by the county council for the purposes of the scheme being defrayed as expenses for special county purposes chargeable on a part only of the county.
- (4) When a scheme has been submitted to the Minister under this section, the Minister, after considering any representations with respect to the scheme which may be submitted to him by any council affected, may approve the scheme with or without modifications, but until so approved no such scheme shall be of any effect.
- (5) If a county council fail to submit to the Minister a scheme under this section within six months after being required by him so to do, the Minister may, after consulting the county council and the councils of all county districts within the county, himself make a scheme for the purpose, and any scheme so made shall have effect as if it were a scheme submitted by the county council and approved by the Minister.
- (6) A scheme made under this section, or under section sixty-three of the Local Government Act, 1929, may be varied or revoked by a scheme made in the like manner and subject to the like provisions as the original scheme :

Provided that, if the original scheme was made by the Minister, it may be varied or revoked either by a scheme made in the like manner, or by a scheme submitted by the county council and approved by the Minister.
- (7) In this section—

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- (a) references to councils of county districts shall be construed as including references to combinations of such councils; and
- (b) the expression "infectious disease" does not include tuberculosis or venereal disease.

186 Expenses of county councils in making provision for the treatment of infectious disease.

A county council may direct that the expenses incurred by them in providing hospital accommodation for persons suffering from infectious disease, whether defrayable as expenses for general county purposes or for special county purposes, shall be assessed on the parishes liable to contribute thereto in proportion to the use made of that accommodation by persons in those parishes respectively and, while any such direction is in force, any precept for county contributions may include as a separate item any contributions, whether for general or special county purposes, which are so assessed.

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
- (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

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- (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.

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

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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 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.
- (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.

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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.

Laboratories, ambulances, mortuaries, &c.

196 Provision of laboratories.

- (1) A county council or a local authority may provide a laboratory for purposes connected with the diagnosis and treatment of diseases and for the making of such bacteriological, chemical and other examinations as may assist them in the performance of their functions under this Act.
- (2) A county council or a local authority who provide a laboratory under this section may allow any person to make use thereof on such terms as they think fit.

197 Provision of ambulances.

- (1) A county council or a local authority may provide ambulances and may make charges for the use thereof.
- (2) Where an ambulance is used for the conveyance of a person suffering from an infectious disease, the county council or local authority, as the case may be, shall not allow the ambulance to be again used until proper steps have been taken to prevent the communication of the disease to any other person.

198 Provision of mortuaries and post-mortem rooms.

- (1) A local authority or a parish council may, and if required by the Minister shall, provide—
 - (a) a mortuary for the reception of dead bodies before interment;
 - (b) a post-mortem room for the reception of dead bodies during the time required to conduct any post-mortem examination ordered by a coroner or other duly authorised authority;and may make byelaws with respect to the management, and charges for the use, of any such place provided by them.
- (2) A local authority or parish council may provide for the interment of any dead body which may be received into their mortuary.

General.

199 Interpretation of Part VI.

- (1) In this Part of this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—
 - " nursing home " means any premises used or intended to be used for the reception of, and the providing of nursing for, persons suffering from any

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sickness, injury, or infirmity, and includes a maternity home, but does not include—

- (i) any hospital or other premises maintained or controlled by a Government department, county council (including the London County Council), local authority or metropolitan borough council, or any other authority or body constituted by special Act of Parliament or incorporated by Royal Charter;
- (ii) any institution for persons of unsound mind within the meaning of the Lunacy and Mental Treatment Acts, 1890 to 1930;
- (iii) any institution, house or home certified or approved by the Board of Control under the Mental Deficiency Acts, 1913 to 1927;

" maternity home " means any premises used or intended to be used for the reception of pregnant women, or of women immediately after childbirth;

" qualified nurse " means, subject to the provisions of the next succeeding subsection, a person registered in the general part of the register of nurses required to be kept under the Nurses Registration Act, 1919, or a person who had before the first day of July, nineteen hundred and twenty-eight, completed a three years course of training in a hospital which was during the period of her training, or subsequently became, a training school approved by the General Nursing Council for England and Wales, or the General Nursing Council for Scotland, or the General Nursing Council for Northern Ireland, for the purpose of admission to the general part of the said register;

" pupil midwife " means a person who is undergoing training with a view to becoming a certified midwife, and for that purpose attending women in childbirth, as part of a course of practical instruction in midwifery recognised by the Central Midwives Board;

- (2) In relation to any premises used or intended to be used solely for the reception of, and the provision of nursing for, a class of patients in whose case the requisite nursing can be suitably and adequately provided by nurses of a class whose names are contained in some part of the register of nurses required to be kept, under the Nurses Registration Act, 1919, other than the general part of that register, references in the definition of " qualified nurse " contained in subsection (1) of this section to the general part of the register shall be construed as including references to that other part of the register.