

Cancer (Central Registers) Bill

No.

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By Authority Jean Gordon Government Printer Melbourne

LEGISLATIVE ASSEMBLY

Read 1° 19 April 1989

(Brought from the Legislative Council)

A BILL

for

An Act to amend the *Cancer Act 1958* and for other purposes.

Cancer (Central Registers) Act 1988

The Parliament of Victoria enacts as follows:

Purpose.

1. The purpose of this Act is to amend the *Cancer Act 1958*—
 - (a) to provide for the recognition and maintenance of central registers of results from tests for cancer; and
 - (b) to extend the definition of cancer to include non-invasive, *in situ* carcinomas.

Commencement.

2. This Act comes into operation on a day or days to be proclaimed.

10 Principal Act.

3. In this Act, the *Cancer Act 1958* is called the Principal Act.

No. 6213.
Reprinted to No.
9934.
Subsequently
amended by Nos.
10262, 80/1986,
19/1988 and
49/1988.

Headings.

4. (1) In the heading to Part III. of the Principal Act, after “REPORTING” insert “AND REGISTERS”.

(2) In section 1 of the Principal Act, omit everything after “Government Gazette”.

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Definitions and application.

5. In section 59 of the Principal Act—

(a) in sub-section (1)—

(i) in the definition of “Cancer”, for “and melanoma” substitute “melanoma and non-invasive, *in situ* carcinoma”; and 10

(ii) after the definition of “Cancer” insert—

‘ “Cancer test” means an examination or a test that is undertaken to determine whether a person is suffering from cancer and that is— 15

(a) a pathological examination of a specimen from the person; or

(b) any other examination or test whatever prescribed as a cancer test.’; and

(iii) after the definition of “Hospital” insert— 20

‘ “Medical practitioner” means a legally qualified medical practitioner under the *Medical Practitioners Act 1970*.’; and

(iv) after the definition of “Prescribed” insert—

‘ “Prescribed register” means— 25

(a) in relation to cancer of the cervix, the Cervical Register maintained by the Victorian Cytology (Gynaecological) Service; or

(b) in relation to cancer of another part of the human body, the register prescribed by the regulations of results from cancer tests for that type of cancer; or 30

(c) in relation to cancer of any part of the human body (including the cervix), a register prescribed by the regulations of results from cancer tests generally.’; and 35

(b) sub-section (2) is repealed.

Amendment of section 60.

6. In section 60 of the Principal Act—

(a) for sub-section (2) substitute—

5 “(2) The person in charge of any place where a cancer test is undertaken shall, when the test indicates that a person is suffering from cancer, cause a report on that test to be forwarded to the Council.”; and

(b) after sub-section (2) insert—

10 “(2A) A report under sub-section (2) must be—

(a) in the prescribed form; or

(b) if the person in charge of the place where the cancer test is undertaken has prepared for the person requesting the test a report of the test (whether or not the report also relates to any other tests undertaken)—

15 (i) a copy of that report; or

(ii) an extract from that report that contains the material relevant to the cancer test.

20 (2B) An action does not lie against a person who forwards a report in accordance with this section, by reason only that—

(a) the report is a copy of, or extract from, a report mentioned in sub-section (2A) (b) and was forwarded to the Council without the consent of the person to whom it relates or the person for whom it was prepared; or

25 (b) the report contains information identifying the person to whom it relates; or

30 (c) the report is forwarded under sub-section (2A) (b) and contains information that does not relate to a cancer test.”; and

(c) in sub-section (3) (b)—

(i) for “a pathological examination” substitute “a cancer test”; and

35 (ii) after “that sub-section” insert “sub-section (2A)”.

Insertion of new section 62.

7. After section 61 of the Principal Act, insert—

Registers of results from cancer tests.

40 “62. (1) A medical practitioner engaged by a person who has undergone a cancer test may cause a report on the test to be forwarded to an organization that maintains a prescribed register for inclusion in that register.

(2) A person in charge of a place where a cancer test is undertaken may cause a report on the test to be forwarded to an organization that maintains a prescribed register for inclusion in that register.

(3) A person who has undergone a cancer test has the right to object to a report on the test being forwarded for inclusion in a prescribed register, and if he or she so objects, a person must not, knowing of the objection, forward such a report, or cause such a report to be forwarded, for inclusion in a prescribed register. 5

Penalty: 10 penalty units.

(4) A person who makes an examination of, or takes a specimen from, another person to determine whether that other person is suffering from cancer, before a report is forwarded to an organization under sub-section (1) or (2)— 10

(a) must ensure that that other person has been informed of the right to object to the report being forwarded; and 15

(b) if aware of an objection by that other person, must ensure—
(i) that the report includes notice of the making of the objection; and

(ii) that a written acknowledgement of the objection is given to the other person. 20

(5) For the purposes of this section, the functions of an organization that maintains a prescribed register are—

(a) to follow up positive results from cancer tests; and

(b) to send reminder notices when persons whose names appear in the register are due for cancer tests; and 25

(c) subject to and in accordance with the regulations, to give access to the register to persons studying cancer; and

(d) to compile statistics and, if the organization considers it appropriate, to publish those statistics that do not identify the persons to whom they relate. 30

(6) A person must not disclose information on a prescribed register that identifies any person except—

(a) with that person's consent; or

(b) to a medical practitioner engaged by that person and seeking information to assist in diagnosis or treatment or to determine when the person should next have a cancer test; or 35

(c) as is necessary for the performance of the functions set out in sub-section (5) (a) or (b).

Penalty: 10 penalty units. 40

(7) On the application of a person whose name appears on a prescribed register, the organization that maintains the register must remove from the register all information that identifies that person.

(8) An organization that maintains a prescribed register is a provider of a health service for the purposes of the *Health Services (Conciliation and Review) Act 1987*.

5 (9) The Governor in Council may make regulations for or with respect to—

(a) prescribing registers of results from cancer tests by specifying in each case—

(i) the name of the register; and

10 (ii) whether the register is of results of tests for cancer of a particular part of the human body or of results of tests generally; and

(iii) the organization that maintains the register; and

(iv) the officer of that organization in charge of the register; and

15 (b) access to prescribed registers by persons studying cancer, including how, where, when and to whom access is to be given, and in what circumstances access is to be given or denied; and

(c) prescribing forms; and

20 (d) generally prescribing any other matter or thing required or permitted by this section to be prescribed or necessary to be prescribed to give effect to this section.

(10) The regulations may confer a discretion or authority, or impose a duty, on a specified person or class of persons.

25 (11) Regulations made under this section may be disallowed in whole or in part by resolution of either House of the Parliament in accordance with the requirements of section 6 (2) of the *Subordinate Legislation Act 1962*.

30 (12) Disallowance under sub-section (11) is deemed to be disallowance by Parliament for the purposes of the *Subordinate Legislation Act 1962*.”.

