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The 1939 Cancer Act: What is it, what does it do, and is it 'suppressing the cure'?



Cancer Research UK
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Cancer Act, 1939.

2 & 3 GEO. 6. CH. 13.



ARRANGEMENT OF SECTIONS.

The Cancer Act is designed to protect patients and the public.

The 1930s was a turbulent decade.

Staggering through the [Great Depression](#) and on the brink of war, people danced away their troubles to the latest swing tunes pouring from their newly-acquired radio sets, or piled into cinemas to see the newest offerings from Hollywood.

For cancer patients there were few treatments other than surgery or primitive radiotherapy, and the first chemotherapy drugs — developed from the [chemicals originally used to make mustard gas](#) — were still at least a decade away. Perhaps unsurprisingly, given this rather dismal backdrop of clinical options, [quack cancer cures were flourishing](#).

And at the end of the thirties, a little-known piece of legislation came through the UK's Houses of Parliament: the [Cancer Act, 1939](#), brought in 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.”

It may sound archaic — and it has been significantly revised in the years since it was forged — but this decades-old law is still used in court today, most recently in [several recent successful prosecutions](#) by various Trading Standards teams against people advertising alleged cures for cancer.

It's because of this that we occasionally receive messages claiming that the Act is ‘suppressing the cure for cancer’, and have seen petitions demanding that it should be repealed.

So we thought we'd take a closer look at the contents of the Cancer Act as it now stands, how it has changed, and how it still works to protect patients and the public.

What does the 1939 Cancer Act say?

At its heart, the current incarnation of the Cancer Act is designed to protect cancer patients and the public from being bombarded with adverts for cancer treatments, from any source, **including medical professionals, pharmaceutical companies, alternative practitioners, or anyone else.**

This is an important point: the Act functions across the board, preventing pharmaceutical companies from hawking the latest cancer drugs through advertisements in the pages of UK newspapers or on TV, as well as shutting down UK-accessible websites claiming that magic crystals can treat tumours.

It's worth noting that other countries, such as the US, allow [direct-to-consumer advertising of cancer drugs and treatments](#).

The [original Act](#) (pdf) aimed to cover a lot of ground. When it was first published it ran to eight sections, covering legal points such as its scope and interpretation, and the parts of the UK in which it applies.

Because it arrived nearly a decade before the founding of the NHS, the Act also contained details about how local councils should provide treatment and other services for cancer patients. And there was a whole section explaining how money should be allocated around the country to buy supplies of a radioactive element called radium — a fore-runner of the far more sophisticated radiotherapy treatments we have today.

All but one of these sections have now been repealed or subsumed into other pieces of legislation, and only one — section four — still stands.

The full text of section four, showing the alterations that have been made to it over the years, is copied at the bottom of this post. But to put it simply, it is **a blanket ban on advertising cancer treatments to the general public.**

To paraphrase the legal stuff, section four of the Act says:

- Nobody (including limited companies) can publish any advert — meaning a notice, circular, label, wrapper or other document, or any announcement made orally or by any means of producing or transmitting sounds — aimed at the public, offering to treat anyone for cancer, to prescribe any treatments for the disease, or to give advice in connection to cancer treatment.
- If they do, they could be convicted, fined and/or imprisoned for up to three months.
- They can avoid this fate by proving that their advertisement is not aimed at the public, but instead at members of Parliament or the House of Lords, local authorities or governing bodies of [voluntary hospitals](#) (those founded and run by charities); registered medical practitioners, nurses or pharmacists (or anyone training to be one of those); that the advert was in a technical publication aimed at any of those people; or that they didn't know it was being published at all.
- There's also a get-out clause for adverts published by local authorities and voluntary hospitals themselves, and for any person acting "with the sanction of the Minister [of Health]." So if Jeremy Hunt says it's OK then it's fine.

Implicit in the term 'advertisement' is that there is a financial incentive: a person or company is selling something (whether it's an actual treatment or regime, or advice about treating the disease) claiming to treat cancer.

That's the letter of the law. Now let's take a look at the spirit of it — how it's applied in practice and what it's meant to achieve.

What does the Cancer Act do?

In the UK, advertising is independently regulated by the [Advertising Standards Authority](#) (ASA), which takes action against misleading, harmful or offensive adverts. But ordinarily, it can only give offenders a metaphorical slap on the wrist, demanding that non-compliant ads are taken down and don't run again.

But if ads appear to breach the Cancer Act, the ASA can refer to the appropriate [local Trading Standards team](#), which is responsible for bringing prosecutions to court. And members of the public are also able to alert Trading Standards to ads that appear to fall foul of the Act.

In some cases, figuring out whether an advert has breached the Cancer Act is fairly simple, and it's easy to tell whether an advert is offering a cancer cure for sale or not. But sometimes things are a bit murkier, especially if what's on offer is advice and information rather than treatments. And the Act makes no distinction between therapies that are supported by scientific evidence, bogus quackery, or anything else in between. **It's purely about whether someone is advertising a treatment for cancer or not.**

However, the Cancer Act isn't the only legal protection on offer for patients and the public, and it's here that other, broader laws come in — principally the [Consumer Protection From Unfair Trading Regulations, 2008](#), which supersede much of the 1939 Act. This legislation is designed to prevent people and companies from: "Falsely claiming that a product is able to cure illnesses, dysfunction, or malformations."

Although these regulations are far broader in scope than the Cancer Act, they're not as clear-cut when it comes to prosecutions. It's easy to prove that a tatty £20 "Hermès" handbag from the local market is a fake, when the real thing retails for thousands. But it's harder to nail down the evidence for ineffective medical treatments, especially when the burden of proof falls on Trading Standards rather than the treatment provider.

To confuse things further, there are other safeguards for cancer patients too, including the 2015 [Consumer Rights Act](#), which protects shoppers from unfair and fraudulent trading, including purchases made over the internet. It's up to Trading Standards officers to decide under which law or laws to prosecute — whether it's the Cancer Act, Unfair Trading, Consumer Rights or any other regulations.

Is the 1939 Cancer Act suppressing the cure for cancer?

Cancer is an emotive subject, and there are very few of us who haven't lost friends and relatives to this terrible disease. When someone you love is dying, it's all too tempting to believe that there is a cure out there, if only you could get your hands on it.

This entirely human feeling means that, on occasion, desperate patients and their families can be exploited by sellers of bogus cures and unproven therapies — something that the Cancer Act aims to prevent.

But what about the claim that the Act is 'suppressing the cure for cancer' — something we often hear through our social media channels?

As we've [previously discussed at length](#), **there is no conspiracy to 'hide the cure'**.



Some conspiracy theorists believe the Cancer Act is suppressing 'the cure' . Image by Drvec from [Wikimedia Commons](#), public domain.

Any person or company with a genuine cure for cancer would stand to make huge amounts of money — not to mention save millions of lives and shower themselves with scientific and humanitarian glory in the process. And cancer affects us all: to suggest that scientists, doctors, nurses, charity and pharma company employees are wilfully hiding a cure while their family members, friends and colleagues die of the disease is offensive in the extreme.

The Cancer Act exists to prevent direct advertising of *any* treatments to the public — evidence-based or not, proven or unproven. But it doesn't stop adverts and information reaching the

doctors, nurses and pharmacists responsible for treating patients (whether private or NHS), the politicians and hospital governors who make decisions about how NHS resources are used, or researchers working to develop and test new therapies.

So, even if there were a conspiracy — [which there isn't](#) — it's hard to see how the Act could prevent genuinely effective treatments from ultimately reaching the patients that need them.

Is the Cancer Act still fit for purpose?

Despite its advanced years, the fact that Trading Standards officers are still using the Act to bring [prosecutions to court](#) tells us that it's still relevant today.

And although it's not the only legislation that protects cancer patients, it's much more straightforward to enforce than other, more general consumer protection laws (though Trading Standards may choose to prosecute under both, depending on the particular situation).

One thing that could never have been predicted in the 30s is the rise of the internet and the profusion of information (and misinformation) it carries. But the Cancer Act still covers social media and any websites that are accessible within the UK, if they're aimed at the general public rather than the specific groups of people mentioned above, and Trading Standards can still choose to prosecute people advertising through them.

It's also worth noting that the Cancer Act says nothing about advertising methods and products for cancer *prevention*, although these are covered under the wider consumer protection laws. And therapies aimed at managing the side effects of conventional cancer treatment — another common offering from the world of alternative medicine — are also a bit of a grey area.

What remains of the 1939 legislation isn't perfect, because life — and cancer treatment — isn't perfect. But the Trading Standards officer we spoke to while researching this post was convinced that the Act is still relevant today, protecting patients and the public.

Thanks to research, the chances of beating cancer are increasing all the time. Survival rates have [doubled since the 1970s](#), and today half of all patients will survive at least 10 years. The 1939 Cancer Act hasn't stopped that progress, and it's not going to stop our aim to reach [three-quarters surviving within the next 20 years](#) — and ultimately saving as many lives as we possibly can.

Kat

Section 4 of the Cancer Act, 1939, as it currently stands, including repealed and altered sections:

(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

(b) [Repealed]

(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 [Repealed fifty pounds][level 3 on the standard scale], and, in the case of a subsequent conviction, to a fine not exceeding [Repealed one hundred pounds][level 3 on the standard scale] or to imprisonment for a term not exceeding three months, or to both such a fine and such imprisonment.

(3) [Repealed]

(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 a governing body of a voluntary hospital;

(ii) [repealed]

(iii) registered medical practitioners;

(iv) registered nurses;

(v) registered pharmacists and [Repealed F5persons lawfully conducting a retail pharmacy business in accordance with section 69 of the M1Medicines Act 1968];

(vi) persons undergoing training with a view to becoming registered medical practitioners, registered nurses or registered pharmacists;

(vii) [Repealed]

(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 of 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) [Repealed]

[Replaced by [2008 legislation](#)]

(7) Each of the following may institute proceedings under this section —

(a) a county council in England;

(b) a non-metropolitan district council for an area in England for which there is no county council;

(c) a London borough council;

(d) the Common Council of the City of London; or

(e) a county council or county borough council in Wales.]

(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.

[From Legislation.gov.uk](http://www.legislation.gov.uk)