

Contaminated Blood (Support for Infected and Bereaved Persons) Bill [HL]

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[NOTE: The words marked in bold type were inserted by the Lords to avoid questions of privilege.]

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Establish a committee to advise on haemophilia; to make provision in relation to blood donations; to establish a scheme for NHS Compensation Cards for people who have been treated with and infected by contaminated blood or blood products; to make provision for the financial compensation of people treated with and infected by contaminated blood and blood products and their widows, dependants and carers; to establish a review of the support available for people who have been treated with and infected by contaminated blood or blood products; and for connected purposes.

BE IT ENACTED by the Queen’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 Committee to advise on treatment of haemophilia

- (1) Within six months of the passing of this Act, the Secretary of State shall by regulations establish a Committee (“the Committee”) to advise on the treatment of haemophilia in the United Kingdom.
- (2) The Committee shall in particular provide advice on—
 - (a) the selection, procurement and delivery of available therapies for people with haemophilia and, in particular, those treated with and infected by contaminated National Health Service (NHS) blood or blood products; 5
 - (b) the accessibility for people with haemophilia to haemophilia treatments and to treatments for conditions which arise from haemophilia treatment; 10
 - (c) the financial and other needs of people with haemophilia;
 - (d) how provisions for people treated with and infected by contaminated NHS blood or blood products compare with those in other countries. 15
- (3) The membership of the Committee shall include—
 - (a) specialist haemophilia clinicians;
 - (b) representatives of the Haemophilia Society;
 - (c) representatives of the Department of Health;

- (d) representatives of people with haemophilia, through nomination by the Haemophilia Society and other bodies working to support people with haemophilia.
- (4) The Secretary of State shall consult the Committee before making substantial changes in policy regarding the treatment of people with haemophilia and before introducing legislation which affects them. 5
- (5) If the Committee deems it necessary, the Secretary of State shall by regulations establish one or more regional sub-committees to exercise prescribed functions which fall to the Committee.
- 2 Blood donations** 10
- (1) The Secretary of State shall by regulations establish a system to ensure that all people with haemophilia who have received blood or blood products under the NHS, and any partners of those people, are offered a test for the conditions listed in subsection (2).
- (2) The conditions are – 15
- (a) hepatitis B,
 - (b) hepatitis C,
 - (c) human immunodeficiency virus,
 - (d) human T-lymphotropic virus,
 - (e) syphilis, and 20
 - (f) variant Creutzfeldt-Jakob disease.
- (3) The Secretary of State shall also by regulations establish a system to ensure that the blood supply is made safe through the implementation of prion filtration and that all blood donors are routinely tested for the conditions listed in subsection (2). 25
- (4) The Committee shall keep under review the list of conditions in subsection (2) and shall make recommendations to the Secretary of State as to the addition or removal of medical conditions in the list as appropriate.
- (5) Upon a recommendation from the Committee as to the alteration of the list of medical conditions in subsection (2), the Secretary of State shall by regulations amend the system for testing accordingly. 30
- 3 Treatment of people treated with and infected by contaminated NHS blood or blood products**
- (1) The Secretary of State shall by regulations establish a scheme to issue NHS Compensation Cards to all people who have been treated with and infected by contaminated blood or blood products under the NHS. 35
- (2) The scheme shall make provision to allow holders of NHS Compensation Cards to access the following benefits free of charge under the NHS – 40
- (a) prescription drugs,
 - (b) counselling,
 - (c) physiotherapy,
 - (d) occupational therapies and other therapies allied to medicine,
 - (e) home nursing.

- (3) The scheme shall also make provision to allow holders of NHS Compensation Cards to receive priority NHS treatment whenever possible.

4 **Financial compensation for people treated with and infected by contaminated NHS blood or blood products**

- (1) The Secretary of State shall by regulations make provisions to allow the following beneficiaries to claim for financial compensation – 5
- (a) persons who have received contaminated blood or blood products under the NHS and contracted any of the conditions listed in section 2(2) as a consequence,
 - (b) persons who have been, or are still, unable to work because they have acted, or still act, as the primary carer of a person within paragraph (a), and 10
 - (c) widows and other dependants of a person within paragraph (a).
- (2) The regulations shall ensure that payment of the compensation will – 15
- (a) take the form of an initial capital sum, followed by prescribed periodical payments,
 - (b) be paid directly to the beneficiary, rather than through a separate trust or fund,
 - (c) not be means-tested,
 - (d) not be dependent upon the initial reason for which the person was first given contaminated NHS blood or blood products, 20
 - (e) not be dependent on the age of the person when contaminated NHS blood or blood products were given,
 - (f) not be dependent on when an infected person received contaminated NHS blood or blood products, 25
 - (g) in the case of a carer, widow or dependant, and where the person being cared for has subsequently died, not be dependent on the date of death of that person,
 - (h) not affect the calculation of any other benefits to which the beneficiary is entitled. 30
- (3) The regulations shall also make provisions to ensure that where the beneficiary is a child, the compensation will be paid to a parent or guardian of that child.
- (4) When making the regulations the Secretary of State shall have regard to any comparable compensation schemes offered in other countries.
- (5) The Secretary of State shall establish an appeal mechanism for those persons whose claims for compensation made pursuant to subsection (1) are rejected. 35

5 **Review**

- (1) Within six months of the passing of this Act, the Secretary of State shall, in conjunction with the Committee, establish a review into – 40
- (a) the conditions under which widows and other dependants of people who have been treated with and infected by contaminated NHS blood or blood products, and subsequently died, become eligible for benefits;
 - (b) the provision of medical insurance for people who have been treated with and infected by contaminated NHS blood or blood products;

- (c) the number of people who may have unknowingly been treated with and infected by contaminated NHS blood products, and the way in which these people could be informed and supported;
 - (d) the amount and sources of funding for charities which support people with haemophilia. 5
- (2) Within one year of the passing of this Act, the Secretary of State shall lay a report before Parliament setting out the findings and recommendations of the review.

6 Regulations, short title, commencement and extent

- (1) Regulations made by the Secretary of State under this Act are to be made by statutory instrument. 10
- (2) A statutory instrument which contains any regulations made under this Act is subject to annulment in pursuance of a resolution of either House of Parliament, unless it is an instrument to which subsection (3) applies.
- (3) A statutory instrument which contains, whether alone or with other provisions, any regulations made under section 2(5) or 4 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 15
- (4) This Act may be cited as the Contaminated Blood (Support for Infected and Bereaved Persons) Act 2010. 20
- (5) This Act shall come into force on the day on which it is passed.
- (6) This Act extends to England and Wales only.
- (7) **Nothing in this Act shall impose any charge on the people or on public funds, or vary the amount or incidence of or otherwise alter any such charge in any manner, or affect the assessment, levying, administration or application of any money raised by any such charge.** 25

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