



## CHAPTER xcvihi.

An Act to amend Saint Mary's Hospital (Newcastle-upon-Tyne) Act 1888 and certain schemes made thereunder and for other purposes.      A.D. 1927.

[29th July 1927.]

**W**HEREAS there exists in the city of Newcastle-upon-Tyne an ancient charity (hereinafter referred to as "the charity") formerly known as the "Hospital of Saint Mary the Virgin within the town of Newcastle-upon-Tyne" (but now more generally known as the Hospital of Saint Mary the Virgin) and originally consisting of a hospital with a master and six poor brethren who held certain lands and hereditaments forming the endowment of the charity:

And whereas the charity is now regulated by Saint Mary's Hospital (Newcastle-upon-Tyne) Act 1888 (hereinafter referred to as "the Act of 1888") and a scheme (hereinafter referred to as "the scheme of 1888") scheduled thereto and confirmed thereby and by certain other schemes made by the Charity Commissioners and the Board of Education respectively under the Act of 1888:

And whereas the Act of 1888 contained provisions under which the office of master of the said hospital is now abolished and the said hospital consists of the brethren for the time being thereof:

And whereas under the provisions of the scheme of 1888 there were constituted two governing bodies

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— one called "the Trustees of the Hospital of Saint Mary the Virgin" (hereinafter referred to as "the trustees") for the management of the lands and hereditaments and all estates and interests therein belonging to the charity (with certain exceptions which included certain schools dealt with by the said scheme and the lands and buildings used and occupied therewith) and the other called "the Governors of the Newcastle-upon-Tyne Royal Grammar School" (hereinafter referred to as "the governors") for the administration of the said schools and the lands and buildings occupied therewith and the income of the charity applicable to educational purposes and all the other endowments of the said schools :

And whereas under the provisions of the Act of 1888 and the schemes made thereunder ten of the twenty-one governors and a majority of the trustees are appointed by the council of the city of Newcastle-upon-Tyne (hereinafter referred to as "the council") and the council have certain other powers in connection with the charity :

And whereas the scheme of 1888 contained provisions relating to the application of the surplus income of the charity after making the payments thereby authorised which provisions were amended by a scheme made by the Charity Commissioners in the year one thousand nine hundred and three and further amended by a scheme (hereinafter referred to as "the scheme of 1914") made by the Board of Education in the year one thousand nine hundred and fourteen :

And whereas under the provisions of the Act of 1888 and the said schemes there is allocated to educational purposes the residue of the income of the charity after making certain payments thereout and such residue is applicable in the manner provided by the scheme of 1914 under the provisions of which any surplus of income after certain yearly payments have been made thereout is directed to be treated as capital and (unless otherwise ordered by the Board of Education) to be invested in the name of the Official Trustees of Charitable Funds in augmentation of that part of the income of the charity which is applicable to educational purposes pending a further scheme or Act :

And whereas the number of the said brethren was by the Act of 1888 directed to be eight subject to increase



under powers therein contained and now exerciseable A.D. 1927.  
by the council of appointing additional resident brethren  
not exceeding eight and (subject to certain conditions)  
of appointing non-resident brethren not exceeding sixteen :

And whereas by the Act of 1888 and the scheme of 1888 certain provisions were made with regard to the appointment and payment of one of the brethren to see that all the fires in the almshouses of the charity were put out at night and otherwise to see to the security of the said almshouses and for the appointment and remuneration of a nurse to attend upon the brethren in case of illness and the payment of certain annual stipends to each of the brethren :

And whereas the income of the charity has very largely increased since the making of the scheme of 1914 and the annual surplus of that part of the said income which is applicable to educational purposes now exceeds the sum of one thousand four hundred pounds :

And whereas that part of the income of the charity which is applicable to purposes other than educational purposes is insufficient to enable the trustees to maintain properly the almshouses of the charity and to make adequate payments to the brethren thereof and in other respects to carry into proper effect the said purposes :

And whereas it has been agreed between the governors and the trustees and the council that the surplus income of the charity which is now applicable to educational purposes shall be divisible between the governors and the trustees in certain proportions with a view to providing the trustees with adequate funds for the discharge of their duties whilst leaving to the governors sufficient funds for the educational purposes administered by them and that the accumulations of such surplus income shall be applied in the manner provided by this Act :

And whereas it is expedient that to the extent provided by this Act effect should be given to the said agreement and that in other respects the Act of 1888 and the said schemes should be amended as provided by this Act :

And whereas the objects of this Act cannot be attained without the authority of Parliament :

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And whereas in relation to the promotion of the Bill for this Act the requirements of the Borough Funds Acts 1872 and 1903 have been observed by the lord mayor aldermen and citizens of the said city :

May it therefore please Your Majesty that it may be enacted and be it enacted by the King'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 (that is to say) :—

Short and  
collective  
titles.

1. This Act may be cited as Saint Mary's Hospital (Newcastle-upon-Tyne) Act 1927 and Saint Mary's Hospital (Newcastle-upon-Tyne) Act 1888 and this Act may be together cited as Saint Mary's Hospital (Newcastle-upon-Tyne) Acts 1888 and 1927.

Interpreta-  
tion.

2. In this Act unless the context otherwise requires—

“ The Hospital ” means the Hospital of Saint Mary the Virgin within the city and county of Newcastle-upon-Tyne ;

“ The Act of 1888 ” means Saint Mary's Hospital (Newcastle-upon-Tyne) Act 1888 ;

“ The scheme of 1888 ” means the scheme scheduled to and confirmed by the Act of 1888 ;

“ The scheme of 1903 ” means the scheme dated the eighteenth day of September one thousand nine hundred and three and made by the Charity Commissioners in execution of the provisions contained in section 22 of the Act of 1888 ;

“ The scheme of 1909 ” and “ the scheme of 1914 ” mean respectively the schemes dated the twentieth day of October one thousand nine hundred and nine and the fourth day of July one thousand nine hundred and fourteen and made by the Board of Education under the Charitable Trusts Acts 1853 to 1894 and the Act of 1888 ;

“ Hospital land ” means and includes all lands and hereditaments and all estates and interests therein belonging to the Hospital except (a) the chapel of the Hospital and the grounds thereof and (b) the schools dealt with by the



scheme of 1888 and the scheme of 1903 and the lands and buildings used and occupied therewith; A.D. 1927.  
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“Hospital capital funds” means and includes all stock in the public funds and other securities and capital moneys belonging to the Hospital and except where otherwise authorised by the Charity Commissioners all moneys arising from the sale of timber or from any mines and minerals on or under the hospital land or the said schools;

“The foundation” means the foundation called the Newcastle-upon-Tyne Royal Grammar School and comprises the capital endowment (including school premises and a sum of stock) appropriated to the said school out of the funds of the Hospital together with certain yearly sums payable out of the income of the endowment of the Hospital and certain yearly sums payable by the lord mayor aldermen and citizens of the city and county of Newcastle-upon-Tyne;

“The trustees” means the persons who are for the time being trustees appointed by or under the scheme of 1888 for the management of the hospital land;

“The governors” means the persons who are for the time being governors appointed by or under the scheme of 1888 and the scheme of 1909 to administer the foundation;

“The almshouses” means the almshouses for the time being of the Hospital;

“Brethren” means the brethren of the Hospital;

“Resident brethren” means brethren entitled to reside in the almshouses;

“Non-resident brethren” means brethren not entitled to reside in the almshouses;

“The council” means the council of the city and county of Newcastle-upon-Tyne;

“Year” means any period of twelve months ending on the thirty-first day of March;

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“The surplus income” means the surplus in any year of so much of—

(a) the net annual proceeds of the hospital land (other than the hospital buildings and the almshouses); and

(b) the net annual income of the hospital capital funds

as by virtue of the scheme of 1903 and the scheme of 1914 or one of them constitutes or belongs to the fund referred to in the scheme of 1914 by the name of “the educational endowment of the Hospital of Saint Mary the Virgin” which remains after payment of the sums referred to in paragraphs (a) and (b) of clause 5 of the last-mentioned scheme.

Apportionment and application of surplus income.

3.—(1) Notwithstanding anything contained in the Act of 1888 or in the scheme of 1903 or in the scheme of 1914 the surplus income accrued and to accrue from and after the thirty-first day of March one thousand nine hundred and twenty-seven instead of being treated and invested as provided by paragraph (c) of clause 5 of the scheme of 1914 shall to the extent of a sum not exceeding in any year one thousand eight hundred pounds be applied as follows (that is to say) :—

(a) Two equal third parts of the surplus income or of the said sum of one thousand eight hundred pounds (whichever shall be the less) shall be retained by the governors and applied by them (i) to the purposes of the foundation and administered as part of the income thereof in augmentation of the yearly sum referred to in paragraph (b) of clause 5 of the scheme of 1914 or (ii) to such other educational purposes (if any) as they may from time to time determine; and

(b) The remaining one equal third part of the surplus income or of the said sum of one thousand eight hundred pounds (whichever shall be the less) shall be paid by the governors to the trustees who shall apply the same for all or any one or more of the purposes mentioned or



specified in the sections of this Act of which A.D. 1927.  
the marginal notes are respectively "Power to  
" trustees to make certain increased pay-  
" ments " " Power to trustees to provide addi-  
tional accommodation " and " Costs of Act."

(2) (a) In any year in which the amount of the surplus income exceeds the sum of one thousand eight hundred pounds such excess shall be apportioned between the governors and the trustees in such proportions as they may from time to time with the approval of the Board of Education and the Charity Commissioners agree or as failing such agreement shall be determined jointly by the said Board and Commissioners Provided that if the Board of Education and the Charity Commissioners differ as to any such apportionment or if the governors or the trustees object to any such joint determination of the said Board and Commissioners the governors and the trustees or one of them may apply by originating summons issued out of the Chancery Division of the High Court for an order directing the apportionment of the said excess which order may be made by a judge of the said division in the exercise of his ordinary jurisdiction and shall be subject to appeal as in the case of ordinary orders of the said division.

(b) The amounts of any such excess apportioned to the governors and the trustees respectively shall be retained by or paid to them (as the case may be) and shall be applied to such of the purposes mentioned or referred to in paragraphs (a) and (b) of subsection (1) of this section as the governors and the trustees may from time to time respectively determine.

(3) (a) The surplus income accrued from the date of the coming into operation of the scheme of 1914 to the said thirty-first day of March one thousand nine hundred and twenty-seven (other than the sum of four thousand four hundred pounds lent by the governors to the trustees) and the securities in or upon which the same has been invested shall be the sole property of the governors and as soon as practicable after the passing of this Act the Official Trustees of Charitable Funds shall sell or convert into money the securities standing in their names representing the investments of the accrued surplus income last aforesaid and shall pay the proceeds of such sale or conversion (after deducting

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the expenses thereof) to the governors who shall apply the sums so paid to them as part of the income of the foundation or if they think fit for any purpose of the foundation to which capital is properly applicable.

(b) In consideration of the granting to the governors of the rights conferred by this subsection the said sum of four thousand four hundred pounds shall cease to be a debt due from the trustees to the governors and shall not be repayable by the trustees to the governors;

(c) As soon as practicable after the passing of this Act the Official Trustees of Charitable Funds shall sell or convert into money so much of the securities standing in their names representing hospital capital funds as shall suffice (after payment of the expenses of such sale or conversion) to produce the said sum of four thousand four hundred pounds and shall pay the said sum to the trustees who shall apply the same for all or any one or more of the purposes mentioned or specified in the sections of this Act of which the marginal notes are respectively "Power to trustees to make certain increased payments" "Power to trustees to provide additional accommodation" and "Costs of Act."

Power to council to appoint additional brethren.

4.—(1) Notwithstanding anything contained in section 7 (Additional brethren) of the Act of 1888 the council may from time to time appoint such a number of resident brethren in addition to the eight brethren referred to in section 6 (Constitution of hospital) of the said Act as they may think fit and they may also from time to time appoint such a number (if any) of non-resident brethren as having regard to the income of the hospital land for the time being available they may think fit.

(2) Any non-resident brethren appointed by the council under the powers of this section shall for the purposes of the provisions of clause 7 of the scheme of 1888 which relate to the application of the surplus of the income referred to in the said clause 7 be deemed to have been appointed under an order or orders of the Charity Commissioners but notwithstanding anything contained in this Act or done thereunder the sum to be deducted from the said surplus pursuant to the said clause 7 in respect of payments to non-resident brethren shall not in any year exceed four hundred and eighty pounds.



5.—(1) Notwithstanding anything contained in section 12 (Master or council to appoint one of the brethren to see fires out &c.) or section 13 (Master or council may employ a nurse) or section 14 (Stipend &c. of brethren) of the Act of 1888 or in clause 7 of the scheme of 1888 as amended by the scheme of 1903 the trustees may if they think fit pay such sums as they may from time to time determine—

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Power to trustees to make certain increased payments.

- (a) in excess of the annual sum of fifty shillings referred to in the said section 12 and in the said clause 7 and payable to the brother appointed under that section in addition to his annual stipend;
- (b) in excess of the sum of thirty pounds a year referred to in the said section 13 and in the said clause 7 and payable to any nurse appointed under that section;
- (c) in excess of the annual sum of thirty pounds referred to in the said section 14 and in the said clause 7 and payable to each of the brethren.

(2) The trustees may pay such sums as they may from time to time determine by way of annual stipends to any additional brethren who may be appointed by the council under the powers of the section of this Act of which the marginal note is "Power to council to appoint additional brethren."

(3) The trustees may from time to time provide and pay for such medical attendance and additional nursing attendance as they may deem necessary for the brethren.

(4) Nothing in paragraph 3 (2) of clause 8 of the scheme of 1903 or in paragraph (b) of clause 4 of the scheme of 1914 shall be construed as limiting the sums which the trustees may apply annually in or towards meeting the cost of repairs rates taxes and insurance and other expenses of management of property and business in respect of the almshouses and offices and the buildings and lands occupied therewith.

6. The trustees may from time to time provide such additional residential or other accommodation (including a common room) as they may think fit for any existing or additional resident brethren from time to time

Power to trustees to provide additional accommodation.

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A.D. 1927. appointed by the council or otherwise in connection with  
— the almshouses.

Power to  
Board of  
Education  
and Charity  
Commis-  
sioners to  
amend Act  
of 1888 or  
this Act.

7.—(1) The Board of Education and the Charity Commissioners or either of them (in addition and without prejudice to their respective powers of repealing or amending any of the schemes referred to in this Act) may on the joint application of the governors and the trustees and the council at any time and from time to time make a scheme or schemes repealing amending varying or adding to all or any of the provisions of the Act of 1888 or of this Act to such extent and in such manner as the governors and the trustees and (as respects any repeal amendment variation or addition affecting the almshouses) the council may determine and if the Board of Education and the Charity Commissioners or either of them decline to make any scheme applied for under this section the governors and the trustees and the council may apply by originating summons issued out of the Chancery Division of the High Court for an order repealing amending varying or adding to all or any of the provisions of the Act of 1888 or of this Act which order may be made by a judge of the said division in the exercise of his ordinary jurisdiction and shall be subject to appeal as in the case of ordinary orders of the said division.

(2) Any scheme made by the Board of Education and the Charity Commissioners or either of them and any order of the Chancery Division (if and as confirmed in the case of an appeal) made under this section shall have effect as if it had been enacted in this Act.

(3) Nothing in this section shall empower—

(a) the Charity Commissioners alone to make a scheme or schemes under this section dealing exclusively with property funds or income of the Hospital devoted at the date of the application for the scheme or schemes to educational purposes; or

(b) the Board of Education alone to make a scheme or schemes under this section dealing exclusively with property funds or income of the Hospital devoted at the said date to non-educational purposes.



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8. The trustees and the governors may apply all or any of the funds of the Hospital (whether appropriated to any particular purpose or not) in or towards defraying the costs charges and expenses of and incidental to any application by them under subsection (2) of the section of this Act of which the marginal note is "Apportionment and application of surplus income" or under the section of this Act of which the marginal note is "Power to Board of Education and Charity Commissioners to amend Act of 1888 or this Act."

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Power to  
promote  
Bills in  
Parliament.

9. The costs charges and expenses preliminary to and of and incidental to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid as to two-thirds of the amount thereof by the governors and as to the remaining one-third of the amount thereof by the trustees out of any capital moneys in their hands respectively or may be charged as expenditure on revenue account.

Costs of Act.

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