



BILLE NA nOISPIDEAL, 1938.
HOSPITALS BILL, 1938.

Mar do tugadh isteach.
As introduced.

ARRANGEMENT OF SECTIONS.

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SCHEDULE.

Matters in respect of which provision may be made in an establishment order.

ÉIRE

BILLE NA nOISPIDEAL, 1938.

HOSPITALS BILL, 1938.

BILL

entitled

5

AN ACT TO ENABLE THE MINISTER FOR LOCAL GOVERNMENT AND PUBLIC HEALTH TO MAKE CERTAIN ORDERS IN RELATION TO THE MANAGEMENT, CONTROL AND FINANCE OF CERTAIN HOSPITALS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:— 10

Definitions.

1.—In this Act—

the expression “the Minister” means the Minister for Local Government and Public Health;

the expression “local authority” means an authority which is—

- (a) a county council, 15
- (b) an authority charged with the administration of the Poor Relief (Ireland) Acts, 1878 to 1914, or
- (c) a sanitary authority;

the expression “voluntary hospital” means an institution in respect of which both of the following conditions are complied with, that is to say:— 20

(a) that it does any one or more of the following things, that is to say:—

- (i) provides for the prevention, treatment or cure of disease, injury or deformity in human beings, 25
- (ii) affords medical, surgical or dental treatment to human beings,
- (iii) affords asylum to blind, deaf, dumb or mentally defective persons,
- (iv) affords asylum to expectant mothers or to mothers 30 of children under the age of five years and such children, and

(b) that its governing body is not a department of State, a local authority, a committee of a local authority, two or more local authorities or a joint committee of two or more local authorities. 35

Application for establishment order.

2.—(1) The governing body of any voluntary hospital may, pursuant to a resolution adopted in that behalf by such governing body, apply to the Minister for an establishment order in relation to such hospital. 40

(2) Before a resolution to apply for an establishment order is adopted by the governing body of a voluntary hospital, notice of the intention to propose such resolution shall be given by posting on the same day (being at least three weeks before the adoption of such resolution) to each person who on that day is a member of such governing body a prepaid letter addressed to him at the address at which he ordinarily resides and notifying him of the intention to propose such resolution.

3.—(1) As soon as conveniently may be after the governing body of a voluntary hospital has applied for an establishment order, such governing body shall publish a notice of the making of such application at least once in each of two successive weeks in three newspapers (of which at least one shall be a morning daily newspaper) circulating in the area in which such hospital is situated.

Public notice of application for establishment order.

(2) Every notice published under this section by the governing body of a voluntary hospital shall be in such form as the Minister may approve and shall contain, in addition to any other matters that may be so approved, an intimation that any person who objects to the making of an establishment order in relation to such hospital may, at any time before the expiration of four weeks after the week in which such notice is published for the second time, furnish a written statement of his objections to the Minister.

4.—(1) Where the governing body of a voluntary hospital applies to the Minister under and in accordance with this Act for an establishment order, the following provisions shall have effect, that is to say:—

Consideration of application for establishment order and making thereof.

(a) the Minister may decide either to grant such application or not to grant such application,

(b) the Minister shall not make such decision until the expiration of the time within which written statements of objections to the making of such order may be furnished to him under the immediately preceding section and shall, in making such decision, have regard to any such statements which are so furnished,

(c) before making such decision, the Minister may, in any case in which he thinks it proper so to do, hold a public inquiry into the desirability of making such order,

(d) if the Minister decides to grant such application, he shall prepare a draft of such establishment order in such terms as he considers appropriate and submit such draft to such governing body,

(e) if and when agreement is reached between the Minister and such governing body as to what (if any) variations are desirable in such draft, the Minister may make an order (in this Act referred to as an establishment order) in the terms of such draft either, in case it has been agreed as aforesaid that such draft should be varied in any respects, varied in those respects or, in any other case, as prepared originally by the Minister.

(2) Article 32 of the Schedule to the Local Government (Application of Enactments) Order, 1898, shall apply in respect of every public inquiry held under this section into the desirability of making an establishment order in like manner as the said Article applies in respect of the inquiries mentioned therein,

and for the purposes of such application the governing body of the voluntary hospital applying for such order shall be deemed to be an authority concerned in such inquiry.

Provisions of establishment orders.

5.—Every establishment order made in relation to a voluntary hospital— 5

- (a) shall declare that, as on and from a specified date, the existing governing body of such hospital shall be dissolved and there shall be established a new governing body (in this Act referred to as the Board) of such hospital wholly or partly (as the Minister thinks proper and specifies in the order) representative of one or more local authorities, 10
- (b) shall declare that the Board shall be a body corporate, to be called by the name specified in the order, with perpetual succession, a common seal (to be judicially noticed) and power to sue and be sued in the said name and to hold land, 15
- (c) shall declare that the property, debts, duties and liabilities of the existing governing body shall, as on the said specified date, be transferred to the Board, 20
- (d) may provide for the transfer to the Board of the officers and servants of the existing governing body and for the extent (if any) to which the service of any officer or servant under the existing governing body is to be reckoned for the purposes of superannuation or compensation for loss of office or service under the Board, 25
- (e) may provide for any matters consequential upon the said dissolution and transfers,
- (f) may empower the Board, subject to such restrictions (if any) as may be specified in such order, to borrow and may, in respect of such borrowing, apply with or without modification, any enactment relating to borrowing by local authorities generally or by local authorities of a particular class, 30
- (g) may, with the consent of the Minister for Finance, empower that Minister to lend to the Board out of the local loans fund as if such lending constituted a local loan within the meaning of the Local Loans Fund Act, 1935 (No. 16 of 1935), and was authorised by an Act of the Oireachtas, 35 40
- (h) may declare that the Board shall, subject to such restrictions (if any) as may be specified in such order, have power to do all such things as governing bodies of hospitals of the class to which such hospital belongs are usually empowered to do, and 45
- (i) may make provision in respect of all or any of the matters set forth in the Schedule to this Act.

Publication of establishment order.

6.—Where the Minister has made an establishment order, the governing body of the voluntary hospital to which such order relates shall, as soon as conveniently may be, cause copies of such order to be made available for public inspection at such times and places as may be directed by the Minister and shall publish in the *Iris Oifigiúil* and in such other manner as may be so directed notice of the making of such order and of the times and places at which copies of such order will be available for public inspection. 50 55

7.—Every establishment order shall be laid before each House of the Oireachtas as soon as conveniently may be after the publication in the *Iris Oifigiúil* of the notice specified in the immediately preceding section, and if either such House shall, within twenty-one days on which such House has sat after such order is laid before it, pass a resolution annulling such order, such order shall be annulled accordingly.

Annulment of establishment order by either House of the Oireachtas.

8.—(1) Where an establishment order has been laid before each House of the Oireachtas and neither such House has, within the time limited in that behalf by the immediately preceding section, passed a resolution annulling such order, any person may, at any time before (but not after) the expiration of one month from the expiration of the said time, apply to the High Court for the annulment of such order or of any specified portion thereof and upon such application—

Annulment of establishment order by High Court.

(a) if the High Court is of opinion that the whole or substantially the whole of such order contravenes or is not authorised by or is not made in accordance with this Act, the High Court may annul such order, and

(b) if the High Court is of opinion that a part only of such order contravenes or is not authorised by or is not made in accordance with this Act, the High Court may either, as shall appear to the High Court to be most convenient to all parties, annul the said part of such order or annul the whole of such order.

(2) On an application under this section the Minister and the governing body of the voluntary hospital concerned shall be entitled to appear and the Court may order the costs and expenses of any party (including the Minister and such governing body) to be paid by any other party.

9.—(1) The Minister may annul an establishment order at any time before the making under the next following section of an order confirming such establishment order.

Annulment of establishment order by the Minister.

(2) The annulment under the immediately preceding section of part of an establishment order shall not prevent the subsequent annulment under this section of such order.

10.—(1) Where an establishment order has been made by the Minister and—

Confirmation of establishment order.

(a) neither House of the Oireachtas has passed a resolution annulling such order within the time limited in that behalf by this Act, and

(b) either—

(i) no application has been made to the High Court for the annulment in whole or in part of such order within the time limited in that behalf by this Act, or

(ii) one or more such applications having been made within the said time, on the final determination thereof none or part only of such order was annulled, and

(c) such order has not been annulled by the Minister, the Minister may by order confirm such establishment order or, in case part of such establishment order was annulled as aforesaid, the part thereof which was not annulled subject, in either case, to such (if any) specified modifications as may be necessary owing to the lapse of time since the making of such establishment order.

(2) Every establishment order or part of an establishment order confirmed under this section shall have the force of law subject to any modifications which may be specified under this section in the order which confirms it and shall not be capable of being questioned in any Court or in any proceedings. 5

Amendment of establishment orders and of certain Acts deemed to be establishment orders.

11.—(1) Where an establishment order has been confirmed, the Minister may, from time to time, by order amend such establishment order and the provisions of this Act relating to the making, matters antecedent to the making, the confirmation and the effect when confirmed of an establishment order shall apply in respect of an order made under this section in like manner as they apply in respect of an establishment order subject to the modification that references in the said provisions to a voluntary hospital shall be construed as references to the hospital in relation to which the establishment order being amended applies. 10 15

(2) The Cork Fever Hospital Act, 1935 (No. 44 of 1935), as amended by the Cork Fever Hospital (Amendment) Act, 1938 (No. 10 of 1938), and the Dublin Fever Hospital Act, 1936 (No. 21 of 1936), shall each, for the purposes of this section, be deemed to be an establishment order. 20

Expenses.

12.—All expenses incurred by the Minister in the execution of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Short title.

13.—This Act may be cited as the Hospitals Act, 1938. 25

SCHEDULE.

MATTERS IN RESPECT OF WHICH PROVISION MAY BE MADE IN AN ESTABLISHMENT ORDER.

1. The qualification for membership of the Board.
2. The election or appointment of members of the Board (including the establishment of a body to elect or appoint any members of the Board who are not elected or appointed by local authorities). 30
3. The tenure of office, resignation and disqualification of members of the Board. 35
4. The election of a chairman and a vice-chairman of the Board.
5. The meetings of the Board and the procedure at such meetings.
6. The officers and servants of the Board (including the specifying of offices to which appointments must be made). 40
7. The establishment by the Board of new institutions.
8. The discontinuance by the Board of existing institutions.
9. The management and control by the Board of institutions maintained by them, the conditions and procedure governing the admission of patients to such institutions and the charges (if any) to be made for the maintenance and treatment of patients therein. 45
10. Disposal of property by the Board.

11. The payments (if any) to be made to the Board by local authorities.
12. The defraying of the expenses of the Board and the contributions (if any) to be made thereto by local authorities.
- 5 13. The accounts to be kept by the Board (including the giving of power to the Minister to regulate such accounts).
14. The disinfection of patients' clothing and the payment by the Board of compensation for any damage caused thereby.
15. The payment by the Board (in proper cases) of the cost
10 of burial of deceased poor patients.
16. The provision by the Board (in proper cases) of clothing for poor patients.
17. The inspection of institutions maintained by the Board by officers of the Minister and officers of local authorities.
- 15 18. The furnishing by the Board of information to the Minister, local authorities, officers of the Minister and officers of local authorities.
19. The application, with or without modification, to the Board
20 of any enactment relating to any of the following matters, that is to say:—
- (a) the appointment, tenure of office and general control of officers and servants of local authorities generally or of local authorities of a particular class,
 - (b) the payment by local authorities to their officers or servants of superannuation or compensation for loss of
25 office or employment,
 - (c) the combined purchasing by local authorities of supplies of commodities,
 - (d) the insurance of their property by local authorities,
 - 30 (e) compulsory acquisition of land and rights over land by local authorities generally or by local authorities of a particular class,
 - (f) the audit of accounts of local authorities,
 - (g) the making of contracts by local authorities generally or
35 by local authorities of a particular class.
20. The making of regulations by the Minister in relation to the Board and the institutions maintained by the Board.
21. Any matter consequential upon or incidental to the matters mentioned in this Schedule.

Éire.

BILLE NA NOISPIDEAL, 1938.

BILLE

(ar do tugadh isteach)

dá ngairmtear

Acht chun a chur ar chumas an Aire Riaghaltais Aiteamhail agus Sláinte Poiblidhe ordúithe áirithe do dhéanamh maidir le bainistí, rialú agus airgeadas óispidéal áirithe.

An tAire Riaghaltais Aiteamhail agus Sláinte Poiblidhe do thug isteach.

Do hordúidh, ag Dáil Eireann, do chlóbhualadh, 9adh Mí na Samhna, 1938.

BAILE ATHA CLIATH:
FOILLSITHE AG OIFIG AN tSOLATHAIR.

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Éire.

HOSPITALS BILL, 1938.

B I L L

(as introduced)

entitled

An Act to enable the Minister for Local Government and Public Health to make certain orders in relation to the management, control and finance of certain hospitals.

Introduced by the Minister for Local Government and Public Health.

Ordered by Dáil Eireann, to be printed, 9th November, 1938.

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