

9 & 10 GEO. 6.

*Astley Ainslie Hospital
Order Confirmation Act, 1946.*

Ch. xxii.



CHAPTER xxii.

An Act to confirm a Provisional Order under the Private Legislation Procedure (Scotland) Act 1936 relating to the Astley Ainslie Hospital. [6th June 1946.]

WHEREAS the Provisional Order set forth in the schedule hereunto annexed has been made by the Secretary of State under the provisions of the Private Legislation Procedure (Scotland) Act 1936 and it is requisite that the said Order should be confirmed by Parliament :

26 Geo. 5. &
1 Edw. 8.
c. 52.

Be it therefore 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 :—

1. The Provisional Order contained in the schedule hereunto annexed is hereby confirmed. Confirmation of Order in schedule.
2. This Act may be cited as the Astley Ainslie Hospital Order Confirmation Act 1946. Short title.

SCHEDULE.

THE ASTLEY AINSLIE INSTITUTION.

Provisional Order to confer powers on the Governors of the Astley Ainslie Institution and for other purposes.

WHEREAS the late David Ainslie esquire of Costerton in the county of Midlothian died on the twenty-fourth day of May one thousand nine hundred leaving a trust disposition and settlement dated the twenty-sixth day of October one thousand eight hundred and seventy-six and codicils thereto dated respectively nineteenth November one thousand eight hundred and eighty-seven sixth April one thousand eight hundred and eighty-nine sixth April one thousand eight hundred and eighty-nine twenty-third April one thousand eight hundred and eighty-nine third November one thousand eight hundred and ninety-one third November one thousand eight hundred and ninety-one ninth November one thousand eight hundred and ninety-one third January one thousand eight hundred and ninety-six thirteenth April one thousand eight hundred and ninety-seven and seventeenth March one thousand eight hundred and ninety-nine and holograph testamentary writing dated eighteenth May one thousand eight hundred and ninety-two all registered in the books of council and session on the thirty-first May one thousand nine hundred :

And whereas the sole accepting trustees who acted under the said trust disposition and settlement and relative codicils and holograph testamentary writing were Charles Cook and Andrew Thomas Steele Scott both writers to the signet Edinburgh :

And whereas by the sixth purpose of the said trust disposition and settlement the said David Ainslie directed his trustees after payment and performance of the whole special and primary purposes of the trust thereby created as therein set forth to “ retain possession of the
“ residue and remainder of my said estates and effects heritable and
“ moveable real and personal before conveyed together with the whole
“ free rents interests dividends profits and produce thereof and invest
“ the same in their own names as trustees foresaid in any way they
“ may think proper in manner before provided with power to change
“ the securities at pleasure and that they shall allow the same to
“ accumulate until the first term of Whitsunday which shall occur
“ after the expiry of ten years from and after my death and upon the
“ expiry of the said period my said trustees shall ascertain the total
“ amount or value of my said trust estate and effects heritable and
“ moveable real and personal including the accumulations of income
“ which may have accrued thereon during the subsistence of the trust

“ and the said total amount being ascertained the same shall form
“ the principal or capital of my said trust estate as then existing ” :

And whereas the purpose to which the capital of the said trust estate was to be put is expressed in the seventh place of the said trust disposition and settlement as follows “ for the purpose of
“ erecting endowing and maintaining an hospital or institution . . .
“ for the relief and behoof of the convalescents in the Royal Infirmary
“ of Edinburgh and the deed or deeds necessary or proper for carrying
“ that purpose into effect shall be prepared by or at the sight of such
“ person or persons as the judges of the Court of Session in Scotland
“ in either of its divisions shall appoint and the same shall before
“ execution thereof be submitted to and approved of by the judges
“ of the said court ” :

And whereas by one of the said codicils dated sixth April one thousand eight hundred and eighty-nine the testator directed that the Institution which he had directed by the said trust disposition and settlement to be founded should be called “ the Astley Ainslie Institution ” :

And whereas by one of the said codicils dated third November one thousand eight hundred and ninety-one the testator considering it proper to give expressly the following power to his trustees provided “ I . . . do hereby empower them to purchase land to such
“ an extent and in such locality in or near Edinburgh as they may
“ consider fit for the site of the Astley Ainslie Institution and as
“ garden and policy and recreation ground for it and that either by
“ private purchase or at a public sale and I do hereby direct my
“ trustees to allow the whole free rents feu duties ground rents ground
“ annuals interests dividends bonuses profits and produce of the
“ residue and remainder of my estate and effects heritable and
“ moveable real and personal conveyed in trust by my trust disposition
“ and settlement to accumulate and to accumulate yearly until the
“ first term of Whitsunday which shall occur after the expiry of
“ fifteen years from and after my death instead of until the first term
“ of Whitsunday which shall occur ten years thereafter as directed
“ in the sixth purpose of my trust disposition and settlement ” :

And whereas the first term of Whitsunday occurring after the expiry of fifteen years from the testator's death occurred on the fifteenth day of May one thousand nine hundred and sixteen at which said date the country was at war and the then prevailing conditions prevented any progress being made with the erection of the said Institution (hereinafter called “ the Institution ”) :

And whereas so soon as it became practicable after the war the trustees acquired certain lands in Edinburgh to provide a site for the Institution and suitable policy and recreation grounds therefor and upon those lands certain buildings have been erected which together with certain of the buildings standing upon the said lands prior to the acquisition of the site and which have been adapted for the purpose form the Institution :

And whereas in the year one thousand nine hundred and twenty the said Charles Cook and Andrew Thomas Steele Scott as trustees foresaid in accordance with the directions contained in the said trust

disposition and settlement presented a petition to the Lords of Council and Session craving their Lordships to appoint such person as they might deem proper at whose sight the necessary deed or deeds of constitution and trust might be prepared and to remit to such person so appointed to see the same prepared and to report thereon and thereafter to approve of the said deed or deeds so prepared as the scheme for the administration of the said David Ainslie bequest :

And whereas following upon the said petition it was remitted to James Alexander Fleming one of His Majesty's Counsel to see and report as aforesaid and a deed of constitution and trust executed by the said Charles Cook and Andrew Thomas Steele Scott as trustees foresaid in the presence of the said James Alexander Fleming was on the twelfth day of May one thousand nine hundred and twenty-one finally approved of by the Lords of Council and Session :

And whereas it having been found expedient for the administration of the heritable property heritable bonds and moveable securities comprising the assets of the said Institution that there should be an incorporation for the purposes of the said Institution and that the property and other assets of the Institution be transferred to and vested in the incorporation and that it be authorised to carry into effect the provisions of the said deed of constitution and trust and that further provision should be made for the future management and administration of the incorporation as therein provided the Governors of the Institution were incorporated by the name of "the Governors of the Astley Ainslie Institution" by the Astley Ainslie Institution Order 1929 confirmed by the Astley Ainslie Institution Order Confirmation Act 1929 with the powers therein set forth :

20 Geo. 5.
c. xxxv.

And whereas the Governors of the Astley Ainslie Institution (hereinafter called "the Governors") in the year 1932 took into consideration a proposal to organise a scheme for providing the patients in the Institution with some form of occupation of a constructive nature the occupation in each case being selected as appropriate for the individual patient and his ailment on lines laid down for the systematic use of occupation as a therapeutic measure in general hospitals in Canada and proceeded to establish in temporary premises an occupational therapy department of an experimental nature with staff appointed on the recommendation of the President of the Canadian Occupational Therapy Association in the absence of trained occupational therapists in Great Britain :

And whereas after the Governors had ascertained from experience the therapeutic value of the use of occupational therapy they established in premises specially designed for the purpose and erected at the Institution an occupational therapy department :

And whereas an occupational therapy training centre was later established for the purpose of providing staff in future years for the due development of occupational therapy as a curative treatment :

And whereas it being necessary that the Governors should fix a standard of qualification for those undergoing the course of instruction they instituted a system of examination by experts and thereafter granted certificates of competency to such students as reached the standard fixed :

And whereas after the outbreak of war in 1939 the Secretary of State in exercise of emergency powers conferred by Parliament instructed the Governors to administer the Institution under the emergency medical services as a general hospital for the treatment of military patients :

And whereas a considerable extension of the application of occupational therapy as an integral branch of remedial treatment for the rehabilitation of patients has taken place during the war throughout Great Britain :

And whereas the Governors in view of the great extension of the application of occupational therapy continued to develop the training centre :

And whereas students who have received the diploma granted by the Governors after undergoing the course of instruction in the said occupational therapy training centre have been appointed to posts in municipal voluntary and emergency medical service hospitals :

And whereas having regard to the terms of the truster's bequest as hereinbefore described "for the purpose of erecting endowing and maintaining an hospital or institution . . . for the relief and behoof of the convalescents in the Royal Infirmary of Edinburgh" it is desirable to establish a department at the Institution for the treatment of out-patients and also subject to the approval of the managers of the Royal Infirmary of Edinburgh to treat at the said Royal Infirmary patients who are in or are attending the said Royal Infirmary :

And whereas the development of the occupational therapy training centre at the Institution beyond what is required to provide from time to time sufficient trained occupational therapists to ensure the adequate staffing of the occupational therapy department of the institution is not expressly included within the present powers of the Governors :

And whereas there exists a great and increasing demand for persons who are certified by a competent authority as qualified in occupational therapy and whereas any restriction of numbers trained tends to limit unduly the field of choice for the staffing of the Institution and to hamper the general development of occupational therapy as a curative system :

And whereas it is expedient to extend the use of occupational therapy and to facilitate its development in the interests of convalescent patients and for the rehabilitation of sick persons and for such purposes to empower the Governors to develop the occupational therapy department of the Institution and the study and practice of occupational therapy as a branch of hospital treatment :

And whereas the development of the training centre will operate both directly and indirectly to promote the objects for which the trust was established :

And whereas it is expedient that provision should be made for the representation of the University of Edinburgh on the Board of Governors of the Institution :

And whereas it is expedient to alter the name of the Institution and that it shall be renamed "the Astley Ainslie Hospital" :

And whereas it is expedient that the other provisions contained in this Order should be enacted :

26 Geo. 5. &
1 Edw. 8. c. 52. And whereas the purposes aforesaid cannot be effected without an Order confirmed by Parliament under the provisions of the Private Legislation Procedure (Scotland) Act 1936 :

Now therefore in pursuance of the powers contained in the last-mentioned Act the Secretary of State orders as follows :—

Short title.

1.—(1) This Order may be cited as the Astley Ainslie Hospital Order 1946.

(2) This Order and the Astley Ainslie Institution Order 1929 may be cited together as the Astley Ainslie Hospital Orders 1929 and 1946.

Commencement of Order.

2. This Order shall commence and have effect on and from the date of the passing of the Act confirming the same (which date is hereinafter referred to as "the commencement of this Order").

Change of name of Institution.

3. After the commencement of this Order the Institution shall be named the Astley Ainslie Hospital and the Governors shall be known as the Governors of the Astley Ainslie Hospital and all property of whatever description vested in held by or due or belonging to the Governors shall by virtue of this Order continue to be held by and be due and belong to the Governors as the Governors of the Astley Ainslie Hospital and that without the necessity of any disposition assignation transfer conveyance notice of title or other instrument.

Interpretation.

4. In this Order the following expressions have the meanings hereby assigned to them unless there be something in the subject or context inconsistent with or repugnant to such meanings (that is to say) :—

"The Institution" means as the case may require the Astley Ainslie Institution or the Astley Ainslie Hospital and any extensions thereof ;

"The Governors" means the Governors of the Institution ;

"The Order of 1929" means the Astley Ainslie Institution Order 1929 ;

"The occupational therapy department" means the occupational therapy department of the Institution ;

"The training centre" means the occupational therapy training centre established as part of the occupational therapy department ;

"Occupational therapy" means that form of remedial treatment which comprises in whole or in part any occupation mental or physical definitely prescribed and guided for the purpose of contributing to and hastening recovery from disease or injury ;

"The deed of constitution and trust" means the deed of constitution and trust by the trustees of the late David Ainslie esquire of Costerton in the county of Midlothian in favour of the Governors of the Astley Ainslie Institution dated the twelfth day of May one thousand nine hundred and twenty-

one and approved of by the Lords of Council and Session and set forth in the First Schedule to the Order of 1929 ;

“ The trust estate ” has the same meaning as is assigned to that expression by the Order of 1929.

5. Subject to the provisions of the Order of 1929 the Governors may— Extension of powers of Governors.

(1) develop and extend the use and operation of the occupational therapy department of the Institution—

(a) by establishing at the Institution an out-patient department for the treatment of patients of or received from the Royal Infirmary of Edinburgh ; and

(b) subject to the approval of the managers of the said Royal Infirmary by treating in the said Royal Infirmary patients who are in or attending the said Royal Infirmary ; and

(2) admit students to the training centre at the Institution and may—

(a) provide such lecturers teachers examiners and other necessary staff as may be required ;

(b) lay down and establish courses of study curricula syllabuses and standards of knowledge and learning as they may think fit ;

(c) arrange for the clinical or other appropriate training of students at any hospital or institution ;

(d) issue diplomas to students who satisfactorily complete the course of training at the training centre laid down by the Governors and may co-operate with the board of managers of the Royal Infirmary of Edinburgh the University Court of the University of Edinburgh the Secretary of State the corporation of the city of Edinburgh and any government department hospital university municipal corporation or other body in pursuance of any of these objects.

6. (a) In addition to the Governors constituted by the Order of 1929 a governor shall be appointed by the University Court of the University of Edinburgh and the person so appointed shall be deemed for all purposes to be one of the Governors as defined by the Order of 1929. Representation of University Court of Edinburgh University on Board of Governors.

(b) The person so appointed shall be appointed from among the members of the University Court or of the Senatus Academicus of the University and a person who is or becomes a manager of the Royal Infirmary of Edinburgh shall not be eligible to be the representative of the University of Edinburgh.

(c) The person so appointed shall be appointed and shall cease to hold office in accordance with the deed of constitution and trust :

Provided that the first person so appointed shall be appointed as soon as may be after the commencement of this Order and shall cease to hold office on the first day of January nineteen hundred and forty-nine.

Legacies not
to lapse.

7. Any legacy or bequest in any will or testamentary disposition whether bearing date before or after the commencement of this Order shall not lapse nor fail by reason of the provisions of this Order but any such legacy or bequest which but for this Order would have accrued for the benefit of the Governors shall be payable to and receivable by them.

Costs of Order.

8. All costs charges and expenses of and incidental to the preparing for obtaining and confirming this Order and otherwise in relation thereto shall be paid by the Governors out of the trust estate.

Printed by Sir NORMAN GIBB SCORGIE, C.V.O., C.B.E.,
Controller of His Majesty's Stationery Office
and
King's Printer of Acts of Parliament

To be purchased directly from H.M. STATIONERY OFFICE at the following addresses:
York House, Kingsway, London, W.C.2; 13a Castle Street, Edinburgh 2;
39-41 King Street, Manchester 2; 1 St. Andrew's Crescent, Cardiff;
80 Chichester Street, Belfast;
or through any bookseller

Price 4*d.* net

(P 4665)