1971. No. 387 **[NC]**

HEALTH SERVICES

General Scheme: Modification

ORDER, DATED 31ST DECEMBER 1971, MADE BY THE MINISTRY OF HEALTH AND SOCIAL SERVICES UNDER SECTION 32 OF AND SCHEDULE 6 TO THE HEALTH SERVICES ACT (NORTHERN IRELAND) 1971.

WHEREAS Section 32(2) of and paragraph 3 of Schedule 6 to the Health Services Act (Northern Ireland) 1971(**a**) provide that the Northern Ireland Hospitals Authority (hereinafter referred to as "the Authority") may, after consultation with the Ministry of Health and Social Services (hereinafter referred to as "the Ministry"), and if directed by the Ministry shall within such period as the Ministry may specify, adopt a new general scheme providing for the modification of the general scheme:

AND WHEREAS the Authority has adopted and submitted to the Ministry a new general scheme providing for the modification of the general scheme already adopted by the Authority and approved by Order dated 31st May 1948(**b**), as modified by new general schemes adopted by the Authority and approved by Orders dated 31st December 1948(**c**), 30th September 1949(**d**), 1st January 1950(**e**), 11th April 1951(**f**), 31st October 1956(**g**), 18th September 1957(**h**), 21st August 1958(**i**), 26th March 1959(**j**), 18th December 1959(**k**), 3rd February 1961(**l**), 20th March 1962(**m**), 30th October 1962(**n**), 29th May 1963(**o**), 28th September 1964(**p**), 30th December 1964(**q**), 30th May 1968(**r**), 31st October 1969(**s**), 20th October 1970(**t**) and 28th October 1971(**u**):

AND WHEREAS the Ministry is a party to the Deed set out in Schedule 1 (hereinafter referred to as "the Deed of Arrangement"):

AND WHEREAS the Ministry thinks fit to approve the new general scheme subject to the Deed of Arrangement:

NOW, THEREFORE, the Ministry, in exercise of the powers conferred upon it by Section 32 of and Schedule 6 to the Health Services Act (Northern Ireland) 1971, and of all other powers so enabling, hereby orders as follows:—

1. This Order may be cited as the Health Services (General Scheme Modification) (No. 2) Order (Northern Ireland) 1971.

2. The Ministry hereby approved the new general scheme as set out in Schedule 2 subject (insofar as they affect it) to the provisions of the Deed of Arrangement.

Sealed with the Official Seal of the Ministry of Health and Social Services this 31st day of December 1971.

(L.S.)

S. E. Taylor,
Assistant Secretary.

(**a**) 1971. c. 1.
(**b**) S.R. & O. (N.I.) 1948, No. 143.
(**c**) S.R. & O. (N.I.) 1948, No. 332.
(**d**) S.R. & O. (N.I.) 1949, No. 176.
(**e**) S.R. & O. (N.I.) 1950, No. 2.
(**f**) S.R. & O. (N.I.) 1951, No. 49.
(**g**) S.R. & O. (N.I.) 1956, No. 169.
(**h**) S.R. & O. (N.I.) 1957, No. 196.
(**i**) S.R. & O. (N.I.) 1958, No. 140.
(**j**) S.R. & O. (N.I.) 1959, No. 55.
(**k**) S.R. & O. (N.I.) 1959, No. 191.
(**l**) S.R. & O. (N.I.) 1961, No. 22.
(**m**) S.R. & O. (N.I.) 1962, No. 45.
(**n**) S.R. & O. (N.I.) 1962, No. 192.
(**o**) S.R. & O. (N.I.) 1963, No. 113.
(**p**) S.R. & O. (N.I.) 1964, No. 153.
(**q**) S.R. & O. (N.I.) 1964, No. 214.
(**r**) S.R. & O. (N.I.) 1968, No. 127.
(**s**) S.R. & O. (N.I.) 1969, No. 298.
(**t**) S.R. & O. (N.I.) 1970, No. 268.
(**u**) S.R. & O. (N.I.) 1971, No. 343.

SCHEDULE 1

THIS DEED made the 30th day of November One thousand nine hundred and seventy one between THE MINISTRY OF HEALTH AND SOCIAL SERVICES (hereinafter called "The Ministry") of the first part the MOST REVEREND WILLIAM J. PHILBIN D.D. of "Lisbreen" Somerton Road in the County of the City of Belfast Roman Catholic Bishop of the Diocese of Down and Connor and REVEREND MICHAEL KELLY of Parochial House Ballyclare in the County of Antrim Members of the Board of Management of the Mater Infirmorum Hospital (hereinafter called "the Board of Management") duly authorized by the Board of Management to enter into this Deed on its behalf of the second part and the said MOST REVEREND WILLIAM J. PHILBIN D.D. RIGHT REVEREND MONSIGNOR PATRICK J. MULLALLY V.G. of "Lisbreen" Somerton Road aforesaid the said REVEREND MICHAEL KELLY and REVEREND THOMAS TONER of "Lisbreen" Somerton Road aforesaid (hereinafter called "The Hospital Trustees") of the third part

WHEREAS:

(1) The Ministry (then called the Ministry of Health and Local Government) pursuant to an application in that behalf by the governing body of the Mater Infirmorum Hospital made an order dated the Twenty third day of March One thousand nine hundred and forty eight under the provisions of section 23(8) of the Health Services Act (Northern Ireland) 1948 (hereinafter referred to as "the Act of 1948") exempting the said Hospital from the provisions of the Act of 1948

(2) Paragraph 2(2) of Schedule 11 to the Health Services Act (Northern Ireland) 1971 (hereinafter referred to as "The Act of 1971") provides that arrangements may be made with the governing body of a hospital to which any such order as is referred to in the preceding recital related for the hospital to be treated as a hospital for the purposes of all or any of the provisions of the Act of 1971

(3) Section 34(1) of the Act of 1971 provides that where the character and associations of any hospital through which hospital and specialist services are being or are to be provided under the Act of 1971 are such as to link that hospital with a particular religious denomination regard shall be had in the general administration of the hospital and in the making of appointments to the management committee having the management and control of the hospital to the preservation of the character and associations of the hospital

(4) The character and associations of the Mater Infirmorum Hospital are such as to link it with the Roman Catholic faith

(5) Pursuant to paragraph 2(2) of Schedule 11 to the Act of 1971 the Ministry and the Board of Management have agreed to enter into the arrangement hereinafter contained and the Hospital Trustees have agreed to join in this deed in the manner and for the purposes hereinafter appearing

NOW THIS DEED WITNESSETH AND IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO as follows:

1. In this Deed the following expressions have the meanings hereby assigned to them:—

"The Authority" means the Northern Ireland Hospital Authority

"the Act of 1948" has the meaning assigned to it by recital (1) hereof

"the Act of 1971" has the meaning assigned to it by recital (2) hereof

"The Bishop" means the Roman Catholic Bishop for the time being of the Diocese of Down and Connor

"the Board of Management" means the Board of Management constituted under the Articles of Association of the Mater Infirmorum Hospital Incorporated

"the Commencement Date" means the date referred to in clause 24 hereof as the date on which the provisions of this Deed of Arrangement take effect

"the Hospital" means the hospital known as the Mater Infirmorum Hospital carried on in the Hospital premises

"the Hospital premises" means the lands and premises comprised and more particularly described in the draft lease referred to in clause 2 hereof

"the Hospital Property" means all equipment furniture or other moveable property used in or in connection with the Hospital premises at the commencement date which is vested in the governing body or in trustees on behalf of the Hospital and where the context so requires any alterations additions or substitutions thereto and therefore which may be made at any time after the commencement date

"the Hospital as at present constituted" means the Hospital having a total complement of two hundred and thirty eight beds for the use of patients

"The Minister" means the Minister of Health and Social Services for the time being

"the Hospital Trustees" means the parties hereto of the third part and their successors and shall include where appropriate the trustees for the time being of the reversion expectant on the Lease referred to in clause 2 hereof

"Officer" means an employee of the Hospital

Lease of the Hospital Premises

2. The Hospital Trustees will lease the Hospital premises to the Ministry for a term of nine hundred and ninety nine years from the commencement date. The lease shall be in the terms of the draft lease set out in the Schedule hereto

Transfer of the Hospital Property

3. On the execution of the lease referred to in clause 2 hereof the Board of Management will transfer or procure the transfer of the Hospital property to the Ministry

4. In the event of any determination of the lease referred to in clause 2 hereof the Ministry will transfer the Hospital property to the Hospital Trustees

Transfer of Endowments

5.—(1) As soon as possible after the setting up of the first Management Committee of the Hospital under clause 11 hereof all endowments of the Hospital which are endowments within the meaning of Subsection (6) of Section 25 of the Act of 1948 shall be transferred to that Management Committee and Subsections (3) and (4) of that Section shall be deemed to apply thereto but with the substitution for references to the appointed day of references to the commecement date

(2) Paragraphs 1 and 2 of Schedule 5 to the Act of 1971 shall mutatis mutandis apply to the endowments transferred under paragraph (1) of this clause as though paragraph 1(a) included references to the liabilities transferred to the Ministry under clause 9 hereof and with the substitution for references to the Fifth July One thousand nine hundred and forty eight of references to the commencement date

6. In the event of any determination of the lease referred to in clause 2 hereof the endowments transferred under clause 5 shall be transferred to the Hospital Trustees to be held by them on the original trusts

Other Trust Property

7. Subject to clause 5 hereof where any property is held on a trust the terms of which authorise or require the Trustees whether immediately or in the future to apply any part of the capital or income of the trust property for the purposes of the Hospital Section 39 of the Act of 1971 shall apply to such property with the substitution for references to the Fifth July One thousand nine hundred and forty eight of references to the commencement date and the said property shall during the term of the lease hereinbefore referred to be held upon the trusts as so construed

Transfer of Staff

8.—(1) Subject to paragraph 2 of this clause all officers employed immediately before the commencement date solely or mainly at or for the purposes of the Hospital and who have not attained the age of sixty five years on the day immediately before that date shall on that date become officers of the Authority and shall be employed by the Authority on the same terms and conditions of service as apply to comparable grades of staff employed by the Authority at the commencement date

(2) Any such officer wholly or mainly employed in the teaching of nurses or midwives shall become an officer of the Council for Nurses and Midwives established under Section 1 of the Nurses and Midwives Act (Northern Ireland) 1970 and shall be employed by the said Council on the same terms and conditions as apply to comparable grades of staff employed by the Council at the commencement date

Transfer of Rights and Liabilities

9.—(1) On the commencement date all rights and liabilities to which the Board of Management or the Hospital Trustees were entitled or subject immediately before that date being rights and liabilities acquired or incurred solely for the purposes of managing the Hospital premises or the Hospital property or otherwise carrying on business of the Hospital or any part thereof shall subject to clause 8 hereof and paragraph (2) of this clause be transferred to and vest in the Ministry

(2) The liability transferred to the Ministry under paragraph (1) of this clause in respect of the indebtedness of the Board of Management or the Hospital Trustees to their bankers shall not extend to any part of that indebtedness incurred prior to First January One thousand nine hundred and seventy one. In respect of the indebtedness arising from any excess of expenditure over income incurred between First January One thousand nine hundred and seventy one and the commencement date the liability transferred to the Ministry shall not exceed the sum of Two Hundred Thousand Pounds together with a sum equal to the market value at the commencement date of the endowments transferred to the first Management Committee of the Hospital under clause 5 hereof. Any part of the said indebtedness which by virtue of this clause is not transferred to the Ministry shall be discharged by the Board of Management and the Hospital Trustees. The market value of the endowments shall where necessary be determined by a suitably qualified person to be agreed on by the parties hereto acting as an expert and not as an arbitrator

10. In the event of any determination of the lease referred to in clause 2 hereof all rights and liabilities to which the Ministry was entitled or subject at the date of such determination as a consequence of any of the provisions of this Deed of Arrangement shall be transferred to and vest in the Hospital Trustees

Hospital Management Committee

11.—(1) Subject as hereinafter provided in clause 17 hereof the Hospital shall be managed by a separate management committee appointed for the Hospital under paragraph 1 of Schedule 6 to the Act of 1971. The said committee shall have the powers rights duties and responsibilities of a hospital management committee appointed under that paragraph

(2) The first such management committee shall be appointed by the Authority on the advice of the Minister and shall consist of fifteen members made up of

(*a*) ten members of the present Board of Management nominated by the Bishop;

(*b*) three persons nominated by the Minister and acceptable to the Bishop to be drawn from persons having experience of Management of Hospitals in the service provided under the Act of 1971

(*c*) two persons with business or professional experience (not being members of the present Board of Management) nominated by the Bishop and acceptable to the Minister

(3) Subsequent appointments to the Management Committee shall be made by the Authority in accordance with the provisions of the Act of 1971 and after consultation with the Bishop

General Administration of the Hospital

12. Without prejudice to the generality of Section 34 of the Act of 1971 the general administration of the hospital for the purposes of that section shall include in particular the following:—

(*a*) the appointment of senior medical staff;

(*b*) the appointment of heads of service departments;

(*c*) ethical practices, particularly in obstetrics, gynaecology, geriatrics and psychiatry;

(*d*) the use of endowments and trust funds; and

(*e*) the use of any part of the Hospital as accommodation for a nurses training school

Teaching Facilities

13. Adequate facilities for the teaching of clinical medicine to undergraduates shall be maintained at the Hospital for such period as the Queen's University of Belfast shall continue using the Hospital for undergraduate teaching purposes. Adequate facilities for the giving of instruction in nursing shall be maintained at the Hospital for such period as the Northern Ireland Council for Nurses and Midwives shall continue to recognise the Hospital for the purpose of providing such instruction

Reconstruction of the Hospital

14. As soon as practicable after the commencement date the Ministry shall initiate consultations with the Authority the Queen's University of Belfast and the Management Committee of the Hospital appointed in accordance with clause 11 hereof for the purposes of

(*a*) reviewing the present internal allocation of beds and facilities among existing specialities at the Hospital and agreeing upon a revised allocation: provided that in any such revision the present total complement of two hundred and thirty eight beds shall not (subject to the provisions of paragraph (*b*) of this clause) be exceeded and the number of beds allocated to ante-natal and post-natal care shall not exceed thirty five;

(*b*) preparing a scheme consistent with the norms and standards prevailing in the hospital services for hospitals of comparable size and functions including teaching functions for the initial reconstruction and modernisation of the buildings and facilities of the Hospital as at present constituted in accordance with the agreement on revised allocation reached under paragraph (*a*) of this clause: provided that notwithstanding the provisions of paragraph (*a*) the scheme may provide for such marginal upward adjustments in the total complement of beds provided for under paragraph (*a*) as may be necessitated by detailed physical planning consideration

15. The scheme of initial construction shall be carried out by the Authority subject to the approval of the Ministry. The cost of such scheme shall be met by the Management Committee and the Trustees out of income from trust funds applicable to the purposes of the Hospital or such other manner as the Management Committee and Trustees may jointly determine and no part of such cost shall be met out of the Exchequer

16. Upon completion of the said scheme of initial reconstruction decisions upon any proposals for the further development of the Hospital shall be taken by the Authority with the approval of the Ministry in the light of the general needs of the Hospital service: provided that in considering any such proposals the Authority and the Ministry shall have regard to Section 34 of the Act of 1971