

## House of Assembly

As passed all stages and awaiting assent.

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South Australia

# The Wyatt Benevolent Institution Incorporated (Objects) Amendment Bill 2020

A BILL FOR

An Act to amend the *The Wyatt Benevolent Institution Incorporated Act 1935*.

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**The Parliament of South Australia enacts as follows:**

## Part 1—Preliminary

### 1—Short title

This Act may be cited as the *The Wyatt Benevolent Institution Incorporated (Objects) Amendment Act 2020*.

### 2—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

## Part 2—Amendment of *The Wyatt Benevolent Institution Incorporated Act 1935*

### 3—Substitution of sections 2 to 8

Sections 2 to 8 (inclusive)—delete the sections and substitute:

#### 2—Interpretation

In this Act, unless the contrary intention appears—

**2020 Amendment Act** means *The Wyatt Benevolent Institution Incorporated (Objects) Amendment Act 2020*;

**Board** means the board of Governors for the time being of the Institution;

**Institution** means The Wyatt Benevolent Institution Incorporated;

**land** includes all tenements and hereditaments corporeal and incorporeal of every kind and description, and every estate and interest in land;

**property** includes any thing in action, and any interest in real or personal property (including land);

**securities** include stocks, funds and shares;

**Wyatt Trust** means the trusts of the will of William Wyatt.

#### 3—Objects of Institution

- (1) The objects of the Institution are to provide assistance to persons in poor and needy circumstances.
- (2) For the purposes of achieving the objects of the Institution—
  - (a) assistance may be provided by making grants of money to such persons out of the income or capital of the funds or other property of the Institution or in such other manner as the Board may from time to time determine; and
  - (b) the Institution (in addition to the funds and other property under its control) may acquire property by purchase, gift, devise, donation, subscription or otherwise; and
  - (c) preference is to be given to persons who have been resident in South Australia for a period of at least 5 years.
- (3) Money or trust funds held by the Institution immediately before the commencement of the 2020 Amendment Act (including money or other property held as part of the Wyatt Trust) may be applied to or for the purposes of the objects of the Institution after the commencement of the 2020 Amendment Act, despite the fact that such application may be inconsistent with the Wyatt Trust and the objects of the Institution as they existed before that commencement.

- (4) The Wyatt Trust is varied by force of this section to the extent necessary to provide consistency with this section.

#### **4—Continuation of Institution as body corporate**

The Institution—

- (a) incorporated on 23 May 1881 continues in existence as a body corporate; and
- (b) has perpetual succession and a common seal; and
- (c) can sue and be sued in its corporate name; and
- (d) has the functions and powers assigned or conferred under this or any other Act.

#### **5—Functions and powers**

- (1) The Institution has, in addition to any other powers conferred on it under this or any other Act, all the powers of a natural person.
- (2) Without limiting subsection (1), in exercising its functions and powers, the Institution may—
  - (a) grant, receive, acquire, purchase and hold land; and
  - (b) purchase, accept, acquire, hold, mortgage, let, lease, demise, sell, exchange, transfer, convey, assign, alienate, dispose of and deal with property; and
  - (c) act as the trustee of other funds, accept gifts or donations from a person or body and otherwise receive money or property from a lawful source, including gifts or donations subject to trusts that are not inconsistent with the objects of the Institution; and
  - (d) manage money or other property as the Institution thinks fit and, in doing so, combine funds or other property (including funds or other property subject to separate trusts or held for separate purposes), subject to complying with relevant accounting standards and being able, as appropriate, to separately account for different classes of funds and other property; and
  - (e) apply a benefit, or provide assistance, to persons either directly or indirectly through a third party involved in the provision of services or financial or other support; and
  - (f) build on or improve land for the time being owned by or under the control of the Institution; and
  - (g) do any other thing necessary or convenient to further its objects.

#### **6—Financial provisions**

- (1) The assets and income of the Institution or the Wyatt Trust must be applied solely to further the objects of the Institution.

- (2) The assets and income of the Institution or the Wyatt Trust (either wholly or in part) must not be distributed directly or indirectly to the members of the Board except as genuine compensation for services rendered or expenses incurred on behalf of the Institution or the Wyatt Trust.
- (3) The Institution may invest its money or trust funds (either wholly or in part) in an investment or security authorised by law for the investment of trust funds and may vary such investments and securities as the Board thinks fit into or for any other investment or security of a similar nature.
- (4) The Board may, for the purpose of building or otherwise improving land belonging to the Institution, borrow money and secure its repayment by mortgage of the land (or a portion of the land) or in such other manner as the Board may from time to time determine.

#### **4—Substitution of section 16**

Section 16—delete the section and substitute:

##### **16—Validity of acts**

An act or proceeding of the Institution or the Board is not invalid by reason only of—

- (a) a vacancy in its membership or a defect in the appointment of a member; or
- (b) the fact that the act or proceeding was done or executed prior to the commencement of the 2020 Amendment Act.

##### **17—Application of other Acts**

The *Subordinate Legislation Act 1978* does not apply to a regulation (within the meaning of the *Subordinate Legislation Act 1978*) made under this Act by the Institution or the Board if the regulation relates to—

- (a) the status of the Institution as a deductible gift recipient under a law of the Commonwealth; or
- (b) any other prescribed matter, or matter of a prescribed kind.

##### **18—Interaction with other Acts**

This Act is in addition to, and does not derogate from, the *Trustee Act 1936*.

##### **19—Regulations**

The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.