

South Australia

# **The Wyatt Benevolent Institution Incorporated Act 1935**

An Act to provide for the more effectual incorporation of The Wyatt Benevolent Institution Incorporated and to facilitate the carrying out of the trusts of the Will of the late William Wyatt and for other purposes.

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## Preamble

WHEREAS The Wyatt Benevolent Institution Incorporated (hereinafter called "the Institution") was on the twenty-third day of May 1881 incorporated under the provisions of the *Associations Incorporation Act 1858* having for its objects the carrying out of the trusts of the intended will of William Wyatt of Burnside in the State of South Australia Gentleman: AND WHEREAS by his will bearing date the twentieth day of December 1883 the said William Wyatt (hereinafter referred to as "the Testator") appointed the Institution to be his Trustee and after making certain specific bequests devised and bequeathed unto the institution all his real estate and the residue of his personal estate upon trust to realise the same with full power to his said Trustee to postpone for such period as might be deemed expedient the realisation of all or any portion thereof and to invest the proceeds in the investments therein named and out of the rents income interest and yearly produce of his said estate to pay certain legacies and annuities named in his said will: AND WHEREAS by his said will the testator directed that during the suspense of the sale and conversion of his said real and residuary personal estate or of any estate purchased under the powers therein contained or any part thereof respectively his trustee should have full power to manage and order all the affairs thereof as regards letting on any terms and for any period whatsoever and whether to commence in the future or not and either on building or improving leases with or without rights of purchase or covenants to purchase or otherwise and on such terms and conditions as regards occupation cultivation repairs insurance against fire receipts for rents indulgences and allowances to tenants and all other matters as his trustee should think fit: AND WHEREAS by his said will the testator further directed that subject to the payment of his debts, funeral and testamentary expenses and the annuities and legacies mentioned in his said will his said real and residuary personal estate and the proceeds of the sale conversion and getting in thereof as well capital as income should be held by his trustee so as to give the fullest possible effect to the several objects hereinafter mentioned but that the mode time and manner of application should except where controlled by the trusts and provisions of his said will be in the absolute discretion of his said trustee who should from time to time determine when and how the same should be applied: AND WHEREAS the testator defined the objects of the trusts of his said will as follows:

"The objects of the trusts of this my will are to benefit persons above the laboring class who may be in poor or reduced circumstances, by supplying them with dwelling houses at a moderate or at a nominal rental or without payment of any rent or to benefit such persons by any means and in any other way that my trustee shall deem expedient and the qualifications for participation in the benefits of the said trusts shall be that the recipient of such benefits shall belong to a class above that of a laborer and that he or she shall be in poor or reduced circumstances and of good moral character and conduct and preference shall be given to persons who shall have been resident in the said province for a period of five years and upwards. The religious beliefs or political bias or opinions of any persons shall not affect his or her claim to participate in the said benefits, and it shall rest entirely upon the judgment of my trustee whether or not any person or persons is or are qualified to be admitted to such benefits. My trustee may build adapt or otherwise procure and fit up houses and other buildings on any trust lands or premises in Adelaide or within ten miles therefrom for the purposes aforesaid and may dedicate any portion of the said trust lands for the purposes of roads and may layout any of such lands as parks or pleasure grounds to be used in common or otherwise by the recipients of the benefits of the said trusts subject to such regulations as may from time to time be made or prescribed by my trustee who may in all respects administer the said trust estates moneys and premises in such manner as shall be deemed most advantageous for carrying out the objects of the said trusts."

AND WHEREAS the testator by his said will directed that if at any time his said trustee should consider it advantageous so to do it should be lawful for such trustee to apply to the Legislature of the said State for an Act of Parliament to provide for and regulate the administration of the said Institution in accordance with the trusts of his said will or to provide for the more effectual or certain incorporation of the said Institution or in any way to facilitate the carrying out of the trusts of his said will:

AND WHEREAS the testator died on the tenth day of June 1886 and probate of his said will was on the twenty-ninth day of June 1886 granted by the Supreme Court of South Australia to the executors therein named: AND WHEREAS since the death of the testator his estate has been administered by the Institution in accordance with the trusts of his said will: AND WHEREAS all the legacies and annuities given by the said will have been paid and satisfied with the exception of the following annuities:

An annuity of £50 to Constance Strahan Smith of 15 Upper Beulah Hill Norwood S.E.19 England; and

An annuity of £50 to Mabel Alger in care of H. Hilbery & Son 4 South Square Gray's Inn London.

AND WHEREAS bequests have heretofore been made and may hereafter be made to the Institution and it is desirable that the trusts upon which such bequests are or may be held should be more particularly defined and that the Incorporation of the institution should be made more certain and effectual and permanent and the administration thereof more particularly defined by an Act of Parliament of the said State.

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

### **1—Short title**

This Act may be cited as *The Wyatt Benevolent Institution Incorporated Act 1935*.

### **2—Interpretation**

In this Act—

*The Institution* means The Wyatt Benevolent Institution Incorporated;

*The Board* means the board of Governors for the time being of the Institution.

### **3—Rules and regulations repealed**

From and upon the passing of this Act all rules and regulations made and passed by the Institution shall be and the same are hereby repealed, annulled and of no effect so far as regards the future conduct and operations of the Institution.

### **4—Powers of the Institution**

The Institution was on the twenty-third day of May 1881 and still is incorporated by the name of The Wyatt Benevolent Institution Incorporated and by such name and title has and shall have perpetual succession and a common seal and shall and may sue and be sued, implead and be impleaded, grant or receive and hold lands and hereditaments, and do all other acts as natural persons may and shall have power and authority to acquire, purchase and hold lands tenements and hereditaments and also to purchase, accept, acquire, hold, mortgage, let, lease, demise, sell, exchange, transfer, convey, assign, alienate, dispose of and deal with real and personal property and to exercise all the powers and functions whatsoever of a body corporate.

### **5—Objects of the Institution**

The objects of the Institution are to benefit such persons above the labouring class and in poor or reduced circumstances as the Board in its uncontrolled discretion may decide to be deserving of assistance. Such benefits may be conferred by making grants of money to such persons out of the income of the funds or other property of the Institution or in such other manner as the Board may from time to time determine. For the purposes aforesaid the Institution in addition to the funds and other property now under its control may acquire by purchase, gift, devise, donation, subscription, or otherwise lands, tenements and hereditaments, securities, money, goods, chattels and effects.

### **6—Authorised investments**

The Institution may invest its moneys or trust funds or any portion or portions thereof in the purchase of real estate in the State of South Australia or in or upon any investment or security for the time being authorised by the laws of the Commonwealth of Australia or by the laws of any State or States thereof or by the laws of Great Britain or England for the investment of trust funds and may transpose and vary such investments and securities as may by the Board be thought desirable into or for any other or others of the same or a like nature.

### **7—Power to build**

The Board may apply such portion of the moneys of the institution whether capital or income as may be deemed expedient in building upon any lands for the time being owned by the Institution or otherwise in improving any property of the Institution.

### **8—Power to borrow**

The Board may for the purpose of building or otherwise improving any property belonging to the Institution borrow from time to time such sums of money as may be deemed necessary and may secure the repayment of the same by mortgage of the property of the Institution or any portion thereof or in such other manner as the Board may from time to time determine.

### **9—Management**

The Institution shall be managed by a Board consisting of not less than five or more than seven persons. The Board shall have the sole management and control of the affairs of the Institution and may execute, perform and exercise all trusts, duties, obligations and powers in the name and on behalf of the Institution. There shall be a chairman of such Board who shall be elected annually by the members of the Board; the following are the present members of the Board: Charles Richmond John Glover, Henry Simpson Newland, John Harvey Finlayson, William Douglas Taylor, Frederic Theodore Bruce. A member of the Board shall hold office until his retirement, resignation or death.

### **10—Vacancies in Board**

Any vacancy occurring in the Board shall be filled by the remaining members of the Board.

### **11—Meetings of Board**

The Board shall meet on the fourth Tuesday of each month or such other time as shall be determined.

### **12—Quorum**

Three members of the Board shall form a quorum. The chairman of any meeting of the Board shall have a deliberative as well as a casting vote.

### **13—Officers**

The Board shall appoint all necessary officers and shall have power to dismiss, suspend or remove the present and any future officers.

### **14—By-laws etc**

The Board may from time to time make any by-laws rules and regulations not inconsistent with the objects of the Institution for the proper conduct and management thereof and may revoke, alter or amend the same.

### **15—Seal**

The seal of the Institution shall only be affixed in the presence of two members of the Board who shall also sign the document to which the seal is affixed.

**16—Validity of acts deeds etc**

All acts, deeds, matters and things heretofore made, done or executed by the said The Wyatt Benevolent Institution Incorporated or by the governors thereof shall be and the same are hereby declared to be valid, lawful and effectual notwithstanding any error or irregularity in the Constitution of the Institution or in the appointment, continuation in office or action of the said governors or any of them.

## Legislative history

### Notes

- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal Act

Year	No	Title	Assent	Commencement
1935	-	<i>The Wyatt Benevolent Institution Incorporated Act 1935</i>	12.12.1935	12.12.1935