

South Australia

Thomas Hutchinson Trust and related Trusts (Winding Up) Act 1995

An Act to provide for the sale of the Hutchinson Hospital premises in Gawler and the winding up of the Thomas Hutchinson Trust and certain other trusts; and for other related purposes.

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Preamble

- 1 By a will dated 16 October 1896, Thomas Hutchinson (*the testator*), who died on 29 August 1901 established a trust (the *Hutchinson Trust*) under which certain property in the town of Gawler in this State was to be used as a hospital and the income from the testator's residuary estate was to be applied for the purposes of that hospital.
- 2 A hospital named the "Hutchinson Hospital" was duly established in or about 1911 in East Terrace, Gawler by the then trustees, and the hospital, which continued to operate at that site until the end of October 1994, became an incorporated hospital under the *South Australian Health Commission Act 1976* in 1982.
- 3 In September 1994 the name of the Hutchinson Hospital was changed to "Gawler Health Service Incorporated".
- 4 In October 1994 the board of the Gawler Health Service relocated its operations to the new public hospital premises built in Gawler by the South Australian Health Commission (*the Commission*) and, in view of this, the trustees of the Hutchinson Trust have closed down the East Terrace premises owned by the Trust.

- 5 The trustees of the Hutchinson Trust believe that it would be in accordance with the intentions of the testator (the terms of the will contemplate benefiting any other public hospital that might in the future be established in or near Gawler) if the premises of the former Hutchinson Hospital (apart from the former Director of Nursing's residence) were to be sold, the other trust assets (all monetary investments) realised and the net proceeds of sale and realisation (after clearing all the Trust's debts and expenses) paid to the Commission to offset the cost of building and equipping the new public hospital premises.
- 6 The trustees and the board of the Gawler Health Service have agreed that the former Director of Nursing's residence should be transferred (at no consideration) to the Gawler Health Service.
- 7 The following further trusts were established:
- (a) by a will dated 31 March 1915, John Potts, who died on 14 June 1915, established a trust (*the Potts Trust*) the income of which was to be divided equally between the Hutchinson Hospital and the Children's Hospital at North Adelaide (now the Women's and Children's Hospital);
 - (b) by a will dated 20 March 1930, James Commons, who died on 10 February 1937, established a trust (*the Commons Trust*) the income of which was to be paid to the Hutchinson Hospital;
 - (c) by a will dated 4 August 1936, John Alfred Dingle, who died on 15 April 1944, established a trust the income of which was to be paid to the Hutchinson Hospital for the benefit of destitute patients;
 - (d) by a will dated 4 December 1944, Lydia Helps, who died on 24 January 1952, established a trust (*the Helps Trust*) the income of which was to be paid to the Hutchinson Hospital;
 - (e) by a will dated 6 August 1945, Ann Magarey, who died on 21 February 1947, established a trust (*the Magarey Trust*) the income of which was to be divided equally between the Hutchinson Hospital and the Children's Hospital at North Adelaide (now the Women's and Children's Hospital).
- 8 The trustees of the trusts referred to in clause 7 believe that it is the appropriate time to wind up those trusts and to pay the net proceeds to the Gawler Health Service and, as the case may require, the Women's and Children's Hospital.
- 9 The purpose of this Act is therefore to implement the wishes of the trustees of the various trusts referred to in the preceding clauses and to make appropriate provision for any testamentary dispositions that may now or in the future be in favour of the Hutchinson Hospital at Gawler.
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The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Thomas Hutchinson Trust and related Trusts (Winding Up) Act 1995*.

2—Winding up of the Hutchinson Trust

- (1) The trustees of the Hutchinson Trust are empowered to—
 - (a) execute a transfer of the whole of the land comprised in Certificate of Title Register Book Volume 4144 Folio 13 to the Gawler Health Service Incorporated for no consideration; and
 - (b) sell the remainder of the hospital premises in East Terrace Gawler, being the whole of the land comprised in Certificates of Title Register Book Volume 2370 Folio 81 and Volume 4144 Folios 12, 14, 15 and 16; and
 - (c) realise all other assets of the Trust; and
 - (d) clear all outstanding debts and liabilities of the Trust; and
 - (e) pay the net proceeds of the Trust to the Commission.
- (2) On registration by the Registrar-General of the transfer referred to in subsection (1)(a) and final payment to the Commission of the net proceeds of the Trust, the Hutchinson Trust will be taken to have been revoked.
- (3) The money received by the Commission under this section will be put towards the cost of building and equipping the new public hospital at Gawler now occupied by the Gawler Health Service.

3—Winding up of the other related Trusts

- (1) The trustees of the Potts Trust, the Commons Trust, the Dingle Trust, the Helps Trust and the Magarey Trust are empowered to—
 - (a) realise the assets of the Trusts; and
 - (b) clear all outstanding debts and liabilities of the Trusts; and
 - (c) pay the net proceeds of the Trusts—
 - (i) in the case of the Potts Trust and the Magarey Trust—half to Gawler Health Service Incorporated and half to the Women's and Children's Hospital;
 - (ii) in the case of the other Trusts—to the Gawler Health Service Incorporated.
- (2) On final payment of the net proceeds of a Trust in accordance with subsection (1), the Trust will be taken to have been revoked.

4—Certain testamentary dispositions are to benefit the Gawler Health Service

- (1) A testamentary disposition, whether made before or after the commencement of this Act, in favour of the Hutchinson Hospital in Gawler will be taken to be a disposition in favour of the Gawler Health Service Incorporated.
- (2) The execution (before the enactment of this section) of a testamentary disposition of a kind referred to in subsection (1) is not invalidated by the retrospective operation of that subsection.
- (3) This section does not operate to defeat the intention of a testator or testatrix who provided that, should the beneficiary cease to exist, the disposition was to lapse or was to be in favour of some other person or body.

- (4) In this section, a reference to a testamentary disposition extends to a surrender or release effected by a testamentary disposition.

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.

Principal Act

Year	No	Title	Assent	Commencement
1995	7	Thomas Hutchinson Trust and related Trusts (Winding Up) Act 1995	9.3.1995	9.3.1995