

South Australia

Adelaide Workers' Homes Act 2013

An Act to provide for the Constitution of *Adelaide Workers' Homes Incorporated*.

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The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Adelaide Workers' Homes Act 2013*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Interpretation

In this Act, unless the contrary intention appears—

Association has the same meaning as in Schedule 1;

Indenture has the same meaning as in Schedule 1.

4—Name of Association

- (1) The *Adelaide Workmen's Homes Incorporated* continues in existence as *Adelaide Workers' Homes Incorporated*.
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- (2) Subsection (1) does not affect the Association's power to change its name in the future under any other law or under the Constitution of the Association.

5—Constitution of Association

- (1) The provisions set out in Schedule 1 will, on the commencement of this Act, be taken to be the Constitution of the Association (the *Constitution*).
- (2) The Association is taken to have always had the powers and functions set out in the Constitution.
- (3) The Association may vary the Constitution provided that the variation is not inconsistent with the objects of the Indenture.

6—Application of this Act

- (1) The provisions of this Act apply in addition to those of the Indenture and the *Associations Incorporation Act 1985*.
- (2) Where a provision of this Act is inconsistent with a provision of the Indenture or of the *Associations Incorporation Act 1985*, this Act prevails to the extent of the inconsistency.

Schedule 1—Constitution

1—Interpretation

In this Schedule, unless the contrary intention appears—

accommodation means living accommodation of all kinds including temporary or transitional accommodation;

Association means *Adelaide Workers' Homes Incorporated*;

eligible person means any person who, in the opinion of the trustees, by reason of his or her financial circumstances or other special needs, should be assisted with the provision of appropriate accommodation and associated facilities and amenities, having regard to the purposes of the Association and to the proper and efficient use of the assets and income of the Association;

Government means the Crown in the right of the Commonwealth or of the State of South Australia, and includes any Minister, instrumentality or administrative unit of the Crown in either of those rights;

Indenture means the Deed of Trust set out in the Schedule to the *Adelaide Workmen's Homes Incorporated Amendment Act 1933* as amended by that Act and further amended by the *Adelaide Workmen's Homes Incorporated Amendment Act 1966*;

trustees means the trustees for the time being appointed in the manner provided by the Indenture to administer the trusts of the Indenture.

2—Purpose of Association

The purpose of the Association is to provide a range of accommodation and associated facilities and amenities throughout the State of South Australia for occupation by eligible persons being workers, former workers or their families.

3—Powers and functions

To give effect to its purpose, the Association has the following powers and functions:

- (a) to acquire and dispose of any real or personal property, or any interest therein;
- (b) to solicit and receive donations and testamentary dispositions of money or any other real or personal property;
- (c) to enter into any joint ventures or projects with Government, any local government body, company or not-for-profit association where the Association contributes real or personal property, financial assistance or services to the venture or project;
- (d) to borrow moneys and provide such security for borrowed funds as the trustees consider appropriate;
- (e) to invest such of its funds as are not immediately required for its purpose in accordance with the powers and duties of a trustee under the *Trustee Act 1936* with respect to the investment of the trust funds;
- (f) to let or sell any of the Association's real property to any eligible person on such terms as the trustees may determine;
- (g) to lend moneys or provide other financial assistance to any eligible person for the purchase of accommodation provided by or with the assistance of the Association;
- (h) with the concurrence of all of the trustees, to change the name of the Association at any time;
- (i) to do all ancillary or incidental things that are necessary or desirable to enable the Association to carry out its purpose.

4—Determination by trustees

In determining—

- (a) any rent; or
- (b) the terms and conditions of any tenancy; or
- (c) financial assistance granted to an eligible person,

the trustees must have regard (where relevant) to—

- (d) the eligible person's means and ability to pay the rent or to discharge any other financial obligation to the Association; and
- (e) the market rental value of the premises or the market value and the terms and conditions prevailing in the market with respect to any other kind of assistance provided by the Association; and
- (f) the ongoing financial viability of the Association; and
- (g) any special needs of the eligible person; and
- (h) any other matter that is, in the opinion of the trustees, relevant to the particular case.

5—Remuneration of trustees

- (1) The Association may, after 1 January of each calendar year, by unanimous resolution of all trustees, appropriate an amount from the funds of the Association, as remuneration for services rendered by each trustee for the preceding calendar year, and pay the amount so appropriated to the trustees.
- (2) The amount of any such remuneration is to be determined having regard to factors including—
 - (a) fees paid for similar services provided by trustees or Board members of other like charitable bodies; and
 - (b) the amount of time and the degree of skill required in respect of the services provided by the trustees; and
 - (c) the ability of the Association to pay, in the ordinary course of its business, any proposed amount.

6—Professional services by trustees

A trustee is not precluded by reason only of holding office as a trustee from being engaged by the Association (either directly or indirectly via a firm of which the trustee is a member) to provide services to the Association in addition to any services rendered by the trustee as a trustee in the administration of the trusts by the Association and from receiving reasonable remuneration for those services.

7—Liability of trustee

- (1) No civil liability attaches to a trustee for an act or omission in good faith in the exercise, performance or discharge, or purported exercise, performance or discharge, of the trustee's or the Association's powers, functions or duties under the Indenture or this Act.
- (2) A liability that would, but for this clause, attach to a trustee attaches instead to the Association.

8—Residence of trustee

A person is not precluded from appointment as a trustee on the basis of that person's place of residence if that person is ordinarily resident in the State.

9—No entitlement to profit

The assets and the income of the Association must be applied solely in furtherance of the purpose set out in clause 2 and none of the assets or income may be distributed, directly or indirectly, or applied for the benefit of any person or entity except—

- (a) an eligible person; or
- (b) the trustees in accordance with the provisions of clause 5; or
- (c) a person receiving the asset or income as bona fide payment for services rendered or expenses incurred by or on behalf of the Association (including, without limitation, any payments authorised under clause 6).

10—Dissolution

In the event that the Association is wound up for any reason, any surplus assets remaining after payment of the Association's liabilities must be transferred to another organisation within Australia—

- (a) that has been declared to be, or is otherwise recognised, as a public benevolent institution for the purposes of any then applicable Commonwealth taxation Act; and
- (b) that the trustees, in their discretion, have determined to have objects or purposes that are as close as possible to the purposes of the Association.