

CONCURRENCE COPY

WALKER TRUSTS (AMENDMENT) BILL, 1983

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Walker Trusts Act, 1938, provided, among other things, for—

- (a) the trustee of the estate of Thomas Walker, deceased, to be constituted a body corporate for the purposes of administering the Thomas Walker Convalescent Hospital; and
- (b) a sum of money from that estate to be set aside for the establishment of the Dame Eadith Walker Convalescent Hospital for Men.

The objects of this Bill are—

- (a) to transfer the Thomas Walker Convalescent Hospital to the New South Wales Health Foundation for the purposes of an adolescent convalescent and rehabilitation unit; and
 - (b) to allow the balance of the money set aside for the establishment of the Dame Eadith Walker Convalescent Hospital for Men to be transferred to the New South Wales Health Foundation for general health purposes.
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PROCEEDINGS

OF THE

CONFERENCE

ON

THE

STATE OF

WALKER TRUSTS (AMENDMENT) BILL, 1983

No. , 1983.

A BILL FOR

An Act to amend the Walker Trusts Act, 1938, with respect to the Thomas Walker Convalescent Hospital, and in other respects.

[MR BRERETON—23 *November*, 1983.]

Walker Trusts (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Walker Trusts (Amendment) Act, 1983".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

10 (2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment of Act No. 31, 1938.

3. The Walker Trusts Act, 1938, is amended in the manner set forth in **15** Schedule 1.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE WALKER TRUSTS ACT, 1938.

(1) Section 2, definition of "Foundation"—

20 After the definition of "Charitable fund", insert:—

"Foundation" means the New South Wales Health Foundation constituted by section 16 of the Health Administration Act, 1982.

Walker Trusts (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WALKER TRUSTS ACT, 1938—*continued.*

(2) Section 4 (2)—

At the end of section 4, insert:—

5 (2) As soon as practicable after the day appointed and notified under section 2 (2) of the Walker Trusts (Amendment) Act, 1983, the Treasurer shall close the separate trust account established under subsection (1) (b) and shall transfer the balance of the account to the Foundation.

10 (3) Section 9 (1) (a)—

Omit “out of the moneys in paragraph (b) of section four of this Act referred to”, insert instead “out of money standing to the credit of the trust account kept as referred to in section 4”.

(4) Section 12—

15 After “all times”, insert “before the day appointed and notified under section 2 (2) of the Walker Trusts (Amendment) Act, 1983,”.

(5) (a) Section 13 (1)—

Omit “From”, insert instead “Subject to subsection (6), from”.

(b) Section 13 (6)—

20 After section 13 (5), insert:—

(6) The body corporate named The Thomas Walker Convalescent Hospital is hereby dissolved.

(6) (a) Section 14—

25 Before “the body corporate” where secondly occurring, insert “, until dissolved,”.

Walker Trusts (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WALKER TRUSTS ACT, 1938—*continued.*

(b) Section 14 (2)—

At the end of section 14, insert:—

5 (2) The Thomas Walker Convalescent Hospital shall be
deemed always to have had power under the trusts and
obligations referred to in subsection (1) to agree to, and allow,
the occupation of the Thomas Walker Convalescent Hospital by
10 another person or body and to allow that hospital to be
conducted as an adolescent convalescent and rehabilitation unit.

(7) Sections 17, 18—

After “The Thomas Walker Convalescent Hospital” wherever
occurring, insert “(until dissolved)”.

(8) Sections 18A, 18B—

15 After section 18, insert:—

**Transfer of hospital and other assets, etc., of The Thomas Walker
Convalescent Hospital.**

18A. (1) On and from the day appointed and notified under
section 2 (2) of the Walker Trusts (Amendment) Act, 1983—

20 (a) all real and personal property and all right and interest
therein and all management and control thereof that, immedi-
ately before that day, was vested in or belonged to The
Thomas Walker Convalescent Hospital shall vest in and
belong to the Foundation;

25 (b) all money and liquidated and unliquidated claims that,
immediately before that day, was or were payable to or
recoverable by The Thomas Walker Convalescent Hospital
shall be money and liquidated and unliquidated claims
payable to or recoverable by the Foundation;

Walker Trusts (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE WALKER TRUSTS ACT, 1938—*continued.*

- 5 (c) all proceedings commenced before that day by The Thomas Walker Convalescent Hospital and pending immediately before that day shall be deemed to be proceedings pending on that day by the Foundation and all proceedings so commenced by any person against The Thomas Walker Convalescent Hospital and pending immediately before that day shall be deemed to be proceedings pending on that day
10 by that person against the Foundation;
- 15 (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, The Thomas Walker Convalescent Hospital and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to by the Foundation;
- 20 (e) the Foundation may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subsection and for the prosecution of proceedings so referred to as The Thomas Walker Convalescent Hospital might have done, but for its dissolution;
- 25 (f) the Foundation may enforce and realise any security or charge existing immediately before that day in favour of The Thomas Walker Convalescent Hospital and may exercise any powers thereby conferred on The Thomas Walker Convalescent Hospital as if the security or charge were a security or charge in favour of the Foundation;
- 30 (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, The Thomas Walker Convalescent Hospital (including any amount payable to the Perpetual

Walker Trusts (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE WALKER TRUSTS ACT, 1938—*continued.*

5 Trustee Company Limited by way of income commission as referred to in section 13 (5)) shall be debts due by, money payable by and claims recoverable against, the Foundation; and

10 (h) all liquidated and unliquidated claims for which The Thomas Walker Convalescent Hospital would, but for its dissolution, have been liable shall be liquidated and unliquidated claims for which the Foundation shall be liable.

15 (2) Any act, matter or thing done or omitted to be done before the day appointed and notified under section 2 (2) of the Walker Trusts (Amendment) Act, 1983, by, to or in respect of The Thomas Walker Convalescent Hospital shall, to the extent that, but for the dissolution of The Thomas Walker Convalescent Hospital, that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the Foundation.

20 (3) No attornment to the Foundation by a lessee from The Thomas Walker Convalescent Hospital shall be required.

25 (4) On and from the day appointed and notified under section 2 (2) of the Walker Trusts (Amendment) Act, 1983, in any other Act or in any regulation, by-law or other statutory instrument or in any document, whether of the same or of a different kind, a reference, or a reference required immediately before that day to be read and construed as a reference, to The Thomas Walker Convalescent Hospital shall be read and construed as a reference to the Foundation.

30 (5) Except as provided by subsection (1), all trusts, conditions, covenants, easements, charges and encumbrances to which the land forming part of the property referred to in subsection (1) was subject immediately before the day appointed and notified under section 2 (2) of the Walker Trusts (Amendment) Act, 1983, are hereby discharged and annulled but only in so far as they affect that land.

Walker Trusts (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE WALKER TRUSTS ACT, 1938—*continued.***Foundation to maintain hospital as adolescent convalescent and rehabilitation unit.**

5 18B. (1) On and from the day appointed and notified under section 2 (2) of the Walker Trusts (Amendment) Act, 1983, the Foundation shall—

10 (a) hold and maintain the land forming part of the property referred to in section 18A (1) for the purposes of an adolescent convalescent and rehabilitation unit called the Thomas Walker Convalescent Hospital; and

15 (b) maintain the buildings on the land or erect and maintain such new buildings as may be proper and necessary, and supply those buildings with such equipment as may be proper and necessary, for the purposes of the Thomas Walker Convalescent Hospital.

20 (2) The Foundation shall keep a separate account in respect of all money received by it pursuant to section 18A and paid into the New South Wales Health Foundation Fund in accordance with the Health Administration Act, 1982, and money standing to the credit of that account shall, notwithstanding section 19 (3) of that Act, be applied only towards the payment of charges, costs and expenses incurred by the Foundation as a consequence of the enactment of section 18A or in connection with the control, management or administration of the Thomas Walker Convalescent Hospital.

(9) Section 19A—

After section 19, insert:—

Control and management of the Thomas Walker Convalescent Hospital.

30 19A. (1) Subject to subsection (2), on and from the day appointed and notified under section 2 (2) of the Walker Trusts (Amendment) Act, 1983, the Royal Prince Alfred Hospital shall control, manage and administer the Thomas Walker Convalescent Hospital.

Walker Trusts (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WALKER TRUSTS ACT, 1938—*continued.*

- 5 (2) The Governor may, at any time and from time to time, appoint a person or corporation in place of the Royal Prince Alfred Hospital to control, manage and administer the Thomas Walker Convalescent Hospital.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983

(40c)

WALKER TRUSTS (AMENDMENT) ACT, 1983, No. 207

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 207, 1983.

An Act to amend the Walker Trusts Act, 1938, with respect to the Thomas Walker Convalescent Hospital, and in other respects. [Assented to, 31st December, 1983.]

Walker Trusts (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Walker Trusts (Amendment) Act, 1983".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Amendment of Act No. 31, 1938.

3. The Walker Trusts Act, 1938, is amended in the manner set forth in Schedule 1.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE WALKER TRUSTS ACT, 1938.

(1) Section 2, definition of "Foundation"—

After the definition of "Charitable fund", insert:—

"Foundation" means the New South Wales Health Foundation constituted by section 16 of the Health Administration Act, 1982.

Walker Trusts (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE WALKER TRUSTS ACT, 1938—*continued.*

(2) Section 4 (2)—

At the end of section 4, insert:—

(2) As soon as practicable after the day appointed and notified under section 2 (2) of the Walker Trusts (Amendment) Act, 1983, the Treasurer shall close the separate trust account established under subsection (1) (b) and shall transfer the balance of the account to the Foundation.

(3) Section 9 (1) (a)—

Omit “out of the moneys in paragraph (b) of section four of this Act referred to”, insert instead “out of money standing to the credit of the trust account kept as referred to in section 4”.

(4) Section 12—

After “all times”, insert “before the day appointed and notified under section 2 (2) of the Walker Trusts (Amendment) Act, 1983,”.

(5) (a) Section 13 (1)—

Omit “From”, insert instead “Subject to subsection (6), from”.

(b) Section 13 (6)—

After section 13 (5), insert:—

(6) The body corporate named The Thomas Walker Convalescent Hospital is hereby dissolved.

(6) (a) Section 14—

Before “the body corporate” where secondly occurring, insert “, until dissolved,”.

Walker Trusts (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE WALKER TRUSTS ACT, 1938—*continued.*

(b) Section 14 (2)—

At the end of section 14, insert:—

(2) The Thomas Walker Convalescent Hospital shall be deemed always to have had power under the trusts and obligations referred to in subsection (1) to agree to, and allow, the occupation of the Thomas Walker Convalescent Hospital by another person or body and to allow that hospital to be conducted as an adolescent convalescent and rehabilitation unit.

(7) Sections 17, 18—

After “The Thomas Walker Convalescent Hospital” wherever occurring, insert “(until dissolved)”.

(8) Sections 18A, 18B—

After section 18, insert:—

Transfer of hospital and other assets, etc., of The Thomas Walker Convalescent Hospital.

18A. (1) On and from the day appointed and notified under section 2 (2) of the Walker Trusts (Amendment) Act, 1983—

- (a) all real and personal property and all right and interest therein and all management and control thereof that, immediately before that day, was vested in or belonged to The Thomas Walker Convalescent Hospital shall vest in and belong to the Foundation;
- (b) all money and liquidated and unliquidated claims that, immediately before that day, was or were payable to or recoverable by The Thomas Walker Convalescent Hospital shall be money and liquidated and unliquidated claims payable to or recoverable by the Foundation;

Walker Trusts (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE WALKER TRUSTS ACT, 1938—*continued.*

- (c) all proceedings commenced before that day by The Thomas Walker Convalescent Hospital and pending immediately before that day shall be deemed to be proceedings pending on that day by the Foundation and all proceedings so commenced by any person against The Thomas Walker Convalescent Hospital and pending immediately before that day shall be deemed to be proceedings pending on that day by that person against the Foundation;
- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, The Thomas Walker Convalescent Hospital and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the Foundation;
- (e) the Foundation may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subsection and for the prosecution of proceedings so referred to as The Thomas Walker Convalescent Hospital might have done, but for its dissolution;
- (f) the Foundation may enforce and realise any security or charge existing immediately before that day in favour of The Thomas Walker Convalescent Hospital and may exercise any powers thereby conferred on The Thomas Walker Convalescent Hospital as if the security or charge were a security or charge in favour of the Foundation;
- (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, The Thomas Walker Convalescent Hospital (including any amount payable to the Perpetual

Walker Trusts (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE WALKER TRUSTS ACT, 1938—*continued.*

Trustee Company Limited by way of income commission as referred to in section 13 (5)) shall be debts due by, money payable by and claims recoverable against, the Foundation; and

- (h) all liquidated and unliquidated claims for which The Thomas Walker Convalescent Hospital would, but for its dissolution, have been liable shall be liquidated and unliquidated claims for which the Foundation shall be liable.

(2) Any act, matter or thing done or omitted to be done before the day appointed and notified under section 2 (2) of the Walker Trusts (Amendment) Act, 1983, by, to or in respect of The Thomas Walker Convalescent Hospital shall, to the extent that, but for the dissolution of The Thomas Walker Convalescent Hospital, that act, matter or thing would on or after that day have had any force or effect or been in operation, be deemed to have been done or omitted to be done by, to or in respect of the Foundation.

(3) No attornment to the Foundation by a lessee from The Thomas Walker Convalescent Hospital shall be required.

(4) On and from the day appointed and notified under section 2 (2) of the Walker Trusts (Amendment) Act, 1983, in any other Act or in any regulation, by-law or other statutory instrument or in any document, whether of the same or of a different kind, a reference, or a reference required immediately before that day to be read and construed as a reference, to The Thomas Walker Convalescent Hospital shall be read and construed as a reference to the Foundation.

(5) Except as provided by subsection (1), all trusts, conditions, covenants, easements, charges and encumbrances to which the land forming part of the property referred to in subsection (1) was subject immediately before the day appointed and notified under section 2 (2) of the Walker Trusts (Amendment) Act, 1983, are hereby discharged and annulled but only in so far as they affect that land.

Walker Trusts (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE WALKER TRUSTS ACT, 1938—*continued.***Foundation to maintain hospital as adolescent convalescent and rehabilitation unit.**

18B. (1) On and from the day appointed and notified under section 2 (2) of the Walker Trusts (Amendment) Act, 1983, the Foundation shall—

- (a) hold and maintain the land forming part of the property referred to in section 18A (1) for the purposes of an adolescent convalescent and rehabilitation unit called the Thomas Walker Convalescent Hospital; and
- (b) maintain the buildings on the land or erect and maintain such new buildings as may be proper and necessary, and supply those buildings with such equipment as may be proper and necessary, for the purposes of the Thomas Walker Convalescent Hospital.

(2) The Foundation shall keep a separate account in respect of all money received by it pursuant to section 18A and paid into the New South Wales Health Foundation Fund in accordance with the Health Administration Act, 1982, and money standing to the credit of that account shall, notwithstanding section 19 (3) of that Act, be applied only towards the payment of charges, costs and expenses incurred by the Foundation as a consequence of the enactment of section 18A or in connection with the control, management or administration of the Thomas Walker Convalescent Hospital.

(9) Section 19A—

After section 19, insert:—

Control and management of the Thomas Walker Convalescent Hospital.

19A. (1) Subject to subsection (2), on and from the day appointed and notified under section 2 (2) of the Walker Trusts (Amendment) Act, 1983, the Royal Prince Alfred Hospital shall control, manage and administer the Thomas Walker Convalescent Hospital.

Walker Trusts (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE WALKER TRUSTS ACT, 1938—*continued.*

(2) The Governor may, at any time and from time to time, appoint a person or corporation in place of the Royal Prince Alfred Hospital to control, manage and administer the Thomas Walker Convalescent Hospital.

In the name and on behalf of Her Majesty I assent to this Act.

L. W. STREET,
*By Deputation from
His Excellency the Governor.*

*Government House,
Sydney, 31st December, 1983.*

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984