

South Australia

## **Lady Kintore Cottages Act 1920**

An Act to make provision for the transfer of certain real and personal property from the Lady Kintore Cottages, Incorporated, to the Adelaide Benevolent and Strangers' Friend Society, Incorporated, and for other purposes.

---

### **Contents**

#### Preamble

- 1 Short title
- 2 Transfer of trust property
- 3 Trusts of property
- 4 Release of present trustees
- 5 Mode of transferring real property
- 6 Transfer exempt from stamp duty
- 7 Change in corporate structure of Society—references

#### The Schedule

#### Legislative history

---

## Preamble

Whereas in a certain Declaration of Trust, dated the twentieth day of December, eighteen hundred and ninety-four, and executed by James Marshall, of Rundle Street, Adelaide, in the State of South Australia, draper; David Murray, then of Gawler Place, Adelaide aforesaid, merchant, but since deceased; and Frederick William Bullock, of Adelaide aforesaid, land agent, it was recited (*inter alia*) that certain hereditaments and premises therein described and the cottages thereon were purchased with funds subscribed by various donors as a means of providing cheap homes for indigent widows and deserted wives and their families: And whereas the said hereditaments and premises were vested in the said James Marshall, David Murray, and Frederick William Bullock in fee simple: And whereas the said James Marshall, David Murray, and Frederick William Bullock did, by the said Declaration of Trust, testify and declare that they held the said hereditaments and premises upon trust for an association (now incorporated under the provisions of the *Associations Incorporation Act 1890*, under the name of "The Lady Kintore Cottages, Incorporated") comprising the donors of the said funds, formed for the purpose of providing homes for indigent widows and deserted wives and their families in the said State, and for no other purpose or intent whatsoever, but subject, nevertheless, to the rules thereunder written: And whereas the said rules provide that the said cottages and all business connected therewith are to be under the management of a committee constituted in the manner provided by the said rules: And whereas the said rules further provide that the said committee shall be elected annually by the subscribers to the said fund up to the date of the said Declaration of Trust who have subscribed a sum of not less than One Pound and One Shilling, and by all future subscribers who subscribe not less than such sum at the annual general meeting of the association: And whereas the said rules further provide that no person shall be entitled to vote or be present at any meeting of subscribers unless his or her subscription for the current year is paid: And whereas no person has subscribed or donated the sum of One Pound and One Shilling or any larger sum during the period of fifteen years or thereabouts prior to the passing of this Act: And whereas, therefore, there is no person in existence entitled to vote or be present at any meeting of the association, and no committee of the association: And whereas the said Declaration of Trust provides that if the said James Marshall, David Murray and Frederick William Bullock or any of them should happen to die or cease to reside in this State or decline or refuse or become unwilling or incapable to act in the execution of the trusts thereby declared it should be lawful for the committee referred to in the said rules to appoint any other person or persons to be a trustee or trustees under the said Declaration of Trust: And whereas the said James Marshall and Frederick William Bullock, the surviving trustees of the association, are desirous of being discharged of and from the trusts declared by the said Declaration of Trust, but, because there is no committee in existence, there is no means of appointing a new trustee or trustees: And whereas the hereditaments and premises hereinbefore referred to have been sold in exercise of the powers in that behalf contained in the said Declaration of Trust, and the property at present subject to the said trusts consists of the real property and moneys mentioned in the Schedule hereto: And whereas it is desirable that the charitable purpose for which the said trusts were declared should not fail, but should be carried on by an association having objects similar in whole or in part to the objects of the Lady Kintore Cottages, Incorporated:

**The Parliament of South Australia enacts as follows:****1—Short title**

This Act may be cited as the *Lady Kintore Cottages Act 1920*.

**2—Transfer of trust property**

- (1) All the estate, right, title, and interest of the said James Marshall and Frederick William Bullock and of the Lady Kintore Cottages, Incorporated, in the real property and moneys mentioned in the Schedule are hereby transferred and assigned to and vested in The Adelaide Benevolent and Strangers' Friend Society, Incorporated, an association duly incorporated under the provisions of the *Associations Incorporation Act 1890* (hereinafter referred to as the *Society*).
- (2) From the passing of this Act the account in the Savings Bank of South Australia to the credit of which the said moneys stand may, subject to the provisions of this Act, be operated upon in the same manner and by the same persons as in the case of other moneys belonging to the Society.

**3—Trusts of property**

- (1) Such real property and moneys shall be held by the Society upon trust to use the same for the purpose of—
  - (a) administering relief and providing affordable housing and other assistance to sick or disadvantaged people in the State; and
  - (b) undertaking all such things or activities which are necessary, incidental or conducive to the advancement of the purpose referred to in paragraph (a).

If such real property is at any time sold under the power to sell conferred by the rules of the Society, such other real property as is purchased in substitution therefor shall be held on the same trust.

- (2) Subject to the provisions of subsection (1) of this section, such real property and moneys shall be managed and dealt with in all respects according to the rules of the Society.

**4—Release of present trustees**

Upon the passing of this Act the said James Marshall and Frederick William Bullock shall be absolutely released and discharged from the trusts and obligations imposed upon them by the said Declaration of Trust, and from all future liability in respect thereof.

**5—Mode of transferring real property**

- (1) Notwithstanding the provisions of the *Real Property Act 1886*, or any other Act, the Registrar-General of Deeds shall, upon the production to him of the duplicate certificate of title to the real property described in the Schedule, enter a memorial on the appropriate folium in the Register Book, and upon the said duplicate certificate, that all the estate and interest of the Lady Kintore Cottages, Incorporated, in the land therein comprised is, pursuant to the provisions of this Act, transferred to the Adelaide Benevolent and Strangers' Friend Society, Incorporated.

- (2) When such memorial has been made, the said duplicate certificate of title shall be delivered to the secretary for the time being of the Society.

### **6—Transfer exempt from stamp duty**

Notwithstanding anything contained in the *Stamp Acts 1886 to 1919*, no stamp duty shall be chargeable in respect of the transfer effected by this Act of the real property described in the Schedule.

### **7—Change in corporate structure of Society—references**

If the Society becomes registered as a company limited by guarantee under the *Corporations Act 2001* of the Commonwealth, or transfers the whole of its assets and undertaking to such a company—

- (a) all references in this Act to the Adelaide Benevolent and Strangers' Friend Society Incorporated and to the Society will be taken to be references to the relevant company; and
- (b) all references in this Act to the Society's rules will be taken to be references to the relevant company's constitution.

## **The Schedule**

### Section 2

#### **Real property**

Part town acre No. 621, situated in the City of Adelaide, and being the whole of the land comprised in Certificate of Title, Register Book volume 688, folio 171, together with all buildings and erections thereon.

#### **Money**

The sum of Two Hundred and Seventy-one Pounds in the Savings Bank of South Australia; or such other sum as may at the time of the passing of this Act be standing to the credit of the Lady Kintore Cottages, Incorporated, in the said Bank.

## 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 and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1920	1430	<i>Lady Kintore Cottages Act 1920</i>	18.11.1920	18.11.1920
<b>2014</b>	<b>7</b>	<b><i>Lady Kintore Cottages (Trust Property) Amendment Act 2014</i></b>	<b>31.7.2014</b>	<b>28.8.2014</b> ( <i>Gazette 28.8.2014 p4157</i> )

### Provisions amended

New entries appear in bold.

Provision	How varied	Commencement
s 3		
s 3(1)	amended by 7/2014 s 4	28.8.2014
s 7	inserted by 7/2014 s 5	28.8.2014

### Transitional etc provisions associated with Act or amendments

#### *Lady Kintore Cottages (Trust Property) Amendment Act 2014, Sch 1—Transitional provisions*

##### 1—Preliminary

In this Schedule—

*Society* means the Adelaide Benevolent and Strangers' Friend Society, Incorporated.

##### 2—Validation of acts of Society

Despite section 3 of the *Lady Kintore Cottages Act 1920* as in force immediately before the commencement of this Act—

- (a) the exercise or purported exercise of a power by the Society in relation to the provision of money, property or any other benefit; and
- (b) the provision or purported provision of money, property or any other benefit, before the commencement of this Act for the purpose of administering relief or providing affordable housing and other assistance to sick or disadvantaged people in the State—
- (c) has the same force and effect as if the relevant exercise of the power or provision of money, property or other benefit had occurred after the commencement of this Act; and

- (d) must be taken to be, and always to have been, an exercise or a provision for a valid and lawful purpose of the trust in accordance with the rules of the Society.

### **3—Immunity from liability for breach of trust**

Despite section 3 of the *Lady Kintore Cottages Act 1920* as in force immediately before the commencement of this Act, no liability attaches to a person for breach of trust by virtue of—

- (a) the exercise or purported exercise of a power by the Society in relation to the provision of money, property or any other benefit; or
- (b) the provision or purported provision of money, property or any other benefit,

before the commencement of this Act, if the relevant exercise of the power or provision of money, property or other benefit was for the purpose of administering relief or providing affordable housing and other assistance to sick or disadvantaged people in the State.