

South Australia

Spicer Cottages Trust Act 1978

An Act to repeal the *Spicer Cottages Trust Act 1934*; to reconstitute the Spicer Cottages Trust; to prescribe its powers and functions; and for purposes incidental thereto.

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Legislative history

The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Spicer Cottages Trust Act 1978*.

2—Repeal of *Spicer Cottages Trust Act 1934*

The *Spicer Cottages Trust Act 1934* is repealed.

3—Interpretation

In this Act, unless the contrary intention appears—

the Declaration of Trust means the declaration of trust set out in Schedule 2 to this Act and any amendment thereto;

the former declarations of trust means the declarations of trust referred to in the first and second paragraphs of the preamble to the Declaration of Trust;

the repealed Act means the *Spicer Cottages Trust Act 1934*, repealed by this Act;

the Trust means The Spicer Cottages Trust incorporated under the repealed Act.

4—The Trust

- (1) The former declarations of trust are revoked.
- (2) The Trust shall—
 - (a) continue in existence as a body corporate with perpetual succession and a common seal; and

- (b) be capable of suing and being sued in its corporate name.
- (3) The Trust consists of not more than 8 members, of whom at least 2 must be members of the Uniting Church in Australia, or of any church formed by a union of the Uniting Church with another church.
- (4) The Trust shall have the powers, authorities, functions, duties and obligations conferred, assigned or imposed by the Declaration of Trust.

5—Interaction with other Acts

This Act is in addition to, and does not derogate from, the *Trustee Act 1936*.

Schedule 2—Declaration of Trust

WHEREAS by three Declarations of Trust dated the 1st October, 1897, the 15th December, 1899 and the 25th August, 1902, Edward Spicer transferred to Joseph Berry and others (referred to hereinafter as "the trustees") the whole of the land comprised in Certificates of Title, Volume 1533, Folio 199, Volume 618, Folio 182, and Volume 1533, Folio 63, for the purpose of providing homes for widows of ministers or supernumerary ministers of the Methodist Church in South Australia,

AND WHEREAS by Declarations of Trust dated 26th October, 1900 and 26th August, 1902, Edward Spicer transferred to the trustees certain sums of money in bonds and cash; and whereas by her last will and testament Emma Spicer bequeathed to the trustees a further sum of money,

AND WHEREAS by virtue of the provisions of the *Spicer Cottages Trust Act 1934*, it was enacted that the successors of the trustees should be a body corporate by the name of "The Spicer Cottages Trust" (hereinafter referred to as "the Trust") and that certain other powers should be granted to the Trust,

AND WHEREAS the Methodist Church of Australasia, South Australia Conference, transferred to the Trust a property situated at 54 Labrina Avenue, Prospect, also for the purpose of providing a home for widows of ministers or supernumerary ministers of the Methodist Church,

AND WHEREAS certain provisions of the Declarations of Trust referred to above have now become obsolete,

AND WHEREAS the Methodist Church of Australasia, South Australia Conference has united with the General Assembly of the Presbyterian Church of South Australia incorporated and the Congregational Union of South Australia Incorporated to form the South Australian Synod of the Uniting Church in Australia,

AND WHEREAS it has become desirable and expedient to consolidate the main provisions of the Declarations of Trust referred to above together with the main provisions of the *Spicer Cottages Trust Act 1934*, into one Declaration of Trust;

IT IS HEREBY DECLARED that—

- 1 This Declaration of Trust supersedes all of the Declarations of Trust referred to above.
- 2 The Trust stands possessed of the land and property referred to above upon trust.

- 3** The Trust shall permit the land and homes erected thereon and any other property or properties which the Trust may at any time acquire, to be occupied by such widows of ministers, or by such retired ministers, of the South Australian Synod of the Uniting Church in Australia, or of any church formed by a union of the Uniting Church in Australia with any other church, as the Trust may select, and may charge such occupants a rental which, in the opinion of the Trust, is sufficient to meet all outgoing expenses which the Trust finds to be necessary.

But the Trust may from time to time, if it is, in the opinion of the Trust, necessary or desirable to do so, let one or more of the homes to any person at any rental whatsoever.

- 4** The Trust may terminate any occupancy or tenancy of any of its homes.
- 4A** The objects of the Trust include to provide assistance to persons in poor, needy or difficult circumstances by—
- (a) providing, or assisting in the provision of, affordable housing; or
 - (b) providing assistance in connection with obtaining—
 - (i) an education or training; or
 - (ii) health or allied health services; or
 - (iii) other services or support.
- 4B** The Trust may provide or apply any funds on terms or conditions determined by the Trust.
- 4C** The Trust may apply a benefit, or provide assistance, to a person—
- (a) directly; or
 - (b) indirectly through a third party involved in the provision of services or financial or other support.
- 5** The Trust may invest any moneys held by the Trust in any form of investment authorised by law for the investment of trust funds, or by the Assembly of the Uniting Church in Australia or the South Australian Synod thereof.
- 6** The Trust may sell any of its investments and may use the proceeds of the sale and any other funds in its hands in any way which in the opinion of the Trust advances the objects of the Trust.
- 7** The Trust may—
- (a) receive any gift of property to be applied in the furtherance of the purposes of the Trust.
 - (b) receive any property with any special direction or limitation and use such property subject to such direction or limitation in furtherance of the purposes of the Trust.
 - (c) receive from any other Trust or from the South Australian Synod of the Uniting Church in Australia any property whatsoever and administer that property under the provisions of this Declaration of Trust or upon such other terms and conditions as may be mutually agreed upon between the Trust and that other Trust or between the Trust and the Synod.

- (d) manage any property on behalf of any other Trust or on behalf of the South Australian Synod of the Uniting Church in Australia on such terms and conditions as may be mutually agreed upon between the Trust and that other Trust or between the Trust and the Synod.
 - (e) in addition to the provision made by paragraph (c), receive funds from any other entity or person.
 - (f) in addition to the provision made by paragraph (d), manage any other money, property or assets as the Trust thinks fit and, in so doing, may combine funds, property or other assets (including funds, property or other assets subject to separate trusts or held for separate purposes) subject to complying with any relevant accounting standards and being able, as appropriate, to separately account for differing classes of funds, property or assets.
- 8** The Trust or any two trustees thereof may apply to the Supreme Court or a Judge thereof for advice or direction as to matters connected with the management or administration of the Trust property or the construction of any deed or document relating to the Trust or the Trust property.
- 9** The Trust may sell any of its homes at any time and apply the proceeds of the sale in or towards the purchase of any other home or homes or the purchase of land or the erection of homes or in any other way which in the opinion of the Trust advances the objects of the Trust.
- 10** The Trust may erect buildings and structures on land vested in the Trust and may renovate, alter or demolish any of its buildings or structures.
- 11** The Trust may in pursuance of the purposes of the Trust—
 - (a) acquire, receive, hold, deal with and dispose of property of any kind;
 - (b) mortgage, charge or otherwise encumber any of the Trust property;
 - (c) borrow money;
 - (d) use any of its funds to repay any borrowings or debts;
 - (e) expend its funds (whether constituting income or capital) as may be necessary or appropriate;
 - (f) give or cause to be given all such notices and take or cause to be taken all such proceedings as may be necessary to carry out the decisions of the Trust.
- 12** At any meeting of the Trust—
 - (a) four members shall form a quorum; and
 - (b) the Chair of every meeting shall have a deliberative as well as a casting vote; and
 - (c) every question shall be decided by a majority of the votes of members of the Trust voting thereon.
- 13** The Trust may—
 - (a) make, repeal or alter such rules and regulations as it thinks fit in relation to the management of the business and affairs of the Trust; or
 - (b) amend the provisions of this Declaration of Trust, as it thinks necessary.

- 14** At any meeting of the Trust the Trust may appoint, suspend or remove any one of its members as Chair, secretary, treasurer or other officer.
- 15** Any member of the Trust may at any time call a meeting of the Trust by giving not less than 4 days notice in writing to the other members of the Trust stating the time and place of the intended meeting and such a notice shall be deemed to have been given on the day on which it is—
- (a) if sent by post—posted to the last known address of the member to whom it is addressed; or
 - (b) if sent by email—sent to an email address provided by the member to whom it is sent.
- 15A** A telephone or video conference between the members of the Trust will be taken to be a meeting of the Trust at which the participating members are present if—
- (a) notice of the conference is given to all members in the manner determined by the Trust for the purpose; and
 - (b) each participating member is capable of communicating with every other participating member during the conference.
- 15B** A proposed resolution of the Trust becomes a valid decision of the Trust despite the fact that it is not voted on at a meeting of the Trust if—
- (a) notice of the proposed resolution is given to all members of the Trust in accordance with procedures determined by the Trust; and
 - (b) a majority of the members express concurrence in the proposed resolution by email setting out the terms of the resolution.
- 16** The Trust shall cause minutes to be kept of the proceedings at all meetings of the Trust and the minutes if signed by any person purporting to be the Chair of the meeting or of any subsequent meeting of the Trust, shall be evidence of all matters therein stated and the validity of the proceedings shall not be impeached on any ground not appearing on the face of the minutes themselves.
- 17** The Trust may appoint a person as a member of the Trust by a resolution of the Trust.
- 18** When any member of the Trust dies, is incapacitated from acting, refuses to act, resigns as a member of the Trust or removes to such a distance from Adelaide or acts in such a way as is considered by the Trust to make it inexpedient for the member to remain a member of the Trust, the place of that member shall become vacant and may be filled by the appointment of a new member of the Trust as provided by clause 17 of this Declaration.
- 19** In circumstances where the Trust consists of fewer than 4 members, the South Australian Synod of the Uniting Church in Australia may, by resolution, appoint a person as a member of the Trust.

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 and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1978	88	<i>Spicer Cottages Trust Act 1978</i>	30.11.1978	30.11.1978
2025	56	<i>Spicer Cottages Trust (Miscellaneous) Amendment Act 2025</i>	20.11.2025	1.1.2026 (<i>Gazette 18.12.2025 p4962</i>)

Provisions amended

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
s 4		
s 4(3)	substituted by 56/2025 s 3	1.1.2026
s 5	inserted by 56/2025 s 4	1.1.2026
<i>Sch 1</i>	<i>deleted by 56/2025 s 5</i>	<i>1.1.2026</i>
Sch 2		
cll 4A—4C	inserted by 56/2025 s 6(1)	1.1.2026
cl 5	amended by 56/2025 s 6(2)	1.1.2026
cl 7	amended by 56/2025 s 6(3)	1.1.2026
cl 11	amended by 56/2025 s 6(4)	1.1.2026
cl 12	amended by 56/2025 s 6(5)	1.1.2026
cl 14	amended by 56/2025 s 6(6)	1.1.2026
cl 15	amended by 56/2025 s 6(7)	1.1.2026
cll 15A and 15B	inserted by 56/2025 s 6(8)	1.1.2026
cl 16	amended by 56/2025 s 6(9)	1.1.2026
cl 17	substituted by 56/2025 s 6(10)	1.1.2026
cl 18	amended by 56/2025 s 6(11)	1.1.2026
cl 19	inserted by 56/2025 s 6(12)	1.1.2026

Transitional etc provisions associated with Act or amendments

Spicer Cottages Trust (Miscellaneous) Amendment Act 2025, Sch 1—Transitional provision

1—Trust membership

A member of the Trust under section 4 of the *Spicer Cottages Trust Act 1978* immediately prior to the commencement of this Act will, subject to that Act, continue to be a member of the Trust on the commencement of this Act despite section 3 of this Act.