

## SCHEDULES.

### FOURTH SCHEDULE

Section 118.

#### RETROSPECTIVE AMENDMENTS OF THE SETTLED LAND ACTS, 1882 TO 1890.

##### *Shifting of incumbrances.*

- 1 The power conferred by section five of the Settled Land Act, 1882, of shifting incumbrances on a sale, exchange, or partition, shall be deemed always to have authorised a charge on all or any part of the capital money or securities representing capital money arising from the transaction or otherwise subject to the settlement, and incumbrance in section five aforesaid shall be deemed always to have included any incumbrance, whether capable of being overreached on the exercise by the tenant for life of the powers conferred by the Settled Land Acts, 1882 to 1890, or not.

##### *Rate of interest on incumbrances.*

- 2 In the case of an incumbrance affecting the settled land, or any part thereof, the tenant for life shall be deemed always to have had power, with the consent of the incumbrancer, to vary the rate of interest charged, and any of the other provisions of the instrument (if any) creating the incumbrance.

##### *Dedication for streets, open spaces, &c.*

- 3 (1) Section sixteen of the Settled Land Act, 1882, shall be deemed always to have had effect, as if the words " after or " had been inserted after the words " On or, " and the words " or " the development of the settled land, or any part thereof, as a " building estate, or at any other reasonable time " had been inserted after the words " building lease. "
- (2) A tenant for life shall be deemed always to have had power—
  - (a) to enter into any agreement for the recompense to be made for any part of the settled land required for the widening of a highway under section eighty-two of the Highway Act, 1835, or otherwise;
  - (b) to consent to the diversion of any highway over the settled land under section eighty-five of that Act or otherwise; and
  - (c) to consent to any such road as is mentioned in section thirty-six of the Highway Act, 1862, being declared a public highway;and any agreement or consent so made or given shall be deemed to have been as valid and effectual, for all purposes, as if made or given by an absolute owner of the settled land, provided that any money received or receivable in respect of such agreement or consent was or is paid to the trustees of the settlement or into court as capital money.

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*Status: This is the original version (as it was originally enacted).*

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*Separate dealings with surface and minerals.*

- 4 Subsection (1) of section seventeen of the Settled Land Act, 1882, shall be deemed always to have had effect, as if the words " or mining " had not been contained therein, and the words "or other authorised disposition" had been inserted therein after the word " lease. "

*Powers on sale, &c.*

- 5 On a sale or other disposition made before the commencement of this Act under the powers of the Settled Land Acts, 1882 to 1890, the powers conferred by subsection (1) of section forty-nine of this Act shall be deemed to have been exercisable.

*Sale of timber and fixtures at a valuation.*

- 6 In favour of a purchaser, a sale made before the commencement of this Act shall not be deemed to have been invalidated by reason only of any such stipulation as mentioned in subsection (2) of section forty-nine of this Act, provided that the amount of the valuation was paid to the trustees of the settlement or into court.

*Raising of money.*

- 7 Where under the Settled Land Acts, 1882 to 1890, power was given to raise money for any purpose, the power shall be deemed always to have included power to raise the money properly required for the payment of the costs of the transaction.

*Provision where interest in settled land is restored.*

- 8 A person entitled to an estate or interest, whether legal or equitable, in settled land shall in the circumstances mentioned in section twenty-two of this Act be deemed always to have been entitled to such estate and interest and to exercise such powers as is in that section mentioned.

*Referential settlements.*

- 9 Where a settlement has before the commencement of this Act taken effect by reference to another settlement, the trustees who would by virtue of section thirty-two of this Act be the trustees of the settlement by reference shall be deemed always to have been the trustees of such settlement.

*Application of capital money.*

- 10 (1) Capital money arising under the Settled Land Acts, 1882 to 1890, shall be deemed always to have been capable of being applied in paying any increment value duty which a tenant for life had power to charge on the settled land under section thirty-nine of the Finance (1909-10) Act, 1910, and any reversion duty, and any costs and expenditure' incurred by the tenant for life, or the trustees of the settlement, in connexion with any valuation under the said Act, or with the assessment and ascertainment of the amount of any increment value duty which a tenant for life had power to charge as aforesaid, or any reversion duty.
- (2) Capital money arising under the Settled Land Acts, 1882 to 1890, shall be deemed always to have been capable of being applied in any of the modes mentioned in

paragraphs (xiii) to (xvi) inclusive of subsection (1) of section seventy-three of this Act as well as in the modes authorised by section twenty-one of the Settled Land Act, 1882.

*As to capital arising otherwise than under the Settled Land Acts.*

- 11 Where before the commencement of this Act any money arising from settled land, otherwise than under the Settled Land Acts, 1882 to 1890, which ought, as between the persons interested in the settled land, to have been treated as capital, has been invested, applied, or otherwise dealt with as if it had been capital money arising under those Acts, such investment, application, or other dealing shall be deemed to have been valid.

*Power for Trustee to give receipts and receipt notices.*

- 12 Where the Public Trustee or any other trust corporation was sole trustee of a settlement, the corporation shall, notwithstanding anything to the contrary contained in sections thirty-nine and forty-five of the Settled Land Act, 1882, or the settlement, be deemed always to have had power to give receipts, accept notices, and otherwise act alone as trustee of the settlement for all the purposes of the Settled Land Acts, 1882 to 1890.

*Assignments to tenant for life's interest.*

- 13 (1) Section fifty of the Settled Land Act, 1882, shall be deemed always to have applied, notwithstanding that the estate or interest of the tenant for life under the settlement was not in possession when the assignment was made, or took effect by operation of law.
- (2) The expression " assignee for value " in subsection (3) of section fifty of the Settled Land Act, 1882, shall be deemed always to have included persons deriving title under the original assignee.
- (3) A trustee or personal representative who is an assignee for value shall be deemed always to have had power to consent to the exercise by the tenant for life of his powers under the Settled Land Acts, 1882 to 1890.
- (4) A person for the time being entitled in possession under the limitations of such settlement as is mentioned in subsection (7) of section one hundred and four of this Act shall in the circumstances in that subsection mentioned, be deemed always to have had power to consent to the exercise by the tenant for life of his powers under the Settled Land Acts, 1882 to 1890, and to bind by such consent all persons interested or to become interested under the settlement.

*As to base fees.*

- 14 It shall be deemed always to have been sufficient to enable the fee simple to be disposed of or dealt with under the Settled Land Acts, 1882 to 1890, by the owner of a base fee as defined by the Fines and Recoveries Act, 1833, or fee determinable, whether by limitation or condition, or the tenant for life thereof, if there were at the time of the transaction trustees for the purposes of those Acts or any of them of the settlement consisting of the instrument whereby the estate tail or determinable fee was created, and the capital money (if any) arising on such disposition or dealing was or is paid to such trustees or into court.

*Status: This is the original version (as it was originally enacted).*

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*Amendment of s. 58(1)(ix) of the Act of 1882.*

- 15 Paragraph (ix) of subsection (1) of section fifty-eight of the Settled Land Act, 1882 shall be deemed always to have had effect as if in that paragraph—
- (a) " trust " included an implied or constructive trust;
  - (b) " forfeiture " included cesser or determination by any means;
  - (c) after the words " expenses of management " there had been inserted the words " or to a trust for accumulation of income for any purpose " ;
- but not so as to render invalid or prejudice any title or right acquired before the commencement of this Act.

*Married woman, infant, &c.*

- 16 Sections fifty-nine and sixty of the Settled Land Act, 1882, shall be deemed always to have applied, although the infant was a married woman; and section fifty-nine aforesaid shall be deemed always to have extended to any leasehold interest whether at a rent or not.