



# Law of Property (Amendment) Act 1926

## 1926 CHAPTER 11 16 and 17 Geo 5

An Act to amend certain enactments relating to the law of property and trustees. [16th June 1926]

### Modifications etc. (not altering text)

C1 Words of enactment omitted under authority of [Statute Law Revision Act 1948 \(c. 62\), s. 3](#)

### Commencement Information

II Act wholly in force at 1.1.1926, see [s. 8\(2\)](#)(now repealed)

## 1 Conveyances of legal estates subject to certain interests.

(1) Nothing in the <sup>M1</sup>Settled Land Act, 1925, shall prevent a person on whom the powers of a tenant for life are conferred by paragraph (ix) of subsection (1) of section twenty of that Act from conveying or creating a legal estate subject to a prior interest as if the land had not been settled land.

(2) In any of the following cases, namely—

- (a) where a legal estate has been conveyed or created under subsection one of this section, or under section sixteen of the Settled Land Act, 1925, subject to any prior interest, or
- (b) where before the first day of January, nineteen hundred and twenty-six, land has been conveyed to a purchaser for money or money's worth subject to any prior interest whether or not on the purchase the land was expressed to be exonerated from, or the grantor agreed to indemnify the purchaser against, such prior interest,

the estate owner for the time being of the land subject to such prior interest may, notwithstanding any provision contained in the Settled Land Act, 1925, but without prejudice to any power whereby such prior interest is capable of being overreached, convey or create a legal estate subject to such prior interest as if the instrument creating the prior interest was not an instrument or one of the instruments constituting a settlement of the land.

*Status: Point in time view as at 01/01/1997.*

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- (3) In this section “interest” means an estate, interest, charge or power of charging subsisting, or capable of arising or of being exercised, under a settlement, and, where a prior interest arises under the exercise of a power, “instrument” includes both the instrument conferring the power and the instrument exercising it.

**Marginal Citations**

M1 1925 c. 18.

2 ..... F1

**Textual Amendments**

F1 S. 2 repealed with savings by [Agricultural Holdings Act 1948 \(c. 63\)](#), ss. 98—100, Sch. 8

**3 Meaning of “trust corporation.”**

- (1) For the purposes of the <sup>M2</sup>Law of Property Act, 1925, the <sup>M3</sup>Settled Land Act, 1925, the <sup>M4</sup>Trustee Act, 1925, the <sup>M5</sup>Administration of Estates Act, 1925, and the [<sup>F2</sup>Supreme Court Act 1981], the expression “Trust Corporation” includes the Treasury Solicitor, the Official Solicitor and any person holding any other official position prescribed by the Lord Chancellor, and, in relation to the property of a bankrupt and property subject to a deed of arrangement, includes the trustee in bankruptcy and the trustee under the deed respectively, and, in relation to charitable ecclesiastical and public trusts, also includes any local or public authority so prescribed, and any other corporation constituted under the laws of the United Kingdom or any part thereof which satisfies the Lord Chancellor that it undertakes the administration of any such trusts without remuneration, or that by its constitution it is required to apply the whole of its net income after payment of outgoings for charitable, ecclesiastical or public purposes, and is prohibited from distributing, directly or indirectly, any part thereof by way of profits amongst any of its members, and is authorised by him to act in relation to such trusts as a trust corporation.

- (2) For the purposes of this provision, the expression “Treasury Solicitor” means the solicitor for the affairs of His Majesty’s Treasury, and includes the solicitor for the affairs of the Duchy of Lancaster.

**Textual Amendments**

F2 Words substituted by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(1), Sch. 5

**Marginal Citations**

- M2 1925 c. 20.
- M3 1925 c. 19.
- M4 1925 c. 23.
- M5 1925 c. 49.

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4 ..... F3

**Textual Amendments**

F3 S. 4 repealed by [Land Charges Act 1972 \(c. 61\)](#), [Sch. 5](#)

**5 Priority of charges for securing further advances.**

The following subsection shall be inserted at the end of section thirty of the <sup>M6</sup>Land Registration Act, 1925, namely:—

“(3) Where the proprietor of a charge is under an obligation, noted on the register, to make a further advance, a subsequent registered charge shall take effect subject to any further advance made pursuant to the obligation.”

**Modifications etc. (not altering text)**

C2 The text of Ss. 5, 6 and Sch. is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and except as specified does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

M6 15 Geo. 5. c. 21.

**6 Amendment of 15 Geo. 5. c.18, s.13.**

Section thirteen of the Settled Land Act, 1925, (which relates to dispositions not taking effect until a vesting instrument is made), shall have effect as if at the end thereof the following proviso were inserted:—

“Nothing in this section affects the creation or transfer of a legal estate by virtue of an order of the court or the Minister or other competent authority.”

**Modifications etc. (not altering text)**

C3 The text of Ss. 5, 6 and Sch. is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and except as specified does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**7 Minor amendments.**

The amendments specified in the second column of the Schedule to this Act, being amendments of a minor nature, shall be made in the enactments mentioned in the first column of that Schedule and shall have effect without prejudice to any title acquired by a purchaser, or any registration effected, before the passing of this Act.

**8 †Short title, construction and commencement.**

(1) This Act may be cited as the Law of Property (Amendment) Act, 1926, and so far as it amends any Act shall be construed as one with that Act.

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(2) ..... F4

**Textual Amendments**

F4 S. 8(2) repealed by Statute Law Revision Act 1950 (14 Geo. 6 c. 6)

**Modifications etc. (not altering text)**

C4 A dagger appended to a marginal note means that it is no longer accurate

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## SCHEDULE

### MINOR AMENDMENTS

#### Modifications etc. (not altering text)

- C5** The text of Ss. 5, 6 and Sch. is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and except as specified does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Enactments to be amended	Amendments
Law of Property Act, 1922.	
[ <sup>F5</sup> S.43]	[ <sup>F5</sup> In subsection (8), for the words “shall be treated as purchase money,” there shall be substituted the words “shall be treated as interest upon purchase money.”]
Schedule XIII., Part II.	. . . <sup>F6</sup>
Settled Land Act, 1925.	
S.1	At the end, there shall be inserted the following subsection:— “(7) This section does not apply to land held upon trust for sale.”
[ <sup>F7</sup> S.3]	[ <sup>F7</sup> In this section after the word “Land,” where it first occurs, there shall be inserted the words “not held upon trust for sale.”]
S.13	For the words “without notice of any settlement” there shall be substituted the words “without notice of such tenant for life or statutory owner having become so entitled as aforesaid.”
S.31	At the end of subsection (1) there shall be inserted the following paragraph:— “ Where there are trustees for the purposes of this Act of the instrument under which there is a tenant for life or statutory owner but there are no trustees for those purposes of a prior instrument, being one of the instruments by which a compound settlement is constituted, those trustees shall, unless and until trustees are appointed of the prior instrument or of the compound settlement, be the trustees for the purposes of this Act of the compound settlement.”

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- S.39 In paragraph (i) of subsection (4), for the words “a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days,” there shall be substituted the words “the statutory powers and remedies for the recovery of the rent shall apply.”
- S.78 At the end of subsection (1) there shall be inserted the words “This subsection operates without prejudice to the rights of any person claiming under a disposition for valuable consideration of any such money securities or proceeds, made before the commencement of this Act.”
- S.105 The words “if and when such remainderman or reversioner would, if the tenant for life were dead, be or have the powers of a tenant for life under this Act” shall be omitted.
- Schedule II. At the end of paragraph 1(6), there shall be inserted the words “This sub-paragraph shall not apply to any legal estate or interest vested in a mortgagee or other purchaser for money or money’s worth.”
- Law of Property Act, 1925.
- S.2 For subsection (2) from the beginning to the words “are either,” there shall be substituted the words “Where the legal estate affected is subject to a trust for sale, then if at the date of a conveyance made after the commencement of this Act under the trust for sale or the powers conferred on the trustees for sale, the trustees (whether original or substituted) are either.”
- In that subsection for the words “such equitable interest or power” there shall be substituted the words “any equitable interest or power having priority to the trust for sale.”
- S.7 At the end of subsection (1) there shall be inserted the words “and a fee simple subject to a legal or equitable right of entry or re-entry is for the purposes of this Act a fee simple absolute.”
- [<sup>F7</sup>S.26] [<sup>F7</sup>For subsection (3) the following subsection shall be substituted:—
- “(3) Trustees for sale shall so far as practicable consult the persons of full age for the time being beneficially interested in possession in the rents

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and profits of the land until sale, and shall, so far as consistent with the general interest of the trust, give effect to the wishes of such persons, or, in the case of dispute, of the majority (according to the value of their combined interests) of such persons, but a purchaser shall not be concerned to see that the provisions of this subsection have been complied with.

In the case of a trust for sale, not being a trust for sale created by or in pursuance of the powers conferred by this or any other Act, this subsection shall not apply unless the contrary intention appears in the disposition creating the trust.”]

S.27

For subsection (2) the following subsection shall be substituted:—

“(2) Notwithstanding anything to the contrary in the instrument (if any) creating a trust for sale of land or in the settlement of the net proceeds, the proceeds of sale or other capital money shall not be paid to or applied by the direction of fewer than two persons as trustees for sale, except where the trustee is a trust corporation, but this subsection does not affect the right of a sole personal representative as such to give valid receipts for, or direct the application of, proceeds of sale or other capital money, nor, except where capital money arises on the transaction, render it necessary to have more than one trustee.”

[<sup>F7</sup>S.28]

[<sup>F7</sup>In subsection (1), after the word “minority” there shall be inserted the words “and where by statute settled land is or becomes vested in the trustees of the settlement upon the statutory trusts, such trustees and their successors in office shall also have all the additional or larger powers (if any) conferred by the settlement on the tenant for life, statutory owner, or trustees of the settlement.”]

[<sup>F7</sup>S.35]

[<sup>F7</sup>At the end the following paragraph shall be inserted:—

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“Where—

- (a) an undivided share was subject to a settlement, and
- (b) the settlement remains subsisting in respect of other property, and
- (c) the trustees thereof are not the same persons as the trustees for sale, then the statutory trusts include a trust for the trustees for sale to pay the proper proportion of the net proceeds of sale or other capital money attributable to the share to the trustees of the settlement to be held by them as capital money arising under the Settled Land Act, 1925.”]

S.36	At the end of subsection (2) the following words shall be inserted:— Nothing in this Act affects the right of a survivor of joint tenants, who is solely and beneficially interested, to deal with his legal estate as if it were not held on trust for sale.
S.89	At the end of subsection (6), there shall be inserted the words “In this subsection references to an apportionment include an equitable apportionment made without the consent of the lessor.”
S.94	In subsection (2) for the words “date of the original advance” there shall be substituted the words “time when the original mortgage was created.”
[ <sup>F8</sup> S.96]	[ <sup>F8</sup> At the end of subsection (2) the following proviso shall be inserted :— “In this subsection notice does not include notice implied by reason of registration under the Land Charges Act, 1925 or in a local deeds register.”]
S.125	In subsection (2) for the words “an office copy” there shall be substituted the words “a copy.”
Schedule I., Part II.	In paragraph 3 after the words “hereinafter provided” the following proviso shall be inserted:— “The divesting of a legal estate by virtue of this paragraph shall not,



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where the person from whom the estate is so divested was a trustee, operate to prevent the legal estate being conveyed, or a legal estate being created, by him in favour of a purchaser for money or money's worth, if the purchaser has no notice of the trust and if the documents of title relating to the estate divested are produced by the trustee or by persons deriving title under him."

At the end of paragraph 7 there shall be inserted the following paragraph:—

"(m) To vest in any person any legal estate affected by any rent covenants or conditions if, before any proceedings are commenced in respect of the rent covenants or conditions, and before any conveyance of the legal estate or dealing therewith inter vivos is effected, he or his personal representatives disclaim it in writing signed by him or them."

Part IV.

In paragraph 1(3), for the words "term of years absolute," there shall be substituted the words "mortgage, and free from any interests, powers, and charges subsisting under the settlement, which have priority to the interests of the persons entitled to the undivided shares."

In paragraph 1(4)(iii) for the words "vest the land" there shall be substituted the words "thereupon the land shall by virtue of this Act vest."

At the end of paragraph 1(10) there shall be inserted the words "within eighteen months from the commencement of this Act."

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In paragraph 1(11), for the words “more than one half” there shall be substituted the words “one half or upwards.”

In paragraph 1(12) after the word “include” there shall be inserted the words “a legal rentcharge affecting the entirety.”

At the end of paragraph 3 the following new paragraph shall be inserted:—

“(4) Where, immediately before the commencement of this Act, there are two or more tenants for life of full age entitled under the same settlement in undivided shares, and, after the cesser of all their interests in the income of the settled land, the entirety of the land is limited so as to devolve together (not in undivided shares), their interests shall, but without prejudice to any beneficial interest, be converted into a joint tenancy, and the joint tenants and the survivor of them shall, until the said cesser occurs, constitute the tenant for life for the purposes of the Settled Land Act, 1925, and this Act.”

Trustee Act, 1925.

S.14

In paragraph (a) of subsection (2), the words “disposition on” shall be omitted.

S.25

...  
F6

S.26

In subsection (1) for the words “which may have accrued or been claimed” there shall be substituted the words “which may have accrued and been claimed.”

S.27

In subsection (1) for the words “in a daily London newspaper and also if the property includes land not situated in London in a daily or weekly newspaper circulating in the district in which the land is situated” there shall be substituted the words “in a newspaper circulating in the district in which the land is situated.”

Land Charges Act, 1925.

s.10

...  
F6

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[<sup>F8</sup>For subsection (6) the following subsection shall be substituted:—

“(6) In the case of a general equitable charge, restrictive covenant, equitable easement or estate contract affecting land within any of the three ridings, and in the case of any other land charge (not being a local land charge) created by a document which shows on the face of it that the charge affects land within any of those ridings, registration shall be effected in the prescribed manner in the appropriate local deeds registry in place of the registry.”]

S.15

. . .  
F6

Universities and College Estates Act, 1925.

S.3

In paragraph (i) of subsection (4), for the words “a condition of re-entry on the rent not being paid within a time therein specified, not exceeding thirty days,” there shall be substituted the words “the statutory powers and remedies for the recovery of the rent shall apply.”

#### Textual Amendments

- F5** Entry repealed (provinces of Canterbury and York) by [Endowments and Glebe Measure 1976 \(No. 4\)](#), ss. 47(4), 48, **Sch. 8**
- F6** Entries repealed by [Administration of Justice Act 1956 \(c. 46\)](#), s. 57(2), **Sch. 2**, [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), S. 1, **Sch. Pt. III**, [Land Charges Act 1972 \(c. 61\)](#), s. 18, **Sch. 5**, [Local Land Charges Act 1975 \(c. 76\)](#), s. 19(1), **Sch. 2**
- F7** Entry in Sch. repealed (E.W.) (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art.2**
- F8** Entry partly repealed as regards the Yorkshire deeds registries, their registers and areas by [Law of Property Act 1969 \(c. 59, SIF 98:1\)](#), ss. 16, 17, **Sch. 2**

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