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*Status: Point in time view as at 30/03/2004.*

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# Settled Land Act 1925

1925 CHAPTER 18 15 and 16 Geo 5

An Act to consolidate the enactments relating to settled land in England and Wales. [9th April 1925]

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## Modifications etc. (not altering text)

- C1** Powers of tenant for life and trustees of settlement under this Act conferred on trustees for sale by [Law of Property Act 1925 \(c. 20\), s. 28\(1\)](#) and [Forestry Act 1967 \(c. 10\), s. 5\(4\)](#), [Sch. 2 para. 1\(1\)-\(3\)](#); applied by [Land Registration Act 1925 \(c. 21\), ss. 40\(2\)](#), 91(1)
- C2** Words of enactment omitted under authority of [Statute Law Revision Act 1948 \(c. 62\), s. 3](#)
- C3** Act extended by [Local Land Charges Act 1975 \(c. 76, SIF 98:2\), ss. 11\(3\)](#), 19(2), by [Highways Act 1980 \(c. 66, SIF 59\), s. 87\(4\)\(a\)](#) and by [Patronage \(Benefices\) Measure 1986 \(No. 3, SIF 21:4\), ss. 33\(4\)](#), 35(1)
- C4** Act modified by [S.I. 1989/1379, art. 3\(6\)](#)
- C5** Act: Definition of "settlement" applied (25.9.1991) by [Land Compensation Act 1961 \(c. 33, SIF 28:1\), s. 27, Sch. 3](#) (as inserted 25.9.1991 by [Planning and Compensation Act 1991 \(c. 34, SIF:28:1\), s. 66, Schedule 14 para. 2](#)); [S.I. 1991/2067, art. 3](#)  
Act applied (1.11.1993) by [1993 c. 28, s. 34\(3\)\(a\)](#); [S.I. 1993/2134, arts.2,5](#)  
Act applied (30.10.1994) by [S.I. 1994/2716, reg. 86\(1\)\(b\)](#)  
Act excluded (1.1.1997) by [1996 c. 47, s.2](#) (with [ss. 24\(2\), 25\(4\)\(5\)](#)); [S.I. 1996/2974, art. 2](#)

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## Commencement Information

- I1** Act wholly in force at 1.1.1926 by [s. 120\(2\)](#) (now repealed)

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**PART I**

GENERAL PRELIMINARY PROVISIONS

*Settlements and Settled Land*

**1 What constitutes a settlement.**

(1) Any deed, will, agreement for a settlement or other agreement, Act of Parliament, or other instrument, or any number of instruments, whether made or passed before or after, or partly before and partly after, the commencement of this Act, under or by virtue of which instrument or instruments any land, after the commencement of this Act, stands for the time being—

- (i) limited in trust for any persons by way of succession; or
- (ii) limited in trust for any person in possession—
  - (a) for an entailed interest whether or not capable of being barred or defeated;
  - (b) for an estate in fee simple or for a term of years absolute subject to an executory limitation, gift, or disposition over on failure of his issue or in any other event;
  - (c) for a base or determinable fee [<sup>F1</sup>(other than a fee which is a fee simple absolute by virtue of section 7 of the Law of Property Act 1925)] or any corresponding interest in leasehold land;
  - (d) being an infant, for an estate in fee simple or for a term of years absolute; or
- (iii) limited in trust for any person for an estate in fee simple or for a term of years absolute contingently on the happening of any event; or
- (iv) . . . . .<sup>F2</sup>
- (v) charged, whether voluntarily or in consideration of marriage or by way of family arrangement, and whether immediately or after an interval, with the payment of any rentcharge for the life of any person, or any less period, or of any capital, annual, or periodical sums for the portions, advancement, maintenance, or otherwise for the benefit of any persons, with or without any terms of years for securing or raising the same;

creates or is for the purposes of this Act a settlement and is in this Act referred to as a settlement, or as the settlement, as the case requires:

Provided that, where land is the subject of a compound settlement, references in this Act to the settlement shall be construed as meaning such compound settlement, unless the context otherwise requires.

(2) Where an infant is beneficially entitled to land for an estate in fee simple or for a term of years absolute and by reason of an intestacy or otherwise there is no instrument under which the interest of the infant arises or is acquired, a settlement shall be deemed to have been made by the intestate, or by the person whose interest the infant has acquired.

(3) An infant shall be deemed to be entitled in possession notwithstanding any subsisting right of dower (not assigned by metes and bounds) affecting the land, and such a right of dower shall be deemed to be an interest comprised in the subject of the settlement and coming to the dowress under or by virtue of the settlement.

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Where dower has been assigned by metes and bounds, the letters of administration or probate granted in respect of the estate of the husband of the dowress shall be deemed a settlement made by the husband.

(4) An estate or interest not disposed of by a settlement and remaining in or reverting to the settlor, or any person deriving title under him, is for the purposes of this Act an estate or interest comprised in the subject of the settlement and coming to the settlor or such person under or by virtue of the settlement.

(5) Where—

- (a) a settlement creates an entailed interest which is incapable of being barred or defeated, or a base or determinable fee, whether or not the reversion or right of reverter is in the Crown, or any corresponding interest in leasehold land; or
- (b) the subject of a settlement is an entailed interest, or a base or determinable fee, whether or not the reversion or right of reverter is in the Crown, or any corresponding interest in leasehold land;

the reversion or right of reverter upon the cesser of the interest so created or settled shall be deemed to be an interest comprised in the subject of the settlement, and limited by the settlement.

(6) Subsections (4) and (5) of this section bind the Crown.

[<sup>F3</sup>(7) This section does not apply to land held upon trust for sale.]

#### Textual Amendments

**F1** Words added (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(2)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**

**F2** Ss. 1(1)(iv), 20(1)(x), 25(2) repealed by Married Women (Restraint upon Anticipation) Act 1949 (c. 78), s. 1, **Sch. 2**

**F3** S.1(7) added by Law of Property (Amendment) Act 1926 (c. 11), **Sch.**

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

**C6** S. 1 excluded (1.1.1997) by 1996 c. 47, s. 5(2)(with ss. 24(2), 25(4)(5)); S. I. 1996/2974, **art.2**

**C7** S. 1(1)(v) modified by Rentcharges Act 1977 (c. 30, SIF 98:1), s. 2(3)

## 2 What is settled land.

Land which is or is deemed to be the subject of a settlement is for the purposes of this Act settled land, and is in relation to the settlement referred to in this Act as the settled land.

## 3 Duration of settlements.

Land [<sup>F4</sup>which has been subject to a settlement which is a settlement for the purposes of this Act] shall be deemed for the purposes of this Act to remain and be settled land, and the settlement shall be deemed to be a subsisting settlement for the purposes of this Act so long as—

- (a) any limitation, charge, or power of charging under the settlement subsists, or is capable of being exercised; or

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- (b) the person who, if of full age, would be entitled as beneficial owner to have that land vested in him for a legal estate is an infant.

#### Textual Amendments

- F4** Words in s. 3 substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(3)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art.2**

#### 4 Authorised method of settling land inter vivos.

- (1) Every settlement of a legal estate in land inter vivos shall, save as in this Act otherwise provided, be effected by two deeds, namely, a vesting deed and a trust instrument and if effected in any other way shall not operate to transfer or create a legal estate.
- (2) By the vesting deed the land shall be conveyed to the tenant for life or statutory owner (and if more than one as joint tenants) for the legal estate the subject of the intended settlement:

Provided that, where such legal estate is already vested in the tenant for life or statutory owner, it shall be sufficient, without any other conveyance, if the vesting deed declares that the land is vested in him for that estate.

- (3) The trust instrument shall—
- (a) declare the trusts affecting the settled land;
  - (b) appoint or constitute trustees of the settlement;
  - (c) contain the power, if any, to appoint new trustees of the settlement;
  - (d) set out, either expressly or by reference, any powers intended to be conferred by the settlement in extension of those conferred by this Act;
  - (e) bear any ad valorem stamp duty which may be payable (whether by virtue of the vesting deed or otherwise) in respect of the settlement.

#### 5 Contents of vesting deeds.

- (1) Every vesting deed for giving effect to a settlement or for conveying settled land to a tenant for life or statutory owner during the subsistence of the settlement (in this Act referred to as a “principal vesting deed”) shall contain the following statements and particulars, namely:—
- (a) A description, either specific or general, of the settled land;
  - (b) A statement that the settled land is vested in the person or persons to whom it is conveyed or in whom it is declared to be vested upon the trusts from time to time affecting the settled land;
  - (c) The names of the persons who are the trustees of the settlement;
  - (d) Any additional or larger powers conferred by the trust instrument relating to the settled land which by virtue of this Act operate and are exercisable as if conferred by this Act on a tenant for life;
  - (e) The name of any person for the time being entitled under the trust instrument to appoint new trustees of the settlement.
- (2) The statements or particulars required by this section may be incorporated by reference to an existing vesting instrument, and, where there is a settlement subsisting at the commencement of this Act, by reference to that settlement and to any instrument

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whereby land has been conveyed to the uses or upon the trusts of that settlement, but not (save as last aforesaid) by reference to a trust instrument nor by reference to a disentailing deed.

- (3) A principal vesting deed shall not be invalidated by reason only of any error in any of the statements or particulars by this Act required to be contained therein.

## **6 Procedure in the case of settlements by will.**

Where a settlement is created by the will of an estate owner who dies after the commencement of this Act—

- (a) the will is for the purposes of this Act a trust instrument; and
- (b) the personal representatives of the testator shall hold the settled land on trust, if and when required so to do, to convey it to the person who, under the will, or by virtue of this Act, is the tenant for life or statutory owner, and, if more than one, as joint tenants.

## **7 Procedure on change of ownership.**

- (1) If, on the death of a tenant for life or statutory owner, or of the survivor of two or more tenants for life or statutory owners, in whom the settled land was vested, the land remains settled land, his personal representatives shall hold the settled land on trust, if and when required so to do, to convey it to the person who under the trust instrument or by virtue of this Act becomes the tenant for life or statutory owner and, if more than one, as joint tenants.
- (2) If a person by reason of attaining full age becomes a tenant for life for the purposes of this Act of settled land, he shall be entitled to require the trustees of the settlement, personal representatives, or other persons in whom the settled land is vested, to convey the land to him.
- (3) If a person who, when of full age, will together with another person or other persons constitute the tenant for life for the purposes of this Act of settled land attains that age, he shall be entitled to require the tenant for life, trustees of the settlement, personal representatives or other persons in whom the settled land is vested to convey the land to him and the other person or persons who together with him constitute the tenant for life as joint tenants.
- (4) If by reason of forfeiture, surrender, or otherwise the estate owner of any settled land ceases to have the statutory powers of a tenant for life and the land remains settled land, he shall be bound forthwith to convey the settled land to the person who under the trust instrument, or by virtue of this Act, becomes the tenant for life or statutory owner and, if more than one, as joint tenants.
- (5) If any person of full age becomes absolutely entitled to the settled land (whether beneficially, or as personal representative, or as [<sup>F5</sup>trustee of land], or otherwise) free from all limitations, powers, and charges taking effect under the settlement, he shall be entitled to require the trustees of the settlement, personal representatives, or other persons in whom the settled land is vested, to convey the land to him, and if more persons than one being of full age become so entitled to the settled land they shall be entitled to require such persons as aforesaid to convey the land to them as joint tenants.

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### Textual Amendments

**F5** Words in s. 7(5) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(4)**(with ss. 24(2), 25(4)(5)); **S.I. 1996/2974, art.2**

## 8 Mode and costs of conveyance, and saving of rights of personal representatives and equitable chargees.

- (1) A conveyance by personal representatives under either of the last two preceding sections may be made by an assent in writing signed by them which shall operate as a conveyance.
- (2) Every conveyance under either of the last two preceding sections shall be made at the cost of the trust estate.
- (3) The obligations to convey settled land imposed by the last two preceding sections are subject and without prejudice—
  - (a) where the settlement is created by a will, to the rights and powers of the personal representatives for purposes of administration; and
  - (b) in any case, to the person on whom the obligation is imposed being satisfied that provision has been or will be made for the payment of any unpaid death duties in respect of the land or any interest therein from which he is accountable, and any interest and costs in respect of such duties, or that he is otherwise effectually indemnified against such duties, interest and costs.
- (4) Where the land is or remains settled land a conveyance under either of the last two preceding sections shall—
  - (a) if by deed, be a principal vesting deed; and
  - (b) if by an assent, be a vesting assent, which shall contain the like statements and particulars as are required by this Act in the case of a principal vesting deed.
- (5) Nothing contained in either of the last two preceding sections affects the right of personal representatives to transfer or create such legal estates to take effect in priority to a conveyance under either of those sections as may be required for giving effect to the obligations imposed on them by statute.
- (6) A conveyance under either of the last two preceding sections, if made by deed, may contain a reservation to the person conveying of a term of years absolute in the land conveyed, upon trusts for indemnifying him against any unpaid death duties in respect of the land conveyed or any interest therein, and any interest and costs in respect of such duties.
- (7) Nothing contained in either of the last two preceding sections affects any right which a person entitled to an equitable charge for securing money actually raised, and affecting the whole estate the subject of the settlement, may have to require effect to be given thereto by a legal mortgage, before the execution of a conveyance under either of those sections.

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## **9 Procedure in the case of settlements and of instruments deemed to be trust instruments.**

- (1) Each of the following settlements or instruments shall for the purposes of this Act be deemed to be a trust instrument, and any reference to a trust instrument contained in this Act shall apply thereto, namely:—
  - (i) An instrument executed, or, in case of a will, coming into operation, after the commencement of this Act which by virtue of this Act is deemed to be a settlement;
  - (ii) A settlement which by virtue of this Act is deemed to have been made by any person after the commencement of this Act;
  - (iii) An instrument inter vivos intended to create a settlement of a legal estate in land which is executed after the commencement of this Act, and does not comply with the requirements of this Act with respect to the method of effecting such a settlement; and
  - (iv) A settlement made after the commencement of this Act (including a settlement by the will of a person who dies after such commencement) of any of the following interests—
    - (a) an equitable interest in land which is capable, when in possession, of subsisting at law; or
    - (b) an entailed interest; or
    - (c) a base or determinable fee or any corresponding interest in leasehold land,but only if and when the interest settled takes effect free from all equitable interests and powers under every prior settlement (if any).
- (2) As soon as practicable after a settlement, or an instrument which for the purposes of this Act is deemed to be a trust instrument, takes effect as such, the trustees of the settlement may, and on the request of the tenant for life or statutory owner shall, execute a principal vesting deed, containing the proper statements and particulars, declaring that the legal estate in the settled land shall vest or is vested in the person or persons therein named, being the tenant for life or statutory owner, and including themselves if they are the statutory owners, and such deed shall, unless the legal estate is already so vested, operate to convey or vest the legal estate in the settled land to or in the person or persons aforesaid and, if more than one, as joint tenants.
- (3) If there are no trustees of the settlement, then (in default of a person able and willing to appoint such trustees) an application under this Act shall be made to the court for the appointment of such trustees.
- (4) The provisions of the last preceding section with reference to a conveyance shall apply, so far as they are applicable, to a principal vesting deed under this section.

## **10 Procedure on acquisition of land to be made subject to a settlement.**

- (1) Where after the commencement of this Act land is acquired with capital money arising under this Act or in exchange for settled land, or a rentcharge is reserved on a grant of settled land, the land shall be conveyed to, and the rentcharge shall by virtue of this Act become vested in, the tenant for life or statutory owner, and such conveyance or grant is in this Act referred to as a subsidiary vesting deed:

Provided that, where an instrument is subsisting at the commencement of this Act, or is made or comes into operation after such commencement, by virtue of which any

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money or securities are liable under this Act, or the Acts which it replaces, or under a trust or direction contained in the instrument, to be invested in the purchase of land to be conveyed so as to become settled land, but at the commencement of this Act, or when such instrument is made or comes into operation after such commencement, as the case may be, there is no land in respect of which a principal vesting deed is capable of being executed, the first deed after the commencement of this Act by which any land is acquired as aforesaid shall be a principal vesting deed and shall be framed accordingly.

- (2) A subsidiary vesting deed executed on the acquisition of land to be made subject to a settlement shall contain the following statements and particulars, namely—
  - (a) particulars of the last or only principal vesting instrument affecting land subject to the settlement;
  - (b) a statement that the land conveyed is to be held upon and subject to the same trusts and powers as the land comprised in such last or only principal vesting instrument;
  - (c) the names of the persons who are the trustees of the settlement;
  - (d) the name of any person for the time being entitled to appoint new trustees of the settlement.
- (3) A subsidiary vesting deed reserving a rentcharge on a grant of settled land shall contain the following statements and particulars—
  - (a) a statement that the rentcharge is vested in the grantor and is subject to the settlement which, immediately before the grant, was subsisting with respect to the land out of which it was reserved;
  - (b) particulars of the last or only principal vesting instrument affecting such land.
- (4) A subsidiary vesting deed shall not be invalidated by reason only of any error in any of the statements or particulars by this Act required to be contained therein.
- (5) The acquisition of the land shall not operate to increase or multiply charges or powers of charging.

## **11 As to contracts for the settlement of land.**

- (1) A contract made or other liability created or arising after the commencement of this Act for the settlement of land—
  - (i) by or on the part of an estate owner; or
  - (ii) by a person entitled to—
    - (a) an equitable interest which is capable when in possession of subsisting at law; or
    - (b) an entailed interest; or
    - (c) a base or determinable fee or any corresponding interest in leasehold land;

shall, but in cases under paragraph (ii) only if and when the interest of the person entitled takes effect free from all equitable interests and powers under every prior settlement, if any, be deemed an estate contract within the meaning of the <sup>M1</sup>Land Charges Act, 1925, and may be registered as a land charge accordingly, and effect shall be given thereto by a vesting deed and a trust instrument in accordance with this Act.

- (2) A contract made or other liability created or arising before the commencement of this Act to make a settlement of land shall be deemed to be sufficiently complied with



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if effect is given thereto by a vesting deed and a trust instrument in accordance with this Act.

#### Marginal Citations

M1 1925 c. 22.

## 12 Power to make vesting orders as to settled land.

(1) If—

- (a) any person who is bound under this Part of this Act to execute a conveyance, vesting deed or vesting assent or in whom settled land is wrongly vested refuses or neglects to execute the requisite conveyance, vesting deed or vesting assent within one month after demand in writing; or
- (b) any such person is outside the United Kingdom, or cannot be found, or it is not known whether he is alive or dead; or
- (c) for any reason the court is satisfied that the conveyance, vesting deed or vesting assent cannot be executed, or cannot be executed without undue delay or expense;

the court may, on the application of any person interested, make an order vesting the settled land in the tenant for life or statutory owner or person, if any, of full age absolutely entitled (whether beneficially or as personal representative or [<sup>F6</sup>trustee of land] or otherwise), and, if the land remains settled land, the provisions of this Act relating to a principal vesting deed or a subsidiary vesting deed, as the case may be, shall apply to any order so made and every such order shall contain the like statements and particulars.

(2) No stamp duty shall be payable in respect of a vesting order made in place of a vesting or other assent.

#### Textual Amendments

F6 Words in s. 12(1) substituted (1.1.1997) by 1996 c. 47, s. 25(1), Sch. 3 para. 2(5)(with ss. 24(2), 25(4) (5)); S.I. 1996/2974, art.2

## 13 Dispositions not to take effect until vesting instrument is made.

Where a tenant for life or statutory owner has become entitled to have a principal vesting deed or a vesting assent executed in his favour, then until a vesting instrument is executed or made pursuant to this Act in respect of the settled land, any purported disposition thereof inter vivos by any person, other than a personal representative (not being a disposition which he has power to make in right of his equitable interests or powers under a trust instrument), shall not take effect except in favour of a purchaser of a legal estate [<sup>F7</sup>without notice of such tenant for life or statutory owner having become so entitled as aforesaid.] but, save as aforesaid, shall operate only as a contract for valuable consideration to carry out the transaction after the requisite vesting instrument has been executed or made, and a purchaser of a legal estate shall not be concerned with such disposition unless the contract is registered as a land charge. [<sup>F8</sup>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.]

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#### Textual Amendments

- F7** Words substituted by [Law of Property \(Amendment\) Act 1926 \(c. 11\)](#), [Sch.](#)  
**F8** Proviso added by [Law of Property \(Amendment\) Act 1926 \(c. 11\)](#), [s. 6](#)

#### 14 Forfeiture and stamps.

- (1) Any vesting effected under the powers conferred by this Act in relation to settled land shall not operate as a breach of a covenant or condition against alienation or give rise to a forfeiture.
- (2) Nothing in this Act shall operate to impose any stamp duty on a vesting or other assent.

#### 15 Examples of instruments.

Examples of instruments framed in accordance with the provisions of this Act are contained in the First Schedule to this Act.

*Enforcement of Equitable Interests and Powers against  
Estate Owner and discharge on termination of Settlement*

#### 16 Enforcement of equitable interests and powers against estate owner.

- (1) All equitable interests and powers in or over settled land (whether created before or after the date of any vesting instrument affecting the legal estate) shall be enforceable against the estate owner in whom the settled land is vested (but in the case of personal representatives without prejudice to their rights and powers for purposes of administration) in manner following (that is to say):—
  - (i) The estate owner shall stand possessed of the settled land and the income thereof upon such trusts and subject to such powers and provisions as may be requisite for giving effect to the equitable interests and powers affecting the settled land or the income thereof of which he has notice according to their respective priorities;
  - (ii) Where any person of full age becomes entitled to require a legal estate in the settled land to be vested in him in priority to the settlement, by reason of a right of reverter, statutory or otherwise, or an equitable right of entry taking effect, or on the ground that his interest ought no longer to be capable of being over-reached under the powers of this Act, the estate owner shall be bound, if so requested in writing, to transfer or create such legal estate as may be required for giving legal effect to the rights of the person so entitled;
  - (iii) Where—
    - (a) any principal sum is required to be raised on the security of the settled land, by virtue of any trust, or by reason of the exercise of an equitable power affecting the settled land, or by any person or persons who under the settlement is or are entitled or together entitled to or has or have a general power of appointment over the settled land, whether subject to any equitable charges or powers of charging subsisting under the settlement or not; or

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(b) the settled land is subject to any equitable charge for securing money actually raised and affecting the whole estate the subject of the settlement;

the estate owner shall be bound, if so requested in writing, to create such legal estate or charge by way of legal mortgage as may be required for raising the money or giving legal effect to the equitable charge:

Provided that, so long as the settlement remains subsisting, any legal estate or charge by way of legal mortgage so created shall take effect and shall be expressed to take effect subject to any equitable charges or powers of charging subsisting under the settlement which have priority to the interests or powers of the person or persons by or on behalf of whom the money is required to be raised or legal effect is required to be given to the equitable charge, unless the persons entitled to the prior charges or entitled to exercise the powers consent in writing to the same being postponed, but it shall not be necessary for such consent to be expressed in the instrument creating such legal estate or charge by way of legal mortgage.

- (2) Where a mortgage or charge is expressed to be made by an estate owner pursuant to this section, then, in favour of the mortgagee or chargee and persons deriving title under him, the same shall take effect in priority to all the trusts of the settlement and all equitable interests and powers subsisting or to arise under the settlement except those to which it is expressly made subject, and shall so take effect, whether the mortgagee or chargee has notice of any such trusts, interests, or powers, or not, and the mortgagee or chargee shall not be concerned to see that a case had arisen to authorise the mortgage or charge, or that no more money than was wanted was raised.
- (3) Nothing contained in paragraph (iii) of subsection (1) of this section affects the power conferred by this Act on a tenant for life of raising money by mortgage or of directing capital money to be applied in discharge of incumbrances.
- (4) Effect may be given by means of a legal mortgage to an agreement for a mortgage, or a charge or lien, whether or not arising by operation of law, if the agreement charge or lien ought to have priority over the settlement.
- (5) Save as hereinbefore expressly provided, no legal estate shall, so long as the settlement is subsisting, be transferred or created by the estate owner for giving effect to any equitable interest or power under the settlement.
- (6) If a question arises or a doubt is entertained whether any and what legal estate ought to be transferred or created pursuant to this section, an application may be made to the court for directions as hereinafter provided.
- (7) If an estate owner refuses or neglects for one month after demand in writing to transfer or create any such legal estate, or if by reason of his being outside the United Kingdom, or being unable to be found, or by reason of the dissolution of a corporation, or for any other reason, the court is satisfied that the transaction cannot otherwise be effected, or cannot be effected without undue delay or expense, the court may, on the application of any person interested, make a vesting order transferring or creating the requisite legal estate.
- (8) This section does not affect a purchaser of a legal estate taking free from any equitable interest or power.

*Status: Point in time view as at 30/03/2004.*

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## 17 Deed of discharge on termination of settlement.

- (1) Where the estate owner of any settled land holds the land free from all equitable interests and powers under a trust instrument, the persons who in the last or only principal vesting instrument or the last or only endorsement on or annex thereto are declared to be the trustees of the settlement or the survivors of them shall, save as hereinafter mentioned, be bound to execute, at the cost of the trust estate, a deed declaring that they are discharged from the trust so far as regards that land:

Provided that, if the trustees have notice of any derivative settlement, [<sup>F9</sup>trust of land] or equitable charge affecting such land, they shall not execute a deed of discharge until—

- (a) in the case of a derivative settlement, or [<sup>F9</sup>trust of land], a vesting instrument or a conveyance has been executed or made for giving effect thereto; and
- (b) in the case of an equitable charge, they are satisfied that the charge is or will be secured by a legal mortgage, or is protected by registration as a land charge, or by deposit of the documents of title, or that the owner thereof consents to the execution of the deed of discharge.

Where the land is affected by a derivative settlement or [<sup>F9</sup>trust of land], the deed of discharge shall contain a statement that the land is settled land by virtue of such vesting instrument as aforesaid and the trust instrument therein referred to, or is [<sup>F10</sup>subject to a trust of land] by virtue of such conveyance as aforesaid, as the case may require.

- (2) If, in the circumstances mentioned in subsection (1) of this section and when the conditions therein mentioned have been complied with, the trustees of a settlement on being requested to execute a deed of discharge—
- (a) by the estate owner; or
  - (b) by a person interested under, or by the trustees of, a derivative settlement; or
  - (c) by the trustees of [<sup>F11</sup>land];

refuse to do so, or if for any reason the discharge cannot be effected without undue delay or expense, the estate owner, person interested, or trustees may apply to the court for an order discharging the first mentioned trustees as respects the whole or any part of the settled land, and the court may make such order as it may think fit.

- (3) Where a deed or order of discharge contains no statement to the contrary, a purchaser of a legal estate in the land to which the deed or order relates shall be entitled to assume that the land has ceased to be settled land, and is not subject to [<sup>F12</sup>a trust of land].

### Textual Amendments

- F9** Words in s. 17(1) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(6)(a)(i)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art.2**
- F10** Words in s. 17(1) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(6)(a)(ii)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art.2**
- F11** Words in s. 17(2)(c) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(6)(b)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**
- F12** Words in s. 17(3) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(6)(c)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art.2**

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### *Restrictions on dispositions of Settled Land where Trustees have not been Discharged*

## **18 Restrictions on dispositions of settled land where trustees have not been discharged.**

- (1) Where land is the subject of a vesting instrument and the trustees of the settlement have not been discharged under this Act, then—
  - (a) any disposition by the tenant for life or statutory owner of the land, other than a disposition authorised by this Act or any other statute, or made in pursuance of any additional or larger powers mentioned in the vesting instrument, shall be void, except for the purpose of conveying or creating such equitable interests as he has power, in right of his equitable interests and powers under the trust instrument, to convey or create; and
  - (b) if any capital money is payable in respect of a transaction, a conveyance to a purchaser of the land shall only take effect under this Act if the capital money is paid to or by the direction of the trustees of the settlement or into court; and
  - (c) notwithstanding anything to the contrary in the vesting instrument, or the trust instrument, capital money shall not, except where the trustee is a trust corporation, be paid to or by the direction of fewer persons than two as trustees of the settlement.
- (2) The restrictions imposed by this section do not affect—
  - (a) the right of a personal representative in whom the settled land may be vested to convey or deal with the land for the purposes of administration;
  - (b) the right of a person of full age who has become absolutely entitled (whether beneficially or as <sup>F13</sup>trustee of land] or personal representative or otherwise) to the settled land, free from all limitations, powers, and charges taking effect under the trust instrument, to require the land to be conveyed to him;
  - (c) the power of the tenant for life, statutory owner, or personal representative in whom the settled land is vested to transfer or create such legal estates, to take effect in priority to the settlement, as may be required for giving effect to any obligations imposed on him by statute, but where any capital money is raised or received in respect of the transaction the money shall be paid to or by the direction of the trustees of the settlement or in accordance with an order of the court.

#### **Textual Amendments**

**F13** Words in s. 18(2)(b) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(7)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art.2**

### *Tenants for Life and Persons with Powers of Tenant for Life*

## **19 Who is tenant for life.**

- (1) The person of full age who is for the time being beneficially entitled under a settlement to possession of settled land for his life is for the purposes of this Act the tenant for life of that land and the tenant for life under that settlement.
- (2) If in any case there are two or more persons of full age so entitled as joint tenants, they together constitute the tenant for life for the purposes of this Act.

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- (3) If in any case there are two or more persons so entitled as joint tenants and they are not all of full age, such one or more of them as is or are for the time being of full age is or (if more than one) together constitute the tenant for life for the purposes of this Act, but this subsection does not affect the beneficial interests of such of them as are not for the time being of full age.
- (4) A person being tenant for life within the foregoing definitions shall be deemed to be such notwithstanding that, under the settlement or otherwise, the settled land, or his estate or interest therein, is incumbered or charged in any manner or to any extent, and notwithstanding any assignment by operation of law or otherwise of his estate or interest under the settlement, whether before or after it came into possession, other than an assurance which extinguishes that estate or interest.

## 20 Other limited owners having powers of tenant for life.

- (1) Each of the following persons being of full age shall, when his estate or interest is in possession, have the powers of a tenant for life under this Act, (namely):—
- (i) A tenant in tail, including a tenant in tail after possibility of issue extinct, and a tenant in tail who is by Act of Parliament restrained from barring or defeating his estate tail, and although the reversion is in the Crown, but not including such a tenant in tail where the land in respect whereof he is so restrained was purchased with money provided by Parliament in consideration of public services;
  - (ii) A person entitled to land for an estate in fee simple or for a term of years absolute with or subject to, in any of such cases, an executory limitation, gift, or disposition over on failure of his issue or in any other event;
  - (iii) A person entitled to a base or determinable fee, although the reversion or right of reverter is in the Crown, or to any corresponding interest in leasehold land;
  - (iv) A tenant for years determinable on life, not holding merely under a lease at a rent;
  - (v) A tenant for the life of another, not holding merely under a lease at a rent;
  - (vi) A tenant for his own or any other life, or for years determinable on life, whose estate is liable to cease in any event during that life, whether by expiration of the estate, or by conditional limitation, or otherwise, or to be defeated by an executory limitation, gift, or disposition over, or is subject to a trust for accumulation of income for any purpose;
  - (vii) A tenant by the curtesy;
  - (viii) A person entitled to the income of land under a trust or direction for payment thereof to him during his own or any other life, whether or not subject to expenses of management or to a trust for accumulation of income for any purpose, or until sale of the land, or until forfeiture, cesser or determination by any means of his interest therein, unless the land is subject to <sup>F14</sup>a trust of land];
  - (ix) A person beneficially entitled to land for an estate in fee simple or for a term of years absolute subject to any estates, interests, charges, or powers of charging, subsisting or capable of being exercised under a settlement;
  - (x) ..... <sup>F15</sup>
- (2) In every such case as is mentioned in subsection (1) of this section, the provisions of this Act referring to a tenant for life, either as conferring powers on him or otherwise, shall extend to each of the persons aforesaid, and any reference in this Act to death as

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regards a tenant for life shall, where necessary, be deemed to refer to the determination by death or otherwise of the estate or interest of the person on whom the powers of a tenant for life are conferred by this section.

- (3) For the purposes of this Act the estate or interest of a tenant by the curtesy shall be deemed to be an estate or interest arising under a settlement made by his wife.
- (4) Where the reversion or right of reverter or other reversionary right is in the Crown, the exercise by a person on whom the powers of a tenant for life are conferred by this section of his powers under this Act, binds the Crown.

#### Textual Amendments

- F14** Words in s. 20(1)(viii) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(8)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**
- F15** Ss. 1(1)(iv), 20(1)(x), 25(2) repealed by Married Women (Restraint upon Anticipation) Act 1949 (c. 78), s. 1, **Sch. 2**

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

- C8** S. 20(1)(i) restricted by Trafalgar Estates Act 1947 (c. 34), s. 2(2)
- C9** S. 20(1)(ix) excluded by Law of Property (Amendment) Act 1926 (c. 11), s. 1(1)

## 21 Absolute owners subject to certain interests to have the powers of tenant for life.

- (1) Where a person of full age is beneficially entitled in possession to a legal estate subject to any equitable interests or powers, then, for the purpose of overreaching such interests or powers, he may, notwithstanding any stipulation to the contrary, by deed (which shall have effect as a principal vesting deed within the meaning of this Act) declare that the legal estate is vested in him on trust to give effect to all equitable interests and powers affecting the legal estate, and that deed shall be executed by two or more individuals approved or appointed by the court or a trust corporation, who shall be stated to be the trustees of the settlement for the purposes of this Act.

Thereupon so long as any of the equitable interests and powers are subsisting the following provisions shall have effect:—

- (a) The person so entitled as aforesaid and each of his successors in title being an estate owner shall have the powers of a tenant for life and the land shall be deemed to be settled land;
- (b) The instrument (if any) under which his estate arises or is acquired, and the instrument (if any) under which the equitable interests or powers are subsisting or capable of taking effect shall be deemed to be the trust instrument:

Provided that where there is no such instrument as last aforesaid then a deed (which shall take effect as a trust instrument) shall be executed contemporaneously with the vesting deed, and shall declare the trusts affecting the land;

- (c) The persons stated in the principal vesting deed to be the trustees of the settlement for the purposes of this Act shall also be the trustees of the trust instrument for those purposes; and
- (d) Capital money arising on any disposition of the land shall be paid to or by the direction of the trustees of the settlement or into court, and shall be applicable towards discharging or providing for payment in due order of any principal



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money payable in respect of such interests or charges as are overreached by such disposition, and until so applied shall be invested or applied as capital money under the trust instrument, and the <sup>F16</sup>resultant profits] shall be applied as the income of such capital money, and be liable for keeping down in due order any annual or periodical sum which may be overreached by the disposition.

- (2) The following equitable interests and powers are excepted from the operation of subsection (1) of this section, namely—
- (i) an equitable interest protected by a deposit of documents relating to the legal estate affected;
  - (ii) the benefit of a covenant or agreement restrictive of the user of land;
  - (iii) an easement, liberty or privilege over or affecting land and being merely an equitable interest;
  - (iv) the benefit of a contract to convey or create a legal estate, including a contract conferring either expressly or by statutory implication a valid option of purchase, a right of pre-emption, or any other like right;
  - (v) any equitable interest protected by registration under the <sup>M2</sup>Land Charges Act, 1925, other than—
    - (a) an innuity within the meaning of Part II. of that Act;
    - (b) a limited owner's charge or a general equitable charge within the meaning of that Act.
- (3) Subject to the powers conferred by this Act on a tenant for life, nothing contained in this section shall deprive an equitable chargee of any of his rights or of his remedies for enforcing those rights.

#### Textual Amendments

**F16** Words in s. 21(1)(d) substituted (1.2.2001) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. II para. 7** (with s. 35); S.I. 2001/49, **art. 2**

#### Marginal Citations

**M2** 1925 c. 22.

## 22 Provisions applicable where interest in settled land is restored.

- (1) Where by a disentailing assurance settled land is expressed to be limited (whether subject or not to any estates, interests, charges or powers expressly created or conferred thereby) upon the trusts subsisting with respect thereto immediately before the execution of such disentailing assurance, or any of such trusts, then, for the purposes of this Act and otherwise, a person entitled to any estate or interest in the settled land under any such previously subsisting trust is entitled thereto after the execution of such disentailing assurance as of his former estate or interest.
- (2) Where by a resettlement of settled land any estate or interest therein is expressed to be limited to any person (whether subject or not to any estate, interest, charge or power expressly created or conferred by the resettlement) in restoration or confirmation of his estate or interest under a prior settlement, then, for the purposes of this Act and otherwise, that person is entitled to the estate or interest so restored or confirmed as of his former estate or interest, and in addition to the powers exercisable by him in respect of his former estate or interest, he is capable of exercising all such further powers as



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he could have exercised by virtue of the resettlement, if his estate or interest under the prior settlement had not been so restored or confirmed, but he had been entitled under the resettlement only.

**23 Powers of trustees, &c. when there is no tenant for life.**

- (1) Where under a settlement there is no tenant for life nor, independently of this section, a person having by virtue of this Act the powers of a tenant for life then—
  - (a) any person of full age on whom such powers are by the settlement expressed to be conferred; and
  - (b) in any other case the trustees of the settlement;shall have the powers of a tenant for life under this Act.
- (2) This section applies to trustees of settlements of land purchased with money provided by Parliament in consideration of public services where the tenant in tail is restrained from barring or defeating his estate tail, except that, if the tenant in tail is of full age and capacity, the powers shall not be exercised without his consent, but a purchaser shall not be concerned to see or inquire whether such consent has been given.

**24 As to a tenant for life who has parted with his interest.**

- (1) If it is shown to the satisfaction of the court that a tenant for life, who has by reason of bankruptcy, assignment, incumbrance, or otherwise ceased in the opinion of the court to have a substantial interest in his estate or interest in the settled land or any part thereof, has unreasonably refused to exercise any of the powers conferred on him by this Act, or consents to an order under this section, the court may, on the application of any person interested in the settled land or the part thereof affected, make an order authorising the trustees of the settlement, to exercise in the name and on behalf of the tenant for life, any of the powers of a tenant for life under this Act, in relation to the settled land or the part thereof affected, either generally and in such manner and for such period as the court may think fit, or in a particular instance, and the court may by the order direct that any documents of title in the possession of the tenant for life relating to the settled land be delivered to the trustees of the settlement.
- (2) While any such order is in force, the tenant for life shall not, in relation to the settled land or the part thereof affected, exercise any of the powers thereby authorised to be exercised in his name and on his behalf, but no person dealing with the tenant for life shall be affected by any such order, unless the order is for the time being registered as an order affecting land.
- (3) An order may be made under this section at any time after the estate or interest of the tenant for life under the settlement has taken effect in possession, and notwithstanding that he disposed thereof when it was an estate or interest in remainder or reversion.

**25 Married woman, how to be affected.**

- (1) The foregoing provisions of this Act apply to a married woman of full age, whether or not she is entitled to her estate or interest for her separate use or as her separate property, and she, without her husband, may exercise the powers of a tenant for life under this Act.

(2) ..... F17

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### Textual Amendments

**F17** Ss. 1(1)(iv), 20(1)(x), 25(2) repealed by [Married Women \(Restraint upon Anticipation\) Act 1949](#) (c. 78), s. 1, [Sch. 2](#)

## 26 Infants, how to be affected.

- (1) Where an infant is beneficially entitled in possession to land for an estate in fee simple or for a term of years absolute or would if of full age be a tenant for life of or have the powers of a tenant for life over settled land, then, during the minority of the infant—
  - (a) if the settled land is vested in a personal representative, the personal representative, until a principal vesting instrument has been executed pursuant to the provisions of this Act; and
  - (b) in every other case, the trustees of the settlement;
 shall have, in reference to the settled land and capital money, all the powers conferred by this Act and the settlement on a tenant for life, and on the trustees of the settlement.
- (2) If the settled land is vested in a personal representative, then, if and when during the minority the infant, if of full age, would have been entitled to have the legal estate in the settled land conveyed to or otherwise vested in him pursuant to the provisions of this Act, a principal vesting instrument shall, if the trustees of the settlement so require, be executed, at the cost of the trust estate, for vesting the legal estate in themselves, and in the meantime the personal representatives shall, during the minority, give effect to the directions of the trustees of the settlement, and shall not be concerned with the propriety of any conveyance directed to be made by those trustees if the conveyance appears to be a proper conveyance under the powers conferred by this Act or by the settlement, and the capital money, if any, arising under the conveyance is paid to or by the direction of the trustees of the settlement or into court, but a purchaser dealing with the personal representative and paying the capital money, if any, to him shall not be concerned to see that the money is paid to trustees of the settlement or into court, or to inquire whether the personal representative is liable to give effect to any such directions, or whether any such directions have been given.
- (3) Subsection (2) of this section applies whether the infant becomes entitled before or after the commencement of this Act, and has effect during successive minorities until a person of full age becomes entitled to require the settled land to be vested in him.
- (4) This section does not apply where an infant is beneficially entitled in possession to land for an estate in fee simple or for a term of years absolute jointly with a person of full age (for which case provision is made in the <sup>M3</sup>Law of Property Act, 1925), but it applies to two or more infants entitled as aforesaid jointly, until one of them attains full age.
- (5) This section does not apply where an infant would, if of full age, constitute the tenant for life or have the powers of a tenant for life together with another person of full age, but it applies to two or more infants who would, if all of them were of full age, together constitute the tenant for life or have the powers of a tenant for life, until one of them attains full age.
- (6) Nothing in this section affects prejudicially any beneficial interest of an infant.

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**Marginal Citations**

**M3** 1925 c. 20.

**F18** **27** .....

**Textual Amendments**

**F18** S.27 repealed (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**

**28** ..... **F19**

**Textual Amendments**

**F19** S. 28 repealed by **Mental Health Act 1959** (c. 72), **Sch. 8 Pt. I**

**F20** **29** .....

**Textual Amendments**

**F20** S. 29 repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with ss. 24(2), 25(3)(4)(5)); S.I. 1996/2974, **art.2**

*Trustees of Settlement*

**30 Who are trustees for purposes of Act.**

- (1) Subject to the provisions of this Act, the following persons are trustees of a settlement for the purposes of this Act, and are in this Act referred to as the “trustees of the settlement” or “trustees of a settlement,” namely—
- (i) the persons, if any, who are for the time being under the settlement, trustees with power of sale of the settled land (subject or not to the consent of any person), or with power of consent to or approval of the exercise of such a power of sale, or if there are no such persons; then
  - (ii) the persons, if any, for the time being, who are by the settlement declared to be trustees thereof for the purposes of the Settled Land Acts, 1882 to 1890, or any of them, or this Act, or if there are no such persons; then
  - (iii) the persons, if any, who are for the time being under the settlement trustees with [<sup>F21</sup>a power or duty to sell] of any other land comprised in the settlement and subject to the same limitations as the land to be sold or otherwise dealt with, or with power of consent to or approval of the exercise of such power of sale, or, if there are no such persons; then
  - (iv) the persons, if any, who are for the time being under the settlement trustees with [<sup>F22</sup>a future power or duty to sell] the settled land, or with power of

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- consent to or approval of the exercise of such a future power of sale, and whether the power [<sup>F23</sup>or duty] takes effect in all events or not, or, if there are no such persons; then
- (v) the persons, if any, appointed by deed to be trustees of the settlement by all the persons who at the date of the deed were together able, by virtue of their beneficial interests or by the exercise of an equitable power, to dispose of the settled land in equity for the whole estate the subject of the settlement.
- (2) Paragraphs (i) (iii) and (iv) of the last preceding subsection take effect in like manner as if the powers therein referred to had not by this Act been made exercisable by the tenant for life or statutory owner.
- (3) Where a settlement is created by will, or a settlement has arisen by the effect of an intestacy, and apart from this subsection there would be no trustees for the purposes of this Act of such settlement, then the personal representatives of the deceased shall, until other trustees are appointed, be by virtue of this Act the trustees of the settlement, but where there is a sole personal representative, not being a trust corporation, it shall be obligatory on him to appoint an additional trustee to act with him for the purposes of this Act, and the provisions of the Trustee Act, 1925, relating to the appointment of new trustees and the vesting of trust property shall apply accordingly.

#### Textual Amendments

- F21** Words in s. 30(1)(iii) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(9)(a)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art.2**
- F22** Words in s. 30(1)(iv) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(9)(b)(i)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art.2**
- F23** Words in s. 30(1)(iv) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(9)(b)(ii)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art.2**

### 31 As to trustees of compound settlements.

- (1) Persons who are for the time being trustees for the purposes of this Act of an instrument which is a settlement, or is deemed to be a subsisting settlement for the purposes of this Act, shall be the trustees for the purposes of this Act of any settlement constituted by that instrument and any instruments subsequent in date or operation.

[<sup>F24</sup>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.]

- (2) This section applies to instruments coming into operation before as well as after the commencement of this Act, but shall have effect without prejudice to any appointment made by the court before such commencement of trustees of a settlement constituted by more than one instrument, and to the power of the court in any case after such commencement to make any such appointment, and where any such appointment has been made before such commencement or is made thereafter this section shall not apply or shall cease to apply to the settlement consisting of the instruments to which the appointment relates.

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### Textual Amendments

**F24** Para. added by [Law of Property \(Amendment\) Act 1926 \(c. 11\)](#), [Sch.](#)

## 32 As to trustees of referential settlements.

- (1) Where a settlement takes or has taken effect by reference to another settlement, the trustees for the time being of the settlement to which reference is made shall be the trustees of the settlement by reference, but this section does not apply if the settlement by reference contains an appointment of trustees thereof for the purposes of the Settled Land Acts, 1882 to 1890, or any of them, or this Act.
- (2) This section applies to instruments coming into operation before as well as after the commencement of this Act, but shall have effect without prejudice to any appointment made by the court before such commencement of trustees of a settlement by reference, or of the compound settlement consisting of a settlement and any other settlement or settlements made by reference thereto, and to the power of the court in any case after such commencement to make any such appointment, and where any such appointment has been made before such commencement or is made thereafter this section shall not apply or shall cease to apply.
- (3) In this section “a settlement by reference to another settlement” means a settlement of property upon the limitations and subject to the powers and provisions of an existing settlement, with or without variation.

## 33 Continuance of trustees in office, and as to certain compound settlements.

- (1) Where any persons have been appointed or constituted trustees of a settlement, whether by an order of the court or otherwise, or have by reason of <sup>F25</sup> a power or duty to sell], or trust for sale, or by reason of a power of consent to, or approval of, the exercise of a power of sale, or by virtue of this Act, or otherwise at any time become trustees of a settlement for the purposes of the Settled Land Acts, 1882 to 1890, or this Act, then those persons or their successors in office shall remain and be trustees of the settlement as long as that settlement is subsisting or deemed to be subsisting for the purposes of this Act.

In this subsection “successors in office” means the persons who, by appointment or otherwise, have become trustees for the purposes aforesaid.

- (2) Where settled land is or has been expressed to be disposed of under a compound settlement of which trustees were appointed by the court, and the capital money (if any) arising on the disposition is or was paid to the persons who by virtue of the order or any subsequent appointment appear to be or to have been the trustees of that settlement, and where the person by or on whose behalf the disposition is or was made is or was the tenant for life or statutory owner of the land disposed of under an instrument mentioned in the order as constituting part of such compound settlement (in this subsection called “the principal instrument”) then the title of the person to whom the disposition is made shall not be impeachable on the ground—
  - (a) that the instruments mentioned in the order did not constitute a compound settlement; or

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- (b) that those instruments were not all the instruments at the date of the order or of the disposition constituting the compound settlement of the land disposed of; or
- (c) that any of the instruments mentioned in the order did not form part of the settlement of the land disposed of, or had ceased to form part of the settlement at the date of the disposition;

but nothing in this subsection shall prejudice the rights of any person in respect of any estate, interest or charge under any instrument existing at the date of the order and not mentioned therein which would not have been overreached if the disposition had been made by or on behalf of the tenant for life or statutory owner under the principal instrument as such, and there had been trustees of that instrument for the purposes of the Settled Land Acts, 1882 to 1890, or this Act, and the capital money, if any, arising on the disposition had been paid to the trustees.

- (3) The foregoing provisions of this section operate to confirm all dispositions made before the commencement of this Act, but not so as to render invalid or prejudice any order of the court, or any title or right acquired before the commencement of this Act, and operates without prejudice to any appointment already made by the court of trustees of a settlement, and to the power of the court in any case hereafter to make any such appointment.

#### Textual Amendments

**F25** Words in s. 33(1) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(10)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art.2**

### 34 Appointment of trustees by court.

- (1) If at any time there are no trustees of a settlement, or where in any other case it is expedient, for the purposes of this Act, that new trustees of a settlement be appointed, the court may, if it thinks fit, on the application of the tenant for life, statutory owner, or of any other person having, under the settlement, an estate or interest in the settled land, in possession, remainder or otherwise, or, in the case of an infant, of his testamentary or other guardian or next friend, appoint fit persons to be trustees of the settlement.
- (2) The persons so appointed, and the survivors and survivor of them, while continuing to be trustees or trustee, and, until the appointment of new trustees, the personal representatives or representative for the time being of the last surviving or continuing trustee, shall become and be the trustees or trustee of the settlement.

### 35 Procedure on appointment of new trustees.

- (1) Whenever a new trustee for the purposes of this Act is appointed of a trust instrument or a trustee thereof for the purposes aforesaid is discharged from the trust without a new trustee being appointed, a deed shall be executed supplemental to the last or only principal vesting instrument containing a declaration that the persons therein named, being the persons who after such appointment or discharge, as the case may be, are the trustees of the trust instrument for the purposes aforesaid, are the trustees of the settlement for those purposes; and a memorandum shall be endorsed on or annexed to the last or only principal vesting instrument in accordance with the <sup>M4</sup>Trustee Act, 1925.

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- (2) Every such deed as aforesaid shall, if the trustee was appointed or discharged by the court, be executed by such person as the court may direct, and, in any other case, shall be executed by—
- (i) the person, if any, named in the principal vesting instrument as the person for the time being entitled to appoint new trustees of the settlement, or if no person is so named, or the person is dead or unable or unwilling to act, the persons who if the principal vesting instrument had been the only instrument constituting the settlement would have had power to appoint new trustees thereof;
  - (ii) the persons named in the deed of declaration as the trustees of the settlement; and
  - (iii) any trustee who is discharged as aforesaid or retires.
- (3) A statement contained in any such deed of declaration as is mentioned in this section to the effect that the person named in the principal vesting instrument as the person for the time being entitled to appoint new trustees of the settlement is unable or unwilling to act, or that a trustee has remained outside the United Kingdom for more than twelve months, or refuses or is unfit to act, or is incapable of acting, shall in favour of a purchaser of a legal estate be conclusive evidence of the matter stated.

#### Marginal Citations

M4 1925 c. 19.

### *Provisions as to Undivided Shares*

#### **36 Undivided shares to take effect behind a [<sup>F26</sup>trust of land].**

- (1) If and when, after the commencement of this Act, settled land is held in trust for persons entitled in possession under a trust instrument in undivided shares, the trustees of the settlement (if the settled land is not already vested in them) may require the estate owner in whom the settled land is vested (but in the case of a personal representative subject to his rights and powers for purposes of administration), at the cost of the trust estate, to convey the land to them, or assent to the land vesting in them as joint tenants, and in the meantime the land shall be held on the same trusts as would have been applicable thereto if it had been so conveyed to or vested in the trustees.
- (2) If and when the settled land so held in trust in undivided shares is or becomes vested in the trustees of the settlement, the land shall be held by them (subject to any incumbrances affecting the settled land which are secured by a legal mortgage, but freed from any incumbrances affecting the undivided shares or not secured as aforesaid, and from any interests, powers and charges subsisting under the trust instrument which have priority to the trust for the persons entitled to the undivided shares) [<sup>F27</sup>in trust for the persons interested in the land].
- (3) If the estate owner refuses or neglects for one month after demand in writing to convey the settled land so held in trust in undivided shares in manner aforesaid, or if by reason of his being outside the United Kingdom or being unable to be found, or by reason of the dissolution of a corporation, or for any other reason, the court is satisfied that the conveyance cannot otherwise be made, or cannot be made without undue delay or



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expense, the court may, on the application of the trustees of the settlement, make an order vesting the settled land in them [<sup>F27</sup>in trust for the persons interested in the land].

(4) An undivided share in land shall not be capable of being created except under a trust instrument or under the <sup>M5</sup>Law of Property Act, 1925, and shall then only take effect behind a [<sup>F28</sup>trust of land].

(5) Nothing in this section affects the priority inter se of any incumbrances whether affecting the entirety of the land or an undivided share.

[<sup>F29</sup>(6) In subsections (2) and (3) of this section references to the persons interested in the land include persons interested as trustees or personal representatives (as well as persons beneficially interested).]

(7) The provisions of this section bind the Crown.

#### Textual Amendments

**F26** Words in s. 36 sidenote substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(11)(d)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art.2**

**F27** Words in s. 36(2)(3) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(11)(a)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**

**F28** Words in s. 36(4) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(11)(b)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art.2**

**F29** S. 36(6) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(11)(c)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art.2**

#### Marginal Citations

**M5** 1925 c. 20.

### Transitional Provisions

#### 37 Transitional provisions with respect to existing settlements, &c.

The transitional provisions set out in the Second Schedule to this Act shall have effect as regards settlements existing at the commencement of this Act.

## PART II

### POWERS OF A TENANT FOR LIFE

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

**C10** Part II saved by **Trafalgar Estates Act 1947 (c. 34), s. 2(3)** and **Leasehold Reform Act 1967 (c. 88), s. 6(4)**; extended by **Forestry Act 1967 (c. 10), s. 5(4), Sch. 2 para. 1**



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## *Sale and Exchange*

### **38 Powers of sale and exchange.**

A tenant for life—

- (i) May sell the settled land, or any part thereof, or any easement, right or privilege of any kind over or in relation to the land; and
- (ii) .....<sup>F30</sup>
- (iii) May make an exchange of the settled land, or any part thereof, or of any easement, right, or privilege of any kind, whether or not newly created, over or in relation to the settled land, or any part thereof, for other land, or for any easement, right or privilege of any kind, whether or not newly created, over or in relation to other land, including an exchange in consideration of money paid for equality of exchange.

#### **Textual Amendments**

**F30** S. 38(ii) repealed by Statute Law (Repeals) Act 1969 (c. 52), Sch. Pt. III

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

**C11** S. 38 extended by Leasehold Reform Act 1967 (c. 88), s. 6(2)(a)

### **39 Regulations respecting sales.**

- (1) Save as hereinafter provided every sale shall be made for the best consideration in money that can reasonably be obtained.
- (2) A sale may be made in consideration wholly or partially of a perpetual rent, or a terminable rent consisting of principal and interest combined, payable yearly or half yearly to be secured upon the land sold, or the land to which the easement, right or privilege sold is to be annexed in enjoyment or an adequate part thereof.

In the case of a terminable rent, the conveyance shall distinguish the part attributable to principal and that attributable to interest, and the part attributable to principal shall be capital money arising under this Act:

Provided that, unless the part of the terminable rent attributable to interest varies according to the amount of the principal repaid, the trustees of the settlement shall, during the subsistence of the rent, [<sup>F31</sup>accumulate the profits from the capital money by investing them and any resulting profits under the general power of investment in section 3 of the Trustee Act 2000 and shall add the accumulations to capital.]

- (3) The rent to be reserved on any such sale shall be the best rent that can reasonably be obtained, regard being had to any money paid as part of the consideration, or laid out, or to be laid out, for the benefit of the settled land, and generally to the circumstances of the case, but a peppercorn rent, or a nominal or other rent less than the rent ultimately payable, may be made payable during any period not exceeding five years from the date of the conveyance.
- (4) Where a sale is made in consideration of a rent, the following provisions shall have effect:—

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- (i) The conveyance shall contain a covenant by the purchaser for payment of the rent, and [<sup>F32</sup>the statutory powers and remedies for the recovery of the rent shall apply];
  - (ii) A duplicate of the conveyance shall be executed by the purchaser and delivered to the tenant for life or statutory owner, of which execution and delivery the execution of the conveyance by the tenant for life or statutory owner shall be sufficient evidence;
  - (iii) A statement, contained in the conveyance or in an indorsement thereon, signed by the tenant for life or statutory owner, respecting any matter of fact or of calculation under this Act in relation to the sale, shall, in favour of the purchaser and of those claiming under him, be sufficient evidence of the matter stated.
- (5) The consideration on a sale to any company incorporated by special Act of Parliament or by provisional order confirmed by Parliament or by any other order, scheme or certificate having the force of an Act of Parliament, may, with the consent of the tenant for life, consist, wholly or in part, of fully-paid securities of any description of the company, and such securities shall be vested in the trustees of the settlement and shall be subject to the provisions of this Act relating to securities representing capital money arising under this Act, and may be retained and held by the trustees in like manner as if they had been authorised by this Act for the investment of capital money.
- (6) A sale may be made in one lot or in several lots, and either by auction or by private contract, and may be made subject to any stipulations respecting title, or evidence of title, or other things.
- (7) On a sale the tenant for life may fix reserve biddings and may buy in at an auction.

#### Textual Amendments

- F31** Words in the proviso to s. s. 39(2) substituted (1.2.2001) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. II para. 8** (with s. 35); S.I. 2001/49, **art. 2**
- F32** Words substituted by **Law of Property (Amendment) Act 1926 (c. 11), Sch.**

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

- C12** S. 39 excluded by **Housing Associations Act 1985 (c. 69, SIF 61), s. 8(2)(3)**  
S. 39 excluded (1.10.1996 subject to savings in S.I. 1996/2402, art. 3, **Sch. para. 11**) by 1996 c. 52, s. **8(2)(3)**; S.I. 1996/2402, **art. 3**
- C13** S. 39(2) saved by **Compulsory Purchase Act 1965 (c. 56), s. 24(6)**

## 40 Regulations respecting exchanges.

- (1) Save as in this Part of this Act provided, every exchange shall be made for the best consideration in land or in land and money that can reasonably be obtained.
- (2) An exchange may be made subject to any stipulations respecting title, or evidence of title, or other things.
- (3) Settled land in England or Wales shall not be given in exchange for land out of England and Wales.

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## *Leasing Powers*

### **41 Power to lease for ordinary or building or mining or forestry purposes.**

A tenant for life may lease the settled land, or any part thereof, or any easement, right, or privilege of any kind over or in relation to the land, for any purpose whatever, whether involving waste or not, for any term not exceeding—

- (i) In case of a building lease, nine hundred and ninety-nine years;
- (ii) In case of a mining lease, one hundred years;
- (iii) In case of a forestry lease, nine hundred and ninety-nine years;
- (iv) In case of any other lease, fifty years.

### **42 Regulations respecting leases generally.**

- (1) Save as hereinafter provided, every lease—
  - (i) shall be by deed, and be made to take effect in possession not later than twelve months after its date, or in reversion after an existing lease having not more than seven years to run at the date of the new lease;
  - (ii) shall reserve the best rent that can reasonably be obtained, regard being had to any fine taken, and to any money laid out or to be laid out for the benefit of the settled land, and generally to the circumstances of the case;
  - (iii) shall contain a covenant by the lessee for payment of the rent, and a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days.
- (2) A counterpart of every lease shall be executed by the lessee and delivered to the tenant for life or statutory owner, of which execution and delivery the execution of the lease by the tenant for life or statutory owner shall be sufficient evidence.
- (3) A statement, contained in a lease or in an indorsement thereon, signed by the tenant for life or statutory owner, respecting any matter of fact or of calculation under this Act in relation to the lease, shall, in favour of the lessee and of those claiming under him, be sufficient evidence of the matter stated.
- (4) A fine received on the grant of a lease under any power conferred by this Act shall be deemed to be capital money arising under this Act.
- (5) A lease at the best rent that can be reasonably obtained without fine, and whereby the lessee is not exempted from punishment for waste, may be made—
  - (i) Where the term does not exceed twenty-one years—
    - (a) without any notice of an intention to make the lease having been given under this Act; and
    - (b) notwithstanding that there are no trustees of the settlement; and
  - (ii) Where the term does not extend beyond three years from the date of the writing, by any writing under hand only containing an agreement instead of a covenant by the lessee for payment of rent.

### **43 Leasing powers for special objects.**

The leasing power of a tenant for life extends to the making of—

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- (i) a lease for giving effect (in such manner and so far as the law permits) to a covenant of renewal, performance whereof could be enforced against the owner for the time being of the settled land; and
- (ii) a lease for confirming, as far as may be, a previous lease being void or voidable, but so that every lease, as and when confirmed, shall be such a lease as might at the date of the original lease have been lawfully granted under this Act or otherwise, as the case may require.

*Provisions as to building, mining and forestry leases*

#### **44 Regulations respecting building leases.**

- (1) Every building lease shall be made partly in consideration of the lessee, or some person by whose direction the lease is granted, or some other person, having erected or agreeing to erect buildings, new or additional, or having improved or repaired or agreeing to improve or repair buildings, or having executed or agreeing to execute on the land leased, an improvement authorised by this Act for or in connexion with building purposes.
- (2) A peppercorn rent or a nominal or other rent less than the rent ultimately payable, may be made payable for the first five years or any less part of the term.
- (3) Where the land is contracted to be leased in lots, the entire amount of rent to be ultimately payable may be apportioned among the lots in any manner:

Provided that—

- (i) the annual rent reserved by any lease shall not be less than ten shillings; and
- (ii) the total amount of the rents reserved on all leases for the time being granted shall not be less than the total amount of the rents which, in order that the leases may be in conformity with this Act, ought to be reserved in respect of the whole land for the time being leased; and
- (iii) the rent reserved by any lease shall not exceed one-fifth part of the full annual value of the land comprised in that lease with the buildings thereon when completed.

#### **45 Regulations respecting mining leases.**

- (1) In a mining lease—
  - (i) the rent may be made to be ascertainable by or to vary according to the acreage worked, or by or according to the quantities of any mineral or substance gotten, made merchantable, converted, carried away, or disposed of, in or from the settled land, or any other land, or by or according to any facilities given in that behalf; and
  - (ii) the rent may also be made to vary according to the price of the minerals or substances gotten, or any of them, and such price may be the saleable value, or the price or value appearing in any trade or market or other price list or return from time to time, or may be the marketable value as ascertained in any manner prescribed by the lease (including a reference to arbitration), or may be an average of any such prices or values taken during a specified period; and
  - (iii) a fixed or minimum rent may be made payable, with or without power for the lessees, in case the rent, according to acreage or quantity or otherwise, in any specified period does not produce an amount equal to the fixed or minimum

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rent, to make up the deficiency in any subsequent specified period, free of rent other than the fixed or minimum rent.

- (2) A lease may be made partly in consideration of the lessee having executed, or agreeing to execute, on the land leased an improvement authorised by this Act, for or in connexion with mining purposes.

#### **46 Variation of building or mining lease according to circumstances of district.**

- (1) Where it is shown to the court with respect to the district in which any settled land is situate, either—
- (i) that it is the custom for land therein to be leased for building or mining purposes for a longer term or on other conditions than the term or conditions specified in that behalf in this Act; or
  - (ii) that it is difficult to make leases for building or mining purposes of land therein, except for a longer term or on other conditions than the term and conditions specified in that behalf in this Act;

the court may, if it thinks fit, authorise generally the tenant for life or statutory owner to make from time to time leases of or affecting the settled land in that district, or parts thereof for any term or on any conditions as in the order of the court expressed, or may, if it thinks fit, authorise the tenant for life or statutory owner to make any such lease in any particular case.

- (2) Thereupon the tenant for life or statutory owner, and, subject to any direction in the order of the court to the contrary, each of his successors in title being a tenant for life or statutory owner, may make in any case, or in the particular case, a lease of the settled land, or part thereof, in conformity with the order.

#### **47 Capitalisation of part of mining rent.**

Under a mining lease, whether the mines or minerals leased are already opened or in work or not, unless a contrary intention is expressed in the settlement, there shall be from time to time set aside, as capital money arising under this Act, part of the rent as follows, namely—where the tenant for life or statutory owner is impeachable for waste in respect of minerals, three fourth parts of the rent, and otherwise one fourth part thereof, and in every such case the residue of the rent shall go as rents and profits.

#### **48 Regulations respecting forestry leases.**

- (1) In the case of a forestry lease—
- (i) a peppercorn rent or a nominal or other rent less than the rent ultimately payable, may be made payable for the first ten years or any less part of the term;
  - (ii) the rent may be made to be ascertainable by, or to vary according to the value of the timber on the land comprised in the lease, or the produce thereof, which may during any year be cut, converted, carried away, or otherwise disposed of;
  - (iii) a fixed or minimum rent may be made payable, with or without power for the lessee, in case the rent according to value in any specified period does not produce an amount equal to the fixed or minimum rent, to make up the deficiency in any subsequent specified period, free of rent other than the fixed or minimum rent; and

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- (iv) any other provisions may be made for the sharing of the proceeds or profits of the user of the land between the reversioner and the Forestry Commissioners.

(2) In this section the expression “timber” includes all forest products.

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

**C14** S. 48 amended with the substitution for references to Forestry Commissioners of references to Minister of Agriculture, Fisheries and Food (E.) and Secretary of State (W.): [Forestry Act 1967 \(c. 10\)](#), [Sch. 6 para. 5](#)

*Miscellaneous Powers*

**49 Power on dispositions to impose restrictions and make reservations and stipulations.**

- (1) On a sale or other disposition or dealing under the powers of this Act—
- (a) any easement, right, or privilege of any kind may be reserved or granted over or in relation to the settled land or any part thereof or other land, including the land disposed of, and, in the case of an exchange, the land taken in exchange; and
  - (b) any restriction with respect to building on or other user of land, or with respect to mines and minerals, or with respect to or for the purpose of the more beneficial working thereof, or with respect to any other thing, may be imposed and made binding, as far as the law permits, by covenant, condition or otherwise, on the tenant for life or statutory owner and the settled land or any part thereof, or on the other party and any land disposed of to him; and
  - (c) the whole or any part of any capital or annual sum (and in the case of an annual sum whether temporary or perpetual) charged on or payable out of the land disposed of, or any part thereof, and other land subject to the settlement, may as between the tenant for life or statutory owner and his successors in title, and the other party and persons deriving title under or in succession to him (but without prejudice to the rights of the person entitled to such capital or annual sum) be charged exclusively on the land disposed of, or any part thereof, or such other land as aforesaid, or any part thereof, in exoneration of the rest of the land on or out of which such capital or annual sum is charged or payable.
- (2) A sale of land may be made subject to a stipulation that all or any of the timber and other trees, pollards, tellers, underwood, saplings and plantations on the land sold (in this section referred to as “timber”) or any articles attached to the land (in this section referred to as “fixtures”) shall be taken by the purchaser at a valuation, and the amount of the valuation shall form part of the price of the land, and shall be capital money accordingly.
- (3) Where on a sale the consideration attributable to any timber or fixtures is by mistake paid to a tenant for life or other person not entitled to receive it, then, if such person or the purchaser or the persons deriving title under either of them subsequently pay the aforesaid consideration, with such interest, if any, thereon as the court may direct, to the trustees of the settlement or other persons entitled thereto or into court, the court may, on the application of the purchaser or the persons deriving title under him, declare that the disposition is to take effect as if the whole of the consideration had

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at the date thereof been duly paid to the trustees of the settlement or other persons entitled to receive the same.

The person, not entitled to receive the same, to whom the consideration is paid, and his estate and effects shall remain liable to make good any loss attributable to the mistake.

## **50 Separate dealing with surface and minerals, with or without wayleaves, &c.**

A sale, exchange, lease or other authorised disposition, may be made either of land, with or without an exception or reservation of all or any of the mines and minerals therein, or of any mines and minerals, and in any such case with or without a grant or reservation of powers of working, wayleaves or rights of way, rights of water and drainage, and other powers, easements, rights, and privileges for or incident to or connected with mining purposes, in relation to the settled land, or any part thereof, or any other land.

## **51 Power to grant options.**

- (1) A tenant for life may at any time, either with or without consideration, grant by writing an option to purchase or take a lease of the settled land, or any part thereof, or any easement, right, or privilege over or in relation to the same at a price or rent fixed at the time of the granting of the option.
- (2) Every such option shall be made exercisable within an agreed number of years not exceeding ten.
- (3) The price or rent shall be the best which, having regard to all the circumstances, can reasonably be obtained and either—
  - (a) may be a specified sum of money or rent, or at a specified rate according to the superficial area of the land with respect to which the option is exercised, or the frontage thereof or otherwise; or
  - (b) in the case of an option to purchase contained in a lease or agreement for a lease, may be a stated number of years' purchase of the highest rent reserved by the lease or agreement; or
  - (c) if the option is exercisable as regards part of the land comprised in the lease or agreement, may be a proportionate part of such highest rent;and any aggregate price or rent may be made to be apportionable in any manner, or according to any system, or by reference to arbitration.
- (4) An option to take a mining lease may be coupled with the grant of a licence to search for and prove any mines or minerals under the settled land, or any part thereof, pending the exercise of the option.
- (5) The consideration for the grant of the option shall be capital money arising under this Act.

## **52 Surrenders and regrants.**

- (1) A tenant for life may accept, with or without consideration, a surrender of any lease of settled land, whether made under this Act or not, or a regrant of any land granted in fee simple, whether under this Act or not, in respect of the whole land leased or granted, or any part thereof, with or without an exception of all or any of the mines and minerals therein, or in respect of mines and minerals, or any of them, and with or

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without an exception of any easement, right or privilege of any kind over or in relation to the land surrendered or regranted.

- (2) On a surrender of a lease, or a regrant of land granted in fee simple, in respect of part only of the land or mines and minerals leased or granted, the rent or rentcharge may be apportioned.
- (3) On a surrender or regrant, the tenant for life may in relation to the land or mines and minerals surrendered or regranted, or of any part thereof, make a new or other lease, or grant in fee simple, or new or other leases, or grants in fee simple, in lots.
- (4) A new or other lease, or grant in fee simple, may comprise additional land or mines and minerals, and may reserve any apportioned or other rent or rentcharge.
- (5) On a surrender or regrant, and the making of a new or other lease, whether for the same or for any extended or other term, or of a new or other grant in fee simple, and whether or not subject to the same or to any other covenants, provisions, or conditions, the value of the lessee's or grantee's interest in the lease surrendered, or the land regranted, may be taken into account in the determination of the amount of the rent or rentcharge to be reserved, and of any fine or consideration in money to be taken, and of the nature of the covenants, provisions, and conditions to be inserted in the new or other lease, or grant in fee simple.
- (6) Every new or other lease, or grant in fee simple, shall be in conformity with this Act.
- (7) All money, not being rent or a rentcharge, received on the exercise by the tenant for life of the powers conferred by this section, shall, unless the court, on an application made within six months after the receipt thereof or within such further time as the court may in special circumstances allow, otherwise directs, be capital money arising under this Act.
- (8) A regrant shall be made to the tenant for life or statutory owner, and shall be deemed a subsidiary vesting deed, and the statements and particulars required in the case of subsidiary vesting deeds shall be inserted therein.
- (9) In this section "land granted in fee simple" means land so granted with or subject to a reservation thereout of a perpetual or terminable rentcharge which is or forms part of the settled land, and "grant in fee simple" has a corresponding meaning.

### **53 Acceptance of leases.**

- (1) A tenant for life may accept a lease of any land, or of any mines and minerals or of any easement, right, or privilege, convenient to be held or worked with or annexed in enjoyment to the settled land, or any part thereof, for such period, and upon such terms and conditions, as the tenant for life thinks fit:

Provided that no fine shall be paid out of capital money in respect of such lease.

- (2) The lease shall be granted to the tenant for life or statutory owner, and shall be deemed a subsidiary vesting deed, and the statements and particulars required in the case of subsidiary vesting deeds shall either be inserted therein or endorsed thereon.
- (3) The lease may contain an option to purchase the reversion expectant on the term thereby granted.



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

**C15** S. 53(2) extended by [Leasehold Reform Act 1967 \(c. 88\), s. 6\(2\)\(b\)](#)

**54 Power to grant water rights to statutory bodies.**

- (1) For the development, improvement, or general benefit of the settled land, or any part thereof, a tenant for life may make a grant in fee simple or absolutely, or a lease for any term of years absolute, for a nominal price or rent, or for less than the best price or rent that can reasonably be obtained, or gratuitously, to any statutory authority, of any water or streams or springs of water in, upon, or under the settled land, and of any rights of taking, using, enjoying and conveying water, and of laying, constructing, maintaining, and repairing mains, pipes, reservoirs, dams, weirs and other works of any kind proper for the supply and distribution of water, and of any part of the settled land required as a site for any of the aforesaid works, and of any easement, right or privilege over or in relation to the settled land or any part thereof in connexion with any of the aforesaid works.
- (2) This section does not authorise the creation of any greater rights than could have been created by a person absolutely entitled for his own benefit to the settled land affected.
- (3) In this section “statutory authority” means an authority or company for the time being empowered by any Act of Parliament, public general, or local or private, or by any order or certificate having the force of an Act of Parliament, to provide with a supply of water any town, parish or place in which the settled land or any part thereof is situated.
- (4) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

**55 Power to grant land for public and charitable purposes.**

- (1) For the development, improvement, or general benefit of the settled land, or any part thereof, a tenant for life may make a grant in fee simple, or absolutely, or a lease for any term of years absolute, for a nominal price or rent, or for less than the best price or rent that can reasonably be obtained, or gratuitously, of any part of the settled land, with or without any easement, right or privilege over or in relation to the settled land or any part thereof, for all or any one or more of the following purposes, namely:—
  - (i) For the site, or the extension of any existing site, of a place of religious worship, residence for a minister of religion, school house, town hall, market house, public library, public baths, museum, hospital, infirmary, or other public building, literary or scientific institution, drill hall, working-men’s club, parish room, reading room or village institute, with or without in any case any yard, garden, or other ground to be held with any such building; or
  - (ii) For the construction, enlargement, or improvement of any railway, canal, road (public or private), dock, sea-wall, embankment, drain, watercourse, or reservoir; or
  - (iii) For any other public or charitable purpose in connexion with the settled land, or any part thereof, or tending to the benefit of the persons residing, or for whom dwellings may be erected, on the settled land, or any part thereof.

Not more than one acre shall in any particular case be conveyed for any purpose mentioned in paragraphs (i) and (iii) of this subsection, nor more than five acres for any

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purpose mentioned in paragraph (ii) of this subsection, unless the full consideration be paid or reserved in respect of the excess.

- (2) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

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

**C16** S. 55 extended by National Trust Act 1937 (c. lvii), s. 6(2)

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

- (1) On or after or in connexion with a sale or grant for building purposes, or a building lease, or the development as a building estate of the settled land, or any part thereof, or at any other reasonable time, the tenant for life, for the general benefit of the residents on the settled land, or on any part thereof—

- (i) may cause or require any parts of the settled land to be appropriated and laid out for streets, roads, paths, squares, gardens, or other open spaces, for the use, gratuitously or on payment, of the public or of individuals, with sewers, drains, watercourses, fencing, paving, or other works necessary or proper in connexion therewith; and
- (ii) may provide that the parts so appropriated shall be conveyed to or vested in the trustees of the settlement, or other trustees, or any company or public body, on trusts or subject to provisions for securing the continued appropriation thereof to the purposes aforesaid, and the continued repair or maintenance of streets and other places and works aforesaid, with or without provision for appointment of new trustees when required; and
- (iii) may execute any general or other deed necessary or proper for giving effect to the provisions of this section (which deed may be inrolled in the Central Office of the Supreme Court), and thereby declare the mode, terms, and conditions of the appropriation, and the manner in which and the persons by whom the benefit thereof is to be enjoyed, and the nature and extent of the privileges and conveniences granted.

- (2) In regard to the dedication of land for the public purposes aforesaid, a tenant for life shall be in the same position as if he were an absolute owner.

- (3) A tenant for life shall have power—

- (a) to enter into any agreement for the recompense to be made for any part of the settled land which is required for the widening of a highway under [<sup>F33</sup>the Highways Act 1980] or otherwise;
- (b) to consent to the diversion of any highway over the settled land under [<sup>F33</sup>the Highways Act 1980] or otherwise; and
- (c) .....

<sup>F34</sup>

and any agreement or consent so made or given shall be as valid and effectual, for all purposes, as if made or given by an absolute owner of the settled land.

- (4) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

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### Textual Amendments

- F33** Words substituted by virtue of [Highways Act 1980 \(c. 66, SIF 59\)](#), s. 147, [Sch. 24 para. 2](#)
- F34** [S. 56\(3\)\(c\)](#) repealed by [Highways Act 1959 \(c. 25\)](#), [Sch. 25](#) and [London Government Act 1963 \(c. 33\)](#), s. 16(2), [Sch. 6 para. 70](#)

## 57 Provision of land for small dwellings, small holdings and dwellings for working classes.

- (1) Where land is sold, or given in exchange or leased—
- for the purpose of the erection on such land of small dwellings; or
  - to the council of a county or county borough for the purposes of small holdings;

the sale, exchange, or lease may, notwithstanding anything contained in this Act, be made for such consideration in money, or land, or in land and money, or may reserve such rent, as having regard to the said purposes and to all the circumstances of the case, is the best that can reasonably be obtained, notwithstanding that a better consideration or rent might have been obtained if the land were sold, exchanged, or leased, for another purpose.

- (2) Notwithstanding anything contained in, and in addition to the other powers conferred by this Act, a tenant for life may at any time—
- for the purpose of the erection of dwellings for the working classes, or the provision of gardens to be held therewith; or
  - for the purpose of the Small Holdings and Allotments Acts, 1908 to 1919;

make a grant in fee simple or absolutely, or a lease for any term of years absolute of any part of the settled land, with or without any easement, right or privilege of any kind over or in relation to the settled land or any part thereof, for a nominal price or rent, or for less than the best price or rent that can reasonably be obtained or gratuitously:

Provided that, except under an order of the court, not more than two acres in the case of land situate in an urban district, or ten acres in the case of land situate in a rural district, in any one parish shall be granted or leased under the powers conferred by this subsection, unless the full consideration be paid or reserved in respect of the excess.

- (3) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

## 58 Power to compromise claims and release restrictions, &c.

- (1) A tenant for life may, with the consent in writing of the trustees of the settlement, either with or without giving or taking any consideration in money or otherwise, compromise, compound, abandon, submit to arbitration, or otherwise settle any claim, dispute, or question whatsoever relating to the settled land, or any part thereof, including in particular claims, disputes or questions as to boundaries, the ownership of mines and minerals, rights and powers of working mines and minerals, local laws and customs relative to the working of mines and minerals and other matters, . . . <sup>F35</sup>, easements and restrictive covenants, and for any of those purposes may enter into, give, execute, and do such agreements, assurances, releases, and other things as the tenant for life may, with such consent as aforesaid, think proper.

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- (2) A tenant for life may, with the consent in writing of the trustees of the settlement, at any time, by deed or writing, either with or without consideration in money or otherwise, release, waive, or modify, or agree to release, waive, or modify, any covenant, agreement, or restriction imposed on any other land for the benefit of the settled land, or any part thereof, or release, or agree to release, any other land from any easement, right or privilege, including a right of pre-emption, affecting the same for the benefit of the settled land, or any part thereof.
- (3) A tenant for life may contract that a transaction effected before or after the commencement of this Act, which (whether subject or not to any variation authorised by this subsection) is affected by section seventy-eight of the <sup>M6</sup>Railway Clauses Consolidation Act, 1845, or by section twenty-two of the <sup>M7</sup>Waterworks Clauses Act, 1847 (relating to support by minerals) shall take effect as if some other distance than forty yards or the prescribed distance had been mentioned in such sections or had been otherwise prescribed.

In any case where section seventy-eight aforesaid has effect as amended and re-enacted by Part II. of the <sup>M8</sup>Mines (Working Facilities and Support) Act, 1923, a tenant for life may make any agreement authorised by section eighty-five of the <sup>M9</sup>Railway Clauses Consolidation Act, 1845, as enacted in the said Part II.

#### Textual Amendments

**F35** Words repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\), Sch. Pt. III](#)

#### Marginal Citations

**M6** 1845 c. 20.  
**M7** 1847 c. 17.  
**M8** 1923 c. 20.  
**M9** 1845 c. 20.

## 59 Power to vary leases and grants and to give licences and consents.

- (1) A tenant for life may, at any time, by deed, either with or without consideration in money or otherwise, vary, release, waive or modify, either absolutely or otherwise, the terms of any lease whenever made of the settled land or any part thereof, or any covenants or conditions contained in any grant in fee simple whenever made of land with or subject to a reservation thereof of a rent which is or forms part of the settled land, and in either case in respect of the whole or any part of the land comprised in any such lease or grant, but so that every such lease or grant shall, after such variation, release, waiver or modification as aforesaid, be such a lease or grant as might then have been lawfully made under this Act if the lease had been surrendered, or the land comprised in the grant had never been so comprised, or had been regranted.
- (2) Where land is or has been disposed of subject to any covenant requiring the licence, consent, or approval of the covenantee or his successors in title as to—
- the user of the land in any manner; or
  - the erection construction or alteration of or addition to buildings or works of any description on the land; or
  - the plans or elevations of any proposed buildings or other works on the land; or

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- (d) any other act, matter, or thing relating to the land, or any buildings or works thereon; or
- (e) any assignment, under-letting or parting with the possession of all or any part of the property comprised in any lease affecting the settled land;

and the covenant enures for the benefit of settled land (including, where the disposition is a lease, the reversion expectant on the determination thereof), the licence, consent or approval may be given by the tenant for life of the settled land affected.

## **60 Power to apportion rents.**

- (1) A tenant for life may, at any time, by deed, either with or without consideration in money or otherwise, agree for the apportionment of any rent reserved or created by any such lease or grant as mentioned in the last preceding section, or any rent being or forming part of the settled land, so that the apportioned parts of such rent shall thenceforth be payable exclusively out of or in respect of such respective portions of the land subject thereto as may be thought proper, and also agree that any covenants, agreements, powers, or remedies for securing such rent and any other covenants or agreements by the lessee or grantee and any conditions shall also be apportioned and made applicable exclusively to the respective portions of the land out of or in respect of which the apportioned parts of such rent shall thenceforth be payable.
- (2) Where the settled land, or any part thereof, is held or derived under a lease, or under a grant reserving rent, or subject to covenants, agreements or conditions, whether such lease or grant comprises other land or not, the tenant for life may at any time by deed, with or without giving or taking any consideration in money or otherwise, procure the variation, release, waiver, or modification, either absolutely or otherwise, of the terms, covenants, agreements, or conditions contained in such lease or grant, in respect of the whole or any part of the settled land comprised therein, including the apportionment of any rent, covenants, agreements, conditions, and provisions reserved, or created by, or contained in, such lease or grant.
- (3) This section applies to leases or grants made either before or after the commencement of this Act.

## **61 Provisions as to consideration.**

- (1) All money, not being rent, payable by the tenant for life in respect of any transaction to which any of the three last preceding sections relates shall be paid out of capital money arising under this Act, and all money, not being rent, received on the exercise by the tenant for life of the powers conferred by any of those sections, shall, unless the court, on an application made within six months after the receipt thereof or within such further time as the court may in special circumstances allow, otherwise directs, be capital money arising under this Act.
- (2) For the purpose of the three last preceding sections “consideration in money or otherwise” means—
  - (a) a capital sum of money or a rent;
  - (b) land being freehold or leasehold for any term of years whereof not less than sixty years shall be unexpired;
  - (c) any easement, right or privilege over or in relation to the settled land, or any part thereof, or any other land;
  - (d) the benefit of any restrictive covenant or condition; and

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- (e) the release of the settled land, or any part thereof, or any other land, from any easement, right or privilege, including a right of pre-emption, or from the burden of any restrictive covenant or condition affecting the same.

## 62 †Special provisions as to manorial incidents, &c.

- (1) ..... <sup>F36</sup>
- (4) In reference to the conversion of a perpetually renewable lease or underlease into a long term, a tenant for life may enter into such agreements and do such acts and things as the lessor or lessee or underlessee, as the case may require, is, by any enactment authorised to enter into or do.

### Textual Amendments

**F36** Ss. 62(1)–(3), 71(1)(iv)(v), 73(1)(vi)(vii) repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), [Sch. Pt. III](#)

### Modifications etc. (not altering text)

**C17** Unreliable margin note

## 63 Power to complete predecessor’s contracts.

A tenant for life may make any disposition which is necessary or proper for giving effect to a contract entered into by a predecessor in title, and which if made by that predecessor would have been valid as against his successors in title.

## 64 General power for the tenant for life to effect any transaction under an order of the court.

- (1) Any transaction affecting or concerning the settled land, or any part thereof, or any other land (not being a transaction otherwise authorised by this Act, or by the settlement) which in the opinion of the court would be for the benefit of the settled land, or any part thereof, or the persons interested under the settlement, may, under an order of the court, be effected by a tenant for life, if it is one which could have been validly effected by an absolute owner.
- (2) In this section “transaction” includes any sale, . . . <sup>F37</sup>, exchange, assurance, grant, lease, surrender, reconveyance, release, reservation, or other disposition, and any purchase or other acquisition, and any covenant, contract, or option, and any application of capital money, . . . <sup>F38</sup> and any compromise or other dealing, or arrangement; . . . <sup>F38</sup> and “effected” has the meaning appropriate to the particular transaction; and the references to land include references to restrictions and burdens affecting land.

### Textual Amendments

**F37** Words repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), [Sch. Pt. III](#)

**F38** Words repealed by [Settled Land and Trustee Acts \(Court's General Powers\) Act 1943 \(c. 25\)](#), [s. 2](#)

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

**C18** S. 64 extended by [Settled Land and Trustee Acts \(Court's General Powers\) Act 1943 \(c. 25\)](#); saved by [Variation of Trusts Act 1958 \(c. 53\), s. 1\(6\)](#)

*Provisions as to special classes of property*

**65 Power to dispose of mansion.**

- (1) The powers of disposing of settled land conferred by this Act on a tenant for life may be exercised as respects the principal mansion house, if any, on any settled land, and the pleasure grounds and park and lands, if any, usually occupied therewith:

Provided that those powers shall not be exercised without the consent of the trustees of the settlement or an order of the court—

- (a) if the settlement is a settlement made or coming into operation before the commencement of this Act and the settlement does not expressly provide to the contrary; or
  - (b) if the settlement is a settlement made or coming into operation after the commencement of this Act and the settlement expressly provides that these powers or any of them shall not be exercised without such consent or order.
- (2) Where a house is usually occupied as a farmhouse, or where the site of any house and the pleasure grounds and park and lands, if any, usually occupied therewith do not together exceed twenty-five acres in extent, the house is not to be deemed a principal mansion house within the meaning of this section, and may accordingly be disposed of in like manner as any other part of the settled land.

**66 Cutting and sale of timber, and capitalisation of part of proceeds.**

- (1) Where a tenant for life is impeachable for waste in respect of timber, and there is on the settled land timber ripe and fit for cutting, the tenant for life, on obtaining the consent of the trustees of the settlement or an order of the court, may cut and sell that timber, or any part thereof.
- (2) Three fourth parts of the net proceeds of the sale shall be set aside as and be capital money arising under this Act, and the other fourth part shall go as rents and profits.

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

**C19** S. 66(2) applied by [Forestry Act 1967 \(c. 10\), s. 29\(3\)](#)

**67 Sale and purchase of heirlooms under order of court.**

- (1) Where personal chattels are settled so as to devolve with settled land, or to devolve therewith as nearly as may be in accordance with the law or practice in force at the date of the settlement, or are settled together with land, or upon trusts declared by reference to the trusts affecting land, a tenant for life of the land may sell the chattels or any of them.
- (2) The money arising by the sale shall be capital money arising under this Act, and shall be paid, invested, or applied and otherwise dealt with in like manner in all respects as



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by this Act directed with respect to other capital money arising under this Act, or may be invested in the purchase of other chattels of the same or any other nature, which, when purchased, shall be settled and held on the same trusts, and shall devolve in the same manner as the chattels sold.

- (3) A sale or purchase of chattels under this section shall not be made without an order of the court.
- (4) Any reference in any enactment to personal chattels settled as heirlooms shall extend to any chattels to which this section applies.

*Dealings as between tenants for life and the estate*

**68 Provision enabling dealings with tenant for life.**

- (1) In the manner mentioned and subject to the provisions contained in this section—
  - (a) a sale, grant, lease, mortgage, charge or other disposition of settled land, or of any easement, right, or privilege over the same may be made to the tenant for life; or
  - (b) capital money may be advanced on mortgage to him; or
  - (c) a purchase may be made from him of land to be made subject to the limitations of the settlement; or
  - (d) an exchange may be made with him of settled land for other land; and
  - (e) any such disposition, advance, purchase, or exchange as aforesaid may be made to, from, or with any persons of whom the tenant for life is one.
- (2) In every such case the trustees of the settlement shall, in addition to their powers as trustees, have all the powers of a tenant for life in reference to negotiating and completing the transaction, and shall have power to enforce any covenants by the tenant for life, or, where the tenant for life is himself one of the trustees, then the other or others of them shall have such power, and the said powers of a tenant for life may be exercised by the trustees of the settlement in the name and on behalf of the tenant for life.
- (3) This section applies, notwithstanding that the tenant for life is one of the trustees of the settlement, or that an order has been made authorising the trustees to act on his behalf, or that he is <sup>F39</sup>suffering from mental disorder] but does not apply to dealings with any body of persons which includes a trustee of the settlement, not being the tenant for life, unless the transaction is either previously or subsequently approved by the court.

**Textual Amendments**

**F39** Words substituted by [Mental Health Act 1959 \(c. 72\)](#), [Sch. 7 Pt. I](#)

*Incumbrances*

**69 Shifting of incumbrances.**

Where there is an incumbrance affecting any part of the settled land (whether capable of being overreached on the exercise by the tenant for life of his powers under this Act or not), the tenant for life, with the consent of the incumbrancer, may charge



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that incumbrance on any other part of the settled land, or on all or any part of the capital money or securities representing capital money subject or to become subject to the settlement, whether already charged therewith or not, in exoneration of the first mentioned part, and, by a legal mortgage, or otherwise, make provision accordingly.

**70 Power to vary provisions of an incumbrance and to charge by way of additional security.**

- (1) Where an incumbrance affects any part of the settled land, the tenant for life may, with the consent of the incumbrancer, vary the rate of interest charged and any of the other provisions of the instrument, if any, creating the incumbrance, and with the like consent charge that incumbrance on any part of the settled land, whether already charged therewith or not, or on all or any part of the capital money or securities representing capital money subject or to become subject to the settlement, by way of additional security, or of consolidation of securities, and by a legal mortgage or otherwise, make provision accordingly.
- (2) “Incumbrance” in this section includes any annual sum payable during a life or lives or during a term of years absolute or determinable, but in any such case an additional security shall be effected so as only to create a charge or security similar to the original charge or security.

*Raising of Money*

**71 Power to raise money by mortgage.**

- (1) Where money is required for any of the following purposes namely:—
  - (i) Discharging an incumbrance on the settled land or part thereof;
  - (ii) paying for any improvement authorised by this Act or by the settlement;
  - (iii) Equality of exchange;
  - (iv) ..... F40
  - (vi) Redeeming a compensation rentcharge in respect of the extinguishment of manorial incidents and affecting the settled land;
  - (vii) Commuting any additional rent made payable on the conversion of a perpetually renewable leasehold interest into a long term;
  - (viii) Satisfying any claims for compensation on the conversion of a perpetually renewable leasehold interest into a long term by any officer, solicitor, or other agent of the lessor in respect of fees or remuneration which would have been payable by the lessee or under-lessee on any renewal;
  - (ix) Payment of the costs of any transaction authorised by this section or either of the two last preceding sections;

the tenant for life may raise the money so required, on the security of the settled land, or of any part thereof, by a legal mortgage, and the money so raised shall be capital money for that purpose, and may be paid or applied accordingly.

- (2) “Incumbrance” in this section does not include any annual sum payable only during a life or lives or during a term of years absolute or determinable.
- (3) The restrictions imposed by this Part of this Act on the leasing powers of a tenant for life do not apply in relation to a mortgage term created under this Act.

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### Textual Amendments

**F40** Ss. 62(1)–(3), 71(1)(iv)(v), 73(1)(vi)(vii) repealed by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), **Sch. Pt. III**

### Modifications etc. (not altering text)

- C20** S. 71 modified by [Chequers Estate Act 1917 \(c. 55\)](#), **Sch.** clause 8D as now inserted by [Chequers Estate Act 1958 \(c. 60\)](#), s. 1, **Sch. para. 10**; extended by [Landlord and Tenant Act 1927 \(c. 36\)](#), **s. 13(1)(2)**, [Agricultural Credits Act 1932 \(c. 35\)](#), **s. 3**, [Coast Protection Act 1949 \(c. 74\)](#), **s. 11(2)(a)**, [Landlord and Tenant Act 1954 \(c. 56\)](#), s. 8(5), **Sch. 2 para. 6**, [Coal-Mining \(Subsidence\) Act 1957 \(c. 59\)](#), **s. 11(7)**, [Land Commission Act 1967 \(c. 1\)](#), **s. 92**, [Leasehold Reform Act 1967 \(c. 88\)](#), ss. 6(5), 17, 18, **Sch. 2 para. 9(1)**, [Mines and Quarries \(Tips\) Act 1969 \(c. 10\)](#), **s. 32(2)(b)** and [Town and Country Planning Act 1971 \(c. 78\)](#), **s. 275(1)**; amended (temp.) by [Finance Act 1968 \(c. 44\)](#), s. 41(5), **Sch. 15 para. 8(1)**
- C21** S. 71 extended by [Town and Country Planning Act 1990 \(c. 8, SIF 123:1\)](#), **s. 328(2)(a)**  
S. 71 extended (1.11.1993) by 1993 c. 28, ss. 9, 40, **Sch. 2 paras. 5(2)(b)(ii), 6(b)**; S.I. 1993/2134, **arts. 2, 5**  
S. 71 extended (1.9.1995) by 1995 c. 8, **ss. 33(2), 41(2)**
- C22** S. 71 extended (30.9.2003 for E.) by [Commonhold and Leasehold Reform Act 2002 \(c. 15\)](#), **ss. 109(4)(b), 181(1)**; S.I. 2003/1986, **art. 2(a)**

## Conveyance

### 72 Completion of transactions by conveyance.

- (1) On a sale, exchange, lease, mortgage, charge, or other disposition, the tenant for life may, as regards land sold, given in exchange, leased, mortgaged, charged, or otherwise disposed of, or intended so to be, or as regards easements or other rights or privileges sold, given in exchange, leased, mortgaged, or otherwise disposed of, or intended so to be, effect the transaction by deed to the extent of the estate or interest vested or declared to be vested in him by the last or only vesting instrument affecting the settled land or any less estate or interest, in the manner requisite for giving effect to the sale, exchange, lease, mortgage charge, or other disposition, but so that a mortgage shall be effected by the creation of a term of years absolute in the settled land or by charge by way of legal mortgage, and not otherwise.
- (2) Such a deed, to the extent and in the manner to and in which it is expressed or intended to operate and can operate under this Act, is effectual to pass the land conveyed, or the easements, rights, privileges or other interests created, discharged from all the limitations, powers, and provisions of the settlement, and from all estates, interests, and charges subsisting or to arise thereunder, but subject to and with the exception of—
  - (i) all legal estates and charges by way of legal mortgage having priority to the settlement; and
  - (ii) all legal estates and charges by way of legal mortgage which have been conveyed or created for securing money actually raised at the date of the deed; and
  - (iii) all leases and grants at fee-farm rents or otherwise, and all grants of easements, rights of common, or other rights or privileges which—
    - (a) were before the date of the deed granted or made for value in money or money's worth, or agreed so to be, by the tenant for life or statutory owner, or by any of his predecessors in title, or any trustees for them,

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- under the settlement, or under any statutory power, or are at that date otherwise binding on the successors in title of the tenant for life or statutory owner; and
- (b) are at the date of the deed protected by registration under the <sup>M10</sup>Land Charges Act, 1925, if capable of registration thereunder.
- (3) Notwithstanding registration under the Land Charges Act, 1925, of—
- (a) an annuity within the meaning of Part II. of that Act;
- (b) a limited owner's charge or a general equitable charge within the meaning of that Act;
- a disposition under this Act operates to overreach such annuity or charge which shall, according to its priority, take effect as if limited by the settlement.
- (4) Where a lease is by this Act authorised to be made by writing under hand only, such writing shall have the same operation under this section as if it had been a deed.

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

**C23** S. 72 extended (30.10.1994) by S.I. 1994/2716, reg. 86(1)(c)

**Marginal Citations**

**M10** 1925 c. 22.

## PART III

### INVESTMENT OR OTHER APPLICATION OF CAPITAL MONEY

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

**C24** Pt. III applied with modifications by *Chequers Estate Act 1917 (c. 55)*, *Sch.* clause 6A now inserted by *Chequers Estate Act 1958 (c. 60)*, s. 1, *Sch. para. 7*; saved by *Trafalgar Estate Act 1947 (c. 34)*, s. 2(3)

## 73 Modes of investment or application.

- (1) Capital money arising under this Act, subject to payment of claims properly payable thereout and to the application thereof for any special authorised object for which the capital money was raised, shall, when received, be invested or otherwise applied wholly in one, or partly in one and partly in another or others, of the following modes (namely):—
- [<sup>F41</sup>(i) In investment in Government securities either under the general power of investment in section 3 of the Trustee Act 2000 or under a power to invest conferred on the trustees of the settlement by the settlement;]
- (ii) In discharge, purchase, or redemption of incumbrances affecting the whole estate the subject of the settlement, or of . . . <sup>F42</sup>, rentcharge in lieu of tithe, Crown rent, chief rent, or quit rent, charged on or payable out of the settled land, or of any charge in respect of an improvement created on a holding under the [<sup>F43</sup>Agricultural Holdings Act 1986], or any similar previous enactment;
- (iii) In payment for any improvement authorised by this Act;

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- (iv) In payment as for an improvement authorised by this Act of any money expended and costs incurred by a landlord under or in pursuance of the [<sup>F43</sup>Agricultural Holdings Act 1986], or any similar previous enactment, or under custom or agreement or otherwise, in or about the execution of any improvement comprised in [<sup>F43</sup>Schedule 7] to the said Agricultural Holdings Act;
- (v) In payment for equality of exchange of settled land;
- (vi) .....<sup>F44</sup>
- (viii) In redemption of any compensation rentcharge created in respect of the extinguishment of manorial incidents, and affecting the settled land;
- (ix) In commuting any additional rent made payable on the conversion of a perpetually renewable leasehold interest into a long term, and in satisfying any claim for compensation on such conversion by any officer, solicitor, or other agent of the lessor in respect of fees or remuneration which would have been payable by the lessee or under-lessee on any renewal;
- (x) In purchase of the freehold reversion in fee of any part of the settled land, being leasehold land held for years;
- (xi) In purchase of land in fee simple, or of leasehold land held for sixty years or more unexpired at the time of purchase, subject or not to any exception or reservation of or in respect of mines or minerals therein, or of or in respect of rights or powers relative to the working of mines or minerals therein, or in other land;
- (xii) In purchase either in fee simple, or for a term of sixty years or more, of mines and minerals convenient to be held or worked with the settled land, or of any easement, right, or privilege convenient to be held with the settled land for mining or other purposes;
- (xiii) In redemption of an improvement rentcharge, that is to say, a rentcharge (temporary or permanent) created, whether before or after the commencement of this Act, in pursuance of any Act of Parliament, with the object of paying off any money advanced for defraying the expenses of an improvement of any kind authorised by Part I. of the Third Schedule to this Act;
- (xiv) In the purchase, with the leave of the court, of any leasehold interest where the immediate reversion is settled land, so as to merge the leasehold interest (unless the court otherwise directs) in the reversion, and notwithstanding that the leasehold interest may have less than sixty years to run;
- (xv) In payment of the costs and expenses of all plans, surveys, and schemes, including schemes under the <sup>M11</sup>Town Planning Act, 1925, or any similar previous enactment, made with a view to, or in connexion with the improvement or development of the settled land, or any part thereof, or the exercise of any statutory powers, and of all negotiations entered into by the tenant for life with a view to the exercise of any of the said powers, notwithstanding that such negotiations may prove abortive, and in payment of the costs and expenses of opposing any such proposed scheme as aforesaid affecting the settled land, whether or not the scheme is made;
- <sup>F45</sup>(xvi) .....
- (xvii) In payment to a local or other authority of such sum as may be agreed in consideration of such authority taking over and becoming liable to repair a private road on the settled land or a road for the maintenance whereof a tenant for life is liable *ratione tenuræ*;

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- (xviii) In financing any person who may have agreed to take a lease or grant for building purposes of the settled land, or any part thereof, by making advances to him in the usual manner on the security of an equitable mortgage of his building agreement;
  - (xix) In payment to any person becoming absolutely entitled or empowered to give an absolute discharge;
  - (xx) In payment of costs, charges, and expenses of or incidental to the exercise of any of the powers, or the execution of any of the provisions of this Act including the costs and expenses incidental to any of the matters referred to in this section;
  - (xxi) In any other mode authorised by the settlement with respect to money produced by the sale of the settled land.
- (2) Notwithstanding anything in this section capital money arising under this Act from settled land in England or Wales shall not be applied in the purchase of land out of England and Wales, unless the settlement expressly authorises the same.

#### Textual Amendments

- F41** S. 73(1)(i) substituted (1.2.2001) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. II para. 9** (with s. 35); S.I. 2001/49, **art. 2**
- F42** Words repealed by Finance Act 1963 (c. 25), **Sch. 14 Pt. VI**
- F43** Words substituted by Agricultural Holdings Act 1986 (c. 5, SIF 2:3), ss. 99(1), 100, Sch. 13 para. 3, **Sch. 14 para. 11**
- F44** Ss. 62(1)–(3), 71(1)(iv)(v), 73(1)(vi)(vii) repealed by Statute Law (Repeals) Act 1969 (c. 52), **Sch. Pt. III**
- F45** S. 73(1)(xvi) repealed (19.11.1998) by 1998 c. 43, s. 1(1), **Sch. 1 Pt. II** Group 2.

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

- C25** S. 73 extended by Housing (Rural Workers) Act 1926 (c. 56), **s. 3(3)**, Landlord and Tenant Act 1927 (c. 36), **s. 13(1)**, Agricultural Credits Act 1932 (c. 35), **s. 3**, Coast Protection Act 1949 (c. 74), **s. 11(2)(a)**, Landlord and Tenant Act 1954 (c. 56), s. 8(5), **Sch. 2 para. 6**, Coal-Mining (Subsidence) Act 1957 (c. 59), **s. 11(7)**, Land Commission Act 1967 (c. 1), **s. 92**, Leasehold Reform Act 1967 (c. 88), ss. 6(5), 17, 18, **Sch. 2 para. 9(1)**, Mines and Quarries (Tips) Act 1969 (c. 10), **s. 32(2)(a)** and Town and Country Planning Act 1971 (c. 78), **s. 275(1)**; amended (temp) by Finance Act 1968 (c. 44), s. 41(5), **Sch. 15 para. 8(1)**
- C26** S. 73 extended by Housing Act 1985 (c. 68, SIF 61), **s. 507(3)** and by Town and Country Planning Act 1990 (c. 8, SIF 123:1), **s. 328(1)(a)**  
S. 73 extended (1.11.1993) by 1993 c. 28, ss. 9, 40, Sch. 2 paras. 5(2)(b)(i), **6(a)**; S.I. 1993/2134, **arts. 2, 5**  
S. 73 extended (1.9.1995) by 1995 c. 8, **ss. 33(1)**, 41(2)  
S. 73 extended (1.10.1996 subject to savings in S.I. 1996/2212, art. 2(2), **Sch. para. 4**) by 1993 c. 28, **s. 93A** (as inserted by 1996 c. 52, **s. 113**; S.I. 1996/2212, **art. 2(2)**)  
S. 73 extended (17.12.1996) by 1996 c. 53, **s. 55(4)(a)**; S.I. 1996/2842, **art. 3**  
S. 73 extended (17.12.1996) by 1996 c. 53, **s. 73(3)(a)**; S.I. 1996/2842, **art. 3**  
S. 73 extended (*prosp.*) by 2002 c. 15, **ss. 109(4)(a)**, 181(1)
- C27** S. 73 amended by Local Government and Housing Act 1989 (c. 42, SIF 61), **s. 125(5)(a)**
- C28** S. 73 extended (30.9.2003 for E., 30.3.2004 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 109(4)(a)**, 181(1); S.I. 2003/1986, art. 2(a); S.I. 2004/669, art. 2(a)
- C29** Power to apply s. 73(1)(ii) given by Finance Act 1949 (c. 47), s. 40(9), **Sch. 9**
- C30** S. 73(1)(xiii) extended by Agricultural Credits Act 1932 (c. 35), **s. 3(3)**; modified by Agriculture Act 1967 (c. 22), **s. 68**

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#### Marginal Citations

M11 1925 c. 16.

#### 74 Power to acquire land subject to certain incumbrances.

- (1) Land may be acquired on a purchase or exchange to be made subject to a settlement, notwithstanding that the land is subject to any Crown rent, quit rent, chief rent, or other incident of tenure, or to any easement, right or privilege, or to any restrictive covenant, or to any liability to maintain or repair walls, fences, sea-walls, river banks, dykes, roads, streets, sewers, or drains, or to any improvement rentcharge which is capable under this Act of being redeemed out of capital money.
- (2) The acquisition on a purchase or exchange before the commencement of this Act of any land subject to any such burden as aforesaid is hereby confirmed.

#### 75 Regulations respecting investment, devolution, and income of securities, &c.

- (1) Capital money arising under this Act shall, in order to its being invested or applied as aforesaid, be paid either to the trustees of the settlement or into court at the option of the tenant for life, and shall be invested or applied by the trustees, or under the direction of the court, as the case may be, accordingly.
- [<sup>F46</sup>(2) Subject to Part IV of the Trustee Act 2000, to section 75A of this Act and to the following provisions of this section—
  - (a) the investment or other application by the trustees shall be made according to the discretion of the trustees, but subject to any consent required or direction given by the settlement with respect to the investment or other application by the trustees of trust money of the settlement, and
  - (b) any investment shall be in the names or under the control of the trustees.]
  - (3) The investment or other application under the direction of the court shall be made on the application of the tenant for life, or of the trustees.
  - [<sup>F47</sup>(4) The trustees, in exercising their power to invest or apply capital money, shall—
    - (a) so far as practicable, consult the tenant for life; and
    - (b) so far as consistent with the general interest of the settlement, give effect to his wishes.
  - <sup>F47</sup>(4A) Any investment or other application of capital money under the direction of the court shall not during the subsistence of the beneficial interest of the tenant for life be altered without his consent.
  - <sup>F47</sup>(4B) The trustees may not under section 11 of the Trustee Act 2000 authorise a person to exercise their functions with respect to the investment or application of capital money on terms that prevent them from complying with subsection (4) of this section.
  - <sup>F47</sup>(4C) A person who is authorised under section 11 of the Trustee Act 2000 to exercise any of their functions with respect to the investment or application of capital money is not subject to subsection (4) of this section.]
  - (5) Capital money arising under this Act while remaining uninvested or unapplied, and securities on which an investment of any such capital money is made shall for all purposes of disposition, transmission and devolution be treated as land, and shall be

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held for and go to the same persons successively, in the same manner and for and on the same estates, interests, and trusts, as the land wherefrom the money arises would, if not disposed of, have been held and have gone under the settlement.

- (6) The income of those securities shall be paid or applied as the income of that land, if not disposed of, would have been payable or applicable under the settlement.
- (7) Those securities may be converted into money, which shall be capital money arising under this Act.
- (8) All or any part of any capital money paid into court may, if the court thinks fit, be at any time paid out to the trustees of the settlement.

#### Textual Amendments

**F46** S. 75(2) substituted (1.2.2001) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. II para. 10(1)(3)** (with s. 35); S.I. 2001/49, **art. 2**

**F47** S. 75(4)-(4C) substituted (1.2.2001) for s. 75(4) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. II para. 10(2)(3)** (with s. 35); S.I. 2001/49, **art. 2**

#### [<sup>F48</sup>75A Power to accept charge as security for part payment for land sold.

- (1) Where—
  - (a) land subject to the settlement is sold by the tenant for life or statutory owner, for an estate in fee simple or a term having at least five hundred years to run, and
  - (b) the proceeds of sale are liable to be invested,the tenant for life or statutory owner may, with the consent of the trustees of the settlement, contract that the payment of any part, not exceeding two-thirds, of the purchase money shall be secured by a charge by way of legal mortgage of the land sold, with or without the security of any other property.
- (2) If any buildings are comprised in the property secured by the charge, the charge must contain a covenant by the mortgagor to keep them insured for their full value against loss or damage due to any event.
- (3) A person exercising the power under subsection (1) of this section, or giving consent for the purposes of that subsection—
  - (a) is not required to comply with section 5 of the Trustee Act 2000 before giving his consent, and
  - (b) is not liable for any loss incurred merely because the security is insufficient at the date of the charge.
- (4) The power under subsection (1) of this section is exercisable subject to the consent of any person whose consent to a change of investment is required by the instrument, if any, creating the trust.
- (5) Where the sale referred to in subsection (1) of this section is made under the order of the court, the power under that subsection applies only if and as far as the court may by order direct.]



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#### Textual Amendments

**F48** S. 75A inserted (1.2.2001) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. II para. 11** (with s. 35); S.I. 2001/49, **art. 2**

### 76 Application of money in court under Lands Clauses and other Acts.

Where, under an Act, or an order or scheme confirmed by or having the force of an Act of Parliament, incorporating or applying, wholly or in part, the Lands Clauses Acts, or under any Act, public general or local or private, money is at the commencement of this Act in court, or is afterwards paid into court, and is liable to be laid out in the purchase of land to be made subject to a settlement, then, in addition to any mode of dealing therewith authorised by the Act under which the money is in court, that money may be invested or applied as capital money arising under this Act, on the like terms, if any, respecting costs and other things, as nearly as circumstances admit, and notwithstanding anything in this Act according to the same procedure, as if the modes of investment or application authorised by this Act were authorised by the Act under which the money is in court.

### 77 Application of money in hands of trustees under powers of settlement.

Where—

- (a) under any instrument coming into operation either before or after the commencement of this Act money is in the hands of trustees, and is liable to be laid out in the purchase of land to be made subject to the trusts declared by that instrument; or
- (b) under any instrument coming into operation after the commencement of this Act money or securities or the proceeds of sale of any property is or are held by trustees on trusts creating entailed interests therein;

then, in addition to such powers of dealing therewith as the trustees have independently of this Act, they may, at the option of the tenant for life, invest or apply the money securities or proceeds as if they were capital money arising under this Act.

### 78 Provision as to personal estate settled by reference to capital money, or on trusts corresponding with the limitations of land.

- (1) Where money or securities or the proceeds of sale of any property is or are by any instrument coming into operation either before or after the commencement of this Act directed to be held on trusts declared by reference to capital money arising under this Act from land settled by that instrument or any other instrument, the money securities or proceeds shall be held on the like trusts as if the same had been or represented money which had actually arisen under this Act from the settled land.

[<sup>F49</sup>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.]

- (2) Where money or securities or the proceeds of sale of any property is or are by any instrument coming into operation after the commencement of this Act directed to be held on the same trusts as, or on trusts corresponding as nearly as may be with the limitations of land settled by that instrument or any other instrument, the money,



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securities or proceeds shall be held on the like trusts as if the same had been or represented capital money arising under this Act from the settled land.

- (3) Such money, securities, or proceeds of sale shall be paid or transferred to or retained by the trustees of the settlement of the settled land, or paid or transferred into court, and invested or applied accordingly.
- (4) Where the settled land includes freehold land, the money, securities, or proceeds of sale aforesaid shall be held on the like trusts as if the same had been or represented capital money arising from the freehold land.
- (5) This section has effect notwithstanding any direction in the instrument creating the trust that the trust property is not to vest absolutely in any tenant in tail or in tail male or in tail female under the limitations of the settled land who dies under a specified age, or before the happening of a specified event, but, save as aforesaid, has effect with any variations and subject to any contrary intention expressed in the instrument creating the trust.

#### Textual Amendments

**F49** Para. added by [Law of Property \(Amendment\) Act 1926 \(c. 11\)](#), [Sch.](#)

### 79 Application of money paid for lease or reversion.

Where capital money arising under this Act is purchase-money paid in respect of—

- (a) a lease for years; or
- (b) any other estate or interest in land less than the fee simple; or
- (c) a reversion dependent on any such lease, estate, or interest;

the trustees of the settlement or the court, as the case may be, and in the case of the court on the application of any party interested in that money, may, notwithstanding anything in this Act, require and cause the same to be laid out, invested, accumulated, and paid in such manner as, in the judgment of the trustees or of the court, as the case may be, will give to the parties interested in that money the like benefit therefrom as they might lawfully have had from the lease, estate, interest, or reversion in respect whereof the money was paid, or as near thereto as may be.

### 80 As to money received by way of damages for breach of covenant.

- (1) Money, not being rent, received by way of damages or compensation for breach of any covenant by a lessee or grantee contained in any lease or grant of settled land shall, unless in any case the court on the application of the tenant for life or the trustees of the settlement otherwise directs, be deemed to be capital money arising under this Act, and shall be paid to or retained by the trustees of the settlement, or paid into court, and invested or applied, accordingly.
- (2) In addition to the other modes in which capital money may be applied under this Act or the settlement, money so received as aforesaid or any part thereof may, if the circumstances permit, be applied at any time within twelve months after such receipt, or such extended period as the court may allow, in or towards payment of the costs of making good in whole or in part the breach of covenant in respect of which it was so received, or the consequences thereof, and the trustees of the settlement, if they think fit, may require any money so received or any part thereof to be so applied.

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- (3) In the application of any such money in or towards payment of the cost of making good any such breach or the consequences of any such breach as aforesaid, the work required to be done for the purpose shall be deemed to be an improvement authorised by Part I. of the Third Schedule to this Act.
- (4) This section does not apply to money received by way of damages or compensation for the breach of a covenant to repay to the lessor or grantor money laid out or expended by him, or to any case in which if the money received were applied in making good the breach of covenant or the consequences thereof such application would not enure for the benefit of the settled land, or any buildings thereon.
- (5) This section does not apply to money received by way of damages or compensation before the commencement of this Act, but it applies whether the lease or grant was made before or after the commencement of this Act, and whether under the powers conferred by the Settled Land Acts, 1882 to 1890, or this Act or not.
- (6) The provisions of this section apply only if and as far as a contrary intention is not expressed in the settlement, and have effect subject to the terms of the settlement, and to any provisions therein contained, but a contrary intention shall not be deemed to be expressed merely by words negating impeachment for waste.

**81 As to capital arising otherwise than under the Act.**

Any money which after the commencement of this Act arises from settled land otherwise than under this Act, as well as any money or securities in the names or under the control of the tenant for life or the trustees of the settlement, being or representing money which had arisen before the commencement of this Act from the settled land otherwise than under the Settled Land Acts, 1882 to 1890, and which ought, as between the persons interested in the settled land, to be or to have been treated as capital, shall (without prejudice to any other statutory provisions affecting the same) be deemed to be or to represent capital money arising under this Act, and shall be paid or transferred to or retained by the trustees of the settlement, or paid or transferred into court, and invested or applied, accordingly.

**82 Land acquired may be made a substituted security for released charges.**

- (1) Land acquired by purchase or in exchange or otherwise under the powers of this Act, may be made a substituted security for any charge from which the settled land or any part thereof has theretofore been released on the occasion and in order to the completion of a sale, exchange or other disposition:

Provided that, where a charge does not affect the whole of the settled land, the land acquired shall not be subjected thereto, unless the land is acquired either by purchase with money arising from sale of land which was before the sale subject to the charge, or by an exchange of land which was before the exchange subject to the charge.

- (2) On land being so acquired, any person who, by the direction of the tenant for life, so conveys the land as to subject it to any legal estate or charge by way of legal mortgage, is not concerned to inquire whether or not it is proper that the land should be subjected to such legal estate or charge.

*Status: Point in time view as at 30/03/2004.*

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## PART IV

### IMPROVEMENTS

#### *Improvements with Capital Money*

#### **83 Description of improvements authorised by Act.**

Improvements authorised by this Act are the making or execution on, or in connexion with, and for the benefit of settled land, of any of the works mentioned in the Third Schedule to this Act, or of any works for any of the purposes mentioned in that Schedule, and any operation incident to or necessary or proper in the execution of any of those works, or necessary or proper for carrying into effect any of those purposes, or for securing the full benefit of any of those works or purposes.

#### **84 Mode of application of capital money.**

- (1) Capital money arising under this Act may be applied in or towards payment for any improvement authorised by this Act or by the settlement, without any scheme for the execution of the improvement being first submitted for approval to, or approved by, the trustees of the settlement or the court.
- (2) Where the capital money to be expended is in the hands of the trustees of the settlement, they may apply that money in or towards payment for the whole or any part of any work or operation comprised in the improvement, on—
  - (i) a certificate to be furnished by a competent engineer or able practical surveyor employed independently of the tenant for life, certifying that the work or operation comprised in the improvement or some specific part thereof, has been properly executed, and what amount is properly payable in respect thereof, which certificate shall be conclusive in favour of the trustees as an authority and discharge for any payment made by them in pursuance thereof; or
  - (ii) an order of the court directing or authorising the trustees so to apply a specified portion of the capital money:

Provided that—

- (a) In the case of improvements not authorised by Part I. of the Third Schedule to this Act or by the settlement, the trustees may, if they think fit, and shall if so directed by the court, before they make any such application of capital money require that that money, or any part thereof, shall be repaid to them out of the income of the settled land by not more than fifty half-yearly instalments, the first of such instalments to be paid or to be deemed to have become payable at the expiration of six months from the date when the work or operation, in payment for which the money is to be applied, was completed;
  - (b) No capital money shall be applied by the trustees in payment for improvements not authorised by Parts I. and II. of the Third Schedule to this Act, or by the settlement, except subject to provision for the repayment thereof being made in manner mentioned in the preceding paragraph of this proviso.
- (3) Where the capital money to be expended is in court, the court may, if it thinks fit, on a report or certificate of the [F50 Secretary of State], or of a competent engineer or able practical surveyor approved by the court, or on such other evidence as the court

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may think sufficient, make such order and give such directions as it thinks fit for the application of the money, or any part thereof, in or towards payment for the whole or any part of any work or operation comprised in the improvement.

- (4) Where the court authorises capital money to be applied in payment for any improvement or intended improvement not authorised by Part I. of the Third Schedule to this Act or by the settlement, the court, as a condition of making the order, may in any case require that the capital money or any part thereof, and shall as respects an improvement mentioned in Part III. of that Schedule (unless the improvement is authorised by the settlement), require that the whole of the capital money shall be repaid to the trustees of the settlement out of the income of the settled land by a fixed number of periodical instalments to be paid at the times appointed by the court, and may require that any incumbrancer of the estate or interest of the tenant for life shall be served with notice of the proceedings.
- (5) All money received by the trustees of the settlement in respect of any instalments under this section shall be held by them as capital money arising from freehold land under the settlement, unless the court otherwise directs.

#### Textual Amendments

**F50** Words in s. 84(3) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), Sch. 1 para. 2 (with arts. 5(3), 6)

### 85 Creation of rentcharges to discharge instalments.

- (1) When the tenant for life is required by the trustees to repay by instalments the capital money expended, or any part thereof, the tenant for life is by this section authorised to create out of the settled land, or any part thereof, a yearly rentcharge in favour of the trustees of the settlement sufficient in amount to discharge the said half-yearly instalments.
- (2) Where an order is made requiring repayment by instalments, the settled land shall stand charged with the payment to the trustees of the settlement of a yearly rentcharge sufficient in amount to discharge the periodical instalments, and the rentcharge shall accrue from day to day, and be payable at the times appointed for payment of the periodical instalments, and shall have effect as if limited by the settlement prior to the estate of the tenant for life, and the trustees of the settlement shall have all statutory and other powers for recovery thereof.
- (3) A rentcharge created by or under this section shall not be redeemed out of capital money, but may be overreached in like manner as if the same were limited by the settlement, and shall cease if and when the land affected by the improvement ceases to be settled or is sold or exchanged, but if part of the land so affected remains subject to the settlement the rentcharge shall remain in force in regard to the settled land.

#### *Sundry Provisions as to Improvements*

### 86 Concurrence in improvements.

The tenant for life may join or concur with any other person interested in executing any improvement authorised by this Act, or in contributing to the cost thereof.

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## 87 Court may order payment for improvements executed.

The court may, in any case where it appears proper, make an order directing or authorising capital money to be applied in or towards payment for any improvement authorised by the <sup>M12</sup>Settled Land Acts, 1882 to 1890, or this Act, notwithstanding that a scheme was not, before the execution of the improvement, submitted for approval, as required by the Settled Land Act, 1882, to the trustees of the settlement or to the court, and notwithstanding that no capital money is immediately available for the purpose.

### Marginal Citations

M12 1882 c. 38.

## 88 Obligation on tenant for life and successors to maintain, insure, &c.

- (1) The tenant for life, and each of his successors in title having under the trust instrument a limited estate or interest only in the settled land, shall, during such period, if any, as the [<sup>F51</sup>Secretary of State] by certificate in any case prescribes, maintain and repair, at his own expense, every improvement executed under the foregoing provisions of this Act or the enactments replaced thereby, and where a building or work in its nature insurable against damage by fire is comprised in the improvement, shall at his own expense insure and keep insured the improvement in such amount, if any, as the [<sup>F51</sup>Secretary of State] by certificate in any case prescribes.
- (2) The tenant for life, or any of his successors as aforesaid, shall not cut down or knowingly permit to be cut down, except in proper thinning, any trees planted as an improvement under the foregoing provisions of this Act, or under the enactments replaced by those provisions.
- (3) The tenant for life, and each of his successors as aforesaid, shall from time to time, if required by the [<sup>F52</sup>Secretary of State] on or without the application of any person having under the trust instrument any estate or interest in the settled land in possession, remainder, or otherwise, report to the [<sup>F52</sup>Secretary of State] the state of every improvement executed under this Act, and the fact and particulars of fire insurance, if any.
- (4) The [<sup>F53</sup>Secretary of State] may vary any certificate made by him under this section in such manner or to such extent as circumstances appear to him to require, but not so as to increase the liabilities of the tenant for life, or any of his successors as aforesaid.
- (5) If the tenant for life, or any of his successors as aforesaid, fails in any respect to comply with the requisitions of this section, or does any act in contravention thereof, any person having, under the trust instrument, any estate or interest in the settled land in possession, remainder, or reversion, shall have a right of action, in respect of that default or act, against the tenant for life; and the estate of the tenant for life, after his death, shall be liable to make good to the persons entitled under the trust instrument any damages occasioned by that default or act.
- (6) Where in connexion with any improvement an improvement rentcharge, as hereinbefore defined, has been created, and that rentcharge has been redeemed out of capital money, this section shall apply to the improvement as if it had been an improvement executed under this Act.

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#### Textual Amendments

- F51** Words in s. 88(1) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 3(2)** (with arts. 5(3), 6)
- F52** Words in s. 88(3) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 3(3)** (with arts. 5(3), 6)
- F53** Words in s. 88(4) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 3(4)** (with arts. 5(3), 6)

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

- C31** S. 88 extended by **Agricultural Credits Act 1932 (c. 35), s. 3(3)**

### 89 Protection as regards waste in execution and repair of improvements.

The tenant for life, and each of his successors in title having, under the trust instrument, a limited estate or interest only in the settled land, and all persons employed by or under contract with the tenant for life or any such successor, may from time to time enter on the settled land, and, without impeachment of waste by any remainderman or reversioner, thereon execute any improvement authorised by this Act, or inspect, maintain, and repair the same, and for the purposes thereof do, make, and use on the settled land, all acts, works, and conveniences proper for the execution, maintenance, repair, and use thereof, and get and work freestone, limestone, clay, sand, and other substances, and make tramways and other ways, and burn and make bricks, tiles, and other things, and cut down and use timber and other trees not planted or left standing for shelter or ornament.

## PART V

### MISCELLANEOUS PROVISIONS

### 90 Power for tenant for life to enter into contracts.

- (1) A tenant for life—
- (i) may contract to make any sale, exchange, mortgage, charge or other disposition authorised by this Act; and
  - (ii) may vary or rescind, with or without consideration, the contract in the like cases and manner in which, if he were absolute owner of the settled land, he might lawfully vary or rescind the same, but so that the contract as varied be in conformity with this Act; and
  - (iii) may contract to make any lease, and in making the lease may vary the terms, with or without consideration, but so that the lease be in conformity with this Act; and
  - (iv) may accept a surrender of a contract for a lease or a grant in fee simple at a rent, in like manner and on the like terms in and on which he might accept a surrender of a lease or a regrant, and thereupon may make a new or other contract for or relative to a lease or leases, or a grant or grants in fee simple at a rent, in like manner and on the like terms in and on which he might make a new or other lease or grant, or new or other leases or grants, where a lease or a grant in fee simple at a rent had been executed; and

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- (v) may enter into a contract for or relating to the execution of any improvement authorised by this Act, and may vary or rescind any such contract; and
  - (vi) may, in any other case, enter into a contract to do any act for carrying into effect any of the purposes of this Act, and may vary or rescind any such contract.
- (2) Every contract, including a contract arising by reason of the exercise of an option, shall be binding on and shall enure for the benefit of the settled land, and shall be enforceable against and by every successor in title for the time being of the tenant for life, or statutory owner, and may be carried into effect by any such successor, but so that it may be varied or rescinded by any such successor, in the like case and manner, if any, as if it had been made by himself.
- (3) The court may, on the application of the tenant for life, or statutory owner, or of any such successor as aforesaid, or of any person interested in any contract, give directions respecting the enforcing, carrying into effect, varying, or rescinding thereof.
- (4) A preliminary contract under this Act for or relating to a lease, and a contract conferring an option, shall not form part of the title or evidence of the title of any person to the lease, or to the benefit thereof, or to the land the subject of the option.
- (5) All money, not being rent, received on the exercise by the tenant for life or statutory owner of the powers conferred by subsection (1) of this section, shall, unless the court on an application made within six months after the receipt of the money, or within such further time as the court may in special circumstances allow, otherwise directs, be capital money arising under this Act.

## **91 Provisions as to different estates settled upon the same limitations.**

- (1) Where estates are settled by different settlements upon the same limitations, whether by reference or otherwise, the following provisions shall have effect:—
- (i) The estates or any two or more of them, as the case may require, may be treated as one aggregate estate, in which case the aggregate estate shall be the settled land for all the purposes of this Act;
  - (ii) Where the trustees for the purposes of this Act of the two or several settlements are the same persons they shall be the trustees of the settlement of the aggregate estate for all the purposes of this Act, and all or any part of the capital money arising from one of the estates may be applied by the direction of the tenant for life or statutory owner as if the same had arisen from any other of the estates;
  - (iii) Where the trustees for the purposes of this Act of the settlements or of any two or more of them are not the same persons—
    - (a) any notice required to be given by this Act to the trustees of the settlement and to the solicitor of such trustees shall be given to the trustees of every settlement which comprises any part of the land to which such notice relates and to the solicitor of such trustees;
    - (b) any capital money arising on any sale, exchange, lease, mortgage, charge, or other disposition of land comprised in more than one settlement, shall be apportioned between the trustees of the different settlements in such manner as the tenant for life or statutory owner may think fit;
    - (c) all or any part of the capital money arising from the land comprised in one of the settlements may be paid by the trustees of that settlement,

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by such direction as aforesaid, to the trustees of any of the other settlements, to be applied by such last-mentioned trustees as if the same had arisen from land comprised in that other settlement:

- (iv) For the purposes of this subsection, money liable to be laid out in the purchase of land to be settled upon the same limitations as other land may be applied and dealt with in like manner in all respects as if land had been purchased and settled, and the money were capital money arising therefrom.
- (2) Estates shall be deemed to be settled upon the same limitations, notwithstanding that any of them may be subject to incumbrances, charges, or powers of charging to which the other or others of them may not be subject:
- Provided that, in any such case as last aforesaid, the powers of this section relating to the payment or application of capital money shall not, unless the settlement under which the capital money is held otherwise provides, be exercisable without an order of the court.
- (3) This section has effect without prejudice to any appointment made by the court before the commencement of this Act of trustees of the settlement of an aggregate estate, and to the power of the court in any case after such commencement to make any such appointment, and where any such appointment has been made before such commencement, or is made thereafter, this section has effect as if the trustees so appointed and their successors in office were the trustees for the purposes of this Act of each of the settlements constituting the settlement of the aggregate estate, and there were no other trustees thereof for the purposes of this Act.
- (4) In this section “estate” means the land, capital money, and securities representing capital money for the time being subject to a particular settlement.

## **92 Proceedings for protection or recovery of land settled or claimed as settled.**

The court may, if it thinks fit, approve of any action, defence, petition to Parliament, parliamentary opposition, or other proceeding taken or proposed to be taken for the protection of settled land, or of any action or proceeding taken or proposed to be taken for the recovery of land being or alleged to be subject to a settlement, and may direct that any costs, charges, or expenses incurred or to be incurred in relation thereto, or any part thereof, be paid out of property subject to the settlement.

## **93 Reference of questions to court.**

If a question arises or a doubt is entertained—

- (a) respecting the exercise or intended exercise of any of the powers conferred by this Act, or any enactment replaced by this Act, or the settlement, or any matter relating thereto; or
- (b) as to the person in whose favour a vesting deed or assent ought to be executed, or as to the contents thereof; or
- (c) otherwise in relation to property subject to a settlement;

the tenant for life or statutory owner, or the trustees of the settlement, or any other person interested under the settlement, may apply to the court for its decision or directions thereon, or for the sanction of the court to any conditional contract, and the court may make such order or give such directions respecting the matter as the court thinks fit.



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## PART VI

### GENERAL PROVISIONS AS TO TRUSTEES

#### 94 Number of trustees to act.

- (1) Notwithstanding anything in this Act, capital money arising under this Act shall not be paid to fewer than two persons as trustees of a settlement, unless the trustee is a trust corporation.
- (2) Subject as aforesaid the provisions of this Act referring to the trustees of a settlement apply to the surviving or continuing trustees or trustee of the settlement for the time being.

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

C32 S. 94 saved by [Trafalgar Estates Act 1947 \(c. 34\), s. 2\(1\)](#)

#### 95 Trustees' receipts.

The receipt or direction in writing of or by the trustees of the settlement, or where a sole trustee is a trust corporation, of or by that trustee, or of or by the personal representatives of the last surviving or continuing trustee, for or relating to any money or securities, paid or transferred to or by the direction of the trustees, trustee, or representatives, as the case may be, effectually discharges the payer or transferor therefrom, and from being bound to see to the application or being answerable for any loss or misapplication thereof, and, in case of a mortgagee or other person advancing money, from being concerned to see that any money advanced by him is wanted for any purpose of this Act, or that no more than is wanted is raised.

F<sup>54</sup>96 .....

#### Textual Amendments

F54 S. 96 repealed (1.2.2001) by 2000 c. 29, s. 40(1)(3), Sch. 2 Pt. II para. 12, [Sch. 4 Pt. II](#) (with s. 35); S.I. 2001/49, [art. 2](#)

#### 97 Protection of trustees generally.

The trustees of a settlement, or any of them—

- (a) are not liable for giving any consent, or for not making, bringing, taking, or doing any such application, action, proceeding, or thing, as they might make, bring, take, or do; and
- (b) in case of a purchase of land with capital money arising under this Act, or of an exchange, lease, or other disposition, are not liable for adopting any contract made by the tenant for life or statutory owner, or bound to inquire as to the propriety of the purchase, exchange, lease, or other disposition, or answerable as regards any price, consideration, or fine; and

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- (c) are not liable to see to or answerable for the investigation of the title, or answerable for a conveyance of land, if the conveyance purports to convey the land in the proper mode; and
- (d) are not liable in respect of purchase-money paid by them by the direction of the tenant for life or statutory owner to any person joining in the conveyance as a conveying party, or as giving a receipt for the purchase-money, or in any other character, or in respect of any other money paid by them by the direction of the tenant for life or statutory owner on the purchase, exchange, lease, or other disposition.

**98 Protection of trustees in particular cases.**

<sup>F55</sup>(1) .....

<sup>F55</sup>(2) .....

- (3) The trustees of the settlement shall not be liable in any way on account of any vesting instrument or other documents of title relating to the settled land, other than securities for capital money, being placed in the possession of the tenant for life or statutory owner:

Provided that where, if the settlement were not disclosed, it would appear that the tenant for life had a general power of appointment over, or was absolutely and beneficially entitled to the settled land, the trustees of the settlement shall, before they deliver the documents to him, require that notice of the last or only principal vesting instrument be written on one of the documents under which the tenant for life acquired his title, and may, if the documents are not in their possession, require such notice to be written as aforesaid, but, in the latter case, they shall not be liable in any way for not requiring the notice to be written.

- (4) This section applies to dealings and matters effected before as well as after the commencement of this Act.

**Textual Amendments**  
<sup>F55</sup> S. 98(1)(2) repealed (1.2.2001) by 2000 c. 29, s. 40(1)(3), Sch. 2 Pt. II para. 13, **Sch. 4 Pt. II** (with s. 35); S.I. 2001/49, **art. 2**

**99 Indemnities to personal representatives and others.**

Personal representatives, trustees, or other persons who have in good faith, pursuant to this Act, executed a vesting deed, assent, or other conveyance of the settled land, or a deed of discharge of trustees, shall be absolutely discharged from all liability in respect of the equitable interests and powers taking effect under the settlement, and shall be entitled to be kept indemnified at the cost of the trust estate from all liabilities affecting the settled land, but the person to whom the settled land is conveyed (not being a purchaser taking free therefrom) shall hold the settled land upon the trusts, if any, affecting the same.

<sup>F56</sup>**100** .....

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### Textual Amendments

**F56** S. 100 repealed (1.2.2001) by 2000 c. 29, s. 40(1)(3), Sch. 2 Pt. II para. 14, Sch. 4 Pt. II (with s. 35); S.I. 2001/49, art. 2

## 101 Notice to trustees.

(1) Save as otherwise expressly provided by this Act, a tenant for life or statutory owner, when intending to make a sale, exchange, lease, mortgage, or charge or to grant an option—

- (a) shall give notice of his intention in that behalf to each of the trustees of the settlement, by posting registered letters, containing the notice, addressed to the trustees severally, each at his usual or last known place of abode in the United Kingdom; and
- (b) shall give a like notice to the solicitor for the trustees, if any such solicitor is known to the tenant for life or statutory owner, by posting a registered letter, containing the notice, addressed to the solicitor at this place of business in the United Kingdom;

every letter under this section being posted not less than one month before the making or granting by the tenant for life or statutory owner of the sale, exchange, lease, mortgage, charge, or option, or of a contract for the same:

Provided that a notice under this section shall not be valid unless at the date thereof the trustee is a trust corporation, or the number of trustees is not less than two.

- (2) The notice required by this section of intention to make a sale, exchange, or lease, or to grant an option, may be notice of a general intention in that behalf.
- (3) The tenant for life or statutory owner is, upon request by a trustee of the settlement, to furnish to him such particulars and information as may reasonably be required by him from time to time with reference to sales, exchanges, or leases effected, or in progress, or immediately intended.
- (4) Any trustee, by writing under his hand, may waive notice either in any particular case, or generally, and may accept less than one month's notice.
- (5) A person dealing in good faith with the tenant for life is not concerned to inquire respecting the giving of any such notice as is required by this section.

## 102 Management of land during minority or pending contingency.

- (1) If and as long as any person who is entitled to a beneficial interest in possession affecting land is an infant, the trustees appointed for this purpose by the settlement, or if there are none so appointed, then the trustees of the settlement, unless the settlement or the order of the court whereby they or their predecessors in office were appointed to be such trustees expressly provides to the contrary, or if there are none, then any persons appointed as trustees for this purpose by the court on the application of a guardian or next friend of the infant, may enter into and continue in possession of the land on behalf of the infant, and in every such case the subsequent provisions of this section shall apply.
- (2) The trustees shall manage or superintend the management of the land, with full power—

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- (a) to fell timber or cut underwood from time to time in the usual course for sale, or for repairs or otherwise; and
  - (b) to erect, pull down, rebuild, and repair houses, and other buildings and erections; and
  - (c) to continue the working of mines, minerals, and quarries which have usually been worked; and
  - (d) to drain or otherwise improve the land or any part thereof; and
  - [<sup>F57</sup>(e) to insure against risks of loss or damage due to any event under section 19 of the Trustee Act 1925;]
  - (f) to make allowances to and arrangements with tenants and others; and
  - (g) to determine tenancies, and to accept surrenders of leases and tenancies; and
  - (h) generally to deal with the land in a proper and due course of management;
- but so that, where the infant is impeachable for waste, the trustees shall not commit waste, and shall cut timber on the same terms only, and subject to the same restrictions, on and subject to which the infant could, if of full age, cut the same.
- (3) The trustees may from time to time, out of the income of the land, including the produce of the sale of timber and underwood, pay the expenses incurred in the management, or in the exercise of any power conferred by this section, or otherwise in relation to the land, and all outgoings not payable by any tenant or other person, and shall keep down any annual sum, and the interest of any principal sum, charged on the land.
- (4) This section has effect subject to an express appointment by the settlement, or the court, of trustees for the purposes of this section or of any enactment replaced by this section.
- (5) Where any person is contingently entitled to land, this section shall, subject to any prior interests or charges affecting that land, apply until his interest vests, or, if his interest vests during his minority, until he attains the age of [<sup>F58</sup>eighteen years].
- This subsection applies only where a person becomes contingently entitled under an instrument coming into operation after the commencement of this Act.
- (6) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, under which the interest of the infant or person contingently entitled as aforesaid arises, and has effect subject to the terms of that instrument and to the provisions therein contained.

#### Textual Amendments

**F57** S. 102(2)(e) substituted (1.2.2001) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. II para. 15** (with s. 35); S.I. 2001/49, **art. 2**

**F58** Words substituted by Family Law Reform Act 1969 (c. 46), s. 1(3), **Sch. 1 Pt. I**

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## PART VII

### RESTRICTIONS, SAVINGS, AND PROTECTION OF PURCHASERS

#### 103 Legal estate in settled land not to vest in trustee in bankruptcy of estate owner.

[<sup>F59</sup>For the purposes of determining, where the estate owner of any settled land is bankrupt, whether the legal estate in the settled land is comprised in, or is capable of being claimed for, the bankrupt's estate, the legal estate in the settled land shall be deemed not to vest in the] estate owner unless and until the estate owner becomes absolutely and beneficially entitled to the settled land free from all limitations, powers, and charges taking effect under the settlement.

#### Textual Amendments

**F59** Words substituted by [Insolvency Act 1985 \(c. 65, SIF 66\)](#), s. 235(1), [Sch. 8 para. 3](#), (with saving in [Insolvency Act 1986 \(c. 45, SIF 66\)](#), s. 437, [Sch. 11 para. 10](#))

#### 104 Powers not assignable, and contract not to exercise powers void.

- (1) The powers under this Act of a tenant for life are not capable of assignment or release, and do not pass to a person as being, by operation of law or otherwise, an assignee of a tenant for life, and remain exercisable by the tenant for life after and notwithstanding any assignment, by operation of law or otherwise, of his estate or interest under the settlement.

This subsection applies 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) A contract by a tenant for life not to exercise his powers under this Act or any of them shall be void.
- (3) Where an assignment for value of the estate or interest of the tenant for life was made before the commencement of this Act, this section shall operate without prejudice to the rights of the assignee, and in that case the assignee's rights shall not be affected without his consent, except that—
  - (a) unless the assignee is actually in possession of the settled land or the part thereof affected, his consent shall not be requisite for the making of leases thereof by the tenant for life or statutory owner, provided the leases are made at the best rent that can reasonably be obtained, without fine, and in other respects are in conformity with this Act; and
  - (b) the consent of the assignee shall not be required to an investment of capital money for the time being affected by the assignment in securities <sup>F60</sup> . . .
- (4) Where such an assignment for value is made or comes into operation after the commencement of this Act, the consent of the assignee shall not be requisite for the exercise by the tenant for life of any of the powers conferred by this Act:

provided that—

- (a) the assignee shall be entitled to the same or the like estate or interest in or charge on the land, money, or securities for the time being representing the

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- land, money, or securities comprised in the assignment, as he had by virtue of the assignment in the last-mentioned land, money, or securities; and
- (b) if the assignment so provides, or if it takes effect by operation of the law of bankruptcy, and after notice thereof to the trustees of the settlement, [<sup>F61</sup>the consent of the assignee shall be required to an investment of capital money for the time being affected by the assignment in investments other than securities, and to any application of such capital money;] and
  - (c) notice of the intended transaction shall, unless the assignment otherwise provides, be given to the assignee, but a purchaser shall not be concerned to see or inquire whether such notice has been given.
- (5) Where such an assignment for value was made before the commencement of this Act, then on the exercise by the tenant for life after such commencement of any of the powers conferred by this Act—
    - (a) a purchaser shall not be concerned to see or inquire whether the consent of the assignee has been obtained; and
    - (b) the provisions of paragraph (a) of the last subsection shall apply for the benefit of the assignee.
  - (6) A trustee or personal representative who is an assignee for value shall have power to consent to the exercise by the tenant for life of his powers under this Act, or to any such investment or application of capital money as aforesaid, and to bind by such consent all persons interested in the trust estate, or the estate of the testator or intestate.
  - (7) If by the original assignment, or by any subsequent disposition, the estate or interest assigned or created by the original assignment, or any part thereof, or any derivative interest is settled on persons in succession, whether subject to any prior charge or not, and there is no trustee or personal representative in whom the entirety of the estate or interest so settled is vested, then the person for the time being entitled in possession under the limitations of that settlement, whether as trustee or beneficiary, or who would, if of full age, be so entitled, and notwithstanding any charge or incumbrance subsisting or to arise under such settlement, shall have power to consent to the exercise by the tenant for life of his powers under this Act, or to any such investment or application of capital money as aforesaid, and to bind by such consent all persons interested or to become interested under such settlement.
  - (8) Where an assignee for value, or any person who has power to consent as aforesaid under this section, is an infant, the consent may be given on his behalf by his parents or parent or testamentary or other guardian in the order named.
  - (9) The court shall have power to authorise any person interested under any assignment to consent to the exercise by the tenant for life of his powers under this Act, or to any such investment or application of capital money as aforesaid, on behalf of himself and all other persons interested, or who may become interested under such assignment.
  - (10) An assignment by operation of the law of bankruptcy, where the assignment comes into operation after the commencement of this Act, shall be deemed to be an assignment for value for the purposes of this section.
  - (11) An instrument whereby a tenant for life, in consideration of marriage or as part or by way of any family arrangement, not being a security for payment of money advanced, makes an assignment of or creates a charge upon his estate or interest under the settlement is to be deemed one of the instruments creating the settlement, and not an assignment for value for the purposes of this section:

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Provided that this subsection shall not have effect with respect to any disposition made before the eighteenth day of August eighteen hundred and ninety, if inconsistent with the nature or terms of the disposition.

- (12) This section extends to assignments made or coming into operation before or after the commencement of this Act, and in this section “assignment” includes assignment by way of mortgage, and any partial or qualified assignment, and any charge or incumbrance, “assignee” has a corresponding meaning, and “assignee for value” includes persons deriving title under the original assignee.

#### Textual Amendments

- F60** Words in s. 104(3)(b) repealed (1.2.2001) by 2000 c. 29, s. 40(1)(3), Sch. 2 Pt. II para. 16(1)(a)(2), Sch. 4 Pt. II (with s. 35); S.I. 2001/49, art. 2
- F61** Words in s. 104(4)(b) substituted (1.2.2001) by 2000 c. 29, s. 40(1), Sch. 2 Pt. II para. 16(1)(b)(2) (with s. 35); S.I. 2001/49, art. 2

### 105 Effect of surrender of life estate to the next remainderman.

- (1) Where the estate or interest of a tenant for life under the settlement has been or is absolutely assured with intent to extinguish the same, either before or after the commencement of this Act, to the person next entitled in remainder or reversion under the settlement, then, . . . <sup>F62</sup> the statutory powers of the tenant for life under this Act shall, in reference to the property affected by the assurance, and notwithstanding the provisions of the last preceding section, cease to be exercisable by him, and the statutory powers shall thenceforth become exercisable as if he were dead, but without prejudice to any incumbrance affecting the estate or interest assured, and to the rights to which any incumbrancer would have been entitled if those powers had remained exercisable by the tenant for life.

This subsection applies whether or not any term of years or charge intervenes, or the estate of the remainderman or reversioneer is liable to be defeated, and whether or not the estate or interest of the tenant for life under the settlement was in possession at the date of the assurance.

This subsection does not prejudice anything done by the tenant for life before the commencement of this Act, in exercise of any power operating under the Settled Land Acts, 1882 to 1890, or, unless the assurance provides to the contrary, operate to accelerate any such intervening term of years or charge as aforesaid.

- (2) In this section “assurance” means any surrender, conveyance, assignment or appointment under a power (whether vested in any person solely, or jointly in two or more persons) which operates in equity to extinguish the estate or interest of the tenant for life, and “assured” has a corresponding meaning.

#### Textual Amendments

- F62** Words repealed by Law of Property (Amendment) Act 1926 (c. 11), Sch.



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## 106 Prohibition or limitation against exercise of powers void, and provision against forfeiture.

- (1) If in a settlement, will, assurance, or other instrument executed or made before or after, or partly before and partly after, the commencement of this Act a provision is inserted—
- (a) purporting or attempting, by way of direction, declaration, or otherwise, to forbid a tenant for life or statutory owner to exercise any power under this Act, or his right to require the settled land to be vested in him; or
  - (b) attempting, or tending, or intended, by a limitation, gift, or disposition over of settled land, or by a limitation, gift, or disposition of other real or any personal property, or by the imposition of any condition, or by forfeiture, or in any other manner whatever, to prohibit or prevent him from exercising, or to induce him to abstain from exercising or to put him into a position inconsistent with his exercising, any power under this Act, or his right to require the settled land to be vested in him;
- that provision, as far as it purports, or attempts, or tends, or is intended to have, or would or might have, the operation aforesaid, shall be deemed to be void.
- (2) For the purposes of this section an estate or interest limited to continue so long only as a person abstains from exercising any such power or right as aforesaid shall be and take effect as an estate or interest to continue for the period for which it would continue if that person were to abstain from exercising the power or right, discharged from liability to determination or cesser by or on his exercising the same.
- (3) Notwithstanding anything in a settlement, the exercise by the tenant for life or statutory owner of any power under this Act shall not occasion a forfeiture.

### Modifications etc. (not altering text)

C33 S. 106(1) excluded by [Chequers Estate Act 1958 \(c. 60\), s. 3\(5\)](#)

## 107 Tenant for life trustee for all parties interested.

- (1) A tenant for life or statutory owner shall, in exercising any power under this Act, have regard to the interests of all parties entitled under the settlement, and shall, in relation to the exercise thereof by him, be deemed to be in the position and to have the duties and liabilities of a trustee for those parties.
- [<sup>F63</sup>(1A) The following provisions apply to the tenant for life as they apply to the trustees of the settlement—
- (a) sections 11, 13 to 15 and 21 to 23 of the Trustee Act 2000 (power to employ agents subject to certain restrictions),
  - (b) section 32 of that Act (remuneration and expenses of agents etc.),
  - (c) section 19 of the Trustee Act 1925 (power to insure), and
  - (d) in so far as they relate to the provisions mentioned in paragraphs (a) and (c), Part I of, and Schedule 1 to, the Trustee Act 2000 (the duty of care).]

(2) The provision by a tenant for life or statutory owner, at his own expense, of dwellings available for the working classes on any settled land shall not be deemed to be an injury to any interest in reversion or remainder in that land, but such provision shall



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not be made by a tenant for life or statutory owner without the previous approval in writing of the trustees of the settlement.

#### Textual Amendments

**F63** S. 107(1A) inserted (1.2.2001) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. II para. 17** (with s. 35); S.I. 2001/49, **art. 2**

### 108 Saving for and exercise of other powers.

- (1) Nothing in this Act shall take away, abridge, or prejudicially affect any power for the time being subsisting under a settlement, or by statute or otherwise, exercisable by a tenant for life, or (save as hereinafter provided) by trustees with his consent, or on his request, or by his direction, or otherwise, and the powers given by this Act are cumulative.
- (2) In case of conflict between the provisions of a settlement and the provisions of this Act, relative to any matter in respect whereof the tenant for life or statutory owner exercises or contracts or intends to exercise any power under this Act, the provisions of this Act shall prevail; and, notwithstanding anything in the settlement, any power (not being merely a power of revocation or appointment) relating to the settled land thereby conferred on the trustees of the settlement or other persons exercisable for any purpose, whether or not provided for in this Act, shall, after the commencement of this Act, be exercisable by the tenant for life or statutory owner as if it were an additional power conferred on the tenant for life within the next following section of this Act and not otherwise.
- (3) If a question arises or a doubt is entertained respecting any matter within this section, the tenant for life or statutory owner, or the trustees of the settlement, or any other person interested, under the settlement may apply to the court for its decision thereon, and the court may make such order respecting the matter as the court thinks fit.

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

**C34** S. 108(2) excluded by **Chequers Estate Act 1958 (c. 60), s. 3(5)**

### 109 Saving for additional or larger powers under settlement.

- (1) Nothing in this Act precludes a settlor from conferring on the tenant for life, or (save as provided by the last preceding section) on the trustees of the settlement, any powers additional to or larger than those conferred by this Act.
- (2) Any additional or larger powers so conferred shall, as far as may be, notwithstanding anything in this Act, operate and be exercisable in the like manner, and with all the like incidents, effects, and consequences, as if they were conferred by this Act, and, if relating to the settled land, as if they were conferred by this Act on a tenant for life.

### 110 Protection of purchasers, &c.

- (1) On a sale, exchange, lease, mortgage, charge, or other disposition, a purchaser dealing in good faith with a tenant for life or statutory owner shall, as against all parties entitled under the settlement, be conclusively taken to have given the best price, consideration,

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or rent as the case may require, that could reasonably be obtained by the tenant for life or statutory owner, and to have complied with all the requisitions of this Act.

- (2) A purchaser of a legal estate in settled land shall not, except as hereby expressly provided, be bound or entitled to call for the production of the trust instrument or any information concerning that instrument or any ad valorem stamp duty thereon, and whether or not he has notice of its contents he shall, save as hereinafter provided, be bound and entitled if the last or only principal vesting instrument contains the statements and particulars required by this Act to assume that—
- (a) the person in whom the land is by the said instrument vested or declared to be vested is the tenant for life or statutory owner and has all the powers of a tenant for life under this Act, including such additional or larger powers, if any, as are therein mentioned;
  - (b) the persons by the said instrument stated to be the trustees of the settlement, or their successors appearing to be duly appointed, are the properly constituted trustees of the settlement;
  - (c) the statements and particulars required by this Act and contained (expressly or by reference) in the said instrument were correct at the date thereof;
  - (d) the statements contained in any deed executed in accordance with this Act declaring who are the trustees of the settlement for the purposes of this Act are correct;
  - (e) the statements contained in any deed of discharge, executed in accordance with this Act, are correct:

Provided that, as regards the first vesting instrument executed for the purpose of giving effect to—

- (a) a settlement subsisting at the commencement of this Act; or
- (b) an instrument which by virtue of this Act is deemed to be a settlement; or
- (c) a settlement which by virtue of this Act is deemed to have been made by any person after the commencement of this Act; or
- (d) an instrument inter vivos intended to create a settlement of a legal estate in land which is executed after the commencement of this Act and does not comply with the requirements of this Act with respect to the method of effecting such a settlement;

a purchaser shall be concerned to see—

- (i) that the land disposed of to him is comprised in such settlement or instrument;
- (ii) that the person in whom the settled land is by such vesting instrument vested, or declared to be vested, is the person in whom it ought to be vested as tenant for life or statutory owner;
- (iii) that the persons thereby stated to be the trustees of the settlement are the properly constituted trustees of the settlement.

- (3) A purchaser of a legal estate in settled land from a personal representative shall be entitled to act on the following assumptions:—
- (i) If the capital money, if any, payable in respect of the transaction is paid to the personal representative, that such representative is acting under his statutory or other powers and requires the money for purposes of administration;
  - (ii) If such capital money is, by the direction of the personal representative, paid to persons who are stated to be the trustees of a settlement, that such persons are the duly constituted trustees of the settlement for the purposes of this Act,

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- and that the personal representative is acting under his statutory powers during a minority;
- (iii) In any other case, that the personal representative is acting under his statutory or other powers.
- (4) Where no capital money arises under a transaction, a disposition by a tenant for life or statutory owner shall, in favour of a purchaser of a legal estate, have effect under this Act notwithstanding that at the date of the transaction there are no trustees of the settlement.
- (5) If a conveyance of or an assent relating to land formerly subject to a vesting instrument does not state who are the trustees of the settlement for the purposes of this Act, a purchaser of a legal estate shall be bound and entitled to act on the assumption that the person in whom the land was thereby vested was entitled to the land free from all limitations, powers, and charges taking effect under that settlement, absolutely and beneficially, or, if so expressed in the conveyance or assent, as personal representative, or [<sup>F64</sup>trustee of land] or otherwise, and that every statement of fact in such conveyance or assent is correct.

#### Textual Amendments

**F64** Words in s. 110(5) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(12)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art.2**

### 111 Purchaser of beneficial interest of tenant for life to have remedies of a legal owner.

Where—

- (a) at the commencement of this Act the legal beneficial interest of a tenant for life under a settlement is vested in a purchaser; or
- (b) after the commencement of this Act a tenant for life conveys or deals with his beneficial interest in possession in favour of a purchaser, and the interest so conveyed or created would, but for the restrictions imposed by statute on the creation of legal estates, have been a legal interest;

the purchaser shall (without prejudice to the powers conferred by this Act on the tenant for life) have and may exercise all the same rights and remedies as he would have had or have been entitled to exercise if the interest had remained or been a legal interest and the reversion, if any, on any leases or tenancies derived out of the settled land had been vested in him:

Provided that, where the conveyance or dealing is effected after the commencement of this Act, the purchaser shall not be entitled to the possession of the documents of title relating to the settled land, but shall have the same rights with respect thereto as if the tenant for life had given to him a statutory acknowledgment of his right to production and delivery of copies thereof, and a statutory undertaking for the safe custody thereof.

The tenant for life shall not deliver any such documents to a purchaser of his beneficial interest, who is not also a purchaser of the whole of the settled land to which such documents relate.

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## 112 Exercise of powers; limitation of provisions, &c.

- (1) Where a power of sale, exchange, leasing, mortgaging, charging, or other power is exercised by a tenant for life, or statutory owner or by the trustees of a settlement, he and they may respectively execute, make, and do all deeds, instruments, and things necessary or proper in that behalf.
- (2) Where any provision in this Act refers to sale, purchase, exchange, mortgaging, charging, leasing, or other disposition or dealing, or to any power, consent, payment, receipt, deed, assurance, contract, expenses, act, or transaction, it shall (unless the contrary appears) be construed as extending only to sales, purchases, exchanges, mortgages, charges, leases, dispositions, dealings, powers, consents, payments, receipts, deeds, assurances, contracts, expenses, acts, and transactions under this Act.

## PART VIII

### COURT, MINISTRY OF AGRICULTURE AND FISHERIES, PROCEDURE

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

- C35** Style and title of Minister of Agriculture and Fisheries now changed to Minister of Agriculture, Fisheries and Food by [S.I. 1955/554](#) (1955 Lp. 1200)

## 113 Jurisdiction and procedure.

- (1) All matters within the jurisdiction of the court under this Act shall, subject to the enactments for the time being in force with respect to the procedure of the Supreme Court of Judicature, be assigned to the Chancery Division of the High Court.
- (2) .....<sup>F65</sup>
- [<sup>F66</sup>(3) The powers of the court may, as regards land not exceeding in capital value the county court limit, or in net annual value for rating the county court limit, and, as regards capital money arising under this Act, and securities in which the same is invested, not exceeding in amount or value the county court limit, and as regards personal chattels settled or to be settled, as in this Act mentioned, not exceeding the county court limit, be exercised by any county court. Section 147(2) and (3) of the County Courts Act 1984 (construction of references to net annual value for rating) shall apply for the purposes of this subsection as it applies for the purposes of that Act.]
- [<sup>F67</sup>(3A) In the preceding subsection “the county court limit” means the county court limit for the time being specified by an Order in Council under [<sup>F68</sup>section 145 of the County Courts Act 1984] as the county court limit for the purposes of that subsection.]
- (4) payment of money into court effectually exonerates therefrom the person making the payment.
- (5) Every application to the court under this Act shall, subject to any rules of court to the contrary, be by summons at Chambers.
- (6) On an application by the trustees of a settlement notice shall be served in the first instance on the tenant for life.
- (7) On any application notice shall be served on such persons, if any, as the court thinks fit.

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- (8) The court shall have full power and discretion to make such order as it thinks fit respecting the costs, charges, or expenses of all or any of the parties to any application, and may, if it thinks fit, order that all or any of those costs, charges, or expenses be paid out of property subject to the settlement.
- (9) The provisions of the <sup>M13</sup>Trustee Act, 1925, relating to vesting orders and orders appointing a person to convey shall apply to all vesting orders authorised to be made by this Act.

#### Textual Amendments

- F65** S. 113(2) repealed by Courts Act 1971 (c. 23), Sch. 11 Pt. II
- F66** S. 113(3) substituted by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), Sch. 2 Pt. V para. 20(a)
- F67** S. 113(3A) inserted by Administration of Justice Act 1982 (c. 53, SIF 34), s. 37, Sch. 3 para. 4
- F68** Words substituted by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), Sch. 2 Pt. V para. 20(b)

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

- C36** S. 113 amended by S.I. 1990/776, art. 4(1)(c)
- C37** S. 113(3) modified by County Courts Act 1984 (c. 28, SIF 34), s. 24(2)(a)

#### Marginal Citations

- M13** 1925 c. 19.

### 114 Payment of costs out of settled property.

Where the court directs that any costs, charges, or expenses to be paid out of property subject to a settlement, the same shall, subject and according to the directions of the court, be raised and paid—

- (a) out of capital money arising under this Act, or other money liable to be laid out in the purchase of land to be made subject to the settlement; or
- (b) out of securities representing such money, or out of income of any such money or securities; or
- (c) out of any accumulations of income of land, money, or securities; or
- (d) by means of a sale of part of the settled land in respect whereof the costs, charges, or expenses are incurred, or of other settled land comprised in the same settlement and subject to the same limitations; or
- (e) by means of a legal mortgage of the settled land or any part thereof to be made by such person as the court directs;

or partly in one of those modes and partly in another or others, or in any such other mode as the court thinks fit.

### 115 Powers of the Minister of Agriculture.

- (1) The [<sup>F69</sup>Secretary of State] shall, by virtue of this Act, have for the purposes of any Act, public general or local or private, making provision for the execution of improvements on settled land, all such powers and authorities as he has for the purposes of the <sup>M14</sup>Improvement of Land Act, 1864.
- (2) The provisions of the last-mentioned Act relating to proceedings and inquiries, and to authentication of instruments, and to declarations, statements, notices, applications,

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forms, security for expenses, inspections and examinations, shall extend and apply, as far as the nature and circumstances of the case admit, to acts and proceedings done or taken by or in relation to the [<sup>F70</sup>Secretary of State] under any Act making provision as last aforesaid.

- (3) The provisions of any Act relating . . . <sup>F71</sup> to security for costs to be taken in respect of the business transacted under the Acts administered by the [<sup>F72</sup>Secretary of State] as successor of the Land Commissioners for England shall extend and apply to the business transacted by or under the direction of the [<sup>F72</sup>Secretary of State] under any Act, public general or local or private, by which any power or duty is conferred or imposed on him as such successor.

#### Textual Amendments

- F69** Words in s. 115(1) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 4(2)** (with arts. 5(3), 6)
- F70** Words in s. 115(2) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 4(3)** (with arts. 5(3), 6)
- F71** Words repealed by **Agriculture (Miscellaneous Provisions) Act 1963 (c. 11), Sch. Pt. II**
- F72** Words in s. 115(3) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 4(4)** (with arts. 5(3), 6)

#### Marginal Citations

- M14** 1864 c. 114.

### 116 Filing of certificates, &c. at the Ministry of Agriculture.

- (1) Every certificate and report approved and made by the [<sup>F73</sup>Secretary of State] under this Act shall be filed in the office of the [<sup>F74</sup>Secretary of State].
- (2) An office copy of any certificate or report so filed shall be delivered out of such office to any person requiring the same, on payment of the proper fee, and shall be sufficient evidence of the certificate or report whereof it purports to be a copy.

#### Textual Amendments

- F73** Words in s. 116(1) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 5(2)** (with arts. 5(3), 6)
- F74** Words in s. 116(1) substituted (27.3.2002) by S.I. 2002/794, art. 5(1), **Sch. 1 para. 5(3)** (with arts. 5(3), 6)

## PART IX

### SUPPLEMENTARY PROVISIONS

### 117 Definitions.

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say:—

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- (i) “Building purposes” include the erecting and the improving of, and the adding to, and the repairing of buildings; and a “building lease” is a lease for any building purposes or purposes connected therewith;
- (ii) “Capital money arising under this Act” means capital money arising under the powers and provisions of this Act or the Acts replaced by this Act, and receivable for the trusts and purposes of the settlement and includes securities representing capital money;
- (iii) “Death duty” means estate duty, . . . <sup>F75</sup> and every other duty leviable or payable on death;
- (iv) “Determinable fee” means a fee determinable whether by limitation or condition;
- (v) “Disposition” and “conveyance” include a mortgage, charge by way of legal mortgage, lease, assent, vesting declaration, vesting instrument, disclaimer, release and every other assurance of property or of an interest therein by any instrument, except a will, and “dispose of” and “convey” have corresponding meanings;
- (vi) “Dower” includes “freebench”;
- (vii) “Hereditaments” mean real property which on an intestacy might before the commencement of this Act have devolved on an heir;
- (viii) “Instrument” does not include a statute unless the statute creates a settlement;
- (ix) “Land” includes land of any tenure, and mines and minerals whether or not held apart from the surface, buildings or parts of buildings (whether the division is horizontal, vertical or made in any other way) and other corporeal hereditaments; also a manor, an advowson, and a rent and other incorporeal hereditaments, and an easement, right, privilege, or benefit in, over, or derived from land, and any estate or interest in land [<sup>F76</sup>,but does not (except in the phrase “trust of land”) include] an undivided share in land;
- (x) “Lease” includes an agreement for a lease, and “forestry lease” means a lease to the Forestry Commissioners for any purpose for which they are authorised to acquire land by the <sup>M15</sup>Forestry Act, 1919;
- (xi) “Legal mortgage” means a mortgage by demise or subdemise or a charge by way of legal mortgage, and “legal mortgagee” has a corresponding meaning; “legal estate” means an estate interest or charge in or over land (subsisting or created at law) which is by statute authorised to subsist or to be created at law; and “equitable interests” mean all other interests and charges in or over land or in the proceeds of sale thereof; an equitable interest “capable of subsisting at law” means such an equitable interest as could validly subsist at law, if clothed with the legal estate; and “estate owner” means the owner of a legal estate;
- (xii) “Limitation” includes a trust, and “trust” includes an implied or constructive trust;
- (xiii) . . . . . <sup>F77</sup>
- (xiv) “Manor” includes lordship, and reputed manor or lordship; and “manorial incident” has the same meaning as in the <sup>M16</sup>Law of Property Act, 1922;
- (xv) “Mines and minerals” mean mines and minerals whether already opened or in work or not, and include all minerals and substances in, on, or under the land, obtainable by underground or by surface working; and “mining purposes” include the sinking and searching for, winning, working, getting, making merchantable, smelting or otherwise converting or working for the purposes of any manufacture, carrying away, and disposing of mines and minerals, in or under the settled land, or any other land, and the erection of buildings, and

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- the execution of engineering and other works suitable for those purposes; and a “mining lease” is a lease for any mining purposes or purposes connected therewith, and includes a grant or licence for any mining purposes;
- <sup>F78</sup>(xvi) . . . . .
- (xvii) “Notice” includes constructive notice;
- (xviii) “personal representative” means the executor, original or by representation, or administrator, for the time being of a deceased person, and where there are special personal representatives for the purposes of settled land means those personal representatives;
- (xix) “Possession” includes receipt of rents and profits, or the right to receive the same, if any; and “income” includes rents and profits;
- (xx) “property” includes any thing in action, and any interest in real or personal property;
- (xxi) “purchaser” means a purchaser in good faith for value, and includes a lessee, mortgagee or other person who in good faith acquires an interest in settled land for value; and in reference to a legal estate includes a chargee by way of legal mortgage;
- (xxii) “Rent” includes yearly or other rent, and toll, duty, royalty, or other reservation, by the acre, or the ton, or otherwise; and, in relation to rent, “payment” includes delivery; and “fine” includes premium or fore-gift, and any payment, consideration, or benefit in the nature of a fine, premium, or fore-gift;
- (xxiii) “Securities” include stocks, funds, and shares;
- (xxiv) “Settled land” includes land which is deemed to be settled land; “settlement” includes an instrument or instruments which under this Act or the Acts which it replaces is or are deemed to be or which together constitute a settlement, and a settlement which is deemed to have been made by any person or to be subsisting for the purposes of this Act; “a settlement subsisting at the commencement of this Act” includes a settlement created by virtue of this Act immediately on the commencement thereof; and “trustees of the settlement” mean the trustees thereof for the purposes of this Act howsoever appointed or constituted;
- (xxv) “Small dwellings” mean dwelling-houses of a rateable value not exceeding one hundred pounds per annum;
- (xxvi) “Statutory owner” means the trustees of the settlement or other persons who, during a minority, or at any other time when there is no tenant for life, have the powers of a tenant for life under this Act, but does not include the trustees of the settlement, where by virtue of an order of the court or otherwise the trustees have power to convey the settled land in the name of the tenant for life;
- (xxvii) “Steward” includes deputy steward, or other proper officer, of a manor;
- (xxviii) “Tenant for life” includes a person (not being a statutory owner) who has the powers of a tenant for life under this Act, and also (where the context requires) one of two or more persons who together constitute the tenant for life, or have the powers of a tenant for life; and “tenant in tail” includes a person entitled to an entailed interest in any property; and “entailed interest” has the same meaning as in the <sup>M17</sup>Law of Property Act, 1925;
- (xxix) A “term of years absolute” means a term of years, taking effect either in possession or in reversion, with or without impeachment for waste, whether at a rent or not and whether subject or not to another legal estate, and whether certain or liable to determination by notice, re-entry, operation of law, or by



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a provision for cesser on redemption, or in any other event (other than the dropping of a life, or the determination of a determinable life interest), but does not include any term of years determinable with life or lives or with the cesser of a determinable life interest, nor, if created after the commencement of this Act, a term of years which is not expressed to take effect in possession within twenty-one years after the creation thereof where required by statute to take effect within that period; and in this definition the expression “term of years” includes a term for less than a year, or for a year or years and a fraction of a year or from year to year;

(xxx) “Trust corporation” means the Public Trustee or a corporation either appointed by the court in any particular case to be a trustee or entitled by rules made under subsection (3) of section four of the <sup>M18</sup>Public Trustee Act, 1906, to act as custodian trustee, and “trust for sale”<sup>[F79]</sup> has the same meaning] as in the <sup>M19</sup>Law of Property Act, 1925;

(xxxii) In relation to settled land “vesting deed” or “vesting order” means the instrument whereby settled land is conveyed to or vested or declared to be vested in a tenant for life or statutory owner; “vesting assent” means the instrument whereby a personal representative, after the death of a tenant for life or statutory owner, or the survivor of two or more tenants for life or statutory owners, vests settled land in a person entitled as tenant for life or statutory owner; “vesting instrument” means a vesting deed, a vesting assent or, where the land affected remains settled land, a vesting order; “principal vesting instrument” includes any vesting instrument other than a subsidiary vesting deed; and “trust instrument” means the instrument whereby the trusts of the settled land are declared, and includes any two or more such instruments and a settlement or instrument which is deemed to be a trust instrument;

(xxxiii) “United Kingdom” means Great Britain and Northern Ireland;

(xxxiiii) “Will” includes codicil.

<sup>F80</sup>(1A) Any reference in this Act to money, securities or proceeds of sale being paid or transferred into court shall be construed as referring to the money, securities or proceeds being paid or transferred into the Supreme Court or any other court that has jurisdiction, and any reference in this Act to the court, in a context referring to the investment or application of money, securities or proceeds of sale paid or transferred into court, shall be construed, in the case of money, securities or proceeds paid or transferred into the Supreme Court, as referring to the High Court, and, in the case of money, securities or proceeds paid or transferred into another court, as referring to that other court]

(2) Where an equitable interest in or power over property arises by statute or operation of law, references to the “creation” of an interest or power include any interest or power so arising.

(3) References to registration under the <sup>M20</sup>Land Charges Act, 1925, apply to any registration made under any statute which is by the Land Charges Act, 1925, to have effect as if the registration had been made under that Act.

#### Textual Amendments

**F75** Words repealed with saving by [Finance Act 1949 \(c. 47\)](#), [Sch. 11 Pt. IV](#)

**F76** Words in s. 117(1)(ix) substituted (1.1.1997) by [1996 c. 47, s. 25\(1\)](#), [Sch. 3 para. 2\(13\)\(a\)](#)(with ss. 24(2), 25(4)(5)); [S.I. 1996/2974, art. 2](#)

**F77** S. 117(1)(xiii) repealed by [Mental Health Act 1959 \(c. 72\)](#), [Sch. 8 Pt. I](#)

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- F78** S. 117(1)(xvi) repealed (27.3.2002) by S.I. 2002/794, art. 5(2), **Sch. 2** (with art. 6)
- F79** Words in s. 117(1)(xxx) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(13)(b)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**
- F80** S. 117(1A) added by Administration of Justice Act 1965 (c. 2), **Sch. 1**

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

- C38** S. 117(1)(ii) extended by Land Compensation Act 1973 (c. 26, SIF 28:1), **ss. 10(3), 52(7)**
- C39** Definition of “forestry lease” amended with the substitution for references to Forestry Commissioners of references to Minister of Agriculture, Fisheries and Food (E.) and Secretary of State (W.): Forestry Act 1967 (c. 10), **Sch. 6 para. 5**
- C40** S. 117(1)(xxx): definition extended by Law of Property (Amendment) Act 1926 (c. 11), **s. 3**, S.I. 1952/862 (1952 II, P. 2322), Clergy Pensions Measure 1961 (No. 3), **s. 31**
- C41** Definition in s. 117(1)(xxx) extended (retrospectively) by Charities Act 1960 (c. 58) s. 21A(a) (which was inserted and applied retrospectively (1. 9. 1992) by Charities Act 1992 (c. 41), **s. 14(1)(2)**; S.I. 1992/1900, **art. 2(1), Sch. 1**) and the said s. 14 falls with the partial repeal (1.8.1993) of that 1960 Act by 1993 c. 10, s. 98(2), **Sch. 7**.  
Definition in s. 117(1)(xxx) extended (retrospectively) by 1993 c. 10, **s. 35(1)(a)(2)**, 99(1)
- C42** Definition in s. 117(1)(xxx) extended (retrospectively) by Charities Act 2011 (c. 25), s. 10(2), **Sch. 7 para. 3(1)(2)(a)(3)** (with s. 20(2), **Sch. 8**)

#### Marginal Citations

- M15** 1919 c. 58.  
**M16** 1922 c. 16.  
**M17** 1925 c. 20.  
**M18** 1906 c. 55.  
**M19** 1925 c. 20.  
**M20** 1925 c. 22.

### 118 Retrospective amendment of certain provisions of Settled Land Acts.

For the purpose of removing certain doubts as to the construction and operation of the Settled Land Acts, 1882 to 1890, and validating past transactions, the provisions contained in the Fourth Schedule to this Act shall have effect.

Subject as aforesaid, this Act does not affect the validity of anything done or any order made or directions given by the court before the commencement of this Act.

### 119 Repeals, savings, and construction.

- (1) . . . . . <sup>F81</sup> without prejudice to the provisions of section thirty-eight of the <sup>M21</sup> Interpretation Act, 1889:—
- (a) Nothing in this repeal shall affect the validity or legality of any dealing in land or other transaction completed before the commencement of this Act, or any title or right acquired or appointment made before the commencement of this Act, but, subject as aforesaid, this Act shall, except where otherwise expressly provided, apply to and in respect of settlements and other instruments whether made or coming into operation before or after the commencement of this Act;
- (b) Nothing in this repeal shall affect any rules, orders, or other instruments made under any enactment so repealed, but all such rules, orders and instruments shall continue in force as if made under the corresponding enactment in this Act;

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- (c) References in any document to any enactment repealed by this Act shall be construed as references to this Act or the corresponding enactment in this Act.
- (2) References in any statute to the <sup>M22</sup>Settled Estates Act, 1877, and to any enactment which it replaced shall be construed as references to this Act.
- <sup>F82</sup>(3) .....

**Textual Amendments**

- F81** Words repealed by [Statute Law Revision Act 1950 \(14 Geo. 6 c. 6\)](#)
- F82** [S. 119\(3\)](#) repealed (13.10.2003) by [Land Registration Act 2002 \(c. 9\)](#), s. 136(2), Sch. 11 para. 1, [Sch. 13](#) (with s. 129, Sch. 12 para. 1); S.I. 2003/1725, art. 2(1)

**Marginal Citations**

- M21** 1889 c. 63.
- M22** 1877 c. 18.

**120 †Short title, commencement and extent.**

- (1) This Act may be cited as the Settled Land Act, 1925.
- (2) ..... <sup>F83</sup>
- (3) This Act extends to England and Wales only.

**Textual Amendments**

- F83** [S. 120\(2\)](#) repealed by [Statute Law Revision Act 1950 \(14 Geo. 6 c. 6\)](#)

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

- C43** Unreliable margin note

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## FIRST SCHEDULE

Section 15.

## FORMS OF INSTRUMENTS

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

**C44** Sch. 1 amended (1.7.1995) by 1994 c. 36, s.9 (with s. 20); S.I. 1995/1317, art.2

**FORM NO. 1**VESTING DEED FOR GIVING EFFECT TO A SETTLEMENT  
SUSISTING AT THE COMMENCEMENT OF THIS ACT

This Vesting Deed is made [&c.] between X. of [&c.] and Y. of [&c.] (hereinafter called the trustees) of the one part and T.L. of [&c.] of the other part.

*[Recite the Settlement under which T.L. is a tenant for life of full age in possession of the freeholds and leaseholds respectively described in the First and Second Schedules and has power to appoint new trustees, and the trustees are trustees for the purposes of the Settled Land Act, 1925, also the request by T.L. that the trustees should execute the requisite vesting deed.]*

Now for giving effect to the requirements of the Settled Land Act, 1925, this deed witnesseth as follows:—

- 1 The trustees as Trustees hereby declare that—  
  
All and singular the hereditaments and premises respectively mentioned in the First and Second Schedules hereto and all other (if any) the premises capable of being vested by this declaration which are now by any means subject to the limitations of the recited settlement are vested in the said T.L. as to the freehold hereditaments mentioned in the First Schedule hereto in fee simple, and as to the leasehold hereditaments mentioned in the Second Schedule hereto, for all the residue of the terms of years for which the same are respectively held.
- 2 The said T.L. shall stand possessed of the premises upon the trusts and subject to the powers and provisions upon and subject to which under the recited settlement or otherwise the same ought to be held from time to time.
- 3 The trustees are the trustees of the settlement for the purposes of the Settled Land Act, 1925.
- 4 The following additional or larger powers are conferred by the said settlement in relation to the settled land, and by virtue of the Settled Land Act, 1925, operate and are exercisable as if conferred by that Act on a tenant for life *[Here insert the additional powers]*.
- 5 *[Add the usual covenant by T.L. with the trustees to pay the rent in respect of leasehold hereditaments, observe the lessee's covenants and keep the trustees indemnified.]*
- 6 The power to appoint a new trustee or new trustees of the settlement is vested in the said T.L. during his life.

In witness [&c.].

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[NOTE.—Add the schedules. In the first part of the First Schedule give particulars of the manors, advowsons and other incorporeal hereditaments. In the second part give particulars of the freehold land referring, if practicable, to annexed plans, so that the vesting deed may ultimately become a convenient root of title. Unless this is done the deeds referred to will for purposes of the parcels remain part of the title. In the Second Schedule give particulars of the dates of and parties to the leases of the leasehold hereditaments, and short particulars of the properties demised, the terms and the rents. If there are any mortgages having priority to the settlement these should be mentioned in another schedule and referred to in the recitals.]

## FORM NO. 2

### VESTING DEED ON THE SETTLEMENT OF LAND

This Vesting Deed made [&c.] between *John H.* of [&c.] of the first part, *Jane W.* of [&c.] of the second part, and *X.* of [&c.], *Y.* of [&c.], and *Z.* of [&c.] (hereinafter called the trustees) of the third part.

Witnesseth and it is hereby declared as follows:—

1 In consideration of the intended marriage between *John H.* and *Jane W.* the said *John H.* as Settlor hereby declares that

All that (*setting out the parcels by reference to a schedule or otherwise*) are vested in *John H.* in fee simple (*or in the case of leaseholds refer to the terms*).

Upon the trusts declared concerning the same by a Trust Instrument bearing even date with but intended to be executed contemporaneously with these presents and made between the same parties and in the same order as these presents or upon such other trusts as the same ought to be held from time to time.

2 The trustees are the trustees of the settlement for the Purposes of the Settled Land Act, 1925.

3 The following additional or larger powers are conferred by the said trust instrument in relation to the settled land and by virtue of the Settled Land Act, 1925, operate and are exercisable as if conferred by that Act on a tenant for life. [*Here insert the additional powers.*]

4 The power of appointing a new trustee or new trustees of the settlement is vested in the said [*John H.*] during his life.

In witness [&c.].

## FORM NO. 3

### TRUST INSTRUMENT OF THE SETTLEMENT OF LAND

This Trust Instrument is made [&c.] between *John H.* of [&c.] (hereinafter called the Settlor) of the first part, *Jane W.* of [&c.] of the second part, and *X.* of [&c.], *Y.* of [&c.], and *Z.* of [&c.] (hereinafter called the trustees) of the third part.

Whereas by a deed (herinafter called the Vesting Deed) bearing even date with but executed contemporaneously with these presents, and made between the same parties and in the same

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order as these presents, certain hereditaments situated at in the county of were vested in the Settlor Upon the trusts declared concerning the same by a trust instrument of even date therein referred to (meaning these presents).

Now in consideration of the intended marriage between the Settlor and *Jane W.*, this Deed witnesseth as follows:—

- 1 The Settlor hereby agrees that he will hold the hereditaments and property comprised in the Vesting Deed In trust for himself until the solemnisation of the said marriage and thereafter Upon the trusts following, that is to say:—
- 2 Upon trust for the Settlor during his life without impeachment of waste with remainder Upon trust if *Jane W.* survives him that she shall receive out of the premises during the residue of her life a yearly jointure rentcharge of [&c.] and subject thereto Upon trust for the trustees for a term of 800 years from the date of the death of the Settlor without impeachment of waste Upon the trusts hereinafter declared concerning the same. And subject to the said term and the trusts thereof Upon trust for the first and other sons of the said intended marriage successively according to seniority in tail male with remainder [&c.] *with an ultimate remainder in trust for the Settlor in fee simple.*

*[Here add the requisite trusts of the portions term, and any other proper provisions including the appointment of the trustees to be trustees of the settlement for the purposes of the Settled Land Act, 1925, extension of Settled Land Act powers, and a power for the tenant for life for the time being of full age to appoint new trustees of the settlement.]*

In witness [&c.].

[NOTE.—The Vesting Deed and the Trust Instrument can be executed as escrows till the marriage.]

#### FORM NO. 4

##### SUBSIDIARY VESTING DEED ON SALE WHEN THE LAND IS PURCHASED WITH CAPITAL MONEY

This Subsidiary Vesting Deed is made [&c.] between *Henry V.* of [&c.] (hereinafter called the Vendor) of the first part, *X.* of [&c.], *Y.* of [&c.], and *Z.* of [&c.] (hereinafter called the trustees) of the second part, and *John H.* [&c.] (hereinafter called the Purchaser) of the third part.

Whereas the Vendor is entitled for an estate in fee simple in possession free from incumbrances to the hereditaments hereinafter conveyed and has agreed to sell the same to the Purchaser at the price of pounds.

And whereas by a principal vesting deed (hereinafter called the principal deed) dated [&c.], and made [&c.] [*Form No. 2*], certain hereditaments were vested in the Purchaser Upon the trusts of a trust instrument of even date therewith, and by [endorsements on] the principal deed the trustees were stated to be the trustees of the settlement for the purposes of the Settled Land Act, 1925.

Now this Deed witnesseth as follows:—

- 1 In consideration of the sum of pounds now paid to the Vendor by the trustees by the direction of the Purchaser (the receipt of which sum the Vendor hereby

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acknowledges) the Vendor as Beneficial Owner hereby conveys unto the Purchaser All those [&c.].

To hold unto the Purchaser [in fee simple] upon and subject to the same trusts and powers as are declared by the principal deed by reference as aforesaid with respect to the hereditaments therein comprised.

2 and 3 [Same as 2 and 4 in Form No. 2].

In witness [&c.].

NOTE.—On a purchase of a term of years absolute out of capital money, the term must be conveyed to the tenant for life, if any, of full age, instead of to the trustees of the settlement. If there is a minority the land will be conveyed to the personal representatives or to the Settled Land Act trustees.

## FORM NO. 5

### VESTING ASSENT BY PERSONAL REPRESENTATIVE

1 *E.F.* of [&c.] and *G.H.* of [&c.] as the personal representatives of *X.Y.*, late of [&c.] deceased, do this day of 19 hereby, As Personal Representatives, assent to the vesting in *C.D.* of [&c.] of [All that farm &c.]*or*[All the property described in the Schedule hereto] for all the estate or interest of the said *X.Y.* at the time of his death [*or*, for an estate in fee simple].

2 The premises are vested in the said *C.D.* upon the trusts declared concerning the same by [&c.].

3 The said *E.F.* and *G.H.* are the trustees of the settlement for the purposes of the Settled Land Act, 1925.

4 and 5 [Same as 3 and 4 in Form No. 2].

As witness, &c.

NOTE.—The expression “conveyance” includes an assent, but an assent will relate back to the death unless a contrary intention appears.

An assent will not be properly postponed merely because death duty remains to be paid. The representatives have only to be satisfied (*e.g.* where the tenant for life has directed payment out of capital money or has executed a mortgage for raising the money as and when an instalment becomes due) that the duty will be paid.

## SECOND SCHEDULE

Section 37.

### TRANSITIONAL PROVISIONS AFFECTING EXISTING SETTLEMENTS

#### PARAGRAPH 1

##### PROVISIONS FOR VESTING LEGAL ESTATE IN TENANT FOR LIFE OR STATUTORY OWNER

1 (1) A settlement subsisting at the commencement of this Act is, for the purposes of this Act, a trust instrument.

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- (2) As soon as practicable after the commencement of this Act, the trustees for the purposes of this Act of every settlement of land subsisting at the commencement of this Act (whether or not the settled land is already vested in them), may and on the request of the tenant for life or statutory owner, shall at the cost of the trust estate, execute a principal vesting deed (containing the proper statements and particulars) declaring that the legal estate in the settled land shall vest or is vested in the person or persons therein named (being the tenant for life or statutory owner, and including themselves if they are the statutory owners), and such deed shall (unless the legal estate is already so vested) operate to convey or vest the legal estate in the settled land to or in the person or persons aforesaid and, if more than one, as joint tenants.
- (3) If there are no trustees of the settlement then (in default of a person able and willing to appoint such trustees), an application shall be made to the court by the tenant for life or statutory owner, or by any other person interested, for the appointment of such trustees.
- (4) If default is made in the execution of any such principal vesting deed, the provisions of this Act relating to vesting orders of settled land shall apply in like manner as if the trustees of the settlement were persons in whom the settled land is wrongly vested.
- (5) This paragraph does not apply where, at the commencement of this Act, settled land is held at law or in equity in undivided shares vested in possession.
- (6) In the case of settlements subsisting at the commencement of this Act, all the estates, interests and powers thereby limited which are not by statute otherwise converted into equitable interests or powers, shall, as from the date of the principal vesting deed or the vesting order, take effect only in equity.  

[<sup>F84</sup>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.]
- (7) This paragraph does not apply where settled land is vested in personal representatives at the commencement of this Act, or where settled land becomes vested in personal representatives before a principal vesting deed has been executed pursuant to this paragraph.
- (8) No ad valorem stamp duty shall be payable in respect of a vesting deed or order made for giving effect to an existing settlement.

#### **Textual Amendments**

**F84** Para. added by [Law of Property \(Amendment\) Act 1926 \(c. 11\)](#), [Sch.](#)

### **PARAGRAPH 2**

#### PROVISIONS WHERE SETTLED LAND IS AT COMMENCEMENT OF ACT VESTED IN PERSONAL REPRESENTATIVES

- 2 (1) Where settled land remains at the commencement of this Act vested in the personal representatives of a person who dies before such commencement, or becomes vested in personal representatives before a principal vesting deed has been executed pursuant to the last preceding paragraph, the personal representatives shall hold the settled land on trust, if and when required so to do, to convey the same to the person



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- who, under the trust instrument, or by virtue of this Act, is the tenant for life or statutory owner and, if more than one, as joint tenants.
- (2) A conveyance under this paragraph shall be made at the cost of the trust estate and may be made by an assent in writing signed by the personal representatives which shall operate as a conveyance. No stamp duty is payable in respect of a vesting assent.
  - (3) The obligation to convey settled land imposed on the personal representatives by this paragraph is subject and without prejudice—
    - (a) to their rights and powers for purposes of administration, and
    - (b) to their being satisfied that provision has been or will be made for the payment of any unpaid death duties in respect of the land or any interest therein for which they are accountable, and any interest and costs in respect of such duties, or that they are otherwise effectually indemnified against such duties, interest and costs.
  - (4) A conveyance under this paragraph shall—
    - (a) if by deed, be a principal vesting deed, and
    - (b) if by an assent, be a vesting assent, which shall contain the like statements and particulars as are required by this Act in the case of a principal vesting deed.
  - (5) Nothing contained in this paragraph affects the rights of personal representatives to transfer or create such legal estates to take effect in priority to a conveyance under this paragraph as may be required for giving effect to the obligations imposed on them by statute.
  - (6) A conveyance by personal representatives under this paragraph, if made by deed, may contain a reservation to themselves of a term of years absolute in the land conveyed upon trusts for indemnifying them against any unpaid death duties in respect of the land conveyed or any interest therein, and any interest and costs in respect of such duties.
  - (7) Nothing contained in this paragraph affects any right which a person entitled to an equitable charge for securing money actually raised, and affecting the whole estate the subject of the settlement, may have to require effect to be given thereto by a legal mortgage, before the execution of a conveyance under this section.

### **PARAGRAPH 3**

#### PROVISIONS AS TO INFANTS

- 3 (1) Where, at the commencement of this Act, an infant is beneficially entitled to land in possession for an estate in fee simple or for a term of years absolute, or would, if of full age, be a tenant for life or have the powers of a tenant for life, the settled land shall, by virtue of this Act, vest in the trustees (if any) of the settlement upon such trusts as may be requisite for giving effect to the rights of the infant and other persons (if any) interested:

provided that, if there are no such trustees, then—

  - (i) Pending their appointment, the settled land shall, by virtue of this Act, vest in the Public Trustee upon the trusts aforesaid:
  - (ii) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner unless and until requested in writing to act on

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behalf of the infant by his parents or parent or testamentary or other guardian in the order named:

- (iii) After the Public Trustee has been so requested to act, and has accepted the trust, he shall become the trustee of the settlement, and no trustee shall (except by an order of the court) be appointed in his place without his consent:
- (iv) If there is no other person able and willing to appoint trustees the parents or parent or testamentary or other guardian of the infant, if respectively able and willing to act, shall (in the order named) have power by deed to appoint trustees of the settlement in place of the Public Trustee in like manner as if the Public Trustee had refused to act in the trust, and to vest the settled land in them on the trusts aforesaid, and the provisions of the <sup>M23</sup>Trustee Act, 1925, relating to the appointment of new trustees, and the vesting of trust property shall apply as if the persons aforesaid (in the order named) had been nominated by the settlement for the purpose of appointing new trustees thereof; and in default of any such appointment the infant by his next friend, may, at any time during the minority, apply to the court for the appointment of trustees of the settlement, and the court may make such order as it thinks fit, and if thereby trustees of the settlement are appointed, the settled land shall, by virtue of this Act, vest in the trustees as joint tenants upon the trusts aforesaid:

Provided that in favour of a purchaser a statement in the deed of appointment that the father or mother or both are dead or are unable or unwilling to make the appointment shall be conclusive evidence of the fact stated.

- (v) If land to which an infant is beneficially entitled in possession for an estate in fee simple or for a term of years absolute vests in the Public Trustee, but the Public Trustee does not become the trustee of the settlement, and trustees of the settlement are not appointed in his place, then, if and when the infant attains the age of twenty-one years, the land shall vest in him.
- (2) The provisions of this paragraph shall extend to the legal estate in the settled land, except where such legal estate is, at or immediately after the commencement of this Act, vested in personal representatives, in which case this paragraph shall have effect without prejudice to the provisions of paragraph two of this Schedule.
  - (3) Where, at the commencement of this Act, any persons appointed under section sixty of the <sup>M24</sup>Settled Land Act, 1882, have power to act generally or for any specific purpose on behalf of an infant, then those persons shall, by virtue of this Act, become and be the trustees of the settlement.
  - (4) Notwithstanding that the settled land is by virtue of this paragraph vested in the trustees of the settlement, they shall, at the cost of the trust estate, in accordance with this Act, execute a principal vesting deed declaring that the settled land is vested in them.
  - (5) This paragraph does not apply where an infant is beneficially entitled in possession to land for an estate in fee simple or for a term of years absolute jointly with a person of full age (for which case provision is made in the <sup>M25</sup>Law of Property Act, 1925), but it applies to two or more infants entitled as aforesaid jointly.
  - (6) This paragraph does not apply where an infant would, if of full age, constitute the tenant for life or have the powers of a tenant for life together with another person of

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full age, but it applies to two or more infants who would, if all of them were of full age, together constitute the tenant for life or have the powers of a tenant for life.

#### Marginal Citations

**M23** 1925 c. 19.

**M24** 1882 c. 38.

**M25** 1925 c. 20.

## THIRD SCHEDULE

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

**C45** Power to extend Sch. 3 given by [Agriculture Act 1967 \(c. 22\)](#), [s. 36\(5\)](#) and [Agriculture Act 1970 \(c. 40\)](#), [s. 30\(1\)](#)

**C46** [Sch. 3](#) extended by [S.I. 1968/704](#)

## PART I

IMPROVEMENTS, THE COSTS OF WHICH ARE NOT LIABLE TO BE REPLACED BY INSTALMENTS

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

**C47** [Sch. 3 Pt. I](#) extended by [Landlord and Tenant \(War Damage\) Act 1939 \(c. 72\)](#), [s. 3](#), [Hill Farming Act 1946 \(c. 73\)](#), [s. 11](#) and [S.I. 1951/1816 \(1951 I, p. 45\)](#)

**C48** [Sch. 3 Pt. I](#) modified by [Agricultural Holdings Act 1986 \(c. 5, SIF 2:3\)](#), [ss. 89\(1\), 99](#), [Sch. 13 para. 3](#)

- (i) Drainage, including the straightening, widening, or deepening of drains, streams, and watercourses:
- (ii) Bridges:
- (iii) Irrigation; warping:
- (iv) Drains, pipes, and machinery for supply and distribution of sewage as manure:
- (v) Embanking or weiring from a river or lake, or from the sea, or a tidal water:
- (vi) Groynes; sea walls; defences against water:
- (vii) Inclosing; straightening of fences; re-division of fields:
- (viii) Reclamation; dry warping:
- (ix) Farm roads; private roads; roads or streets in villages or towns:
- (x) Clearing; trenching; planting:
- (xi) Cottages for labourers, farm-servants, and artisans, employed on the settled land or not:
- (xii) Farmhouses, offices, and outbuildings, and other buildings for farm purposes:

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- (xiii) Saw-mills, scutch-mills, and other mills, water-wheels, engine-houses, and kilns, which will increase the value of the settled land for agricultural purposes or as woodland or otherwise:
- (xiv) Reservoirs, tanks, conduits, watercourses, pipes, wells, ponds, shafts, dams, weirs, sluices, and other works and machinery for supply and distribution of water for agricultural, manufacturing, or other purposes, or for domestic or other consumption:
- (xv) Tramways; railways; canals; docks:
- (xvi) Jetties, piers, and landing places on rivers, lakes, the sea, or tidal waters, for facilitating transport of persons and of agricultural stock and produce, and of manure and other things required for agricultural purposes, and of minerals, and of things required for mining purposes:
- (xvii) Markets and market-places:
- (xviii) Streets, roads, paths, squares, gardens, or other open spaces for the use, gratuitously or on payment, of the public or of individuals, or for dedication to the public, the same being necessary or proper in connexion with the conversion of land into building land:
- (xix) Sewers, drains, watercourses, pipe-making, fencing, paving, brick-making, tile-making, and other works necessary or proper in connexion with any of the objects aforesaid:
- (xx) Trial pits for mines, and other preliminary works necessary or proper in connexion with development of mines:
- (xxi) Reconstruction, enlargement, or improvement of any of those works:
- (xxii) The provision of small dwellings, either by means of building new buildings or by means of the reconstruction, enlargement, or improvement of existing buildings, if that provision of small dwellings is, in the opinion of the court, not injurious to the settled land or is agreed to by the tenant for life and the trustees of the settlement:
- (xxiii) Additions to or alterations in buildings reasonably necessary or proper to enable the same to be let:
- (xxiv) Erection of buildings in substitution for buildings within an urban sanitary district taken by a local or other public authority, or for buildings taken under compulsory powers, but so that no more money be expended than the amount received for the buildings taken and the site thereof:
- (xxv) The rebuilding of the principal mansion house on the settled land:

provided that the sum to be applied under this head shall not exceed one-half of the annual rental of the settled land.

## PART II

IMPROVEMENTS, THE COSTS OF WHICH THE TRUSTEES OF THE SETTLEMENT  
OR THE COURT MAY REQUIRE TO BE REPLACED BY INSTALMENTS

### Modifications etc. (not altering text)

**C49** Sch. 3 Pt. II extended by [Town and Country Planning Act 1971 \(c. 78\), s. 275\(2\)](#)

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**C50** Sch. 3 Pt. II extended by Planning (Listed Buildings and Conservation Areas) Act 1990 (c. 9, SIF 123:1), s. 87

- (i) Residential houses for land or mineral agents, managers, clerks, bailiffs, woodmen, gamekeepers and other persons employed on the settled land, or in connexion with the management or development thereof:
- (ii) Any offices, workshops and other buildings of a permanent nature required in connexion with the management or development of the settled land or any part thereof:
- (iii) The erection and building of dwelling houses, shops, buildings for religious, educational, literary, scientific, or public purposes, market places, market houses, places of amusement and entertainment, gasworks, electric light or power works, or any other works necessary or proper in connexion with the development of the settled land, or any part thereof as a building estate:
- (iv) Restoration or reconstruction of buildings damaged or destroyed by dry rot:
- (v) Structural additions to or alterations in buildings reasonably required, whether the buildings are intended to be let or not, or are already let:
- (vi) Boring for water and other preliminary works in connexion therewith.

### PART III

#### IMPROVEMENTS, THE COSTS OF WHICH THE TRUSTEES OF THE SETTLEMENT AND THE COURT MUST REQUIRE TO BE REPLACED BY INSTALMENTS

- (i) Heating, hydraulic or electric power apparatus for buildings, and engines, pumps, lifts, rams, boilers, flues, and other works required or used in connexion therewith:
- (ii) Engine houses, engines, gasometers, dynamos, accumulators, cables, pipes, wiring, switchboards, plant and other works required for the installation of electric, gas, or other artificial light, in connexion with any principal mansion house, or other house or buildings; but not electric lamps, gas fittings, or decorative fittings required in any such house or building:
- (iii) Steam rollers, traction engines, motor lorries and moveable machinery for farming or other purposes.

## FOURTH SCHEDULE

Section 118.

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

#### *Shifting of incumbrances.*

- <sup>1</sup> The power conferred by section five of the <sup>M26</sup>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.

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### Marginal Citations

**M26** 1882 c. 38.

#### *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 <sup>M27</sup>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 <sup>M28</sup>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.

### Modifications etc. (not altering text)

**C51** The text of Sch. 4 paras. 3(1), 4 and 15(c) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### Marginal Citations

**M27** 1835 c. 50.

**M28** 1862 c. 61.

#### *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.”

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

- C52** The text of Sch. 4 paras. 3(1), 4 and 15(c) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*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 <sup>M29</sup>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.

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- (2) Capital money arising under the <sup>M30</sup>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.

**Marginal Citations**

**M29** 1910 c. 8.

**M30** 1882 c. 38.

*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 Public Trustee to give receipts and accept 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 of 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 <sup>M31</sup>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.



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#### Marginal Citations

**M31** 1882 c.38.

*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 <sup>M32</sup>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.

#### Marginal Citations

**M32** 1833 c. 34.

*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.

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

**C53** The text of Sch. 4 paras. 3(1), 4 and 15(c) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Married woman infant, &c.*

- 16 Sections fifty-nine and sixty of the <sup>M33</sup>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.

#### Marginal Citations

**M33** 1882 c. 38.

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## FIFTH SCHEDULE

F85

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### Textual Amendments

**F85** Sch. 5 repealed by Statute Law Revision Act 1950 (14 Geo. 6 c. 6)

**Status:**

Point in time view as at 30/03/2004.

**Changes to legislation:**

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