



# Settled Land Act 1925

1925 CHAPTER 18 15 and 16 Geo 5

## 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,

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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.

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.**

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

- C1** 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  
**C2** 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
- (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.

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## **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 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,

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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.

#### 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

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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.

## **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.

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- (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 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.

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## 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 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.



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**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.]

**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.

**<sup>F9</sup>15 Examples of instruments.**

**Textual Amendments**

- F9** S. 15 repealed (22.7.2004) by **Statute Law (Repeals) Act 2004 (c. 14), Sch. 1 Pt. 12**

*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

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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
  - (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.

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- (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.

## **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, [F<sup>10</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 [F<sup>10</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 [F<sup>10</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 [F<sup>11</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 [F<sup>12</sup>land];

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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>F13</sup>a trust of land].

#### Textual Amendments

- F10** 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**
- F11** 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**
- F12** 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**
- F13** 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**

#### *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>F14</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

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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**

**F14** 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.
- (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;

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- (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>F15</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>F16</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 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

**F15** 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**

**F16** 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)

**C3** S. 20(1)(i) restricted by **Trafalgar Estates Act 1947** (c. 34), s. 2(2)

**C4** 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

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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 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>F17</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.

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#### Textual Amendments

**F17** 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 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



*Status: Point in time view as at 29/04/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Settled Land Act 1925, Part 1. (See end of Document for details)*

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) ..... **F18**

### Textual Amendments

**F18** 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

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*Changes to legislation: There are currently no known outstanding effects for the Settled Land Act 1925, Part I. (See end of Document for details)*

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.

**Marginal Citations**  
**M3** 1925 c. 20.

<sup>F19</sup>27 .....

**Textual Amendments**  
**F19** 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 ..... <sup>F20</sup>

**Textual Amendments**  
**F20** S. 28 repealed by **Mental Health Act 1959 (c. 72)**, **Sch. 8 Pt. I**

<sup>F21</sup>29 .....

*Status: Point in time view as at 29/04/2021.*

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#### Textual Amendments

**F21** 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>F22</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>F23</sup>a future power or duty to sell] the settled land, or with power of consent to or approval of the exercise of such a future power of sale, and whether the power [<sup>F24</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

**F22** 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**

*Status: Point in time view as at 29/04/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Settled Land Act 1925, Part I. (See end of Document for details)*

- F23** 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**
- F24** 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>F25</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.

#### **Textual Amendments**

- F25** 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.

*Status: Point in time view as at 29/04/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Settled Land Act 1925, Part 1. (See end of Document for details)*

### 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>F26</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
  - (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

**F26** 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**

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*Status: Point in time view as at 29/04/2021.*

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### **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.
- (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.

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#### **Marginal Citations**

**M4** 1925 c. 19.

*Status: Point in time view as at 29/04/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Settled Land Act 1925, Part 1. (See end of Document for details)*

### *Provisions as to Undivided Shares*

#### **36 Undivided shares to take effect behind a [<sup>F27</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>F28</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 expense, the court may, on the application of the trustees of the settlement, make an order vesting the settled land in them [<sup>F28</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>F29</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>F30</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**

- F27** 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**
- F28** 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**
- F29** 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**
- F30** 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**

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*Status: Point in time view as at 29/04/2021.*

*Changes to legislation: There are currently no known outstanding effects  
for the Settled Land Act 1925, Part I. (See end of Document for details)*

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**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.



**Status:**

Point in time view as at 29/04/2021.

**Changes to legislation:**

There are currently no known outstanding effects for the Settled Land Act 1925, Part I.