



# Law of Property Act 1925

1925 CHAPTER 20 15 and 16 Geo 5

## PART I **E+W**

### GENERAL PRINCIPLES AS TO LEGAL ESTATES, EQUITABLE INTERESTS AND POWERS

#### **1 Legal estates and equitable interests. **E+W****

- (1) The only estates in land which are capable of subsisting or of being conveyed or created at law are—
  - (a) An estate in fee simple absolute in possession;
  - (b) A term of years absolute.
- (2) The only interests or charges in or over land which are capable of subsisting or of being conveyed or created at law are—
  - (a) An easement, right, or privilege in or over land for an interest equivalent to an estate in fee simple absolute in possession or a term of years absolute;
  - (b) A rentcharge in possession issuing out of or charged on land being either perpetual or for a term of years absolute;
  - (c) A charge by way of legal mortgage;
  - (d) .....<sup>F1</sup> and any other similar charge on land which is not created by an instrument;
  - (e) Rights of entry exercisable over or in respect of a legal term of years absolute, or annexed, for any purpose, to a legal rentcharge.
- (3) All other estates, interests, and charges in or over land take effect as equitable interests.
- (4) The estates, interests, and charges which under this section are authorised to subsist or to be conveyed or created at law are (when subsisting or conveyed or created at law) in this Act referred to as “legal estates,” and have the same incidents as legal estates subsisting at the commencement of this Act; and the owner of a legal estate is referred to as “an estate owner” and his legal estate is referred to as his estate.
- (5) A legal estate may subsist concurrently with or subject to any other legal estate in the same land in like manner as it could have done before the commencement of this Act.

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- (6) A legal estate is not capable of subsisting or of being created in an undivided share in land or of being held by an infant.
- (7) Every power of appointment over, or power to convey or charge land or any interest therein, whether created by a statute or other instrument or implied by law, and whether created before or after the commencement of this Act (not being a power vested in a legal mortgagee or an estate owner in right of his estate and exercisable by him or by another person in his name and on his behalf), operates only in equity.
- (8) Estates, interests, and charges in or over land which are not legal estates are in this Act referred to as “equitable interests,” and powers which by this Act are to operate in equity only are in this Act referred to as “equitable powers.”
- (9) The provisions in any statute or other instrument requiring land to be conveyed to uses shall take effect as directions that the land shall (subject to creating or reserving thereout any legal estate authorised by this Act which may be required) be conveyed to a person of full age upon the requisite trusts.
- (10) The repeal of the Statute of Uses (as amended) does not affect the operation thereof in regard to dealings taking effect before the commencement of this Act.

#### Textual Amendments

**F1** Words repealed by [Tithe Act 1936 \(c. 43\)](#), [Sch. 9](#) and [Finance Act 1963 \(c. 25\)](#), [Sch. 14 Pt. VI](#)

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

**C1** [S. 1\(2\)\(b\)](#) explained by [Law of Property \(Entailed Interests\) Act 1932 \(c. 27\)](#), [s. 2](#)

## 2 Conveyances overreaching certain equitable interests and powers. **E+W**

- (1) A conveyance to a purchaser of a legal estate in land shall overreach any equitable interest or power affecting that estate, whether or not he has notice thereof, if—
  - (i) the conveyance is made under the powers conferred by the <sup>M1</sup>Settled Land Act, 1925, or any additional powers conferred by a settlement, and the equitable interest or power is capable of being overreached thereby, and the statutory requirements respecting the payment of capital money arising under the settlement are complied with;
  - (ii) the conveyance is made by [<sup>F2</sup>trustees of land] and the equitable interest or power is at the date of the conveyance capable of being overreached by such trustees under the provisions of subsection (2) of this section or independently of that subsection, and [<sup>F2</sup>the requirements of section 27 of this Act respecting the payment of capital money arising on such a conveyance] are complied with;
  - (iii) the conveyance is made by a mortgagee or personal representative in the exercise of his paramount powers, and the equitable interest or power is capable of being overreached by such conveyance, and any capital money arising from the transaction is paid to the mortgagee or personal representative;
  - (iv) the conveyance is made under an order of the court and the equitable interest or power is bound by such order, and any capital money arising from the transaction is paid into, or in accordance with the order of, the court.

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- [<sup>F3</sup>(1A) An equitable interest in land subject to a trust of land which remains in, or is to revert to, the settlor shall (subject to any contrary intention) be overreached by the conveyance if it would be so overreached were it an interest under the trust.]
- (2) [<sup>F4</sup>Where the legal estate affected is subject to [<sup>F5</sup>a trust of land], then if at the date of a conveyance made after the commencement of this Act [<sup>F5</sup>by the trustees], the trustees (whether original or substituted) are either—
- (a) two or more individuals approved or appointed by the court or the successors in office of the individuals so approved or appointed; or
  - (b) a trust corporation,
- [<sup>F4</sup>any equitable interest or power having priority [<sup>F5</sup>to the trust]] shall, notwithstanding any stipulation to the contrary, be overreached by the conveyance, and shall, according to its priority, take effect as if created or arising by means of a primary trust affecting the proceeds of sale and the income of the land until sale.
- (3) The following equitable interests and powers are excepted from the operation of subsection (2) of this section, namely—
- (i) Any equitable interest protected by a deposit of documents relating to the legal estate affected;
  - (ii) The benefit of any covenant or agreement restrictive of the user of land;
  - (iii) Any easement, liberty, or privilege over or affecting land and being merely an equitable interest (in this Act referred to as an “equitable easement”);
  - (iv) The benefit of any contract (in this Act referred to as an “estate contract”) to convey or create a legal estate, including a contract conferring either expressly or by statutory implication a valid option to 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 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.
- (4) Subject to the protection afforded by this section to the purchaser of a legal estate, nothing contained in this section shall deprive a person entitled to an equitable charge of any of his rights or remedies for enforcing the same.
- (5) So far as regards the following interests, created before the commencement of this Act (which accordingly are not within the provisions of the <sup>M3</sup>Land Charges Act, 1925), namely—
- (a) the benefit of any covenant or agreement restrictive of the user of the land;
  - (b) any equitable easement;
  - (c) the interest under a puisne mortgage within the meaning of the Land Charges Act, 1925, unless and until acquired under a transfer made after the commencement of this Act;
  - (d) the benefit of an estate contract, unless and until the same is acquired under a conveyance made after the commencement of this Act;
- a purchaser of a legal estate shall only take subject thereto if he has notice thereof, and the same are not overreached under the provisions contained or in the manner referred to in this section.

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#### Textual Amendments

- F2** Words in s. 2(1)(ii) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 4(2)(a)(i)(ii)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**
- F3** S. 2(1A) inserted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 4(2)(b)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**
- F4** Words substituted by **Law of Property (Amendment) Act 1926** (c. 11), **Sch.**
- F5** Words in s. 2(2) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 4(2)(c)(i)(ii)(iii)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

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

- C2** S. 2(1) extended by **Leasehold Reform Act 1967** (c. 88), **s. 8(4)(a)**
- C3** S. 2(1) extended by **Housing Defects Act 1984** (c. 50, SIF 61), s. 6(8), **Sch. 2 para. 6**
- C4** S. 2(1) extended (with modifications) by **Housing Act 1985** (c. 68, SIF 61), s. 547, **Sch. 20 Pt. III para. 20**
- C5** S. 2(1) applied (1.11.1993) with modifications by 1993 c. 28, **s. 34(3)** (with ss. 94(2), 95); S.I. 1993/2134, **arts. 2, 5**

#### Marginal Citations

- M1** 1925 c. 18.
- M2** 1925 c. 22.
- M3** 1925 c. 22.

### 3 Manner of giving effect to equitable interests and powers. **E+W**

(1) All equitable interests and powers in or over land shall be enforceable against the estate owner of the legal estate affected in manner following (that is to say):—

(a) Where the legal estate affected is settled land, the tenant for life or statutory owner shall be bound to give effect to the equitable interests and powers in manner provided by the <sup>M4</sup>Settled Land Act, 1925;

<sup>F6</sup>(b) .....

(c) [<sup>F7</sup>In any other case], the estate owner shall be bound to give effect to the equitable interests and powers affecting his estate of which he has notice according to their respective priorities. This provision does not affect the priority or powers of a legal mortgagee, or the powers of personal representatives for purposes of administration.

<sup>F6</sup>(2) .....

(3) Where, by reason . . . <sup>F8</sup>of an equitable right of entry taking effect, or for any other reason, a person becomes entitled to require a legal estate to be vested in him, then and in any such case the estate owner whose estate is affected shall be bound to convey or create such legal estate as the case may require.

(4) If any question arises whether any and what legal estate ought to be transferred or created as aforesaid, any person interested may apply to the court for directions in the manner provided by this Act.

(5) If the <sup>F9</sup>. . . estate owners refuse or neglect for one month after demand to transfer or create any such legal estate, or if by reason of their being out of 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

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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 a legal estate in the manner provided by this Act.

(6) This section does not affect a purchaser of a legal estate taking free from an equitable interest or power.

[<sup>F10</sup>(7) The county court has jurisdiction under this section where the land which is to be dealt with in the court does not exceed [<sup>F11</sup>£30,000] in capital value <sup>F12</sup> . . .]

#### Textual Amendments

- F6** S. 3(1)(b)(2) repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**
- F7** Words in s. 3(1)(c) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 4(3)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**
- F8** Words repealed by **Reverter of Sites Act 1987** (c. 15, SIF 98:1). ss. 6(1), 8(2)(3)(4), Sch.
- F9** Words in s. 3(5) repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch. 4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**
- F10** S. 3(7) added by **County Courts Act 1984** (c. 28, SIF 34), s. 148(1), **Sch. 2 Pt. II para. 2(1)(3)**
- F11** Words in s. 3(7) substituted (1.7.1991) by S.I. 1991/724, art. 2(8), **Sch. Pt. I** (with art. 12)
- F12** Words in s. 3(7) omitted (1.7.1991) by virtue of S.I. 1991/724, art. 2(8), **Sch. Pt. I** (with art. 12)

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

- C6** S. 3 extended (1.7.1991) by S.I. 1991/724, **art. 2(3)** (with art. 12)
- C7** S. 3(7) modified by **County Courts Act 1984** (c. 28, SIF 34), **s. 24(1)(2)(c)**
- C8** S. 3(7) amended by S.I. 1990/776, **art. 4(1)(b)**

#### Marginal Citations

- M4** 1925 c. 18.

## 4 Creation and disposition of equitable interests. **E+W**

(1) Interests in land validly created or arising after the commencement of this Act, which are not capable of subsisting as legal estates, shall take effect as equitable interests, and, save as otherwise expressly provided by statute, interests in land which under the Statute of Uses or otherwise could before the commencement of this Act have been created as legal interests, shall be capable of being created as equitable interests:

Provided that, after the commencement of this Act (and save as hereinafter expressly enacted), an equitable interest in land shall only be capable of being validly created in any case in which an equivalent equitable interest in property real or personal could have been validly created before such commencement.

(2) All rights and interests in land may be disposed of, including—

- a contingent, executory or future equitable interest in any land, or a possibility coupled with an interest in any land, whether or not the object of the gift or limitation of such interest or possibility be ascertained;
- a right of entry, into or upon land whether immediate or future, and whether vested or contingent.

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- (3) All rights of entry affecting a legal estate which are exercisable on condition broken or for any other reason may after the commencement of this Act, be made exercisable by any person and the persons deriving title under him<sup>F13</sup>....

#### Textual Amendments

**F13** Words in s. 4(3) repealed (6.4.2010) by [Perpetuities and Accumulations Act 2009 \(c. 18\)](#), ss. 1(9), 22(2), [Schs.](#) (with s. 15(1)(4)1718); S.I. 2010/37, art. 2

### 5 **Satisfied terms, whether created out of freehold or leasehold land to cease.** E

+W

- (1) Where the purposes of a term of years created or limited at any time out of freehold land, become satisfied either before or after the commencement of this Act (whether or not that term either by express declaration or by construction of law becomes attendant upon the freehold reversion) it shall merge in the reversion expectant thereon and shall cease accordingly.
- (2) Where the purposes of a term of years created or limited, at any time, out of leasehold land, become satisfied after the commencement of this Act, that term shall merge in the reversion expectant thereon and shall cease accordingly.
- (3) Where the purposes are satisfied only as respects part of the land comprised in a term, this section shall have effect as if a separate term had been created in regard to that part of the land.

### 6 **Saving of lessors' and lessees' covenants.** E+W

- (1) Nothing in this Part of this Act affects prejudicially the right to enforce any lessor's or lessee's covenants, agreements or conditions (including a valid option to purchase or right of pre-emption over the reversion), contained in any such instrument as is in this section mentioned, the benefit or burden of which runs with the reversion or the term.
- (2) This section applies where the covenant, agreement or condition is contained in any instrument—
  - (a) creating a term of years absolute, or
  - (b) varying the rights of the lessor or lessee under the instrument creating the term.

### 7 **Saving of certain legal estates and statutory powers.** E+W

- (1) A fee simple which, by virtue of the Lands Clauses Acts, . . . <sup>F14</sup> or any similar statute, is liable to be divested, is for the purposes of this Act a fee simple absolute, and remains liable to be divested as if this Act had not been passed [<sup>F15</sup>and a fee simple subject to a legal or equitable right of entry or re-entry is for the purposes of this Act a fee simple absolute.]
- (2) A fee simple vested in a corporation which is liable to determine by reason of the dissolution of the corporation is, for the purposes of this Act, a fee simple absolute.
- (3) The provisions of—
  - (a) . . . . . <sup>F16</sup>
  - (b) the Friendly Societies Act, 1896, in regard to land to which that Act applies;

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- (c) any other statutes conferring special facilities or prescribing special modes (whether by way of registered memorial or otherwise) for disposing of or acquiring land, or providing for the vesting (by conveyance or otherwise) of the land in trustees or any person, or the holder for the time being of an office or any corporation sole or aggregate (including the Crown);  
shall remain in full force.

F17 . . . .

- (4) Where any such power for disposing of or creating a legal estate is exercisable by a person who is not the estate owner, the power shall, when practicable, be exercised in the name and on behalf of the estate owner.

#### Textual Amendments

- F14** Words repealed by [Reverter of Sites Act 1987 \(c. 15, SIF 98:1\)](#), ss. 6(1), 8(3)(4), [Sch.](#)  
**F15** Words added by [Law of Property \(Amendment\) Act 1926 \(c. 11\)](#), [Sch.](#)  
**F16** [S. 7\(3\)\(a\)](#) repealed by [Criminal Justice Act 1948 \(c. 58\)](#), [Sch. 10 Pt. I](#)  
**F17** In s. 7(3), the second paragraph repealed (1.1.1997) by 1996 c. 47, s. 25(2), [Sch.4](#) (with ss. 24(2), 25(4)); S.I. 1996/2974, [art. 2](#)

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

- C9** [S. 7\(4\)](#) saved by [Compulsory Purchase Act 1965 \(c. 56\)](#), [s. 28\(3\)](#)

## 8 Saving of certain legal powers to lease. **E+W**

- (1) All leases or tenancies at a rent for a term of years absolute authorised to be granted by a mortgagor or mortgagee or by the <sup>M5</sup>Settled Land Act, 1925, or any other statute (whether or not extended by any instrument) may be granted in the name and on behalf of the estate owner by the person empowered to grant the same, whether being an estate owner or not, with the same effect and priority as if this Part of this Act had not been passed; but this section does not (except as respects the usual qualified covenant for quiet enjoyment) authorise any person granting a lease in the name of an estate owner to impose any personal liability on him.
- (2) Where a rentcharge is held for a legal estate, the owner thereof may under the statutory power or under any corresponding power, create a legal term of years absolute for securing or compelling payment of the same; but in other cases terms created under any such power shall, unless and until the estate owner of the land charged gives legal effect to the transaction, take effect only as equitable interests.

#### Marginal Citations

- M5** 1925 c. 18.

## 9 Vesting orders and dispositions of legal estates operating as conveyances by an estate owner. **E+W**

- (1) Every such order, declaration, or conveyance as is hereinafter mentioned, namely—
- every vesting order made by any court or other competent authority;
  - every vesting declaration (express or implied) under any statutory power;

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- (c) every vesting instrument made by the trustees of a settlement or other persons under the provisions of the <sup>M6</sup>Settled Land Act, 1925;
  - (d) every conveyance by a person appointed for the purpose under an order of the court or authorised under any statutory power to convey in the name or on behalf of an estate owner;
  - (e) every conveyance made under any power reserved or conferred by this Act, which is made or executed for the purpose of vesting, conveying, or creating a legal estate, shall operate to convey or create the legal estate disposed of in like manner as if the same had been a conveyance executed by the estate owner of the legal estate to which the order, declaration, vesting instrument, or conveyance relates.
- (2) Where the order, declaration, or conveyance is made in favour of a purchaser, the provisions of this Act relating to a conveyance of a legal estate to a purchaser shall apply thereto.
- (3) The provisions of the <sup>M7</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 Part of this Act.

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

**C10** S. 9 extended (1.12.1991) by [Water Resources Act 1991 \(c. 57, SIF 130\)](#) ss. 155(6), 225(2), (with ss. 16(6), 179, 222(3), Sch. 22 para. 1, Sch. 23 para. 6)

**Marginal Citations**

**M6** 1925 c. 18.

**M7** 1925 c. 19.

**10 Title to be shown to legal estates. E+W**

- (1) Where title is shown to a legal estate in land, it shall be deemed not necessary or proper to include in the abstract of title an instrument relating only to interests or powers which will be over-reached by the conveyance of the estate to which title is being shown; but nothing in this Part of this Act affects the liability of any person to disclose an equitable interest or power which will not be so over-reached, or to furnish an abstract of any instrument creating or affecting the same.
- (2) A solicitor delivering an abstract framed in accordance with this Part of this Act shall not incur any liability on account of an omission to include therein an instrument which, under this section, is to be deemed not necessary or proper to be included, nor shall any liability be implied by reason of the inclusion of any such instrument.

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

**C11** S. 10(2) extended by [Administration of Justice Act 1985 \(c. 61, SIF 98:1\)](#), s. 34(2)(a)

**C12** S. 10(2) extended (1.1.1992) by [Administration of Justice Act 1985 \(c. 61, SIF 76:1\)](#), s. 9, **Sch. 2 para. 37(a)**; S.I. 1991/2683, **art.2**

**C13** S. 10(2) extended (*prosp.*) by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), **ss. 54(3)(a)(5)**, 119(5), 124, 126, Sch. 21 paras. 9(a), 12(2)(3) (the said s. 124 (which induces Sch. 21) being repealed (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(7), **Sch. 20**

**C14** S. 10(2) modified (12.9.2011) by [The Legal Services Act 2007 \(Designation as a Licensing Authority\) Order 2011 \(S.I. 2011/2038\)](#), art. 1, **Sch. para. 3(3)**



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**C15** S. 10(2) applied (with modifications) (23.12.2011) by [The Legal Services Act 2007 \(Designation as a Licensing Authority\) \(No. 2\) Order 2011 \(S.I. 2011/2866\)](#), art. 1(2), **Sch. 2**

**11 Registration in Middlesex and Yorkshire as respects legal estates. E+W**

- (1) It shall not be necessary to register a memorial of any instrument made after the commencement of this Act in any local deeds registry unless the instrument operates to transfer or create a legal estate, or to create a charge thereon by way of legal mortgage; nor shall the registration of a memorial of any instrument not required to be registered affect any priority.
- (2) Probates and letters of administration shall be treated as instruments capable of transferring a legal estate to personal representatives.
- (3) Memorials of all instruments capable of transferring or creating a legal estate or charge by way of legal mortgage, may, when so operating, be registered.

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

**C16** S. 11 repealed (prosp.) by [Law of Property Act 1969 \(c. 59\)](#), s. 16(2), **Sch. 2 Pt. I** which repeal is no longer prospective as regards the Yorkshire deeds registries, their registers and areas

**12 Limitation and Prescription Acts. E+W**

Nothing in this Part of this Act affects the operation of any statute, or of the general law for the limitation of actions or proceedings relating to land or with reference to the acquisition of easements or rights over or in respect of land.

**13 Effect of possession of documents. E+W**

This Act shall not prejudicially affect the right or interest of any person arising out of or consequent on the possession by him of any documents relating to a legal estate in land, nor affect any question arising out of or consequent upon any omission to obtain or any other absence of possession by any person of any documents relating to a legal estate in land.

**14 Interests of persons in possession. E+W**

This Part of this Act shall not prejudicially affect the interest of any person in possession or in actual occupation of land to which he may be entitled in right of such possession or occupation.

**15 Presumption that parties are of full age. E+W**

The persons expressed to be parties to any conveyance shall, until the contrary is proved, be presumed to be of full age at the date thereof.

*Death Duties*

**16–18** ..... <sup>F18</sup> **E+W**

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#### Textual Amendments

**F18** Ss. 16–18 repealed (with saving) by Finance Act 1975 (c. 7, SIF 63:1), ss. 50, 52(2)(3), 59, **Sch. 13 Pt. I**

### *Infants and Lunatics*

**F19** 19 ..... **E+W**

#### Textual Amendments

**F19** S. 19 repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** ( with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

**20** **Infants not to be appointed trustees.** **E+W**

The appointment of an infant to be a trustee in relation to any settlement or trust shall be void, but without prejudice to the power to appoint a new trustee to fill the vacancy.

**21** **Receipts by married infants.** **E+W**

A married infant shall have power to give valid receipts for all income (including statutory accumulations of income made during the minority) to which the infant may be entitled in like manner as if the infant were of full age.

**[<sup>F20</sup>22** **Conveyances on behalf of persons suffering from mental disorder and as to land held by them [<sup>F21</sup>in trust].** **E+W**

- (1) Where a legal estate in land (whether settled or not) is vested [<sup>F22</sup>, either solely or jointly with any other person or persons, in a person lacking capacity (within the meaning of the Mental Capacity Act 2005) to convey or create a legal estate, a deputy appointed for him by the Court of Protection or (if no deputy is appointed] for him) any person authorised in that behalf shall, under an order of [<sup>F23</sup>the Court of Protection] , or of the court, or under any statutory power, make or concur in making all requisite dispositions for conveying or creating a legal estate in his name and on his behalf.
- (2) If land [<sup>F21</sup>subject to a trust of land] is vested, either solely or jointly with any other person or persons, in a person who [<sup>F24</sup>lacks capacity (within the meaning of that Act) to exercise] his functions as trustee, a new trustee shall be appointed in the place of that person, or he shall be otherwise discharged from the trust, before the legal estate is dealt with [<sup>F21</sup>by the trustees].

[ Subsection (2) of this section does not prevent a legal estate being dealt with without <sup>F25</sup>(3) the appointment of a new trustee, or the discharge of the incapable trustee, at a time when the donee of [<sup>F26</sup>an enduring power of attorney or lasting power of attorney (within the meaning of the 2005 Act) is entitled to act for the trustee who lacks capacity in relation to the dealing.]]]

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**Textual Amendments**

- F20** S. 22 substituted by **Mental Health Act 1959 (c. 72), Sch. 7 Pt. I**
- F21** Words in s. 22(2) and sidenote substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 4(6)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**
- F22** Words in s. 22(1) substituted (1.10.2007) by Mental Capacity Act 2005 (c. 9), ss. 67(1), 68, **Sch. 6 para. 4(2)(a)(i)** (with ss. 27, 28, 29, 62); S.I. 2007/1897, **art. 2(1)(d)**
- F23** Words in s. 22(1) substituted (1.10.2007) by Mental Capacity Act 2005 (c. 9), ss. 67(1), 68, **Sch. 6 para. 4(2)(a)(ii)** (with ss. 27, 28, 29, 62); S.I. 2007/1897, **art. 2(1)(d)**
- F24** Words in s. 22(2) substituted (1.10.2007) by Mental Capacity Act 2005 (c. 9), ss. 67(1), 68, **Sch. 6 para. 4(2)(b)** (with ss. 27, 28, 29, 62); S.I. 2007/1897, **art. 2(1)(d)**
- F25** S. 22(3) inserted (1.3.2000) by 1999 c. 15, s. 9(1)(2); S.I. 2000/216, **art. 2**
- F26** Words in s. 22(3) substituted (1.10.2007) by Mental Capacity Act 2005 (c. 9), ss. 67(1), 68, **Sch. 6 para. 4(2)(c)** (with ss. 27, 28, 29, 62); S.I. 2007/1897, **art. 2(1)(d)**

F27 . . .

**Textual Amendments**

- F27** S. 23 (and the heading immediately preceding it) repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch. 4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

<sup>F28</sup>**23** . . . . . **E+W**

**Textual Amendments**

- F28** S. 23 (and the heading immediately preceding it) repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

[<sup>F29</sup> *Trusts of land*]

**Textual Amendments**

- F29** S. 24 (and the heading immediately preceding it) substituted (1.1.1997) for s. 24 by 1996 c. 47, s. 25(1), **Sch. 3 para. 4(7)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

[<sup>F30</sup>**24** **Appointment of trustees of land.** **E+W**

- (1) The persons having power to appoint new trustees of land shall be bound to appoint the same persons (if any) who are for the time being trustees of any trust of the proceeds of sale of the land.
- (2) A purchaser shall not be concerned to see that subsection (1) of this section has been complied with.
- (3) This section applies whether the trust of land and the trust of proceeds of sale are created, or arise, before or after the commencement of this Act.]

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**Textual Amendments**

**F30** S. 24 (and the heading immediately preceding it) substituted (1.1.1997) for s. 24 by 1996 c. 47, s. 25(1), **Sch. 3 para. 4(7)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

<sup>F31</sup>**25** ..... **E+W**

**Textual Amendments**

**F31** S. 25 repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

<sup>F32</sup>**26** ..... **E+W**

**Textual Amendments**

**F32** S. 26 repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

**27 Purchaser not to be concerned with the trusts of the proceeds of sale which are to be paid to two or more trustees or to a trust corporation. **E+W****

[<sup>F33</sup>(1) A purchaser of a legal estate from trustees of land shall not be concerned with the trusts affecting the land, the net income of the land or the proceeds of sale of the land whether or not those trusts are declared by the same instrument as that by which the trust of land is created.]

[<sup>F34</sup>(2) Notwithstanding anything to the contrary in the instrument (if any) creating a [<sup>F35</sup>trust] of land or in [<sup>F35</sup>any trust affecting the net proceeds of sale of the land if it is sold], the proceeds of sale or other capital money shall not be paid to or applied by the direction of fewer than two persons as [<sup>F35</sup>trustees], except where the trustee is a trust corporation, but this subsection does not affect the right of a sole personal representative as such to give valid receipts for, or direct the application of, proceeds of sale or other capital money, nor, except where capital money arises on the transaction, render it necessary to have more than one trustee.]

**Textual Amendments**

**F33** S. 27(1) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 4(8)(a)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

**F34** S. 27(2) substituted by **Law of Property (Amendment) Act 1926 (c. 11), Sch.**

**F35** Words in s. 27(2) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 4(8)(b)(i)(ii)(iii)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

<sup>F36</sup>**28** ..... **E+W**

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**Textual Amendments**

**F36** S. 28 repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

<sup>F37</sup>**29** ..... **E+W**

**Textual Amendments**

**F37** S. 29 repealed (1.1.1997) by 1996 c. 47, ss. 9(9), 25(2), **Sch. 4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

<sup>F38</sup>**30** ..... **E+W**

**Textual Amendments**

**F38** S. 30 repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch. 4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

**31** [<sup>F39</sup>**Trust**] of mortgaged property where right of redemption is barred. **E+W**

- (1) Where any property, vested in trustees by way of security, becomes, by virtue of the statutes of limitation, or of an order for foreclosure or otherwise, discharged from the right of redemption, it shall be held by them [<sup>F40</sup>in trust—
- (a) to apply the income from the property in the same manner as interest paid on the mortgage debt would have been applicable; and
  - (b) if the property is sold, to apply the net proceeds of sale, after payment of costs and expenses, in the same manner as repayment of the mortgage debt would have been applicable.]

[<sup>F41</sup>(2) Subsection (1) of this section] operates without prejudice to any rule of law relating to the apportionment of capital and income between tenant for life and remainderman.

<sup>F42</sup>(3) .....

[<sup>F43</sup>(4) Where—

- (a) the mortgage money is capital money for the purposes of the Settled Land Act 1925;
- (b) land other than any forming the whole or part of the property mentioned in subsection (1) of this section is, or is deemed to be, subject to the settlement; and
- (c) the tenant for life or statutory owner requires the trustees to execute with respect to land forming the whole or part of that property a vesting deed such as would have been required in relation to the land if it had been acquired on a purchase with capital money,

the trustees shall execute such a vesting deed.]

- (5) This section applies whether the right of redemption was discharged before or after the first day of January, nineteen hundred and twelve, but has effect without prejudice to any dealings or arrangements made before that date.

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#### Textual Amendments

- F39** Word in s. 31 sidenote substituted (1.1.1997) by 1996 c.47, s. 5(1), **Sch. 2 para. 1(6)(7)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**
- F40** S. 31(1)(a)(b) and preceding words substituted (1.1.1997) by 1996 c. 47, s. 5(1), **Sch. 2 para. 1(2)(7)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**
- F41** Words in s. 31(2) substituted (1.1.1997) by 1996 c. 47, s. 5(1), **Sch. 2 para. (1)(3)(7)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**
- F42** S. 31(3) repealed (1.1.1997) by 1996 c. 47, ss. 5(1), 25(2), Sch. 2 para. 1(4)(7), **Sch. 4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**
- F43** S. 31(4) substituted (1.1.1997) by 1996 c. 47, s. 5(1), **Sch. 2 para. 1(5)(7)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

<sup>F44</sup>**32** ..... **E+W**

#### Textual Amendments

- F44** S. 32 repealed (1.1.1997) by 1996 c. 47, ss. 5(1), 25(2), Sch. 2 para. 2(1)(2), **Sch.4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

### **33 Application of Pt. I. to personal representatives. E+W**

The provisions of this Part of this Act relating to [<sup>F45</sup>trustees of land] apply to personal representatives holding [<sup>F45</sup>land in trust], but without prejudice to their rights and powers for purposes of administration.

#### Textual Amendments

- F45** Words in s. 33 substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 4(9)(a)(b)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

### *Undivided Shares and Joint Ownership*

### **34 Effect of future dispositions to tenants in common. E+W**

- (1) An undivided share in land shall not be capable of being created except as provided by the <sup>M8</sup>Settled Land Act, 1925, or as hereinafter mentioned.
- (2) Where, after the commencement of this Act, land is expressed to be conveyed to any persons in undivided shares and those persons are of full age, the conveyance shall (notwithstanding anything to the contrary in this Act) operate as if the land had been expressed to be conveyed to the grantees, or, if there are more than four grantees, to the four first named in the conveyance, as joint tenants [<sup>F46</sup>in trust for the persons interested in the land]:

Provided that, where the conveyance is made by way of mortgage the land shall vest in the grantees or such four of them as aforesaid for a term of years absolute (as provided by this Act) as joint tenants subject to cesser on redemption in like manner as if the

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mortgage money had belonged to them on a joint account, but without prejudice to the beneficial interests in the mortgage money and interest.

(3) A devise bequest or testamentary appointment, coming into operation after the commencement of this Act, of land to two or more persons in undivided shares shall operate as a devise bequest or appointment of the land to <sup>F47</sup> . . . the personal representatives of the testator, and <sup>F47</sup> . . . (but without prejudice to the rights and powers of the personal representatives for purposes of administration) [<sup>F48</sup> in trust for the persons interested in the land].

[<sup>F49</sup>(3A) 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).]

<sup>F50</sup>(4) . . . . .

**Textual Amendments**

- F46** Words in s. 34(2) substituted (1.1.1997) by 1996 c. 47, s. 5(1), **Sch. 2 para. 3(2)(6)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**
- F47** Words in s. 34(3) repealed (1.1.1997) by 1996 c. 47, ss. 5(1), 25(2), Sch. 2 para. 3(3)(a)(6), **Sch.4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**
- F48** Words in s. 34(3) substituted (1.1.1997) by 1996 c. 47, s. 5(1), **Sch. 2 para. 3(3)(b)(6)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**
- F49** S. 34(3A) inserted (1.1.1997) by 1996 c. 47, s. 5(1), **Sch. 2 para. 3(4)(6)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**
- F50** S. 34(4) repealed (1.1.1997) by 1996 c. 47, ss. 5(1), 25(2), Sch. 2 para. 3(5)(6), **Sch.4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

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

- C17** S. 34 applied by Leasehold Reform Act 1967 (c. 88), **s. 6(1)**

**Marginal Citations**

- M8** 1925 c. 18.

<sup>F51</sup>35 . . . . . **E+W**

**Textual Amendments**

- F51** S. 35 repealed (1.1.1997) by 1996 c. 47, s. 25(2), **Sch.4** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

**36 Joint tenancies. E+W**

- (1) Where a legal estate (not being settled land) is beneficially limited to or held in trust for any persons as joint tenants, the same shall be held [<sup>F52</sup> in trust], in like manner as if the persons beneficially entitled were tenants in common, but not so as to sever their joint tenancy in equity.
- (2) No severance of a joint tenancy of a legal estate, so as to create a tenancy in common in land, shall be permissible, whether by operation of law or otherwise, but this subsection does not affect the right of a joint tenant to release his interest to the other

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joint tenants, or the right to sever a joint tenancy in an equitable interest whether or not the legal estate is vested in the joint tenants:

Provided that, where a legal estate (not being settled land) is vested in joint tenants beneficially, and any tenant desires to sever the joint tenancy in equity, he shall give to the other joint tenants a notice in writing of such desire or do such other acts or things as would, in the case of personal estate, have been effectual to sever the tenancy in equity, and thereupon [<sup>F53</sup>the land shall be held in trust on terms] which would have been requisite for giving effect to the beneficial interests if there had been an actual severance.

[<sup>F54</sup>Nothing in this Act affects the right of a survivor of joint tenants, who is solely and beneficially interested, to deal with his legal estate as if it were not held [<sup>F53</sup>in trust].]

- (3) Without prejudice to the right of a joint tenant to release his interest to the other joint tenants no severance of a mortgage term or trust estate, so as to create a tenancy in common, shall be permissible.

#### Textual Amendments

**F52** Words in s. 36(1) substituted (1.1.1997) by 1996 c. 47, s. 5(1), **Sch. 2 para. 4(2)(4)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

**F53** Words in s. 36(2) substituted (1.1.1997) by 1996 c. 47, s. 5(1), **Sch. 2 para. 4(3)(a)(b)(4)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

**F54** Words added by Law of Property (Amendment) Act 1926 (c. 11), **Sch.**

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

**C18** S. 36 applied by Leasehold Reform Act 1967 (c. 88), **s. 6(1)**

**C19** S. 36(2) extended retrospectively by Law of Property (Joint Tenants) Act 1964 (c. 63), **ss. 1, 2**

### 37 Rights of husband and wife. **E+W**

A husband and wife shall, for all purposes of acquisition of any interest in property, under a disposition made or coming into operation after the commencement of this Act, be treated as two persons.

### 38 Party structures. **E+W**

- (1) Where under a disposition or other arrangement which, if a holding in undivided shares had been permissible, would have created a tenancy in common, a wall or other structure is or is expressed to be made a party wall or structure, that structure shall be and remain severed vertically as between the respective owners, and the owner of each part shall have such rights to support and user over the rest of the structure as may be requisite for conferring rights corresponding to those which would have subsisted if a valid tenancy in common had been created.
- (2) Any person interested may, in case of dispute, apply to the court for an order declaring the rights and interests under this section of the persons interested in any such party structure, and the court may make such order as it thinks fit.



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### Transitional Provisions

#### 39 Transitional provisions in First Schedule. **E+W**

For the purpose of effecting the transition from the law existing prior to the commencement of the <sup>M9</sup>Law of Property Act, 1922, to the law enacted by that Act (as amended), the provisions set out in the First Schedule to this Act shall have effect—

- (1) for converting existing legal estates, interests and charges not capable under the said Act of taking effect as legal interests into equitable interests;
- (2) for discharging, getting in or vesting outstanding legal estates;
- (3) for making provision with respect to legal estates vested in infants;
- (4) for subjecting land held in undivided shares to [<sup>F55</sup>trusts];
- (5) for dealing with party structures and open spaces held in common;
- (6) <sup>F56</sup> . . . . .
- (7) for converting existing freehold mortgages into mortgages by demise;
- (8) for converting existing leasehold mortgages into mortgages by sub-demise.

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#### Textual Amendments

**F55** Word in s. 39(4) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 4(10)** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art.2**

**F56** S. 39(6) repealed (22.7.2004) by Statute Law (Repeals) Act 2004 (c. 14), s. 1(1), **Sch. 1 Pt. 12**

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#### Marginal Citations

**M9** 1922 c. 16.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [2023 asc 3 s. 146\(5\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 52(2)(dc)(dd) inserted by [2016 c. 22 Sch. 7 para. 1\(2\)](#)