



Law of Property Act 1925

1925 CHAPTER 20

PART I

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

1 Legal estates and equitable interests.

- (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) Land tax, tithe rentcharge, 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.

- (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.

2 Conveyances overreaching certain equitable interests and powers.

- (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 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 trustees for sale 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 the statutory requirements respecting the payment of capital money arising under a disposition upon trust for sale 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.
- (2) Where the legal estate affected is not, when the equitable interest or power is created, subject to a trust for sale or a settlement, then, if the estate owner, whether before or after the commencement of this Act, disposes of his estate to trustees upon trust for sale, and at the date of a conveyance made, after such commencement, under the disposition upon trust for sale 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,

such equitable interest or power 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 preemption, or any other like right;
 - (v) Any equitable interest protected by registration under the 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 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.

3 Manner of giving effect to equitable interests and powers.

- (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 Settled Land Act, 1925;
 - (b) Where the legal estate affected is vested in trustees for sale—
 - (i) The trustees shall stand possessed of the net proceeds of sale after payment of costs and of the net rents and profits of the land until sale after payment of rates, taxes, costs of insurance, repairs, and other

Status: This is the original version (as it was originally enacted).

outgoings, 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 same respectively, of which they have notice, and whether created before or after the disposition upon trust for sale, according to their respective priorities:

- (ii) Where, by reason of the exercise of any equitable power or under any trust affecting the proceeds of sale, any principal sum is required to be raised, or any person of full age becomes entitled to require a legal estate in the land to be vested in him in priority to the trust for sale, then, unless the claim is satisfied out of the net proceeds of sale, the trustees for sale shall (if so requested in writing) be bound to transfer or create such legal estates, to take effect in priority to the trust for sale, as may be required for raising the money by way of legal mortgage or for giving legal effect to the rights of the person so entitled:

Provided that, if the proceeds of sale are held in trust for persons of full age in undivided shares absolutely free from incumbrances affecting undivided shares, those persons cannot require the land to be conveyed to them in undivided shares, but may (subject to effect being given by way of legal mortgage to incumbrances affecting the entirety) require the same to be vested in any of them (not exceeding four) as joint tenants on trust for sale; and if the conveyance purports to transfer the land to any of them in undivided shares or to more than four such persons, it shall operate only as a transfer to them or (if more than four) to the four first named therein as joint tenants on trust for sale :

- (c) Where the legal estate affected is neither settled land nor vested in trustees for sale, 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.
- (2) Effect may be given by means of a legal mortgage to an agreement for a mortgage, charge or lien (whether or not arising by operation of law) if the agreement, charge or lien ought to have priority over the trust for sale.
- (3) Where, by reason of a statutory or other right of reverter, or 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 trustees for sale or other 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 but 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 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.

4 Creation and disposition of equitable interests.

- (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) 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;
 - (b) a right of entry, into or upon land whether immediate or future, and whether vested or contingent.
- (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, but, in regard to an estate in fee simple (not being a rentcharge held for a legal estate) only within the period authorised by the rule relating to perpetuities.

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

- (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 lessor's and lessee's covenants.

- (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.

- (1) A fee simple which, by virtue of the Lands Clauses Acts, the School Sites Acts, 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.
- (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) the Forfeiture Act, 1870, in regard to the land of a convict;
 - (b) the Friendly Societies Act, 1896, in regard to land to which that Act applies;
 - (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.

This subsection does not authorise an entailed interest to take effect otherwise than as an equitable interest.

- (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.

8 Saving of certain legal powers to lease.

- (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 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.

9 Vesting orders and dispositions of legal estates operating as conveyances by an estate owner.

- (1) Every such order, declaration, or conveyance as is hereinafter mentioned, namely—

- (a) every vesting order made by any court or other competent authority;
 - (b) every vesting declaration (express or implied) under any statutory power;
 - (c) every vesting instrument made by the trustees of a settlement or other persons under the provisions of the 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 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.

10 Title to be shown to legal estates.

- (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.

11 Registration in Middlesex and Yorkshire as respects legal estates.

- (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.

12 Limitation and Prescription Acts.

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.

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.

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.

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 Liability for death duties.

- (1) A personal representative shall be accountable for all death duties which may become leviable or payable on the death of the deceased in respect of land (including nettled land) which devolves upon him by virtue of any statute or otherwise.
- (2) In every other case the estate owner (other than a purchaser who acquires a legal estate after the charge for death duties has attached and free from such charge), shall be accountable for all the duties aforesaid which become leviable or payable in respect of his estate in the land or any interest therein capable of being overreached by his conveyance, being a conveyance to a purchaser made under the Settled Land Act, 1925, or pursuant to a trust for sale.
- (3) For the purpose of raising the duty, and the costs of raising the same, the personal representative or other person accountable as aforesaid shall have all the powers which are by any statute conferred for raising the duty.
- (4) Nothing in this Act shall alter any duty payable in respect of land, or impose any new duty thereon, or affect the remedies of the Commissioners of Inland Revenue against any person other than a purchaser or a person deriving title under him.
- (5) Notwithstanding that any duties are by this section made payable by the personal representative or other person aforesaid, nothing in this Part of this Act shall affect the liability of the persons beneficially interested or their respective interests in respect of any duty and they shall accordingly account for or repay the same and any interest and

costs attributable thereto to the said Commissioners or to the personal representative or other person accountable as aforesaid, as the case may require.

- (6) Nothing in this Part of this Act shall impose on a personal representative, tenant for life, statutory owner, trustee for sale, or other person in a fiduciary position, as such, any liability for payment of duty, in excess of the assets (including land) vested in him or in the trustees of the settlement which may for the time being be available in his hands or in the hands of such trustees for the payment of the duty or which would have been so available but for his or their own neglect or default or impose a charge for duties on leasehold land, or render a mortgagee liable in respect of any charge for duties which is not paramount to his mortgage.
- (7) The said Commissioners, on being satisfied that a personal representative or other person accountable has paid or commuted or will pay or commute all death duties for which he is accountable in respect of the land or any part thereof, shall, if required by him, give a certificate to that effect, which shall discharge from any further claim for such duty the land to which the certificate extends, and the production of such certificate to the land registrar or other proper officer shall be a sufficient authority to enable him to cancel any land charge registered in respect of the duty so far as it affects the land to which the certificate extends.

17 Protection of purchasers from liability for death duties.

- (1) Where a charge in respect of death duties is not registered as a land charge, a purchaser of a legal estate shall take free therefrom, unless the charge for duties attached before the commencement of this Act and the purchaser had notice of the facts giving rise to the charge.
- (2) Where a charge in respect of death duties is not registered as a land charge, the person who conveys a legal estate to a purchaser, and the proceeds of sale, funds, and other property (if any) derived from the conveyance and the income thereof shall (subject as in this Act provided) be or remain liable in respect of and stand charged with the payment of the death duties the charge for which is over-reached by the conveyance, together with any interest payable in respect of the same.
- (3) Notwithstanding that any death duties may be payable by instalments, on a conveyance of a legal estate by way of sale exchange or legal mortgage all death duties payable in respect of the land dealt with and remaining unpaid shall, if the charge for the duties is over-reached by such conveyance, immediately become payable and carry interest at the rate of four pounds per centum per annum from the date of the conveyance:

Provided that, where by reason of this subsection an amount is paid or becomes payable for duties and interest in excess of the amount which would have been payable if the duties had continued to be paid by instalments, such excess shall be repaid or allowed as a deduction by the Commissioners of Inland Revenue.

- (4) Except in the case of a conveyance to a purchaser, a conveyance shall take effect subject to any subsisting charge or liability for payment of the duties and interest, if any, notwithstanding that the charge for duties may not have been registered.
- (5) This section does not apply to registered land.

18 Application of capital money in discharge of death duties.

- (1) Capital money liable to be laid out in the purchase of land to be settled in the same manner as the land in respect of which any death duties may have become payable, and personal estate held on the same trusts as the proceeds of sale of land, being land held on trust for sale in respect of which any such duties may have become payable, may, by the direction of the tenant for life, statutory owner, or trustee for sale who is accountable, and although the duty is only payable in respect of an interest which is or is capable of being over-reached by a conveyance to a purchaser, be applied in discharging all or any of the duties aforesaid and the costs of discharging the same.
- (2) Where the duties would not, except by virtue of the last subsection, be payable out of the capital money or personal estate aforesaid—
 - (a) the amount so paid shall be repaid by the person liable for the duty to the trustees of the settlement or the trustees for sale by the like instalments and at the like rate of interest by and at which the unpaid duty and the interest thereon might have been paid, or, where the land has been conveyed to a purchaser, would have been paid if the land had not been so conveyed;
 - (b) the interest of the person so liable, remaining subject to the settlement of the land or of the proceeds of sale, shall stand charged with the repayment of the instalments and the interest aforesaid;
 - (c) the trustees of the settlement or the trustees for sale shall be entitled to recover and receive any excess of duty which may become repayable by the said Commissioners.

Infants and Lunatics.

19 Effect of conveyances of legal estates to infants.

- (1) A conveyance of a legal estate in land to an infant alone or to two or more persons jointly both or all of whom are infants, shall have such operation as is provided for in the Settled Land Act, 1925.
- (2) A conveyance of a legal estate in land to an infant, jointly with one or more other persons of full age, shall operate to vest the legal estate in the other person or persons on the statutory trusts, but not so as to sever any joint tenancy in the net proceeds of sale or in the rents and profits until sale, or affect the right of a tenant for life or statutory owner to have settled land vested in him.
- (3) The foregoing provisions of this section do not apply to conveyances on trust or by way of mortgage.
- (4) A conveyance of a legal estate to an infant alone or to two or more persons jointly, both or all of whom are infants, on any trusts, shall operate as a declaration of trust and shall not be effectual to pass any legal estate.
- (5) A conveyance of a legal estate in land to an infant jointly with one or more other persons of full age on any trusts shall operate as if the infant had not been named therein, but without prejudice to any beneficial interest in the land intended to be thereby provided for the infant.
- (6) A grant or transfer of a legal mortgage of land to an infant shall operate only as an agreement for valuable consideration to execute a proper conveyance when the infant attains, full age, and in the meantime to hold any beneficial interest in the mortgage

debt in trust for the persons for whose benefit the conveyance was intended to be made :

Provided that, if the conveyance is made to the infant and another person or other persons of full age, it shall operate as if the infant had not been named therein, but without prejudice to any beneficial interest in the mortgage debt intended to be thereby provided for the infant.

20 Infants not to be appointed trustees.

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.

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.

22 Conveyances on behalf of lunatics and defectives and as to land held by them on trust for sale.

- (1) Where a legal estate in land (whether settled or not) is vested in a lunatic, or a defective, either solely or jointly with any other person or persons, his committee or receiver shall, under an order in lunacy 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 the name and on behalf of the lunatic or defective.
- (2) If land held on trust for sale is vested in a lunatic, or a defective, either solely or jointly with any other person or persons, a new trustee shall be appointed in his place, or he shall be otherwise discharged from the trust, before the legal estate is dealt with under the trust for sale or under the powers vested in the trustees for sale.

Dispositions on Trust for Sale.

23 Duration of trusts for sale.

Where land has, either before or after the commencement of this Act, become subject to an express or implied trust for sale, such trust shall, so far as regards the safety and protection of any purchaser thereunder, be deemed to be subsisting until the land has been conveyed to or under the direction of the persons interested in the proceeds of sale.

This section applies to sales whether made before or after the commencement of this Act, but operates without prejudice to an order of any court restraining a sale.

24 Appointment of trustees of dispositions on trust for sale.

- (1) The persons having power to appoint new trustees of a conveyance of land on trust for sale shall be bound to appoint the same persons (if any) who are for the time being trustees of the settlement of the proceeds of sale, but a purchaser shall not be concerned

to see whether the proper persons are appointed to be trustees of the conveyance of the land.

- (2) This section applies whether the settlement of the proceeds of sale or the conveyance on trust for sale comes into operation before or after the commencement of this Act.

25 Power to postpone sale.

- (1) A power to postpone sale shall, in the case of every trust for sale of land, be implied unless a contrary intention appears.
- (2) Where there is a power to postpone the sale, then (subject to any express direction to the contrary in the instrument, if any, creating the trust for sale) the trustees for sale shall not be liable in any way for postponing the sale, in the exercise of their discretion, for any indefinite period; nor shall a purchaser of a legal estate be concerned in any case with any directions respecting the postponement of a sale.
- (3) The foregoing provisions of this section apply whether the trust for sale is created before or after the commencement or by virtue of this Act.
- (4) Where a disposition or settlement coming into operation after the commencement of this Act contains a trust either to retain or sell land the same shall be construed as a trust to sell the land with power to postpone the sale.

26 Consents to the execution of a trust for sale.

- (1) If the consent of more than two persons is by the disposition made requisite to the execution of a trust for sale of land, then, in favour of a purchaser, the consent of any two of such persons to the execution of the trust or to the exercise of any statutory or other powers vested in the trustees for sale shall be deemed sufficient.
- (2) Where the person whose consent to the execution of any such trust or power is expressed to be required in a disposition is not sui juris or becomes subject to disability, his consent shall not, in favour of a purchaser, be deemed to be requisite to the execution of the trust or the exercise of the power; but the trustees shall, in any such case, obtain the separate consent of the parent or testamentary or other guardian of an infant or of the committee or receiver (if any) of a lunatic or defective.
- (3) The trustees for sale shall, so far as practicable, give effect to the wishes of the persons of full age for the time being beneficially interested in possession in the rents and profits of the land until sale, or, in case of dispute, of the majority (according to the value of their combined interests) of such persons, but a purchaser shall not be concerned to see that such wishes are complied with.
- (4) This section applies whether the trust for sale is created before or after the commencement or by virtue of this Act.

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.

- (1) A purchaser of a legal estate from trustees for sale shall not be concerned with the trusts affecting the proceeds of sale of land subject to a trust for sale (whether made to attach to such proceeds by virtue of this Act or otherwise), or affecting the rents and profits of the land until sale, whether or not those trusts are declared by the same instrument by which the trust for sale is created.

- (2) Notwithstanding anything to the contrary in a disposition on trust for sale of land or in the settlement of the net proceeds, the proceeds of sale or other capital money arising under the disposition shall not be paid to or applied by the direction of fewer than two persons as trustees of the disposition, 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 the proceeds of sale or other capital money aforesaid; nor, except where capital money arises on a transaction, render it necessary to have more than one trustee.

28 Powers of management, &c. conferred on trustees for sale.

- (1) Trustees for sale shall, in relation to land or to manorial incidents and to the proceeds of sale, have all the powers of a tenant for life and the trustees of a settlement under the Settled Land Act, 1925, including in relation to the land the powers of management conferred by that Act during a minority: and (subject to any express trust to the contrary) all capital money arising under the said powers shall, unless paid or applied for any purpose authorised by the Settled Land Act, 1925, be applicable in the same manner as if the money represented proceeds of sale arising under the trust for sale.

All land acquired under this subsection shall be conveyed to the trustees on trust for sale.

The powers conferred by this subsection shall be exercised with such consents (if any) as would have been required on a sale under the trust for sale, and when exercised shall operate to overreach any equitable interests or powers which are by virtue of this Act or otherwise made to attach to the net proceeds of sale as if created by a trust affecting those proceeds.

- (2) Subject to any direction to the contrary in the disposition on trust for sale or in the settlement of the proceeds of sale, the net rents and profits of the land until sale, after keeping down costs of repairs and insurance and other outgoings shall be paid or applied, except so far as any part thereof may be liable to be set aside as capital money under the Settled Land Act, 1925, in like manner as the income of investments representing the purchase money would be payable or applicable if a sale had been made and the proceeds had been duly invested.
- (3) Where the net proceeds of sale have under the trusts affecting the same become absolutely vested in persons of full age in undivided shares (whether or not such shares may be subject to a derivative trust) the trustees for sale may, with the consent of the persons, if any, of full age, not being annuitants, interested in possession in the net rents and profits of the land until sale:—
- (a) partition the land remaining unsold or any part thereof; and
 - (b) provide (by way of mortgage or otherwise) for the payment of any equality money;

and, upon such partition being arranged, the trustees for sale shall give effect thereto by conveying the land so partitioned in severalty (subject or not to any legal mortgage created for raising equality money) to persons of full age and either absolutely or on trust for sale or, where any part of the land becomes settled land, by a vesting deed, or partly in one way and partly in another in accordance with the rights of the persons interested under the partition, but a purchaser shall not be concerned to see or inquire whether any such consent as aforesaid has been given:

Provided that—

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- (i) If a share in the net proceeds belongs to a lunatic or defective, the consent of his committee or receiver shall be sufficient to protect the trustees for sale :
 - (ii) If a share in the net proceeds is affected by an incumbrance the trustees for sale may either give effect thereto or provide for the discharge thereof by means of the property allotted in respect of such share, as they may consider expedient.
- (4) If a share in the net proceeds is absolutely vested in an infant, the trustees for sale may act on his behalf and retain land (to be held on trust for sale) or other property to represent his share, but in other respects the foregoing power shall apply as if the infant had been of full age.
- (5) This section applies to dispositions on trust for sale coming into operation either before or after the commencement or by virtue of this Act.

29 Delegation of powers of management by trustees for sale.

- (1) The powers of and incidental to leasing, accepting surrenders of leases and management, conferred on trustees for sale whether by this Act or otherwise, may, until sale of the land, be revocably delegated from time to time, by writing, signed by them, to any person of full age (not being merely an annuitant) for the time being beneficially entitled in possession to the net rents and profits of the land during his life or for any less period: and in favour of a lessee such writing shall, unless the contrary appears, be sufficient evidence that the person named therein is a person to whom the powers may be delegated, and the production of such writing shall, unless the contrary appears, be sufficient evidence that the delegation has not been revoked.
- (2) Any power so delegated shall be exercised only in the names and on behalf of the trustees delegating the power.
- (3) The persons delegating any power under this section shall not, in relation to the exercise or purported exercise of the power, be liable for the acts or defaults of the person to whom the power is delegated, but that person shall, in relation to the exercise of the power by him, be deemed to be in the position and to have the duties and liabilities of a trustee.
- (4) Where, at the commencement of this Act, an order made under section seven of the Settled Land Act, 1884, is in force, the person on whom any power is thereby conferred shall, while the order remains in force, exercise such power in the names and on behalf of the trustees for sale in like manner as if the power had been delegated to him under this section.

30 Powers of court where trustees for sale refuse to exercise powers.

If the trustees for sale refuse to sell or to exercise any of the powers conferred by either of the last two sections, or any requisite consent cannot be obtained, any person interested may apply to the court for a vesting or other order for giving effect to the proposed transaction or for an order directing the trustees for sale to give effect thereto, and the court may make such order as it thinks fit.

31 Trust for sale of mortgaged property where right of redemption is barred.

- (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 on trust for sale.

- (2) The net proceeds of sale, after payment of costs and expenses, shall be applied in like manner as the mortgage debt, if received, would have been applicable, and the income of the property until sale shall be applied in like manner as the interest, if received, would have been applicable; but this subsection operates without prejudice to any rule of law relating to the apportionment of Capital and income between tenant for life and remainderman.
- (3) This section does not affect the right of any person to require that, instead of a sale, the property shall be conveyed to him or in accordance with his directions.
- (4) Where the mortgage money is capital money for the purposes of the Settled Land Act, 1925, the trustees shall, if the tenant for life or statutory owner so requires, instead of selling any land forming the whole or part of such property, execute such subsidiary vesting deed with respect thereto as would have been required if the land had been acquired on a purchase, with capital money.
- (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.

32 Implied trust for sale in personalty settlements.

- (1) Where a settlement of personal property or of land held upon trust for sale contains a power to invest money in the purchase of land, such land shall, unless the settlement otherwise provides, be held by the trustees on trust for sale; and the net rents and profits until sale, after keeping down costs of repairs and insurance and other outgoings, shall be paid or applied in like manner as the income of investments representing the purchase-money would be payable or applicable if a sale had been made and the proceeds had been duly invested in personal estate.
- (2) This section applies to settlements (including wills) coming into operation after the thirty-first day of December, nineteen hundred and eleven, and does not apply to capital money arising under the Settled Land Act, 1925, or money liable to be treated as such.

33 Application of Part I. to personal representatives.

The provisions of this Part of this Act relating to trustees for sale apply to personal representatives holding on trust for sale, but without prejudice to their rights and powers for purposes of administration.

Undivided Shares and Joint Ownership.

34 Effect of future dispositions to tenants in common.

- (1) An undivided share in land shall not be capable of being created except as provided by the 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 upon the statutory trusts

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hereinafter mentioned and so as to give effect to the rights of the persons who would have been entitled to the shares had the conveyance operated to create those shares:

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 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 the trustees (if any) of the will for the purposes of the Settled Land Act, 1925, or, if there are no such trustees, then to the personal representatives of the testator, and in each case (but without prejudice to the rights and powers of the personal representatives for purposes of administration) upon the statutory trusts hereinafter mentioned.
- (4) Any disposition purporting to make a settlement of an undivided share in land shall only operate as a settlement of a corresponding share of the net proceeds of sale and of the rents and profits until sale of the entirety of the land.

35 Meaning of " the statutory trusts."

For the purposes of this Act land held upon the " statutory trusts " shall be held upon the trusts and subject to the provisions following, namely, upon trust to sell the same and to stand possessed of the net proceeds of sale, after payment of costs, and of the net rents and profits until sale after payment of rates, taxes, costs of insurance, repairs, and other outgoings, upon such trusts, and subject to such powers and provisions, as may be requisite for giving effect to the rights of the persons (including an incumbrancer of, a former undivided share or whose incumbrance is not secured by a legal mortgage) interested in the land.

36 Joint tenancies.

- (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 on trust for sale, 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 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 under the trust for sale affecting the land the net proceeds of sale, and the net rents and profits until sale, shall be held upon the trusts which would have been requisite for giving effect to the beneficial interests if there had been an actual severance.

- (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.

37 Rights of husband and wife.

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.

- (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.

Transitional Provisions.

39 Transitional provisions in First Schedule.

For the purpose of effecting the transition from the law existing prior to the commencement of the 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 trusts for sale;
- (5) for dealing with party structures and open spaces held in common;
- (6) for converting tenancies by entireties into joint tenancies;
- (7) for converting existing freehold mortgages into mortgages by demise;
- (8) for converting existing leasehold mortgages into mortgages by sub-demise.