



Law of Property (Amendment) Act 1926

1926 CHAPTER 11

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

BE IT ENACTED by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Conveyances of legal estates subject to certain interests

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

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

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

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

(3) In this section " interest" means an estate, interest, charge or power of charging subsisting, or capable of arising or of being exercised, under a settlement, and, where

a prior interest arises under the exercise of a power, "instrument" includes both the instrument conferring the power and the instrument exercising it.

2 Amendment of 15 Geo.5 c.20 s.140 in its application to agricultural holdings

Section one hundred and forty of the Law of Property Act, 1925 (which relates to the apportionment of conditions on severance), shall have effect as if at the end of subsection (2) thereof the following proviso were inserted:—

“Provided that where the land demised is an agricultural holding within the meaning of the Agricultural Holdings Act, 1923, the tenant on whom notice to quit is served by the person entitled to a severed part of the reversion may at any time within twenty-eight days of the service of such notice to quit, serve on the persons severally entitled to the severed parts of the reversion a notice in writing to the effect that he accepts the notice to quit as a notice to quit the entire holding given by the persons so severally entitled to take effect at the same time as the original notice; and such acceptance shall have effect as if it were the acceptance of a notice to quit to which paragraph (d) of subsection (7) of section twelve of the said Act applies.”

3 Meaning of "trust corporation"

- (1) For the purposes of the Law of Property Act, 1925, the Settled Land Act, 1925, the Trustee Act 1925, the Administration of Estates Act, 1925, and the Supreme Court of Judicature (Consolidation) Act, 1925, the expression "Trust Corporation" includes the Treasury Solicitor, the Official Solicitor and any person holding any other official position prescribed by the Lord Chancellor, and, in relation to the property of a bankrupt and property subject to a deed of arrangement, includes the trustee in bankruptcy and the trustee under the deed respectively, and, in relation to charitable ecclesiastical and public trusts, also includes any local or public authority so prescribed, and any other corporation constituted under the laws of the United Kingdom or any part thereof which satisfies the Lord Chancellor that it undertakes the administration of any such trusts without remuneration, or that by its constitution it is required to apply the whole of its net income after payment of outgoings for charitable, ecclesiastical or public purposes, and is prohibited from distributing, directly or indirectly, any part thereof by way of profits amongst any of its members, and is authorised by him to act in relation to such trusts as a trust corporation.
- (2) For the purposes of this provision, the expression "Treasury Solicitor" means the solicitor for the affairs of His Majesty's Treasury, and includes the solicitor for the affairs of the Duchy of Lancaster.

4 Date of effective registration and priority notices

- (1) Any person intending to make an application for the registration of any contemplated charge, instrument, or other matter in pursuance of the Land Charges Act, 1925, or any rule made thereunder, may give a priority notice in the prescribed form at least two days before the registration is to take effect, and where such a notice is given—
 - (a) the notice shall be entered in the register to which the intended application when made will relate;
 - (b) if the application is presented within fourteen days thereafter and refers in the prescribed manner to the notice, the registration shall take effect as if the registration had been made at the time when the charge, instrument, or matter

was created, entered into, made, or arose, and the date at which the registration so takes effect shall be deemed to be the date of registration; and where any two charges, instruments, or matters are contemporaneous, and one (whether or not protected by a priority notice) is subject to or dependent on the other which is protected by a priority notice, the subsequent or dependent charge, instrument, or matter shall be deemed to have been created, entered into, or made, or to have arisen after the registration of the other.

- (2) Where a purchaser has obtained an official certificate of the result of search, any entry which is made in the register after the date of the certificate and before the completion of the purchase, and is not made pursuant to a priority notice entered on the register before the certificate is issued, shall not, if the purchase is completed before the expiration of the second day after the date of the certificate, affect the purchaser.
- (3) In reckoning the number of days under this section, Sundays and other days when the registry is not open to the public shall be excluded.
- (4) Rules may be made under the said Act—
 - (a) for determining the date on which applications and notices shall be treated for the purposes of this section as having been made or given;
 - (b) for determining the times and order at and in which applications and priority notices are to be registered;
 - (c) for varying the number of days fixed by this section;
 - (d) for adapting the provisions of this section to local land charges.
- (5) Where rules are made varying the number of days fixed by this section, this section shall have effect as if the number so varied were substituted for the number specified in this section.

5 Priority of charges for securing further advances

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

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

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

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

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

7 Minor amendments

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

8 Short title, construction and commencement

- (1) This Act may be cited as the Law of Property (Amendment) Act, 1926, and so far as it amends any Act shall be construed as one with that Act.
- (2) The provisions of this Act except sections four and five shall be deemed to have come into operation on the first day of January, nineteen hundred and twenty-six.

SCHEDULE

MINOR AMENDMENTS

Enactments to be amended.	Amendments.
Law of Property Act, 1922.	
S. 43	In subsection (8), for the words " shall be " treated as purchase money," there shall be substituted the words " shall " be treated as interest upon purchase " money."
Schedule XIII., Part II.	At the end of paragraph 13 the following words shall be inserted:— “For the purposes of this paragraph the right of a tenant to demise or otherwise deal with land without the licence of the lord shall not be deemed to be restricted by reason only that by custom or otherwise the transaction has to be effected by surrender and admittance, or by customary assurance, or in any other particular manner, and customary payments have to be made in respect of the transaction.”
Settled Land Act, 1925.	
S. 1	At the end, there shall be inserted the following subsection :— “(7) This section does not apply to land held upon trust for sale.”
S. 3	In this section after the word " Land," where it first occurs, there shall be inserted the words " not held upon " trust for sale."
S. 13	For the words " without notice of any " settlement " there shall be substituted the words " without notice of such " tenant for life or statutory owner " having become so entitled as afore-" said."
S. 31	At the end of subsection (1) there shall be inserted the following paragraph :— “Where there are trustees for the purposes of this Act of the instrument under which there is a tenant for life or statutory owner but there are no trustees for those purposes of a prior instrument, being one of the instruments by which a compound settlement is constituted, those trustees shall, unless and until trustees are appointed of the prior

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Enactments to be amended.	Amendments.
	instrument or of the compound settlement, be the trustees for the purposes of this Act of the compound settlement.”
S. 39	In paragraph (i) of subsection (4), for the words " a condition of re-entry on the " rent not being paid within a time " therein specified not exceeding thirty " days," there shall be substituted the words " the statutory powers and remedies for the recovery of the rent shall " apply."
S. 78	At the end of subsection (1) there shall be inserted the words " This subsection " operates without prejudice to the " rights of any person claiming under " a disposition for valuable consideration " of any such money securities or " proceeds, made before the commencement of this Act."
S.105	The words " if and when such remainder-" man or reversioner would, if the " tenant for life were dead, be or have " the powers of a tenant for life under " this Act " shall be omitted.
Schedule II.	At the end of paragraph 1 (6), there shall be inserted the words " This sub-paragraph shall not apply to any legal " estate or interest vested in a mortgagee or other purchaser for money " or money's worth."
Law of Property Act 1925.	
S. 2	<p>For subsection (2) from the beginning to the words " are either," there shall be substituted the words " Where the " legal estate affected is subject to a " trust for sale, then if at the date of " a conveyance made after the commencement of this Act under the " trust for sale or the powers conferred " on the trustees for sale, the trustees " (whether original or substituted) are " either ".</p> <p>In that subsection for the words " such " equitable interest or power" there shall be substituted the words " any " equitable interest or power having " priority to the trust for sale."</p>
S. 7	At the end of subsection (1) there shall be inserted the words " and a fee simple " subject to a legal or equitable right of " entry

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S. 26.	<p>or re-entry is for the purposes "of this Act a fee simple absolute."</p> <p>For subsection (3) the following subsection shall be substituted :—</p> <p>“(3) Trustees for sale shall so far as practicable consult the persons of full age for the time being beneficially interested in possession in the rents and profits of the land until sale, and shall, so far as consistent with the general interest of the trust, give effect to the wishes of such persons, or, in the ease of dispute, of the majority (according to the value of their combined interests) of such persons, but a purchaser shall not be concerned to see that the provisions of this subsection have been complied with.</p> <p>In the case of a trust for sale, not being a trust for sale created by or in pursuance of the powers conferred by this or any other Act, this subsection shall not apply unless the contrary intention appears in the disposition creating the trust.”</p>
S. 27	<p>For subsection (2) the following subsection shall be substituted :—</p> <p>“(2) Notwithstanding anything to the contrary in the instrument (if any) creating a trust for sale of land or in the settlement of the net proceeds, the proceeds of sale or other capital money shall not be paid to or applied by the direction of fewer than two persons as trustees for sale, except where the trustee is a trust corporation, but this subsection does not affect the right of a sole personal representative as such to give valid receipts for, or direct the application of, proceeds of sale or other capital money, nor, except where capital money arises on the transaction, render it necessary to have more than one trustee.”</p>
S. 28	<p>In subsection (1), after the word " minority " there shall be inserted the words " and</p>

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S. 35.	<p>where by statute settled land is " or becomes vested in the trustees of " the settlement upon the statutory " trusts, such trustees and their successors in office shall also have all the " additional or larger powers (if any) " conferred by the settlement on the " tenant for life, statutory owner, or " trustees of the settlement."</p> <p>At the end the following paragraph shall be inserted :—</p> <p>“Where—</p> <ul style="list-style-type: none"> (a) an undivided share was subject to a settlement, and (b) the settlement remains subsisting in respect of other property, and (c) the trustees thereof are not the same persons as the trustees for sale, <p>then the statutory trusts include a trust for the trustees for sale to pay the proper proportion of the net proceeds of sale or other capital money attributable to the share to the trustees of the settlement to be held by them as capital money arising under the Settled Land Act, 1925.”</p>
S. 36	<p>At the end of subsection (2) the following words shall be inserted :—</p> <p>“Nothing in this Act affects the right of a survivor of joint tenants, who is solely and beneficially interested, to deal with his legal estate as if it were not held on trust for sale.”</p>
S. 89	<p>At the end of subsection (6), there shall be inserted the words " In this subsection " references to an apportionment " include an equitable apportionment " made without the consent of the " lessor."</p>
S. 94	<p>In subsection (2) for the words " date of " the original advance " there shall be substituted the words " time when the " original mortgage was created."</p>
S. 96	<p>At the end of subsection (2) the following proviso shall be inserted :— " In this subsection notice does not include " notice implied by reason of registra- tion under the</p>

Enactments to be amended.	Amendments.
S. 125	<p>Land Charges Act, " 1925, or in a local deeds register."</p> <p>In subsection (2) for the words " an office " copy " there shall be substituted the words " a copy. "</p>
Schedule I., Part II.	<p>In paragraph 3 after the words " hereinafter provided" the following proviso shall be inserted :—</p> <p>“The divesting of a legal estate by virtue of this paragraph shall not, where the person from whom the estate is so divested was a trustee, operate to prevent the legal estate being conveyed, or a legal estate being created, by him in favour of a purchaser for money or money's worth, if the purchaser has no notice of the trust and if the documents of title relating to the estate divested are produced by the trustee or by persons deriving title under him.”</p> <p>At the end of paragraph 7 there shall be inserted the following paragraph :—</p> <p>“(m) To vest in any person any legal estate affected by any rent covenants or conditions if, before any proceedings are commenced in respect of the rent covenants or conditions, and before any conveyance of the legal estate or dealing therewith inter vivos is effected, he or his personal representatives disclaim it in writing signed by him or them.”</p>
Part IV.	<p>In paragraph 1 (3), for the words " term " of years absolute," there shall be substituted the words " mortgage, and " free from any interests, powers, and " charges subsisting under the settlement, which have priority to the " interests of the persons entitled to " the undivided shares."</p> <p>In paragraph 1 (4) (iii) for the words " vest " the land " there shall be substituted the words " thereupon the land shall " by virtue of this Act vest."</p>

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Enactments to be amended.	Amendments.
	<p>At the end of paragraph 1 (10) there shall be inserted the words " within eighteen " months from the commencement of " this Act."</p> <p>In paragraph 1 (11), for the words " more " than one half " there shall be substituted the words " one half or upwards. "</p> <p>In paragraph 1 (12) after the word " include " there shall be inserted the words " a legal rentcharge affecting the " entirety."</p> <p>At the end of paragraph 3 the following new paragraph shall be inserted :—</p> <p>“4 Where, immediately before the commencement of this Act, there are two or more tenants for life of full age entitled under the same settlement in undivided shares, and, after the cesser of all their interests in the income of the settled land, the entirety of the land is limited so as to devolve together (not in undivided shares), their interests shall, but without prejudice to any beneficial interest, be converted into a joint tenancy, and the joint tenants and the survivor of them shall, until the said cesser occurs, constitute the tenant for life for the purposes of the Settled Land Act, 1925, and this Act.”</p>
Trustee Act, 1925.	
S. 14	In paragraph (a) of subsection (2), the words " disposition on" shall be omitted.
S. 25	In subsection (4), after the words " execution thereof," there shall be inserted the words " or where not executed" within the United Kingdom within " ten days after its receipt in the " United Kingdom."
S. 26	In subsection (1) for the words " which " may have accrued or been claimed " there shall be substituted the words " which may have accrued and been " claimed. "
S. 27	In subsection (1) for the words "in a " daily London newspaper and also if " the property includes land not situated in London in a daily or weekly " newspaper circulating in the district " in which the land is situated "

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Land Charges Act, 1925	there shall be substituted the words " in a " newspaper circulating in the district " in which the land is situated."
S. 10	<p>In Class C (iii) at the end, the following proviso shall be inserted :—</p> <p>“Provided that a charge given by way of indemnity against rents equitably apportioned or charged exclusively on land in exoneration of other land and against the breach or non-observance of covenants or conditions, shall not be deemed to be a general equitable charge and shall not be registrable as a land charge under this Act.”</p> <p>For subsection (6) the following subsection shall be substituted :—</p> <p>“(6) In the case of a general equitable charge, restrictive covenant, equitable easement or estate contract affecting land within any of the three ridings, and in the case of any other land charge (not being a local land charge) created by a document which shows on the face of it that the charge affects land within any of those ridings, registration shall be effected in the prescribed manner in the appropriate local deeds registry in place of the registry.”</p>
S. 15	<p>At the end of subsection (1) the following paragraph shall be inserted :—</p> <p>“For the purposes of this section any sum which is recoverable by a local authority under any of the Acts aforesaid from successive owners or occupiers of the property in respect of which the sum is recoverable shall, whether such sum is expressed to be a charge on the property or not, be deemed to be a charge.”</p> <p>At the end of paragraph (a) of subsection (6) there shall be inserted the words " whether by reference to the " estate owner or to the land affected " or otherwise " and paragraph (b) of the same subsection shall be omitted.</p> <p>For subsection (7) the following subsection shall be substituted :—</p>

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Enactments to be amended.

Amendments.

“The foregoing provisions of this section shall apply to—

(a) any town planning scheme made by, or any authority or resolution to prepare or adopt a town planning scheme given to or passed by, a local authority, whether made, given or passed before or after the commencement of this Act; and

(b) any prohibition of or restriction on the user or mode of user of land or buildings imposed by a local authority after the commencement of this Act by order, instrument, or resolution, or enforceable by a local authority under any covenant or agreement made with them after the commencement of this Act, or by virtue of any conditions attached to a consent, approval, or licence granted by a local authority after that date, being a prohibition or restriction binding on successive owners of the land or buildings, and not being—

(i) a prohibition or restriction operating over the whole of the district of the authority or over the whole of any contributory place thereof; or

(ii) a prohibition or restriction which is, or which may become, enforceable by virtue of a town-planning scheme; or

(iii) a prohibition or restriction imposed by a covenant or

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	<p>agreement made between a lessor and lessee;</p> <p>as if the scheme, resolution, authority, prohibition, or restriction were a local land charge, and the same shall be registered by the proper officer as a local land charge accordingly.”</p>
Universities and College Estates Act, 1925.	
S. 3	<p>In paragraph (i) of subsection (4), for the words " a condition of re-entry on the " rent not being paid within a time " therein specified, not exceeding thirty " days," there shall be substituted the words " the statutory powers and remedies for the recovery of the rent shall " apply."</p>