

SCHEDULES

SCHEDULE 2

Section 5.

AMENDMENTS OF STATUTORY PROVISIONS IMPOSING TRUST FOR SALE

Mortgaged property held by trustees after redemption barred

- 1 (1) Section 31 of the Law of Property Act 1925 (implied trust for sale of mortgaged property where right of redemption is barred) is amended as follows.
- (2) In subsection (1), for the words “on trust for sale.” substitute “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.”
- (3) In subsection (2), for the words from the beginning to “this subsection” substitute—
- “(2) Subsection (1) of this section”.
- (4) Omit subsection (3).
- (5) For subsection (4) substitute—
- “(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.”
- (6) In accordance with the amendments made by sub-paragraphs (2) to (5), in the sidenote of section 31 for the words “Trust for sale” substitute “Trust”.
- (7) The amendments made by this paragraph—
- (a) apply whether the right of redemption is discharged before or after the commencement of this Act, but
 - (b) are without prejudice to any dealings or arrangements made before the commencement of this Act.

Status: This is the original version (as it was originally enacted).

Land purchased by trustees of personal property etc.

- 2 (1) Section 32 of the Law of Property Act 1925 (implied trust for sale of land acquired by trustees of personal property or of land held on trust for sale) is omitted.
- (2) The repeal made by this paragraph applies in relation to land purchased after the commencement of this Act whether the trust or will in pursuance of which it is purchased comes into operation before or after the commencement of this Act.

Dispositions to tenants in common

- 3 (1) Section 34 of the Law of Property Act 1925 is amended as follows.
- (2) In subsection (2) (conveyance of land in undivided shares to operate as conveyance to grantees on trust for sale), for the words from “upon the statutory trusts” to “those shares” substitute “in trust for the persons interested in the land”.
- (3) In subsection (3) (devise etc. of land in undivided shares to operate as devise etc. to trustees of will etc. on trust for sale)—
- (a) omit the words from “the trustees (if any)” to “then to” and the words “in each case”, and
 - (b) for the words “upon the statutory trusts hereinafter mentioned” substitute “in trust for the persons interested in the land”.
- (4) After that subsection insert—
- “(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).”
- (5) Omit subsection (4) (settlement of undivided shares in land to operate only as settlement of share of profits of sale and rents and profits).
- (6) The amendments made by this paragraph apply whether the disposition is made, or comes into operation, before or after the commencement of this Act.

Joint tenancies

- 4 (1) Section 36 of the Law of Property Act 1925 is amended as follows.
- (2) In subsection (1) (implied trust for sale applicable to land held for persons as joint tenants), for the words “on trust for sale” substitute “in trust”.
- (3) In subsection (2) (severance of beneficial joint tenancy)—
- (a) in the proviso, for the words “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” substitute “the land shall be held in trust on terms”, and
 - (b) in the final sentence, for the words “on trust for sale” substitute “in trust”.
- (4) The amendments made by this paragraph apply whether the legal estate is limited, or becomes held in trust, before or after the commencement of this Act.

Intestacy

- 5 (1) Section 33 of the Administration of Estates Act 1925 (implied trust for sale on intestacy) is amended as follows.

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

(2) For subsection (1) substitute—

“(1) On the death of a person intestate as to any real or personal estate, that estate shall be held in trust by his personal representatives with the power to sell it.”

(3) In subsection (2), for the words from the beginning to “pay all” substitute—

“(2) The personal representatives shall pay out of—

- (a) the ready money of the deceased (so far as not disposed of by his will, if any); and
- (b) any net money arising from disposing of any other part of his estate (after payment of costs),

all”.

(4) In subsection (4), for the words from “including” to “retained” substitute “and any part of the estate of the deceased which remains”.

(5) The amendments made by this paragraph apply whether the death occurs before or after the commencement of this Act.

Reverter of sites

6 (1) Section 1 of the Reverter of Sites Act 1987 (right of reverter replaced by trust for sale) is amended as follows.

(2) In subsection (2)—

- (a) after “a trust” insert “for the persons who (but for this Act) would from time to time be entitled to the ownership of the land by virtue of its reverter with a power, without consulting them,”, and
- (b) for the words “upon trust” onwards substitute “in trust for those persons; but they shall not be entitled by reason of their interest to occupy the land.”

(3) In subsection (3), for the words “trustees for sale” substitute “trustees”.

(4) In subsection (4), for the words “on trust for sale” substitute “in trust”.

(5) In accordance with the amendments made by this paragraph, in the sidenote, for “trust for sale” substitute “trust”.

(6) The amendments made by this paragraph apply whether the trust arises before or after the commencement of this Act.

Trusts deemed to arise in 1926

7 Where at the commencement of this Act any land is held on trust for sale, or on the statutory trusts, by virtue of Schedule 1 to the Law of Property Act 1925 (transitional provisions), it shall after that commencement be held in trust for the persons interested in the land; and references in that Schedule to trusts for sale or trustees for sale or to the statutory trusts shall be construed accordingly.