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SCHEDULES

SCHEDULE 2

MINOR AND CONSEQUENTIAL AMENDMENTS

PART II

OTHER PUBLIC GENERAL ACTS

The Settled Land Act 1925 (c. 18)

- 7 In section 21 (absolute owners subject to certain interests to have the powers of tenant for life), in subsection (1)(d) for “income thereof” substitute “resultant profits”.
- 8 In section 39 (regulations respecting sales), in subsection (2), in the proviso, for the words from “accumulate” to the end of the subsection substitute “accumulate the profits from the capital money by investing them and any resulting profits under the general power of investment in section 3 of the Trustee Act 2000 and shall add the accumulations to capital.”
- 9 In section 73 (modes of investment or application), in subsection (1) for paragraph (i) substitute—
“(i) In investment in securities either under the general power of investment in section 3 of the Trustee Act 2000 or under a power to invest conferred on the trustees of the settlement by the settlement;”.
- 10 (1) In section 75 (regulations respecting investment, devolution, and income of securities etc.), for subsection (2) substitute—
“(2) Subject to Part IV of the Trustee Act 2000, to section 75A of this Act and to the following provisions of this section—
(a) the investment or other application by the trustees shall be made according to the discretion of the trustees, but subject to any consent required or direction given by the settlement with respect to the investment or other application by the trustees of trust money of the settlement, and
(b) any investment shall be in the names or under the control of the trustees.”
- (2) For subsection (4) of that section substitute—
“(4) The trustees, in exercising their power to invest or apply capital money, shall—
(a) so far as practicable, consult the tenant for life; and

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- (b) so far as consistent with the general interest of the settlement, give effect to his wishes.
- (4A) Any investment or other application of capital money under the direction of the court shall not during the subsistence of the beneficial interest of the tenant for life be altered without his consent.
- (4B) The trustees may not under section 11 of the Trustee Act 2000 authorise a person to exercise their functions with respect to the investment or application of capital money on terms that prevent them from complying with subsection (4) of this section.
- (4C) A person who is authorised under section 11 of the Trustee Act 2000 to exercise any of their functions with respect to the investment or application of capital money is not subject to subsection (4) of this section.”
- (3) Nothing in this paragraph affects the operation of section 75 in relation to directions of the tenant for life given, but not acted upon by the trustees, before the commencement of this paragraph.

11 After section 75 insert—

“75A Power to accept charge as security for part payment for land sold

- (1) Where—
 - (a) land subject to the settlement is sold by the tenant for life or statutory owner, for an estate in fee simple or a term having at least five hundred years to run, and
 - (b) the proceeds of sale are liable to be invested,
 the tenant for life or statutory owner may, with the consent of the trustees of the settlement, contract that the payment of any part, not exceeding two-thirds, of the purchase money shall be secured by a charge by way of legal mortgage of the land sold, with or without the security of any other property.
- (2) If any buildings are comprised in the property secured by the charge, the charge must contain a covenant by the mortgagor to keep them insured for their full value against loss or damage due to any event.
- (3) A person exercising the power under subsection (1) of this section, or giving consent for the purposes of that subsection—
 - (a) is not required to comply with section 5 of the Trustee Act 2000 before giving his consent, and
 - (b) is not liable for any loss incurred merely because the security is insufficient at the date of the charge.
- (4) The power under subsection (1) of this section is exercisable subject to the consent of any person whose consent to a change of investment is required by the instrument, if any, creating the trust.
- (5) Where the sale referred to in subsection (1) of this section is made under the order of the court, the power under that subsection applies only if and as far as the court may by order direct.”

12 Omit section 96 (protection of each trustee individually).

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- 13 In section 98 (protection of trustees in particular cases), omit subsections (1) and (2).
- 14 Omit section 100 (trustees' reimbursements).
- 15 In section 102 (management of land during minority or pending contingency), in subsection (2) for paragraph (e) substitute—
“(e) to insure against risks of loss or damage due to any event under section 19 of the Trustee Act 1925;”.
- 16 (1) In section 104 (powers of tenant for life not assignable etc.)—
(a) in subsection (3)(b) omit “authorised by statute for the investment of trust money”, and
(b) in subsection (4)(b) for the words from “no investment” to “trust money;” substitute “the consent of the assignee shall be required to an investment of capital money for the time being affected by the assignment in investments other than securities, and to any application of such capital money;”.
- (2) Sub-paragraph (1) applies to the determination on or after the commencement of that sub-paragraph of whether an assignee’s consent is required to the investment or application of capital money.
- 17 In section 107 (tenant for life deemed to be in the position and to have the duties and liabilities of a trustee, etc.) after subsection (1) insert—
“(1A) The following provisions apply to the tenant for life as they apply to the trustees of the settlement—
(a) sections 11, 13 to 15 and 21 to 23 of the Trustee Act 2000 (power to employ agents subject to certain restrictions),
(b) section 32 of that Act (remuneration and expenses of agents etc.),
(c) section 19 of the Trustee Act 1925 (power to insure), and
(d) in so far as they relate to the provisions mentioned in paragraphs (a) and (c), Part I of, and Schedule 1 to, the Trustee Act 2000 (the duty of care).”