



Law of Property Act 1922

1922 CHAPTER 16

PART I

ASSIMILATION AND AMENDMENT OF THE LAW OF REAL AND PERSONAL ESTATE.

Death Duties and Bankruptcies.

15 Provisions for payment of death duties and protection of purchasers therefrom.

- (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 settled land) which devolves upon him by virtue of this Act 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, made under the Settled Land Acts, or pursuant to a trust for sale, to a purchaser.
- (3) 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.
- (4) 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 hereinafter 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.
- (5) Notwithstanding that any death duties may be payable by instalments, on a conveyance of a legal estate by way of sale exchange or mortgage (by demise or sub-demise or by charge by way of legal mortgage), all death duties payable in respect of the land dealt

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with and remaining unpaid, the charge for which is over-reached by such conveyance, shall 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, then such excess shall be repaid or allowed as a deduction by the Commissioners of Inland Revenue.

- (6) 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 the duty became payable, and personal estate held on the same trusts as the proceeds of sale of land (in respect of which the duty became payable) held on trust for sale may, by the direction of the tenant for life of full age, 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.
- (7) Where the duties would not, except by virtue of the last subsection, be payable out of the capital money, or personal estate aforesaid, then 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 if the land had not been conveyed to a purchaser, and the interests 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; and 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.
- (8) 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 duty and interest, if any, notwithstanding that the charge for duty may not have been registered.
- (9) 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.
- (10) 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 said Commissioners against any person other than a purchaser or a person deriving title under him.
- (11) Notwithstanding that any duties are by this Act made payable by the personal representative or other person aforesaid, nothing in 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.
- (12) Nothing in this section shall impose on a personal representative, tenant for life of full age, 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 shall 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

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for duties on leasehold land, or render a mortgagee liable in respect of any charge for duties which is not paramount to his mortgage.

- (13) 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 duty 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.
- (14) This section does not apply to registered land, and only applies in favour of a purchaser for money or money's worth.

16 As to bankruptcies of estate owners.

- (1) Every petition in bankruptcy filed after the commencement of this Act shall be registered at the land registry as a *lis pendens*, and, as respects any transfer or creation of a legal estate, a petition filed after such commencement which is not so registered shall not, until so registered, be notice or evidence of any act of bankruptcy therein alleged.
- (2) Rules for giving effect to this section may be made under and in manner provided by section one hundred and thirty-two of the Bankruptcy Act, 1914, as if the registration were required by that Act. No fee shall be charged for the registration of a *lis pendens* if the application therefor is made by the registrar of the court in which a petition has been filed.
- (3) Where the petition is filed against a firm, the application to register shall state the names and addresses of the partners, and a *lis pendens* shall also be registered against each partner.
- (4) Every receiving order in bankruptcy made after the commencement of this Act may (whether or not it is known to affect land) be registered and re-registered as an order affecting land within the meaning of section five of the Land Charges Registration and Searches Act, 1888, and the provisions of that Act (including in particular section seventeen thereof) shall apply accordingly. No fee shall be charged for the registration of the order if the application therefor is made by an official receiver.
- (5) The words " does not include an order made by a court having jurisdiction in bankruptcy, but save as aforesaid," in the definition of " judgment" in section four of the said Act of 1888 are hereby repealed.
- (6) The title of the trustee in bankruptcy acquired after the commencement of this Act shall be void as against a purchaser of a legal estate claiming under a conveyance made after the date of registration of the petition, in bankruptcy unless, at the date of the conveyance, either the *lis pendens* is in force or the receiving order is registered pursuant to this section.
- (7) This section only applies in favour of a purchaser of a legal estate in good faith for money or money's worth without notice of an available act of bankruptcy.