



# Law of Property Act 1922

## 1922 CHAPTER 16

### PART I

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

##### *Legal Estates, Equitable Interests and Powers.*

#### **1 " Legal estates " and " equitable interests " and repeal of the Statute of Uses.**

- (1) The only estates, interests or charges in or over land which, after the commencement of this Act, shall be capable of subsisting or of being conveyed or created at law shall consist of—
- (a) An estate in fee simple absolute in possession:
  - (b) A term of years absolute :
  - (c) An easement, right, or privilege in or over land for an interest equivalent to a like estate or term:
  - (d) A like estate or term in mines and minerals, apart from the surface, or in the surface apart from the mines and minerals:
  - (e) A rentcharge in possession issuing out of or charged on land being either perpetual or for a term of years absolute:
  - (f) Land tax, tithe rentcharge, and any other similar charge on land which is not created by an instrument:
  - (g) Rights of entry exercisable over or in respect of a legal terra of years absolute, or annexed, for any purpose, to a legal rentcharge.

And all other estates, interests, and charges in or over land (including fees determinable whether by limitation or condition) which at or after the commencement of this Act were, or but for this section would have been, legal estates, interests or charges, or capable of taking effect as such are hereby converted into or shall take effect as equitable interests.

- (2) 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)

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

in this Act referred to as " legal estates," and the owner of a legal estate is referred to as " an estate owner " and his legal estate is referred to as his estate.

- (3) 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 if this Act had not been passed.
- (4) A legal estate shall not be capable of subsisting or of being created in an undivided share in land, and in this Part of this Act " land" does not include an undivided share therein unless the context so requires.
- (5) 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 chargee by way of legal mortgage or an estate owner in right of his estate and exercisable by him or by another person in his name and on his behalf), shall after such commencement operate only in equity.
- (6) 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."
- (7) The Statute of Uses and section sixty-two of the Conveyancing Act, 1881, are hereby repealed and 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 the proper person of full age upon the requisite trusts.
- (8) This section takes effect subject to the express savings and exceptions contained in this Part of this Act.

## **2 The getting in of bare outstanding legal estates.**

Legal estates outstanding at the commencement of this Act shall (in the circumstances mentioned in the first part of the First Schedule to this Act) vest in the person entitled to call for the same or be extinguished or merged in accordance with the provisions of that schedule.

## **3 Purchaser of legal estate not concerned with certain equitable interests or powers; and provisions for the protection thereof.**

- (1) After the commencement of this Act a purchaser of a legal estate in land shall not be concerned with or affected by any equitable interest or power affecting that land, whether he has notice thereof or not, save as provided by subsection (2) of this section.
- (2) A conveyance of a legal estate (other than a conveyance made by a mortgagee or personal representative in exercise of his powers) shall not, in favour of a purchaser, over-reach an equitable interest or power of which the purchaser has notice, unless—
  - (i) Such equitable interest or power—
    - (a) is independently of subsection (3) of this section over-reached by trustees for sale, or by the exercise of the powers conferred by the Settled Land Acts (as amended), or the powers conferred by a settlement; or
    - (b) is bound by an order of the court; or
    - (c) is over-reached by virtue of subsection (3) of this section; and

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (ii) If any capital money arises from the transaction, the same is paid into court, or the requirements of this Act respecting the payment of capital money arising under a trust for sale or a settlement, are complied with.
- (3) Equitable interests and powers which are not capable of being over-reached independently of this subsection shall, notwithstanding any stipulation to the contrary, be capable of being over-reached in manner following:—
- (i) Where the legal estate affected is at the time when any equitable interests or powers are created or arise subject to a trust for sale, the equitable interests and powers aforesaid may be over-reached by the trustees for sale, and shall, according to their priorities, take effect as if created or arising by means of a trust affecting the proceeds of sale and the income of the land until sale;
  - (ii) Where the legal estate affected is, at the time aforesaid subject to a settlement, the equitable interests and powers aforesaid may be overreached by the tenant for life of full age or statutory owner, and shall, according to their priorities, take effect as if limited or arising by or under that settlement;
  - (iii) Where the legal estate affected is not subject to a trust for sale or a settlement, then, if the estate owner conveys his estate to two or more individuals 'approved either by the persons in whom the equitable interests or powers aforesaid are vested or by the court, or to a trust corporation, upon trust for sale, with or without power to postpone the sale, such equitable interests and powers may be over-reached by the trustees for sale, and shall, according to their priorities, 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.
- (4) Equitable interests and powers capable of being over-reached by virtue of subsection (3) of this section are in this Act referred to as "protected by a trust for sale or " a settlement."
- (5) Save as hereinafter provided, this section shall not apply to the following equitable interests and powers namely—
- (i) The benefit of any covenant or agreement restrictive of the user of freehold land;
  - (ii) Any easement, liberty, or privilege over or affecting land and being merely an equitable interest;
  - (iii) The benefit of any contract to convey or create a legal estate (including a contract conferring a valid option of purchase, a right of pre-emption, or any other like right) ;
  - (iv) Any equitable interest protected by registration as a land charge or by an entry in any of the registers kept at the land registry or elsewhere under the Land Charges Registration and Searches Act, 1888 (as amended), and not being an interest the registration of which does not operate to prevent the same being over-reached by a conveyance to a purchaser of a legal estate in or created out of land subject to a trust for sale or a settlement;
  - (v) Any equitable interest protected by a deposit of documents relating to the legal estate affected:

Provided that a purchaser of a legal estate in land shall shall not be concerned with or affected by any equitable interest comprised in paragraphs (i) (ii) and (iii) of this subsection unless—

- (a) If created before the commencement of this Act, the purchaser has notice thereof; or,

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (b) If created after the commencement of this Act, it is protected by registration as a land charge.
- (6) Where any equitable interest or power, to which this section applies, has priority to any legal estate which is paramount to the trust for sale or settlement, nothing contained in this section shall enable such interest or power to be over-reached to the prejudice of the person in whom the same is vested without his consent.
- (7) Without prejudice 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.

#### **4 Enforcement of equitable interests and powers.**

All equitable interests and powers, whether created before or after the commencement or by virtue of this Act, shall be enforceable against the owner of the estate affected (other than a purchaser of a legal estate taking free therefrom) in the manner provided in the second part of the First Schedule to this Act.

#### **5 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 land to which title is being shown; but nothing in this Part of this Act shall affect 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 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.

#### **6 Registration in Middlesex and Yorkshire.**

After the commencement of this Act it shall not be deemed necessary to register a memorial of any instrument 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 be effectual or operate to give notice of the contents thereof.

#### **7 Provisions as to contracts.**

- (1) Where title can be made to a legal estate under the powers conferred by the Settled Land Acts (as extended by this Act) available to bind an equitable interest or power in or over the land without an application to the court, then a purchaser shall, notwithstanding any stipulation to the contrary, be entitled to require that title be made under such powers without the concurrence of the person entitled to the equitable interest or in whom the equitable power is vested.
- (2) A stipulation contained in any contract, made after the commencement of this Act, to the effect that a purchaser shall, at his own expense or otherwise, trace and get in an outstanding legal estate, shall be void ; and if the subject matter of the contract is

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

expressed to be an equitable interest (and is such an interest as is capable of subsisting at law or an entailed interest in possession) then if the vendor has power to vest, or to require the legal estate to be vested in himself or in the purchaser, the contract shall extend to the legal estate; but this subsection does not affect the right of a mortgagee of leasehold land to sell his mortgage term only if he is unable to convey the leasehold reversion expectant thereon.

- (3) Any such stipulation as is hereinafter mentioned, contained in any contract (other than a contract by a mortgagee or personal representative) for the sale of a legal estate or of an interest in land capable of subsisting at law made after such commencement, shall be void, that is to say—
- (a) A stipulation that a purchaser, where there are trustees of a settlement, shall accept a title made with the concurrence of a person entitled to an equitable interest, capable of being over-reached under the Settled Land Acts, instead of under those Acts.
  - (b) A stipulation that a purchaser, where there are no such trustees, shall accept a title made with the concurrence of more than two persons entitled to equitable interests (which would be capable of being over-reached under the Settled Land Acts, as soon as trustees of the settlement are appointed), instead of under those Acts; or shall pay or contribute towards the costs of the appointment of such trustees.
  - (c) A stipulation that a purchaser, where the land is subject to a trust for sale, shall accept a title otherwise than under the trust for sale or under the powers conferred on the trustees for sale.
- (4) A contract or other liability created or arising before the commencement of this Act to make a settlement of land shall be deemed to be sufficiently complied with if the land is vested in the tenant for life of full age, or statutory owner, upon the trusts of a trust deed in like manner as is provided by this Part of this Act with respect to settlements made after the commencement of this Act; and any contract to dispose of an undivided share in land shall be deemed to be sufficiently complied with by the conveyance of a corresponding share in the proceeds of sale of the land in like manner as if the contract had been made after the commencement of this Act.
- (5) A contract by an estate owner to create an equitable interest in land shall, unless the contrary thereby appears, be construed as a contract to effect the same by means of a trust for sale.
- (6) Without prejudice to the protection afforded by this Act to a purchaser of a legal estate, and to the provisions of this Act relating to the manner in which a contract is to be carried out, with or without variation, nothing in this Part of this Act shall affect the right to enforce a contract relating to land.

## **8 Rights protected by registration.**

Where a purchaser of a legal estate is entitled to acquire the same discharged from an equitable interest which is protected by registration as a land charge or under the Land Charges Registration and Searches Act, 1888 (as amended), and which will not be overreached on the conveyance to him, he may notwithstanding any stipulation to the contrary, require—

- (a) the registration to be cancelled free of expense to him; or
- (b) that the person entitled to the equitable interest shall concur in the conveyance free of expense to the purchaser.