



# 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)

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*Status: This is the original version (as it was originally enacted).*

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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

- (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,

- (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

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.

*Mortgages.*

**9 Effect, creation, and realisation of mortgages of freeholds and leaseholds.**

For the purpose of securing that the legal estate shall vest or remain vested in a mortgagor of land or in a purchaser from a mortgagee or other person who becomes entitled to the land free from the right of redemption, the provisions contained in the Second Schedule to this Act (under which mortgages of land are to take effect or be created only by demise or subdemise or by charge by way of legal mortgage) shall have effect, but without prejudice to the right to create equitable charges by deposit of documents or otherwise.

*Undivided Shares.*

**10 The entirety of land held in undivided shares to vest in trustees for sale, with power to postpone the sale.**

For removing the difficulties incidental to land being held in undivided shares, and for preventing the creation of undivided shares in land, except under a settlement and behind a trust for sale, the provisions contained in the Third Schedule to this Act (under which land held in undivided shares is vested or will become vested in trustees on trust for sale) shall have effect.

*Dispositions on Trust for Sale.*

**11 Provisions for regulating and facilitating dealings with land held on trust for sale.**

For protecting purchasers acquiring land under a trust for sale, and the persons beneficially interested in the proceeds of sale or in the land until sale and for facilitating dealings with land held on trust for sale (including a partition among the persons interested) the provisions contained in the Fourth Schedule to this Act shall have effect.

*Settlements.*

**12 Regulations respecting settlements of land.**

For assimilating the method of settling land to that employed in settling personal estate; for securing that settled land shall be vested in the tenant for life of full age or other persons who, during a minority, or at any other time when there is no tenant for life of full age, have the powers of a tenant for life; for providing for the devolution thereof on a death to personal representatives until an assent is given; for protecting equitable interests under a settlement by requiring capital money to be paid to at least two trustees (except in the case of a trust corporation) or into court, and for protecting trustees of settlements and purchasers of settled land, the provisions contained in the Fifth Schedule to this Act shall have effect.

*Infants and Lunatics.*

**13 Infants not to take legal estates; conveyances on behalf of lunatics.**

For securing that the legal estate of an infant shall vest or be vested in trustees; for providing for the management of land vested in personal representatives during a minority and for conveyances and settlements on behalf of lunatics or defectives being made in their names, the provisions contained in the Sixth Schedule to this Act shall have effect.

*Land Charges.*

**14 Amendment of the Land Charges Registration and Searches Act, 1888, in respect of death duties and other matters.**

For extending the statutory provisions relating to land charges to charges for death duties and other matters (including certain charges of local authorities) and for amending the Land Charges Registration and Searches Act, 1888, in reference thereto, the provisions contained in the Seventh Schedule to this Act shall have effect.

*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 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:

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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 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.

*Amendments of the General Law.*

**17 Abolition of technicalities respecting the creation of entailed interests and of the rule in Shelley's case.**

- (1) From and after the commencement of this Act, an interest in tail or in tail male or in tail female or in tail special (in this Act referred to as " an entailed interest ") may be created in equity in any property, real or personal, but only by the like expressions as before the commencement of this Act a similar estate tail could have been created by deed (not being an executory instrument) in freehold land, and with the like results, including the right to bar the entail either absolutely or so as to create an interest equivalent to a base fee.
- (2) Expressions contained in an instrument coming into operation after the commencement of this Act, which, in a will, or executory instrument coming into operation before such commencement, would have created an entailed interest in freehold land, but would not have been effectual for that purpose in a deed (not being an executory instrument) shall (save as next hereinafter provided) operate in equity, in regard to property real or personal, to create absolute, fee simple or other interests corresponding to those which, if the property affected had been personal estate, would have been created therein by similar expressions before the commencement of this Act:

Provided that where, by any instrument coming into operation after the commencement of this Act, an interest is expressed to be given to the heir or heirs or issue or any particular heir or any class of the heirs or issue of any person in words which, but for this proviso, would, under the rule of law known as the Rule in Shelley's case, have operated to give to that person an interest in fee simple or an entailed interest, such words shall operate in equity as words of purchase and not of limitation, and shall be construed and have effect accordingly : and in the case of an interest expressed to be given to an heir or heirs or any particular heir or class of heirs, the same person or persons shall take as would in the case of freehold land have answered that description if this Act had not been passed.

- (3) Where personal estate (including the proceeds of sale of land directed to be sold and chattels directed to be held as heirlooms) is, after the commencement of this Act, directed to be enjoyed or held with or upon trusts corresponding to trusts affecting land in which, either before or after the commencement of this Act an entailed interest has been created, and is subsisting, such direction shall be deemed sufficient to create a corresponding entailed interest in such personal estate.
- (4) In default of and subject to the execution of a disentailing assurance or the exercise of the testamentary power conferred by this Act, an entailed interest (to the extent of the property affected) shall devolve in equity, from time to time, upon the persons who would have been successively entitled thereto as the heirs of the body (either generally or of a particular class) of the tenant in tail or other person, if the entailed interest had, before the commencement of this Act, been limited in respect of freehold land, and this Act had not been passed.
- (5) Section thirty-two of the Fines and Recoveries Act, 1833 (relating to the appointment of special protectors of a settlement), is hereby repealed as respects settlements made or coming into operation after the commencement of this Act.
- (6) An entailed interest shall only be capable of being created by a settlement of real or personal property or the proceeds of sale thereof (including the will of a person dying

after the commencement of this Act), or by an agreement for a settlement in which the trusts to affect the property are sufficiently declared; and in this Act, where the context so admits, the expression "entailed interest" includes an estate tail (by this Part of this Act made to take effect in equity; created before the commencement of this Act.

**18 Abolition of the double possibility rule.**

- (1) The rule of law prohibiting the limitation, after a life interest to an unborn person, of an interest in land to the unborn child or other issue of such person is hereby abolished, but without prejudice to any other rule relating to perpetuities.
- (2) This section only applies to limitations or trusts created by an instrument coming into operation after the commencement of this Act.

**19 As to heirs taking by purchase.**

- (1) A limitation of real or personal property in favour of the heir (either general or special) of a deceased person which, if limited in respect of freehold land before the commencement of this Act, would have conferred on the heir an estate in the land by purchase, shall operate in equity to confer a corresponding equitable interest in the property on the person who would, if this Act had not been passed, have answered the description of the heir (either general or special) of the deceased, in respect of his freehold land, either at the death of the deceased or at the time named in the limitation, as the case may require.
- (2) This section applies whether or not the deceased person dies before or after the commencement of this Act but only applies to limitations or trusts created by an instrument coming into operation after such commencement.

*Miscellaneous Provisions.*

**20 Rights of pre-emption and entry, and extension of the Satisfied Terms Act.**

- (1) All statutory or other rights of pre-emption affecting a legal estate shall be and be deemed always to have been capable of release, and unless released shall remain in force in equity only; and, for removing doubts, it is hereby declared that—

All rights of entry affecting a legal estate which by law are exercisable, on condition broken, or for any other reason, by a person or his heirs or otherwise—

- (a) are assignable by deed ; and
  - (b) (without prejudice to the devolution thereof on the death of the person entitled thereto for an interest not ceasing on his death, to his personal representatives as part of his estate) can be disposed of by will; and
  - (c) after the commencement of this Act may, but, in regard to an estate in fee simple, (not being a rentcharge held for a legal estate) only within the period authorised by the rule relating to perpetuities, be made exercisable by any person and the persons deriving title under him.
- (2) After the commencement of this Act, the Satisfied Terms Act, 1845, shall apply and - extend to all terms of years created or limited out of leasehold land in like manner as if the term had been limited out of freehold land, whether the term is created before or after such commencement, and any such term shall when satisfied merge in the reversion expectant thereon.

**21 Vesting orders and dispositions of legal estates operating as conveyances by an estate owner.**

- (1) Every vesting order made by any court or other competent authority, vesting declaration (express or implied) under any statutory power, conveyance by a person appointed for the purpose under an order of the court or authorised under any statutory power to convey in the name or on behalf of an estate owner, and every conveyance made under any power reserved or conferred by this Part of this Act, which is made or executed for the purpose of vesting, conveying, or creating a legal estate, shall operate to convey or create the legal estate disposed of in like manner as if the same had been a conveyance executed by the estate owner of the legal estate to which the order, declaration, or conveyance relates,
- (2) Where the order, declaration, or conveyance is made in favour of a purchaser, then the provisions of this Act relating to a conveyance of a legal estate to a purchaser shall apply thereto.
- (3) The provisions, of the Trustee Act, 1893 (as amended by any subsequent enactment), relating to vesting orders and orders appointing a person to Convey shall apply to all Testing orders authorised to be made by this Part of this Act.

**22 Provisions of Act to apply to incorporeal hereditaments.**

- (1) The provisions of this Part of this Act relating to freehold land shall apply to manors, reputed manors, lordships, advowsons, tithe and perpetual rent-charges, and other incorporeal hereditaments, subject only to the qualifications necessarily arising by reason of the inherent nature of the hereditament affected.
- (2) This Part of this Act shall not affect the special restrictions imposed on dealings with advowsons by the Benefices Act, 1898, or any other statute, nor affect the limitation of, or authorise any disposition to be made Of, a title or dignity of honour which in its nature is inalienable.
- (3) This section shall take effect subject to the express provisions of this Act relating to undivided shares.

**23 Easements.**

Where an easement, right or privilege for a legal estate is created, it shall enure for the benefit of the land to which it is intended to be annexed.

**24 Reservations.**

- (1) A reservation of a legal estate shall operate at law without any execution of the conveyance by the grantee of the legal estate out of which the reservation is made, or any regrant by him, so as to create the legal estate reserved, by way of transmutation of possession, and so as to vest the same in possession in the person (whether being the grantor or not) for whose benefit the reservation is made.
- (2) A conveyance of a legal estate, subject to another legal estate not in existence immediately before the date of the conveyance, shall operate in like manner as a reservation, so as to create the last-mentioned estate and to vest the same in possession in the person for whose benefit that estate is to be created.
- (3) This section applies to leasehold land as well as to freehold land.

## **25 Confirmation of past transactions.**

- (1) A deed containing a declaration by the estate owner that his estate shall go and devolve in such a manner as may be requisite for confirming any interests intended to affect his estate and capable under this Act of subsisting as legal estates which, at some prior date, were expressed to have been transferred or created, and any dealings therewith which would have been legal if those interests had been legally and validly transferred or created, shall, to the extent of the estate of the estate owner, but without prejudice to the restrictions imposed by this Act in the case of mortgages, operate to give legal effect to the interests so expressed to have been transferred or created and to the subsequent dealings aforesaid.
- (2) This section applies to leasehold land as well as to freehold land; and the powers conferred by this section may be exercised by a tenant for life of full age, statutory owner, trustee for sale and a personal representative as well as by an absolute owner.

## **26 Charitable and public trusts.**

- (1) All land vested or to be vested in trustees on charitable, ecclesiastical, or public trusts or purposes shall be deemed to be settled land, and the trustees shall, in reference to the land, have all the powers which are by the Settled Land Acts conferred on a tenant for life and on the trustees of the settlement, and the instrument creating the trust shall be deemed the settlement, but, save where the trust is created by will coming into operation after the commencement of this Act, a vesting instrument shall not be deemed necessary for giving effect to the settlement.
- (2) The said powers shall be exercisable subject to such consents or orders (if any) being obtained as would have been required to authorise the transaction if this Act had not been passed. And, where the land is vested in the official trustee of charity lands, the said powers shall be exercisable by the managing trustees, and the official trustee aforesaid shall not be liable for giving effect to their directions,
- (3) Nothing in this section shall affect the jurisdiction of the court, Charity Commissioners, Board of Education, or other competent authority, in regard to The administration of charitable, ecclesiastical, or public trusts.
- (4) Where any trustees or the majority of any set of trustees have power to transfer or create any legal estate, the same shall be transferred or created by them in the names and on behalf of the persons (including the official trustee of charity lands) in whom the legal estate is vested.
- (5) This section applies whether the trust was created before or after the commencement of this Act.

## **27 Examples of abstracts of title and instruments.**

- (1) Examples of abstracts of title framed in accordance with the provisions of this Act are contained in the Eighth Schedule to this Act.
- (2) Examples of instruments framed in accordance with the provisions of this Act are contained in the Ninth Schedule to this Act.

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

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*Savings and Reservations.*

**28 Legal interests converted into equitable interests not to fail.**

- (1) A legal estate or interest in land subsisting or capable of taking effect at the commencement of this Act shall not fail by reason of the same being converted into an equitable interest either in the land or in the proceeds of sale thereof, nor shall its priority over other equitable interests be affected.
- (2) A purchaser of a legal beneficial interest in possession (subsisting immediately before the commencement of this Act) of a tenant for life under a settlement shall (without prejudice to any protection conferred by this Act on a purchaser of a legal estate) have and may exercise the same rights and remedies as he would have had or have been entitled to exercise if the interest had remained a legal interest, and the reversion (if any) on any leases or tenancies derived out of the settled land had remained vested in him.
- (3) Interests in land validly created or arising after the commencement of this Act, which are not capable of subsisting as legal estates, shall take effect as equitable interests, and save as otherwise expressly provided by this Act, interests in land which under the Statute of Uses or otherwise could before the commencement of this Act have been created as legal interests, shall be capable of being created as equitable interests.
- (4) Nothing in this Part of this Act shall affect the right to enforce any lessor's or lessee's covenants, agreements, or conditions (including a valid option to purchase or right of pre-emption over the reversion or the term of years absolute) contained in any instrument creating a term of years absolute the benefit or burden of which run with the reversion or the term, nor render necessary the registration of any land charge in respect of the same.

**29 Special statutory modes for conveying or acquiring land.**

The provisions of the Forfeiture Act, 1870, in regard to the land of a convict, of the Friendly Societies Act, 1896, in regard to land to which that Act applies, and the provisions of any other statutes passed or hereafter to be passed conferring special facilities or modes (whether by way of registered memorial or otherwise) for disposing of or acquiring land, or providing for the vesting (by conveyance or otherwise) of the same in trustees or any person or holder for the time being of an office or corporation (sole or aggregate), shall remain in full force, with the variation that powers for disposing of or creating a legal estate shall be exercised, when practicable, in the name and on behalf of the estate owner.

**30 Leasing powers.**

- (1) All leases or tenancies at a rent for a term of years absolute authorised by the Conveyancing Acts, 1881 and 1911, or the Settled Land Acts, or any other statute (whether or not extended by any instrument) may be granted in the name and on behalf of the estate owner by the person empowered to grant the same, whether being an estate owner or not, with the same effect and priority as if this Part of this Act had not been passed; and nothing in this Act shall prejudicially affect the power to accept surrenders of leases conferred by the Conveyancing Act, 1911, as extended by any instrument; but this section shall not (except as respects the usual qualified covenant

for quiet enjoyment) authorise any person granting a lease in the name of an estate owner to impose any personal liability on him.

- (2) Where a rentcharge is held for a legal estate the owner thereof may under section forty-four of the Conveyancing Act, 1881 (as amended), or under any corresponding power, create a legal term of years absolute for securing or compelling payment of the same; but in other cases terms created under that section shall, unless and until the estate owner of the land charged gives legal effect to the transaction, take effect only in equity.

**31 Limitation and Prescription Acts.**

Nothing in this Part of this Act shall affect the operation of any statutes already passed, or hereafter to be passed, for the limitation of actions or proceedings relating to land or with reference to the acquisition of easements or rights over or in respect to land.

**32 Effect of possession of documents.**

This Part of this Act shall not prejudicially affect the right or interest of any person arising out of or consequent on the possession by him of any documents relating to land, nor affect any question arising out of or consequent upon any omission to obtain or any other absence of possession by any person of any documents relating to land.

**33 Interests of persons in possession.**

This Part of this Act shall not prejudicially affect the interest of any person in possession or in actual occupation of land to which he may be entitled in right of such possession or occupation.

*Construction.*

**34 Construction.**

For giving effect to this Part of this Act, the enfranchisement of copyhold land, the conversion of perpetually renewable leaseholds into long terms, and the abolition of *interesse termini* shall be deemed to have been effected immediately before the commencement of this Act.