



Law of Property Act 1922

1922 CHAPTER 16

PART II

AMENDMENTS OF THE SETTLED LAND ACTS.

35 Amendments consequential on other Parts of this Act.

The minor amendments of the Acts, consequential on other Parts of this Act, contained in the Tenth Schedule to this Act, shall have effect.

36 Power on dispositions to impose restrictions and reserve easements, and as to valuation of timber on sale.

- (1) On a sale or other disposition or dealing under the powers of the Acts—
- (a) Any easement, right, or privilege over or in relation to the land disposed of, or any part thereof, may be reserved for the benefit of the settled land or any part thereof, including, in the case of an exchange, the land taken in exchange; and
 - (b) Any restriction with respect to building on or other user of land, or with respect to mines and minerals, or with respect to or for the purpose of the more beneficial working thereof, or with respect to any other thing, may be imposed and made binding, as far as the law permits, by covenant, condition or otherwise, on the tenant for life and the settled land, or any part thereof, or on the other party and any land disposed of to him ; and
 - (c) The whole or any part of any capital or annual sum (and in the case of an annual sum whether temporary or perpetual) charged on or payable out of the land disposed of, or any part thereof, and other land subject to the settlement, may, as between the tenant for life and his successors in title, and the other party and persons deriving title under or in succession to him (but without prejudice to the rights of the person entitled to such capital or annual sum) be charged exclusively on the land disposed of, or any part thereof, or such other land as aforesaid, or any part thereof, in exoneration of the rest of the land on or out of which such capital or annual sum is charged or payable.

- (2) Subsection (1) of this section applies to dispositions or dealings before as well as after the commencement of this Act.
- (3) A sale of land may be made subject to a stipulation that all or any of the timber and other trees, pollards, tellers, underwood, saplings and plantations on the land sold shall be taken by the purchaser at a valuation, and the amount of the valuation shall form part of the price of the land, and shall be capital money accordingly.
- (4) In favour of a purchaser, a sale made before the commencement of this Act shall not be deemed to have been invalidated by reason only of any such stipulation as mentioned in the last preceding subsection, provided that the amount of the valuation was paid to the trustees of the settlement or into court.
- (5) Subsection (6) of section four of the Settled Land Act, 1882, is hereby repealed.
- (6) Subsection (1) of section seventeen of the Settled Land Act, 1882, shall have effect, and shall be deemed always to have had effect, as if the words " or mining " had not been contained therein, and the words " or other authorised disposition " had been inserted therein after the word " lease. "

37 As to sale of mansion.

The restriction contained in subsection (2) of section ten of the Settled Land Act, 1890, shall apply in the case of a settlement made or coming into operation after the commencement of this Act only if the settlement expressly so provides.

38 Power to acquire land subject to certain incumbrances, and power for a tenant for life to accept leases.

- (1) Land may be acquired on a purchase or exchange to be made subject to a settlement, notwithstanding that the same is subject to any Crown rent, quit rent, chief rent, or other incident of tenure, or to any easement, right or privilege, or to any restrictive covenant, or to any liability to maintain or repair walls, fences, sea-walls, river banks, dykes, roads, streets, sewers, or drains, or to any land charge, as defined by section four of the Land Charges Registration and Searches Act, 1888 (as amended), which is capable of being redeemed out of capital money.
- (2) The acquisition on a purchase or exchange before the commencement of this Act of any land subject to any such burden as aforesaid is hereby confirmed.
- (3) A tenant for life may accept a lease of any land, or of any mines and minerals, or of any easement, right or privilege, convenient to be held or worked with or annexed in enjoyment to the settled land, or any part thereof, for such period, and upon such terms and conditions, as the tenant for life shall think fit; provided that no fine or premium shall be paid out of capital money in respect of such lease.
- (4) The lease shall be granted to the tenant for life of full age, or statutory owner, and shall be deemed a supplemental vesting deed, and the statements and particulars required in the case of supplemental vesting deeds shall either be inserted therein or endorsed thereon.
- (5) The lease may contain an option to purchase the reversion expectant on the term thereby granted.

39 Extension of section 10 of the Lands Clauses Consolidation Act, 1845.

The power conferred by section ten of the Lands Clauses Consolidation Act, 1845, to sell and convey land in consideration of an annual rentcharge shall extend to a tenant for life, in like manner in all respects as if he had been entitled to dispose of the settled land absolutely for his own benefit, and accordingly section four of the Lands Clauses Act, 1860, shall not apply to such a sale.

40 Consideration on sale to company incorporated by special Act or provisional order.

The consideration on a sale under the powers conferred by the Acts to any company incorporated by special Act of Parliament or by provisional order confirmed by Parliament or the Board of Trade or by any other order, scheme or certificate having the force of an Act of Parliament, may, with the consent of the tenant for life, consist, wholly or in part, of fully-paid securities of any description of the company, and such securities shall be rested in the trustees of the settlement and shall be subject to the provisions of the Acts relating to securities representing capital money arising under the Acts, and may be retained and held by the trustees in like manner as if they had been authorised by the Acts for the investment of capital money.

41 Power to grant water rights to statutory bodies for nominal consideration, and to make grants or leases for public purposes for a nominal consideration or gratuitously.

- (1) For the development, improvement, or general benefit of the settled land, or any part thereof, a tenant for life may make a grant in fee simple or absolutely, or a lease for any term of years absolute, for a nominal price or rent, or for less than the best price or rent which could be obtained, or gratuitously, to any statutory authority, of any water or streams or springs of water in, upon, or under the settled land, and of any rights of taking, using, enjoying and conveying water, and of laying, constructing, maintaining and repairing mains, pipes, reservoirs, dams, weirs and other works of any kind proper for the supply and distribution of water, and of any part of the settled land required as a site for any of the aforesaid works, and of any easement, right or privilege over or in relation to the settled land or any part thereof in connexion with any of the aforesaid works.
- (2) Subsection (1) of this section does not authorise the creation of any greater rights than could have been created by a person absolutely entitled for his own benefit to the settled land affected.
- (3) In subsection (1) of this section "statutory authority" means an authority for the time being empowered by any Act of Parliament, public or private, or by any order or certificate having the force of an Act of Parliament, to provide with a supply of water any town, parish or place in which the settled land or any part thereof is situated.
- (4) For the development, improvement, or general benefit of the settled land, or any part thereof, a tenant for life may make a grant in fee simple or absolutely, or a lease for any term of years absolute, for a nominal price or rent, or for less than the best price or rent which could be obtained, or gratuitously, of any part of the settled land for all, or any one, or more of the following purposes, namely:—
 - (i) For the site or the extension of any existing site of a place of religious worship, residence for a minister of religion, school house, town hall, market house, public library, public baths, museum, hospital, infirmary, or other public

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building, literary or scientific institution, drill hall, working-men's club, parish room, reading room or village institute, with or without in any case any yard, garden, or other ground to be held with any such building; or

- (ii) For the construction, enlargement, or improvement of any railway, canal, road (public or private), dock, sea-wall, embankment, drain, watercourse, or reservoir ; or
- (iii) For any other public or charitable purpose in connexion with the settled land, or any part thereof, or tending to the benefit of the persons residing, or for whom dwellings may be erected, on the settled land, or any part thereof :

Provided that in any particular case not more than one acre shall be conveyed for any purpose mentioned in clauses (i) and (iii) of this subsection, and not more than five acres for any purpose mentioned in clause (ii) of this subsection, unless the full consideration or rent be paid or reserved in respect of the excess.

- (5) This section does not affect the powers conferred by section thirty-one of the Housing, Town Planning, &c. Act, 1919, or by section twenty-nine of the Land Settlement (Facilities) Act, 1919, but shall have effect in addition thereto.
- (6) All money (not being rent) received on the exercise of any power conferred by this section shall be capital money arising under the Acts.

42 Extension of sections 6 and 7 of the Act of 1882.

- (1) Section six of the Settled Land Act, 1882, shall have effect as if the several terms of nine hundred and ninety-nine years, one hundred years, and fifty years were respectively substituted for the periods of ninety-nine years, sixty years, and twenty-one years therein mentioned.
- (2) A tenant for life may lease the settled land, or any part thereof, or any easement, right, or privilege of any kind, over or in relation to the same, to the Forestry Commissioners for any term not exceeding nine hundred and ninety-nine years for any purpose for which the Forestry-Commissioners are authorised to acquire land by the Forestry Act, 1919.
- (3) In the case of a lease under subsection (2) of this section—
 - (i) a peppercorn rent or a nominal or other rent less than the rent ultimately payable, may be made payable for the first ten years or any less part of the term ;
 - (ii) the rent may be made to be ascertainable by, or to vary according to the value of the timber on the land comprised in the lease, or the produce thereof, which shall during any year be cut, converted, carried away, or otherwise disposed of;
 - (iii) a fixed or minimum rent may be made payable, with or without power for the lessee, in case the rent according to value in any specified period does not produce an amount equal to the fixed or minimum rent, to make up the deficiency in any subsequent specified period, free of rent other than the fixed or minimum rent; and
 - (iv) any other provisions may be made for the sharing of the proceeds or profits of the user of the land between the reversioner and the Forestry Commissioners.
- (4) In this section the expression " timber " includes all forest products.

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- (5) A new lease for a term of years absolute may be made to take effect in reversion after an existing lease having not more than seven years to run at the date of the new lease.
- (6) This section applies to settlements coming into operation before as well as after the commencement of this Act, but only to leases executed after such commencement.

43 Power to sell in consideration of a rentcharge, and extension of section 13 of the Act of 1882.

- (1) A sale of settled land, or of any easement, right, or privilege over or in relation to settled land, may be made in consideration wholly or partially of a perpetual rent, or a terminable rent consisting of principal and interest combined, payable yearly or half yearly to be secured upon the land sold, or the land to which the easement, right, or privilege is to be annexed in enjoyment :

Provided that, in the case of a terminable rent, the conveyance shall distinguish the part attributable to principal and that attributable to interest; and the part attributable to principal shall be capital money arising under the Acts.

- (2) The rent to be reserved on any such sale shall be the best rent that can reasonably be obtained, regard being had to any money paid as part of the consideration, or laid out, or to be laid out, for the benefit of the settled land, and generally to the circumstances of the case, but a peppercorn rent, or a nominal or other rent less than the rent ultimately payable, may be made payable during any period not exceeding five years from the date of the conveyance.
- (3) The provisions of subsections (3), (4), and (5) of section seven of the Settled Land Act, 1882, shall apply to this section as if those provisions were re-enacted in this section with the substitution of " conveyance " for " lease, " " purchaser " for " lessee, " and " duplicate " for " counterpart. "
- (4) The words " for building purposes " in section nine of the Settled Land Act, 1890, are hereby repealed.
- (5) In section thirteen of the Settled Land Act, 1882, " surrender " shall include a regrant, and " lease " (save as hereinafter provided) shall include a grant in fee simple, and " lease of settled land, " and " lease " in subsection (2) of that section, shall include land granted in fee simple with or subject to a reservation thereof of a perpetual or terminable rent which is or forms part of settled land, and " surrendered, " " lease surrendered, " " leased, " " lessee, " and " fine, " shall respectively include " regranted, " " land regranted, " " granted, " " grantee, " and " consideration in money. "
- (6) The regrant shall be made to the tenant for life of full age or statutory owner, and shall be deemed a vesting deed, and the statements and particulars required in the case of vesting deeds shall be inserted therein.
- (7) In the application of section thirteen of the Settled Land Act, 1882 (as extended), to land granted in fee simple, the words "whether the grant was made under the Acts or not" shall be substituted for the words " whether made under this Act or not " in subsection (1) of that section, and the words " the Acts " shall be substituted for the words " this Act " in subsection (6) of that section.
- (8) This section shall apply to the sale of glebe land under any statutory provision authorising the sale thereof as if the incumbent were a person having the powers of a tenant for life and the glebe land were settled land, and with such other modifications

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as may be necessary, and in particular with this modification that in the case of a terminable rent so much thereof as does not represent principal shall be treated as purchase money arising from the sale of the land and be payable accordingly;

Provided that nothing in this subsection shall affect the necessity of obtaining any consent which is required under the statutory provision authorising the sale.

44 Power to grant options.

- (1) A tenant for life may at any time, either with or without consideration, grant by writing an option to purchase or take a lease of the settled land, or any part thereof, or any easement, right, or privilege over or in relation to the same at a price or rent fixed at the time of the granting of the option.
- (2) Every such option shall be made exercisable within an agreed number of years not exceeding ten.
- (3) The price or rent shall be the best which, having regard to all the circumstances, can reasonably be obtained, and may be either a specified sum of money or rent, or at a specified rate according to the superficial area of the land with respect to which the option is exercised, or the frontage thereof to any road, or (in the case of an option to purchase contained in a lease or agreement for a lease) may be a stated number of years' purchase of the highest rent reserved by the lease or agreement, or, if the option is exercisable as regards part of the land comprised in the lease or agreement, of a proportionate part of such highest rent; and any aggregate price or rent may be made to be apportionable in any manner, or according to any system, or by reference to arbitration.
- (4) An option to take a mining lease may be coupled with the grant of a licence to search for and prove any mines or minerals under the settled land, or any part thereof, pending the exercise of the option.
- (5) The consideration for the grant of the option shall be capital money arising under the Acts.
- (6) The provisions of subsections (2), (3) and (4) of section thirty-one of the Settled Land Act, 1882, shall apply to every contract arising by reason of the exercise of the option.
- (7) The Settled Land Act, 1889, is hereby repealed.

45 Power to compromise claims and release restrictions, &c, and to vary leases and grants, and apportion rents.

- (1) A tenant for life may, with the consent in writing of the trustees of the settlement, either with or without giving or taking any consideration in money or otherwise, compromise, compound, abandon, submit to arbitration, or otherwise settle any claim, dispute, or question whatsoever relating to the settled land, or any part thereof, including in particular claims, disputes, or questions as to boundaries, the ownership of mines and minerals, rights and powers of working mines and minerals, manorial and seignorial rights generally, local laws and customs relative to the working of mines and minerals and other matters, easements, and restrictive covenants, and for any of those purposes may enter into, give, execute, and do such agreements, assurances, releases, and other things as the tenant for life may with such consent as aforesaid think proper.

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- (2) A tenant for life may, with the consent in writing of the trustees of the settlement, at any time, by deed or writing, either with or without consideration in money or otherwise, release, waive, or modify, or agree to release, waive, or modify any covenant or restriction imposed on any other land for the benefit of the settled land, or any part thereof, or release, or agree to release, any other land from any easement, right or privilege, including a right of pre-emption, affecting the same for the benefit of the settled land, or any part thereof.
- (3) A tenant for life may, at any time, by deed, either with or without consideration in money or otherwise, vary, release, waive or modify, either absolutely or otherwise, the terms of any lease of the settled land or any part thereof, or any covenants or conditions contained in any grant in fee simple whenever made of land with or subject to a reservation thereof of a rent which is or forms part of the settled land, and in either case in respect of the whole or any part of the land comprised in any such lease or grant, but so that every such lease or grant shall, after such variation, release, waiver or modification as aforesaid, be such a lease or grant as might then have been lawfully made under the Acts if the lease had been surrendered, or the land comprised in the grant had never been so comprised, or had been regranted under section thirteen of the Act of 1882 as extended by this Act.
- (4) A tenant for life may, at any time, by deed, either with or without consideration in money or otherwise, agree for the apportionment of any rent reserved or created by any such lease or grant as aforesaid, or any rent being or forming part of the settled land, so that the apportioned parts of such rent shall thenceforth be payable exclusively out of or in respect of such respective portions of the land subject thereto as may be thought proper, and also agree that any covenants, powers, or remedies for securing such rent and any other covenants by the lessee or grantee and any conditions shall also be apportioned and made applicable exclusively to the respective portions of the land out of or in respect of which the apportioned parts of such rent shall thenceforth be payable.
- (5) Where the settled land, or any part thereof, is held or derived under a lease, or under a grant reserving rent, or subject to covenants or conditions (whether such lease or grant comprises other land or not), the tenant for life may, at any time, by deed, with or without giving or taking any consideration in money or otherwise, procure the variation, release, waiver, or modification, either absolutely or otherwise, of the terms, covenants, or conditions contained in such lease or grant, in respect of the whole or any part of the settled land comprised therein, including the apportionment of any rent, covenants, conditions, and provisions reserved or created by, or contained in such lease or grant.
- (6) Subsections (3), (4), and (5) of this section apply to leases or grants made either before or after the commencement of this Act.
- (7) A tenant for life may contract that a transaction effected before or after the commencement of this Act, which (subject or not to any variation authorised by this subsection) is affected by section seventy-eight of the Railway Clauses Consolidation Act, 1845, or by section twenty-two of the Waterworks Clauses Act, 1847 (relating to support by minerals) shall take effect as if some other distance than forty yards or the prescribed distance had been mentioned in such sections or had been otherwise prescribed.
- (8) All money (not being rent) payable by the tenant for life in respect of any transaction to which this section relates shall be paid out of capital money arising under the Acts, and

all money (not being rent) received on the exercise by the tenant for life of the powers conferred by this section, or of the powers conferred by section thirteen (as extended by this Act) and clauses (iii) and (iv) of subsection (1) of section thirty-one of the Settled Land Act, 1882, shall, unless the court (upon an application made within six months after the receipt thereof or within such further time as the court shall in special circumstances allow) otherwise directs, be capital money arising under the Acts.

- (9) In this section " consideration in money or otherwise " means—
- (a) A capital sum of money or a rent;
 - (b) Land being freehold or leasehold for any term of years whereof not less than sixty years shall be unexpired;
 - (c) Any easement, right or privilege over or in relation to the settled land, or any part thereof, or any other land;
 - (d) The benefit of any restrictive covenant or condition; and
 - (e) The release of the settled land, or any part thereof, or any other land, from any easement, right or privilege, including a right of preemption or from the burden of any restrictive covenant or condition affecting the same.

46 General power for the tenant for life to effect any transaction under an order of the Court.

- (1) Any transaction affecting or concerning the settled land, or any part thereof, or any other land, not otherwise authorised by the Acts, or by the settlement, which in the opinion of the court would be for the benefit of the settled land, or any part thereof, or the persons interested under the settlement, may, under an order of the court, be effected by a tenant for life; provided that the transaction could have been validly effected by an absolute owner.
- (2) In this section " transaction " includes any sale, extinguishment of manorial incidents, exchange, assurance, grant, lease, surrender, reconveyance, release, reservation, or other disposition, and any purchase or other acquisition, and any covenant, contract or option, and any application of capital money (except as hereinafter mentioned), and any compromise or other dealing, or arrangement; but does not include an application of capital money in payment for any improvement not authorised by the Acts, or by the settlement; and " effected " has the meaning appropriate to a particular transaction; and the references to land extend and apply to mines and minerals, and to easements, rights, privileges, restrictions, and burdens over, or in relation to, or affecting, land.
- (3) If a question arises or a doubt is entertained as to the intended exercise by the tenant for life of any power conferred by the Acts or the settlement, the tenant for life or any other person interested, or the trustees of the settlement may apply to the court for its decision, opinion, advice or directions thereon, or for the sanction of the court to any conditional contract for such exercise, and the court may make such order as it thinks fit.
- (4) Section one of the Universities and College Estates Act, 1898, shall have effect as if the powers conferred by this and the last five preceding sections had been conferred by the Settled Land Act, 1882, and this and the last five preceding sections had been mentioned in Part I. of the First Schedule to the first-mentioned Act.

47 Extension of section 20 of the Act of 1882.

- (1) Section twenty of the Settled Land Act, 1882, is hereby extended to any disposition authorised under the Acts.
- (2) Clauses (i), (ii), and (iii) of subsection (2) of section twenty aforesaid shall not extend to equitable interests or powers which under Part I. of this Act are protected by a settlement.

48 As to duration of settlements.

- (1) Land which has been subject to a settlement shall be deemed for the purposes of the Acts to remain and be settled land, and the settlement shall be deemed to be a subsisting settlement for the purposes of the Acts, so long as' any limitation, charge, or power of charging under the settlement subsists, or is capable of being exercised, or, where under Part I. of this Act any equitable interest or power takes effect as if limited by or arising under that settlement, so long as any such equitable interest or power subsists, or is capable of being exercised, or so long as a person who, if of full age, would be entitled as beneficial owner to have that land vested in him for a legal estate is an infant.
- (2) Subsection (4) of section two of the Settled Land Act, 1882, is hereby repealed.
- (3) Where, by a disentailing assurance, settled land is expressed to be limited (subject or not to any estates, interests, charges or powers thereby expressly created or conferred) to or upon the uses or trusts subsisting with respect thereto immediately before the execution of such disentailing assurance, or any of such uses or trusts, then, for the purposes of the Acts or otherwise, a person entitled to any estate or interest in the settled land under any such "previously subsisting use or trust shall be and be deemed always to have been entitled thereto after the execution of such disentailing assurance as of his former estate or interest.
- (4) Where, by a resettlement of settled land, any estate or interest therein is expressed to be limited to any person (subject or not to any estate, interest, charge or power expressly created or conferred by the resettlement) in restoration or confirmation of his estate or interest under a prior settlement, then, for the purposes of the Acts or otherwise, such person shall be and be deemed always to have been entitled to the estate or interest so restored or confirmed as of his former estate or interest; and in addition to the powers exercisable by him in respect of such former estate or interest, he shall be capable and be deemed always to have been capable of exercising the powers conferred by the Acts and the powers (if any) by way of extension and enlargement of the same powers conferred by the resettlement, and any other powers thereby conferred, in the same manner as if his estate or interest under the prior settlement had not been so restored or confirmed, but was an estate or interest subsisting under the resettlement only.

49 As to trustees of settlements created by more than one instrument.

- (1) Persons who are for the time being trustees for the purposes of the Settled Land Act, 1882, of an instrument which is a settlement, or is deemed to be a subsisting settlement for the purposes of the Acts, shall be the trustees for the purposes of the Acts of the settlement consisting of that instrument and instruments subsequent in date or operation, or any of them.
- (2) This section applies to instruments coming into operation before as well as after the commencement of this Act, but is to have effect without prejudice to any appointment

previously made by the court of trustees of a settlement consisting of more than one instrument, and to the power of the court in any case hereafter to make any such appointment; and where any such appointment has been or shall be made this section shall not apply or shall cease to apply to the settlement consisting of the instruments to which the appointment relates.

50 As to trustees of referential settlements.

- (1) Where a settlement takes or has taken effect by reference to another settlement, the trustees for the time being of the settlement to which reference is made shall be and be deemed to have always been the trustees of the settlement by reference, but this section shall not apply if the settlement by reference contains an appointment of trustees thereof for the purposes of the Acts or any of them.
- (2) This section applies to instruments coming into operation before as well as after the commencement of this Act, but is to have effect without prejudice to any appointment previously made by the court of trustees of a settlement by reference, or of the compound settlement consisting of a settlement and any other settlement or settlements made by reference thereto, and to the power of the court in any case hereafter to make any such appointment, and where any such appointment has been or shall be made this section shall not apply or shall cease to apply.
- (3) In this section " a settlement by reference to another settlement " means a settlement of land or capital money upon the limitations and subject to the powers and provisions of an existing settlement, with or without variation.

51 As to who are trustees for the purposes of the Acts, and as to additional powers to appoint trustees.

- (1) The persons described in clause (i) of section sixteen of the Settled Land Act, 1890, shall, in the circumstances therein mentioned, be trustees for the purposes of the Acts, whether the settled land is to be sold or otherwise dealt with, and accordingly in that clause the words " or otherwise dealt with " shall be inserted after the word " sold. "
- (2) In clause (ii) of section sixteen aforesaid the words " settled land " are hereby substituted for the words " land to be sold. "
- (3) Where any persons have been appointed trustees of a settlement, whether by an order of the court or otherwise, or have by reason of any power of sale, or trust for sale or by reason of a power of consent to, or approval of, the exercise of a power or trust for sale, or by virtue of this Act, or otherwise at any time become trustees of a settlement for the purposes of the Acts, then those persons or their successors in office shall remain and be trustees of the settlement as long as that settlement is subsisting or deemed to be subsisting for the purposes of the Acts. In this subsection the expression "successors in office" means the persons who, by appointment or otherwise, have become trustees for the purposes aforesaid.
- (4) Where settled land is or has been expressed to be disposed of under a compound settlement of which trustees were appointed by the court, and the capital money (if any) arising on the disposition is or was paid to the persons who, by virtue of the order or any subsequent appointment, appear to be or to have been the trustees of that settlement; and where the person by or on whose behalf the disposition is or was made is or was the tenant for life of the land disposed of under an instrument mentioned in the order as constituting part of such compound settlement (in this subsection called "

the principal instrument") then the title of the person to whom the disposition is made shall not be impeachable on the ground that—

- (a) the instruments mentioned in the order did not constitute a compound settlement, or
- (b) those instruments were not all the instruments at the date of the order or of the disposition, constituting the compound settlement, of the land disposed of, or
- (c) any of the instruments mentioned in the order did not form part of the settlement of the land disposed of, or had ceased to form part of the settlement at the date of the disposition;

but nothing in this subsection shall prejudice the rights of any person, in respect of any estate, interest or charge under any instrument existing at the date of the order and not mentioned therein, which would not have been overreached if the disposition had been made by or on behalf of the tenant for life under the principal instrument as such, and there had been trustees of that instrument for the purposes of the Acts, and the capital money (if any) arising on the disposition had been paid to such trustees.

- (5) The foregoing provisions of this section shall operate to confirm all dispositions made before the commencement of this Act, but not so as to render invalid or prejudice any order of the court, or any title or right acquired before the commencement of this Act, and shall operate without prejudice to any appointment already made by the court of trustees of a settlement, and to the power of the court in any case hereafter to make any such appointment.
- (6) Where at the commencement of this Act any persons appointed under section sixty of the Settled Land Act, 1882, have power to act generally or for any specific purpose on behalf of an infant, then those persons shall, by virtue of this Act, become and be the trustees of the settlement.
- (7) Where a settlement is created by will, or a settlement has arisen by, the effect of an intestacy, and apart from this subsection there would be no trustees for the purposes of the Acts of such settlement, then and in either of such cases the personal representatives of the deceased shall, until other trustees are appointed, be by virtue of this Act the trustees of the settlement; but where there is a sole personal representative (not being a trust corporation) it shall be obligatory on him, and he shall have power to appoint an additional trustee to act with him for the purposes of the Acts, and the provisions of the Trustee Act, 1893, as amended by any subsequent enactment, shall apply accordingly.
- (8) Where at the commencement of this Act there is an infant who (by virtue of this Act or otherwise) is, or is deemed a tenant for life, or would if he were of full age have the powers of a tenant for life, and there are no trustees of the settlement (whether by virtue of the foregoing provisions of this Act or otherwise), then, if there is no other person able and willing to appoint trustees, the father or mother or testamentary or other guardian of the infant if respectively able and willing shall (in the order named) have power by deed to appoint new trustees of the settlement in the place of any former trustee, or, where no former trustee has been appointed, to appoint trustees of the settlement in like manner as if a trustee had been appointed and had refused to act in the trust, and the provisions of the Trustee Act, 1893 (as amended by any subsequent enactment), shall apply as if the persons aforesaid (in the order named) had been nominated by the instrument creating the settlement for the purpose of appointing new trustees thereof :

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Provided that in favour of a purchaser a statement in the deed of appointment that the father or mother or both are dead or are unable or unwilling to make the appointment shall be conclusive evidence of the fact stated.

- (9) The last paragraph of section sixty of the Settled Land Act, 1882, commencing with the words " and if there are none " is hereby repealed.
- (10) Where the Public Trustee or any other trust corporation is the sole trustee of a settlement, the corporation shall, notwithstanding anything to the contrary contained in sections thirty-nine and forty-five of the Settled Land Act, 1882, or the settlement, have power and be deemed always to have had power to give receipts, accept notices, and otherwise act alone as trustee of the settlement for all the purposes of the Acts.

52 As to base fees.

- (1) It shall be deemed always to have been sufficient to enable the fee simple to be disposed of or dealt with under the Acts by the owner of a base fee or fee determinable, whether by limitation or condition, or the tenant for life thereof, if there were at the time of the transaction, trustees for the purposes of the Acts or any of them, of the settlement, consisting of the instrument whereby the estate tail or determinable fee was created, and the capital money (if any) arising on such disposition or dealing was paid to such trustees or into court.
- (2) In this section " base fee " has the same meaning as in the Fines and Recoveries Act, 1833.

53 Absolute owners, subject to certain interests, to have the powers of a tenant for life, and as to infants.

- (1) Where a person of full age is beneficially seised or entitled in possession of or to a legal estate subject to any estates, interests, charges, or powers of charging subsisting or capable of being exercised under a settlement, he shall have the powers of a tenant for life under that settlement, and section fifty-eight of the Settled Land Act, 1882, shall apply accordingly.
- (2) Where a person of full age is beneficially seised or entitled in possession of or to a legal estate subject to any equitable interests or powers which by Part I. of this Act would have been protected if that legal estate had been subject to a settlement at the time when the equitable interests or powers were created or arose, then, for the purpose of overreaching such interests or powers, he may, notwithstanding any stipulation to the contrary, by deed, which shall have effect as a vesting deed, declare that the legal estate is vested in him on trust to give effect to all equitable interests and powers affecting the same, and appoint two or more individuals (approved either by the persons in whom the equitable interests or powers are vested or by the court) or a trust corporation to be trustees of such deed for the purposes of the Acts, and thereupon the following provisions shall have effect:—
 - (a) He shall have the powers of a tenant for life and the land shall be deemed settled land ;
 - (b) The instrument (if any) under which his estate arises or is acquired, and the instrument (if any) under which the equitable interests or powers are subsisting or capable of taking effect shall be deemed to be the trust deed; provided that where there is no such instrument as last aforesaid then a deed

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- (which shall take effect as a trust deed) shall be executed contemporaneously with the vesting deed, and shall declare the trusts affecting the land;
- (c) The trustees for the time being of the vesting deed for the purposes of the Acts shall also be the trustees for the like purposes of the trust deed; and
 - (d) Capital money arising on any disposition of the land shall be paid to or by the direction of the trustees of the vesting deed or into court, and shall be applicable towards discharging or providing for payment in due order of any principal money payable in respect of such interests or charges as are overreached by such disposition, and until so applied shall be invested or applied as capital money under the trust deed; and the income thereof shall be applied as the income of such capital money, and be liable for keeping down in due order any annual or periodical sum which may be overreached as aforesaid.
- (3) Sections fifty-nine and sixty of the Settled Land Act, 1882 (as extended by this section), shall apply and be deemed always to have applied, although the infant may be a married woman, and shall have effect subject to the provisions of Part I. of this Act requiring the settled land during a minority to be vested in the statutory owner unless retained by a personal representative; and section fifty-nine aforesaid shall extend and be deemed always to have extended to any leasehold interest whether at a rent or not, and section forty-one of the Conveyancing Act, 1881, is hereby repealed.
- (4) Where an infant will become beneficially entitled to land in possession on his attaining full age, and at any time during the minority there is no person having the powers of a tenant for life thereof, then for the purposes of the Acts the land is settled land and the infant shall be deemed tenant for life thereof, and the interest of any person (other than the infant) in the rents and profits during the minority shall be deemed to be an interest created by the settlement which is capable of being overreached under the Acts.
- (5) The instrument (if any) under which the estate or interest of an infant, who is deemed a tenant for life of settled land, arises or is acquired shall be deemed to be the settlement; but where, by reason of an intestacy or otherwise "there is no such instrument then a settlement shall be deemed to have been made by the intestate or other person through whom the infant derived title. .
- (6) The court may, where necessary or expedient, appoint trustees of any instrument or instruments which under the Acts is or are to be deemed or which together constitute the settlement, or of a settlement which is deemed to be subsisting, or of a settlement deemed to have been made by any person, and the provisions of section thirty-eight of the Settled Land Act, 1882, shall apply accordingly.

54 Exercise of powers of tenant for life by married woman restrained from anticipation.

- (1) Where a married woman (not being a tenant for life) entitled in possession is restrained from anticipation in respect of land which, if she were not so restrained, could be disposed of by her without her husband, then she, without her husband, shall have the powers of a tenant for life, and subsections (4) and (5) of section sixty-one of the Settled Land Act, 1882, shall apply accordingly.
- (2) The instrument creating the restraint on anticipation shall be deemed the settlement, or one of the instruments constituting the settlement, as the case may require; and the married woman, if and when there are duly constituted trustees of the settlement, may execute the requisite vesting deed.

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55 Amendment of section 58 of the Act of 1882.

- (1) For clause (ii) of subsection (1) of section fifty-eight of the Settled Land Act, 1882, shall be substituted the following clause, namely:—

“A person entitled to land for an estate in fee simple or for a term of years absolute (whether at a rent or not) with or subject to, in any of such cases, an executory limitation, gift, or disposition over on failure of his issue or in any other event.”

- (2) In clause (ix) of the said subsection the expression " trust" includes and shall be deemed always to have included an implied or constructive trust, and the expression " forfeiture " includes and shall be deemed always to have included cesser or determination by any means; and in the same clause the words "or to a trust for accumulation of income for any purpose" shall be inserted and be deemed always to have been inserted after the words " expenses of management. "
- (3) This section shall not render invalid or prejudice any title or right acquired before the commencement of this Act.

56 Powers of trustees when there is no tenant for life.

- (1) Where under a settlement coming into operation either before or after the commencement of this Act, there is no tenant for life nor (except as enacted by subsection (2) of this section) a person having the powers of a tenant for life by virtue of the Acts, but such powers, including any additional powers, are by the settlement expressed to be conferred on the trustees thereof or on any other person of full age, then such powers shall operate and be exercisable in like manner, and with all the like incidents, effects and consequences, as if the same had been conferred by the Acts.
- (2) Where there is no tenant for life of full age nor a person of full age who by virtue of the settlement or of the Acts (apart from this subsection) has the powers of a tenant for life, then (without prejudice to the powers of a personal representative in whom the settled land may be vested) the trustees of the settlement shall have the powers of a tenant for life in regard to the settled land and capital money.
- (3) Subsection (2) of this section applies to settlements coming into operation before as well as after the commencement of this Act; and applies to trustees of settlements of land purchased with money provided by Parliament in consideration of public services where the tenant in tail is restrained from barring or defeating his estate tail, save that, if such tenant in tail is of full age and capacity, the powers shall not be exercised without his consent, but a purchaser shall not be concerned to see or inquire whether such consent has been given.

57 Provisions as to different estates settled upon the same limitations.

- (1) Where estates are settled by different settlements upon the same limitations, whether by reference or otherwise, the following provisions shall have effect:—
- (i) The estates or any two or more of them, as the case may require, may be treated as one aggregate estate, in which case the aggregate estate shall be the settled land for all the purposes of the Acts :
 - (ii) Where the trustees for the purposes of the Acts of the two or several settlements are the same persons they shall be the trustees of the settlement of the aggregate estate for all the purposes of the Acts, and all or any part of the

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capital money arising from one of the estates may be applied by the direction of the tenant for life as if the same had arisen from any other of the estates:

- (iii) Where the trustees for the purposes of the Acts of the two or several settlements are not the same persons—
 - (a) any notice required to be given by the Acts to the trustees of the settlement and to the solicitor of such trustees shall be given to the trustees of every settlement which comprises any part of the land to which such notice relates and to the solicitor of such trustees;
 - (b) any capital money arising on any sale, exchange, lease, mortgage, charge, or other disposition of land comprised in more than one settlement, shall be apportioned between the trustees of any two or more of the settlements in such manner as the tenant for life may think fit;
 - (c) all or any part of the capital money arising from the land comprised in one of the settlements may be paid by the trustees of that settlement, by such direction as aforesaid, to the trustees of any of the other settlements, to be applied by such last-mentioned trustees as if the same had arisen from land comprised, in such other settlement :
 - (iv) For the purposes of this subsection, money liable to be laid out in the purchase of land to be settled' upon the same limitations as other land may be applied and dealt with in like manner in all respects as if land had been purchased and settled, and the money were capital money arising therefrom.
- (2) Estates shall be deemed to be settled upon the same limitations, notwithstanding that any of them may be subject to incumbrances, charges, or powers of charging to which the other or others of them may not be subject: Provided that, in any such case as last aforesaid, the powers of this section relating to the payment or application of capital money shall not (unless the settlement under which the capital money is held otherwise provides) be exercisable without an order of the court.
- (3) This section applies to settlements coming into operation before as well as after the commencement of this Act.
- (4) This section is to have effect without prejudice to any appointment previously made by the court of trustees of the settlement of an aggregate estate, and to the power of the court in any case hereafter to make any such appointment, and where any such appointment has been or shall be made, this section shall have effect as if the trustees so appointed and their successors in office were the trustees for the purposes of the Acts of each of the settlements constituting the settlement of the aggregate estate, and there were no other trustees thereof for the purposes of the Acts.
- (5) In this section "estate" means the land, capital money, and securities representing capital money for the time being subject to a particular settlement.

58 Provision enabling dealings with tenant for life.

- (1)
 - (a) A sale, grant, lease, mortgage, charge or other disposition of settled land, or of any easement, right, or privilege over the same may be made to the tenant for life; or
 - (b) Capital money may be advanced on mortgage to him; or
 - (c) A purchase may be made from him of land to be made subject to the limitations of the settlement; or
 - (d) An exchange may be made with him of settled land for other land ; and

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- (e) Any such disposition, advance, purchase, or exchange as aforesaid may be made to, from, or with any body of persons of whom the tenant for life is one;

And in every such case the trustees of the settlement shall, in addition to their powers as trustees, have all the powers of a tenant for life in reference to negotiating and completing the transaction, and shall have power to enforce any covenants by the tenant for life, or, where the tenant for life is himself one of the trustees, then the other or others of them shall have such power, and the said powers of a tenant for life may be exercised by the trustees of the settlement in the name and on behalf of a tenant for life of full age.

- (2) This section shall apply, notwithstanding that the tenant for life is one of the trustees of the settlement, or that an order has been made authorising the trustees to act on his behalf, or that he may be an infant, or a lunatic whether so found or not, or a defective, but shall not apply to dealings with any body of persons which includes a trustee of the settlement (not being the tenant for life) unless the transaction is either previously or subsequently approved by the court.
- (3) Section twelve of the Settled Land Act, 1890, is hereby repealed.

59 Power to charge by way of additional or substituted security.

- (1) Where an incumbrance affects any part of the settled land, the tenant for life shall have power and be deemed always to have had power, with the consent of the incumbrancer, to vary the rate of interest charged and any of the other provisions of the instrument (if any) creating the incumbrance, and with the like consent (but only after the commencement of this Act) to charge that incumbrance on any part of the settled land, whether already charged therewith or not, by way of additional or substituted security, and to raise the money properly required for payment of the costs of the transaction on mortgage of the settled land or of any part thereof, and by creation of a term of years absolute in the settled land, or by charge by way of legal mortgage, to make provision accordingly.
- (2) Incumbrance in subsection (1) of this section includes any annual sum payable during a life or lives or during a term of years absolute or determinable, but in any such case the additional or substituted security shall be effected so as only to create a charge, or security similar to the original charge or security.
- (3) Section five of the Settled Land Act, 1882, shall be deemed always to have authorised a charge on all or any part of the capital money or securities representing capital money subject to the trusts of the settlement; and after the words " on any other part of the settled land " in that section the words " or on all or any part of the capital money or securities representing capital " money arising from the transaction or otherwise subject " to the settlement" are hereby inserted.
- (4) Incumbrance in section five of the Settled Land Act, 1882, includes, and shall be deemed always to have included, any incumbrance, whether capable of being overreached on the exercise by the tenant for life of the powers conferred by the Acts, or not.
- (5) Where under the Acts power is given to raise money for any purpose, the power shall include, and be deemed always to have included, power to raise the money properly required for the payment of the costs of the transaction.

- (6) Section five of the Settled Land Act, 1882, shall, after the commencement of this Act, apply so as to enable any part of the settled land to be exonerated from an incumbrance affecting the same and any other part of the settled land to be charged therewith, whether the part exonerated is to be sold or exchanged or not.

60 Dedication for streets, open spaces, &c.

- (1) The power to appropriate and lay out part of the settled land for streets and other purposes conferred by section sixteen of the Settled Land Act, 1882, may be exercised after as well as on or in connexion with a sale or grant for building purposes, or a building lease, or the development of the settled land", or any part thereof, as a building estate, or at any other reasonable time, and accordingly that section shall have effect, and shall be deemed always to have had effect, as if the words " after or" were inserted after the words " On or, " and the words "or the development of the settled land, or " any part thereof, as a building estate, or at any other reasonable time " were inserted after the words " building lease, " and in regard to the dedication of land for public purposes a tenant for life shall be in the same position as if he were an absolute owner:
- (2) A tenant for life shall have power, and be deemed always to have had power—
- (a) to enter into any agreement for the recompense to be made for any part of the settled land which is required for the widening of a highway under section eighty-two of the Highway Act, 1835, or otherwise; and
 - (b) to consent to the diversion of any highway over the settled land under section eighty-five of that Act or otherwise.

And any agreement or consent so made or given shall be as valid and effectual, for all purposes, as if made or given by an absolute owner of the settled land, provided that any money received in respect of such agreement or consent shall be capital money arising under the Acts.

- (3) Section one of the Universities and College Estates Act, 1898, shall have effect as if the. powers conferred by this section had been conferred by the Settled Land Act, 1882, and this section had been mentioned in Part I of the First Schedule to the first-mentioned Act.

61 Trustees for management of settled land during minority.

- (1) The trustees of a settlement for the purposes of the Acts shall, unless the settlement or the order of the court, whereby they or their predecessors in office were appointed to be such trustees, expressly provides to the contrary, also be trustees of the settlement for the purposes of section forty-two of the Conveyancing Act, 1881.
- (2) This section shall have effect subject to any express appointment by the settlement or the court of trustees for the purposes of section forty-two aforesaid.

62 Extension of section 42 of the Act of 1882.

- (1) Where the tenant for life directs capital money to be invested on any authorised security or investment, the trustees of the settlement shall not be liable for the acts of any agent employed by the tenant for life in connexion with the transaction, or for not employing a separate agent in or about the valuation of the security or the investigation of the title thereto, or for the form of the security or of any deed conveying the same to the trustees.

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- (2) The trustees of the settlement shall not be liable for paying or applying any capital money by the direction of the tenant for life for "any authorised purpose:
- (3) The trustees of the settlement shall not be liable in any way on account of the documents of title (other than securities for capital money) relating to the settled land, including any vesting instrument and any appointment of new trustees thereof, being placed in the possession of the tenant for life of full age :

Provided that where, if the settlement were not disclosed, it would appear that the tenant for life had a general power of appointment over, or was absolutely and beneficially entitled to the settled land, the trustees of the settlement shall, before they deliver the documents to him, require that notice of the subsisting vesting instrument be written on one of the documents under which the tenant for life acquired his title ; and may, if the documents are not in their possession, require such notice to be written as aforesaid, but, in the latter case, they shall not be liable in any way for not requiring the notice to be written,

- (4) This section applies to dealings and matters effected before as well as after the commencement of this Act.

63 As to personal estate settled by reference to capital money, or on trusts corresponding with the limitations of land.

- (1) (a) Where money or securities or the proceeds of sale of any property is or are by any instrument coming into operation, either before or after the commencement of this Act, directed to be held on trusts declared by reference to capital money arising under the Acts, or any of the Acts, from land settled by that instrument or any other instrument, or to securities representing capital money so arising, the same shall be held on the like trusts as if the same had been or represented money which had actually arisen under the Acts from the settled land; and
 - (b) Where money or securities or the proceeds of sale of any property is or are by any instrument coming into operation after the commencement' of this Act directed to be held on trusts corresponding as nearly as may be with the limitations of land settled by that instrument or any other instrument, the same shall be held on the like trusts as if the same had been or represented capital money arising under the Acts from the settled land.
- (2) Such money, securities, or proceeds of sale shall be paid or transferred to or retained by the trustees of the settlement for the purposes of the Acts of the settled land, or paid or transferred into court, and invested or applied, accordingly.
- (3) Where the settled land includes freehold and, the money, securities, or proceeds of sale aforesaid shall be held on the like trusts as if the same had been or represented capital money arising from the freehold land.
- (4) This section shall have effect notwithstanding any direction in the instrument creating the trust that the trust property is not to vest absolutely in any tenant in tail or in tail male or in tail female under the limitations of the settled land who dies under a specified age, or before the happening of a specified event, but, save as aforesaid, shall have effect with any variations, and subject to any contrary intention expressed in the instrument creating the trust.

64 Application of capital money.

- (1) In addition to the modes authorised by section twenty-one of the Settled Land Act, 1882, capital money shall be deemed always to have been capable of being applied—
- (i) In paying any increment value duty which a tenant for life had power to charge on the settled land under section thirty-nine of the Finance (1909-10) Act, 1910, and any reversion duty, and any costs and expenditure incurred by the tenant for life, or the trustees of the settlement, in connexion with any valuation under the said Act, or with the assessment and ascertainment of the amount of any increment value duty which a tenant for life had power to charge as aforesaid, or any reversion duty so as to validate past payments;
 - (ii) In the purchase, with the leave of the Court, of any leasehold interest where the immediate reversion is settled land, so as (unless the Court otherwise directs) to merge the same in the reversion, and notwithstanding that the leasehold interest may have less than sixty years to run;
 - (iii) In payment of the costs and expenses of all plans, surveys, and schemes, including schemes under the Town Planning Acts, 1909 and 1919, or any similar Act, made with a view to, or in connexion with the improvement, or development of the settled land, or any part thereof, or the exercise of any statutory powers, and of all negotiations entered into by the tenant for life with a view to the exercise of any of the said powers, notwithstanding that such negotiations may prove abortive;
 - (iv) In the purchase or discharge of an annuity charged under section four of the Tithe Act, 1918, on the settled land or any part thereof, or in the discharge of such part of any such annuity as does not represent interest; or
 - (v) In payment to a local or other authority in consideration of such authority taking over and becoming liable to repair a private road on the settled land or a road for the maintenance whereof a tenant for life is liable *ratione tenurae*.
- (2) In addition to the aforesaid modes, capital money may, after the commencement of this Act, be applied in financing any person who may have agreed to take a lease or grant for building purposes of the settled land, or any part thereof, by making advances to him in the usual manner on the security of an equitable mortgage of his building agreement.
- (3) This section applies to settlements coming into operation either before or after the commencement of this Act.s

65 Amendment of section 25 and repeal of section 26 of the Act of 1882; and power to raise' money for improvements, and for the court or the trustees to impose conditions for repayment of money applied for improvements.

- (1) Improvements authorised by the Settled Land Act, 1882, shall include the following, namely :—
- (i) Residential houses for land or mineral agents, managers, clerks, bailiffs, woodmen, gamekeepers and other persons employed on the settled land, or in connexion with the management or development thereof:
 - (ii) Any offices, workshops and other buildings of a permanent nature required in connexion with the management or development of the settled land or any part thereof :
 - (iii) The development of the settled land, or any part thereof as a building estate, and the erection, building, making, and laying out for that purpose of dwelling

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houses, shops, buildings for religious, educational, literary, scientific, or public purposes, market places, market houses, places of amusement and entertainment, parks, squares gardens, grounds for recreation, exercise, or games, or other open spaces, roads, streets, paths, sewers, drains, gasworks, electric light or power works, or any other works necessary or proper in connexion with the objects aforesaid :

- (iv) Restoration or reconstruction of buildings damaged or destroyed by dry rot:
 - (v) Structural additions and alterations to buildings reasonably required, whether the buildings are intended to be let or not, or are already let:
 - (vi) Boring for water and other preliminary works in connexion therewith:
 - (vii) Subject to provision for the repayment of the capital money expended being made in manner hereinafter provided, heating, hydraulic or electric power apparatus for buildings, and engines, pumps, lifts, rams, boilers, flues, and other works required or used in connexion therewith :
 - (viii) Subject to provision for the repayment of the capital money expended being made in manner hereinafter provided, engine houses, engines, gasometers, dynamos, accumulators, cables, pipes, wiring, switchboards, plant and other works required for the installation of electric, gas, or other artificial light, in connexion with any principal mansion house, or other house or buildings; but shall not include electric lamps, gas fittings, or decorative fittings required in any such house or building ;
 - (ix) Subject to provision for the repayment of the capital money expended being made in manner hereafter provided, steam rollers, traction engines, motor lorries and moveable machinery for farming or other purposes.
- (2) Where money is required for the purpose of paying for any improvement authorised by the Acts, or by the settlement, the tenant for life may raise the money so required and the costs of raising the same in the manner provided by section eleven of the Settled Land Act, 1890 (as amended), in regard to money thereby authorised to be raised, and the money raised under this subsection shall be capital money for the purpose aforesaid, and may be paid or applied accordingly.
- (3) Capital money arising under the Acts may be applied in or towards payment for any improvement authorised by the Acts or by the settlement, without any scheme for the execution of the improvement being first submitted for approval to, or approved by, the trustees of the settlement or the court.
- (4) Where the capital money to be expended is in the hands of the trustees of the settlement, they may apply that money in or towards payment for the whole or any part of any work or operation comprised in the improvement, on—
- (i) A certificate to be made by a competent engineer or able practical surveyor employed independently of the tenant for life, certifying that the work or operation comprised in the improvement, or some specific part thereof, has been properly executed, and what amount is properly payable in respect thereof, which certificate shall be conclusive in favour of the trustees as an authority and discharge for any payment made by them in pursuance thereof; or
 - (ii) An order of the Court directing or authorising the trustees so to apply a specified portion of the capital money:

Provided that, in the case of improvements not authorised by the Settled Land Acts, 1882 and 1890, or by the settlement, the trustees shall be entitled, if they shall think fit, before they make any such application of capital money to

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require that that money, or any part thereof, shall be repaid to them, out of the income of the settled land by not more than fifty half-yearly instalments, the first of such instalments to be paid or to be deemed to have become payable at the expiration of six months from the date when the work or operation, in payment for which the money is to be applied, was completed.

- (5) The tenant for life is by this section authorised to create out of the settled land, or any part thereof, a yearly rentcharge in favour of the trustees of the settlement sufficient in amount to discharge the said half-yearly instalments.
- (6) Where the capital money to be expended is in Court, the court may, if it thinks fit, on a report or certificate of the Minister, or of a competent engineer or able practical surveyor approved by the court, or on such other evidence as the court shall think sufficient, make such order and give such directions as it thinks fit for the application of the money, or any part thereof, in or towards payment for the whole or any part of any work or operation comprised in the improvement.
- (7) Where the court authorises capital money to be applied in payment for any improvement or intended improvement not authorised by the Settled Land Acts, 1882 and 1890, or by the settlement, the court may, as a condition of making the order, require that the capital money or any part thereof shall be repaid to the trustees of the settlement out of the income of the settled land by a fixed number of periodical instalments to be paid at the times appointed by the court, and may require that any incumbrancer of the life estate shall be served with notice of the proceedings.
- (8) Where any such order is made, the settled land shall stand charged with the payment to the trustees of the settlement of a yearly rentcharge sufficient in amount to discharge the periodical instalments, and the rentcharge shall accrue from day to day, and be payable at the times appointed for payment of the periodical instalments, and shall have effect as if limited by the settlement prior to the estate of the tenant for life, and the trustees of the settlement shall have all statutory and other powers for recovery thereof.
- (9) A rentcharge created by or under this section shall not be redeemed out of capital money, but may be overreached in like manner as if the same were limited by the settlement, and shall cease if and when the land affected by the improvement ceases to be settled or is sold or exchanged, but if part of the land affected remains subject to the settlement the rentcharge shall remain in force in regard to the settled land.
- (10) All money received by the trustees of the settlement in respect of any instalments under this section shall be held by them as capital money arising from freehold land under the settlement, unless the court otherwise directs.
- (11) Section twenty-six of the Settled Land Act, 1882, is hereby repealed.
- (12) The improvements authorised by this section shall, for the purposes of the Universities and College Estates Act, 1898, be deemed to be inserted in the Third Schedule to that Act.

66 As to money received by way of damages for breach of covenant.

- (1) Money (not being rent) received by way of damages or compensation for breach of any covenant by the lessee or grantee contained in any lease or grant of settled land shall, unless in any case the court on the application of the tenant for life or the trustees of the settlement otherwise directs, be deemed to be capital money arising under the

Acts, and shall be paid to or retained by the trustees of the settlement, or paid into court, and invested or applied, accordingly.

- (2) In addition to the other modes in which capital money may be applied under the Acts or the settlement, money so received as aforesaid or any part thereof may, if the circumstances permit, be applied at any time within twelve months after such receipt, or such extended period as the court may allow, in or towards payment of the costs of making good in whole or in part the breach of covenant in respect of which it was so received, or the consequences thereof, and the trustees of the settlement, if they think fit, may require any money so received or any part thereof to be so applied.
- (3) In the application of any such money in or towards payment of the cost of making good any such breach or the consequences of any such breach as aforesaid, the work required to be done for the purpose shall be deemed to be an improvement authorised by the Settled Land Act, 1882.
- (4) This section does not apply to money received by way of damages or compensation for the breach of a covenant to repay to the lessor or grantor money laid out or expended by him, or to any case in which if the money received were applied in making good the breach of covenant or the consequences thereof such application would not enure for the benefit of the settled land, or any buildings thereon.
- (5) This section does not apply to money received by way of damages or compensation before the commencement of this Act, but it applies whether the lease or grant was made before or after the commencement of this Act, and whether under the powers conferred by the Acts or not.
- (6) The provisions of this section apply only if and as far as a contrary intention is not expressed in the settlement, and shall have effect subject to the terms of the settlement, and to any provisions therein contained, but a contrary intention shall not be expressed merely by words negating impeachment for waste.

67 As to capital arising otherwise than under the Acts.

- (1) Where before the commencement of this Act any money arising from settled land otherwise than under the Acts, which ought, as between the persons interested in the settled land, to have been treated as capital has been invested, applied, or otherwise dealt with as if it had been capital money arising under the Acts, such investment, application, or other dealing is hereby confirmed.
- (2) Any money, which shall so arise after the commencement of this Act, as well as any money or securities in the names or under the control of the tenant for life or the trustees of the settlement, being or representing money which had so arisen before the commencement of this Act, and which ought, as between the persons aforesaid, to be or to have been treated as capital, shall (without prejudice to any other statutory provisions affecting the same) be deemed to be or to represent capital money arising under the Acts, and shall be paid or transferred to or retained by the trustees of the settlement, or paid or transferred into court, and invested or applied accordingly.

68 Effect of surrender of life estate to the next remainderman.

- (1) Where the estate or interest of a tenant for life under the settlement has been or is absolutely assured with intent to extinguish the same, either before or after the commencement of this Act, to the person next entitled in remainder or reversion under

the settlement (whether or not any term of years or charge intervenes, or the estate of the remainderman or reversioner is liable to be defeated), then, if and when such remainderman or reversioner would, if the tenant for life were dead, be or have the powers of a tenant for life under the Acts, the statutory powers of the tenant for life under the Acts shall, in reference to the property affected by the assurance, and notwithstanding section fifty of the Settled Land Act 1882, cease to be exercisable by him, and the statutory powers shall thenceforth become exercisable as if he were dead, but without prejudice to any incumbrance affecting the estate or interest assured, and to the rights to which any incumbrancer would have been entitled under section fifty aforesaid (as amended by this Act), if those powers had remained exercisable by the tenant for life.

- (2) Subsection (1) of this section applies whether or not the estate or interest of the tenant for life under the settlement was in possession at the date of the assurance.
- (3) Subsection (1) of this section shall not prejudice anything done by the tenant for life before the commencement of this Act, in exercise of any power operating under the Settled Land Acts, 1882 to 1890, or unless the assurance provides to the contrary, operate to accelerate any such intervening term of years or charge as aforesaid.
- (4) In this section " assurance " means any surrender, conveyance, assignment or appointment under a power (whether vested in any person solely, or jointly in two or more persons) which operates in equity to extinguish the estate or interest of the tenant for life, and " assured " has a corresponding meaning.

69 Amendment of section 50 of the Act of 1882.

- (1) Section fifty of the Settled Land Act, 1882, shall apply, and be deemed always to have applied, notwithstanding that the estate or interest of the tenant for life under the settlement was not in possession when the assignment was made or took effect by operation of law.
- (2) The expression " assignee for value " in subsection (3) of section fifty of the Settled Land Act, 1882, includes persons deriving title under the original assignee.
- (3) An assignee by operation of the law of bankruptcy where the assignment comes into operation after the commencement of this Act, shall be deemed to be an assignee for value within the meaning of subsection (3) of section fifty aforesaid.
- (4) Where an assignment for value is made or comes into operation after the commencement of this Act, the consent of the assignee shall not be requisite for the exercise by the tenant for life of any of the powers conferred by the Acts:

Provided that—

- (a) The assignee shall be entitled to the same or the like estate or interest in or charge on the land money or securities for the time being representing the land money or securities comprised in the assignment, as he had by virtue of the assignment in the last mentioned land, money or securities ; and
- (b) If the assignment so provides, or if it takes effect by operation of the law of bankruptcy, and after notice thereof to the trustees of the settlement, no investment or application of capital money for the time being affected by the assignment shall be made without the consent of the assignee, except an investment in securities authorised by statute for the investment of trust money; and

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

- (c) Notice of the intended transaction shall, unless the assignment otherwise provides, be given to the assignee, but a purchaser shall not be concerned to see or enquire whether such notice has been given.
- (5) Where the assignment for value is made before the commencement of this Act, a purchaser of the settled land shall not, after such commencement, be concerned to see or enquire whether the consent of the assignee has been obtained; and where any power conferred by the Acts is exercised after the commencement of this Act, the provisions of clauses (a), (b), and (c) of the last subsection shall apply for the benefit of the assignee.
- (6) A trustee or personal representative who is an assignee for value shall have power and be deemed always to have had power to consent to the exercise by the tenant for life of his powers under the Acts or to any such investment or application of capital money as aforesaid, and to bind by such consent all persons interested in the trust estate, or the estate of the testator or intestate.
- (7) If by the original assignment, or by any subsequent disposition, the estate or interest assigned or created by the original assignment, or any part thereof, or any derivative interest is settled on persons in succession, whether subject to any prior charge or not, and there is no trustee or personal representative in whom the entirety of the estate or interest so settled is vested, then the person for the time being entitled in possession under the limitations of that settlement, whether as trustee or beneficiary, or who would, if of full age, be so entitled, and notwithstanding any charge or incumbrance subsisting or to arise under such settlement, shall have power, and be deemed always to have had power, to consent to the exercise by the tenant for life of his powers under the Acts, or to any such investment or application of capital money as aforesaid, and to bind by such consent all persons interested or to become interested under such settlement.
- (8) Where an assignee for value, or any person who has power to consent as aforesaid under this section is an infant, the consent may be given on his behalf by his father or mother or testamentary or other guardian in the order named.
- (9) The court shall have power to authorise any person interested under any assignment to consent to the exercise by the tenant for life of his powers under the Acts, or to any such investment or application of capital money as aforesaid, on behalf of himself and all other persons interested, or who may become interested under such assignment.

70 As to a tenant for life who has parted with his interest.

- (1) The following provision shall apply to a tenant for life who has by reason of bankruptcy, assignment, incumbrance, or otherwise ceased in the opinion of the court to have a substantial interest in his estate or interest in the settled land or any part thereof, namely:

If it is shown to the satisfaction of the court that such tenant for life has unreasonably refused to exercise the powers conferred on him by the Acts, or any of such powers, or consents to an order under this section, the court may, upon the application of any person interested in the settled land or the part thereof affected, make an order authorising the trustees of the settlement, to exercise in the name and on behalf of the tenant for life, the powers of a tenant for life under the Acts, or any of such powers, in relation to the settled land or the part thereof affected, either generally and in such manner and for such period as the court may think fit, or in a particular instance.

- (2) While any such order is in force, the tenant for life shall not, in relation to the settled land or the part thereof affected, exercise any of the powers thereby authorised to be exercised in his name and on his behalf ; but no person dealing with the tenant for life shall be affected by any such order, unless and until the order has been registered and if necessary re-registered as a *lis pendens*.
- (3) An order may be made under this section at any time after the estate or interest of the tenant for life under the settlement has taken effect in possession, and notwithstanding that he disposed of the same when it was an estate or interest in remainder or reversion.
- (4) The Settled Estates Act, 1877, is hereby repealed.

71 Construction.

- (1) This Part of this Act shall be construed with the Settled Land Acts, 1882 to 1890, as one Act and may be cited with those Acts as the Settled Land Acts, 1882 to 1922.
- (2) In this Part of this Act the Settled Land Acts, 1882 to 1922, are referred to as "the Acts," and the general definitions contained in Part XL of this Act, shall where applicable apply to the Acts, and without prejudice to the application of those general definitions, in the Acts, where the context so admits—
 - " Tenant for life " includes a person who under the Acts is deemed to be, or has the powers of a tenant for life;
 - " Limitation " includes a trust; and
 - " Capital money " includes securities therefor.