



Law of Property Act 1922

1922 CHAPTER 16

PART XI

GENERAL PROVISIONS.

188 General definitions and jurisdiction of the court.

In this Act unless a contrary intention appears—

- (1) " Land " includes land of any tenure, and mines and minerals, buildings or parts (whether the division is horizontal, vertical or otherwise) of buildings and other corporeal hereditaments; also a manor, an advowson, and a rent and other incorporeal hereditaments, and an easement, right, privilege, or benefit in, over, or derived from land; but not an undivided share in land ; and " mines and minerals " include any strata or seam of minerals or substances in or under any land, and powers of working and getting the same but not an undivided share thereof ;
- (2) " registered land " means land registered under the Land Transfer Acts;
- (3) " Possession " includes receipt of rents and profits or the right to receive the same, if any; and " income " includes rents and profits;
- (4) " Will " includes codicil;
- (5) " Rent " includes a rent service or a rentcharge, or other rent, toll, duty, royalty, or annual or periodical payment, in money, or money's worth, issuing out of or charged upon land, but does not include mortgage interest ;
- (6) " Court " means the High Court of Justice, and also the Court of Chancery of the County Palatine of Lancaster or Durham, or the county court, where those courts respectively have jurisdiction; and all matters within the jurisdiction of the High Court under this Act shall, subject to the Acts regulating the court, be assigned to the Chancery Division of the court; and every application to the court under this Act shall, except where it is otherwise expressed and subject to any rules of court to the contrary, be by summons at chambers, and the court shall have full power and discretion to

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make such order as it thinks fit respecting the costs, charges and expenses of all or any of the parties to any application;

- (7) " Property " includes any thing in action, and any interest in real or personal property, and " notice " includes constructive notice ;
- (8) In reference to any estate, right, or interest the " person able to dispose thereof on a sale " means the person (including a mortgagee whose power of sale has arisen) who is able on a sale to convey the same to a purchaser free from incumbrances and includes the other persons (if any) whose concurrence or consent, for the purpose of giving a receipt for the purchase money or conveying any estate or interest or consenting to the sale, is necessary for the completion of the sale;
- (9) " The Land Transfer Acts " means the Land Transfer Acts, 1875 and 1897, and includes any Act consolidating or amending the same, including this Act; and " Land Registrar " means the registrar under those Acts:
- (10) " Gazette " means the London Gazette ;
- (11) " The Limitation Acts " mean the Real Property Limitation Acts, 1833, 1837, and 1874; and the " Statutes of Distribution " mean sections five, six, and seven of chapter ten of the Act passed in the twenty-second and twenty-third years of the reign of King Charles the Second (the Statute of Distribution), sections five and seven of chapter seventeen of the Act passed in the first year of the reign of King James the Second, and the Executors Act, 1830;
- (12) A " term of years absolute " means a term of years (taking effect either in possession or in reversion, but if created after the commencement of this Act then taking effect in possession within twenty-one years after the creation thereof where so required by this Act) with or without impeachment for waste, subject or not to another legal estate and either certain or liable to determination by notice, re-entry, operation of law, or by a provision for cesser on redemption, or in any other event (other than the dropping of a life, or the determination of a determinable life interest), but does not include any term of years determinable with life or lives or with the cesser of a determinable life interest; and in this definition the expression " term of years " includes a term for less than a year, or for a year or years and a fraction of a year or from year to year;
- (13) " Legal estates " mean the estates and interests in land (subsisting or created at law) which are by this Act authorised to subsist or to be created at law; " equitable interests " mean all the other interests and charges in or over land or in the proceeds of sale thereof, an equitable interest " capable of subsisting at law " means such as could validly subsist or be created as a legal estate under this Act; references to an equitable interest or power being protected by a settlement include every case where, by reason of the subsistence of an equitable interest or power, the land remains settled land or is deemed to be settled land ; and " estate owner " means the owner of a legal estate, but an infant is not capable of being an estate owner;
- (14) " Legal powers " mean the powers vested in a chargee by way of legal mortgage or in an estate owner under which a legal estate can be transferred or created ; and " equitable powers " mean all the powers (under which equitable interests or powers only can be transferred or created) in or over land which are not legal powers ;
- (15) " Instrument " does not include a statute, unless the statute creates a settlement;
- (16) " Conveyance " includes a mortgage, charge by way of legal mortgage, lease, assent, vesting declaration, vesting instrument, disclaimer, release and every other assurance

of property or of an interest therein by any instrument, except a will, and " convey " has a corresponding meaning;

- (17) " Disposition " includes a " conveyance " also a devise bequest and an appointment of property contained in a will which are to take effect in equity only, and " dispose of " has a corresponding meaning ;
- (18) " Personal representative " means the executor, original or by representation, or administrator for the time being of a deceased person, and as regards any liability for the payment of death duties includes any person who takes possession of or intermeddles with the property of a deceased person without the authority of the personal representatives or the court;
- (19) A " defective " includes every person affected by the provisions of section one hundred and sixteen of the Lunacy Act, 1890, as extended by section sixty-four of the Mental Deficiency Act, 1913, and for whose benefit a receiver has been appointed;
- (20) " Death duty " means estate duty, succession duty, legacy duty, and every other duty leviable or payable on any death which occurs after the commencement of this Act ;
- (21) " Tenant for life of full age " includes a person of full age beneficially interested in the settled land, who has the powers of a tenant for life under the Settled Land Acts ;
- (22) " Statutory owner " means the trustees of the settlement 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 under the Settled Land Acts, but does not include the trustees of the settlement, where by virtue of an order of the court or otherwise the trustees have power to convey the settled land in the name of the tenant for life of full age;
- (23) " Settled land " has the same meaning as in the Settled Land Acts, and where the settlement consists of more than one instrument, or where any estate, interest, power or charge is by this Act made to take effect as if limited or protected by the settlement, it includes every estate or interest comprised in such compound settlement;
- (24) " Settlement " has the same meaning as in the Settled Land Acts, and includes an instrument which under the Settled Land Acts is deemed to be a settlement, and a settlement which is deemed to have been made by any person or to be subsisting for the purposes of those Acts; and where any such compound settlement as aforesaid exists it includes that settlement; but it only includes a Testing instrument for giving effect thereto where the context so requires;
- (25) " The trustees of the settlement " has the same meaning as in the Settled Land Acts, and where any such compound settlement exists it includes the trustees of that settlement;
- (26) " The Settled Land Acts " means the Settled Land Acts, 1882 to 1890, and any Act consolidating or amending the same, including this Act;
- (27) " Purchaser " means a purchaser in good faith for money or moneys worth and includes a lessee, mortgagee or other person who in good faith acquires an interest in property for money or money's worth , and in reference to a legal estate includes a chargee by way of legal mortgage;
- (28) " Mortgagor, " " mortgagee, " and " mortgage deed " have the same meanings as in the Conveyancing Act, 1881, " mortgage " includes " mortgage deed "; " charge by way of legal mortgage " means a mortgage created by charge under which, by virtue of this Act, the mortgagee is to be treated as an estate owner in like manner as if a mortgage term by demise or subdemise were vested in him; and " right of redemption " includes

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an option to re-purchase only if the option in effect creates a right of redemption; and " mortgagee " includes a chargee by way of legal mortgage;

- (29) In relation to settled land, " vesting deed " or " vesting order " means the instrument whereby the land is conveyed or vested; " vesting assent " means the instrument whereby a personal representative, after the death of a tenant for life of full age or other sole surviving statutory owner, vests the land in the successor in title or other person entitled; " vesting instrument " means a vesting deed, assent or order; and " trust deed " means the instrument or instruments whereby the trusts of the settled land are declared;
- (30) " Trust for sale, " in relation to land, means an immediate binding trust for sale, with or without a power at discretion to postpone the sale; " trustees for sale " mean the persons (including a personal representative) holding land on trust for sale; and " full power to postpone a sale " means power to postpone in the exercise of a discretion ; and " trust corporation " means the public trustee or a corporation either appointed by the court in any particular case to be a trustee or entitled by rules made under subsection (3) of section four of the Public Trustee Act, 1906, to act as custodian trustee.
- (31) " Minister " means the Minister of Agriculture and Fisheries;
- (32) References to a child or issue living at the death of any person include a child or issue en ventre sa mere at the death.

189 Special definitions applicable to Part V.

In this Act, and in particular in Part V, unless the context otherwise requires,—

" Copyhold land " includes—

- (a) Land commonly known as customary land or customary freehold land where the freehold is in the lord and not in the customary tenant: and
- (b) Land of copyhold tenure held for life or lives or for years, whether or not determinable with life, where the tenant has by custom a perpetual right of renewal, subject or not to the fulfilment of any conditions;
- (c) Land held in free tenure for life or lives or for years, whether or not determinable with life, (but subject to custom) where the tenant has by custom a perpetual right of renewal, subject or not to the fulfilment of any conditions;

" Copyholder in fee " means the person who is admitted in respect of the inheritance;

" Tenant " means the person in whom the enfranchised land is vested by virtue of this Act, and includes the persons deriving title under him;

" Prescribed " means prescribed by regulations made by the Minister; Other expressions have the same meaning in Part V. of this Act as in the Copyhold Act, 1894, but without prejudice, where applicable, to the general definitions in this Act.

190 Special definitions applicable to Part VII.

In Part VII of this Act—

- (i) " Lessor " means the person for the time being entitled in reversion expectant on the interest demised, or, where the reversion is encumbered, the person having power to accept a surrender of the lease, or underlease;

- (ii) " Lessee " and " underlessee " include the persons respectively deriving title under them ;
- (iii) " A perpetually renewable lease or underlease " means a lease or underlease the holder of which is entitled to enforce (whether or not subject to the fulfilment of any condition) the perpetual renewal thereof, and includes a lease or underlease for a life or lives or for a term of years, whether determinable with life or lives or not, which is perpetually renewable as aforesaid, but does not include copyhold land held for a life or lives or for years, whether or not determinable with life, where the tenant had before the commencement of this Act a right of perpetual renewal subject or not to the fulfilment of any condition ;
- (iv) " Underlease, " unless the context otherwise requires, includes a subterm created out of a derivative leasehold interest.

191 Short title; commencement; extent.

- (1) This Act may be cited as the Law of Property Act, 1922.
- (2) This Act shall come into operation on the first day of January, one thousand nine hundred and twenty-five.
- (3) This Act (including the repeals therein) shall not extend to Scotland or Ireland.