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SCHEDULES.

FIFTH SCHEDULE

Section 12.

PROVISIONS RELATING TO SETTLEMENTS.

Authorised method of settling land inter vivos by "vesting" and "trust" deeds.

- 1 (1) After the commencement of this Act every settlement of land inter vivos shall be effected as follows, and in no other way, namely:—

There shall (save as hereinafter mentioned) be two deeds, one of which (in this Act referred to as "the vesting deed") shall be a conveyance of the land, for the estate or interest the subject of the settlement, and shall appoint trustees for the purposes of the Settled Land Acts, and the other of which (in this Act referred to as "the trust deed") shall declare the trusts affecting the settled land, appoint trustees for the purposes of the Settled Land Acts, and shall bear any ad valorem stamp duty which may be payable (whether by virtue of the conveyance or otherwise) in respect of the settlement.

- (2) An agreement for the settlement of land by an estate owner, shall, and an agreement for the settlement of land by a person entitled to an equitable interest which is capable, when in possession, of subsisting at law, or to an entailed interest, shall, if and when the interest of the settlor is or becomes vested in possession, be deemed a contract to convey or create a legal estate, and effect shall be given thereto by a vesting deed and a trust deed in accordance with this section.
- (3) No undivided share in land can be made the subject of a settlement, but the entirety of the land shall be vested in trustees for sale, as provided by this Act, and any disposition purporting to make to such a settlement shall only operate as a settlement of a corresponding share of the net proceeds of sale and of the rents and profits until sale of the entirety of the land.
- (4) By the vesting deed the settled land shall be conveyed to the tenant for life of full age, or statutory owner (and if more than one as joint tenants) to be held upon the trusts declared concerning the same by the trust deed, and for giving effect to any equitable interests and powers; and the persons who are appointed as the trustees of the vesting deed shall be the same persons as are the trustees of the trust deed, and such persons are in this Act referred to as the trustees of the settlement.

Provided that, where the land is already vested in the tenant for life of full age or statutory owner, it shall be sufficient, without any other conveyance, if the vesting deed declares that the land is vested in him on the requisite trusts.

The contents of "vesting instruments," and as to land acquired with capital money.

- 2 (1) Every vesting instrument for giving effect to a settlement or made on a change of ownership of settled land (in this Act referred to as a principal vesting instrument) shall contain the following statements or particulars, namely:—

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- (a) That the land is vested in the tenant for life of, full age or statutory owner upon the trusts from time to time affecting the settled land:
 - (b) The names of the persons who are the trustees of the settlement:
 - (c) The powers (if any) relating to the land expressly conferred by the settlement in extension of those conferred by the Settled Land Acts :
 - (d) The name of any person who has power to appoint new trustees of the settlement.
- (2) Where after the commencement of this Act land is acquired with capital money arising under a settlement, or in exchange for settled land, or a rentcharge is reserved on a grant of settled land, the land shall be conveyed to, and the rentcharge by virtue of this Act shall become vested in the tenant for life of full age or statutory owner, and the conveyance or grant shall be a supplemental vesting deed.
- (3) A supplemental vesting deed executed on the acquisition of land to be made subject to a settlement shall contain the following statements or particulars, namely:—
- (a) That it is supplemental to a vesting instrument therein referred to being the last vesting instrument (other than a supplemental vesting deed) affecting land subject to the settlement:
 - (b) That the land conveyed is to be held upon and subject to the same trusts and powers as the land comprised in the principal vesting instrument:
 - (c) The names of the persons who are the trustees of the settlement:
 - (d) The name of any person who has power to appoint new trustees of the settlement.
- (4) A supplemental vesting deed reserving a rentcharge on at grant of settled land shall contain the following statements or particulars:—
- (a) That the rentcharge is vested in the grantor and is subject to the settlement which, immediately before the grant, was subsisting with respect to the land out of which it was reserved :
 - (b) Particulars of the last principal vesting instrument affecting such land.
- (5) The statements or particulars required by this section may be incorporated by reference to an existing vesting instrument.
- (6) A vesting instrument shall not be invalidated by reason only of any error in any of the statements or particulars by this Act required to be contained therein.
- (7) The acquisition of the land shall not operate to increase or multiply charges or powers of charging.

Vesting deeds, assents, or discharges, on change of ownership of the settled land or on the termination of the settlement.

- 3 (1) If by reason of an infant attaining full age he becomes entitled to the settled land either as a tenant for life of full age or absolutely, he shall (notwithstanding any stipulation to the contrary) be entitled to require the trustees of the settlement, personal representatives, or other persons in whom the settled land is vested, to convey the same to him (but in the case of personal representatives subject to their right to require any death duties and costs to be provided for) by a vesting deed, assent or conveyance (as the case may require) at the cost of the trust estate.

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- (2) If by reason of the forfeiture, surrender, or determination of his beneficial interest under a settlement the person in whom the settled land is vested ceases to have the statutory powers of a tenant for life of full age, and any limitations of the settlement are still subsisting, he shall be bound forthwith to convey the settled land to the tenant for life of full age or statutory owner, by a vesting deed, at the cost of the trust estate.
- (3) If by reason of the satisfaction or determination of all interests, powers, and charges, other than the estate and powers of a person of full age who has become absolutely entitled, the settlement is determined, either as to the whole or any part of the settled land, then the trustees of the settlement shall, at the cost of the trust estate, by deed declare that they are discharged from the trust, either as to the whole or any part of the land as the case may require, and thenceforth a purchaser of a legal estate shall be entitled to assume that such land has ceased to be settled land.
- (4) If the trustees of the settlement, on being requested so to do by the person of full age who has become absolutely entitled, refuse to execute a deed of discharge, or if for any reason the discharge cannot be effected without undue delay or expense, such person may apply to the court for an order discharging the trustees, as respects the whole or any part of the settled land, and the court may make such order as it may think fit.
- (5) This section applies whether the settlement comes into operation before or after the commencement of this Act.

As to settlements created by will after this Act and as to settled land vested in a personal representative at the commencement of this Act.

- 4 (1) Where a settlement is created by the will of a person who dies after the commencement of this Act, the will shall, for the purposes of this Act, be deemed " the trust deed " and where settled land remains at the commencement of this Act vested in the personal representatives of a person who dies before such commencement, the settlement (including a will and a settlement deemed to be subsisting or to have been made by any person) shall, for the purposes of this Act, be deemed " the trust deed."
- (2) Subject to the rights and powers of the personal representatives for purposes of administration, and to their being satisfied that all death duties and costs will be provided for, they shall be bound (except during a minority) by a vesting assent in writing signed by them (which shall operate as a conveyance) to convey the settled land (and so as to bind any equitable interest or power which by virtue of this Act or otherwise is protected by the settlement) to the tenant for life of full age or statutory owner named therein, and, if more than one, as joint tenants at the cost of the trust estate.

Forfeiture and stamps.

- 5 (1) Any vesting effected under the powers conferred by this Act in relation to settled land shall not operate as a breach of covenant or condition against alienation or give rise to a forfeiture.
- (2) Nothing in this Act shall operate to impose any stamp duty on a vesting assent, nor shall any ad valorem stamp duty be payable in respect of a vesting deed or order made for giving effect to an existing settlement.

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Devolution of settled land on a death.

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- (1) On the death, after the commencement of this Act, of a tenant for life of full age or statutory owner, or of the survivor of two or more of them, in whom the settled land was vested, the same shall devolve upon his personal representatives upon trust (subject to the personal representatives being satisfied that any death duties and costs will be provided for) to convey the settled land by a vesting assent to the tenant for life of full age or statutory owner or the person (if any) of full age who has become absolutely entitled thereto at the cost of the trust estate.
 - (2) This section does not affect the right of the personal representatives to transfer or create such legal estates to take effect in priority to the settlement as may be required for giving effect to the obligations imposed on them by this Act.
 - (3) This section applies to settlements coming into operation either before or after the commencement or by virtue of this Act.

Disputes as to vesting deeds and assents, and power to make vesting orders of settled land.

- 7
- (1) If any question arises as to the person in whose favour a vesting deed or assent ought to be executed, or as to the contents thereof, the trustees of the settlement, personal representatives, or any person interested under the settlement may apply to the court for directions under section forty-four of the Settled Land Act, 1882.
 - (2) If any person who is bound to execute a vesting instrument or in whom settled land is wrongly vested refuses or neglects to execute the requisite vesting deed or assent within one month after demand in writing, or if such person is outside the United Kingdom, or cannot be found, or it is not known whether he is alive or dead, or if for any reason the court is satisfied, that the vesting deed or assent cannot be executed, or cannot be executed without undue delay or expense, the court may, on the application of any person interested, make an order vesting the settled land in the tenant for life of full age or statutory owner or person (if any) of full age absolutely entitled, and the provisions of this Act relating to vesting instruments shall apply to any order so made which shall (if the land remains settled land) contain the like statements and particulars.
 - (3) No stamp duty shall be payable in respect of a vesting order made in place of a vesting assent.

Existing settlements and instruments not complying with this Act to operate as "trust deeds."

- 8
- (1) Every settlement of land subsisting at the commencement or created by virtue of this Act, and every settlement of land which after the commencement of this Act is deemed to have been made by any person, and every instrument which under the Settled Land Acts is deemed to be a settlement, and every instrument inter vivos intended to create a settlement which is executed after the commencement of this Act and does not comply with the requirements of this Act, shall, for the purposes of this Act, be deemed a "trust deed," and if a legal estate is conveyed by any such instrument as last aforesaid the estate owner shall hold the legal estate on trust to execute a vesting deed in the manner required by this Act.
 - (2) Until a vesting instrument is executed or made pursuant to this Act in respect of the settled land, any purported disposition thereof inter vivos shall not take effect at law, except in favour of a purchaser of a legal estate without notice of any-trust, but, save as aforesaid shall operate only as a contract for valuable consideration to

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carry out the transaction after the requisite vesting instrument has been obtained, and a purchaser of a legal estate shall not be concerned therewith unless the contract is registered as a land charge.

- (3) This section does not apply to land subject to an immediate trust for sale, with or without a power to postpone the sale, nor to settled land vested in personal representatives, but save as aforesaid applies to a will (creating a settlement) of a person who dies before the commencement of this Act.

Vesting deeds and orders for giving effect to existing settlements and trust deeds inter vivos.

- 9 (1) In the case of every settlement of land subsisting at the commencement or created by virtue of this Act (whether or not the settled land is already vested in the trustees of the settlement), as soon as practicable after such commencement, and, in the case of every settlement deemed to have been made by any person after the commencement of this Act, and of every instrument which after such commencement is deemed to be a settlement, and of every instrument inter vivos intended to create a settlement which is executed after the commencement of this Act, and does not comply with the requirements of this Act, as soon as practicable after such settlement or instrument takes effect, the trustees (if any) of the settlement for the purposes of the Settled Land Acts shall, on the request of a tenant for life of full age or statutory owner, and at the cost of the trust estate, execute a vesting deed (containing the proper particulars) declaring that the settled land shall vest or is vested in the tenant for life of full age or statutory owner named therein (including themselves if they are the statutory owners), and such deed shall operate to convey or vest the settled land (so as to bind any equitable interest or power which by virtue of this Act or otherwise is protected by the settlement) to or in the tenant for life of full age or statutory owner named therein, and, if more than one, as joint tenants.
- (2) In the case of a base fee whether or not the reversion is in the Crown, or of a fee determinable whether by limitation or condition, or of an estate tail which by Act of Parliament is incapable of being barred or defeated (whether the reversion is in the Crown or not), the entire fee simple is settled land, and the instrument creating the estate tail, or determinable fee is the settlement, and the reversion or right of reverter upon the cesser of such base fee, determinable fee, or estate tail shall be deemed to be an estate limited by the settlement, and this subsection shall bind the Crown.
- (3) If there are no trustees of the settlement, then (in default of a person able and willing to appoint such trustees) an application shall be made to the court under section thirty-eight of the Settled Land Act, 1882, by the tenant for life of full age or statutory owner, or any other person interested, for the appointment of such trustees.
- (4) If default is made in the execution of any such vesting deed, the provisions of this Act relating to vesting orders of settled land shall apply in like manner as if the trustees of the settlement were persons in whom the settled land is wrongly vested.
- (5) In the case of settlements subsisting at the commencement of this Act, all the estates, interests, and powers thereby limited, which are not by this Act otherwise converted into equitable interests or powers, shall, as from the date of the vesting deed or order, take effect only in equity.
- (6) The settlement subsisting at the commencement of this Act and any instrument whereby land has been conveyed to the uses or upon the trusts of the settlement shall form part of the title of the estate owner of the settled land so far only as the statements

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and particulars in any vesting instrument may be made by reference thereto and for no other purpose.

- (7) This section does not affect the powers and duties of personal representatives in regard to settled land vested in them at the commencement of this Act.

Restrictions on dispositions where Settled Land Act trustees as appointed.

- 10 (1) Where the last or only principal vesting instrument appoints trustees for the purposes of the Settled Land Acts, and such trustees have not been discharged, then—
- (a) Any disposition by the tenant for life of full age or statutory owner of the settled land, other than a disposition authorised by the Settled Land Acts (including any extended powers mentioned in the vesting instrument) or by any other statute, shall be void, except for the purpose of conveying or creating such equitable interests as he has (in right of his equitable interests and powers under the settlement) power to convey or create ; and
 - (b) If any capital money is payable in respect of a transaction, a conveyance to a purchaser of the settled land shall only take effect under the Settled Land Acts if the capital money is paid to or by the direction of the trustees of the settlement or into court; and
 - (c) Notwithstanding anything to the contrary in the vesting instrument, or settlement, capital money shall not, except where the trustee is a trust corporation, be paid to or applied by the direction of fewer than two persons as trustees thereof.
- (2) The restrictions imposed by this section do not affect—
- (a) The right of a personal representative in whom the settled land may be vested to convey or deal with the same ;
 - (b) The right of a person of full age who has become absolutely entitled to the settled land, free from any limitations, powers, and charges taking effect under the settlement, to require the land to be conveyed to him;
 - (c) The power of the tenant for life of full age, statutory owner, or personal representative in whom the settled land is vested to transfer or create such legal estates, to take effect in priority to the settlement, as may be required for giving effect to the obligations imposed on him by this Act, but where any capital money is raised or received in respect of the transaction the same shall be paid to or by the direction of the trustees of the settlement, or in accordance with an order of the court.
- (3) Where, after the commencement of this Act, the tenant for life of full age conveys or deals with his beneficial interest in possession in favour of a purchaser, and the interest so conveyed or created would, but for the restrictions imposed by Part I. of this Act on the creation of legal estates, have been a legal interest, then the purchaser shall (without prejudice to any protection conferred by this Act on a purchaser of a legal estate) have and may exercise all the same rights and remedies as he would have had or have been entitled to exercise if the interest so conveyed or created had been a legal estate and the reversion (if any) on any leases or tenancies derived out of the settled land had been vested in him.

Consents by assignees of life interests.

- 11 Nothing in Part I. of this Act shall discharge a tenant for life of full age from his obligation to obtain any consent required to be given under section fifty of the Settled

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Land Act, 1882 (as amended by any subsequent enactment), but a purchaser of a legal estate shall not be concerned to see or inquire whether any such consent has been given.

Indemnities to personal representatives and others.

- 12 A personal representative, trustee, or other person who has in good faith pursuant to this Act, executed a vesting deed, assent, or other conveyance of the settled land, or a deed of discharge of trustees, shall be absolutely discharged from all liability in respect of the equitable interests and powers taking effect under or protected by the settlement, and shall be entitled to be kept indemnified at the cost of the trust estate from all liabilities affecting the settled land, but the person to whom the settled land is conveyed (not being a purchaser taking free therefrom) shall hold the settled land upon the trusts (if any) affecting the same.

Provisions for the protection of a purchaser in good faith of settled land.

- 13 (1) A purchaser of a legal estate in settled land from a tenant for life of full age or statutory owner shall not (except, as hereby expressly provided) be bound or entitled to call for any information concerning the trust deed or any ad valorem stamp duty thereon, and whether or not he has notice of its contents he shall, save as hereinafter provided, be bound and entitled if the last principal vesting instrument states that the land is held on trust, or appoints trustees thereof for the purposes of the Settled Land Acts, to assume that—
- (a) The person in whom the land is thereby vested is the tenant for life of full age or statutory owner and has all the powers of a tenant for life under the Settled Land Acts as (if at all) thereby extended;
 - (b) The trustees thereby appointed, or their successors appearing to be duly appointed, are the properly constituted trustees of the settlement;
 - (c) The statements and particulars required by this Act and contained (expressly or by reference) in the last principal vesting instrument were correct at the date thereof;
 - (d) The statutory power to appoint new trustees applies thereto, if no person is nominated to appoint, new trustees thereof :

Provided nevertheless that, as regards the first vesting deed executed for the purpose of giving effect to a settlement subsisting at the commencement of this Act, a purchaser shall be concerned to see that the person in whom the land is thereby vested is the tenant for life of full age or statutory owner to whom it ought to be conveyed.

- (2) A purchaser of a legal estate in settled land from a personal representative shall be entitled to act on the following assumptions:—
- (i) If the capital money (if any) payable in respect of the transaction is paid to the personal representative, that such representative is acting under his statutory or other powers and requires the money for purposes of administration:
 - (ii) If such capital money is, by the direction of the personal representative, paid to persons who are stated to be the trustees of a settlement, that such trustees are the duly constituted trustees of the settlement for the purposes of the Settled Land Acts, and that the personal representative is acting under his statutory powers during a minority:
 - (iii) In any other case that the personal representative is acting under his statutory or other powers.

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- (3) Where no capital money arises under a transaction, nothing in Part I. of this Act shall (except for the purpose of giving effect to a settlement subsisting at the commencement or created by virtue of this Act) render it necessary to appoint trustees of the settlement, but the tenant for life of full age Or statutory owner shall, in favour of a purchaser of a legal estate, have power to give effect to the transaction in like manner as if such trustees had been appointed, and to bind the equitable interests and powers which are by this Act protected by the settlement.
- (4) If a conveyance of or an assent relating to land formerly subject to a vesting instrument does not state that the land is held on trust, and does not appoint trustees for the purposes of the Settled Land Acts, a purchaser of a legal estate shall be bound and entitled to act on the assumption-that the person in whom the land was thereby vested took the same as an absolute owner free from any equitable interest or power affecting his estate.