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## SCHEDULES.

### FOURTH SCHEDULE

Section 11.

#### DISPOSITIONS ON TRUST FOR SALE.

##### *Appointment of trustees of dispositions on trust for sale.*

- 1 (1) The persons having power to appoint new trustees of a conveyance on trust for sale shall be bound to appoint the same persons (if any) who are for the time being trustees of the settlement of the proceeds of sale, but a purchaser shall not be concerned to see whether the proper persons are appointed to be trustees of the conveyance of the land.
- (2) This section applies whether the settlement of the proceeds of sale or the conveyance on trust for sale comes into operation before or after the commencement of this Act.

##### *Consents to the execution of a trust for sale ; as to giving effect to the wishes of the persons interested and protection to trustees.*

- 2 (1) If the consent of more than two persons is made requisite by the disposition to the execution of a trust for sale of land then, in favour of a purchaser, the consent of any two of such persons to the execution of the trust or to the exercise of any statutory or other powers vested in the trustees for sale shall be deemed sufficient.
- (2) A consent by a person not sui juris or who becomes subject to disability expressed to be required by a disposition in the case of any such trust or power shall not in favour of a purchaser be deemed to be requisite to the execution of the trust or the exercise of the power; but the trustees shall, in any such case, obtain the separate consent of the parent or testamentary or other guardian of an infant or of the committee or receiver (if any) of a lunatic or defective.
- (3) The trustees for sale shall, so far as practicable, give effect to the wishes of the persons of full age for the time being beneficially interested in possession in the rents and profits of the land until sale, or, in case of dispute, of the majority (according to the value of their combined interests) of such persons, but a purchaser shall not be concerned to see that such wishes are complied, with.
- (4) Where there is a power to postpone the sale, then (subject to any express direction to the contrary in the instrument, if any, creating the trust for sale) the trustees for sale (including personal representatives) shall not be liable in any way for postponing the sale, in the exercise of their discretion, for any indefinite period; nor shall a purchaser of a legal estate be concerned in any case with any directions respecting the postponement of the sale. A power to postpone sale shall be implied unless a contrary intention appears.
- (5) This section applies whether the trust for sale is created before or after the commencement or by virtue of this Act.

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*Purchaser not to be concerned with the trusts of the proceeds of sale if paid to two or more trustees or to a trust corporation.*

- 3 (1) A purchaser of a legal estate from trustees for sale shall not be concerned with the trusts affecting the proceeds -of sale of land subject to a trust for sale (whether made to attach to such proceeds by virtue of this Act or otherwise), or affecting the rents and profits of the land until sale, whether or not those trusts are declared by the same instrument by which the trust for sale is created.
- (2) The proceeds of sale or other capital money arising under a disposition on trust for sale of land (and notwithstanding anything to the contrary in such disposition or in the settlement of the net proceeds) 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 of the disposition, but this subsection does not affect the right of a sole personal representative as such to give valid receipts for or direct the application of the proceeds of sale or other capital money aforesaid; nor, except where capital money arises on a transaction, render it necessary to have more than one trustee.

*Powers of management given to trustees for sale, trust of rents and profits till sale, and provisions as to partition among persons interested in the proceeds of sale.*

- 4 (1) Trustees for sale (with or without a power to : postpone the sale) shall, in relation to the land or to manorial incidents and to the proceeds of sale, have all the powers of a tenant for life, and of the trustees of a settlement, under the Settled Land Acts, and also in relation to the land the powers of management conferred by subsections (2) and (3) of section forty-two of the Conveyancing Act, 1881: and (subject to any express trust to the contrary) all capital money arising under the said powers shall (without prejudice to the rights and powers of a personal representative for purposes of administration) unless paid or applied for any purpose authorised by the Settled Land Acts, be applicable in the same manner as if the money represented proceeds of sale arising under the trust for sale.
- (2) Subject to any direction to the contrary in the disposition on trust for sale or in the settlement of the proceeds of sale, the net rents and profits of the land until sale, after keeping down costs of repairs and insurance and other outgoings, shall (without prejudice to the rights and powers of a personal representative as aforesaid) be paid or applied except so far as any part thereof may be liable to be set aside as capital money under the Settled Land Acts, in like manner as the income of investments representing the purchase money would be payable or applicable if a sale had been made and the proceeds had been duly invested.
- (3) Where the net proceeds of sale have under the trusts affecting the same become absolutely vested in persons of full age in undivided shares (whether or not such shares may be subject to a derivative trust) the trustees for sale may (with the consent of the persons, if any, of full age, not being annuitants, interested in possession in the net rents and profits of the land until sale) partition the land remaining unsold or any part thereof, and provide (by way of mortgage or otherwise) for the payment of any equality money, and, upon such partition being arranged, the trustees for sale shall give effect thereto by conveying the land so partitioned in severalty (subject or not to any mortgage term or charge by way of legal mortgage, created for raising equality money) to persons of full age and either absolutely or on trust for sale or, where any part, of the land becomes settled land by a vesting deed, or partly in one way and partly in another in accordance with the rights of the persons interested under the

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partition, but a purchaser shall not be concerned to see or inquire whether any such consent as aforesaid has been given :

Provided that—

- (a) If a share in the net proceeds is absolutely vested in an infant, the trustees for sale may act on his behalf and retain land (to be held on trust for sale) or other property to represent his share, and in other respects the foregoing power shall apply as if the infant had been of full age :
  - (b) If a share in the net proceeds belongs to a lunatic or defective, the consent of his committee or receiver shall be sufficient to protect the trustees for sale :
  - (c) If a share in the net proceeds is affected by an incumbrance the trustees for sale may either give effect thereto or provide for the discharge thereof by means of the property allotted in respect of such share, as may be considered expedient.
- (4) The powers conferred by subsection (1) of this section shall be exercised with such consents (if any) as would have been required on a sale under the trust for sale, and when exercised shall operate to overreach any equitable interests or powers which are by virtue of this Act made to attach to the net proceeds of sale as if created by a trust affecting those proceeds.
- (5) If the trustees for sale refuse to sell or to exercise any of the powers conferred by this section, or the powers to delegate hereinafter conferred, any person interested may apply to the court for a vesting or other order for giving effect to the proposed transaction or for an order directing the trustees for sale to give effect thereto and the court may make such order as it thinks fit.
- (6) Where, at the commencement of this Act, an order made under section seven of the Settled Land Act, 1884, is in force then the person on whom any power is thereby conferred shall, while the order remains in force, exercise such power in the names and on the behalf of the trustees for sale in like manner as if the power had been delegated to him under this Act.
- (7) This section applies to dispositions on trust for sale coming into operation either before or after the commencement of this Act, or by virtue of this Act.
- (8) This section does not apply where there is a person having the powers of a tenant for life under paragraph (ix) of subsection (1) of section fifty-eight of the Settled Land Act, 1882.

*Delegation of powers of management by trustees for sale.*

- 5 (1) The powers of and incidental to leasing, accepting surrenders of leases and management, conferred on trustees for sale whether by this Act or otherwise, may, until sale of the land, be revocably delegated from time to time, by writing, signed by them, to any person of full age (not being merely an annuitant) for the time being beneficially interested (in possession) in the net rents and profits of the land during his life or for any less period : and in favour of a lessee such writing shall, unless the contrary appears, be sufficient evidence that the person named therein, is a person to whom the powers may be delegated, and the production of such writing shall, unless the contrary appears, be sufficient evidence that the delegation has not been revoked.
- (2) Any power so delegated shall be exercised only in the names and on behalf of the trustees delegating the same.

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- (3) The persons delegating any power under this section shall not, in relation to the exercise or purported exercise of the power, be liable for the acts or defaults of the person to whom the power is delegated, but he shall, in relation to the exercise of the power by him, be deemed to be in the position and to have the duties and liabilities of a trustee.