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## SCHEDULES.

### SIXTEENTH SCHEDULE

#### AMENDMENTS OF THE LAND TRANSFER ACTS.

##### PART I

###### AMENDMENTS AND REPEALS OF THE ACT OF 1875 AS VARIED BY THE ACT OF 1897.

###### *Sections referred to.*

- 1 References to sections in this Part of this Schedule shall be construed as references to sections of the Act of 1875 unless the contrary is stated.

###### *Definitions.*

- 2 (1) Section two is hereby repealed.  
(2) In the Acts, unless the context otherwise requires,—
  - " Legal estate, " " term of years absolute, " " land, " " mines and minerals, " " tenant for life of full age, " " statutory owner, " " settled land, " " settlement, " " vesting deed, " " vesting order, " " vesting assent, " " vesting instrument, " " trust deed, " " trustees of the settlement, " " personal representative, " " capital money, " " trust for sale, " " trustees for sale, " " defective, " " instrument, " " charge by way of legal mortgage, " " Gazette, " " possession, " " income, " " court, " " death duty." " local land charge, " and " manorial incidents " have the same meanings as in the Law of Property Act, 1922 ;
  - " Settled Land Acts " mean the Settled Land Acts, 1882 to 1922, or any Act amending or consolidating the same ;
  - " Proprietor " means the registered proprietor for the time being of land or a charge ;
  - " Registered land " includes any easement, right, privilege, or benefit which is appurtenant or appendant thereto, and any mines and minerals within or under the same and held therewith ;
  - " Registered estate, " in reference to land, means the legal estate, or other registered interest (if any) for the time being held by the person who is registered as proprietor of the land, and a "registered charge" includes a mortgage or incumbrance registered as a charge ;
  - " Overriding interests " mean all the incumbrances, interests, rights, and powers (except minor interests protected on the register) which by the Acts are made paramount to the registered estate and subject to which registered dispositions are to take effect, and include the matters which are by section eighteen (as amended) or otherwise declared not to be incumbrances;
  - " Minor interests " mean the interests not capable of being disposed of or created by registered dispositions but capable of being overridden by

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the proprietor unless protected as provided by the Acts; and include all the interests and powers which in the case of land held on trust for sale are under Part I. of the Law of Property Act, 1922, capable of being overridden by the trustees for sale, and in the case of settled land are, under that Act and the Settled Land Acts, capable of being overridden by the tenant for life of full age or statutory owner, as well as all rights and interests which are not registered, or protected on the register, and are not overriding interests;

" Registered dispositions " mean dispositions which take effect under the powers conferred on the registered proprietor of the land or of a charge by way of transfer, charge, mortgage or otherwise and to which (when required to be registered) special effect is given by the Acts on registration;

" Purchaser " includes a lessee, mortgagee, or other person who for valuable consideration acquires any interest in land or in any charge on land ;

" Valuable consideration " includes marriage, but does not include a nominal consideration in money:

" Lease " includes any tenancy or agreement for a lease or tenancy ;

" The Limitation Acts " mean the Real Property Limitation Acts," 1833, 1837 and 1874, and any Act amending the same; References to the Crown's right to "escheat" shall be construed as referring to "bona vacantia."

- (3) The definition relating to " Courts, " and the reference to the meaning of " land " (as amended by the Act of 1897) in section four are repealed.

*Application for registration by intending purchasers and as to examination of title.*

- 3 (1) Notwithstanding anything contained in sections five, eleven and sixty-eight, a person who has merely contracted to buy land shall not be entitled to apply for registration.
- (2) If on an application for registration with possessory title, the registrar is satisfied as to the title he may register it as absolute or good leasehold, whether the applicant consents to such registration or not, but in that case no higher fee shall be charged than would have been charged for registration with possessory title.

*Application for registration of leaseholds.*

- 4 (1) In section eleven, subsection (1), the words " for a life or lives, or determinable on a life or lives, or " are hereby repealed.
- (2) The amendment of section eleven contained in the Act of 1897 shall only apply where a right of redemption is subsisting in the mortgage term; but where on an application to register a mortgage term, it appears that the applicant is entitled in equity to the superior term (if any) out of which it was created, the registrar shall (except where the mortgage term does not comprise the whole of the land included in the superior term unless in that case the rent, if any, payable in respect of the superior term has been apportioned, or the rent is of no money value or no rent is reserved, and unless the covenants (if any) entered into for the benefit of the reversion have been apportioned (either expressly or by implication) as respects the land comprised in the mortgage term) register him as proprietor of the superior term without any entry to the effect that the legal interest in that term is outstanding, and on such registration the superior term shall vest in the proprietor and the mortgage term shall merge therein.
- (3) Sections twelve, fourteen, fifteen, and sixteen are hereby repealed.

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*Overriding interests.*

- 5 (1) The words " succession duty " in subsection (2) of section eighteen and the words " estate duty " in the amendment of section eighteen in the First Schedule to the Act of 1897 are hereby repealed.
- (2) Subsections (4) and (5) of section eighteen, with the amendment of those subsections contained in the First Schedule to the Act of 1897, are hereby repealed, but only as respects land registered after the commencement of this Act.
- (3) The following provisions shall be substituted for subsections (4) and (5) of section eighteen, namely:—
- (i) The rights of every person in actual occupation of the land or in receipt of the rents and profits thereof:
  - (ii) In the case of a possessory, qualified, or good leasehold title, all estates, rights, interests, and powers excepted from the effect of registration:
  - (iii) All rights under local land charges, unless and until registered or protected on the register in the prescribed manner.
- (4) The provisions (b), (c), and (d) of section eighteen (including the last paragraph of section eighteen) are hereby repealed, together with the amendment thereof relating to entry of notice of the matters in subsections (4) and (5), and of rights of re-entry and reverter, and of registration of easements, contained in the First Schedule to the Act of 1897.
- (5) In subsection (7) of section eighteen the words " granted at a rent without taking a fine " are hereby substituted for the words " in cases where there is an occupation under such tenancies. "
- (6) The following provisions shall be substituted for the last paragraph of section eighteen :—
- (i) Where at the time of first registration any easement, right, privilege, or benefit created by an instrument and appearing on the title adversely affects the land, the registrar shall enter a note thereof on the register :
  - (ii) Where the existence of any liability, right, or interest mentioned in this section (as amended) is proved to the satisfaction of the registrar or admitted, he may (subject to any prescribed exceptions) enter notice of the same or of a claim thereto on the register, but no claim to an easement, right, or privilege not created by an instrument shall be noted against the title to the servient land if the proprietor of such land (after the prescribed notice is given to him) shows sufficient cause to the contrary,
- (7) On a disposition by a mortgagee or other person (by virtue of any interest or power which is an overriding interest) of any estate charge or right in or upon the registered land which is capable of being registered, the registrar shall, if so required, give effect to the disposition on the register.

*Determination of incumbrances or registered interests.*

- 6 (1) The provisions of section twenty shall apply to the notification of the determination (whole or partial) or variation of any lease, rentcharge, easement, right, or other interest in land which is noted on the register as an incumbrance, and on the determination of any registered rentcharge or other estate or interest, the registrar shall close the registered title relating thereto.

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- (2) When a land charge protected by notice has been discharged as to all or any part of the land comprised therein, the notices relating thereto and to all devolutions of and dealings therewith shall be vacated as to the registered land affected by the discharge.

*Dispositions of registered freeholds by the proprietors thereof.*

- 7 (1) Section twenty-nine (relating to transfers by the registered proprietor of freehold land) shall, subject to any entry to the contrary on the register, be deemed (whether the land was registered before or after the commencement of this Act) to authorise—
- (a) A transfer of the fee simple in possession in the prescribed manner of any mines or minerals apart from the surface; or of the surface without all or any of the mines and minerals; but not an undivided share in the registered land ; and
  - (b) A grant of a rentcharge in possession (either perpetual or for a term of years absolute) which sufficiently refers in the prescribed manner to the registered land charged ; and
  - (c) A transfer of the fee simple in possession of the registered land in the prescribed manner, subject to the creation thereof, by way of reservation to any person of a rentcharge in possession (either perpetual or for a term of years absolute); or of any easement, right, or privilege in possession (either in fee simple or for a term of years absolute); and
  - (d) A transfer or grant in fee simple in possession of any easement, right, or privilege, in, over, or derived from the registered land, which sufficiently refers, in the prescribed manner, to the registered servient tenement and to the dominant tenement, whether being registered land or not; and
  - (e) A lease (subject or not to the reservation of an easement, right, or privilege) of the registered land or any part thereof, or of any mines and minerals apart from the surface, or of the surface without all or any of the mines and minerals (but not of an undivided share in the land), or of an easement, right or privilege, in or over the land for any term of years absolute and for any purpose (but where by way of mortgage subject to the provisions of the Acts and of Part I. of the Law of Property Act, 1922, relating thereto), and in any form which sufficiently refers, in the prescribed manner, to the registered land.
- (2) A perpetual rentcharge in possession may be granted or reserved to any person with or without a power of re-entry, exercisable at any time, on default of payment thereof, or on breach of covenant, and shall have incidental thereto all the powers and remedies (as varied by the disposition creating the rentcharge) for recovery thereof conferred by section forty-four of the Conveyancing Act, 1881 (as amended by any subsequent enactment), and an easement, right, or privilege may in a registered disposition be reserved to any person for a legal estate, and the reservation shall operate to create the same for the benefit of the land for the benefit of which the right is reserved.
- (3) All the interests transferred or created by such dispositions by the registered proprietor shall (subject to the provisions relating to mortgages) be completed by registration in the same manner and with the same effect as provided by the Acts with respect to transfers of registered land (except in the case of leases originally granted for a term not exceeding twenty-one years), and notice thereof shall (except in the case of leases granted for a term not exceeding twenty-one years at a rent without taking a fine) also be noted on the register under section fifty as amended, and every

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such disposition shall, when registered, take effect as a registered disposition, and a lease made by the registered proprietor under this section which is not required to be registered or noted on the register shall nevertheless take effect as a registered disposition immediately on being granted:

Provided that nothing in this subsection shall render necessary the registration of any easement, right, or privilege except as appurtenant to registered land, or the entry of notice thereof except as against the registered title of the servient land.'

- (4) A lease for a term, not exceeding twenty-one years, to take effect in possession or within one year from the date thereof, at a rent without taking a fine may be granted and shall take effect under this section notwithstanding that a caution (including a notice of deposit), restriction or inhibition may be subsisting, but subject to the interests intended to be protected by any such caution, restriction or inhibition.
- (5) The foregoing powers of disposition shall (subject to the express provisions of the Acts and of Part I. of the Law of Property Act, 1922, relating to mortgages) apply to dispositions by the registered proprietor by way of charge or mortgage; but no estate, other than a legal estate shall be capable of being disposed of or created under this section.
- (6) In the Acts the expression " transfer " or " disposition, " when referring to registered freehold land, shall include any disposition authorised as aforesaid ; and " transferee " shall have a corresponding meaning.

*Estate of transferee of freeholds with absolute title.*

- 8 (1) In section thirty (relating to transfers, for value) the words "or lease" are hereby inserted after the words " A transfer " : the word " the" is substituted for the word " an " occurring before the words " estate in fee simple " and after the words " in fee simple " shall be inserted the words " or the term of years absolute expressed to be created, " and after the words " land transferred " shall be inserted the words " or dealt with, " and the words " with all rights, privileges, and appurtenances belonging and appurtenant thereto " shall, subject to any entry to the contrary in the register, be deemed to include the appropriate rights and interests which would, under section six of the Conveyancing Act, 1881, have been transferred if the land had not been registered.
- (2) At the end of section thirty the following words are hereby added:— " And the transfer or lease shall operate in like manner as if the registered transferor or lessor were " (subject as aforesaid) entitled to the registered land in fee " simple in possession for his own benefit." ,
- (3) The amendment (relating to mines and minerals) of section thirty contained in the First Schedule to the Act of 1897 is hereby repealed.
- (4) In sections thirty-one, thirty-two, and thirty-three, the words " or lease " in each of those sections are hereby inserted after the words " A transfer. "
- (5) Rules may be made under section one hundred and eleven (as amended) adapting the provisions of sections thirty to thirty-three inclusive to dispositions (other than transfers and leases) authorised to be effected by the registered proprietor of the land.

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*Dispositions of registered leaseholds by the registered proprietor.*

- 9 (1) Section thirty-four (relating to transfers by the registered proprietor of leasehold land) shall, subject to any entry to the contrary on the register, be deemed (whether the land was registered before or after the commencement of this Act) to authorise—
- (a) A transfer in the prescribed manner of any of the leasehold mines and minerals apart from the surface ; or of the surface without all or any of the leasehold mines and minerals ; but not an undivided share in the leasehold land ; and
  - (b) A transfer reservation or grant (to the extent of the registered leasehold interest) of any rentcharge in possession, easement, right, or privilege in, over, or derived from the leasehold land, which sufficiently refers, in the prescribed manner, to the registered lease, and to the land affected or dominant tenement, whether being registered land or not; and
  - (c) A transfer of the registered land, subject to a reservation to any person of any such rentcharge, easement, right, or privilege ; and
  - (d) A subdemise (subject or not to the reservation of an easement, right, or privilege) of the registered land, or any part thereof or of any mines and minerals apart from the surface, or of the surface without all or any of the mines and minerals (but not of an undivided share in the land), or of an easement, right, or privilege, in or over the land, for any term of years absolute of less duration than the registered term and for any purpose (but where by way of mortgage, subject to the provisions of the Acts and of Part I. of the Law of Property Act, 1922, relating thereto) and in any form which sufficiently refers in the prescribed manner, to the registered land, and in the case of an easement, right, or privilege to the dominant tenement, whether being registered land or not.
- (2) A disposition of registered leasehold land may be made subject to a rent (whether legally apportioned or not) or to a rent legally apportioned in the prescribed manner.
- (3) All the interests transferred or created by such dispositions by the registered proprietor shall (subject to the provisions relating to mortgages) be completed by registration in the same manner and with the same effect as provided by the Acts with respect to transfers of registered leasehold land (except in the case of underleases originally granted for a term not exceeding twenty-one years); and notice thereof shall (except in the case of underleases granted for a term not exceeding twenty-one years at a rent without taking a fine), also be noted on the register under section fifty as amended, and every such disposition shall, when registered, take effect as a registered disposition, and an underlease made by the registered proprietor which is not required to be registered or noted on the register shall nevertheless take effect as a registered disposition immediately on being granted:
- Provided that nothing in this subsection shall render necessary the registration of any easement, right, or privilege except as appurtenant to registered land, or the entry of notice thereof except as against the registered title of the servient land.
- (4) An underlease for a term, not exceeding twenty-one years, to take effect in possession or within one year from the date thereof, at a rent without taking a fine, may be granted and shall take effect under this section, notwithstanding that a caution (including a notice of deposit), restriction or inhibition may be subsisting, but subject to the interests intended to be protected by any such caution, restriction or inhibition.

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- (5) The foregoing powers of disposition shall (subject to the express provisions of the Acts and of Part I. of the Law of Property Act, 1922, relating to mortgages) apply to dispositions by the registered proprietor by way of charge or mortgage, but no estate, other than a term of years absolute, shall be capable of being disposed of or created under this section.
- (6) The last paragraph of section thirty-four commencing with the words " upon completion of the registration " to the end of that section is hereby repealed.
- (7) In the Acts the expression " transfer " or " disposition " when referring to registered leasehold land shall include any disposition authorised as aforesaid; and " transferee " shall have a corresponding meaning.

*Estate of transferee for value of leaseholds with absolute title.*

- 10 (1) In section thirty-five (relating to transfers for value of leaseholds) after the words " A transfer " the words " or subdemise " are hereby inserted ; and after the words " to such land " the words " or for the term created by the sub-demise as the case may require " and the words " the possession of " are hereby repealed, and the words "all implied or expressed rights, privileges and appurtenances " shall, subject to any entry to the contrary on the register, be deemed to include the appropriate rights and interests which would under section six of the Conveyancing Act, 1881, have been transferred if the land had not been registered.
- (2) At the end of section thirty-five the following words are hereby added : " And the transfer or subdemise shall operate " in like manner as if the registered transferor or sub-lessor " were (subject as aforesaid) absolutely entitled to the registered " lease for his own benefit."
- (3) Sections thirty-six and thirty-seven are hereby repealed.
- (4) In section thirty-eight after the words " have the same effect as " shall be inserted the words " may be prescribed in the case of. "

*Transmission on death, and rights of husband of female proprietor.*

- 11 (1) Section forty-one (relating to transmission on death) is hereby repealed, and provision shall be made by rules for the manner in which effect is to be given on the register to transmissions on death.
- (2) Sections forty-four and forty-five (relating to husbands' rights) as amended by the Act of 1897 are hereby repealed.

*Dispositions off the register creating " minor interests. "*

- 12 Section forty-nine (relating to dispositions off the register), with the amendment thereof (relating to severance of mines and minerals from the surface) contained in the First Schedule to the Act of 1897, is hereby repealed, and in lieu thereof the following provisions shall have effect:—
  - (1) Any person, whether being the registered proprietor or not, having a sufficient estate, interest, or power in or over registered land, may dispose of, or deal with the same and create any estates, interests, or rights therein which are permissible by law, in

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like manner and by the like modes of assurance in all respects as if the land were not registered, but subject as provided by this section.

- (2) All estates, interests and rights disposed of or created under subsection (1) of this section (whether by the registered proprietor or any other person) shall, subject to the provisions of this section, take effect as minor interests and be capable of being overridden by registered dispositions for valuable consideration.
- (3) Minor interests shall, subject to the express exceptions contained in this section, take effect only in equity, but may be protected by entry on the register of such notices, cautions, inhibitions and restrictions as are provided for by the Acts or rules.
- (4) A minor interest in registered land subsisting or capable of taking effect at the commencement of this Act shall not fail or become invalid by reason of the same being converted into an equitable interest; but after such commencement a minor interest in registered land shall only be capable of being validly created in any case in which an equivalent equitable interest could have been validly created if the land had not been registered.
- (5) If a minor interest subsisting or capable of taking effect at the commencement of this Act, would, if this Act had not been passed have taken effect as a legal interest, then (subject and without prejudice to the estate and powers of the registered proprietor whose estate is affected) the conversion thereof into an equitable interest shall not affect its priority over other minor interests.
- (6) Priorities as regards dealings effected after the commencement of this Act, between assignees and incumbrancers of life interests, remainders, reversions and executory interests shall be regulated by the order of the priority cautions or inhibitions lodged (in a specially prescribed form) against the proprietor of the registered estate affected, but, save as aforesaid, priorities as between persons interested in minor interests, shall not be affected by the lodgment of cautions or inhibitions.
- (7) Where after the commencement of this Act the proprietor of the legal registered estate which is settled, disposes of or deals with his beneficial interest in possession in favour of a purchaser, and accordingly the minor interest disposed of or created would, but for the restrictions imposed by Part I. of the Law of Property Act, 1922, and this section on the creation of legal interests, have been a legal interest, then the purchaser shall (subject as provided by this section in regard to priorities) have and may exercise all the same rights and remedies as he would have had or have been entitled to exercise had the minor interest been a legal interest, and the reversion (if any) on any leases or tenancies derived out of the registered estate had been vested in him.
- (8) A minor interest created under this section shall not operate to prevent a registered estate or interest passing to the personal representative of a deceased registered proprietor, or to the survivors or survivor of two or more joint registered proprietors, nor shall this section affect the right of any person entitled to, or having any power of disposition over any overriding interest to dispose of or deal with the same.
- (9) Where by the operation of any statute or statutory or other power, or by virtue of any vesting order of any court or other competent authority, or an order appointing a person to convey, or of a vesting declaration (express or implied) appointment or other assurance, a minor interest in the registered land, being an interest or charge capable of being registered, is disposed of or created, the registered proprietor shall, subject to proper provision being made for payment of costs, be bound to give effect



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to the disposition, and if the registered proprietor is Unable or refuses to make the requisite disposition or cannot be found, or if for any other reason a disposition by him cannot be obtained within a reasonable time, then the registrar shall give effect thereto in the prescribed manner, and the disposition shall take effect in like manner as nearly as may be as if it had been made by the registered proprietor by a registered disposition :

Provided that—

- (a) So long as the registered proprietor has power under the Settled Land Acts or any other statute conferring special powers on a tenant for life of full age or statutory owner or under the settlement, to override the minor interest so disposed of or created, no estate or charge shall be registered which would prejudicially affect any such-powers :
  - (b) So long as the registered proprietor holds the land on trust for sale, no estate or charge shall be registered in respect of an interest which, under Part I. of the Law of Property Act, 1922, or otherwise, ought to remain liable to be overridden on the execution of the trust for sale :
  - (c) Nothing in this subsection shall impose on a registered proprietor an obligation to make a disposition unless the person requiring the disposition to be made has a right in equity to call for the same :
  - (d) Nothing in this subsection shall prejudicially affect the rights of a personal representative in relation to the administration of the estate of the deceased.
- (10) All leases at a rent for a term of years absolute authorised by the powers conferred by the Conveyancing Acts, 1881 to 1922, or the Settled Land Acts, or any other statute (whether or not as extended by any instrument) may be granted in the name and on behalf of the registered proprietor by the person (other than the registered proprietor) empowered to grant the same, and shall be valid at law or in equity (as the case may require), and may be protected by notice on the register, and, if the term originally created exceeds twenty-one years, or is not granted at a rent without taking a fine, shall be registered in like manner and with the same effect as if the lease had been granted by the registered proprietor of the land, and without prejudice to any priority acquired by the exercise of the power; but nothing in this sub-subsection shall authorise any person granting any lease in the name of the registered proprietor to impose (save in regard to the usual qualified covenant for quiet enjoyment) any personal liability on such proprietor.
- (11) Provided that where, under the Acts, the registered proprietor is authorised (otherwise than by virtue of this section) to dispose of or create any estate, interest, or right, or otherwise deal with the registered land in the manner required for giving effect to the transaction, then the disposition or dealing by the registered proprietor shall (subject to the express provisions relating to mortgages) not take effect under this section, but shall, for the purposes of the Acts, take effect as a registered disposition, and, when so required, shall be registered or protected as provided by the Acts or rules.
- (12) Rules may be made for applying the provisions of this section to the case of minor interests in a debt secured by a registered charge.

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*Notice of leases, rentcharges, &c.*

- 13 (1) The last paragraph of section fifty (relating to notices of leases) commencing with the words " is for a life or lives" is hereby repealed and the following paragraph shall be substituted therefor, namely:—

“is not an overriding interest, may apply to the registrar to register notice of such lease or agreement in the prescribed manner, and when so registered, every registered proprietor and the persons deriving title under him (except proprietors of charges or incumbrances registered or protected on the register prior to the registration of such notice, unless such proprietors are, by reason of the lease having been granted under any statutory or other power or by reason of their concurrence or otherwise, bound by the terms of the lease or agreement) shall be deemed to be affected with notice of such lease or agreement, as being an incumbrance on the land in respect of which the notice is entered.”

- (2) The provisions of sections fifty and fifty-one shall be extended by the rules so. as to apply to the registration of notices of or of claims in respect of—
- (a) The grant or reservation of any rentcharge in possession, either perpetual or for a term of years absolute :
  - (b) The severance of any mines or minerals from the surface, except where the mines and minerals severed are expressly included in the registration :
  - (c) Land charges (not including local land charges, unless application is made to register notice thereof) until the land charge is registered as a registered charge :
  - (d) The rights of any person in the proceeds of sale of land held on trust for sale or in land subject to a settlement to require that (unless a trust corporation is acting as trustee) there shall be at least two trustees of the disposition on trust for sale or of the settlement:
  - (e) The rights (acquired before the commencement of the Law of Property Act, 1922) of any widow in respect of dower or under the Intestates' Estates Act, 1890 and any right to free bench saved by the said Act of 1922 (which rights shall take effect in equity as minor interests) :
  - (f) Creditors' notices and any other right, interest, or claim which it may be deemed expedient to protect by notice instead of by caution, inhibition, or restriction.
- (3) Provided that a notice shall not (except pending the appointment of trustees of a disposition on trust for sale or a settlement) be registered in respect of any estate, right, or interest which (independently of the Acts) is capable of being overridden by the registered proprietor under the trust for sale or the powers of the Settled Land Acts or any other statute, or of a settlement, and of being protected by a restriction in the prescribed manner; and a notice lodged pending the appointment of trustees of a disposition on trust for sale or a settlement shall be cancelled if and when the appointment is made and the proper restriction (if any) is entered.
- (4) Provided also that a notice shall not be registered in respect of a right interest or claim so as to affect prejudicially:
- (a) The powers of disposition of the personal representative of the deceased under whose will or by the operation of whose intestacy the right, interest, or claim arose; or
  - (b) The powers of disposition (independently of the Acts) of a registered proprietor holding the land on trust for sale.

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- (5) A disposition by the registered proprietor shall take effect subject to all estates, rights, and claims which are protected by way of notice on the register at the date of the registration or entry of notice of the disposition, but only if and so far as such estates, rights, and claims may be valid and are not (independently of the Acts) capable of being overridden.
- (6) Where notice of a claim is entered on the register, such entry shall operate by way of notice only, and shall not operate to render valid such claim whether made adversely to or for the benefit of the registered land or charge.
- (7) Section fifty-two (relating to dower and curtesy) is hereby repealed.

*Cautions against registered dealings.*

- 14 (1) The following provision shall be substituted for the provision at the end of section fifty-three (relating to cautions), namely:—

“Provided that a person whose estate, right, interest, or claim has been registered or protected by a notice or restriction shall not be entitled (except with the consent of the registrar) to lodge a caution in respect of such estate, right, interest, or claim, but this provision shall not operate to prevent an incumbrancer or assignee of a life interest, remainder, reversion or executory interest, from lodging a priority caution in a specially prescribed form.”
- (2) A caution lodged under section fifty-three shall be supported by such evidence as may be prescribed, and the personal representative of a deceased cautioner may consent or object to a dealing in the same manner as the cautioner; and the second paragraph of section fifty-three is hereby repealed.
- (3) Where a caution is lodged under section fifty-three notice thereunder shall be given of any intended entry on the register for protecting any deposit or other dealing by the registered proprietor, as well as of any intended registered disposition.

*Power to place restrictions on the register.*

- 15 (1) Restrictions on disposing of or dealing with the registered land or charge in any manner in which by the Acts the registered proprietor is authorised to dispose of or deal with the same, or in reference to the deposit of any certificate by way of security, may, under section fifty-eight, be placed on the register in the prescribed manner.
- (2) Restrictions placed on the register under section fifty-eight shall not extend or apply to dispositions of or dealings with minor interests.
- (3) The court may, in lieu of an inhibition, order a notice or restriction to be placed on the register.

*Caution against first registration of land.*

- 16 Where a caution is lodged under section sixty the personal representative of the deceased cautioner may consent or object to registration in the same manner as the cautioner.

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*Notice of manorial incidents.*

- 17 Where land is affected by manorial incidents, the registrar may enter a note of that fact on the register, and may cancel such note when the extinguishment of the manorial incidents has been proved.

*As to settled land and land held on trust for sale and used as to part owners.*

- 18 (1) Where the land is settled and, but for the Law of Property Act, 1922, a power of sale would be vested in trustees, the provisions of the Acts relating to the registration of settled land shall apply in substitution for the provisions of section sixty-eight (which section is hereby repealed), and where land is subject to a trust for sale express or implied (whether or not there is power to postpone the sale) the trustees for sale shall be registered as proprietors of the land.

- (2) Section sixty-nine (relating to part owners) is hereby repealed.

*Facts and documents to be disclosed.*

- 19 The words " the vendor and his solicitor in cases where " the applicant is a person who has contracted to buy such " land, and in all other cases " in section seventy are hereby repealed.

*Enactments as to notice, writs, orders, deeds of arrangement, and land charges.*

- 20 (1) At the end of subsection (1) of section eighty-three (as enacted by the Act of 1897) relating to trusts, the following words shall be added, namely :—

“And (subject to the provisions of the Acts relating to fraud) a purchaser acquiring title under a registered disposition shall not be concerned with any *lis pendens* annuity, writ, order, deed of arrangement, matter, or claim (not being an overriding interest) which is not protected by an entry on the register, whether he has or has not notice thereof, express, implied, or constructive.”

- (2) Subsections (3), (4), (7), and (8) of section eighty-three (relating to registration) are hereby repealed and the following provisions shall have effect in lieu thereof:—

- (i) Registration of a writ, order, or deed of arrangement under the Land Charges Registration and Searches Act, 1888 (as amended by any subsequent enactment), or a *lis pendens*, annuity, or other interest now required to be registered by the registrar or otherwise under the Land Charges Act, 1900, shall, where the land or charge securing the debt affected is registered, be effected only by lodging a creditors' notice or a caution against dealings with the land or the charge, and registration of a land charge (but not including a local land charge unless application is made to register . notice thereof) under the said Act of 1888 (as amended by the Law of Property Act, 1922) shall, where the land affected is registered, be effected only by registering a notice under section fifty of the Act of 1875 (as amended), and no other registration shall be required unless the charge (to secure money) is to be realised, when the land charge may be registered as a registered charge.
- (ii) A person interested under a writ or order for enforcing a judgment against registered land, or a charge, may inspect and make copies of and extracts from the register and documents referred to therein which are in the custody of the registrar, so far as the same relate to the registered land, or charge,

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and may, in accordance with section fifty-three of the Act of 1875, lodge a caution against dealings therewith.

- (iii) A registered proprietor of a land charge shall, in reference thereto, but subject to any entry to the contrary on the register, have the same powers as are by the Acts conferred on the proprietor of a registered charge, but this subsection shall operate without prejudice to the priority conferred by the land charge.
- (iv) The foregoing provisions shall apply only to writs and orders issued registered, or re-registered deeds of arrangement executed, lites pendenteo or annuities commenced, registered, or re-registered and land charges created, registered or re-registered after the commencement of this Act.

*Restrictive covenants.*

21 Section eighty-four as amended by the Act of 1897 is hereby repealed and the following provisions shall have effect in substitution therefor:—

- (1) Any person entitled to the benefit of a restrictive covenant or restriction with respect to the building on or other user of registered freehold land may apply to the registrar to enter notice thereof on the register, and where practicable the notice shall be by reference to the instrument, if any, which contains the covenant or agreement, and a copy or abstract of such instrument shall be filed at the registry; and where any such covenant or agreement appears to exist at the time of first registration, notice thereof shall be entered on the register. In the case of registered land the notice aforesaid shall take the place of the registration of a land charge.
- (2) When such notice is entered every registered proprietor of the land and the persons deriving title under him (except incumbrancers or other persons who at the time when the notice is entered may not be bound by the covenant or agreement) shall be deemed to be affected with notice of the covenant or agreement, as being an incumbrance on the land.
- (3) Where the covenant or agreement is discharged or modified by an order under Part III. of the Law of Property Act, 1922, or otherwise, or the court refuses to grant an injunction for enforcing the same, the entry shall either be cancelled or reference made to the order or other instrument and a copy of the order, judgment, or instrument shall be filed at the registry.
- (4) The notice shall, when practicable, refer to the land whether registered or not for the benefit of which the covenant or agreement was made.
- (5) The registered proprietor may (subject to any entry to the contrary on the register, and without prejudice to the rights of persons entitled to overriding interests (if any) and to any incumbrances entered on the register, who may not concur therein) in any registered disposition or other instrument by covenant, condition, or otherwise, impose or make binding, so far as the law permits, any obligation or reservation with respect to the building on or other user of the registered land or any part thereof, or with respect to mines and minerals (whether registered separately or as part of the registered land), or with respect to any other thing in like manner as if the registered proprietor were entitled to the registered estate for his own benefit.
- (6) The registered proprietor may (subject as aforesaid) release or waive any rights arising or which may arise by reason of any covenant or condition, or release any obligation or reservation the benefit of which is annexed or belongs to his registered estate to the same extent and in the same manner as if the rights in respect of the

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breach or the benefit of the covenant, obligation or reservation had been vested in him absolutely for his own benefit.

- (7) Entries shall be made on the register in the prescribed manner of all obligations and reservations imposed by the registered proprietor, of the release or waiver of any obligation or reservation and of all obligations and reservations acquired by him for the benefit of the registered land.

*Amendment of section 82 and as to the Trustee Acts.*

- 22 (1) In section eighty-two the expression " incorporeal hereditament " does not include an undivided share in land.
- (2) In section eighty-five " 1893 (as amended by any subsequent enactment)" shall be substituted for " 1850, " and in place of the words " but this enactment" to the end of the section shall be substituted the words " subject to the express " provisions of this Act as amended by any subsequent enactments and to the rules made thereunder."

*As to married women, infants, and lunatics.*

- 23 (1) Section eighty-seven (relating to married women) and section eighty-eight (relating to infants and lunatics) are hereby repealed.
- (2) A purported disposition of registered land or of a charge to an infant made after the commencement of this Act or by the will of a registered proprietor dying after such commencement, shall not entitle the infant to be registered as proprietor of the land or charge until he attains full age, but in the meantime shall operate only as a declaration binding on the registered proprietor or personal representative that the registered estate or charge is to be held on trust to give effect to minor interests in favour of the infant, corresponding, as nearly as may be, with the interests which the disposition purports to transfer or create; and the disposition or a copy of or extract therefrom shall be deposited at the registry:

Provided that—

- (a) If the disposition is made to the infant jointly with another person of full age, then that person shall, during the minority, be entitled to be registered as proprietor, and the infant shall not be registered until he attains full age:
- (b) Where the registered land is subject to any trusts or rights of redemption in favour of any person other than the infant, then nothing in this section shall affect such trusts or rights of redemption :
- (c) Where by reason of the minority or otherwise the land is settled land, then the provisions of the Acts relating to settled land shall apply thereto.
- (3) Where after the commencement of this Act an infant becomes entitled under a will or on an intestacy to registered land or a registered charge, the same shall not be transferred by the personal representative to the infant until he attains full age.
- (4) In case the benefit of a registered charge becomes vested in an infant the charge shall during the minority be registered in the names of the personal representatives, trustees, or other persons who if the charge had affected unregistered land would have been able to dispose of the same, and they shall for the purposes of the Acts have the same powers in reference thereto as the infant would have had if of full age.
- (5) A caution may be lodged in the name or on behalf of an infant by his parent, trustee or guardian.

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- (6) Where a registered proprietor of the land or of a charge is a lunatic (whether so found or not) or a defective, the committee of his estate or his receiver shall, under an order in lunacy or otherwise, or under any statutory power, have and may exercise in the name and behalf of the lunatic or defective all the powers which under the Acts the lunatic or defective could have exercised if free from disability, and a copy of every such order shall be filed with the registrar and may be referred to on the register.

*Rectification of the register by the court.*

- 24 For the words " subject to any estates or rights acquired by registration in pursuance of this Act " respectively contained in sections ninety-five and ninety-six the words " subject to any express provisions of the Acts to the contrary " are hereby substituted in those sections.

*Power to make general rules.*

- 25 Provision may be made by general rules under section one hundred and eleven, as amended by the Act of 1897, for all or any of the following purposes:—
- (a) For making such adaptations as changes in the general law (including changes effected by the Law of Property Act, 1922) may render expedient, with a view to the practice under the Acts being from time to time adapted, so far as expedient, to the practice in force in regard to unregistered land :
  - (b) For enabling the registrar, without further investigation, to accept a title as absolute or good leasehold, in proper cases, on the faith of certificates given by counsel or solicitors or both:
  - (c) For clearing the registered title on suitable occasions, and for enabling the registrar to permit any person interested to inspect entries on the register which have been cancelled, whether or not the title has been closed :
  - (d) For giving notice on land certificates of the general effect of registration:
  - (e) For the registration, by way of notice, on the first registration of the land of any easement, right, or privilege created by an instrument and operating at law which appears to affect adversely the land, and so far as practicable by reference to the instrument creating the same:
  - (f) For enabling any person who acquires any such easement, right, or privilege after the date of first registration of the land to require (subject to notice being given to the owner of the servient land) entry to be made in the register of notice of the same, and so far as practicable by reference to the instrument creating the right:
  - (g) For enabling the first or any subsequent registered proprietor to require that notice of his title to any such right, or interest, whether acquired under an instrument or by prescription or otherwise, being appurtenant or appendant to the registered land, be entered on the register, and, so far as practicable, by reference to the instrument (if any) creating the right, or interest, and for prescribing the effect of any such entry:
  - (h) For providing for the registration of a rentcharge in possession (either perpetual or for a term of years absolute) or mines and minerals when held separately from the surface and as to notices to be entered of any exception of mines and minerals; and for preventing the registration of the benefit of any easement, right, privilege or restrictive covenant otherwise than as belonging to registered land :

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- (i) For regulating the procedure on application for first registration, provided that the applicant or his solicitor shall not be bound to make any declaration where a documentary title is shown, which would operate as a guarantee in regard to matters not disclosed by the abstract; for defining the effect of registration with a good leasehold title ; and for enabling registration with a possessory title to be effected provisionally pending the investigation of the title :
- (j) For regulating the issue and forms of certificates, and, if deemed desirable, for prescribing any special notification on the certificate to be given by way of warning when incumbrances, notices, and other adverse entries appear on the register :
- (k) For providing for the cases in which the registrar may grant a certificate that an intended disposition is authorised, and will be registered if presented :
  - (l) For prescribing the form and effect of priority notices, and of priority cautions and inhibitions :
- (m) For enabling a registered proprietor of land or a charge to register not more than three addresses (including, if he thinks fit, the address of his solicitor or firm of solicitors) to which notices are to be sent:
- (n) For providing any special precautions to be taken against forgery when the land certificate or certificate of charge is not in the possession of the registered proprietor.