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SCHEDULES.

SIXTH SCHEDULE

Section 13.

PROVISIONS RELATING TO INFANTS AND LUNATICS.

Infant's beneficial legal estate made to vest in the trustees of the settlement.

- 1 (1) Where, at the commencement of this Act, a legal estate in land is' vested in an infant beneficially, or would by virtue of any provision of this Act have been liable to be so vested if the infant were of full age, it shall, by virtue of this Act, vest in the trustees (if any) of the settlement upon such trusts as may be requisite for giving effect to the rights of the infant and other persons (if any) interested:

Provided that—

- (i) If there are no such trustees, then, pending their appointment, the legal estate shall, by virtue of this Act, vest in the Public Trustee upon the trusts aforesaid:
 - (ii) The Public Trustee shall not be entitled to- act in the trust, or charge any fee, or be liable in any manner unless and until requested in writing to act on behalf of the infant by his father, mother, or testamentary or other guardian in the order named :
 - (iii) After the Public Trustee has been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in his place without his consent:
 - (iv) The father, mother, testamentary or other guardian of the infant (in the order named) may under the powers conferred by this Act appoint new trustees in place of the Public Trustee, and vest the legal estate in them on the trusts aforesaid, and in default of any such appointment the infant by his next friend, may, at any time during the minority, apply to the court for the appointment of trustees of the settlement, and the court may make such order as it thinks fit, and if thereby trustees of such settlement are appointed, the legal estate shall, by virtue of this Act, vest in the trustees as joint tenants upon the trusts aforesaid.
- (2) This section applies to settled land, whether the infant was entitled to the settled land or was tenant for life or a person having the powers of a tenant for life thereof (or would have had such powers if of full age) but does not apply to a legal estate in land vested in personal representatives, or in trustees for sale, and shall have effect subject to any mortgage term created by this Act.

As to infant trustees and mortgagees of land.

- 2 (1) Where, at the commencement of this Act, a legal estate in land is vested solely in an infant as a personal representative, or a trustee of a settlement, or on trust for sale, or on any other trust, or by way of mortgage, or would by virtue of any provision of this Act have been so vested if the infant were of full age, the legal estate and the mortgage debt (if any) and interest thereon shall, by virtue of this Act, vest in the

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Public Trustee, pending the appointment of trustees as hereinafter provided, as to the land upon the trusts, and subject to the equities affecting the same (but in the case of a mortgage estate for a term of years absolute in accordance with this Act), and as to the mortgage debt and interest upon such trusts as may be requisite for giving effect to the rights (if any) of the infant or other persons beneficially interested therein :

Provided that—

- (a) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner unless and until requested in writing to act by or on behalf of the persons interested in the land or the income thereof, or of the mortgage debt or interest thereon (as the case may be), and so that the father, mother, or testamentary or other guardian (in the order named) may make such request on behalf of the infant:
 - (b) After the Public Trustee has been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in his place without his consent:
 - (c) Any person interested in the land or the income thereof, or in the mortgage debt or in the interest thereon (as the case may be), may, at any time during the minority, apply to the court for the appointment of trustees of the trust, and the court may make such order as it thinks fit, and if thereby new trustees are appointed the legal estate (but in the case of a mortgage estate only for a term of years absolute as aforesaid) and the mortgage debt (if any) and interest shall, by virtue of this Act, vest in the trustees as joint tenants upon the trusts and subject to the equities aforesaid :
 - (d) Neither a purchaser of the land nor a transferee for money or money's worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon.
- (2) Where, at the commencement of this Act, a legal estate in land is vested in an infant with another person or other persons as personal representatives, trustees, or mortgagees, or would, by virtue of this Act, have been so vested if the infant were of full age, the legal estate in the land with the mortgage debt (if any) and the interest thereon shall, by virtue of this Act, vest in such other person or persons of full age, as to the legal estate upon the trusts and subject to the equities affecting the same (but in the case of a mortgage estate only for a term of years absolute as aforesaid), and as to the mortgage debt and interest upon such trusts as may be requisite for giving effect to the rights, (if any) of the infant or other persons beneficially interested therein, but neither a purchaser of the land nor a transferee for money or money's worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon :

Provided that if, by virtue of this subsection, the legal estate and mortgage debt (if any) become vested in a sole trustee, then the father, mother, testamentary or other guardian of the infant (in the order named) may by writing appoint a new trustee in place of the infant, and section ten of the Trustee Act, 1893, shall apply as if they had been nominated in that order for the purpose of appointing new trustees.

Provisions where an infant becomes entitled on a death.

- 3 (1) The provisions of this section shall have effect where an infant becomes entitled on a death to any interest in land not being an interest in the proceeds of sale of land subject to a trust for sale, and not being an interest in an undivided share in land.

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- (2) Where a tenant for life, or person deemed to be a tenant for life, or who, if of full age, would have the powers of a tenant for life of or over the settled land, is an infant, and the settled land is vested in a personal representative, then the personal representative shall, during the minority of any such infant, have, in reference to the settled land, all the powers conferred by the Settled Land Acts on a tenant for life and on the trustees of the settlement.
- (3) If and when the personal representative would, if the infant had been of full age, have been bound to convey the settled land to him, then the personal representative may, if he thinks fit, convey the same by a vesting instrument to the trustees of the settlement, and in the meantime shall, during the minority, give effect to the directions of the trustees of the settlement, and shall not be concerned with the propriety of any conveyance directed to be made by such trustees if the same appears to be a proper conveyance under the powers conferred by the Settled Land Acts, and the capital money (if any) arising under the conveyance is paid to, or by the direction of the trustees of the settlement or into court; but a purchaser dealing with the personal representative and paying the capital money (if any) to him shall not be concerned to see that the money is paid to trustees of the settlement or into court, or inquire whether the personal representative is liable to give effect to any such directions, or whether any such directions have been given.
- (4) This section does not apply if the personal representative has disposed of the settled land before, the commencement of this Act, but, save as aforesaid, applies whether the infant becomes entitled before or after, such commencement, and shall have effect during successive minorities until a person of full age becomes entitled to require the settled land to be vested in him.

Abolition of conveyances of legal estates to infants.

- 4 (1) After the commencement of this Act, a conveyance of a legal estate in land to an infant for his own benefit shall operate only as an agreement for valuable consideration to execute a settlement by means of a vesting deed and trust deed in favour of the infant, to appoint trustees of the settlement, and in the meantime to hold the land in trust for the infant.
- (2) After the commencement of this Act, a conveyance of a legal estate in land to an infant by way of mortgage (including a charge by way of legal mortgage) shall operate only as an agreement for valuable consideration to execute a proper conveyance when the infant attains full age, and in the meantime to hold any beneficial interest in the mortgage debt in trust for the persons for whose benefit the conveyance was intended to be made :

Provided that, if the conveyance is made to the infant and another person or other persons, it shall operate as if the infant had not been named therein, but without prejudice to any beneficial interest in the mortgage debt intended to be thereby provided for the infant.
- (3) This section does not apply to the transfer to an infant of any interest in the proceeds of sale of land which is subject to a trust for sale (with or without a power to postpone the sale), nor to the transfer to an infant of an equitable interest, taking effect under a settlement, in settled land.
- (4) This section does not affect the powers conferred by the Infant Settlements Act, 1855, provided that a legal estate in land is not vested in an infant; nor does anything in

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Part I. of this Act affect the presumption that, unless the contrary thereby appears, the persons expressed to be parties to any conveyance were of full age at the date thereof.

Infants not to be appointed trustees or personal representatives.

- 5
- (1) After the commencement of this Act, the appointment of an infant to be a trustee in relation to any settlement or trust shall be void, but without prejudice to the power to appoint a new trustee to fill the vacancy.
 - (2) The appointment in a will by a testator who dies after the commencement of this Act of an infant to be an executor shall not operate to transfer any interest in the property of the deceased to the infant or to constitute him a personal representative for any purpose unless and until probate is granted to him after he has attained full age.
 - (3) Nothing in this section shall affect the right of the Probate Division of the High Court of Justice to grant probate or letters of administration to any person after he has attained full age.

Receipts by married infants.

- 6
- A married infant shall have power to give valid receipts for all income (including statutory accumulations of income made (during the minority) to which the infant may be entitled in like manner as if the infant were of full age.

Conveyances on behalf of lunatics and defectives.

- 7
- (1) Where a legal estate in land (whether settled or not) is vested in a lunatic, whether so found or not, or a defective, either solely or jointly with another person or other persons, his committee or receiver shall, under an order in lunacy, or otherwise, or under any statutory power, make or concur in making all requisite dispositions for conveying or creating a legal estate in the name and on behalf of the lunatic or defective.
 - (2) If land held on trust for sale is vested in a lunatic, whether so found or not, or a defective, either solely or jointly with another person or other persons, a new trustee shall be appointed in his place, or he shall be otherwise discharged from the trust, before the legal estate is dealt with under the trust for sale or under the powers vested in the trustees for sale.

Power for the court to settle the beneficial interests of a lunatic or defective.

- 8
- (1) From and after the commencement of this Act, the court may direct a settlement to be made of the property of a lunatic (whether so found or not) or defective or any part thereof or any interest therein, on such trusts and subject to such powers, and provisions as the court may deem expedient, and in particular may give such directions—
 - (a) where the lunatic or defective is the holder of a title of honour, and the property would not devolve with such title either under a testamentary disposition executed by him, or on his intestacy if he died intestate; or
 - (b) where the property has been acquired under a settlement, a will or an intestacy, or represents property so acquired; or
 - (c) where by reason of any change in the law of intestacy (whether by virtue of this Act or otherwise) or of any change in circumstances since the execution

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by the lunatic or defective of a testamentary disposition, or of any absence of information at the time of such execution, or on account of the former management of the property or the expenditure of money in improving or maintaining the same or for any other special reason the court is satisfied that any person might suffer an injustice if the property were allowed to devolve as undisposed of on the death intestate of the lunatic or defective or under any testamentary disposition executed by him.

- (2) The court may direct the committee or receiver of the lunatic or defective, or any trustee for him, to execute any vesting instrument, trust deed, conveyance (including a disentailing assurance) or other instrument and to do any other act or thing which may be required for effectuating the settlement in the name and on behalf of the lunatic or defective, and, for that purpose, may make a vesting order or appoint a person to convey; and any settlement approved by the court shall be as effectual and binding on all persons interested as if the same had been made by the lunatic or defective while of full capacity.
- (3) This section applies whether or not the lunatic or defective has executed a testamentary disposition and notwithstanding that it is not known whether he has executed such a disposition or not, but does not apply when he is an infant.
- (4) Subject to any rules of court to the contrary, all applications under this section shall be made to the Chancery Division of the High Court, notwithstanding that the property is being administered in lunacy.
- (5) Any person who under this Act has, or if this Act had not been passed would have had, a *spes successionis* (whether under the testamentary disposition if any is known to exist or in the event of the intestacy of the lunatic or defective) or interest in the property of the lunatic or defective or in any part thereof, as well as the committee or receiver and any other person who may be authorised by rules of court, shall have power to apply to the court for an order under this section.
- (6) Subject to making due provision for the maintenance of the lunatic or defective in accordance with his station in life, whether out of the capital or income of the property settled or other property or partly in one way and partly in another, and to providing, by means of a power of appointment or revocation, or otherwise, for the possibility of the lunatic or defective recovering full capacity, the court may, in making any order under this section, have regard to—
 - (i) the manner in which the property has been settled or dealt with on former occasions ;
 - (ii) in the case of land, the welfare of the labourers and other persons employed thereon, and the expediency of settling personal estate to devolve therewith ;
 - (iii) the continuation or provision of any pensions, and the application of any part of the income for charitable purposes ;
 - (iv) the provisions of any testamentary disposition of the lunatic or defective ;
 - (v) the expediency of providing for—
 - (a) jointures, portions, and other annual or capital charges and powers to create the same ;
 - (b) discretionary trusts, trusts for effecting or maintaining policies of assurance, powers of appointment, sinking funds for making good loss by fire (in lieu of, or in addition to, insurance) or for any other purpose;

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- (c) the extension of any statutory powers of investment management or otherwise ;
 - (d) the manner in which any costs are to be raised and paid, whether out of the settled property or otherwise ;
 - (e) any other matter or thing which, having regard to the nature of the settlement, of the property to be settled, and the management, development, and enjoyment thereof, and to the persons who are to take, either successively or otherwise, the court may consider material.
- (7) Rules of court may be made for giving effect to the provisions of this section, and in particular for compelling information to be furnished respecting, and production of, testamentary dispositions, and the lodgment of the same in court; for prescribing what notices (if any) of the proceedings are to be served, for dispensing with such notices and, when necessary, for the making of representation orders.
- (8) In this section, " testamentary disposition " means an instrument executed by the lunatic or defective while of full testamentary capacity, which, if unrevoked, might, on his death, be proved as a will or codicil ; and the court may act on such evidence as to the existence or absence of a testamentary disposition as it thinks fit.
- (9) At any time before the death of the lunatic or defective, the court may, as respects any property remaining subject to the trusts of a settlement made under this section, on being satisfied that any material fact was not disclosed to the court when the settlement was made, or on account of any substantial change in circumstances, by order vary the settlement in such manner as it thinks fit, and give any consequential directions.