



Law of Property Act 1925

1925 CHAPTER 20

PART VI

POWERS.

155 Release of powers simply collateral.

A person to whom any power, whether coupled with an interest or not, is given may by deed release, or contract not to exercise, the power.

156 Disclaimer of powers.

- (1) A person to whom any power, whether coupled with an interest or not, is given may by deed disclaim the power, and, after disclaimer, shall not be capable of exercising or joining in the exercise of the power.
- (2) On such disclaimer, the power may be exercised by the other person or persons or the survivor or survivors of the other persons, to whom the power is given, unless the contrary is expressed in the instrument creating the power.

157 Protection of purchasers claiming under certain void appointments.

- (1) An instrument purporting to exercise a power of appointment over property, which, in default of and subject to any appointment, is held in trust for a class or number of persons of whom the appointee is one, shall not (save as hereinafter provided) be void on the ground of fraud on the power as against a purchaser in good faith :

Provided that, if the interest appointed exceeds, in amount or value, the interest in such property to which immediately before the execution of the instrument the appointee was presumptively entitled under the trust in default of appointment, having regard to any advances made in his favour and to any hotchpot provision, the protection afforded by this section to a purchaser shall not extend to such excess.

- (2) In this section " a purchaser in good faith " means a person dealing with an appointee of the age of not less than twenty-five years for valuable consideration in money or

Status: This is the original version (as it was originally enacted).

money's worth, and without notice of the fraud, or of any circumstances from which, if reasonable inquiries had been made, the fraud might have been discovered.

- (3) Persons deriving title under any purchaser entitled to the benefit of this section shall be entitled to the like benefit.
- (4) This section applies only to dealings effected after the commencement of this Act.

158 Validation of appointments where objects are excluded or take illusory shares.

- (1) No appointment made in exercise of any power to appoint any property among two or more objects shall be invalid on the ground that—
 - (a) an unsubstantial, illusory, or nominal share only is appointed to or left unappointed to devolve upon any one or more of the objects of the power; or
 - (b) any object of the power is thereby altogether excluded;but every such, appointment shall be valid notwithstanding that any one or more of the objects is not thereby, or in default of appointment, to take any share in the property.
- (2) This section does not affect any provision in the instrument creating the power which declares the amount of any share from which any object of the power is not to be excluded.
- (3) This section applies to appointments made before or after the commencement of this Act.

159 Execution of powers not testamentary.

- (1) A deed executed in the presence of and attested by two or more witnesses (in the manner in which deeds are ordinarily executed and attested) is so far as respects the execution and attestation thereof, a valid execution of a power of appointment by deed or by any instrument in writing, not testamentary, notwithstanding that it is expressly required that a deed or instrument in writing, made in exercise of the power, is to be executed or attested with some additional or other form of execution or attestation or solemnity.
- (2) This section does not operate to defeat any direction in the instrument creating the power that—
 - (a) the consent of any particular person is to be necessary to a valid execution;
 - (b) in order to give validity to any appointment, any act is to be performed having no relation to the mode of executing and attesting the instrument.
- (3) This section does not prevent the donee of a power from executing it in accordance with the power by writing, or otherwise than by an instrument executed and attested as a deed; and where a power is so executed this section does not apply.
- (4) This section applies to appointments by deed made after the thirteenth day of August, eighteen hundred and fifty-nine.

160 Application of Part VI. to existing powers.

This Part of this Act applies to powers created or arising either before or after the commencement of this Act.