



Settled Land Act 1925

1925 CHAPTER 18

PART I

GENERAL PRELIMINARY PROVISIONS.

Trustees of Settlement.

30 Who are trustees for purposes of Act.

- (1) Subject to the provisions of this Act, the following persons are trustees of a settlement for the purposes of this Act, and are in this Act referred to as the "trustees of the settlement" or "trustees of a " settlement," namely—
- (i) the persons, if any, who are for the time being under the settlement, trustees with power of sale of the settled land (subject or not to the consent of any person), or with power of consent to or approval of the exercise of such a power of sale, or if there are no such persons; then
 - (ii) the persons, if any, for the time being, who are by the settlement declared to be trustees thereof for the purposes of the Settled Land Acts, 1882 to 1890, or any of them, or this Act, or if there are no such persons; then
 - (iii) the persons, if any, who are for the time being under the settlement trustees with power of or upon trust for sale of any other land comprised in the settlement and subject to the same limitations as the land to be sold or otherwise dealt with, or with power of consent to or approval of the exercise of such a power of sale, or, if there are no such persons; then
 - (iv) the persons, if any, who are for the time being under the settlement trustees with future power of sale, or under a future trust for sale of the settled land, or with power of consent to or approval of the exercise of such a future power of sale, and whether the power or trust takes effect in all events or not, or, if there are no such persons; then
 - (v) the persons, if any, appointed by deed to be trustees of the settlement by all the persons who at the date of the deed were together able, by virtue of their beneficial interests or by the exercise of an equitable power, to dispose of the settled land in equity for the whole estate the subject of the settlement.

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- (2) Paragraphs (i) (iii) and (iv) of the last preceding subsection take effect in like manner as if the powers therein referred to had not by this Act been made exercisable by the tenant for life or statutory owner.
- (3) Where a settlement is created by will, or a settlement has arisen by the effect of an intestacy, and apart from this subsection there would be no trustees for the purposes of this Act of such settlement, then the personal representatives of the deceased shall, until other trustees are appointed, be by virtue of this Act the trustees of the settlement, but where there is a sole personal representative, not being a trust corporation, it shall be obligatory on him to appoint an additional trustee to act with him for the purposes of this Act, and the provisions of the Trustee Act, 1925, relating to the appointment of new trustees and the vesting of trust property shall apply accordingly.

31 As to trustees of compound settlements.

- (1) Persons who are for the time being trustees for the purposes of this Act of an instrument which is a settlement, or is deemed to be a subsisting settlement for the purposes of this Act, shall be the trustees for the purposes of this Act of any settlement constituted by that instrument and any instruments subsequent in date or operation.
- (2) This section applies to instruments coming into operation before as well as after the commencement of this Act, but shall have effect without prejudice to any appointment made by the court before such commencement of trustees of a settlement constituted by more than one instrument, and to the power of the court in any case after such commencement to make any such appointment, and where any such appointment has been made before such commencement or is made thereafter this section shall not apply or shall cease to apply to the settlement consisting of the instruments to which the appointment relates.

32 As to trustees of referential settlements.

- (1) Where a settlement takes or has taken effect by reference to another settlement, the trustees for the time being of the settlement to which reference is made shall be the trustees of the settlement by reference, but this section does not apply if the settlement by reference contains an appointment of trustees thereof for the purposes of the Settled Land Acts, 1882 to 1890, or any of them, or this Act.
- (2) This section applies to instruments coming into operation before as well as after the commencement of this Act, but shall have effect without prejudice to any appointment made by the court before such commencement of trustees of a settlement by reference, or of the compound settlement consisting of a settlement and any other settlement or settlements made by reference thereto, and to the power of the court in any case after such commencement to make any such appointment, and where any such appointment has been made before such commencement or is made thereafter this section shall not apply or shall cease to apply.
- (3) In this section " a settlement by reference to another settlement " means a settlement of property upon the limitations and subject to the powers and provisions of an existing settlement, with or without variation.

33 Continuance of trustees in office, and as to certain compound settlements.

- (1) Where any persons have been appointed or constituted trustees of a settlement, whether by an order of the court or otherwise, or have by reason of any power of sale, or trust for sale, or by reason of a power of consent to, or approval of, the exercise of a power of sale, or by virtue of this Act, or otherwise at any time become trustees of a settlement for the purposes of the Settled Land Acts, 1882 to 1890, or this Act, then those persons or their successors in office shall remain and be trustees of the settlement as long as that settlement is subsisting or deemed to be subsisting for the purposes of this Act.

In this subsection " successors in office " means the persons who, by appointment or otherwise, have become trustees for the purposes aforesaid.

- (2) Where settled land is or has been expressed to be disposed of under a compound settlement of which trustees were appointed by the court, and the capital money (if any) arising on the disposition is or was paid to the persons who by virtue of the order or any subsequent appointment appear to be or to have been the trustees of that settlement, and where the person by or on whose behalf the disposition is or was made is or was the tenant for life or statutory owner of the land disposed of under an instrument mentioned in the order as constituting part of such compound settlement (in this subsection called " the principal instrument ") then the title of the person to whom the disposition is made shall not be impeachable on the ground—
- (a) that the instruments mentioned in the order did not constitute a compound settlement; or
 - (b) that those instruments were not all the instruments at the date of the order or of the disposition constituting the compound settlement of the land disposed of; or
 - (c) that any of the instruments mentioned in the order did not form part of the settlement of the land disposed of, or had ceased to form part of the settlement at the date of the disposition ;

but nothing in this subsection shall prejudice the rights of any person in respect of any estate, interest or charge under any instrument existing at the date of the order and not mentioned therein which would not have been overreached if the disposition had been made by or on behalf of the tenant for life or statutory owner under the principal instrument as such, and there had been trustees of that instrument for the purposes of the Settled Land Acts, 1882 to 1890, or this Act, and the capital money, if any, arising on the disposition had been paid to the trustees.

- (3) The foregoing provisions of this section operate to confirm all dispositions made before the commencement of this Act, but not so as to render invalid or prejudice any order of the court, or any title or right acquired before the commencement of this Act, and operates without prejudice to any appointment already made by the court of trustees of a settlement, and to the power of the court in any case hereafter to make any such appointment.

34 Appointment of trustees by court.

- (1) If at any time there are no trustees of a settlement, or where in any other case it is expedient, for the purposes of this Act, that new trustees of a settlement be appointed, the court may, if it thinks fit, on the application of the tenant for life, statutory owner, or of any other person having, under the settlement, an estate or interest in the settled land,

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in possession, remainder or otherwise, or, in the case of an infant, of his testamentary or other guardian or next friend, appoint fit persons to be trustees of the settlement.

- (2) The persons so appointed, and the survivors and survivor of them, while continuing to be trustees or trustee, and, until the appointment of new trustees, the personal representatives or representative for the time being of the last surviving or continuing trustee, shall become and be the trustees or trustee of the settlement.

35 Procedure on appointment of new trustees.

- (1) Whenever a new trustee for the purposes of this Act is appointed of a trust instrument or a trustee thereof for the purposes aforesaid is discharged from the trust without a new trustee being appointed, a deed shall be executed supplemental to the last or only principal vesting instrument containing a declaration that the persons therein named, being the persons who after such appointment or discharge, as the case may be, are the trustees of the trust instrument for the purposes aforesaid, are the trustees of the settlement for those purposes; and a memorandum shall be endorsed on or annexed to the last or only principal vesting instrument in accordance with the Trustee Act, 1925.
- (2) Every such deed as aforesaid shall, if the trustee was appointed or discharged by the court, be executed by such person as the court may direct, and, in any other case, shall be executed by—
- (i) the person, if any, named in the principal vesting instrument as the person for the time being entitled to appoint new trustees of the settlement, or if no person is so named, or the person is dead or unable or unwilling to act, the persons who if the principal vesting instrument had been the only instrument constituting the settlement would have had power to appoint new trustees thereof;
 - (ii) the persons named in the deed of declaration as the trustees of the settlement; and
 - (iii) any trustee who is discharged as aforesaid or retires.
- (3) A statement contained in any such deed of declaration as is mentioned in this section to the effect that the person named in the principal vesting instrument as the person for the time being entitled to appoint new trustees of the settlement is unable or unwilling to act, or that a trustee has remained outside the United Kingdom for more than twelve months, or refuses or is unfit to act, or is incapable of acting, shall in favour of a purchaser of a legal estate be conclusive evidence of the matter stated.