



Settled Land Act 1925

1925 CHAPTER 18

PART II

POWERS OF A TENANT FOR LIFE.

Miscellaneous Powers.

49 Power on dispositions to impose restrictions and make reservations and stipulations.

- (1) On a sale or other disposition or dealing under the powers of this Act—
 - (a) any easement, right, or privilege of any kind may be reserved or granted over or in relation to the settled land or any part thereof or other land, including the land disposed of, and, in the case of an exchange, the land taken in exchange; and
 - (b) any restriction with respect to building on or other user of land, or with respect to mines and minerals, or with respect to or for the purpose of the more beneficial working thereof, or with respect to any other thing, may be imposed and made binding, as far as the law permits, by covenant, condition or otherwise, on the tenant for life or statutory owner and the settled land or any part thereof, or on the other party and any land disposed of to him; and
 - (c) the whole or any part of any capital or annual sum (and in the case of an annual sum whether temporary or perpetual) charged on or payable out of the land disposed of, or any part thereof, and other land subject to the settlement, may as between the tenant for life or statutory owner and his successors in title, and the other party and persons deriving title under or in succession to him (but without prejudice to the rights of the person entitled to such capital or annual sum) be charged exclusively on the land disposed of, or any part thereof, or such other land as aforesaid, or any part thereof, in exoneration of the rest of the land on or out of which such capital or annual sum is charged or payable.
- (2) A sale of land may be made subject to a stipulation that all or any of the timber and other trees, pollards, tellers, underwood, saplings and plantations on the land sold (in

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this section referred to as " timber ") or any articles attached to the land (in this section referred to as " fixtures ") shall be taken by the purchaser at a valuation, and the amount of the valuation shall form part of the price of the land, and shall be capital money accordingly.

- (3) Where on a sale the consideration attributable to any timber or fixtures is by mistake paid to a tenant for life or other person not entitled to receive it, then, if such person or the purchaser or the persons deriving title under either of them subsequently pay the aforesaid consideration, with such interest, if any, thereon as the court may direct, to the trustees of the settlement or other persons entitled thereto or into court, the court may, on the application of the purchaser or the persons deriving title under him, declare that the disposition is to take effect as if the whole of the consideration had at the date thereof been duly paid to the trustees of the settlement or other persons entitled to receive the same.

The person, not entitled to receive the same, to whom the consideration is paid, and his estate and effects shall remain liable to make good any loss attributable to the mistake.

50 Separate dealing with surface and minerals, with or without wayleaves, &c.

A sale, exchange, lease or other authorised disposition, may be made either of land, with or without an exception or reservation of all or any of the mines and minerals therein, or of any mines and minerals, and in any such case with or without a grant or reservation of powers of working, wayleaves or rights of way, rights of water and drainage, and other powers, easements, rights, and privileges for or incident to or connected with mining purposes, in relation to the settled land, or any part thereof, or any other land.

51 Power to grant options.

- (1) A tenant for life may at any time, either with or without consideration, grant by writing an option to purchase or take a lease of the settled land, or any part thereof, or any easement, right, or privilege over or in relation to the same at a price or rent fixed at the time of the granting of the option.
- (2) Every such option shall be made exercisable within an agreed number of years not exceeding ten.
- (3) The price or rent shall be the best which, having regard to all the circumstances, can reasonably be obtained and either—
- (a) may be a specified sum of money or rent, or at a specified rate according to the superficial area of the land with respect to which the option is exercised, or the frontage thereof or otherwise; or
 - (b) in the case of an option to purchase contained in a lease or agreement for a lease, may be a stated number of years' purchase of the highest rent reserved by the lease or agreement; or
 - (c) if the option is exercisable as regards part of the land comprised in the lease or agreement, may be a proportionate part of such highest rent;

and any aggregate price or rent may be made to be apportionable in any manner, or according to any system, or by reference to arbitration.

- (4) An option to take a mining lease may be coupled with the grant of a licence to search for and prove any mines or minerals under the settled land, or any part thereof, pending the exercise of the option.
- (5) The consideration for the grant of the option shall be capital money arising under this Act.

52 Surrenders and re-grants.

- (1) A tenant for life may accept, with or without consideration, a surrender of any lease of settled land, whether made under this Act or not, or a regrant of any land granted in fee simple, whether under this Act or not, in respect of the whole land leased or granted, or any part thereof, with or without an exception of all or any of the mines and minerals therein, or in respect of mines and minerals, or any of them, and with or without an exception of any easement, right or privilege of any kind over or in relation to the land surrendered or regranted.
- (2) On a surrender of a lease, or a regrant of land granted in fee simple, in respect of part only of the land or mines and minerals leased or granted, the rent or rentcharge may be apportioned.
- (3) On a surrender or regrant, the tenant for life may in relation to the land or mines and minerals surrendered or regranted, or of any part thereof, make a new or other lease, or grant in fee simple, or new or other leases, or grants in fee simple, in lots.
- (4) A new or other lease, or grant in fee simple, may comprise additional land or mines and minerals, and may reserve any apportioned or other rent or rentcharge.
- (5) On a surrender or regrant, and the making of a new or other lease, whether for the same or for any extended or other term, or of a new or other grant in fee simple, and whether or not subject to the same or to any other covenants, provisions, or conditions, the value of the lessee's or grantee's interest in the lease surrendered, or the land regranted, may be taken into account in the determination of the amount of the rent or rentcharge to be reserved, and of any fine or consideration in money to be taken, and of the nature of the covenants, provisions, and conditions to be inserted in the new or other lease, or grant in fee simple.
- (6) Every new or other lease, or grant in fee simple, shall be in conformity with this Act.
- (7) All money, not being rent or a rentcharge, received on the exercise by the tenant for life of the powers conferred by this section, shall, unless the court, on an application made within six months after the receipt thereof or within such further time as the court may in special circumstances allow, otherwise directs, be capital money arising under this Act.
- (8) A regrant shall be made to the tenant for life or statutory owner, and shall be deemed a subsidiary vesting deed, and the statements and particulars required in the case of subsidiary vesting deeds shall be inserted therein.
- (9) In this section " land granted in fee simple " means land so granted with or subject to a reservation thereof of a perpetual or terminable rentcharge which is or forms part of the settled land, and " grant in fee simple " has a corresponding meaning.

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53 Acceptance of leases.

- (1) A tenant for life may accept a lease of any land, or of any mines and minerals or of any easement, right, or privilege, convenient to be held or worked with or annexed in enjoyment to the settled land, or any part thereof, for such period, and upon such terms and conditions, as the tenant for life thinks fit:

Provided that no fine shall be paid out of capital money in respect of such lease.

- (2) The lease shall be granted to the tenant for life or statutory owner, and shall be deemed a subsidiary vesting deed, and the statements and particulars required in the case of subsidiary vesting deeds shall either be inserted therein or endorsed thereon.
- (3) The lease may contain an option to purchase the reversion expectant on the term thereby granted.

54 Power to grant water rights to statutory bodies.

- (1) For the development, improvement, or general benefit of the settled land, or any part thereof, a tenant for life may make a grant in fee simple or absolutely, or a lease for any term of years absolute, for a nominal price or rent, or for less than the best price or rent that can reasonably be obtained, or gratuitously, to any statutory authority, of any water or streams or springs of water in, upon, or under the settled land, and of any rights of taking, using, enjoying and conveying water, and of laying, constructing, maintaining, and repairing mains, pipes, reservoirs, dams, weirs and other works of any kind proper for the supply and distribution of water, and of any part of the settled land required as a site for any of the aforesaid works, and of any easement, right or privilege over or in relation to the settled land or any part thereof in connexion with any of the aforesaid works.
- (2) This section does not authorise the creation of any greater rights than could have been created by a person absolutely entitled for his own benefit to the settled land affected.
- (3) In this section " statutory authority" means an authority or company for the time being empowered by any Act of Parliament, public general, or local or private, or by any order or certificate having the force of an Act of Parliament, to provide with a supply of water any town, parish or place in which the settled land or any part thereof is situated.
- (4) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

55 Power to grant land for public and charitable purposes.

- (1) For the development, improvement, or general benefit of the settled land, or any part thereof, a tenant for life may make a grant in fee simple, or absolutely, or a lease for any term of years absolute, for a nominal price or rent, or for less than the best price or rent that can reasonably be obtained, or gratuitously, of any part of the settled land, with or without any easement, right or privilege over or in relation to the settled land or any part thereof, for all or any one or more of the following purposes, namely :—
 - (i) For the site, or the extension of any existing site, of a place of religious worship, residence for a minister of religion, school house, town hall, market house, public library, public baths, museum, hospital, infirmary, or other public building, literary or scientific institution, drill hall, working-men's club, parish room, reading room or village institute, with or without in any case any yard, garden, or other ground to be held with any such building; or

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- (ii) For the construction, enlargement, or improvement of any railway, canal, road (public or private), dock, sea-wall, embankment, drain, watercourse, or reservoir; or
- (iii) For any other public or charitable purpose in connexion with the settled land, or any part thereof, or tending to the benefit of the persons residing, or for whom dwellings may be erected, on the settled land, or any part thereof.

Not more than one acre shall in any particular case be conveyed for any purpose mentioned in paragraphs (i) and (iii) of this subsection, nor more than five acres for any purpose mentioned in paragraph (ii) of this subsection, unless the full consideration be paid or reserved in respect of the excess.

- (2) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

56 Dedication for streets, open spaces, &c.

- (1) On or after or in connexion with a sale or grant for building purposes, or a building lease, or the development as a building estate of the settled land, or any part thereof, or at any other reasonable time, the tenant for life, for the general benefit of the residents or" the settled land, or on any part thereof—
 - (i) may cause or require any parts of the settled land to be appropriated and laid out for streets, roads, paths, squares, gardens, or other open spaces, for the use, gratuitously or on payment, of the public or of individuals, with sewers, drains, watercourses, fencing, paving, or other works necessary or proper in connexion therewith; and
 - (ii) may provide that the parts so appropriated shall be conveyed to or vested in the trustees of the settlement, or other trustees, or any company or public body, on trusts or subject to provisions for securing the continued appropriation thereof to the purposes aforesaid, and the continued repair or maintenance of streets and other places and works aforesaid, with or without provision for appointment of new trustees when required; and
 - (iii) may execute any general or other deed necessary or proper for giving effect to the provisions of this section (which deed may be inrolled in the Central Office of the Supreme Court), and thereby declare the mode, terms, and conditions of the appropriation, and the manner in which and the persons by whom the benefit thereof is to be enjoyed, and the nature and extent of the privileges and conveniences granted.
- (2) In regard to the dedication of land for the public purposes aforesaid, a tenant for life shall be in the same position as if he were an absolute owner.
- (3) A tenant for life shall have power—
 - (a) to enter into any agreement for the recompense to be made for any part of the settled land which is required for the widening of a highway under section eighty-two of the Highway Act, 1835, or otherwise;
 - (b) to consent to the diversion of any highway over the settled land under section eighty-five of that Act, or otherwise; and
 - (c) to consent to any such road as is mentioned in section thirty-six of the Highway Act, 1862, being declared a public highway;

and any agreement or consent so made or given shall be as valid and effectual, for all purposes, as if made or given by an absolute owner of the settled land.

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- (4) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

57 Provision of land for small dwellings, small holdings and dwellings for working classes.

- (1) Where land is sold, or given in exchange or leased—
- (a) for the purpose of the erection on such land of small dwellings; or
 - (b) to the council of a county or county borough for the purposes of small holdings;

the sale, exchange, or lease may, notwithstanding anything contained in this Act, be made for such consideration in money, or land, or in land and money, or may reserve such rent, as having regard to the said purposes and to all the circumstances of the case, is the best that can reasonably be obtained, notwithstanding that a better consideration or rent might have been obtained if the land were sold, exchanged, or leased, for another purpose.

- (2) Notwithstanding anything contained in, and in addition to the other powers conferred by this Act, a tenant for life may at any time—
- (a) for the purpose of the erection of dwellings for the working classes, or the provision of gardens to be held therewith; or
 - (b) for the purpose of the Small Holdings and Allotments Acts, 1908 to 1919;

make a grant in fee simple or absolutely, or a lease for any term of years absolute of any part of the settled land, with or without any easement, right or privilege of any kind over or in relation to the settled land or any part thereof, for a nominal price or rent, or for less than the best price or rent that can reasonably be obtained or gratuitously:

Provided that, except under an order of the court, not more than two acres in the case of land situate in an urban district, or ten acres in the case of land situate in a rural district, in any one parish shall be granted or leased under the powers conferred by this subsection, unless the full consideration be paid or reserved in respect of the excess.

- (3) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

58 Power to compromise claims and release restrictions, &c.

- (1) A tenant for life may, with the consent in writing of the trustees of the settlement, either with or without giving or taking any consideration in money or otherwise, compromise, compound, abandon, submit to arbitration, or otherwise settle any claim, dispute, or question whatsoever relating to the settled land, or any part thereof, including in particular claims, disputes or questions as to boundaries, the ownership of mines and minerals, rights and powers of working mines and minerals, local laws and customs relative to the working of mines and minerals and other matters, manorial incidents, easements, and restrictive covenants, and for any of those purposes may enter into, give, execute, and do such agreements, assurances, releases, and other things as the tenant for life may, with such consent as aforesaid, think proper.
- (2) A tenant for life may, with the consent in writing of the trustees of the settlement, at any time, by deed or writing, either with or without consideration in money or otherwise, release, waive, or modify, or agree to release, waive, or modify, any covenant, agreement, or restriction imposed on any other land for the benefit of the

settled land, or any part thereof, or release, or agree to release, any other land from any easement, right or privilege, including a right of pre-emption, affecting the same for the benefit of the settled land, or any part thereof.

- (3) A tenant for life may contract that a transaction effected before or after the commencement of this Act, which (whether subject or not to any variation authorised by this subsection) is affected by section seventy-eight of the Railway Clauses Consolidation Act, 1845, or by section twenty-two of the Waterworks Clauses Act, 1847 (relating to support by minerals) shall take effect as if some other distance than forty yards or the prescribed distance had been mentioned in such sections or had been otherwise prescribed.

In any case where section seventy-eight aforesaid has effect as amended and re-enacted by Part II. of the Mines (Working Facilities and Support) Act, 1923, a tenant for life may make any agreement authorised by section eighty-five a of the Railway Clauses Consolidation Act, 1845, as enacted in the said Part II.

59 Power to vary leases and grants, and to give licences and consents.

- (1) A tenant for life may, at any time, by deed, either with or without consideration in money or otherwise, vary, release, waive or modify, either absolutely or otherwise, the terms of any lease whenever made of the settled land or any part thereof, or any covenants or conditions contained in any grant in fee simple whenever made of land with or subject to a reservation thereof of a rent which is or forms part of the settled land, and in either case in respect of the whole or any part of the land comprised in any such lease or grant, but so that every such lease or grant shall, after such variation, release, waiver or modification as aforesaid, be such a lease or grant as might then have been lawfully made under this Act if the lease had been surrendered, or the land comprised in the grant had never been so comprised, or had been regranted.
- (2) Where land is or has been disposed of subject to any covenant requiring the licence, consent, or approval of the covenantee or his successors in title as to—
- (a) the user of the land in any manner; or
 - (b) the erection construction or alteration of or addition to buildings or works of any description on the land; or
 - (c) the plans or elevations of any proposed buildings or other works on the land; or
 - (d) any other act, matter, or thing relating to the land, or any buildings or works thereon; or
 - (e) any assignment, under-letting or parting with the possession of all or any part of the property comprised in any lease affecting the settled land;

and the covenant enures for the benefit of settled land (including, where the disposition is a lease, the reversion expectant on the determination thereof), the licence, consent or approval may be given by the tenant for life of the settled land affected.

60 Power to apportion rents.

- (1) A tenant for life may, at any time, by deed, either with or without consideration in money or otherwise, agree for the apportionment of any rent reserved or created by any such lease or grant as mentioned in the last preceding section, or any rent being or forming part of the settled land, so that the apportioned parts of such rent shall thenceforth be payable exclusively out of or in respect of such respective portions of the land subject thereto as may be thought proper, and. also agree that any covenants,

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agreements, powers, or remedies for securing such rent and any other covenants or agreements by the lessee or grantee and any conditions shall also be apportioned and made applicable exclusively to the respective portions of the land out of or in respect of which the apportioned parts of such rent shall thenceforth be payable.

- (2) Where the settled land, or any part thereof, is held or derived under a lease, or under a grant reserving rent, or subject to covenants, agreements or conditions, whether such lease or grant comprises other land or not, the tenant for life may at any time by deed, with or without giving or taking any consideration in money or otherwise, procure the variation, release, waiver, or modification, either absolutely or otherwise, of the terms, covenants, agreements, or conditions contained in such lease or grant, in respect of the whole or any part of the settled land comprised therein, including the apportionment of any rent, covenants, agreements, conditions, and provisions reserved, or created by, or contained in, such lease or grant.
- (3) This section applies to leases or grants made either before or after the commencement of this Act.

61 Provisions as to consideration.

- (1) All money, not being rent, payable by the tenant for life in respect of any transaction to which any of the three last preceding sections relates shall be paid out of capital money arising under this Act, and all money, not being rent, received on the exercise by the tenant for life of the powers conferred by any of those sections, shall, unless the court, on an application made within six months after the receipt thereof or within such further time as the court may in special circumstances allow, otherwise directs, be capital money arising under this Act.
- (2) For the purpose of the three last preceding sections " consideration in money or otherwise " means—
 - (a) a capital sum of money or a rent;
 - (b) land being freehold or leasehold for any term of years whereof not less than sixty years shall be unexpired;
 - (c) any easement, right or privilege over or in relation to the settled land, or any part thereof, or any other land;
 - (d) the benefit of any restrictive covenant or condition; and
 - (e) the release of the settled land, or any part thereof, or any other land, from any easement, right or privilege, including a right of preemption, or from the burden of any restrictive covenant or condition affecting the same.

62 Special provisions as to manorial incidents, &c.

- (1) Where rights to manorial incidents are comprised in a settlement the tenant for life may, as respects any fines payable in respect of an alienation in lieu of a fine payable for a licence authorising the alienation, agree the amount of the fine if it is not fixed by the custom of the manor.
- (2) Any gross sum or an instalment thereof (attributable to capital) received in respect of the extinguishment of manorial incidents shall be capital money arising under this Act.
- (3) Where a manor, manorial incident or enfranchised land is comprised in a settlement, the tenant for life under the settlement, shall have the powers conferred by Part VI

of the Law of Property Act, 1922, on the lord or the tenant (as the case may be) in reference to a compensation agreement and matters incidental thereto.

In this subsection " enfranchised land " " lord " and " tenant " have the same meanings as in the Law of Property Act, 1922.

- (4) In reference to the conversion of a perpetually renewable lease or underlease into a long term, a tenant for life may enter into such agreements and do such acts and things as the lessor or lessee or underlessee, as the case may require, is, by any enactment authorised to enter into or do.

63 Power to complete predecessor's contracts.

A tenant for life may make any disposition which is necessary or proper for giving effect to a contract entered into by a predecessor in title, and which if made by that predecessor would have been valid as against his successors in title.

64 General power for the tenant for life to effect any transaction under an order of the court.

- (1) Any transaction affecting or concerning the settled land, or any part thereof, or any other land (not being a transaction otherwise authorised by this Act, or by the settlement) which in the opinion of the court-would be for the benefit of the settled land, or any part thereof, or the persons interested under the settlement, may, under an order of the court, be effected by a tenant for life, if it is one which could have been validly effected by an absolute owner.
- (2) In this section " transaction " includes any sale, extinguishment of manorial incidents, exchange, assurance, grant, lease, surrender, reconveyance, release, reservation, or other disposition, and any purchase or other acquisition, and any covenant, contract, or option, and any application of capital money (except as hereinafter mentioned), and any compromise or other dealing, or arrangement; but does not include an application of capital money in payment for any improvement not authorised by this Act, or by the settlement; and " effected " has the meaning appropriate to the particular transaction; and the references to land include references to restrictions and burdens affecting land.