



# Settled Land Act 1925

## 1925 CHAPTER 18

### PART IV

#### IMPROVEMENTS.

##### *Improvements with Capital Money.*

#### **83 Description of improvements authorised by Act.**

Improvements authorised by this Act are the making or execution on, or in connexion with, and for the benefit of settled land, of any of the works mentioned in the Third Schedule to this Act, or of any works for any of the purposes mentioned in that Schedule, and any operation incident to or necessary or proper in the execution of any of those works, or necessary or proper for carrying into effect any of those purposes, or for securing the full benefit of any of those works or purposes.

#### **84 Mode of application of capital money.**

- (1) Capital money arising under this Act may be applied in or towards payment for any improvement authorised by this Act or by the settlement, without any scheme for the execution of the improvement being first submitted for approval to, or approved by, the trustees of the settlement or the court.
- (2) Where the capital money to be expended is in the hands of the trustees of the settlement, they may apply that money in or towards payment for the whole or any part of any work or operation comprised in the improvement, on—
  - (i) a certificate to be furnished by a competent engineer or able practical surveyor employed independently of the tenant for life, certifying that the work or operation comprised in the improvement or some specific part thereof, has been properly executed, and what amount is properly payable in respect thereof, which certificate shall be conclusive in favour of the trustees as an authority and discharge for any payment made by them in pursuance thereof;
  - or

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- (ii) an order of the court directing or authorising the trustees so to apply a specified portion of the capital money:

Provided that—

- (a) In the case of improvements not authorised by Part I. of the Third Schedule to this Act or by the settlement, the trustees may, if they think fit, and shall if so directed by the court, before they make any such application of capital money require that that money, or any part thereof, shall be repaid to them out of the income of the settled land by not more than fifty half-yearly instalments, the first of such instalments to be paid or to be deemed to have become payable at the expiration of six months from the date when the work or operation, in payment for which the money is to be applied, was completed;
  - (b) No capital money shall be applied by the trustees in payment for improvements not authorised by Parts I. and II. of the Third Schedule to this Act, or by the settlement, except subject to provision for the repayment thereof being made in manner mentioned in the preceding paragraph of this proviso.
- (3) Where the capital money to be expended is in court, the court may, if it thinks fit, on a report or certificate of the Minister, or of a competent engineer or able practical surveyor approved by the court, or on such other evidence as the court may think sufficient, make such order and give such directions as it thinks fit for the application of the money, or any part thereof, in or towards payment for the whole or any part of any work or operation comprised in the improvement.
  - (4) Where the court authorises capital money to be applied in payment for any improvement or intended improvement not authorised by Part I. of the Third Schedule to this Act or by the settlement, the court, as a condition of making the order, may in any case require that the capital money or any part thereof, and shall as respects an improvement mentioned in Part III. of that Schedule (unless the improvement is authorised by the settlement), require that the whole of the capital money shall be repaid to the trustees of the settlement out of the income of the settled land by a fixed number of periodical instalments to be paid at the times appointed by the court, and may require that any incumbrancer of the estate or interest of the tenant for life shall be served with notice of the proceedings.
  - (5) All money received by the trustees of the settlement in respect of any instalments under this section shall be held by them as capital money arising from freehold land under the settlement, unless the court otherwise directs.

## **85 Creation of rentcharges to discharge instalments.**

- (1) When the tenant for life is required by the trustees to repay by instalments the capital money expended, or any part thereof, the tenant for life is by this section authorised to create out of the settled land, or any part thereof, a yearly rentcharge in favour of the trustees of the settlement sufficient in amount to discharge the said half-yearly instalments.
- (2) Where an order is made requiring repayment by instalments, the settled land shall stand charged with the payment to the trustees of the settlement of a yearly rentcharge sufficient in amount to discharge the periodical instalments, and the rentcharge shall accrue from day to day, and be payable at the times appointed for payment of the periodical instalments, and shall have effect as if limited by the settlement prior to the estate of the tenant for life, and the trustees of the settlement shall have all statutory and other powers for recovery thereof.

- (3) A rentcharge created by or under this section shall not be redeemed out of capital money, but may be overreached in like manner as if the same were limited by the settlement, and shall cease if and when the land affected by the improvement ceases to be settled or is sold or exchanged, but if part of the land so affected remains subject to the settlement the rentcharge shall remain in force in regard to the settled land.

*Sundry Provisions as to Improvements.*

**86 Concurrence in improvements.**

The tenant for life may join or concur with any other person interested in executing any improvement authorised by this Act, or in contributing to the cost thereof.

**87 Court may order payment for improvements executed.**

The court may, in any case where it appears proper, make an order directing or authorising capital money to be applied in or towards payment for any improvement authorised by the Settled Land Acts, 1882 to 1890, or this Act, notwithstanding that a scheme was not, before the execution of the improvement, submitted for approval, as required by the Settled Land Act, 1882, to the trustees of the settlement or to the court, and notwithstanding that no capital money is immediately available for the purpose.

**88 Obligation on tenant for life and successors to maintain, insure, &c.**

- (1) The tenant for life, and each of his successors in title having under the trust instrument a limited estate or interest only in the settled land, shall, during such period, if any, as the Minister by certificate in any case prescribes, maintain and repair, at his own expense, every improvement executed under the foregoing provisions of this Act or the enactments replaced thereby, and where a building or work in its nature insurable against damage by fire is comprised in the improvement, shall at his own expense insure and keep insured the improvement in such amount, if any, as the Minister by certificate in any case prescribes.
- (2) The tenant for life, or any of his successors as aforesaid, shall not cut down or knowingly permit to be cut down, except in proper thinning, any trees planted as an improvement under the foregoing provisions of this Act, or under the enactments replaced by those provisions.
- (3) The tenant for life, and each of his successors as aforesaid, shall from time to time, if required by the Minister on or without the application of any person having under the trust instrument any estate or interest in the settled land in possession, remainder, or otherwise, report to the Minister the state of every improvement executed under this Act, and the fact and particulars of fire insurance, if any.
- (4) The Minister may vary any certificate made by him under this section in such manner or to such extent as circumstances appear to him to require, but not so as to increase the liabilities of the tenant for life, or any of his successors as aforesaid.
- (5) If the tenant for life, or any of his successors as aforesaid, fails in any respect to comply with the requisitions of this section, or does any act in contravention thereof, any person having, under the trust instrument, any estate or interest in the settled land in possession, remainder, or reversion, shall have a right of action, in respect of that

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default or act, against the tenant for life; and the estate of the tenant for life, after his death, shall be liable to make good to the persons entitled under the trust instrument any damages occasioned by that default or act.

- (6) Where in connexion with any improvement an improvement rentcharge, as hereinbefore denned, has been created, and that rentcharge has been redeemed out of capital money, this section shall apply to the improvement as if it had been an improvement executed under this Act.

## **89 Protection as regards waste in execution and repair of improvements.**

The tenant for life, and each of his successors in title having, under the trust instrument, a limited estate or interest only in the settled land, and all persons employed by or under contract with the tenant for life or any such successor, may from time to time enter on the settled land, and, without impeachment of waste by any remainderman or reversioner, thereon execute any improvement authorised by this Act, or inspect, maintain, and repair the same, and for the purposes thereof do, make, and use on the settled land, all acts, works, and conveniences proper for the execution, maintenance, repair, and use thereof, and get and work freestone, limestone, clay, sand, and other substances, and make tramways and other ways, and burn and make bricks, tiles, and other things, and cut down and use timber and other trees not planted or left standing for shelter or ornament.