



# Settled Land Act 1925

1925 CHAPTER 18 15 and 16 Geo 5

## PART VII

### RESTRICTIONS, SAVINGS, AND PROTECTION OF PURCHASERS

#### 103 Legal estate in settled land not to vest in trustee in bankruptcy of estate owner.

[<sup>F1</sup>For the purposes of determining, where the estate owner of any settled land is bankrupt, whether the legal estate in the settled land is comprised in, or is capable of being claimed for, the bankrupt's estate, the legal estate in the settled land shall be deemed not to vest in the] estate owner unless and until the estate owner becomes absolutely and beneficially entitled to the settled land free from all limitations, powers, and charges taking effect under the settlement.

#### Textual Amendments

**F1** Words substituted by [Insolvency Act 1985 \(c. 65, SIF 66\), s. 235\(1\), Sch. 8 para. 3](#), (with saving in [Insolvency Act 1986 \(c. 45, SIF 66\), s. 437, Sch. 11 para. 10](#))

#### 104 Powers not assignable, and contract not to exercise powers void.

- (1) The powers under this Act of a tenant for life are not capable of assignment or release, and do not pass to a person as being, by operation of law or otherwise, an assignee of a tenant for life, and remain exercisable by the tenant for life after and notwithstanding any assignment, by operation of law or otherwise, of his estate or interest under the settlement.

This subsection applies notwithstanding that the estate or interest of the tenant for life under the settlement was not in possession when the assignment was made or took effect by operation of law.

- (2) A contract by a tenant for life not to exercise his powers under this Act or any of them shall be void.

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- (3) Where an assignment for value of the estate or interest of the tenant for life was made before the commencement of this Act, this section shall operate without prejudice to the rights of the assignee, and in that case the assignee's rights shall not be affected without his consent, except that—
- (a) unless the assignee is actually in possession of the settled land or the part thereof affected, his consent shall not be requisite for the making of leases thereof by the tenant for life or statutory owner, provided the leases are made at the best rent that can reasonably be obtained, without fine, and in other respects are in conformity with this Act; and
  - (b) the consent of the assignee shall not be required to an investment of capital money for the time being affected by the assignment in securities <sup>F2</sup>. . .
- (4) Where such an assignment for value is made or comes into operation after the commencement of this Act, the consent of the assignee shall not be requisite for the exercise by the tenant for life of any of the powers conferred by this Act:
- provided that—
- (a) the assignee shall be entitled to the same or the like estate or interest in or charge on the land, money, or securities for the time being representing the land, money, or securities comprised in the assignment, as he had by virtue of the assignment in the last-mentioned land, money, or securities; and
  - (b) if the assignment so provides, or if it takes effect by operation of the law of bankruptcy, and after notice thereof to the trustees of the settlement, [<sup>F3</sup>the consent of the assignee shall be required to an investment of capital money for the time being affected by the assignment in investments other than securities, and to any application of such capital money;] and
  - (c) notice of the intended transaction shall, unless the assignment otherwise provides, be given to the assignee, but a purchaser shall not be concerned to see or inquire whether such notice has been given.
- (5) Where such an assignment for value was made before the commencement of this Act, then on the exercise by the tenant for life after such commencement of any of the powers conferred by this Act—
- (a) a purchaser shall not be concerned to see or inquire whether the consent of the assignee has been obtained; and
  - (b) the provisions of paragraph (a) of the last subsection shall apply for the benefit of the assignee.
- (6) A trustee or personal representative who is an assignee for value shall have power to consent to the exercise by the tenant for life of his powers under this Act, or to any such investment or application of capital money as aforesaid, and to bind by such consent all persons interested in the trust estate, or the estate of the testator or intestate.
- (7) If by the original assignment, or by any subsequent disposition, the estate or interest assigned or created by the original assignment, or any part thereof, or any derivative interest is settled on persons in succession, whether subject to any prior charge or not, and there is no trustee or personal representative in whom the entirety of the estate or interest so settled is vested, then the person for the time being entitled in possession under the limitations of that settlement, whether as trustee or beneficiary, or who would, if of full age, be so entitled, and notwithstanding any charge or incumbrance subsisting or to arise under such settlement, shall have power to consent to the exercise by the tenant for life of his powers under this Act, or to any such investment or

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application of capital money as aforesaid, and to bind by such consent all persons interested or to become interested under such settlement.

- (8) Where an assignee for value, or any person who has power to consent as aforesaid under this section, is an infant, the consent may be given on his behalf by his parents or parent or testamentary or other guardian in the order named.
- (9) The court shall have power to authorise any person interested under any assignment to consent to the exercise by the tenant for life of his powers under this Act, or to any such investment or application of capital money as aforesaid, on behalf of himself and all other persons interested, or who may become interested under such assignment.
- (10) An assignment by operation of the law of bankruptcy, where the assignment comes into operation after the commencement of this Act, shall be deemed to be an assignment for value for the purposes of this section.
- (11) An instrument whereby a tenant for life, in consideration of marriage or as part or by way of any family arrangement, not being a security for payment of money advanced, makes an assignment of or creates a charge upon his estate or interest under the settlement is to be deemed one of the instruments creating the settlement, and not an assignment for value for the purposes of this section:

Provided that this subsection shall not have effect with respect to any disposition made before the eighteenth day of August eighteen hundred and ninety, if inconsistent with the nature or terms of the disposition.

- (12) This section extends to assignments made or coming into operation before or after the commencement of this Act, and in this section “assignment” includes assignment by way of mortgage, and any partial or qualified assignment, and any charge or incumbrance, “assignee” has a corresponding meaning, and “assignee for value” includes persons deriving title under the original assignee.

#### Textual Amendments

- F2** Words in s. 104(3)(b) repealed (1.2.2001) by 2000 c. 29, s. 40(1)(3), Sch. 2 Pt. II para. 16(1)(a)(2), Sch. 4 Pt. II (with s. 35); S.I. 2001/49, art. 2
- F3** Words in s. 104(4)(b) substituted (1.2.2001) by 2000 c. 29, s. 40(1), Sch. 2 Pt. II para. 16(1)(b)(2) (with s. 35); S.I. 2001/49, art. 2

### 105 Effect of surrender of life estate to the next remainderman.

- (1) Where the estate or interest of a tenant for life under the settlement has been or is absolutely assured with intent to extinguish the same, either before or after the commencement of this Act, to the person next entitled in remainder or reversion under the settlement, then, . . . <sup>F4</sup> the statutory powers of the tenant for life under this Act shall, in reference to the property affected by the assurance, and notwithstanding the provisions of the last preceding section, cease to be exercisable by him, and the statutory powers shall thenceforth become exercisable as if he were dead, but without prejudice to any incumbrance affecting the estate or interest assured, and to the rights to which any incumbrancer would have been entitled if those powers had remained exercisable by the tenant for life.

This subsection applies whether or not any term of years or charge intervenes, or the estate of the remainderman or reversioner is liable to be defeated, and whether or not

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the estate or interest of the tenant for life under the settlement was in possession at the date of the assurance.

This subsection does not prejudice anything done by the tenant for life before the commencement of this Act, in exercise of any power operating under the Settled Land Acts, 1882 to 1890, or, unless the assurance provides to the contrary, operate to accelerate any such intervening term of years or charge as aforesaid.

- (2) In this section “assurance” means any surrender, conveyance, assignment or appointment under a power (whether vested in any person solely, or jointly in two or more persons) which operates in equity to extinguish the estate or interest of the tenant for life, and “assured” has a corresponding meaning.

#### Textual Amendments

**F4** Words repealed by [Law of Property \(Amendment\) Act 1926 \(c. 11\)](#), [Sch.](#)

### **106 Prohibition or limitation against exercise of powers void, and provision against forfeiture.**

- (1) If in a settlement, will, assurance, or other instrument executed or made before or after, or partly before and partly after, the commencement of this Act a provision is inserted—
- (a) purporting or attempting, by way of direction, declaration, or otherwise, to forbid a tenant for life or statutory owner to exercise any power under this Act, or his right to require the settled land to be vested in him; or
  - (b) attempting, or tending, or intended, by a limitation, gift, or disposition over of settled land, or by a limitation, gift, or disposition of other real or any personal property, or by the imposition of any condition, or by forfeiture, or in any other manner whatever, to prohibit or prevent him from exercising, or to induce him to abstain from exercising or to put him into a position inconsistent with his exercising, any power under this Act, or his right to require the settled land to be vested in him;

that provision, as far as it purports, or attempts, or tends, or is intended to have, or would or might have, the operation aforesaid, shall be deemed to be void.

- (2) For the purposes of this section an estate or interest limited to continue so long only as a person abstains from exercising any such power or right as aforesaid shall be and take effect as an estate or interest to continue for the period for which it would continue if that person were to abstain from exercising the power or right, discharged from liability to determination or cesser by or on his exercising the same.
- (3) Notwithstanding anything in a settlement, the exercise by the tenant for life or statutory owner of any power under this Act shall not occasion a forfeiture.

#### Modifications etc. (not altering text)

**C1** [S. 106\(1\)](#) excluded by [Chequers Estate Act 1958 \(c. 60\)](#), [s. 3\(5\)](#)

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## 107 Tenant for life trustee for all parties interested.

(1) A tenant for life or statutory owner shall, in exercising any power under this Act, have regard to the interests of all parties entitled under the settlement, and shall, in relation to the exercise thereof by him, be deemed to be in the position and to have the duties and liabilities of a trustee for those parties.

[<sup>F5</sup>(1A) The following provisions apply to the tenant for life as they apply to the trustees of the settlement—

- (a) sections 11, 13 to 15 and 21 to 23 of the Trustee Act 2000 (power to employ agents subject to certain restrictions),
- (b) section 32 of that Act (remuneration and expenses of agents etc.),
- (c) section 19 of the Trustee Act 1925 (power to insure), and
- (d) in so far as they relate to the provisions mentioned in paragraphs (a) and (c), Part I of, and Schedule 1 to, the Trustee Act 2000 (the duty of care).]

(2) The provision by a tenant for life or statutory owner, at his own expense, of dwellings available for the working classes on any settled land shall not be deemed to be an injury to any interest in reversion or remainder in that land, but such provision shall not be made by a tenant for life or statutory owner without the previous approval in writing of the trustees of the settlement.

### Textual Amendments

**F5** S. 107(1A) inserted (1.2.2001) by 2000 c. 29, s. 40(1), Sch. 2 Pt. II para. 17 (with s. 35); S.I. 2001/49, art. 2

## 108 Saving for and exercise of other powers.

(1) Nothing in this Act shall take away, abridge, or prejudicially affect any power for the time being subsisting under a settlement, or by statute or otherwise, exercisable by a tenant for life, or (save as hereinafter provided) by trustees with his consent, or on his request, or by his direction, or otherwise, and the powers given by this Act are cumulative.

(2) In case of conflict between the provisions of a settlement and the provisions of this Act, relative to any matter in respect whereof the tenant for life or statutory owner exercises or contracts or intends to exercise any power under this Act, the provisions of this Act shall prevail; and, notwithstanding anything in the settlement, any power (not being merely a power of revocation or appointment) relating to the settled land thereby conferred on the trustees of the settlement or other persons exercisable for any purpose, whether or not provided for in this Act, shall, after the commencement of this Act, be exercisable by the tenant for life or statutory owner as if it were an additional power conferred on the tenant for life within the next following section of this Act and not otherwise.

(3) If a question arises or a doubt is entertained respecting any matter within this section, the tenant for life or statutory owner, or the trustees of the settlement, or any other person interested, under the settlement may apply to the court for its decision thereon, and the court may make such order respecting the matter as the court thinks fit.

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**Modifications etc. (not altering text)**

C2 S. 108(2) excluded by [Chequers Estate Act 1958 \(c. 60\), s. 3\(5\)](#)

**109 Saving for additional or larger powers under settlement.**

- (1) Nothing in this Act precludes a settlor from conferring on the tenant for life, or (save as provided by the last preceding section) on the trustees of the settlement, any powers additional to or larger than those conferred by this Act.
- (2) Any additional or larger powers so conferred shall, as far as may be, notwithstanding anything in this Act, operate and be exercisable in the like manner, and with all the like incidents, effects, and consequences, as if they were conferred by this Act, and, if relating to the settled land, as if they were conferred by this Act on a tenant for life.

**110 Protection of purchasers, &c.**

- (1) On a sale, exchange, lease, mortgage, charge, or other disposition, a purchaser dealing in good faith with a tenant for life or statutory owner shall, as against all parties entitled under the settlement, be conclusively taken to have given the best price, consideration, or rent as the case may require, that could reasonably be obtained by the tenant for life or statutory owner, and to have complied with all the requisitions of this Act.
- (2) A purchaser of a legal estate in settled land shall not, except as hereby expressly provided, be bound or entitled to call for the production of the trust instrument or any information concerning that instrument or any ad valorem stamp duty thereon, and whether or not he has notice of its contents he shall, save as hereinafter provided, be bound and entitled if the last or only principal vesting instrument contains the statements and particulars required by this Act to assume that—
  - (a) the person in whom the land is by the said instrument vested or declared to be vested is the tenant for life or statutory owner and has all the powers of a tenant for life under this Act, including such additional or larger powers, if any, as are therein mentioned;
  - (b) the persons by the said instrument stated to be the trustees of the settlement, or their successors appearing to be duly appointed, are the properly constituted trustees of the settlement;
  - (c) the statements and particulars required by this Act and contained (expressly or by reference) in the said instrument were correct at the date thereof;
  - (d) the statements contained in any deed executed in accordance with this Act declaring who are the trustees of the settlement for the purposes of this Act are correct;
  - (e) the statements contained in any deed of discharge, executed in accordance with this Act, are correct:

Provided that, as regards the first vesting instrument executed for the purpose of giving effect to—

- (a) a settlement subsisting at the commencement of this Act; or
- (b) an instrument which by virtue of this Act is deemed to be a settlement; or
- (c) a settlement which by virtue of this Act is deemed to have been made by any person after the commencement of this Act; or

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- (d) an instrument inter vivos intended to create a settlement of a legal estate in land which is executed after the commencement of this Act and does not comply with the requirements of this Act with respect to the method of effecting such a settlement;
- a purchaser shall be concerned to see—
- (i) that the land disposed of to him is comprised in such settlement or instrument;
  - (ii) that the person in whom the settled land is by such vesting instrument vested, or declared to be vested, is the person in whom it ought to be vested as tenant for life or statutory owner;
  - (iii) that the persons thereby stated to be the trustees of the settlement are the properly constituted trustees of the settlement.
- (3) A purchaser of a legal estate in settled land from a personal representative shall be entitled to act on the following assumptions:—
- (i) If the capital money, if any, payable in respect of the transaction is paid to the personal representative, that such representative is acting under his statutory or other powers and requires the money for purposes of administration;
  - (ii) If such capital money is, by the direction of the personal representative, paid to persons who are stated to be the trustees of a settlement, that such persons are the duly constituted trustees of the settlement for the purposes of this Act, and that the personal representative is acting under his statutory powers during a minority;
  - (iii) In any other case, that the personal representative is acting under his statutory or other powers.
- (4) Where no capital money arises under a transaction, a disposition by a tenant for life or statutory owner shall, in favour of a purchaser of a legal estate, have effect under this Act notwithstanding that at the date of the transaction there are no trustees of the settlement.
- (5) If a conveyance of or an assent relating to land formerly subject to a vesting instrument does not state who are the trustees of the settlement for the purposes of this Act, a purchaser of a legal estate shall be bound and entitled to act on the assumption that the person in whom the land was thereby vested was entitled to the land free from all limitations, powers, and charges taking effect under that settlement, absolutely and beneficially, or, if so expressed in the conveyance or assent, as personal representative, or [<sup>F6</sup>trustee of land] or otherwise, and that every statement of fact in such conveyance or assent is correct.

#### Textual Amendments

**F6** Words in s. 110(5) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 2(12)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art.2**

### **111 Purchaser of beneficial interest of tenant for life to have remedies of a legal owner.**

Where—

- (a) at the commencement of this Act the legal beneficial interest of a tenant for life under a settlement is vested in a purchaser; or

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- (b) after the commencement of this Act a tenant for life conveys or deals with his beneficial interest in possession in favour of a purchaser, and the interest so conveyed or created would, but for the restrictions imposed by statute on the creation of legal estates, have been a legal interest;

the purchaser shall (without prejudice to the powers conferred by this Act on the tenant for life) have and may exercise all the same rights and remedies as he would have had or have been entitled to exercise if the interest had remained or been a legal interest and the reversion, if any, on any leases or tenancies derived out of the settled land had been vested in him:

Provided that, where the conveyance or dealing is effected after the commencement of this Act, the purchaser shall not be entitled to the possession of the documents of title relating to the settled land, but shall have the same rights with respect thereto as if the tenant for life had given to him a statutory acknowledgment of his right to production and delivery of copies thereof, and a statutory undertaking for the safe custody thereof.

The tenant for life shall not deliver any such documents to a purchaser of his beneficial interest, who is not also a purchaser of the whole of the settled land to which such documents relate.

## **112 Exercise of powers; limitation of provisions, &c.**

- (1) Where a power of sale, exchange, leasing, mortgaging, charging, or other power is exercised by a tenant for life, or statutory owner or by the trustees of a settlement, he and they may respectively execute, make, and do all deeds, instruments, and things necessary or proper in that behalf.
- (2) Where any provision in this Act refers to sale, purchase, exchange, mortgaging, charging, leasing, or other disposition or dealing, or to any power, consent, payment, receipt, deed, assurance, contract, expenses, act, or transaction, it shall (unless the contrary appears) be construed as extending only to sales, purchases, exchanges, mortgages, charges, leases, dispositions, dealings, powers, consents, payments, receipts, deeds, assurances, contracts, expenses, acts, and transactions under this Act.



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