

Status: Point in time view as at 01/02/1991.

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SECOND SCHEDULE

Section 37.

TRANSITIONAL PROVISIONS AFFECTING EXISTING SETTLEMENTS

PARAGRAPH 1

PROVISIONS FOR VESTING LEGAL ESTATE IN TENANT FOR LIFE OR STATUTORY OWNER

- 1 (1) A settlement subsisting at the commencement of this Act is, for the purposes of this Act, a trust instrument.
- (2) As soon as practicable after the commencement of this Act, the trustees for the purposes of this Act of every settlement of land subsisting at the commencement of this Act (whether or not the settled land is already vested in them), may and on the request of the tenant for life or statutory owner, shall at the cost of the trust estate, execute a principal vesting deed (containing the proper statements and particulars) declaring that the legal estate in the settled land shall vest or is vested in the person or persons therein named (being the tenant for life or statutory owner, and including themselves if they are the statutory owners), and such deed shall (unless the legal estate is already so vested) operate to convey or vest the legal estate in the settled land to or in the person or persons aforesaid and, if more than one, as joint tenants.
- (3) If there are no trustees of the settlement then (in default of a person able and willing to appoint such trustees), an application shall be made to the court by the tenant for life or statutory owner, or by any other person interested, for the appointment of such trustees.
- (4) If default is made in the execution of any such principal vesting deed, the provisions of this Act relating to vesting orders of settled land shall apply in like manner as if the trustees of the settlement were persons in whom the settled land is wrongly vested.
- (5) This paragraph does not apply where, at the commencement of this Act, settled land is held at law or in equity in undivided shares vested in possession.
- (6) In the case of settlements subsisting at the commencement of this Act, all the estates, interests and powers thereby limited which are not by statute otherwise converted into equitable interests or powers, shall, as from the date of the principal vesting deed or the vesting order, take effect only in equity.
- [^{F1}This sub-paragraph shall not apply to any legal estate or interest vested in a mortgagee or other purchaser for money or money's worth.]
- (7) This paragraph does not apply where settled land is vested in personal representatives at the commencement of this Act, or where settled land becomes vested in personal representatives before a principal vesting deed has been executed pursuant to this paragraph.
- (8) No ad valorem stamp duty shall be payable in respect of a vesting deed or order made for giving effect to an existing settlement.

Textual Amendments

F1 Para. added by [Law of Property \(Amendment\) Act 1926 \(c. 11\)](#), [Sch.](#)

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PARAGRAPH 2

PROVISIONS WHERE SETTLED LAND IS AT COMMENCEMENT OF ACT VESTED IN PERSONAL REPRESENTATIVES

- 2 (1) Where settled land remains at the commencement of this Act vested in the personal representatives of a person who dies before such commencement, or becomes vested in personal representatives before a principal vesting deed has been executed pursuant to the last preceding paragraph, the personal representatives shall hold the settled land on trust, if and when required so to do, to convey the same to the person who, under the trust instrument, or by virtue of this Act, is the tenant for life or statutory owner and, if more than one, as joint tenants.
- (2) A conveyance under this paragraph shall be made at the cost of the trust estate and may be made by an assent in writing signed by the personal representatives which shall operate as a conveyance. No stamp duty is payable in respect of a vesting assent.
- (3) The obligation to convey settled land imposed on the personal representatives by this paragraph is subject and without prejudice—
- (a) to their rights and powers for purposes of administration, and
 - (b) to their being satisfied that provision has been or will be made for the payment of any unpaid death duties in respect of the land or any interest therein for which they are accountable, and any interest and costs in respect of such duties, or that they are otherwise effectually indemnified against such duties, interest and costs.
- (4) A conveyance under this paragraph shall—
- (a) if by deed, be a principal vesting deed, and
 - (b) if by an assent, be a vesting assent, which shall contain the like statements and particulars as are required by this Act in the case of a principal vesting deed.
- (5) Nothing contained in this paragraph affects the rights of personal representatives to transfer or create such legal estates to take effect in priority to a conveyance under this paragraph as may be required for giving effect to the obligations imposed on them by statute.
- (6) A conveyance by personal representatives under this paragraph, if made by deed, may contain a reservation to themselves of a term of years absolute in the land conveyed upon trusts for indemnifying them against any unpaid death duties in respect of the land conveyed or any interest therein, and any interest and costs in respect of such duties.
- (7) Nothing contained in this paragraph affects any right which a person entitled to an equitable charge for securing money actually raised, and affecting the whole estate the subject of the settlement, may have to require effect to be given thereto by a legal mortgage, before the execution of a conveyance under this section.

PARAGRAPH 3

PROVISIONS AS TO INFANTS

- 3 (1) Where, at the commencement of this Act, an infant is beneficially entitled to land in possession for an estate in fee simple or for a term of years absolute, or would,

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if of full age, be a tenant for life or have the powers of a tenant for life, the settled land shall, by virtue of this Act, vest in the trustees (if any) of the settlement upon such trusts as may be requisite for giving effect to the rights of the infant and other persons (if any) interested:

provided that, if there are no such trustees, then—

- (i) Pending their appointment, the settled land shall, by virtue of this Act, vest in the Public Trustee upon the trusts aforesaid:
- (ii) The Public Trustee shall not be entitled to act in the trust, or charge any fee, or be liable in any manner unless and until requested in writing to act on behalf of the infant by his parents or parent or testamentary or other guardian in the order named:
- (iii) After the Public Trustee has been so requested to act, and has accepted the trust, he shall become the trustee of the settlement, and no trustee shall (except by an order of the court) be appointed in his place without his consent:
- (iv) If there is no other person able and willing to appoint trustees the parents or parent or testamentary or other guardian of the infant, if respectively able and willing to act, shall (in the order named) have power by deed to appoint trustees of the settlement in place of the Public Trustee in like manner as if the Public Trustee had refused to act in the trust, and to vest the settled land in them on the trusts aforesaid, and the provisions of the ^{M1}Trustee Act, 1925, relating to the appointment of new trustees, and the vesting of trust property shall apply as if the persons aforesaid (in the order named) had been nominated by the settlement for the purpose of appointing new trustees thereof; and in default of any such appointment the infant by his next friend, may, at any time during the minority, apply to the court for the appointment of trustees of the settlement, and the court may make such order as it thinks fit, and if thereby trustees of the settlement are appointed, the settled land shall, by virtue of this Act, vest in the trustees as joint tenants upon the trusts aforesaid:

Provided that in favour of a purchaser a statement in the deed of appointment that the father or mother or both are dead or are unable or unwilling to make the appointment shall be conclusive evidence of the fact stated.

- (v) If land to which an infant is beneficially entitled in possession for an estate in fee simple or for a term of years absolute vests in the Public Trustee, but the Public Trustee does not become the trustee of the settlement, and trustees of the settlement are not appointed in his place, then, if and when the infant attains the age of twenty-one years, the land shall vest in him.
- (2) The provisions of this paragraph shall extend to the legal estate in the settled land, except where such legal estate is, at or immediately after the commencement of this Act, vested in personal representatives, in which case this paragraph shall have effect without prejudice to the provisions of paragraph two of this Schedule.
 - (3) Where, at the commencement of this Act, any persons appointed under section sixty of the ^{M2}Settled Land Act, 1882, have power to act generally or for any specific purpose on behalf of an infant, then those persons shall, by virtue of this Act, become and be the trustees of the settlement.
 - (4) Notwithstanding that the settled land is by virtue of this paragraph vested in the trustees of the settlement, they shall, at the cost of the trust estate, in accordance with

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this Act, execute a principal vesting deed declaring that the settled land is vested in them.

- (5) This paragraph does not apply where an infant is beneficially entitled in possession to land for an estate in fee simple or for a term of years absolute jointly with a person of full age (for which case provision is made in the ^{M3}Law of Property Act, 1925), but it applies to two or more infants entitled as aforesaid jointly.
- (6) This paragraph does not apply where an infant would, if of full age, constitute the tenant for life or have the powers of a tenant for life together with another person of full age, but it applies to two or more infants who would, if all of them were of full age, together constitute the tenant for life or have the powers of a tenant for life.

Marginal Citations

M1 1925 c. 19.

M2 1882 c. 38.

M3 1925 c. 20.

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