



Settled Land Act 1925

1925 CHAPTER 18

PART VII

RESTRICTIONS, SAVINGS, AND PROTECTION OF PURCHASERS.

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.
- (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 authorised by statute for the investment of trust money.

Status: This is the original version (as it was originally enacted).

- (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, no investment or application of capital money for the time being affected by the assignment shall be made without the consent of the assignee, except an investment in securities authorised by statute for the investment of trust 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 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.