

*Status: Point in time view as at 01/10/2011.*

*Changes to legislation: Law of Property Act 1925, Part III is up to date with all changes known to be in force on or before 13 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## SCHEDULES

### FIRST SCHEDULE

#### TRANSITIONAL PROVISIONS

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

- C1** Sch. 1 amended by S.I. 1990/776, **art. 4(1)(b)**; and (1.1.1997) by 1996 c. 47, s. 5(1), **Sch. 2 para.7** (with ss. 24(2), 25(4)); S.I. 1996/2974, **art. 2**

### PART III

#### PROVISIONS AS TO LEGAL ESTATE VESTED IN INFANT

- 1 Where immediately before the commencement of this Act a legal estate in land is vested in one or more infants beneficially, or where immediately after the commencement of this Act a legal estate in land would by virtue of this Act have become vested in one or more infants beneficially if he or they had been of full age, the legal estate shall vest in the manner provided by the <sup>M1</sup>Settled Land Act, 1925.

##### Marginal Citations

- M1** 1925 c. 18.

- 2 Where immediately before the commencement of this Act a legal estate in land is vested in an infant jointly with one or more other persons of full age beneficially, the legal estate shall by virtue of this Act vest in that other person or those other persons on the statutory trusts, but not so as to sever any joint tenancy in the net proceeds of sale or in the rents and profits until sale:

Provided that, if by virtue of this paragraph the legal estate becomes vested in one person as trustee, then, if no other person is able and willing to do so, the parents or parent, testamentary or other guardian of the infant, if respectively able and willing to act, (in the order named) may, and at the request of any person interested shall (subject to the costs being provided for) by writing appoint an additional trustee and thereupon by virtue of this Act the legal estate shall vest in the additional trustee and existing trustee as joint tenants.

- 3 Where, immediately before the commencement of this Act, a legal estate in land is vested solely in an infant as a personal representative, or a trustee of a settlement, or on trust for sale or on any other trust, or by way of mortgage, or where immediately after the commencement of this Act a legal estate in land would by virtue of any provision of this Act or otherwise have been so vested if the infant were of full age, the legal estate and the mortgage debt (if any) and interest thereon shall, by virtue of this Act, vest in the Public Trustee, pending the appointment of trustees as hereinafter provided—

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- (a) as to the land, upon the trusts, and subject to the equities affecting the same (but in the case of a mortgage estate for a term of years absolute in accordance with this Act); and
- (b) as to the mortgage debt and interest, upon such trusts as may be requisite for giving effect to the rights (if any) of the infant or other persons beneficially interested therein:

Provided that—

- (i) 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 by or on behalf of the persons interested in the land or the income thereof, or in the mortgage debt or interest thereon (as the case may be), which request may be made on behalf of the infant by his parents or parent, or testamentary or other guardian (in the order named), and those persons may, in the order aforesaid (if no other person is able and willing to do so) appoint new trustees in the place of the Public Trustee, and thereupon by virtue of this Act the land or term and mortgage money shall vest in the trustees so appointed upon the trusts and subject to the equities aforesaid: Provided that the Public Trustee may, before he accepts the trust, but subject to the payment of his costs, convey to a person of full age who becomes entitled;
- (ii) After the Public Trustee has been so requested to act, and has accepted the trust, no trustee shall (except by an order of the court) be appointed in his place without his consent;
- (iii) Any person interested in the land or the income thereof, or in the mortgage debt or in the interest thereon (as the case may be), may, at any time during the minority, apply to the court for the appointment of trustees of the trust, and the court may make such order as it thinks fit, and if thereby new trustees are appointed the legal estate (but in the case of a mortgage estate only for a term of years absolute as aforesaid) and the mortgage debt (if any) and interest shall, by virtue of this Act, vest in the trustees as joint tenants upon the trusts and subject to the equities aforesaid;
- (iv) Neither a purchaser of the land nor a transferee for money or money's worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon;
- (v) The vesting in the Public Trustee of a legal estate or a mortgage debt by virtue of this Part of this Schedule shall not affect any directions previously given as to the payment of income or of interest on any mortgage money, but such instructions may, until he accepts the trust, continue to be acted on as if no such vesting had been effected.

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

**C1** Sch. 1, Pt. III, para. 3 proviso (iii) extended (1.7.1991) by S.I. 1991/724, art. 2(3)(b)

[<sup>F1</sup>3A The county court has jurisdiction under proviso (iii) to paragraph 3 of this Part where the land which is to be dealt with in the court does not exceed [<sup>F2</sup>£30,000] in capital value <sup>F3</sup> . . .

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#### Textual Amendments

- F1** Sch. 1 Pt. III para. 3A inserted by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 Pt. II para. 10(a)**
- F2** Words in Sch. 1, Pt. III, para. 3A substituted (1.7.1991) by S.I. 1991/724, art. 2(8), **Sch. Pt. I** (with art. 12)
- F3** Words in Sch. 1, Pt. III, para. 3A omitted (1.7.1991) by virtue of S.I. 1991/724, art. 2(8), **Sch. Pt. I** (with art. 12)

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

- C2** Sch. 1 Pt. III para. 3A modified by County Courts Act 1984 (c. 28, SIF 34), s. 24(2)(c)

4 Where, immediately before the commencement of this Act, a legal estate in land is vested in two or more persons jointly as personal representatives, trustees, or mortgagees, and anyone of them is an infant, or where immediately after the commencement of this Act a legal estate in land would, by virtue of this Act, or otherwise have been so vested if the infant were of full age, the legal estate in the land with the mortgage debt (if any) and the interest thereon shall, by virtue of this Act, vest in the other person or persons of full age—

- (a) as to the legal estate, upon the trusts and subject to the equities affecting the same (but in the case of a mortgage estate only for a term of years absolute as aforesaid); and
- (b) as to the mortgage debt and interest, upon such trusts as may be requisite for giving effect to the rights (if any) of the infant or other persons beneficially interested therein;

but neither a purchaser of the land nor a transferee for money or money's worth of the mortgage shall be concerned in any way with the trusts affecting the legal estate or the mortgage debt and interest thereon:

Provided that, if, by virtue of this paragraph, the legal estate and mortgage debt, if any, become vested in a sole trustee, then, if no other person is able and willing to do so, the parents or parent, testamentary or other guardian of the infant (in the order named) may, and at the request of any person interested shall, (subject to the costs being provided for) by writing appoint a new trustee in place of the infant, and thereupon by virtue of this Act the legal estate and mortgage money shall vest in the new and continuing trustees upon the trusts and subject to the equities aforesaid.

#### Textual Amendments

- F1** Sch. 1 Pt. III para. 3A inserted by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 Pt. II para. 10(a)**

5 This Part of this Schedule does not affect the estate or powers of an administrator durante minore ætate, nor, where there is a tenant for life or statutory owner of settled land, operate to vest the legal estate therein in the Public Trustee.]

#### Textual Amendments

- F1** Sch. 1 Pt. III para. 3A inserted by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 Pt. II para. 10(a)**

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