



Law of Property Act 1925

1925 CHAPTER 20 15 and 16 Geo 5

PART III

MORTGAGES, RENTCHARGES, AND POWERS OF ATTORNEY

Mortgages

85 Mode of mortgaging freeholds.

- (1) A mortgage of an estate in fee simple shall only be capable of being effected at law either by a demise for a term of years absolute, subject to a provision for cesser on redemption, or by a charge by deed expressed to be by way of legal mortgage:

Provided that a first mortgagee shall have the same right to the possession of documents as if his security included the fee simple.

- (2) Any purported conveyance of an estate in fee simple by way of mortgage made after the commencement of this Act shall (to the extent of the estate of the mortgagor) operate as a demise of the land to the mortgagee for a term of years absolute, without impeachment for waste, but subject to cesser on redemption, in manner following, namely:—

- (a) A first or only mortgagee shall take a term of three thousand years from the date of the mortgage:
- (b) A second or subsequent mortgagee shall take a term (commencing from the date of the mortgage) one day longer than the term vested in the first or other mortgagee whose security ranks immediately before that of such second or subsequent mortgagee:

and, in this subsection, any such purported conveyance as aforesaid includes an absolute conveyance with a deed of defeasance and any other assurance which, but for this subsection, would operate in effect to vest the fee simple in a mortgagee subject to redemption.

Changes to legislation: Law of Property Act 1925, Section 85 is up to date with all changes known to be in force on or before 14 March 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) View outstanding changes

- (3) [^{F1}Subsection (2) does not apply to registered land, but, subject to that, this section applies whether or not the land is registered land and whether or not] the mortgage is expressed to be made by way of trust for sale or otherwise.
- (4) Without prejudice to the provisions of this Act respecting legal and equitable powers, every power to mortgage or to lend money on mortgage of an estate in fee simple shall be construed as a power to mortgage the estate for a term of years absolute, without impeachment for waste, or by a charge by way of legal mortgage or to lend on such security.
- [^{F2}(5) In its application to instruments made after the coming into force of section 1 of the Law of Property (Miscellaneous Provisions) Act 1989 subsection (1) above shall have effect as if for the words “under seal, and a bond or obligation under seal,” there were substituted the words “bond or obligation executed as a deed in accordance with section 1 of the Law of Property (Miscellaneous Provisions) Act 1989”.]

Textual Amendments

- F1** Words in s. 85(3) substituted (13.10.2003) by [Land Registration Act 2002 \(c. 9\)](#), ss. 133, 136(2), [Sch. 11 para. 2\(6\)](#) (with s. 129); S.I. 2003/1725, [art. 2](#)
- F2** S. 85(5) added by [Law of Property \(Miscellaneous Provisions\) Act 1989 \(c. 34, SIF 98:1\)](#), s. 1(8), [Sch. 1](#), para. 5

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act applied by [2023 asc 3 s. 146\(5\)](#)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 52(2)(dc)(dd) inserted by [2016 c. 22 Sch. 7 para. 1\(2\)](#)