



Settled Land and Trustee Acts (Court's General Powers) Act 1943

1943 CHAPTER 25 6 and 7 Geo 6

1 Extension of powers under 15 Geo. 5 c. 18 s. 64 and c. 19 s. 57. **E+W**

- (1) The jurisdiction of the court under section sixty-four of the Settled Land Act, 1925 (which confers power on a tenant for life to effect under an order of the court any transaction, including an application of capital money), and, so far as regards [^{F1}trustees of land], the jurisdiction of the court under section fifty-seven of the Trustee Act, 1925 (under which the court may make an order conferring on trustees power to effect any transaction, including an expenditure of money, and may direct in what manner money to be expended is to be paid as between capital and income) shall include power, in the circumstances specified in subsection (2) of this section, to make an order authorising any expense of action taken or proposed in or for the management of settled land or of [^{F2}land subject to a trust of land], as the case may be, to be treated as a capital outgoing, notwithstanding that in other circumstances that expense could not properly have been so treated.
- (2) The said circumstances are that the court is satisfied—
- (a) that the action taken or proposed was or would be for the benefit of the persons entitled under the settlement, or under the [^{F3}trust of land], as the case may be, generally; and either
 - (b) that the available income from all sources of a person who, as being beneficially entitled to possession or receipt of rents and profits of the land or to reside in a house comprised therein, might otherwise have been expected to bear the expense of the action taken or proposed has been so reduced . . .
^{F4} as to render him unable to bear the expense thereof, or unable to bear it without undue hardship; or
 - (c) in a case in which there is no such person as aforesaid, that the income available for meeting that expense has become insufficient . . .^{F4}
- (3) In determining whether to make such an order as aforesaid the court shall have regard to all the circumstances of the case, including the extent of the obligations, whether legally enforceable or not and whether or not relating to the land, of the person referred to in paragraph (b) of the last preceding subsection, the extent to which other persons

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entitled under the settlement or [^{F3}trust of land] are likely to benefit from the action taken or proposed or from the relief which would accrue to that person from the making of the order, and the extent to which the making of the order would be likely to involve a loss to any other person so entitled without his receiving any corresponding benefit.

(4) Such an order as aforesaid may be made notwithstanding that the action in question was taken, or the expense thereof discharged, before the passing of this Act or before the application for the order, and the court may direct such adjustments of accounts and such repayments to be made as may appear to the court to be requisite for giving full effect to the purposes of any such order.

(5) In this section—

the expression “management” includes all the acts referred to in subsection (2) of section one hundred and two of the ^{M1}Settled Land Act, 1925, and references in this section to expense of management include references to the expense of the employment of a solicitor, accountant, surveyor, or other person in an advisory or supervisory capacity; and

..... F5

(6) F6

Extent Information

E1 This version of this provision extends to England and Wales only; a separate version has been created for Scotland and Northern Ireland only.

Textual Amendments

F1 Words in s. 1(1) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 8(a)(i)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**

F2 Words in s. 1(1) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 8(a)(ii)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**

F3 Words in s. 1(2)(3) substituted (1.1.1997) by 1996 c. 47, s. 25(1), **Sch. 3 para. 8(b)**(with ss. 24(2), 25(4)(5)); S.I. 1996/2974, **art. 2**

F4 Words repealed by **Emergency Laws (Miscellaneous Provisions) Act 1953 (c. 47), s. 9, Sch. 3**

F5 Definition repealed by **Emergency Laws (Miscellaneous Provisions) Act 1953 (c. 47), s. 9, Sch. 3**

F6 S. 1(6) repealed by **Emergency Laws (Miscellaneous Provisions) Act 1953 (c. 47), s. 9, Sch. 3**

Modifications etc. (not altering text)

C1 S. 1(5) amended (1.1.1992) by S.I. 1991/2684, **art. 2, Sch. 1** (with **art. 4**).

Marginal Citations

M1 1925 c. 18.

1 Extension of powers under 15 Geo. 5 c. 18 s. 64 and c. 19 s. 57. **S+N.I.**

(1) The jurisdiction of the court under section sixty-four of the Settled Land Act, 1925 (which confers power on a tenant for life to effect under an order of the court any transaction, including an application of capital money), and, so far as regards trustees for sale of land, the jurisdiction of the court under section fifty-seven of the Trustee Act, 1925 (under which the court may make an order conferring on trustees power to effect any transaction, including an expenditure of money, and may direct in what

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manner money to be expended is to be paid as between capital and income) shall include power, in the circumstances specified in subsection (2) of this section, to make an order authorising any expense of action taken or proposed in or for the management of settled land or of land held on trust for sale, as the case may be, to be treated as a capital outgoing, notwithstanding that in other circumstances that expense could not properly have been so treated.

- (2) The said circumstances are that the court is satisfied—
- (a) that the action taken or proposed was or would be for the benefit of the persons entitled under the settlement, or under the trust for sale, as the case may be, generally; and either
 - (b) that the available income from all sources of a person who, as being beneficially entitled to possession or receipt of rents and profits of the land or to reside in a house comprised therein, might otherwise have been expected to bear the expense of the action taken or proposed has been so reduced . . .^{F7} as to render him unable to bear the expense thereof, or unable to bear it without undue hardship; or
 - (c) in a case in which there is no such person as aforesaid, that the income available for meeting that expense has become insufficient . . .^{F7}
- (3) In determining whether to make such an order as aforesaid the court shall have regard to all the circumstances of the case, including the extent of the obligations, whether legally enforceable or not and whether or not relating to the land, of the person referred to in paragraph (b) of the last preceding subsection, the extent to which other persons entitled under the settlement or trust for sale are likely to benefit from the action taken or proposed or from the relief which would accrue to that person from the making of the order, and the extent to which the making of the order would be likely to involve a loss to any other person so entitled without his receiving any corresponding benefit.
- (4) Such an order as aforesaid may be made notwithstanding that the action in question was taken, or the expense thereof discharged, before the passing of this Act or before the application for the order, and the court may direct such adjustments of accounts and such repayments to be made as may appear to the court to be requisite for giving full effect to the purposes of any such order.
- (5) In this section—

the expression “management” includes all the acts referred to in subsection (2) of section one hundred and two of the^{M2} Settled Land Act, 1925, and references in this section to expense of management include references to the expense of the employment of a solicitor, accountant, surveyor, or other person in an advisory or supervisory capacity; and

.....^{F8}

- (6)^{F9}

Extent Information

E2 This version of this provision extends to Scotland and Northern Ireland only; a separate version has been created for England and Wales only.

Textual Amendments

F7 Words repealed by [Emergency Laws \(Miscellaneous Provisions\) Act 1953 \(c. 47\), s. 9, Sch. 3](#)

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- F8** Definition repealed by [Emergency Laws \(Miscellaneous Provisions\) Act 1953 \(c. 47\), s. 9, Sch. 3](#)
F9 [S. 1\(6\)](#) repealed by [Emergency Laws \(Miscellaneous Provisions\) Act 1953 \(c. 47\), s. 9, Sch. 3](#)

Modifications etc. (not altering text)

- C2** [S. 1\(5\)](#) amended (1.1.1992) by [S.I. 1991/2684, art. 2, Sch.1](#) (with art. 4).

Marginal Citations

- M2** [1925 c. 18.](#)

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