



# Settled Land Act 1925

## 1925 CHAPTER 18

### PART II

#### POWERS OF A TENANT FOR LIFE.

##### *Sale and Exchange.*

#### **38 Powers of sale and exchange.**

A tenant for life—

- (i) May sell the settled land, or any part thereof, or any easement, right or privilege of any kind over or in relation to the land; and
- (ii) Where the settlement comprises a manor, may sell the seignory of any freehold land within the manor, with or without any exception or reservation of all or any mines or minerals, or of any rights or powers relative to mining purposes, so as in every such case to effect an extinguishment of the manorial incidents; and
- (iii) May make an exchange of the settled land, or any part thereof, or of any easement, right, or privilege of any kind, whether or not newly created, over or in relation to the settled land, or any part thereof, for other land, or for any easement, right or privilege of any kind, whether or not newly created, over or in relation to other land, including an exchange in consideration of money paid for equality of exchange.

#### **39 Regulations respecting sales.**

- (1) Save as hereinafter provided every sale shall be made for the best consideration in money that can reasonably be obtained.
- (2) A sale may be made in consideration wholly or partially of a perpetual rent, or a terminable rent consisting of principal and interest combined, payable yearly or half yearly to be secured upon the land sold, or the land to which the easement, right or privilege sold is to be annexed in enjoyment or an adequate part thereof.

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In the case of a terminable rent, the conveyance shall distinguish the part attributable to principal and that attributable to interest, and the part attributable to principal shall be capital money arising under this Act:

Provided that, unless the part of the terminable rent attributable to interest varies according to the amount of the principal repaid, the trustees of the settlement shall, during the subsistence of the rent, accumulate the income of the said capital money in the way of compound interest by investing it and the resulting income thereof in securities authorised for the investment of capital money and shall add the accumulations to capital.

- (3) The rent to be reserved on any such sale shall be the best rent that can reasonably be obtained, regard being had to any money paid as part of the consideration, or laid out, or to be laid out, for the benefit of the settled land, and generally to the circumstances of the case, but a peppercorn rent, or a nominal or other rent less than the rent ultimately payable, may be made payable during any period not exceeding five years from the date of the conveyance.
- (4) Where a sale is made in consideration of a rent, the following provisions shall have effect:—
  - (i) The conveyance shall contain a covenant by the purchaser for payment of the rent, and a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days;
  - (ii) A duplicate of the conveyance shall be executed by the purchaser and delivered to the tenant for life or statutory owner, of which execution and delivery the execution of the conveyance by the tenant for life or statutory owner shall be sufficient evidence;
  - (iii) A statement, contained in the conveyance or in an indorsement thereon, signed by the tenant for life or statutory owner, respecting any matter of fact or of calculation under this Act in relation to the sale, shall, in favour of the purchaser and of those claiming under him, be sufficient evidence of the matter stated.
- (5) The consideration on a sale to any company incorporated by special Act of Parliament or by provisional order confirmed by Parliament or by any "other order, scheme or certificate having the force of an Act of Parliament, may, with the consent of the tenant for life, consist, wholly or in part, of fully-paid securities of any description of the company, and such securities shall be vested in the trustees of the settlement and shall be subject to the provisions of this Act relating to securities representing capital money arising under this Act, and may be retained and held by the trustees in like manner as if they had been authorised by this Act for the investment of capital money.
- (6) A sale may be made in one lot or in several lots, and either by auction or by private contract, and may be made subject to any stipulations respecting title, or evidence of title, or other things.
- (7) On a sale the tenant for life may fix reserve biddings and may buy in at an auction.

#### **40 Regulations respecting exchanges.**

- (1) Save as in this Part of this Act provided, every exchange shall be made for the best consideration in land or in land and money that can reasonably be obtained.

- (2) An exchange may be made subject to any stipulations respecting title, or evidence of title, or other things.
- (3) Settled land in England or Wales shall not be given in exchange for land out of England and Wales.

*Leasing Powers.*

**41 Power to lease for ordinary or building or mining or forestry purposes.**

A tenant for life may lease the settled land, or any part thereof, or any easement, right, or privilege of any kind over or in relation to the land, for any purpose whatever, whether involving waste or not, for any term not exceeding—

- (i) In case of a building lease, nine hundred and ninety-nine years;
- (ii) In case of a mining lease, one hundred years;
- (iii) In case of a forestry lease, nine hundred and ninety-nine years;
- (iv) In case of any other lease, fifty years.

**42 Regulations respecting leases generally.**

- (1) Save as hereinafter provided every lease—
  - (i) shall be by deed, and be made to take effect in possession not later than twelve months after its date, or in reversion after an existing lease having not more than seven years to run at the date of the new lease;
  - (ii) shall reserve the best rent that can reasonably be obtained, regard being had to any fine taken, and to any money laid out or to be laid out for the benefit of the settled land, and generally to the circumstances of the case;
  - (iii) shall contain a covenant by the lessee for payment of the rent, and a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days.
- (2) A counterpart of every lease shall be executed by the lessee and delivered to the tenant for life or statutory owner, of which execution and delivery the execution of the lease by the tenant for life or statutory owner shall be sufficient evidence.
- (3) A statement, contained in a lease or in an indorsement thereon, signed by the tenant for life or statutory owner, respecting any matter of fact or of calculation under this Act in relation to the lease, shall, in favour of the lessee and of those claiming under him, be sufficient evidence of the matter stated.
- (4) A fine received on the grant of a lease under any power conferred by this Act shall be deemed to be capital money arising under this Act.
- (5) A lease at the best rent that can be reasonably obtained without fine, and whereby the lessee is not exempted from punishment for waste, may be made—
  - (i) Where the term does not exceed twenty-one years—
    - (a) without any notice of an intention to make the lease having been given under this Act; and
    - (b) notwithstanding that there are no trustees of the settlement; and

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- (ii) Where the term does not extend beyond three years from the date of the writing, by any writing under hand only containing an agreement instead of a covenant by the lessee for payment of rent.

#### **43 Leasing powers for special objects.**

The leasing power of a tenant for life extends to the making of—

- (i) a lease for giving effect (in such manner and so far as the law permits) to a covenant of renewal, performance whereof could be enforced against the owner for the time being of the settled land; and
- (ii) a lease for confirming, as far as may be, a previous lease being void or voidable, but so that every lease, as and when confirmed, shall be such a lease as might at the date of the original lease have been lawfully granted under this Act or otherwise, as the case may require.

*Provisions as to building, mining and forestry leases.*

#### **44 Regulations respecting building leases.**

- (1) Every building lease shall be made partly in consideration of the lessee, or some person by whose direction the lease is granted, or some other person, having erected or agreeing to erect buildings, new or additional, or having improved or repaired or agreeing to improve or repair buildings, or having executed or agreeing to execute on the land leased, an improvement authorised by this Act for or in connexion with building; purposes.
- (2) A peppercorn rent or a nominal or other rent less than the rent ultimately payable, may be made payable for the first five years or any less part of the term.
- (3) Where the land is contracted to be leased in lots, the entire amount of rent to be ultimately payable may be apportioned among the lots in any manner:

Provided that—

- (i) the annual rent reserved by any lease shall not be less than ten shillings; and
- (ii) the total amount of the rents reserved on all leases for the time being granted shall not be less than the total amount of the rents which in order that the leases may be in conformity with this Act, ought to be reserved in respect of the whole land for the time being leased; and
- (iii) the rent reserved by any lease shall not exceed one-fifth part of the full annual value of the land comprised in that lease with the buildings thereon when completed.

#### **45 Regulations respecting mining leases.**

- (1) In a mining lease—
  - (i) the rent may be made to be ascertainable by or to vary according to the acreage worked, or by or according to the quantities of any mineral or substance gotten, made merchantable, converted, carried away, or disposed of in or from the settled land, or any other land, or by or according to any facilities given in that behalf; and

- (ii) the rent may also be made to vary according to the price of the minerals or substances gotten, or any of them, and such price may be the saleable value, or the price or value appearing in any trade or market or other price list or return from time to time, or may be the marketable value as ascertained in any manner prescribed by the lease (including a reference to arbitration), or may be an average of any such prices or values taken during a specified period; and
  - (iii) a fixed or minimum rent may be made payable, with or without power for the lessee, in case the rent, according to acreage or quantity or otherwise, in any specified period does not produce an amount equal to the fixed or minimum rent, to make up the deficiency in any subsequent specified period, free of rent other than the fixed or minimum rent.
- (2) A lease may be made partly in consideration of the lessee having executed, or agreeing to execute, on the land leased an improvement authorised by this Act, for or in connexion with mining purposes.

#### **46 Variation of building or mining lease according to circumstances of district.**

- (1) Where it is shown to the court with respect to the district in which any settled land is situate, either—
- (i) that it is the custom for land therein to be leased for building or mining purposes for a longer term or on other conditions than the term or conditions specified in that behalf in this Act; or
  - (ii) that it is difficult to make leases for building or mining purposes of land therein, except for a longer term or on other conditions than the term and conditions specified in that behalf in this Act;
- the court may, if it thinks fit, authorise generally the tenant for life or statutory owner to make from time to time leases of or affecting the settled land in that district, or parts thereof for any term or on any conditions as in the order of the court expressed, or may, if it thinks fit, authorise the tenant for life or statutory owner to make any such lease in any particular case.
- (2) Thereupon the tenant for life or statutory owner, and, subject to any direction in the order of the court to the contrary, each of his successors in title being a tenant for life or statutory owner, may make in any case, or in the particular case, a lease of the settled land, or part thereof, in conformity with the order.

#### **47 Capitalisation of part of mining rent.**

Under a mining lease, whether the mines or minerals leased are already opened or in work or not, unless a contrary intention is expressed in the settlement, there shall be from time to time set aside, as capital money arising under this Act, part of the rent as follows, namely—where the tenant for life or statutory owner is impeachable for waste in respect of minerals, three fourth parts of the rent, and otherwise one fourth part thereof, and in every such case the residue of the rent shall go as rents and profits.

#### **48 Regulations respecting forestry leases.**

- (1) In the case of a forestry lease—
- (i) a peppercorn rent or a nominal or other rent less than the rent ultimately payable, may be made payable for the first ten years or any less part of the term;

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- (ii) the rent may be made to be ascertainable by, or to vary according to the value of the timber on the land comprised in the lease, or the produce thereof, which may during any year be cut, converted, carried away, or otherwise disposed of;
  - (iii) a fixed or minimum rent may be made payable, with or without power for the lessee, in case the rent according to value in any specified period does not produce an amount equal to the fixed or minimum rent, to make up the deficiency in any subsequent specified period, free of rent other than the fixed or minimum rent; and
  - (iv) any other provisions may be made for the sharing of the proceeds or profits of the user of the land between the reversioner and the Forestry Commissioners.
- (2) In this section the expression " timber " includes all forest products.

*Miscellaneous Powers.*

**49 Power on dispositions to impose restrictions and make reservations and stipulations.**

- (1) On a sale or other disposition or dealing under the powers of this Act—
- (a) any easement, right, or privilege of any kind may be reserved or granted over or in relation to the settled land or any part thereof or other land, including the land disposed of, and, in the case of an exchange, the land taken in exchange; and
  - (b) any restriction with respect to building on or other user of land, or with respect to mines and minerals, or with respect to or for the purpose of the more beneficial working thereof, or with respect to any other thing, may be imposed and made binding, as far as the law permits, by covenant, condition or otherwise, on the tenant for life or statutory owner and the settled land or any part thereof, or on the other party and any land disposed of to him; and
  - (c) the whole or any part of any capital or annual sum (and in the case of an annual sum whether temporary or perpetual) charged on or payable out of the land disposed of, or any part thereof, and other land subject to the settlement, may as between the tenant for life or statutory owner and his successors in title, and the other party and persons deriving title under or in succession to him (but without prejudice to the rights of the person entitled to such capital or annual sum) be charged exclusively on the land disposed of, or any part thereof, or such other land as aforesaid, or any part thereof, in exoneration of the rest of the land on or out of which such capital or annual sum is charged or payable.
- (2) A sale of land may be made subject to a stipulation that all or any of the timber and other trees, pollards, tellers, underwood, saplings and plantations on the land sold (in this section referred to as " timber ") or any articles attached to the land (in this section referred to as " fixtures ") shall be taken by the purchaser at a valuation, and the amount of the valuation shall form part of the price of the land, and shall be capital money accordingly.
- (3) Where on a sale the consideration attributable to any timber or fixtures is by mistake paid to a tenant for life or other person not entitled to receive it, then, if such person or the purchaser or the persons deriving title under either of them subsequently pay the aforesaid consideration, with such interest, if any, thereon as the court may direct, to the trustees of the settlement or other persons entitled thereto or into court, the court may, on the application of the purchaser or the persons deriving title under him,

declare that the disposition is to take effect as if the whole of the consideration had at the date thereof been duly paid to the trustees of the settlement or other persons entitled to receive the same.

The person, not entitled to receive the same, to whom the consideration is paid, and his estate and effects shall remain liable to make good any loss attributable to the mistake.

**50 Separate dealing with surface and minerals, with or without wayleaves, &c.**

A sale, exchange, lease or other authorised disposition, may be made either of land, with or without an exception or reservation of all or any of the mines and minerals therein, or of any mines and minerals, and in any such case with or without a grant or reservation of powers of working, wayleaves or rights of way, rights of water and drainage, and other powers, easements, rights, and privileges for or incident to or connected with mining purposes, in relation to the settled land, or any part thereof, or any other land.

**51 Power to grant options.**

- (1) A tenant for life may at any time, either with or without consideration, grant by writing an option to purchase or take a lease of the settled land, or any part thereof, or any easement, right, or privilege over or in relation to the same at a price or rent fixed at the time of the granting of the option.
- (2) Every such option shall be made exercisable within an agreed number of years not exceeding ten.
- (3) The price or rent shall be the best which, having regard to all the circumstances, can reasonably be obtained and either—
  - (a) may be a specified sum of money or rent, or at a specified rate according to the superficial area of the land with respect to which the option is exercised, or the frontage thereof or otherwise; or
  - (b) in the case of an option to purchase contained in a lease or agreement for a lease, may be a stated number of years' purchase of the highest rent reserved by the lease or agreement; or
  - (c) if the option is exercisable as regards part of the land comprised in the lease or agreement, may be a proportionate part of such highest rent;and any aggregate price or rent may be made to be apportionable in any manner, or according to any system, or by reference to arbitration.
- (4) An option to take a mining lease may be coupled with the grant of a licence to search for and prove any mines or minerals under the settled land, or any part thereof, pending the exercise of the option.
- (5) The consideration for the grant of the option shall be capital money arising under this Act.

**52 Surrenders and re-grants.**

- (1) A tenant for life may accept, with or without consideration, a surrender of any lease of settled land, whether made under this Act or not, or a regrant of any land granted in fee simple, whether under this Act or not, in respect of the whole land leased or granted, or any part thereof, with or without an exception of all or any of the mines

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and minerals therein, or in respect of mines and minerals, or any of them, and with or without an exception of any easement, right or privilege of any kind over or in relation to the land surrendered or regranted.

- (2) On a surrender of a lease, or a regrant of land granted in fee simple, in respect of part only of the land or mines and minerals leased or granted, the rent or rentcharge may be apportioned.
- (3) On a surrender or regrant, the tenant for life may in relation to the land or mines and minerals surrendered or regranted, or of any part thereof, make a new or other lease, or grant in fee simple, or new or other leases, or grants in fee simple, in lots.
- (4) A new or other lease, or grant in fee simple, may comprise additional land or mines and minerals, and may reserve any apportioned or other rent or rentcharge.
- (5) On a surrender or regrant, and the making of a new or other lease, whether for the same or for any extended or other term, or of a new or other grant in fee simple, and whether or not subject to the same or to any other covenants, provisions, or conditions, the value of the lessee's or grantee's interest in the lease surrendered, or the land regranted, may be taken into account in the determination of the amount of the rent or rentcharge to be reserved, and of any fine or consideration in money to be taken, and of the nature of the covenants, provisions, and conditions to be inserted in the new or other lease, or grant in fee simple.
- (6) Every new or other lease, or grant in fee simple, shall be in conformity with this Act.
- (7) All money, not being rent or a rentcharge, received on the exercise by the tenant for life of the powers conferred by this section, shall, unless the court, on an application made within six months after the receipt thereof or within such further time as the court may in special circumstances allow, otherwise directs, be capital money arising under this Act.
- (8) A regrant shall be made to the tenant for life or statutory owner, and shall be deemed a subsidiary vesting deed, and the statements and particulars required in the case of subsidiary vesting deeds shall be inserted therein.
- (9) In this section " land granted in fee simple " means land so granted with or subject to a reservation thereof of a perpetual or terminable rentcharge which is or forms part of the settled land, and " grant in fee simple " has a corresponding meaning.

### **53 Acceptance of leases.**

- (1) A tenant for life may accept a lease of any land, or of any mines and minerals or of any easement, right, or privilege, convenient to be held or worked with or annexed in enjoyment to the settled land, or any part thereof, for such period, and upon such terms and conditions, as the tenant for life thinks fit:

Provided that no fine shall be paid out of capital money in respect of such lease.

- (2) The lease shall be granted to the tenant for life or statutory owner, and shall be deemed a subsidiary vesting deed, and the statements and particulars required in the case of subsidiary vesting deeds shall either be inserted therein or endorsed thereon.
- (3) The lease may contain an option to purchase the reversion expectant on the term thereby granted.



#### **54 Power to grant water rights to statutory bodies.**

- (1) For the development, improvement, or general benefit of the settled land, or any part thereof, a tenant for life may make a grant in fee simple or absolutely, or a lease for any term of years absolute, for a nominal price or rent, or for less than the best price or rent that can reasonably be obtained, or gratuitously, to any statutory authority, of any water or streams or springs of water in, upon, or under the settled land, and of any rights of taking, using, enjoying and conveying water, and of laying, constructing, maintaining, and repairing mains, pipes, reservoirs, dams, weirs and other works of any kind proper for the supply and distribution of water, and of any part of the settled land required as a site for any of the aforesaid works, and of any easement, right or privilege over or in relation to the settled land or any part thereof in connexion with any of the aforesaid works.
- (2) This section does not authorise the creation of any greater rights than could have been created by a person absolutely entitled for his own benefit to the settled land affected.
- (3) In this section " statutory authority " means an authority or company for the time being empowered by any Act of Parliament, public general, or local or private, or by any order or certificate having the force of an Act of Parliament, to provide with a supply of water any town, parish or place in which the settled land or any part thereof is situated.
- (4) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

#### **55 Power to grant land for public and charitable purposes.**

- (1) For the development, improvement, or general benefit of the settled land, or any part thereof, a tenant for life may make a grant in fee simple, or absolutely, or a lease for any term of years absolute, for a nominal price or rent, or for less than the best price or rent that can reasonably be obtained, or gratuitously, of any part of the settled land, with or without any easement, right or privilege over or in relation to the settled land or any part thereof, for all or any one or more of the following purposes, namely :—
  - (i) For the site, or the extension of any existing site, of a place of religious worship, residence for a minister of religion, school house, town hall, market house, public library, public baths, museum, hospital, infirmary, or other public building, literary or scientific institution, drill hall, working-men's club, parish room, reading room or village institute, with or without in any case any yard, garden, or other ground to be held with any such building; or
  - (ii) For the construction, enlargement, or improvement of any railway, canal, road (public or private), dock, sea-wall, embankment, drain, watercourse, or reservoir; or
  - (iii) For any other public or charitable purpose in connexion with the settled land, or any part thereof, or tending to the benefit of the persons residing, or for whom dwellings may be erected, on the settled land, or any part thereof.

Not more than one acre shall in any particular case be conveyed for any purpose mentioned in paragraphs (i) and (iii) of this subsection, nor more than five acres for any purpose mentioned in paragraph (ii) of this subsection, unless the full consideration be paid or reserved in respect of the excess.

- (2) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

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## **56 Dedication for streets, open spaces, &c.**

- (1) On or after or in connexion with a sale or grant for building purposes, or a building lease, or the development as a building estate of the settled land, or any part thereof, or at any other reasonable time, the tenant for life, for the general benefit of the residents or" the settled land, or on any part thereof—
- (i) may cause or require any parts of the settled land to be appropriated and laid out for streets, roads, paths, squares, gardens, or other open spaces, for the use, gratuitously or on payment, of the public or of individuals, with sewers, drains, watercourses, fencing, paving, or other works necessary or proper in connexion therewith; and
  - (ii) may provide that the parts so appropriated shall be conveyed to or vested in the trustees of the settlement, or other trustees, or any company or public body, on trusts or subject to provisions for securing the continued appropriation thereof to the purposes aforesaid, and the continued repair or maintenance of streets and other places and works aforesaid, with or without provision for appointment of new trustees when required; and
  - (iii) may execute any general or other deed necessary or proper for giving effect to the provisions of this section (which deed may be inrolled in the Central Office of the Supreme Court), and thereby declare the mode, terms, and conditions of the appropriation, and the manner in which and the persons by whom the benefit thereof is to be enjoyed, and the nature and extent of the privileges and conveniences granted.
- (2) In regard to the dedication of land for the public purposes aforesaid, a tenant for life shall be in the same position as if he were an absolute owner.
- (3) A tenant for life shall have power—
- (a) to enter into any agreement for the recompense to be made for any part of the settled land which is required for the widening of a highway under section eighty-two of the Highway Act, 1835, or otherwise;
  - (b) to consent to the diversion of any highway over the settled land under section eighty-five of that Act, or otherwise; and
  - (c) to consent to any such road as is mentioned in section thirty-six of the Highway Act, 1862, being declared a public highway;
- and any agreement or consent so made or given shall be as valid and effectual, for all purposes, as if made or given by an absolute owner of the settled land.
- (4) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

## **57 Provision of land for small dwellings, small holdings and dwellings for working classes.**

- (1) Where land is sold, or given in exchange or leased—
- (a) for the purpose of the erection on such land of small dwellings; or
  - (b) to the council of a county or county borough for the purposes of small holdings;
- the sale, exchange, or lease may, notwithstanding anything contained in this Act, be made for such consideration in money, or land, or in land and money, or may reserve such rent, as having regard to the said purposes and to all the circumstances of the case, is the best that can reasonably be obtained, notwithstanding that a better consideration

or rent might have been obtained if the land were sold, exchanged, or leased, for another purpose.

(2) Notwithstanding anything contained in, and in addition to the other powers conferred by this Act, a tenant for life may at any time—

(a) for the purpose of the erection of dwellings for the working classes, or the provision of gardens to be held therewith; or

(b) for the purpose of the Small Holdings and Allotments Acts, 1908 to 1919;

make a grant in fee simple or absolutely, or a lease for any term of years absolute of any part of the settled land, with or without any easement, right or privilege of any kind over or in relation to the settled land or any part thereof, for a nominal price or rent, or for less than the best price or rent that can reasonably be obtained or gratuitously:

Provided that, except under an order of the court, not more than two acres in the case of land situate in an urban district, or ten acres in the case of land situate in a rural district, in any one parish shall be granted or leased under the powers conferred by this subsection, unless the full consideration be paid or reserved in respect of the excess.

(3) All money, not being rent, received on the exercise of any power conferred by this section shall be capital money arising under this Act.

## **58 Power to compromise claims and release restrictions, &c.**

(1) A tenant for life may, with the consent in writing of the trustees of the settlement, either with or without giving or taking any consideration in money or otherwise, compromise, compound, abandon, submit to arbitration, or otherwise settle any claim, dispute, or question whatsoever relating to the settled land, or any part thereof, including in particular claims, disputes or questions as to boundaries, the ownership of mines and minerals, rights and powers of working mines and minerals, local laws and customs relative to the working of mines and minerals and other matters, manorial incidents, easements, and restrictive covenants, and for any of those purposes may enter into, give, execute, and do such agreements, assurances, releases, and other things as the tenant for life may, with such consent as aforesaid, think proper.

(2) A tenant for life may, with the consent in writing of the trustees of the settlement, at any time, by deed or writing, either with or without consideration in money or otherwise, release, waive, or modify, or agree to release, waive, or modify, any covenant, agreement, or restriction imposed on any other land for the benefit of the settled land, or any part thereof, or release, or agree to release, any other land from any easement, right or privilege, including a right of pre-emption, affecting the same for the benefit of the settled land, or any part thereof.

(3) A tenant for life may contract that a transaction effected before or after the commencement of this Act, which (whether subject or not to any variation authorised by this subsection) is affected by section seventy-eight of the Railway Clauses Consolidation Act, 1845, or by section twenty-two of the Waterworks Clauses Act, 1847 (relating to support by minerals) shall take effect as if some other distance than forty yards or the prescribed distance had been mentioned in such sections or had been otherwise prescribed.

In any case where section seventy-eight aforesaid has effect as amended and re-enacted by Part II. of the Mines (Working Facilities and Support) Act, 1923, a tenant for life may make any agreement authorised by section eighty-five a of the Railway Clauses Consolidation Act, 1845, as enacted in the said Part II.

## **59 Power to vary leases and grants, and to give licences and consents.**

- (1) A tenant for life may, at any time, by deed, either with or without consideration in money or otherwise, vary, release, waive or modify, either absolutely or otherwise, the terms of any lease whenever made of the settled land or any part thereof, or any covenants or conditions contained in any grant in fee simple whenever made of land with or subject to a reservation thereof of a rent which is or forms part of the settled land, and in either case in respect of the whole or any part of the land comprised in any such lease or grant, but so that every such lease or grant shall, after such variation, release, waiver or modification as aforesaid, be such a lease or grant as might then have been lawfully made under this Act if the lease had been surrendered, or the land comprised in the grant had never been so comprised, or had been regranted.
- (2) Where land is or has been disposed of subject to any covenant requiring the licence, consent, or approval of the covenantee or his successors in title as to—
  - (a) the user of the land in any manner; or
  - (b) the erection construction or alteration of or addition to buildings or works of any description on the land; or
  - (c) the plans or elevations of any proposed buildings or other works on the land; or
  - (d) any other act, matter, or thing relating to the land, or any buildings or works thereon; or
  - (e) any assignment, under-letting or parting with the possession of all or any part of the property comprised in any lease affecting the settled land;

and the covenant enures for the benefit of settled land (including, where the disposition is a lease, the reversion expectant on the determination thereof), the licence, consent or approval may be given by the tenant for life of the settled land affected.

## **60 Power to apportion rents.**

- (1) A tenant for life may, at any time, by deed, either with or without consideration in money or otherwise, agree for the apportionment of any rent reserved or created by any such lease or grant as mentioned in the last preceding section, or any rent being or forming part of the settled land, so that the apportioned parts of such rent shall thenceforth be payable exclusively out of or in respect of such respective portions of the land subject thereto as may be thought proper, and, also agree that any covenants, agreements, powers, or remedies for securing such rent and any other covenants or agreements by the lessee or grantee and any conditions shall also be apportioned and made applicable exclusively to the respective portions of the land out of or in respect of which the apportioned parts of such rent shall thenceforth be payable.
- (2) Where the settled land, or any part thereof, is held or derived under a lease, or under a grant reserving rent, or subject to covenants, agreements or conditions, whether such lease or grant comprises other land or not, the tenant for life may at any time by deed, with or without giving or taking any consideration in money or otherwise, procure the variation, release, waiver, or modification, either absolutely or otherwise, of the terms, covenants, agreements, or conditions contained in such lease or grant, in respect of the whole or any part of the settled land comprised therein, including the apportionment of any rent, covenants, agreements, conditions, and provisions reserved, or created by, or contained in, such lease or grant.
- (3) This section applies to leases or grants made either before or after the commencement of this Act.

## **61 Provisions as to consideration.**

- (1) All money, not being rent, payable by the tenant for life in respect of any transaction to which any of the three last preceding sections relates shall be paid out of capital money arising under this Act, and all money, not being rent, received on the exercise by the tenant for life of the powers conferred by any of those sections, shall, unless the court, on an application made within six months after the receipt thereof or within such further time as the court may in special circumstances allow, otherwise directs, be capital money arising under this Act.
- (2) For the purpose of the three last preceding sections " consideration in money or otherwise " means—
  - (a) a capital sum of money or a rent;
  - (b) land being freehold or leasehold for any term of years whereof not less than sixty years shall be unexpired;
  - (c) any easement, right or privilege over or in relation to the settled land, or any part thereof, or any other land;
  - (d) the benefit of any restrictive covenant or condition; and
  - (e) the release of the settled land, or any part thereof, or any other land, from any easement, right or privilege, including a right of preemption, or from the burden of any restrictive covenant or condition affecting the same.

## **62 Special provisions as to manorial incidents, &c.**

- (1) Where rights to manorial incidents are comprised in a settlement the tenant for life may, as respects any fines payable in respect of an alienation in lieu of a fine payable for a licence authorising the alienation, agree the amount of the fine if it is not fixed by the custom of the manor.
- (2) Any gross sum or an instalment thereof (attributable to capital) received in respect of the extinguishment of manorial incidents shall be capital money arising under this Act.
- (3) Where a manor, manorial incident or enfranchised land is comprised in a settlement, the tenant for life under the settlement, shall have the powers conferred by Part VI of the Law of Property Act, 1922, on the lord or the tenant (as the case may be) in reference to a compensation agreement and matters incidental thereto.

In this subsection " enfranchised land " " lord " and " tenant " have the same meanings as in the Law of Property Act, 1922.

- (4) In reference to the conversion of a perpetually renewable lease or underlease into a long term, a tenant for life may enter into such agreements and do such acts and things as the lessor or lessee or underlessee, as the case may require, is, by any enactment authorised to enter into or do.

## **63 Power to complete predecessor's contracts.**

A tenant for life may make any disposition which is necessary or proper for giving effect to a contract entered into by a predecessor in title, and which if made by that predecessor would have been valid as against his successors in title.

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

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**64 General power for the tenant for life to effect any transaction under an order of the court.**

- (1) Any transaction affecting or concerning the settled land, or any part thereof, or any other land (not being a transaction otherwise authorised by this Act, or by the settlement) which in the opinion of the court—would be for the benefit of the settled land, or any part thereof, or the persons interested under the settlement, may, under an order of the court, be effected by a tenant for life, if it is one which could have been validly effected by an absolute owner.
- (2) In this section " transaction " includes any sale, extinguishment of manorial incidents, exchange, assurance, grant, lease, surrender, reconveyance, release, reservation, or other disposition, and any purchase or other acquisition, and any covenant, contract, or option, and any application of capital money (except as hereinafter mentioned), and any compromise or other dealing, or arrangement; but does not include an application of capital money in payment for any improvement not authorised by this Act, or by the settlement; and " effected " has the meaning appropriate to the particular transaction; and the references to land include references to restrictions and burdens affecting land.

*Provisions as to special classes of property.*

**65 Power to dispose of mansion.**

- (1) The powers of disposing of settled land conferred by this Act on a tenant for life may be exercised as respects the principal mansion house, if any, on any settled land, and the pleasure grounds and park and lands, if any, usually occupied therewith :

Provided that those powers shall not be exercised without the consent of the trustees of the settlement or an order of the court—

- (a) if the settlement is a settlement made or coming into operation before the commencement of this Act and the settlement does not expressly provide to the contrary; or
  - (b) if the settlement is a settlement made or coming into operation after the commencement of this Act and the settlement expressly provides that these powers or any of them shall not be exercised without such consent or order.
- (2) Where a house is usually occupied as a farmhouse, or where the site of any house and the pleasure grounds and park and lands, if any, usually occupied therewith do not together exceed twenty-five acres in extent, the house is not to be deemed a principal mansion house within the meaning of this section, and may accordingly be disposed of in like manner as any other part of the settled land.

**66 Cutting and sale of timber and capitalisation of part of proceeds.**

- (1) Where a tenant for life is impeachable for waste in respect of timber, and there is on the settled land timber ripe and fit for cutting, the tenant for life, on obtaining the consent of the trustees of the settlement or an order of the court, may cut and sell that timber, or any part thereof.
- (2) Three fourth parts of the net proceeds of the sale shall be set aside as and be capital money arising under this Act, and the other fourth part shall go as rents and profits.

**67 Sale and purchase of heirlooms under order of court.**

- (1) Where personal chattels are settled so as to devolve with settled land, or to devolve therewith as nearly as may be in accordance with the law or practice in force at the date of the settlement, or are settled together with land, or upon trusts declared by reference to the trusts affecting land, a tenant for life of the land may sell the chattels or any of them.
- (2) The money arising by the sale shall be capital money arising under this Act, and shall be paid, invested, or applied and otherwise dealt with in like manner in all respects as by this Act directed with respect to other capital money arising under this Act, or may be invested in the purchase of other chattels of the same or any other nature, which, when purchased, shall be settled and held on the same trusts, and shall devolve in the same manner as the chattels sold.
- (3) A sale or purchase of chattels under this section shall not be made without an order of the court.
- (4) Any reference in any enactment to personal chattels settled as heirlooms shall extend to any chattels to which this section applies.

*Dealings as between tenants for life and the estate.*

**68 Provision enabling dealings with tenant for life.**

- (1) In the manner mentioned and subject to the provisions contained in this section—
  - (a) a sale, grant, lease, mortgage, charge or other disposition of settled land, or of any easement, right, or privilege over the same may be made to the tenant for life; or
  - (b) capital money may be advanced on mortgage to him; or
  - (c) a purchase may be made from him of land to be made subject to the limitations of the settlement; or
  - (d) an exchange may be made with him of settled land for other land; and
  - (e) any such disposition, advance, purchase, or exchange as aforesaid may be made to, from, or with any persons of whom the tenant for life is one.
- (2) In every such case the trustees of the settlement shall, in addition to their powers as trustees, have all the powers of a tenant for life in reference to negotiating and completing the transaction, and shall have power to enforce any covenants by the tenant for life, or, where the tenant for life is himself one of the trustees, then the other or others of them shall have such power, and the said powers of a tenant for life may be exercised by the trustees of the settlement in the name and on behalf of the tenant for life.
- (3) This section applies, notwithstanding that the tenant for life is one of the trustees of the settlement, or that an order has been made authorising the trustees to act on his behalf, or that he is a lunatic, or a defective, but does not apply to dealings with any body of persons which includes a trustee of the settlement, not being the tenant for life, unless the transaction is either previously or subsequently approved by the court.

*Incumbrances.***69 Shifting of incumbrances.**

Where there is an incumbrance affecting any part of the settled land (whether capable of being overreached on the exercise by the tenant for life of his powers under this Act or not), the tenant for life, with the consent of the incumbrancer, may charge that incumbrance on any other part of the settled land, or on all or any part of the capital money or securities representing capital money subject or to become subject to the settlement, whether already charged therewith or not, in exoneration of the first mentioned part, and, by a legal mortgage, or otherwise, make provision accordingly.

**70 Power to vary provisions of an incumbrance and to charge by way of additional security.**

- (1) Where an incumbrance affects any part of the settled land, the tenant for life may, with the consent of the incumbrancer, vary the rate of interest charged and any of the other provisions of the instrument, if any, creating the incumbrance, and with the like consent charge that incumbrance on any part of the settled land, whether already charged therewith or not, or on all or any part of the capital money or securities representing capital money subject or to become subject to the settlement, by way of additional security, or of consolidation of securities, and by a legal mortgage or otherwise, make provision accordingly.
- (2) " Incumbrance" in this section includes any annual sum payable during a life or lives or during a term of years absolute or determinable, but in any such case an additional security shall be effected so as only to create a charge or security similar to the original charge or security.

*Raising of Money.***71 Power to raise money by mortgage.**

- (1) Where money is required for any of the following purposes namely:—
  - (i) Discharging an incumbrance on the settled land or part thereof;
  - (ii) Paying for any improvement authorised by this Act or by the settlement;
  - (iii) Equality of exchange;
  - (iv) Extinguishing any manorial incidents;
  - (v) Compensating the steward on the extinguishment of manorial incidents and discharging the expenses incurred in connexion with the extinguishment;
  - (vi) Redeeming a compensation rentcharge in respect of the extinguishment of manorial incidents and affecting the settled land;
  - (vii) Commuting any additional rent made payable on the conversion of a perpetually renewable leasehold interest into a long term;
  - (viii) Satisfying any claims for compensation on the conversion of a perpetually renewable leasehold interest into a long term by any officer, solicitor, or other agent of the lessor in respect of fees or remuneration which would have been payable by the lessee or under-lessee on any renewal;
  - (ix) Payment of the costs of any transaction authorised by this section or either of the two last preceding sections;



the tenant for life may raise the money so required, on the security of the settled land, or of any part thereof, by a legal mortgage, and the money so raised shall be capital money for that purpose, and may be paid or applied accordingly.

- (2) "Incumbrance" in this section does not include any annual sum payable only during a life or lives or during a term of years absolute or determinable.
- (3) The restrictions imposed by this Part of this Act on the leasing powers of a tenant for life do not apply in relation to a mortgage term created under this Act.

### *Conveyance.*

## **72 Completion of transactions by conveyance.**

- (1) On a sale, exchange, lease, mortgage, charge, or other disposition, the tenant for life may, as regards land sold, given in exchange, leased, mortgaged, charged, or otherwise disposed of, or intended so to be, or as regards easements or other rights or privileges sold, given in exchange, leased, mortgaged, or otherwise disposed of, or intended so to be, effect the transaction by deed to the extent of the estate or interest vested or declared to be vested in him by the last or only vesting instrument affecting the settled land or any less estate or interest, in the manner requisite for giving effect to the sale, exchange, lease, mortgage, charge, or other disposition, but so that a mortgage shall be effected by the creation of a term of years absolute in the settled land or by charge by way of legal mortgage, and not otherwise.
- (2) Such a deed, to the extent and in the manner to and in which it is expressed or intended to operate" and can operate under this Act, is effectual to pass the land conveyed, or the easements, rights, privileges or other interests created, discharged from all the limitations, powers, and provisions of the settlement, and from all estates, interests, and charges subsisting or to arise thereunder, but subject to and with the exception of—
  - (i) all legal estates and charges by way of legal mortgage having priority to the settlement; and
  - (ii) all legal estates and charges by way of legal mortgage which have been conveyed or created for securing money actually raised at the date of the deed; and
  - (iii) all leases and grants at fee-farm rents or otherwise, and all grants of easements, rights of common, or other rights or privileges which—
    - (a) were before the date of the deed granted or made for value in money or money's worth, or agreed so to be, by the tenant for life or statutory owner, or by any of his predecessors in title, or any trustees for them, under the settlement, or under any statutory power, or are at that date otherwise binding on the successors in title of the tenant for life or statutory owner; and
    - (b) are at the date of the deed protected by registration under the Land Charges Act, 1925. if capable of registration thereunder.
- (3) Notwithstanding registration under the Land Charges Act, 1925, of—
  - (a) an annuity within the meaning of Part II. of that Act;
  - (b) a limited owner's charge or a general equitable charge within the meaning of that Act;a disposition under this Act operates to overreach such annuity or charge which shall, according to its priority, take effect as if limited by the settlement.

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- (4) Where a lease is by this Act authorised to be made by writing under hand only, such writing shall have the same operation under this section as if it had been a deed.