



# Settled Land Act 1925

1925 CHAPTER 18 15 and 16 Geo 5

## PART III

### INVESTMENT OR OTHER APPLICATION OF CAPITAL MONEY

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

- C1** Pt. III applied with modifications by [Chequers Estate Act 1917 \(c. 55\)](#), **Sch.** clause 6A now inserted by [Chequers Estate Act 1958 \(c. 60\)](#), s. 1, **Sch. para. 7**; saved by [Trafalgar Estate Act 1947 \(c. 34\)](#), s. 2(3)

#### 73 Modes of investment or application.

(1) Capital money arising under this Act, subject to payment of claims properly payable thereout and to the application thereof for any special authorised object for which the capital money was raised, shall, when received, be invested or otherwise applied wholly in one, or partly in one and partly in another or others, of the following modes (namely):—

- [<sup>F1</sup>(i) In investment in Government securities either under the general power of investment in section 3 of the Trustee Act 2000 or under a power to invest conferred on the trustees of the settlement by the settlement;]
- (ii) In discharge, purchase, or redemption of incumbrances affecting the whole estate the subject of the settlement, or of . . . <sup>F2</sup>, rentcharge in lieu of tithe, Crown rent, chief rent, or quit rent, charged on or payable out of the settled land, or of any charge in respect of an improvement created on a holding under the [<sup>F3</sup>Agricultural Holdings Act 1986], or any similar previous enactment;
- (iii) In payment for any improvement authorised by this Act;
- (iv) In payment as for an improvement authorised by this Act of any money expended and costs incurred by a landlord under or in pursuance of the [<sup>F3</sup>Agricultural Holdings Act 1986], or any similar previous enactment, or under custom or agreement or otherwise, in or about the execution of any improvement comprised in [<sup>F3</sup>Schedule 7] to the said Agricultural Holdings Act;

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- (v) In payment for equality of exchange of settled land;
- (vi) .....<sup>F4</sup>
- (viii) In redemption of any compensation rentcharge created in respect of the extinguishment of manorial incidents, and affecting the settled land;
- (ix) In commuting any additional rent made payable on the conversion of a perpetually renewable leasehold interest into a long term, and in satisfying any claim for compensation on such conversion 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;
- (x) In purchase of the freehold reversion in fee of any part of the settled land, being leasehold land held for years;
- (xi) In purchase of land in fee simple, or of leasehold land held for sixty years or more unexpired at the time of purchase, subject or not to any exception or reservation of or in respect of mines or minerals therein, or of or in respect of rights or powers relative to the working of mines or minerals therein, or in other land;
- (xii) In purchase either in fee simple, or for a term of sixty years or more, of mines and minerals convenient to be held or worked with the settled land, or of any easement, right, or privilege convenient to be held with the settled land for mining or other purposes;
- (xiii) In redemption of an improvement rentcharge, that is to say, a rentcharge (temporary or permanent) created, whether before or after the commencement of this Act, in pursuance of any Act of Parliament, with the object of paying off any money advanced for defraying the expenses of an improvement of any kind authorised by Part I. of the Third Schedule to this Act;
- (xiv) In the purchase, with the leave of the court, of any leasehold interest where the immediate reversion is settled land, so as to merge the leasehold interest (unless the court otherwise directs) in the reversion, and notwithstanding that the leasehold interest may have less than sixty years to run;
- (xv) In payment of the costs and expenses of all plans, surveys, and schemes, including schemes under the <sup>M1</sup>Town Planning Act, 1925, or any similar previous enactment, made with a view to, or in connexion with the improvement or development of the settled land, or any part thereof, or the exercise of any statutory powers, and of all negotiations entered into by the tenant for life with a view to the exercise of any of the said powers, notwithstanding that such negotiations may prove abortive, and in payment of the costs and expenses of opposing any such proposed scheme as aforesaid affecting the settled land, whether or not the scheme is made;
- <sup>F5</sup>(xvi) .....
- (xvii) In payment to a local or other authority of such sum as may be agreed in consideration of such authority taking over and becoming liable to repair a private road on the settled land or a road for the maintenance whereof a tenant for life is liable *ratione tenuræ*;
- (xviii) In financing any person who may have agreed to take a lease or grant for building purposes of the settled land, or any part thereof, by making advances to him in the usual manner on the security of an equitable mortgage of his building agreement;
- (xix) In payment to any person becoming absolutely entitled or empowered to give an absolute discharge;

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- (xx) In payment of costs, charges, and expenses of or incidental to the exercise of any of the powers, or the execution of any of the provisions of this Act including the costs and expenses incidental to any of the matters referred to in this section;
  - (xxi) In any other mode authorised by the settlement with respect to money produced by the sale of the settled land.
- (2) Notwithstanding anything in this section capital money arising under this Act from settled land in England or Wales shall not be applied in the purchase of land out of England and Wales, unless the settlement expressly authorises the same.

#### Textual Amendments

- F1** S. 73(1)(i) substituted (1.2.2001) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. II para. 9** (with s. 35); S.I. 2001/49, **art. 2**
- F2** Words repealed by **Finance Act 1963 (c. 25), Sch. 14 Pt. VI**
- F3** Words substituted by **Agricultural Holdings Act 1986 (c. 5, SIF 2:3)**, ss. 99(1), 100, Sch. 13 para. 3, **Sch. 14 para. 11**
- F4** Ss. 62(1)–(3), 71(1)(iv)(v), 73(1)(vi)(vii) repealed by **Statute Law (Repeals) Act 1969 (c. 52), Sch. Pt. III**
- F5** S. 73(1)(xvi) repealed (19.11.1998) by 1998 c. 43, s. 1(1), **Sch. 1 Pt. II** Group 2.

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

- C2** S. 73 extended by **Housing (Rural Workers) Act 1926 (c. 56), s. 3(3)**, **Landlord and Tenant Act 1927 (c. 36), s. 13(1)**, **Agricultural Credits Act 1932 (c. 35), s. 3**, **Coast Protection Act 1949 (c. 74), s. 11(2)(a)**, **Landlord and Tenant Act 1954 (c. 56), s. 8(5)**, **Sch. 2 para. 6**, **Coal-Mining (Subsidence) Act 1957 (c. 59), s. 11(7)**, **Land Commission Act 1967 (c. 1), s. 92**, **Leasehold Reform Act 1967 (c. 88)**, ss. 6(5), 17, 18, **Sch. 2 para. 9(1)**, **Mines and Quarries (Tips) Act 1969 (c. 10), s. 32(2)(a)** and **Town and Country Planning Act 1971 (c. 78), s. 275(1)**; amended (temp) by **Finance Act 1968 (c. 44), s. 41(5), Sch. 15 para. 8(1)**
- C3** S. 73 extended by **Housing Act 1985 (c. 68, SIF 61), s. 507(3)** and by **Town and Country Planning Act 1990 (c. 8, SIF 123:1), s. 328(1)(a)**  
S. 73 extended (1.11.1993) by 1993 c. 28, ss. 9, 40, Sch. 2 paras. 5(2)(b)(i), **6(a)**; S.I. 1993/2134, **arts. 2, 5**  
S. 73 extended (1.9.1995) by 1995 c. 8, **ss. 33(1)**, 41(2)  
S. 73 extended (1.10.1996 subject to savings in S.I. 1996/2212, art. 2(2), **Sch. para. 4**) by 1993 c. 28, **s. 93A** (as inserted by 1996 c. 52, **s. 113**; S.I. 1996/2212, **art. 2(2)**)  
S. 73 extended (17.12.1996) by 1996 c. 53, **s. 55(4)(a)**; S.I. 1996/2842, **art. 3**  
S. 73 extended (17.12.1996) by 1996 c. 53, **s. 73(3)(a)**; S.I. 1996/2842, **art. 3**  
S. 73 extended (*prosp.*) by 2002 c. 15, **ss. 109(4)(a)**, 181(1)
- C4** S. 73 amended by **Local Government and Housing Act 1989 (c. 42, SIF 61), s. 125(5)(a)**
- C5** S. 73 extended (30.9.2003 for E., 30.3.2004 for W.) by **Commonhold and Leasehold Reform Act 2002 (c. 15), ss. 109(4)(a)**, 181(1); S.I. 2003/1986, art. 2(a); S.I. 2004/669, art. 2(a)
- C6** Power to apply s. 73(1)(ii) given by **Finance Act 1949 (c. 47), s. 40(9), Sch. 9**
- C7** S. 73(1)(xiii) extended by **Agricultural Credits Act 1932 (c. 35), s. 3(3)**; modified by **Agriculture Act 1967 (c. 22), s. 68**

#### Marginal Citations

- M1** 1925 c. 16.

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**74 Power to acquire land subject to certain incumbrances.**

- (1) Land may be acquired on a purchase or exchange to be made subject to a settlement, notwithstanding that the land is subject to any Crown rent, quit rent, chief rent, or other incident of tenure, or to any easement, right or privilege, or to any restrictive covenant, or to any liability to maintain or repair walls, fences, sea-walls, river banks, dykes, roads, streets, sewers, or drains, or to any improvement rentcharge which is capable under this Act of being redeemed out of capital money.
- (2) The acquisition on a purchase or exchange before the commencement of this Act of any land subject to any such burden as aforesaid is hereby confirmed.

**75 Regulations respecting investment, devolution, and income of securities, &c.**

- (1) Capital money arising under this Act shall, in order to its being invested or applied as aforesaid, be paid either to the trustees of the settlement or into court at the option of the tenant for life, and shall be invested or applied by the trustees, or under the direction of the court, as the case may be, accordingly.
- [<sup>F6</sup>(2) Subject to Part IV of the Trustee Act 2000, to section 75A of this Act and to the following provisions of this section—
  - (a) the investment or other application by the trustees shall be made according to the discretion of the trustees, but subject to any consent required or direction given by the settlement with respect to the investment or other application by the trustees of trust money of the settlement, and
  - (b) any investment shall be in the names or under the control of the trustees.]
  - (3) The investment or other application under the direction of the court shall be made on the application of the tenant for life, or of the trustees.
  - [<sup>F7</sup>(4) The trustees, in exercising their power to invest or apply capital money, shall—
    - (a) so far as practicable, consult the tenant for life; and
    - (b) so far as consistent with the general interest of the settlement, give effect to his wishes.<sup>F7</sup>(4A) Any investment or other application of capital money under the direction of the court shall not during the subsistence of the beneficial interest of the tenant for life be altered without his consent.
  - <sup>F7</sup>(4B) The trustees may not under section 11 of the Trustee Act 2000 authorise a person to exercise their functions with respect to the investment or application of capital money on terms that prevent them from complying with subsection (4) of this section.
  - <sup>F7</sup>(4C) A person who is authorised under section 11 of the Trustee Act 2000 to exercise any of their functions with respect to the investment or application of capital money is not subject to subsection (4) of this section.]
  - (5) Capital money arising under this Act while remaining uninvested or unapplied, and securities on which an investment of any such capital money is made shall for all purposes of disposition, transmission and devolution be treated as land, and shall be held for and go to the same persons successively, in the same manner and for and on the same estates, interests, and trusts, as the land wherefrom the money arises would, if not disposed of, have been held and have gone under the settlement.

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- (6) The income of those securities shall be paid or applied as the income of that land, if not disposed of, would have been payable or applicable under the settlement.
- (7) Those securities may be converted into money, which shall be capital money arising under this Act.
- (8) All or any part of any capital money paid into court may, if the court thinks fit, be at any time paid out to the trustees of the settlement.

#### Textual Amendments

- F6** S. 75(2) substituted (1.2.2001) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. II para. 10(1)(3)** (with s. 35); S.I. 2001/49, **art. 2**
- F7** S. 75(4)-(4C) substituted (1.2.2001) for s. 75(4) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. II para. 10(2)(3)** (with s. 35); S.I. 2001/49, **art. 2**

#### [<sup>F8</sup>75A Power to accept charge as security for part payment for land sold.

- (1) Where—
  - (a) land subject to the settlement is sold by the tenant for life or statutory owner, for an estate in fee simple or a term having at least five hundred years to run, and
  - (b) the proceeds of sale are liable to be invested,the tenant for life or statutory owner may, with the consent of the trustees of the settlement, contract that the payment of any part, not exceeding two-thirds, of the purchase money shall be secured by a charge by way of legal mortgage of the land sold, with or without the security of any other property.
- (2) If any buildings are comprised in the property secured by the charge, the charge must contain a covenant by the mortgagor to keep them insured for their full value against loss or damage due to any event.
- (3) A person exercising the power under subsection (1) of this section, or giving consent for the purposes of that subsection—
  - (a) is not required to comply with section 5 of the Trustee Act 2000 before giving his consent, and
  - (b) is not liable for any loss incurred merely because the security is insufficient at the date of the charge.
- (4) The power under subsection (1) of this section is exercisable subject to the consent of any person whose consent to a change of investment is required by the instrument, if any, creating the trust.
- (5) Where the sale referred to in subsection (1) of this section is made under the order of the court, the power under that subsection applies only if and as far as the court may by order direct.]

#### Textual Amendments

- F8** S. 75A inserted (1.2.2001) by 2000 c. 29, s. 40(1), **Sch. 2 Pt. II para. 11** (with s. 35); S.I. 2001/49, **art. 2**

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**76 Application of money in court under Lands Clauses and other Acts.**

Where, under an Act, or an order or scheme confirmed by or having the force of an Act of Parliament, incorporating or applying, wholly or in part, the Lands Clauses Acts, or under any Act, public general or local or private, money is at the commencement of this Act in court, or is afterwards paid into court, and is liable to be laid out in the purchase of land to be made subject to a settlement, then, in addition to any mode of dealing therewith authorised by the Act under which the money is in court, that money may be invested or applied as capital money arising under this Act, on the like terms, if any, respecting costs and other things, as nearly as circumstances admit, and notwithstanding anything in this Act according to the same procedure, as if the modes of investment or application authorised by this Act were authorised by the Act under which the money is in court.

**77 Application of money in hands of trustees under powers of settlement.**

Where—

- (a) under any instrument coming into operation either before or after the commencement of this Act money is in the hands of trustees, and is liable to be laid out in the purchase of land to be made subject to the trusts declared by that instrument; or
- (b) under any instrument coming into operation after the commencement of this Act money or securities or the proceeds of sale of any property is or are held by trustees on trusts creating entailed interests therein;

then, in addition to such powers of dealing therewith as the trustees have independently of this Act, they may, at the option of the tenant for life, invest or apply the money securities or proceeds as if they were capital money arising under this Act.

**78 Provision as to personal estate settled by reference to capital money, or on trusts corresponding with the limitations of land.**

- (1) Where money or securities or the proceeds of sale of any property is or are by any instrument coming into operation either before or after the commencement of this Act directed to be held on trusts declared by reference to capital money arising under this Act from land settled by that instrument or any other instrument, the money securities or proceeds shall be held on the like trusts as if the same had been or represented money which had actually arisen under this Act from the settled land.

[<sup>F9</sup>This subsection operates without prejudice to the rights of any person claiming under a disposition for valuable consideration of any such money securities or proceeds, made before the commencement of this Act.]

- (2) Where money or securities or the proceeds of sale of any property is or are by any instrument coming into operation after the commencement of this Act directed to be held on the same trusts as, or on trusts corresponding as nearly as may be with the limitations of land settled by that instrument or any other instrument, the money, securities or proceeds shall be held on the like trusts as if the same had been or represented capital money arising under this Act from the settled land.
- (3) Such money, securities, or proceeds of sale shall be paid or transferred to or retained by the trustees of the settlement of the settled land, or paid or transferred into court, and invested or applied accordingly.

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- (4) Where the settled land includes freehold land, the money, securities, or proceeds of sale aforesaid shall be held on the like trusts as if the same had been or represented capital money arising from the freehold land.
- (5) This section has effect notwithstanding any direction in the instrument creating the trust that the trust property is not to vest absolutely in any tenant in tail or in tail male or in tail female under the limitations of the settled land who dies under a specified age, or before the happening of a specified event, but, save as aforesaid, has effect with any variations and subject to any contrary intention expressed in the instrument creating the trust.

**Textual Amendments**

**F9** Para. added by [Law of Property \(Amendment\) Act 1926 \(c. 11\)](#), [Sch.](#)

**79 Application of money paid for lease or reversion.**

Where capital money arising under this Act is purchase-money paid in respect of—

- (a) a lease for years; or
- (b) any other estate or interest in land less than the fee simple; or
- (c) a reversion dependent on any such lease, estate, or interest;

the trustees of the settlement or the court, as the case may be, and in the case of the court on the application of any party interested in that money, may, notwithstanding anything in this Act, require and cause the same to be laid out, invested, accumulated, and paid in such manner as, in the judgment of the trustees or of the court, as the case may be, will give to the parties interested in that money the like benefit therefrom as they might lawfully have had from the lease, estate, interest, or reversion in respect whereof the money was paid, or as near thereto as may be.

**80 As to money received by way of damages for breach of covenant.**

- (1) Money, not being rent, received by way of damages or compensation for breach of any covenant by a lessee or grantee contained in any lease or grant of settled land shall, unless in any case the court on the application of the tenant for life or the trustees of the settlement otherwise directs, be deemed to be capital money arising under this Act, and shall be paid to or retained by the trustees of the settlement, or paid into court, and invested or applied, accordingly.
- (2) In addition to the other modes in which capital money may be applied under this Act or the settlement, money so received as aforesaid or any part thereof may, if the circumstances permit, be applied at any time within twelve months after such receipt, or such extended period as the court may allow, in or towards payment of the costs of making good in whole or in part the breach of covenant in respect of which it was so received, or the consequences thereof, and the trustees of the settlement, if they think fit, may require any money so received or any part thereof to be so applied.
- (3) In the application of any such money in or towards payment of the cost of making good any such breach or the consequences of any such breach as aforesaid, the work required to be done for the purpose shall be deemed to be an improvement authorised by Part I. of the Third Schedule to this Act.

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- (4) This section does not apply to money received by way of damages or compensation for the breach of a covenant to repay to the lessor or grantor money laid out or expended by him, or to any case in which if the money received were applied in making good the breach of covenant or the consequences thereof such application would not enure for the benefit of the settled land, or any buildings thereon.
- (5) This section does not apply to money received by way of damages or compensation before the commencement of this Act, but it applies whether the lease or grant was made before or after the commencement of this Act, and whether under the powers conferred by the Settled Land Acts, 1882 to 1890, or this Act or not.
- (6) The provisions of this section apply only if and as far as a contrary intention is not expressed in the settlement, and have effect subject to the terms of the settlement, and to any provisions therein contained, but a contrary intention shall not be deemed to be expressed merely by words negating impeachment for waste.

**81 As to capital arising otherwise than under the Act.**

Any money which after the commencement of this Act arises from settled land otherwise than under this Act, as well as any money or securities in the names or under the control of the tenant for life or the trustees of the settlement, being or representing money which had arisen before the commencement of this Act from the settled land otherwise than under the Settled Land Acts, 1882 to 1890, and which ought, as between the persons interested in the settled land, to be or to have been treated as capital, shall (without prejudice to any other statutory provisions affecting the same) be deemed to be or to represent capital money arising under this Act, and shall be paid or transferred to or retained by the trustees of the settlement, or paid or transferred into court, and invested or applied, accordingly.

**82 Land acquired may be made a substituted security for released charges.**

- (1) Land acquired by purchase or in exchange or otherwise under the powers of this Act, may be made a substituted security for any charge from which the settled land or any part thereof has theretofore been released on the occasion and in order to the completion of a sale, exchange or other disposition:

Provided that, where a charge does not affect the whole of the settled land, the land acquired shall not be subjected thereto, unless the land is acquired either by purchase with money arising from sale of land which was before the sale subject to the charge, or by an exchange of land which was before the exchange subject to the charge.

- (2) On land being so acquired, any person who, by the direction of the tenant for life, so conveys the land as to subject it to any legal estate or charge by way of legal mortgage, is not concerned to inquire whether or not it is proper that the land should be subjected to such legal estate or charge.



**Changes to legislation:**

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