

THE SETTLED ESTATES ACT AMENDMENT ACT, 1889

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The Settled Estates Act Amendment Act, 1889, No. 459 of 1889 [Assented to 13th November, 1889].

An Act to amend “The Settled Estates Act, 1880”.

WHEREAS it is expedient to amend “The Settled Estates Act, 1880”—Be it therefore Enacted by the Governor of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said province, in this present Parliament assembled, as follows: Preamble

1. This Act may be cited as “The Settled Estates Act Amendment Act, 1889”, and shall be incorporated and read as one with “The Settled Estates Act, 1880”. Short title.

2. An order of the court under any statutory or other jurisdiction shall not, as against a purchaser, be invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice, or service, whether the purchaser has notice of any such want or not. This section shall have effect with respect to any lease, sale, or other act under the authority of the court, and purporting to be made in pursuance of “The Settled Estates Act, 1880”¹, notwithstanding the exception in section 40 of that Act. Order of Court not invalidated and exception in section 40 of Settled Estates Act, 1880, not to apply.

3. In addition to the powers conferred upon the court by “The Settled Estates Act, 1880”¹, wherever in any settlement a direction or trust for sale or conversion is given or contained, and the court shall deem it proper and consistent, with a due regard for the interests of all parties entitled, the court may, subject to such provisions and restrictions as the court may think fit, authorize the trustees or the executors for the time being of any settlement, to mortgage or otherwise pledge the whole or any portion of the freehold property the subject of any such settlement; and the moneys received from any such mortgage or pledge shall be applied in such manner as the court shall from time to time direct, having due regard to such interests as aforesaid. Power to mortgage freehold property.

4. This Act shall not affect any settlement made which expressly negatives the provisions of this Act. Act may be negatived.

¹ Now Settled Estates Act, 1880-1943.