# Statute of Uses (Ireland) 1634

## **Chapter 1** (10 Chas.1 sess.2)

An Act expressing an order for uses, wills, and enrollments.[1]

How by the common law lands transferred.

Several inconveniencies, by secret fraudulent conveyances to uses, and by wills.

Where by the common laws of this realme, lands, tenements and hereditaments, be not divisable by testament, nor ought to be transferred from one to another, but by solemne livery and seizin, matter of record or writing, sufficiently made, bona fide, without covin or fraud; yet nevertheless, divers and sundry imaginations, subtill inventions and practices have been used, whereby the hereditaments of this realme have been conveyed from one to another, by fraudulent feoffments, fines, recoveries, and other assurances craftily made, to secret uses, intents and trusts, and also by wills and testaments sometime made by nude parolx and words, sometime by signs and tokens, and sometime by writing, and by the most part made by such persons as be visited with sickness in their extreame agonies and pains, or at such time as they have had scantly any good memory or remembrance, at which times they being provoked by greedy and covetous persons, lying in wait about them, do many times dispose indiscreetly and unadvisedly, their lands and hereditaments, by reason whereof, and by occasion of which fraudulent feoffments, fines, recoveries, and other like assurances to uses, confidences and trusts, divers and many heires have been unjustly at sundry times disinherited, the lords lost their wards, marriages, reliefes, herriots, escheats, aides pur faire fitz chivaler, & pur file marier, and scantly any person can be certainly assured of any lands by them purchased, nor known surely against whom they shall use their actions or execution for their rights, title, and duties: also men married have lost their tenancies by the courtesie, women their dowres, and manifest perjuries, by tryale of such secret wills and uses, have been committed; the Kings Highnesse hath lost the profits and advantages of the lands of persons attainted, and the lands craftily put in feoffment to the uses of aliens borne, and also the profits of wastes for a year and a

day of lands of felons attainted, and the lords their escheats thereof and many other inconveniences have happened, and daily do increase among the Kings subjects, to their great trouble and unquietnesse, and

The remedy.

to the utter subversion of the ancient common laws of this realme. For the extirping and extinguishment of all such subtill practised feoffment, fines, recoveries, abuses and errours heretofore used and accustomed in this realme, to the subversion of the good and ancient lawes of the same, and to the intent that the Kings Highness, or any other his subjects of this realme, shall not in any wise hereafter, by any means or inventions, be deceived, damaged, or hurted, by reason of such trusts, uses, or confidences.

The possession of lands, &c. shall be in them that have the use, confidence, or trust, in the same form and condition.

[I.] WHERE any person or persons stand or be seized, or at any time hereafter shall happen to be seized, of and in any honours, castles, mannors, lands, tenements, rents, services, reversions, remainders, or other hereditaments, to the use, confidence, or trust of any other person or persons, or of any body politique, by reason of any bargaine, sale, feoffment, fine, recovery, covenant, contract, agreement, will or otherwise, by any manner means whatsoever it be, that in every such case, all and every such person and persons, and bodies politique, that have, or hereafter shall have any such use, confidence or trust, in fee simple, fee tayle, for terme of life or years, or otherwise; or any use, confidence, or trust, in remainder or reverter, shall from henceforth stand and be seized, deemed, and adjudged in lawfull seizin, estate and possession, of and in the same honors, castles, mannors, lands, tenements, rents, services, reversions, remainders, and hereditaments, with their appurtenances, to all intents, constructions and purposes in the law, of and in such like estates, as they had or shall have, in use, trust or confidence, of or in the same. And that the estate, title, right and possession, that was in such person or persons that were, or hereafter shall be seized, of any lands, tenements or hereditaments, to the use, confidence or trust, of any such person or persons, or of any body politicke, be from henceforth clearly deemed and adjudged to be in him or them that have, or hereafter shall have such use, confidence or trust, after such quality, manner, form and condition, as they had before, in or to the use, confidence, or trust that was in them.

Where divers jointly seised to the use of any of them, they only who have the use, shall be adjudged to have the possession in like manner.

II. AND where divers and many persons be, or hereafter shall happen to be joyntly seized of and in any lands, tenements, rents, reversions, remainders, or other hereditaments, to the use, confidence, or trust of any of them that be so joyntly seized, that in every such case that those person or persons, which have, or hereafter shall have any such uses, confidence or trust, in any such lands, tenements, rents, reversions, remainders, or hereditaments shall from henceforth have, and be deemed and adjudged to have, onely to him or them that have, or hereafter shall have such use, confidence or trust, such estate, possession, and seizin, of and in the same lands, tenements, rents, reversions, remainders, or other hereditaments, in like nature, manner, form, condition and course, as he or they had before in the use, confidence or

trust of the same lands, tenements or hereditaments. Saving and reserving to all and singular persons, and bodies politique, their heires and successors, other than those person or persons which be seized, or hereafter shall be seized, of any lands, tenements or hereditaments, to any use, confidence or trust, all such right, title, entry, interest, possession, rents and action, as they or any of them had, or might have had before the making of this act.

Saving the right of others.

III. AND also saving to all and singular those persons, and to their heires, which be, or hereafter shall be seized to any use, all such former right, title, entry, interest, possession, rents, customes, services and actions, as they or any of them might have had, to his or their own proper use, in or to any mannors, lands, tenements, rents or hereditaments, whereof they be, or hereafter shall be seized to any other use, as if this present act had never been had or made; any thing contained in this act to the contrary notwithstanding.

And saving to those seised to use all former right.

IV. AND where also divers persons stand and be seized of and in any lands, tenements or hereditaments, in fee simple, or otherwise, to the use or intent that some other person or persons shall have and perceive yearly to them and to his or their heirs, one annuall rent of ten pounds, or more, or lesse, out of the same lands and tenements, and some other person, one annuall rent to him and his assigns, for terms of life or years, or for some other speciall time, according to such intent and use as hath been heretofore declared, limited, and made thereof. In every such case, the same persons, their heirs and assigns, that have such use and interest, to have and perceive any such annuall rents out of any lands, tenements or hereditaments, that they and every of them, their heirs and assignes, be adjudged and deemed to be in possession and seizin of the same rent, of and in such like estate, as they had in the title, interest, or use of the said rent or profit, and as if a sufficient grant, or other lawfull conveyance had been made and executed to them by such as were or shall be seized to the use or intent of any such rent to be had, made or payed, according to the very trust and intent thereof; and that all and every such person or persons as have, or hereafter shall have any title, use and interest, in or to any such rent or profit, shall . . .[2] have all . . .[2] suits, entries and remedies, for such rents, as if the same rents had been actually and really granted to them, with sufficient clauses of distresse, re-entry, or otherwise, according to such conditions, pains, or other things limited and appointed upon the trust and intent for payment or surety of such rent.

Cest. que use of rent shall be adjudged in possession and seisin thereof, in like manner as if granted to them;

and may distrain, avow, &c.

*Ss. V, VI rep. with saving by 1955 c.24 (NI) ss.46, 48 sch.3. S.VII rep. by SLR (I) 1876. S. VIII rep. with saving by 1955 c.24 (NI) ss.46, 48 sch.3.*

IX. PROVIDED also, that this present act, nor any thing therein contained, extend not, or be at any time hereafter interpreted, expounded or taken to extinct, release, discharge, or suspend any statute, recognizance, or other bond, by the execution of any estate, of or in any

This act not to extinguish, &c. any statute, recognizance or other bond.

lands, tenements or hereditaments, by the authority of this act, to any person or persons, or bodies politique: any thing contained in this act to the contrary notwithstanding.

*S.X rep. by SLR (I) 1878*

Fines for alienation, reliefs, heriots, &c.

[[3]XI. . . .[4] but that fines for alienations, reliefes and herriots, shall be paid to the Kings Highnesse, and also liveries and ouster le maines, shall be sued for uses, trusts and confidences, to be made and executed in possession, by authority of this act, after and from the said first day of May, of lands and tenements, and other hereditaments, holden of the King, in such like manner and forme, to all intents, constructions and purposes, as hath heretofore been used or accustomed by the order of the laws of this realme.]

*Ss.XII–XVI rep. by SLR (I) 1878*

Lands, &c. shall not pass by bargain and sale, unless by writing, indented, sealed and inrolled.

XVII.[5] And from the first day of May, which shall be in the yeare of our Lord God, one thousand six hundred thirty and five, no mannors, lands, tenements, or other hereditaments, shall passe, alter or change, from one to another, whereby any state of inheritance or freehold shall be made or take effect in any person or persons, or any use thereof to be made, by reason onely of any bargain and sale thereof, except the same bargain and sale be made by writing indented, sealed and inrolled, in any of the Kings courts of record at Dublin[6], or else within the same county or counties, where the same mannors, lands or tenements, so bargained and sold, lye or be, before the custos rotulorum[7], and two justices of the peace, and the clarke of the peace of the same county or counties, or two of them at the least, whereof the clarke of the peace to be one; and the same inrollment to be had and made within six months next after the date of the same writings indented; the same custos rotulorum[7], or justices of the peace, and clarke, takeing for the inrollment of every such writing indented before them, where the lands comprised in the same writings exceede not the yearely value of [[8]£2], [[8]10p], that is to say, [[8]5p] to the justices, and [[8]5p] to the clarke; and for the inrollment of every such writing indented before them, wherein the lands comprised exceede the summe of [[8]£2] in yearly value, [[8]25p] that is to say, [[8]12½p] to the justices; and [[8]12½p] to the said clarke for the inrolling of the same: and that the clarke of the peace for the time being, within every such county, shall sufficiently inroll and ingrosse in parchment, the same deeds or writings indented, as is aforesaid, and the rolls thereof at the end of every yeare, shall deliver unto the said custos rotulorum[7] of the same county for the time being, there to remaine in the custody of the said custos rotulorum[7] for the time being, amongst other records of the same counties, where any such inrollments shall be so made, to the intent that every party that hath to do therewith, may resort and see the effect and tenor of every such writing so inrolled.

Inrollment before custos rot. &c.

within six months after date of the writing.

Fees for inrollment.

Chief clerk to ingross, and deliver to custos rot.

Not to extend to boroughs or towns corporate, the officers whereof used to inrol evidences.

XVIII. Provided alwayes, that this act, nor any thing therein contayned, extend to any mannor, lands, tenements or hereditaments, lying, or being within any citty, burrough, or towne corporate within this realm, wherein the mayors, recorders, chamberlaines, bayliffes, or other officer or officers, have authority, or have lawfully used to inroll

any evidences, deeds, or other writings within their precincts or limits; any thing in this act contained to the contrary notwithstanding.

**References**

1. Short title "The Statute of Uses (Ireland) 1634", 1951 c.1 (NI)
2. Rep., SLR 1973
3. Rep. by effect of 1662 c.19 (I) ss.1, 5; 1698 c.7 (I) s.5
4. Rep., SLR (I) 1878
5. Certain functions of JP now exercisable by resident magistrate, see 1964 c.21 (NI) s.13
   Functions of clerk of the peace for a county now exercisable by the chief clerk for a county court division, SR 1979/103
6. To be construed as Belfast, SRO 1921/1804 (Rev. vol. XVI p.967)
7. Now keeper of the rolls for the county court division, 1975 NI 7 art.11; 1978 c.23 s.103(6)
8. Subst. by virtue of 1969 c.19 s.10