



Rentcharges Act 1977

1977 CHAPTER 30

Miscellaneous and general

11 Implied covenants

- (1) Where any land affected by a rentcharge created after the passing of this Act by virtue of section 2(3)(a) or (b) above—
 - (a) is conveyed for consideration in money or money's worth, and
 - (b) remains affected by the rentcharge or by any part of it,the following provisions of this section shall have effect in place of those of section 77 of the Law of Property Act 1925, in respect of the covenants deemed to be included and implied in the conveyance.
- (2) In addition to the covenants implied under section 76 of the Law of Property Act 1925, there shall be deemed to be included and implied in the conveyance covenants by the conveying party or joint and several covenants by the conveying parties (if more than one) with the grantee (or with each of the grantees) in the following terms:—
 - (a) that the conveying party will at all times from the date of the conveyance duly pay the rentcharge (or part of the rentcharge) and keep the grantee and those deriving title under him and their respective estates and effects indemnified against all claims and demands whatsoever in respect of the rentcharge; and
 - (b) that the conveying party will (at his expense), in the event of the rentcharge (or part of the rentcharge) ceasing to affect the land conveyed, furnish evidence of that fact to the grantee and those deriving title under him.
- (3) The benefit of the covenants deemed to be included and implied in a conveyance, by virtue of subsection (2) above, shall be annexed and incident to and shall go with the estate or interest of the implied covenantee and shall be capable of being enforced by every person in whom the estate or interest is from time to time vested.
- (4) Any stipulation which is contained in an agreement and which is inconsistent with, or designed to prevent the operation of, the said covenants (or any part of them) shall be void.

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12 Regulations

- (1) Regulations under any provision of this Act shall be made by the Secretary of State and shall be contained in a statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) Regulations under any provision of this Act may contain such incidental and supplemental provisions as the Secretary of State considers appropriate, and may make different provision in relation to different cases or classes of case and in relation to different circumstances.

13 Interpretation

- (1) In this Act—

" apportionment ", in relation to a rentcharge, includes an apportionment which provides for the amount apportioned to any part of the land affected by the rentcharge to be nil;

" apportionment order " means an order made under section 5(10) above or, where appropriate, an order made by the Lands Tribunal under section 6(2) (b) above;

" conveyance " has the same meaning as in section 205(1) of the Law of Property Act 1925 ;

" land " has the same meaning as in section 205(1) of the Law of Property Act 1925 ;

" legal apportionment " and " equitable apportionment " in relation to a rentcharge mean, respectively—

(a) any apportionment of the rentcharge which is binding on the rent owner, and

(b) any apportionment or exoneration of the rentcharge which is not binding on the rent owner;

" owner ", in relation to any land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the land, whether in possession or in reversion, and includes a person holding or entitled to the rents and profits of the land under a lease or agreement;

" redemption certificate " has the meaning given in section 8(1) above;

" rent owner ", in relation to a rentcharge, means the person entitled to the rentcharge or empowered to dispose of it absolutely or to give an absolute discharge for the capital value thereof.

- (2) The provisions of this Act relating to the redemption and apportionment of rentcharges shall apply equally to the redemption and further apportionment of legally apportioned parts of rentcharges.
- (3) Subject to section 3(4) above, a rentcharge shall be treated for the purposes of this Act as becoming payable on the first day of the first period in respect of which it is to be paid.

14 Application to Crown

- (1) This Act shall apply in relation to any land in which there subsists a Crown interest as it applies in relation to land in which no such interest subsists.

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- (2) In this section " Crown interest" means an interest which belongs to Her Majesty in right of the Crown or of the Duchy of Lancaster or to the Duchy of Cornwall or to a government department, or which is held in trust for Her Majesty for the purposes of a government department.

15 Expenses

- (1) Any expenses incurred by the Secretary of State in consequence of this Act shall be paid out of money provided by Parliament.
- (2) Subject to any provision made by regulations, any expenses incurred by any person in connection with an application for an apportionment order or for a redemption certificate under this Act shall be borne by that person.
- (3) Regulations under subsection (2) above shall, in particular, provide for the reasonable expenses of a mortgagee, incurred in complying with a request under section 4(7) or 8(6) above, to be borne by the applicant.

16 Service of notices, etc.

- (1) Any document required to be served under this Act may be served on the person to be served either by delivering it to him, or by leaving it at his proper address, or by sending it by post.
- (2) Any such document required to be served on a body corporate or a firm shall be duly served if it is served on the secretary or clerk of that body or a partner of that firm.
- (3) For the purposes of this section, and of section 26 of the Interpretation Act 1889, in its application to this section, the proper address of a person shall be—
- (a) in the case of a secretary or clerk of a body corporate, that of the registered or principal office of that body;
 - (b) in the case of a partner of a firm, that of the principal office of the firm;
 - (c) in any other case, the last known address of the person to be served.

17 Amendments, repeals and transitional provisions

- (1) The enactments mentioned in Schedule 1 to this Act shall have effect subject to the amendments specified in that Schedule.
- (2) The enactments mentioned in Schedule 2 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (3) Nothing in section 2 above shall prohibit the creation of any rentcharge—
- (a) in pursuance of an agreement entered into before the passing of this Act; or
 - (b) in the case of land subject to compulsory purchase before that date, in pursuance of section 24 of the Compulsory Purchase Act 1965,
- and notwithstanding the repeal of the said section 24 by Schedule 2 to this Act, the provisions of that section shall (in a case falling within paragraph (b) above) continue to have effect in relation to the creation of any rentcharge by virtue of this subsection.
- (4) Nothing in this Act shall affect any application for apportionment or redemption made, before the coming into force of the relevant provision of Schedule 1 or 2 to this Act, under any enactment amended or repealed thereby; and any such application shall

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continue to be dealt with in accordance with the provisions of the enactment under which the application was made.

- (5) Where, by virtue of section 20 of the Landlord and Tenant Act 1927, an apportionment order made before the coming into force of paragraph 3 of Schedule 1 to this Act was conditional upon the redemption of an apportioned part of rent, that order shall have effect, and an application for redemption of that part may be made and disposed of, as if this Act had not been passed.
- (6) Nothing in the repeal by this Act of paragraph 8 of Schedule 1 to the Leasehold Reform Act 1967 shall prevent the creation of a rentcharge under that paragraph in a case where written notice has been duly given to the reversioner by the claimant under that paragraph before the coming into force of the repeal; and paragraph 8 shall, notwithstanding the repeal, continue to have effect, subject to the provisions of this Act, in relation to rentcharges created under it.

18 Short title etc.

- (1) This Act may be cited as the Rentcharges Act 1977.
- (2) The following provisions shall come into force on the expiry of the period of one month beginning with the date on which this Act is passed:—
 - (a) sections 1 to 3 ;
 - (b) sections 12 to 15, in section 17, subsection (1) (so far as it relates to paragraph 2 of Schedule 1), subsection (2) (except as it applies to the entries in Schedule 2 relating to section 10 of the Inclosure Act 1854 and section 191 of the Law of Property Act 1925) and subsections (3) and (6), and this section ;and the remaining provisions of this Act shall come into force on such day as the Secretary of State may by order appoint.
- (3) This Act does not extend to Scotland or Northern Ireland.