



Rentcharges Act 1977

1977 CHAPTER 30

Prohibition and extinguishment

1 Meaning of "rentcharge"

For the purposes of this Act "rentcharge" means any annual or other periodic sum charged on or issuing out of land, except—

- (a) rent reserved by a lease or tenancy, or
- (b) any sum payable by way of interest.

2 Creation of rentcharges prohibited

- (1) Subject to this section, no rentcharge may be created whether at law or in equity after the coming into force of this section.
- (2) Any instrument made after the coming into force of this section shall, to the extent that it purports to create a rentcharge the creation of which is prohibited by this section, be void.
- (3) This section does not prohibit the creation of a rentcharge—
 - (a) which has the effect of making the land on which the rent is charged settled land by virtue of section 1(1)(v) of the Settled Land Act 1925 ;
 - (b) which would have that effect but for the fact that the land on which the rent is charged is already settled land or is held on trust for sale ;
 - (c) which is an estate rentcharge ;
 - (d) under any Act of Parliament providing for the creation of rentcharges in connection with the execution of works on land (whether by way of improvements, repairs or otherwise) or the commutation of any obligation to do any such work; or
 - (e) by, or in accordance with the requirements of, any order of a court.
- (4) For the purposes of this section "estate rentcharge" means (subject to subsection (5) below) a rentcharge created for the purpose—

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- (a) of making covenants to be performed by the owner of the land affected by the rentcharge enforceable by the rent owner against the owner for the time being of the land; or
 - (b) of meeting, or contributing towards, the cost of the performance by the rent owner of covenants for the provision of services, the carrying out of maintenance or repairs, the effecting of insurance or the making of any payment by him for the benefit of the land affected by the rentcharge or for the benefit of that and other land.
- (5) A rentcharge of more than a nominal amount shall not be treated as an estate rentcharge for the purposes of this section unless it represents a payment for the performance by the rent owner of any such covenant as is mentioned in subsection (4)(b) above which is reasonable in relation to that covenant.

3 Extinguishment of rentcharges

- (1) Subject to this section, every rentcharge shall (if it has not then ceased to have effect) be extinguished at the expiry of the period of 60 years beginning—
- (a) with the passing of this Act, or
 - (b) with the date on which the rentcharge first became payable,
- whichever is the later ; and accordingly the land on which it was charged or out of which it issued shall, at the expiration of that period, be discharged and freed from the rentcharge.
- (2) The extinguishment of a rentcharge under this section shall not affect the exercise by any person of any right or remedy for the recovery of any rent which accrues before the rentcharge is so extinguished.
- (3) This section shall not have the effect of extinguishing any rentcharge—
- (a) which is, by virtue of any enactment or agreement or by custom, charged on or otherwise payable in relation to land wholly or partly in lieu of tithes ; or
 - (b) which is of a kind referred to in subsection (3) of section 2 above (disregarding subsection (5) of that section).
- (4) Subsection (1) above shall not apply to a variable rentcharge ; but where such a rentcharge ceases to be variable, subsection (1) above shall apply as if the date on which the rentcharge first became payable were the date on which it ceased to be variable.
- (5) For the purposes of subsection (4) above, a rentcharge shall (at any time) be treated as variable if at any time thereafter the amount of the rentcharge will, or may, vary in accordance with the provisions of the instrument under which it is payable.