



Rentcharges Act 1977

1977 CHAPTER 30

APPORTIONMENT

5 Apportionment.

- (1) Where an application for apportionment is made under section 4 above and the Secretary of State is satisfied that he is in a position to do so, he shall prepare a draft order for apportionment of the rentcharge.
- (2) If the application is made under section 4(1) above, the amount specified in the draft order as being that part of the rentcharge apportioned to the applicant's land shall be—
 - (a) the amount specified in the application as the amount equitably apportioned to that land; or
 - (b) where no amount has been equitably apportioned to that land, such amount as the Secretary of State considers appropriate.
- (3) If the application is made under section 4(2) above, the amounts specified in the draft order as apportioned between the parts of the applicant's land specified in the application shall be those proposed in the application.
- (4) A copy of the draft order shall be served by the Secretary of State on the person appearing to him to be the rent owner or his agent, and, in a case falling within subsection (2)(b) above, on such persons as appear to him to be the owners of the land affected by the rentcharge.
- (5) After service of a draft order on the rent owner or his agent under subsection (4) above, the rent owner may, before the expiry of the period of 21 days beginning with the date on which the draft order is served (or such longer period, not exceeding the period of 42 days beginning with that date, as the Secretary of State may in a particular case allow)—
 - (a) object to it on the ground that such an apportionment would provide insufficient security for any part of the rentcharge;
 - (b) make an application to the effect that in the event of the apportionment not exceeding the sum mentioned in section 7(2) below, a condition should be imposed under that section.

Changes to legislation: Rentcharges Act 1977, Section 5 is up to date with all changes known to be in force on or before 25 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (6) Where a draft order is served under subsection (4) above on a person who is the owner of any land affected by the rentcharge, that person may, before the expiry of the period of 21 days beginning with the date on which the draft order is served (or such longer period, not exceeding the period of 42 days beginning with that date, as the Secretary of State may in a particular case allow), make representations to the Secretary of State concerning the apportionment specified in the draft order.
- (7) Any objection, application or representations under subsection (5) or (6) above shall be made in writing.
- (8) An objection under subsection (5) above shall state what apportionment (if any) would in the opinion of the rent owner provide sufficient security for the rentcharge or, as the case may be, part of the rentcharge.
- (9) The Secretary of State shall consider any objection duly made under subsection (5) above and any representations duly made under subsection (6) above and, if he is satisfied that the draft order should be modified—
- (a) in the case of an objection, in order to preserve for the rent owner sufficient security for each apportioned part of the rentcharge, or
 - (b) to take account of any such representations,
- he shall make such modifications in the draft order as appear to him to be appropriate.
- (10) Where—
- (a) the relevant period has expired without any objection or representation having been duly made, or
 - (b) an objection has, or any representations have, been duly made and the objection has, or, as the case may be, all the representations have, been considered by the Secretary of State,
- the Secretary of State shall, if the applicant has not then withdrawn his application and the Secretary of State is satisfied that it is appropriate to do so, make an order (an “apportionment order”) in the form of the draft but incorporating—
- (i) any modifications made by the Secretary of State in accordance with subsection (9) above, and
 - (ii) where appropriate, a condition imposed by virtue of section 7(2) below.
- (11) Immediately after making an apportionment order the Secretary of State shall serve copies of the order on the applicant and on the person appearing to him to be the rent owner or his agent, and, in a case falling within subsection (2)(b) above, on those other persons on whom copies of the draft order were served under subsection (4) above.
- (12) In a case where modifications have been made in a draft order under subsection (9) above, the Secretary of State shall not make an apportionment order without giving the applicant an opportunity to withdraw his application.

Changes to legislation:

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 7A inserted by [2016 c. 22 s. 138\(2\)](#)
- s. 8(1A) inserted by [2016 c. 22 s. 138\(3\)\(b\)](#)
- s. 12(1A)(1B) inserted by [2016 c. 22 s. 138\(4\)\(b\)](#)