



Law of Property Act 1922

1922 CHAPTER 16

PART V

ABOLITION OF COPYHOLD AND CUSTOMARY TENURE.

Abolition of Copyholds.

128 Enfranchisement of copyholds.

- (1) As from the commencement of this Act, every parcel of copyhold land shall by virtue of this Act be enfranchised and cease to be of copyhold or customary tenure, and land so enfranchised is in this Act referred to as enfranchised land.
- (2) The enfranchisement by virtue of this Part of this Act shall have the effect stated in the Twelfth Schedule to this Act:

Provided that (save as otherwise expressly provided) nothing in this Part of this Act shall affect the following manorial incidents; that is to say—

- (a) quit rents and chief rents and other similar rents-or payments;
- (b) fines, reliefs, heriots, and dues (including fees payable to stewards);
- (c) forfeitures, other than forfeitures for the conveyance or attempted conveyance of an estate of freehold in the land, and for alienation without licence whether by way of sale, lease, mortgage or otherwise;
- (d) rights as to timber;

and accordingly (subject to the provisions of this Act) the enfranchised land and the persons for the time being entitled thereto shall, until the manorial incidents so saved are extinguished, remain subject thereto in like manner as if the land had not been enfranchised ; but so that in lieu of any chattel liable to be seized as a heriot a sum equal to the value thereof shall be payable.

- (3) Modes of assurance authorised by special custom are hereby abolished; and all land (including land held in free tenure but subject to custom) shall be dealt with as land held in free and common socage discharged from custom.

129 Endorsement of assurances of enfranchised land by stewards.

- (1) So long as any of the manorial incidents saved by the last preceding section remain unextinguished as respects any enfranchised land, an assurance of that land, or of any interest therein, shall, subject as hereinafter provided, on the expiration of six months from the date of its execution, or of such extended period as the court may either before or after the expiration of those six months for any special reasons allow, become void so far as regards the grant or conveyance of a legal estate, unless the assurance has been produced to the steward of the manor.
- (2) On production to him within the time allowed for the purpose of such an assurance and on payment of any fines, reliefs or heriots payable in respect of the transaction, the arrears (if any) in respect of any former transaction affecting the same land, and all quit or other rents, and of the prescribed fee, the steward shall forthwith return the assurance and endorse the same with a certificate in the prescribed form and manner denoting that the assurance has been so produced and if he fails to do so or refuses to accept a proper tender of the fines, reliefs, heriots, rents and fee, he shall be liable to indemnify any person who suffers or incurs any damage or expense in consequence of such failure or refusal: Provided that, if any dispute arises as to the amount payable in respect of fines, reliefs, heriots, rents or fees, the amount demanded shall be paid or tendered, without prejudice to the right to recover any part not properly payable:
- (3) Such a certificate as aforesaid duly endorsed on an instrument shall be conclusive evidence that the instrument was produced to the steward within the time allowed, and a certificate on an instrument purporting to be such a certificate as aforesaid shall be taken to have been duly endorsed thereon by the steward of the manor, unless the contrary is proved.
- (4) If at any time it is proved to the satisfaction of the Lord Chancellor that there is and has been for at least three months a Vacancy in the office of steward of any manor and that by reason of such vacancy any delay has been caused in the endorsement of an assurance, or that the steward is unwilling or unable to perform the duties imposed on him under the provisions of this section, the Lord Chancellor may, after giving at least one month's notice to the steward, if any, and to the lord" (who shall have power to remove the steward and appoint another person in his place) and in default of such appointment, make an order transferring those duties to the Land Registrar, and on the making of such an order those duties shall, as respects that manor, be transferred to the Land Registrar, and this section shall apply accordingly with this modification, that the Land Registrar shall endorse the assurance with the prescribed certificate after ascertaining that all fines, reliefs or heriots payable in respect of the transaction and rents have been paid.

If after such order has been made the steward (if any) acts or attempts to act under this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifty pounds.

A certificate by the Land Registrar endorsed on an instrument that the instrument has been produced to him shall be conclusive evidence that the duties of the steward of the manor have been so transferred as aforesaid.

- (5) The foregoing provisions of this section shall not apply where the land has been registered under the Land Transfer Acts, 1875 and 1897, and the assurance is one which is capable of being registered under those Acts:

Provided that the Land Registrar shall not register any transfer of any such land, or any other transaction in relation to the land, or enter notice of any such other transaction until he has ascertained that all fines, reliefs, heriots and fees payable in respect of the transaction and rents have been paid, or that no fines, reliefs, heriots, rents or fees are payable.

- (6) For the purpose of enabling the Land Registrar in any case under the last preceding subsection to ascertain whether fines, reliefs, heriots, rents and fees, have been paid, the steward (if any) shall, on the request of any person interested and on payment of the prescribed fee, give to that person a certificate that the fines, reliefs, heriots, and fees payable in respect of any transaction and rents, including arrears, if any, as aforesaid, have been paid if that be the case, or that no fines, reliefs, heriots, rents or fees are payable, if that be the case, and if in either of those cases the steward (if any) neglects to comply with such request, or if he refuses to accept a proper tender of the fines, reliefs, heriots, rents and fees, he shall be liable to indemnify any person who suffers any loss or expenses in consequence of such neglect or refusal: Provided that, if any dispute arises as to the amount payable in respect of fines, reliefs, heriots, rents or fees, the amount demanded shall be paid or tendered, without prejudice to the right to recover any part not properly payable.
- (7) Until the lord appoints a steward he shall, for the purposes of this section, be subject to the same obligations as if he were the steward.
- (8) Where the duties of the steward under this section have been transferred to the Land Registrar as aforesaid, the lord shall cause any prescribed stamp used for the purpose of endorsing certificates on assurances under this section to be transferred to the Land Registrar together with the court rolls and the Land Registrar shall hold the court rolls as agent of the " lord for safe custody.
- (9) For the purposes of this section, the expression " assurance " does not include a will or a grant or assignment of a lease or tenancy for a year or less or from year to year, but does include an assent by a personal representative, and an order of a court of competent jurisdiction or other competent authority and a vesting declaration, operating to vest land or any interest therein in any person, and where an assurance by a personal representative is produced for endorsement the probate of the will, or the letters of administration, shall also be produced by the personal representative at the cost of the person requiring the production.
- (10) Where in any manor the practice has been adopted of leaving the customary estate in fee simple outstanding in a trustee or terre tenant on trusts for creating perpetual rentcharges or other derivative interests which under this Act are capable of subsisting as legal estates, then, if the fines, reliefs, heriots, and rents payable do not together amount to more than five shillings, an attested copy of the assurance (with any plans thereto), which (independently of this subsection) ought to have been produced to the steward, may, instead of the original being produced, be sent, on or before the expiration of six months from the date of the execution of the assurance, by registered post or delivered with a sum of ten shillings (in satisfaction of the steward's fees and the customary payments aforesaid) to the steward, , who shall thereupon send by registered post or deliver a receipt for the said attested copy and money; and such receipt, signed by or on behalf of the steward, shall be conclusive evidence that the requirements of this section have been complied with in regard to the transaction effected by the assurance; and if the steward fails or refuses to send or deliver the aforesaid receipt he shall be liable to indemnify any person who suffers or incurs any damage or expense in consequence of such failure or refusal.

Status: This is the original version (as it was originally enacted).

- (11) This section does not apply to dealings with interests not affected by manorial incidents.

130 Provisions as to fines and heriots.

- (1) Until the manorial incidents saved by this Part of this Act have been extinguished the same fines shall (subject as hereinafter provided) be payable on any transaction (formerly capable of being effected by a customary assurance), which would have been payable if the land had remained copyhold and the transaction had been effected by a customary assurance, and the same payments in lieu of heriots shall be payable on the same occasions on which a heriot would have accrued if the land had remained copyhold.
- (2) Where any enfranchised land is alienated whether by way of sale, lease, mortgage, or otherwise, and such alienation without the licence of the lord would have given rise to a right to forfeit if this Part of this Act had not been passed, then, so long as the manorial incidents saved by this Part of this Act remain unextinguished, the like fine shall be payable in respect of the alienation as would have been payable for a licence authorising the alienation:
- Provided that, where the fine payable for such a licence is not fixed by the custom of the manor, the fine payable shall be such reasonable fine as in default of agreement between the lord and tenant may be fixed on the application either of the lord or the tenant by the Minister.
- (3) Subject to the provisions of subsection (2) of this section, no fine shall be payable in respect of a mortgage of enfranchised land unless and until the mortgagee in exercise of any power of sale express or implied conferred by the mortgage conveys the land to a purchaser, or transfers the mortgage without the concurrence of the mortgagor, or the right of redemption is extinguished by foreclosure or otherwise.
- (4) Nothing in this section shall affect the right of the lord to a double fine on a conveyance by a mortgagee, who had not been admitted before the commencement of this Act, to a purchaser, or on a transfer of his mortgage without the concurrence of the mortgagor, or on the extinguishment of the right of redemption under any such mortgage.
- (5) Fines and heriots (whether payable before or after the commencement of this Act) shall be recoverable as simple contract debts and not otherwise, and shall not be recoverable (in the case of fines and heriots becoming payable after such commencement) after the expiration of six years from the date when they become payable, or (in the case of fines and heriots payable at the commencement of this Act) after the expiration of six years from such commencement.

131 Provisions as to fees.

- (1) The steward of a manor shall be entitled to such fees only in respect of transactions effected after the commencement of this Act as may be prescribed by the Minister :

Provided that, where the steward is appointed before the passing of this Act, the following provisions shall (save as expressly provided in this Part of this Act) have effect, namely:—

- (i) Where the transaction is one in respect of which a customary fee would have been payable if the land had not been an enfranchised the prescribed fee shall be the customary fee; and

- (ii) Where the transaction is a mortgage the prescribed fee shall be such customary fee as would have been payable on the conditional surrender of the land if it had not been enfranchised ; and
 - (iii) Where the customary fee is regulated by the length of the customary assurance or other entry on the court rolls then the prescribed fee shall likewise be regulated by the length of the instrument which, after the commencement of this Act, is used to carry out the transaction or if more than one instrument is so used then by the length of the instrument containing the assurance of the land.
- (2) The Land Registrar shall, in respect of the performance of any duty transferred to him from the steward under this Part of this Act, be entitled to such fees as a steward appointed after the commencement of this Act would have been entitled to.
- (3) This section shall apply to fees payable in respect of land liable to any heriot, quit rent, free rent, or other manorial incident whatsoever, as well as to fees payable in respect of enfranchised land.

132 Provisions as to forfeitures.

- (1) Any right of forfeiture saved by this Part of this Act shall, until such right is extinguished be enforceable by action to recover possession, as if the freehold had remained vested in the lord, and not otherwise, and as if all preliminary proceedings required by custom had been taken ; but shall not be so enforceable unless and until the lord serves on the tenant a notice specifying the particular act or neglect complained of, and if the act or neglect is capable of remedy requiring the tenant to remedy the same, and in any case requiring the tenant to make compensation in money for the act or neglect, and the tenant fails within a reasonable time thereafter to remedy the act or neglect, if it is capable of remedy, and to make reasonable compensation in money to the satisfaction of the lord for the act or neglect.
- (2) Where the lord is proceeding to enforce a right of forfeiture, the tenant or other person interested may, in the lord's action, or in any action brought by himself, apply to the court for relief, and the court may grant or refuse relief as the court having regard to the proceedings and conduct of the parties under the foregoing provisions of this section and to all the other circumstances thinks fit, and in case of relief may grant it on such terms (if any) as to costs, expenses, damages, compensation, penalty, or otherwise, including the granting of an injunction to restrain any like act or neglect in the future, as the court in the circumstances of each case may think fit.
- (3) For the purposes of this section, the expression " tenant " includes any person in possession of the land or of the rents and profits thereof; and a right of forfeiture shall not, in any subsequent proceedings, be deemed to have been extinguished if the notice by the lord was served when the right was subsisting.
- (4) The provisions of section sixty-seven of the Conveyancing Act, 1881, shall apply to any notice required or authorised to be served under this section.

133 Application to copyholds for life or years without right of perpetual renewal.

- (1) The foregoing provisions of this Part of this Act shall not apply to any copyhold land held under a grant by the lord as copyhold for a life or lives or for years where the tenant has not at the commencement of this Act, a right of perpetual renewal, but in such case the copyhold interest of the tenant shall (save as hereinafter provided) as from the commencement of this Act be converted into a leasehold interest for the life

Status: This is the original version (as it was originally enacted).

or lives, or for years determinable on the dropping of a life, or for a corresponding legal term of years absolute, as the case may be, and the estate of the lord shall be the fee simple or freehold reversion immediately expectant on the interest so created, and the benefit of the rents, services, and conditions subject to which the copyhold interest was held shall be incident and annexed to the reversion, and the burden of the covenants or agreements expressed or implied on the part of the lord and the tenant respectively shall run with the reversion and the land respectively; and the lord shall be entitled to a right of re-entry exercisable after thirty days default in payment of rent or on non-performance or breach of any services, covenants, agreements, or conditions, which ought to be paid, observed, or performed by the tenant, but subject (where applicable) to the provisions of section fourteen of the Conveyancing Act, 1881, as amended by any subsequent enactment.

- (2) Every interest by this section vested in the tenant shall (subject to the provisions of Part I. of this Act) be subject to the same trusts, powers, executory limitations over, rights and equities, and to the same covenants and provisions relating to user and enjoyment, and to all the same obligations of every kind, as the copyhold interest affected by this section would have been subject to if it had not been so affected.
- (3) Every such interest which, but for this subsection, would have taken effect as an interest for life or lives or determinable on the cesser of a life shall, in accordance with Part VII. of this Act, take effect for a term of ninety years determinable by notice as therein mentioned.

134 Application to Crown and Duchy lands.

This Part of this Act shall extend to manors or lands vested in His Majesty in right of the Crown, or of the Duchy of Lancaster, or in right of the Duchy of Cornwall or the possessions thereof, or in the Duke of Cornwall for the time being, for any estate, whether in possession, reversion, or remainder and as respects—

- (a) land belonging to His Majesty in right of the Crown, the Commissioners of Woods;
- (b) land belonging to His Majesty in right of the Duchy of Lancaster, the Chancellor of the Duchy;
- (c) land belonging to the Duchy of Cornwall, such person as YM Duke of Cornwall or the possessor for the time being of the Duchy of Cornwall appoints;

shall, for the purposes of this Act, be entitled to act in the name and on behalf of the lord or tenant or estate owner as the case may require.

135 Application to perpetually renewable copyholds.

Where copyhold land is held for life or lives or for years, whether or not determinable with life, and the tenant has at the commencement of this Act, a perpetual right of renewal, subject or not to the fulfilment of any conditions, then, this Part of this Act shall apply as if the person who at the commencement of this Act was the admitted tenant or had the best right to be admitted in respect of such renewable interest, had been admitted, or (as the case may be) had the best right to be admitted, in respect of the inheritance; save that if the last admitted tenant died before the commencement of this Act his personal representatives shall be deemed to have had the best right to be admitted (but without prejudice to the beneficial rights of his devisee, legatee, statutory next of kin, or other persons claiming under his will or on his intestacy) and

the land so enfranchised shall vest in accordance with the provisions of the Twelfth Schedule to this Act.

136 Saving of Grand and Petty Sergeanty services.

Nothing in this Act shall affect the services incident to Grand and Petty Sergeanty (which shall not be deemed to be manorial incidents), but the land affected shall be subject to the provisions of this Act in like manner as if, before the commencement of this Act, it had been held in free and common socage or had been copyhold land as the case may require.

137 Provisions for the protection of Royal Parks and Gardens.

As regards the manors of Hampton Court, in the county of Middlesex, and Richmond, in the county of Surrey, and every or any other manor vested, at the commencement of this Act, in His Majesty in right of the Crown or of the Duchy of Lancaster, and lands adjoining or separated only by a road or boundary wall from any royal park or garden the following provisions for the protection of the amenities of royal parks, gardens, and palaces shall have effect:—

- (1) The Commissioners of Works (in this section called "the Commissioners") and all persons authorised by them in that behalf shall have a right of entry Upon all enfranchised land adjoining any such boundary wall on the site thereof at all times in the daytime for the purpose of inspecting the state and condition of the boundary wall and repairing, rebuilding, or reinstating the same.
- (2) The Commissioners shall be entitled by deed under their corporate seal (to be enrolled on the court rolls of the manor within six months after execution and to be registered, in respect of restrictions, as a land charge under the Land Charges Registration and Searches Act, 1888, as amended) to impose upon any enfranchised land such conditions, stipulations, and restrictions relating to—
 - (a) The maintenance, repair, and reinstatement by or by the direction of the Commissioners of the boundary wall of a royal park or garden so far as adjoining the land or comprised in any building thereon ;
 - (b) The character, height, and elevation towards the park, or garden of any future building erected on the land or any alteration of any existing building as shall in the opinion of the Commissioners be reasonably necessary for the protection of the amenities of the adjoining or neighbouring royal park or garden.
- (3) Before executing any such deed, the Commissioners shall give to the tenant, or leave or affix upon the land or some building thereon, at least one month's written notice of their intention to execute the deed, and of the conditions, stipulations, and restrictions intended to be comprised therein, and shall consider any objections which the tenant or any person interested in the land may offer within the period aforesaid.
- (4) The conditions, stipulations, and restrictions imposed by any such deed shall, as from the commencement of this Act, be binding in perpetuity (unless released by the Commissioners) upon the land affected thereby, and the persons from time to time entitled to any estate or interest therein, and shall be enforceable by the Commissioners in like manner as restrictive covenants running (as regards the burden thereof) with the land.

Status: This is the original version (as it was originally enacted).

- (5) At any time after the expiration of six months from the commencement of this Act, any person interested in any enfranchised land not affected by any such deed already executed by the Commissioners may give to the Commissioners notice in writing requiring them to declare the conditions, stipulations, and restrictions (if any) intended to be imposed on such land, and the Commissioners shall, within three months after the receipt of such notice, execute such deed as aforesaid in relation to such land, or if they shall fail so to do such land shall be free from all such conditions, stipulations, and restrictions as aforesaid.
- (6) Every deed executed under this section shall be executed in duplicate, and one part shall be handed to the owner of the land affected, and the other part shall be retained by the Commissioners.
- (7) The Commissioners shall have power in their absolute discretion to release either wholly or partially and permanently or otherwise the conditions, stipulations, and restrictions so imposed by them on any enfranchised land or to waive any breach thereof.
- (8) Every person having or hereafter acquiring any estate or interest in any enfranchised land shall (provided a land charge is duly registered as aforesaid) be deemed to have acquired such estate or interest with notice of all conditions, stipulations, and restrictions (if any) for the time being affecting the land by virtue of any deed executed pursuant to this section.