



Law of Property Act 1922

1922 CHAPTER 16

PART VI

EXTINGUISHMENT OF MANORIAL INCIDENTS.

138 Extinguishment of manorial incidents.

- (1) The manorial incidents affecting enfranchised land saved by Part V. of this Act, and all manorial incidents of a like nature affecting any other land shall by virtue of this Act be extinguished in respect of the land thereby affected, but subject to the payment of such compensation (if any) in respect of any manorial incidents referred to in Part II. of the Thirteenth Schedule to this Act, whether the incidents are saved by Part V. of this Act or not, as is payable under the provisions of this Part of this Act, upon the happening of any of the following events :—
- (a) where an agreement in writing between the lord and the tenant of the land, or other persons authorised to effect agreements in this behalf, as to the compensation for the extinguishment is made within ten years after the commencement of this Act, then upon the execution of the agreement;
 - (b) where a notice requiring the ascertainment of such compensation is served by the lord on the tenant or by the tenant on the lord within ten years after the commencement of this Act, then upon service of the notice; but the lord shall not be entitled to serve such notice till after the expiration of five years from such commencement;
 - (c) where no such agreement has been made or notice served before the expiration of ten years after the commencement of this Act, then upon the expiration of those ten years :

Provided that—

- (i) the extinguishment of manorial incidents so effected shall not extend to or affect the right to enforce any manorial incident which has become due or enforceable before the date of the extinguishment;
- (ii) if in any manor there are not less than one thousand tenants holding land affected by manorial incidents, the Minister may, on the application of the lord or of not less than two thirds of the tenants, by order (to be published in

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the Gazette) extend the said period of ten years in the case of any such manor and where any such order is made the references in this Part of this Act to the said period of ten years shall be construed as if the extended period had been substituted therefor.

- (2) A notice by the tenant requiring the ascertainment of the compensation for the extinguishment of manorial incidents may be served in respect of more than one tenement of the same manor where the tenements are held by him for the same estate and are subject to the same trusts and incumbrances (if any); and where the lord has served two or more notices in respect of more than one tenement so held by the same tenant, the tenant may, by notice in writing to the lord, require the extinguishment to be effected in respect of all or any of the tenements as if the same had been included in one notice; provided that where a notice is served by a tenant under this subsection, any proceedings thereon shall not be invalidated by reason only that the tenements specified therein are not held for the same estate or are not subject to the same trusts and incumbrances, if any.
- (3) An agreement as to the compensation for the extinguishment of such manorial incidents as aforesaid (in this Act referred to as "a compensation agreement") may be effected independently of the Copyhold Act, 1894, by the persons who on a sale would be able to dispose of the manorial incidents and the land affected thereby respectively, or may be effected under Part II. of the Copyhold Act, 1894 (as applied by this Act) by the persons who, if the land had not been enfranchised, would have been entitled to effect an enfranchisement with the consent of the Minister thereunder, but resort shall not be had to the powers conferred by Part II. of the Copyhold Act, 1894, unless the Minister is satisfied that such a course is the most convenient in the circumstances.
- (4) Unless the extinguishment is effected by agreement independently of the Copyhold Act, 1894, the provisions of that Act shall, subject to the amendments thereto effected by and for the purposes of this Part of this Act, apply to the extinguishment of manorial incidents extinguished by or under this Act and to land affected by such extinguishment as if "extinguishment" were therein substituted for "enfranchisement" and "land affected by extinguishment" were substituted for "enfranchised land":

Provided that in the absence of agreement as to the amount of the compensation payable on the extinguishment of manorial incidents affecting enfranchised land that compensation shall, subject to the provisions of this Part of this Act, be such as would have been payable for the enfranchisement of the land affected if it had not been enfranchised by Part V. of this Act.

- (5) For facilitating compensation agreements, the following provisions shall have effect—
 - (i) Any person who, on a sale, would be able to dispose of the land affected by manorial incidents or of the manor (as the case may be) shall have power to agree to the creation of a compensation rentcharge, as hereinafter provided, in like manner as if a power for that purpose had been conferred in extension of the powers conferred by any statute or instrument under which the land or the manor (as the case may be) could have been sold, and subject to the consent in writing of any incumbrancer whose consent or concurrence is required on a sale of the land being obtained, the terminable rent-charge so created shall have the same priority as if it had been created under an award of the Minister:
 - (ii) The lord or the tenant shall, at the request of the other, furnish a statutory declaration stating particulars of his estate or interest in the manor or in the land affected by manorial incidents and giving such further information (if any) as may be required to show who has power to enter into the compensation

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- agreement as respects the manor or the land and to give a receipt for the compensation money or any instalment thereof:
- (iii) If the declaration furnished by the lord shows who has power, as respects the manor, to enter into the compensation agreement and give a receipt for the compensation money or any instalment thereof then in favour of the tenant, if the agreement and receipt are entered into and given in accordance with the declaration, the same shall be valid, and the receipt shall effectually discharge the person paying the compensation money or any instalment thereof from being bound to see to the application or being answerable for any loss or misapplication thereof:
 - (iv) Where the compensation money or any instalment thereof is paid in accordance with such declaration to a person not entitled to receive the same, he shall be deemed to have received the money as trustee for the persons entitled thereto:
 - (v) If the declaration furnished by the tenant shows who has power, as respects the land, to enter into the compensation agreement, then the agreement if made in accordance with the declaration shall, in favour of the lord, be valid:
 - (vi) The costs incurred by a lord or tenant in furnishing the declaration shall be recoverable from the person requiring the declaration to be furnished, and any costs so recoverable by the tenant from the lord may be deducted from the compensation.
- (6) Where a compensation agreement provides for the creation of a compensation rentcharge, and the compensation is to be paid by equal annual instalments with interest secured by an annual terminable rentcharge issuing out of the land comprised in the agreement or any part thereof, that agreement shall operate by virtue of this Act as a grant by all necessary parties of an annual terminable rentcharge of the agreed amount (varying with the amount of the principal and interest for the time being payable) issuing out of the land agreed to be charged therewith of the like nature and with the like incidents as if the agreement had been effected under the Copyhold Act, 1894, as amended by this Act.
- (7) Where the compensation (whether ascertained by a compensation agreement or under the Copyhold Act, 1894, as applied by this Act) is to be a gross sum (not payable by instalments) then the land formerly affected by the manorial incidents shall, in priority to any other incumbrances (except tithe rentcharge and any charge having priority by statute), stand charged with the payment of that sum and interest thereon payable half-yearly at the rate of five and a half pounds per cent. per annum from the date of the extinguishment until paid, and for the purpose of recovering the same the person entitled to give a receipt therefor shall, after the expiration of six months from the time when the amount was ascertained, have all the powers conferred by the Conveyancing Act, 1881 (as amended by any subsequent enactment) on a mortgagee by deed whose power of sale has arisen, and as if the land had been charged by way of legal first mortgage to him.
- (8) A receipt for any gross sum or an instalment thereof payable for compensation and the interest thereon shall (but without prejudice to the right of any person interested to recover the interest from the person to whom it is paid) be a sufficient discharge for the same if given by—
- (a) The lord, where the agreement is effected under Part II, of the Copyhold Act, 1894;

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- (b) The person who would have been entitled to give a receipt for purchase money arising on a sale of the manorial incidents, where the agreement is not effected under Part II. of that Act.
- (9) If it appears to the Minister that it is the general wish of the lord and the tenants of any manor that the Minister should assist the parties in arriving at compensation agreements, the Minister may give such assistance, and may for that purpose employ an officer of the Ministry or any other person possessing special knowledge of the matters in question.
- (10) Where the manorial incidents formerly affecting any land have been extinguished, then under a contract to sell and convey the freehold, the purchaser shall not, in the absence of any stipulation to the contrary, have the right to call for the title of the person entering into any compensation agreement or giving a receipt for the compensation money, to enter into such agreement or to give such receipt, and shall not be deemed to be affected with notice of any matter or thing of which, if he had contracted that such title should be furnished, he might have had notice.
- (11) The forms of compensation agreement and receipt for rents, fines, reliefs, heriots, and fees, and for compensation money contained in Part I. of the Thirteenth Schedule to this Act may, when effected otherwise than under the Copyhold Act, 1894, be used, with such variations as the circumstances of each case may require, and shall be deemed sufficient in the cases to which such forms apply.
- (12) The lord and the tenant or other persons authorised to effect the compensation agreement, may in writing agree that any right of the lord which is preserved by the Twelfth Schedule to this Act, shall be treated as a manorial incident and be extinguished as if it were a manorial incident saved by Part V. of this Act or that there shall be granted to the lord as compensation or as part of the compensation for the extinguishment of manorial incidents, any estate or right of the tenant or any right of way or other easement in or over the land affected for more effectually winning and carrying away any mines or minerals under the land, including any right to let down the surface :

Provided that, where any such agreement relates to mines or minerals, the consideration for the estate or right shall be determined by agreement and not otherwise, and any such agreement for the extinguishment of the right of the lord in or to any mines and minerals shall, subject to the provisions of the agreement, operate as a conveyance to the tenant of such right notwithstanding that the agreement may not be under seal.

139 Facilities for extinguishing manorial incidents and compensation rentcharges.

- (1) For facilitating the extinguishment of manorial incidents under this Part of this Act whether effected under the Copyhold Act, 1894, as applied by this Part of this Act, or independently of that Act, the following provisions shall have effect, and shall, if the extinguishment is effected under the Copyhold Act, 1894, as so applied, have effect as amendments of that Act:—
- (i) The lord and the tenant respectively shall furnish to the other and to the Minister any information in his possession, including any plan or map of the land affected, which the other or the Minister may reasonably require with a view to ascertaining what would be the proper amount of compensation:
- (ii) No compensation shall be paid to the lord for loss of any right to forfeiture, except as provided by Part II. of the Thirteenth Schedule to this Act, nor

for any advantage accruing to the tenant by reason of the extinguishment of any other incident unless the extinguishment of the incident occasioning the advantage is a loss to the lord as well as an advantage to the tenant, nor in excess of such loss:

- (iii) The compensation, if any, for loss of office, payable to the steward, when appointed before the passing of this Act, shall (in default of agreement) be such as is set out in the Fourteenth Schedule to this Act:
- (iv) The compensation, if any, to the steward shall be paid by the lord or the person effecting the compensation agreement in right of the manorial incidents, and the amount thereof and any costs or expenses paid or incurred by the lord which are, by virtue of this Act, or by agreement, recoverable from the tenant, shall be added to, and treated as part of the compensation for the extinguishment of the manorial incidents ; and the lord or other person aforesaid may require the amount of compensation so paid by him and his costs and expenses incurred in connexion with the extinguishment to be discharged out of capital money held on the trusts of any settlement of the manor, or out of personal estate held on the same trusts as the proceeds of sale of the manor are directed to be held, or may charge the amount on the manor or on land settled on the same limitations or trusts as the manor, or on any rentcharge arising in respect of the extinguishment of any manorial incidents within the manor, and such charge shall be by charge by way of legal mortgage, or by a certificate of charge under the Copyhold Act, 1894, which shall have the same effect as a charge by way of legal first mortgage:
- (v) Unless the compensation for the extinguishment of the manorial incidents is within thirty days after the ascertainment thereof paid in a gross sum, the compensation shall (unless the parties otherwise agree) be paid by twenty equal annual instalments, the first instalment to be paid on the first day of January next after the ascertainment .of the amount of the compensation, with interest at five and a half per cent. per annum on the amount of the compensation from the date of the extinguishment of the manorial incidents, and a further instalment, with interest at the like rate on so much of the compensation as for the time being remains unpaid, shall be paid on every subsequent first day of January until the whole compensation shall be fully paid, and so long as any of the said instalments and interest or either of them remain payable, the payment of the compensation shall be secured by a terminable rentcharge issuing out of the land to which the manorial incidents attached equal to the said instalments and interest, payable on the same days but accruing from day to day, and varying with the amount from time to time payable:

Provided that, if the land affected is settled land, and there is sufficient capital money whereout the compensation may be discharged, or if the land affected is held on trust for sale and there is sufficient personal estate (not being chattels real) settled on the same trusts as the proceeds of sale whereout the compensation may be discharged, or if the compensation does not exceed twenty pounds, the compensation shall (unless the court on the application of any person interested otherwise directs) be paid in a gross sum (not by instalments), and in the former cases (subject to any order of the court to the contrary) shall be paid out of such capital money or personal estate, and in any such case may, subject as aforesaid, be recovered by the lord or other person entitled to give a receipt therefor as a debt due to him from the tenant or the trustees of the capital money or personal estate, as the case may be,

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with interest thereon from the date of the extinguishment at the rate of five and a half per cent per annum :

- (vi) Where any land subject to any manorial incidents is intermixed with, or held or occupied together With, other land, and the land subject to the manorial incidents cannot be identified on the Ordnance Survey map by the description thereof on the rolls of the manor, or otherwise, it shall be lawful for the Minister on the application in writing of the lord or the tenant by order to declare what part of the land so intermixed, or held or occupied together, shall be, or be deemed to be, the land subject to the manorial incidents in question, and to determine and declare the situation and boundaries thereof, and on such order being made, the land described in such order shall be, or be deemed to be, the land subject to the manorial incidents in question, and such land shall, if the lord or tenant so desire, be denned by reference to the Ordnance Survey map :
- (vii) Where manorial incidents have been extinguished within ten years after the commencement of this Act by agreement or by notice, the agreement, award, compensation charge, or certificate shall not be chargeable with, any stamp duty, and the Minister shall not require the payment by either party of any office fees or other expenses of the Ministry, except in the case of an application to the Minister which the Minister considers to have been unnecessary or unreasonable:
- (viii) The compensation shall, unless otherwise agreed, be ascertained in accordance with the scale set out in Part II. of the Thirteenth Schedule to this Act, which scale shall be binding as a matter of law in all cases, unless on application being made to the Minister on the part either of the lord or the tenant, the Minister decides that owing to any special customs or other exceptional circumstances the application of the scale would work injustice to either party, and if the Minister so decides, the Minister may, if he thinks fit, vary the scale, or fix some other scale which shall be applicable to the case; and where, by reason of the existence of concurrent legal estates in the same land or otherwise, the Minister considers that it would be unjust for the compensation money to be borne exclusively by the estate in fee simple, he may (subject to appeal to the court) decide, as between the fee simple and derivative interests, how the compensation money is to be borne, and whether by all or any of the derivative interests to the exclusion of the fee simple or of any of such interests, but not so as to affect prejudicially the interests of a mortgagee:
- (ix) If the notice requiring the ascertainment of the amount of compensation is given by the lord to the tenant or by the tenant to the lord within ten years after the commencement of this Act, the party giving the notice shall, except so far as otherwise provided by this Part of this Act, bear the expenses incurred by the other party in respect of the proceedings for extinguishment, unless the Minister considers that his conduct has been unreasonable, or that he has unreasonably refused a proposal made by the party giving the notice, in which case the Minister may disallow the payment of the whole or any part of the expenses incurred as the Minister may consider just:

Provided that the lord and the tenant may, notwithstanding that a notice has been served, at any time within ten years after the commencement of this Act and before the amount of the compensation has been ascertained pursuant to such notice, agree (subject to discharging any costs incurred in relation to the notice) to extinguish the manorial incidents by a compensation agreement:

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- (x) Where in the Copyhold Act, 1894, interest is fixed at the rate of four per cent. per annum, the rate shall be increased to five and a half per cent. per annum; and references to perpetual compensation rentcharges shall be construed as referring to compensation payable by instalments and secured by a terminable rentcharge :
- (2) For further facilitating the extinguishment of manorial incidents under this Part of this Act, where the extinguishment is effected under the Copyhold Act, 1894, as applied by this Part of this Act, the following amendments shall be made in the Copyhold Act, 1894:—
- (a) A certificate under the seal of the Minister stating that the compensation for extinguishment has been duly ascertained to be the amount stated in the certificate shall be conclusive evidence of the facts so stated :
 - (b) The compensation for the extinguishment of manorial incidents may (save where the provisions of Part VI. of the Copyhold Act, 1894, are applicable) be paid to the lord who, if entitled to a limited estate only in the manor, shall forthwith pay the sum received into court or to trustees in the manner provided by the Copyhold Act, 1894, and until such payment he shall be deemed to hold the money as trustee for the persons entitled thereto. The receipt of the person hereby authorised to receive the compensation shall be a sufficient discharge for the money, and the person paying it shall not be bound to see to the application thereof or be liable for its misapplication or loss. But the provisions as to payment of compensation contained in Part VI. of the Copyhold Act, 1894, shall in the cases therein mentioned apply to the payment of compensation under this Part of this Act.
 - (c) Any valuation required to be made for the purpose of assessing compensation shall, unless the parties otherwise agree, be made by a single valuer appointed (in default of agreement between the lord and the tenant) by the Minister, and his remuneration shall, in default of agreement, be fixed by the Minister.
- (3) The person who, on a sale, is able to dispose of the land out of which a compensation terminable rent-charge issues may, at any time, on giving not less than one month's notice to the person who on a sale would be able to dispose of the compensation rentcharge, redeem the rentcharge and require the same to be released on payment of the amount of the instalments of principal remaining unpaid with interest up to the date of payment at the rate of five and a half pounds per centum per annum, and may require that any capital money or personal estate which would (if the manorial incidents had not been extinguished) have been applicable for discharging the compensation for the extinguishment of manorial incidents, shall be applied in redeeming the instalments of principal; and the redemption money shall be paid to the person (if any) who would have been entitled to give a receipt for the net proceeds of sale of the rentcharge if sold and shall be held on the same trusts (if any) as such proceeds would have been held; and if there is no such person capable of disposing of the said rentcharge or of giving a receipt for the redemption money therefor, the same may be redeemed under the provisions of section forty-five of the Conveyancing Act, 1881 (as amended by any subsequent enactment), and the expenses incurred in redeeming the rentcharge shall be dealt with on the same footing as the expenses incurred in redeeming a mortgage.
- (4) The Minister may make rules for prescribing the procedure under this section and the manner in which any notice under this section may be served, and generally for giving effect to the provisions of this Part of this Act, and the rules so made shall set forth the provisions of the Copyhold Act, 1894, applicable for the purposes of this Part of this Act as modified and applied thereby.

140 Provisions where manorial incidents are extinguished on expiration of ten years after the commencement of Act.

Where in respect of any enfranchised land or in respect of any other land liable to any heriot, quit rent, chief rent, free rent, or other manorial incident, the manorial incidents affecting the land are by virtue of this Act extinguished upon the expiration of ten years from the commencement of this Act by reason of no compensation agreement having been made or notice given to ascertain the compensation before the expiration of that period, the following provisions shall have effect:—

- (a) At any time after the expiration of the said ten years and before the expiration of fifteen years from the commencement of this Act the lord or the tenant may apply to the Minister to determine the amount of compensation to be paid by the tenant to the lord for the extinguishment of the said manorial incidents and upon such application being made the Minister shall proceed to determine and award the amount of the compensation in accordance with the Copyhold Act, 1894, as modified and applied by this Part of this Act in like manner as if the lord and the tenant had in accordance with Part I. of that Act agreed in writing that the amount of compensation should be determined by a single valuer appointed by the Minister: Provided that in assessing the compensation no amount shall be allowed in respect of any rent, fine, relief, heriot or fee, which apart from this Part of this Act would have accrued due and become payable, between the expiration of the said period of ten years and the date of the application:
- (b) The annual terminable rentcharge (if any) payable as compensation shall commence from the date of the application (to be mentioned in the award), and the lord shall not be entitled to any interest in respect of the period between the date of the expiration of the said period of ten years and the date of the application:
- (c) If no such application has been made before the expiration of the said period of fifteen years, no compensation shall be payable in respect of the extinguishment of manorial incidents :
- (d) The costs and expenses of determining the compensation in any case to which this section applies shall, notwithstanding anything contained in this Part of this Act, and in default of agreement, be borne by the tenant, unless the Minister considers that the conduct of the lord has been unreasonable or that special considerations apply, in either of which cases the Minister may determine by whom and in what proportions, if any, the costs and expenses are to be borne, and in so determining he shall have regard to what would be just, accordingly as nearly as may be to the advantages derived from the extinguishment by the lord and tenant, respectively, or by either of them.

141 Application to Crown and Duchy lands.

- (1) 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 possessions thereof, or in the Duke of Cornwall for the time being, for any estate, whether in possession, reversion or remainder.
- (2) Nothing contained in this part of this Act shall extend to or affect any condition, stipulation or restriction imposed by the Commissioners of Works under this Act for the protection of any royal park or garden.

142 Application to manors where derivative interests are entered on rolls or take effect at law.

In the case of a manor in which the fines are certain, and in which, before the commencement of this Act, it was the practice for copyholders in fee to grant derivative interests to persons who were admitted as copyholders of the manor in respect of those interests, or where by virtue of this Act legal estates derived out of the fee simple are created for giving effect to former equitable interests, this Part of this Act shall apply, subject to the following modifications:—

- (a) The derivative interests and the fee simple subject thereto shall be treated separately, and the person entitled to or having power on a sale to dispose of each separate interest shall (save as otherwise provided in this Part of this Act) only be liable to pay compensation for the extinguishment of manorial incidents to the extent to which that interest is thereby affected, and for the purposes of the Copyhold Act, 1894, shall be deemed to be the tenant:
- (b) The compensation for the extinguishment of manorial incidents affecting a derivative interest shall in every case be paid in a gross sum.

143 Construction of Part VI.

- (1) Subject to the provisions of this Part of this Act with respect to Crown and Duchy lands, this Part of this Act shall, without prejudice to the general definitions in Part XI of this Act which when applicable shall apply, be construed as one with the Copyhold Act, 1894 :

Provided that the expression " lord " shall, where the context so requires, mean any person having power to effect a compensation agreement in right of the manorial incidents, and for the definition of "tenant" contained in that Act the following definition shall be substituted:—

“The expression ' tenant ' means the person in whom the land enfranchised under Part V. of the Law of Property Act, 1922, is thereby made to vest and the persons deriving title under him, and includes the person entitled to the legal estate in or the possession of any other land subject to manorial incidents, whether or not those incidents have been severed from the manor.”

- (2) Where the right to any manorial incidents is not vested in the lord of the manor, but in some other person, the provisions of this Part of this Act shall in relation to such manorial incidents have effect as if the person who on a sale would be able to dispose of those manorial incidents were substituted for the lord, and the manorial incidents were substituted for the manor.
- (3) The provisions of section sixty-seven of the Conveyancing Act, 1881, shall apply to all notices authorised to be given under this Part of this Act to which section fifty-seven of the Copyhold Act, 1894, does not apply.
- (4) All decisions or orders of the Minister made under this Part of this Act shall (subject only to such appeal to the court as may be prescribed by rules of court) be final.

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General Provisions.

144 Power to inspect Court Rolls.

Any person interested in enfranchised land may on payment of the fee prescribed by the Lord Chancellor, inspect at any reasonable hour any Court Rolls of the manor of which the land was held; and Court Rolls shall (whether before or after the manorial incidents have been extinguished), for the purposes of section fourteen of the Evidence Act, 1851, be deemed to be documents of such a public nature as to be admissible in evidence on their mere production from the proper custody.