



# Law of Property Act 1922

## 1922 CHAPTER 16

### PART VI

#### EXTINGUISHMENT OF MANORIAL INCIDENTS.

#### **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

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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, 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,

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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:

- (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

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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.