



# Law of Property Act 1925

1925 CHAPTER 20 15 and 16 Geo 5

## PART III

MORTGAGES, RENTCHARGES, AND POWERS OF ATTORNEY

### *Rentcharges*

#### **121 Remedies for the recovery of annual sums charged on land.**

(1) Where a person is entitled to receive out of any land, or out of the income of any land, any annual sum, payable half-yearly or otherwise, whether charged on the land or on the income of the land, and whether by way of rentcharge or otherwise not being rent incident to a reversion, then, subject and without prejudice to all estates, interests, and rights having priority to the annual sum, the person entitled to receive the annual sum shall have such remedies for recovering and compelling payment thereof as are described in this section, as far as those remedies might have been conferred by the instrument under which the annual sum arises, but not further.

<sup>F1</sup>(2) .....

(3) If at any time the annual sum or any part thereof is unpaid for forty days next after the time appointed for any payment in respect thereof, then, although no legal demand has been made for payment thereof, the person entitled to receive the annual sum may enter into possession of and hold the land charged or any part thereof, and take the income thereof, until thereby or otherwise the annual sum and all arrears thereof due at the time of his entry, or afterwards becoming due during his continuance in possession, and all costs and expenses occasioned by nonpayment of the annual sum, are fully paid; and such possession when taken shall be without impeachment of waste.

(4) In the like case the person entitled to the annual sum, whether taking possession or not, may also by deed demise the land charged, or any part thereof, to a trustee for a term of years, with or without impeachment of waste, on trust, by all or any of the means hereinafter mentioned, or by any other reasonable means, to raise and pay the annual sum and all arrears thereof due or to become due, and all costs and expenses occasioned by nonpayment of the annual sum, or incurred in compelling or obtaining

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payment thereof, or otherwise relating thereto, including the costs of the preparation and execution of the deed of demise, and the costs of the execution of the trusts of that deed:

Provided that this subsection shall not authorise the creation of a legal term of years absolute after the commencement of this Act, save where the annual sum is a rentcharge held for a legal estate.

The surplus, if any, of the money raised, or of the income received, under the trusts of the deed shall be paid to the person for the time being entitled to the land therein comprised in reversion immediately expectant on the term thereby created.

The means by which such annual sum, arrears, costs, and expenses may be raised includes—

- (a) the creation of a legal mortgage or a sale (effected by assignment or subdemise) of the term created in the land charged or any part thereof,
- (b) the receipt of the income of the land comprised in the term.

- (5) This section applies only if and as far as a contrary intention is not expressed in the instrument under which the annual sum arises, and has effect subject to the terms of that instrument and to the provisions therein contained.

<sup>F2</sup>(6) .....

- (7) The powers and remedies conferred by this section apply where the instrument creating the annual sum comes into operation after the thirty-first day of December, eighteen hundred and eighty-one, and whether the instrument conferring the power under which the annual sum was authorised to be created came into operation before or after that date, unless the instrument creating the power or under which the annual sum is created otherwise directs.

#### **Textual Amendments**

- F1** S. 121(2) repealed (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), s. 148, Sch. 14 para. 23, **Sch. 23 Pt. 4** (with s. 89); S.I. 2014/768, art. 2(1)(b)
- F2** S. 121(6) repealed (6.4.2010) by [Perpetuities and Accumulations Act 2009 \(c. 18\)](#), ss. 4(a), 22(2), **Schs.** (with s. 15(1)(4)1718); S.I. 2010/37, art. 2

#### **Modifications etc. (not altering text)**

- C1** S. 121 saved by [Perpetuities and Accumulations Act 1964 \(c. 55\)](#), s. **11(1)**; extended by [Statute Law \(Repeals\) Act 1969 \(c. 52\)](#), s. **3**

## **122 Creation of rentcharges charged on another rentcharge and remedies for recovery thereof.**

- (1) A rentcharge or other annual sum (not being rent incident to a reversion) payable half yearly or otherwise may be granted, reserved, charged or created out of or on another rentcharge or annual sum (not being rent incident to a reversion) charged on or payable out of land or on or out of the income of land, in like manner as the same could have been made to issue out of land.
- (2) If at any time the annual sum so created or any part thereof is unpaid for twenty-one days next after the time appointed for any payment in respect thereof, the person entitled to receive the annual sum shall (without prejudice to any prior interest or

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charge) have power to appoint a receiver of the annual sum charged or any part thereof, and the provisions of this Act relating to the appointment, powers, remuneration and duties of a receiver, shall apply in like manner as if such person were a mortgagee entitled to exercise the power of sale conferred by this Act, and the annual sum charged were the mortgaged property and the person entitled thereto were the mortgagor.

- (3) The power to appoint a receiver conferred by this section shall (where the annual sum is charged on a rentcharge) take effect in substitution for the remedies conferred, in the case of annual sums charged on land, by the last preceding section, but subsection (6) of that section shall apply and have effect as if herein re-enacted and in terms made applicable to the powers conferred by this section.
- (4) This section applies to annual sums expressed to be created before as well as after the commencement of this Act, and, but without prejudice to any order of the court made before the commencement of this Act, operates to confirm any annual sum which would have been validly created if this section had been in force.

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**Modifications etc. (not altering text)**

**C2** S. 122 saved by [Perpetuities and Accumulations Act 1964 \(c. 55\)](#), s. 11(1)

**Changes to legislation:**

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

- Act applied by [2023 asc 3 s. 146\(5\)](#)

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

- s. 52(2)(dc)(dd) inserted by [2016 c. 22 Sch. 7 para. 1\(2\)](#)