



Leasehold Reform Act 1967

1967 CHAPTER 88

PART I **E+W**

ENFRANCHISEMENT AND EXTENSION OF LONG LEASEHOLDS

Enfranchisement

8 **Obligation to enfranchise.** **E+W**

- (1) Where a tenant of a house has under this Part of this Act a right to acquire the freehold, and gives to the landlord written notice of his desire to have the freehold, then except as provided by this Part of this Act the landlord shall be bound to make to the tenant, and the tenant to accept, (at the price and on the conditions so provided) a grant of the house and premises for an estate in fee simple absolute, subject to the tenancy and to tenant's incumbrances, but otherwise free of incumbrances.
- (2) For purposes of this Part of this Act "incumbrances" includes rentcharges and, subject to subsection (3) below, personal liabilities attaching in respect of the ownership of land or an interest in land though not charged on that land or interest; and "tenant's incumbrances" includes any interest directly or indirectly derived out of the tenancy, and any incumbrance on the tenancy or any such interest (whether or not the same matter is an incumbrance also on any interest reversionary on the tenancy).
- (3) Burdens originating in tenure, and burdens in respect of the upkeep or regulation for the benefit of any locality of any land, building, structure, works, ways or watercourse shall not be treated as incumbrances for purposes of this Part of this Act, but any conveyance executed to give effect to this section shall be made subject thereto except as otherwise provided by section 11 below.
- (4) A conveyance executed to give effect to this section—
 - (a) shall have effect under section 2(1) of the ^{M1}Law of Property Act 1925 to overreach any incumbrance capable of being overreached under that section as if, where the interest conveyed is settled land, the conveyance were made under the powers of the ^{M2}Settled Land Act 1925 and as if the requirements

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of section 2(1) as to payment of the capital money allowed any part of the purchase price paid or applied in accordance with sections 11 to 13 below to be so paid or applied;

- (b) shall not be made subject to any incumbrance capable of being overreached by the conveyance, but shall be made subject (where they are not capable of being overreached) to rentcharges [^{F1}redeemable under sections 8 to 10 of the ^{M3}Rentcharges Act 1977 and those falling within paragraphs (c) and (d) of section 2(3) of that Act (estate rentcharges and rentcharges imposed under certain enactments)], except as otherwise provided by section 11 below.

- (5) Notwithstanding that on a grant to a tenant of a house and premises under this section no payment or a nominal payment only is required from the tenant for the price of the house and premises, the tenant shall nevertheless be deemed for all purposes to be a purchaser for a valuable consideration in money or money's worth.

Textual Amendments

F1 Words substituted by [Rentcharges Act 1977 \(c. 30\), s. 17\(4\), Sch. 1 para. 4\(1\)](#)

Modifications etc. (not altering text)

C1 [S. 8](#) amended by [Leasehold Reform Act 1979 \(c. 44\), s. 1](#)

Marginal Citations

M1 [1925 c. 20.](#)

M2 [1925 c. 18.](#)

M3 [1977 c. 30.](#)

9 **Purchase price and costs of enfranchisement, and tenant's right to withdraw.** **E**

+W

- (1) Subject to subsection (2) below, the price payable for a house and premises on a conveyance under section 8 above shall be the amount which at the relevant time the house and premises, if sold in the open market by a willing seller, [^{F2}(with the tenant and members of his family ^{F3}. . . not buying or seeking to buy)] might be expected to realise on the following assumptions:—

- (a) on the assumption that the vendor was selling for an estate in fee simple, subject to the tenancy but on the assumption that this Part of this Act conferred no right to acquire the freehold, and if the tenancy has not been extended under this Part of this Act, on the assumption that (subject to the landlord's rights under section 17 below) it was to be so extended;
- (b) on the assumption that (subject to paragraph (a) above) the vendor was selling subject, in respect of rentcharges . . . ^{F4} to which section 11(2) below applies, to the same annual charge as the conveyance to the tenant is to be subject to, but the purchaser would otherwise be effectively exonerated until the termination of the tenancy from any liability or charge in respect of tenant's incumbrances; and
- (c) on the assumption that (subject to paragraphs (a) and (b) above) the vendor was selling with and subject to the rights and burdens with and subject to which the conveyance to the tenant is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to section 10 below.

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[^{F5}The reference in this subsection to members of the tenant's family shall be construed in accordance with section 7(7) of this Act.]

[^{F6}(1A) [^{F7}Notwithstanding the foregoing subsection, the price payable for a house and premises,—

- (i) the rateable value of which was above £1,000 in Greater London and £500 elsewhere on 31st March 1990, or,
- (ii) which had no rateable value on that date and R exceeded £16,333 under the formula in section 1(1)(a) above (and section 1(7) above shall apply to that amount as it applies to the amount referred to in subsection (1)(a)(ii) of that section)

shall be the amount which at the relevant time the house and premises, if sold in the open market by a willing seller, might be expected to realise on the following assumptions:—]

- (a) on the assumption that the vendor was selling for an estate in fee simple, subject to the tenancy, but on the assumption that this Part of this Act conferred no right to acquire the freehold; [^{F8}or an extended lease ^{F3}. . .]
- (b) on the assumption that at the end of the tenancy the tenant has the right to remain in possession of the house and premises

[if the tenancy is such a tenancy as is mentioned in subsection (2) or subsection (3) of section 186 of the Local Government and Housing Act ^{M4}1989, or is a tenancy which is a long tenancy at a low rent for the purposes of Part I of the Landlord and Tenant Act ^{M5}1954 in respect of which the landlord is not able to serve a notice under section 4 of that Act specifying a date of termination earlier than 15th January 1999, under the provisions of Schedule 10 to the Local Government and Housing Act 1989; and

- (i) in any other case] under the provisions of Part I of the ^{M6}Landlord and Tenant Act 1954;
- (c) on the assumption that the tenant has no liability to carry out any repairs, maintenance or redecorations under the terms of the tenancy or Part I of the Landlord and Tenant Act 1954;
- (d) on the assumption that the price be diminished by the extent to which the value of the house and premises has been increased by any improvement carried out by the tenant or his predecessors in title at their own expense;
- (e) on the assumption that (subject to paragraph (a) above) the vendor was selling subject, in respect of rentcharges . . . ^{F10} to which section 11(2) below applies, to the same annual charge as the conveyance to the tenant is to be subject to, but the purchaser would otherwise be effectively exonerated until the termination of the tenancy from any liability or charge in respect of tenant's incumbrances; and
- (f) on the assumption that (subject to paragraphs (a) and (b) above) the vendor was selling with and subject to the rights and burdens with and subject to which the conveyance to the tenant is to be made, and in particular with and subject to such permanent or extended rights and burdens as are to be created in order to give effect to section 10 below.

[Where, in a case in which the price payable for a house and premises is to be ^{F11}(1AA) determined in accordance with subsection (1A) above, the tenancy has been extended under this Part of this Act—

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- (a) if the relevant time is on or before the original term date, the assumptions set out in that subsection apply as if the tenancy is to terminate on the original term date; and
 - (b) if the relevant time is after the original term date, the assumptions set out in paragraphs (a), (c) and (e) of that subsection apply as if the tenancy had terminated on the original term date and the assumption set out in paragraph (b) of that subsection applies as if the words “at the end of the tenancy” were omitted.]
- (1B) For the purpose of determining whether the rateable value of the house and premises is above £1,000 in Greater London, or £500 elsewhere, the rateable value shall be adjusted to take into account any tenant’s improvements in accordance with Schedule 8 to the ^{M7}Housing Act 1974.]
- [^{F12}(1C) Notwithstanding subsection (1) above, the price payable for a house and premises where the right to acquire the freehold arises by virtue of any one or more of the provisions of sections 1A [^{F13}[^{F14}, 1AA]] and 1B above [^{F15}, or where the tenancy of the house and premises has been extended under section 14 below and the notice under section 8(1) above was given (whether by the tenant or a sub-tenant) after the original term date of the tenancy,] shall be determined in accordance with subsection (1A) above; but in any such case—
- ^{F16}(a)
 - (b) section 9A below has effect for determining whether any additional amount is payable by way of compensation under that section;
- and in a case where the provision (or one of the provisions) by virtue of which the right to acquire the freehold arises is section 1A(1) above, subsection (1A) above shall apply with the omission of the assumption set out in paragraph (b) of that subsection.]
- [^{F17}(1D) Where, in determining the price payable for a house and premises in accordance with this section, there falls to be taken into account any marriage value arising by virtue of the coalescence of the freehold and leasehold interests, the share of the marriage value to which the tenant is to be regarded as being entitled shall be one-half of it.]
- [^{F18}(1E) But where at the relevant time the unexpired term of the tenant’s tenancy exceeds eighty years, the marriage value shall be taken to be nil.]
- (2) The price payable for the house and premises shall be subject to such deduction (if any) in respect of any defect in the title to be conveyed to the tenant as on a sale in the open market might be expected to be allowed between a willing seller and a willing buyer.
 - (3) On ascertaining the amount payable, or likely to be payable, as the price for a house and premises in accordance with this section (but not more than one month after the amount payable has been determined by agreement or otherwise), the tenant may give written notice to the landlord that he is unable or unwilling to acquire the house and premises at the price he must pay; and thereupon—
 - (a) the notice under section 8 above of his desire to have the freehold shall cease to have effect, and he shall be liable to make such compensation as may be just to the landlord in respect of the interference (if any) by the notice with the exercise by the landlord of his power to dispose of or deal with the house and premises or any neighbouring property; and
 - (b) any further notice given under that section with respect to the house or any part of it (with or without other property) shall be void if given within the following [^{F19}twelve months].

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(4) Where a person gives notice of his desire to have the freehold of a house and premises under this Part of this Act, then unless the notice lapses under any provision of this Act excluding his liability, there shall be borne by him (so far as they are incurred in pursuance of the notice) the reasonable costs of or incidental to any of the following matters:—

- (a) any investigation by the landlord of that person's right to acquire the freehold;
- (b) any conveyance or assurance of the house and premises or any part thereof or of any outstanding estate or interest therein;
- (c) deducing, evidencing and verifying the title to the house and premises or any estate or interest therein;
- (d) making out and furnishing such abstracts and copies as the person giving the notice may require;
- (e) any valuation of the house and premises;

but so that this subsection shall not apply to any costs if on a sale made voluntarily a stipulation that they were to be borne by the purchaser would be void.

[^{F20}(4A) Subsection (4) above does not require a person to bear the costs of another person in connection with an application to [^{F21}the appropriate tribunal].]

(5) The landlord's lien (as vendor) on the house and premises for the price payable shall extend—

- (a) to any sums payable by way of rent or recoverable as rent in respect of the house and premises up to the date of the conveyance; and
- (b) to any sums for which the tenant is liable under subsection (4) above; and
- (c) to any other sums due and payable by him to the landlord under or in respect of the tenancy or any agreement collateral thereto.

Textual Amendments

- F2** Words inserted retrospectively by [Housing Act 1969 \(c. 33\), s. 82](#)
- F3** Words in s. 9(1)(1A)(a) repealed (26.7.2002 for E. and 1.1.2003 for W.) by [2002 c. 15, s. 180, Sch. 14; S.I. 2002/1912, art. 2\(b\)\(ii\), Sch. 1 Pt. 3](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); [S.I. 2002/3012, art. 2\(b\)\(ii\), Sch. 1 Pt. 3](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F4** Words repealed by [Rentcharges Act 1977 \(c. 30\), s. 17\(4\), Sch. 2](#)
- F5** Words added retrospectively by [Housing Act 1969 \(c. 33\), s. 82](#)
- F6** S. 9(1A)(1B) inserted by [Housing Act 1974 \(c. 44\), s. 118\(4\)](#)
- F7** Words substituted by [S.I. 1990/434, reg. 2, Sch. para. 9](#)
- F8** Words inserted by [Housing and Planning Act 1986 \(c. 63, SIF 75:1\), s. 23\(1\)\(3\)](#)
- F9** S. 9(1A)(b)(i) and words following inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 75:1\), s. 194\(1\), Sch. 11 para. 9](#)
- F10** Words repealed by [Rentcharges Act 1977 \(c. 30\), s. 17\(4\), Sch. 2](#)
- F11** S. 9(1AA) inserted (26.7.2002 for E. and 1.1.2003 for W.) by [2002 c. 15, s. 143\(4\); S.I. 2002/1912, art. 2\(b\)\(i\)](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); [S.I. 2002/3012, art. 2\(b\)\(i\)](#) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F12** S. 9(1C) inserted (1.11.1993) by [1993 c. 28, s. 66\(1\); S.I. 1993/2134, art. 5\(a\)](#)
- F13** Word in s. 9(1C) inserted (1.4.1997) by [1996 c. 52, s. 106, Sch. 9 para. 2\(1\)\(4\); S.I. 1997/618, art. 2\(1\)](#) (with [Sch.](#))
- F14** Words in s. 9(1C) repealed (7.9.2009 for E.) by [Housing and Regeneration Act 2008 \(c. 17\), s. 325\(1\), Sch. 16; S.I. 2009/2096, art. 2\(2\)\(a\)\(c\)](#) (with [art. 3\(1\)\(2\)](#))

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- F15** Words in s. 9(1C) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 147(1); S.I. 2002/1912, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i), Sch. 1 Pt. 3 (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F16** S. 9(1C)(a) repealed (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, ss. 145(2), 180, Sch. 14; S.I. 2002/1912, art. 2(b), Sch. 1 Pt. 3 (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b), Sch. 1 Pt. 3 (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F17** S. 9(1D) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 145(3); S.I. 2002/1912, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i), Sch. 1 Pt. 3 (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F18** S. 9(1E) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 146; S.I. 2002/1912, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i), Sch. 1 Pt. 3 (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F19** Words in s. 9(3)(b) substituted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 139(3)(a); S.I. 2002/1912, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i), Sch. 1 Pt. 3 (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)
- F20** S. 9(4A) inserted (30.9.2003 for E., 30.3.2004 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), s. 181(1), Sch. 13 para. 2; S.I. 2003/1986, art. 2(c)(i) (with Sch. 2); S.I. 2004/669, art. 2(c)(i) (with Sch. 2)
- F21** Words in s. 9(4A) substituted (1.7.2013) by The Transfer of Tribunal Functions Order 2013 (S.I. 2013/1036), art. 1, Sch. 1 para. 4 (with Sch. 3)

Modifications etc. (not altering text)

- C2** S. 9(1)(a) modified (1.11.1993) by 1993 c. 28, s. 73(10)(a); S.I. 1993/2134, art. 5(a)
- C3** S. 9(1A) extended by Housing Act 1985 (c. 68, SIF 61), s. 175(1)
- C4** S. 9(4) excluded (1.11.1993) by 1993 c. 28, s. 74(4); S.I. 1993/2134, art. 5(a)

Marginal Citations

- M4** 1989 c.42 (75:1).
- M5** 1954 c.56 (75:1).
- M6** 1954 c. 56.
- M7** 1974 c. 44.

[9A] ^{F22}Compensation payable in cases where right to enfranchisement arises by virtue of section 1A or 1B. **E+W**

- (1) If, in a case where the right to acquire the freehold of a house and premises arises by virtue of any one or more of the provisions of sections 1A [^{F23}[^{F24}, 1AA]] and 1B above [^{F25}or where the tenancy of the house and premises has been extended under section 14 below and the notice under section 8(1) above was given (whether by the tenant or a sub-tenant) after the original term date of the tenancy], the landlord will suffer any loss or damage to which this section applies, there shall be payable to him such amount as is reasonable to compensate him for that loss or damage.
- (2) This section applies to—
- (a) any diminution in value of any interest of the landlord in other property resulting from the acquisition of his interest in the house and premises; and

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- (b) any other loss or damage which results therefrom to the extent that it is referable to his ownership of any interest in other property.
- (3) Without prejudice to the generality of paragraph (b) of subsection (2) above, the kinds of loss falling within that paragraph include loss of development value in relation to the house and premises to the extent that it is referable as mentioned in that paragraph.
- (4) In subsection (3) above “development value”, in relation to the house and premises, means any increase in the value of the landlord’s interest in the house and premises which is attributable to the possibility of demolishing, reconstructing, or carrying out substantial works of construction on, the whole or a substantial part of the house and premises.
- (5) In relation to any case falling within subsection (1) above—
- (a) any reference (however expressed)—
- (i) in section 8 or 9(3) or (5) above, or
- (ii) in any of the following provisions of this Act,
- to the price payable under section 9 above shall be construed as including a reference to any amount payable to the landlord under this section; and
- (b) for the purpose of determining any such separate price as is mentioned in paragraph 7(1)(b) of Schedule 1 to this Act, this section shall accordingly apply (with any necessary modifications) to each of the superior interests in question.

Textual Amendments

- F22** S. 9A inserted (1.11.1993) by 1993 c. 28, s. 66(3); S.I. 1993/2134, art. 5(a)
- F23** Words in s. 9A(1) repealed (7.9.2009 for E.) by Housing and Regeneration Act 2008 (c. 17), s. 325(1), Sch. 16; S.I. 2009/2096, art. 2(2)(a)(c) (with art. 3(1)(2))
- F24** Word in s. 9A(1) inserted (1.4.1997) by 1996 c. 52, s. 106, Sch. 9 para. 2(1)(5); S.I. 1997/618, art. 2(1) (with Sch.)
- F25** Words in s. 9A(1) inserted (26.7.2002 for E. and 1.1.2003 for W.) by 2002 c. 15, s. 147(2); S.I. 2002/1912, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.); S.I. 2002/3012, art. 2(b)(i) (subject to transitional provisions and savings in Sch. 2 of the commencing S.I.)

10 Rights to be conveyed to tenant on enfranchisement. **E+W**

- (1) Except for the purpose of preserving or recognising any existing interest of the landlord in tenant’s incumbrances or any existing right or interest of any other person, a conveyance executed to give effect to section 8 above shall not be framed so as to exclude or restrict the general words implied in conveyances under section 62 of the ^{M8}Law of Property Act 1925, or the all-estate clause implied under section 63, unless the tenant consents to the exclusion or restriction; but the landlord shall not be bound to convey to the tenant any better title than that which he has or could require to be vested in him, ^{F26} . . .

^{F27}(1A) The landlord shall not be required to enter into any covenant for title beyond those implied under Part I of the Law of Property (Miscellaneous Provisions) Act 1994 in a case where a disposition is expressed to be made with limited title guarantee; and in the absence of agreement to the contrary he shall be entitled to be indemnified by the

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tenant in respect of any costs incurred by him in complying with the covenant implied by virtue of section 2(1)(b) of that Act (covenant for further assurance).]

- (2) As regards rights of any of the following descriptions, that is to say,—
- (a) rights of support for any building or part of a building;
 - (b) rights to the access of light and air to any building or part of a building;
 - (c) rights to the passage of water or of gas or other piped fuel, or to the drainage or disposal of water, sewage, smoke or fumes, or to the use or maintenance of pipes or other installations for such passage, drainage or disposal;
 - (d) rights to the use or maintenance of cables or other installations for the supply of electricity, for the telephone or for the receipt directly or by landline of visual or other wireless transmissions;

a conveyance executed to give effect to section 8 above shall by virtue of this subsection (but without prejudice to any larger operation it may have apart from this subsection) have effect—

- (i) to grant with the house and premises all such easements and rights over other property, so far as the landlord is capable of granting them, as are necessary to secure to the tenant as nearly as may be the same rights as at the relevant time were available to him under or by virtue of the tenancy or any agreement collateral thereto, or under or by virtue of any grant, reservation or agreement made on the severance of the house and premises or any part thereof from other property then comprised in the same tenancy; and
- (ii) to make the house and premises subject to all such easements and rights for the benefit of other property as are capable of existing in law and are necessary to secure to the person interested in the other property as nearly as may be the same rights as at the relevant time were available against the tenant under or by virtue of the tenancy or any agreement collateral thereto, or under or by virtue of any grant, reservation or agreement made as is mentioned in paragraph (i) above.

- (3) As regards right of way, a conveyance executed to give effect to section 8 above shall include—

- (a) such provisions (if any) as the tenant may require for the purpose of securing to him rights of way over property not conveyed, so far as the landlord is capable of granting them, being rights of way which are necessary for the reasonable enjoyment of the house and premises as they have been enjoyed during the tenancy and in accordance with its provisions; and
- (b) such provisions (if any) as the landlord may require for the purpose of making the property conveyed subject to rights of way necessary for the reasonable enjoyment of other property, being property in which at the relevant time the landlord has an interest, or to rights of way granted or agreed to be granted before the relevant time by the landlord or by the person then entitled to the reversion on the tenancy.

- (4) As regards restrictive covenants (that is to say, any covenant or agreement restrictive of the user of any land or premises), a conveyance executed to give effect to section 8 above shall include—

- (a) such provisions (if any) as the landlord may require to secure that the tenant is bound by, or to indemnify the landlord against breaches of, restrictive covenants which affect the house and premises otherwise than by virtue of the tenancy or any agreement collateral thereto and are enforceable for the benefit of other property; and

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- (b) such provisions (if any) as the landlord or the tenant may require to secure the continuance (with suitable adaptations) of restrictions arising by virtue of the tenancy or any agreement collateral thereto, being either—
 - (i) restrictions affecting the house and premises which are capable of benefiting other property and (if enforceable only by the landlord) are such as materially to enhance the value of the other property; or
 - (ii) restrictions affecting other property which are such as materially to enhance the value of the house and premises;
 - (c) such further provisions (if any) as the landlord may require to restrict the use of the house and premises in any way which will not interfere with the reasonable enjoyment of the house and premises as they have been enjoyed during the tenancy but will materially enhance the value of other property in which the landlord has an interest.
- (5) Neither the landlord nor the tenant shall be entitled under subsection (3) or (4) above to require the inclusion in a conveyance of any provision which is unreasonable in all the circumstances, in view—
- (a) of the date at which the tenancy commenced, and changes since that date which affect the suitability at the relevant time of the provisions of the tenancy; and
 - (b) where the tenancy is or was one of a number of tenancies of neighbouring houses, of the interests of those affected in respect of other houses.
- (6) The landlord may be required to give to the tenant an acknowledgment within the meaning of section 64 of the ^{M9}Law of Property Act 1925 as regards any documents of which the landlord retains possession, but not an undertaking for the safe custody of any such documents; and where the landlord is required to enter into any covenant under subsection (4) above, the person entering into the covenant as landlord shall be entitled to limit his personal liability to breaches of the covenant for which he is responsible.

Textual Amendments

- F26** Words in s. 10(1) repealed (1.7.1995) by 1994 c. 36, ss. 21(1)(2), 22(2), Sch. 1 para. 5(1), **Sch. 2** (with s. 20); S.I. 1995/1317, **art. 2**
- F27** S. 10(1A) inserted (1.7.1995) by 1994 c. 36, ss. 21(1), 22(2), **Sch. 1 para. 5(1)** (with s. 20); S.I. 1995/1317, **art. 2**

Modifications etc. (not altering text)

- C5** S. 10 modified (1.11.1993) by 1993 c. 28, s. 70(12)(b); S.I. 1993/2134, **art. 5(a)**

Marginal Citations

- M8** 1925 c. 20.
M9 1925 c. 20.

11 Exoneration from, or redemption of, rentcharges etc. **E+W**

- (1) Where a house and premises are to be conveyed to a tenant in pursuance of section 8 above, section 8(4)(b) shall not preclude the landlord from releasing, or procuring the release of, the house and premises from any rentcharge . . . ^{F28}; and the conveyance may, with the tenant's agreement (which shall not be unreasonably withheld), provide

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in accordance with section 190(1) of the ^{M10}Law of Property Act 1925 that a rentcharge shall be charged exclusively on other land affected by it in exoneration of the house and premises, or be apportioned between other land affected by it and the house and premises.

- (2) Where, but for this subsection, a conveyance of a house and premises to a tenant might in accordance with section 8 above be made subject, in respect of rents to which this subsection applies, to an annual charge exceeding the annual rent payable under the tenancy at the relevant time, then the landlord shall be bound on or before the execution of the conveyance to secure that the house and premises are discharged from the whole or part of any rents in question to the extent necessary to secure that the annual charge shall not exceed the annual rent so payable; and for this purpose the annual rent shall be calculated in accordance with section 4(1)(b) and (c) and (6) above.
- (3) For purposes of subsection (2) above the house and premises shall be treated as discharged from a rent to the extent to which—
 - (a) the rent is charged on or apportioned to other land so as to confer on the tenant in respect of the house and premises the remedies against the other land provided for by section 190(2) of the Law of Property Act 1925; or
 - (b) the landlord is otherwise entitled to be exonerated from or indemnified against liability for the rent in respect of the house and premises and the tenant will (in so far as the landlord’s right is not a right against the tenant himself or his land) become entitled on the conveyance to the like exoneration or indemnity.
- (4) Where for the purpose of complying with subsection (2) above the house and premises are to be discharged from a rent by redemption of it (with or without prior apportionment), and for any reason mentioned in section [F29]13(2) below difficulty arises in paying the redemption price, the tenant may, and if so required by the landlord shall, before execution of the conveyance pay into court on account of the price for the house and premises an amount not exceeding the appropriate amount to secure redemption of the rent; and if the amount so paid by the tenant is less than that appropriate amount, the landlord shall pay into court the balance.
- (5) Where payment is made into court in accordance with subsection (4) above, the house and premises shall on execution of the conveyance be discharged from the rent, and any claim to the redemption money shall lie against the fund in court and not otherwise.
- (6) For purposes of subsection (4) above “the appropriate amount to secure redemption” of a rent is (subject to subsection (7) below) the amount of redemption money agreed to be paid or in default of agreement, the amount [F30]specified as the redemption price in instructions for redemption under section 9(4) of the ^{M11}Rentcharges Act 1977].
- (7) Where a rent affects other property as well as the house and premises, and the other property is not exonerated or indemnified by means of a charge on the house and premises, then—
 - (a) “the appropriate amount to secure redemption” of the rent for purposes of subsection (4) above shall, if no amount has been agreed or [F31]specified as mentioned in subsection (6), be such sum as, on an application under section [F31]4 of the Rentcharges Act 1977] for the apportionment of the rent, may, pending the apportionment, be approved by the apportioning authority as suitable provision (with a reasonable margin) for the redemption money of the part likely to be apportioned to the house and premises; and
 - (b) the apportionment, when made, shall be deemed to have had effect from the date of the payment into court, and if in respect of any property affected

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by the rent there has been any overpayment or underpayment, the amount shall be made good by abatement of or addition to the next payment after the apportionment and (if necessary) later payments.

- (8) Subsection (2) above applies to rentcharges [^{F32}redeemable under sections 8 to 10 of the Rentcharges Act 1977] which during the continuance of the tenancy are, or but for the termination of the tenancy before their commencement would have been, recoverable from the landlord without his having a right to be indemnified by the tenant.

Textual Amendments

- F28** Words repealed by [Rentcharges Act 1977 \(c. 30\), s. 17\(4\)](#), [Sch. 2](#)
F29 Words substituted by [Rentcharges Act 1977 \(c. 30\), s. 17\(4\)](#), [Sch. 1 para. 4\(2\) \(b\)](#)
F30 Words substituted by [Rentcharges Act 1977 \(c. 30\), s. 17\(4\)](#), [Sch. 1 para. 4\(2\) \(c\)](#)
F31 Words substituted by [Rentcharges Act 1977 \(c. 30\) s. 17\(4\)](#), [Sch. 1 para. 4\(2\) \(d\)](#)
F32 Words substituted by [Rentcharges Act 1977 \(c. 30\), s. 17\(4\)](#), [Sch. 1 para. 4\(2\) \(e\)](#)

Marginal Citations

- M10** [1925 c. 20.](#)
M11 [1977 c. 30.](#)

12 Discharge of mortgages etc. on landlord's estate. **E+W**

- (1) Subject to the provisions of this section, a conveyance executed to give effect to section 8 above shall, as regards any charge on the landlord's estate (however created or arising) to secure the payment of money or the performance of any other obligation by the landlord or any other person, not being a charge subject to which the conveyance is required to be made or which would be overreached apart from this section, be effective by virtue of this section to discharge the house and premises from the charge, and from the operation of any order made by a court for the enforcement of the charge, and to extinguish any term of years created for the purposes of the charge, and shall do so without the persons entitled to or interested in the charge or in any such order or term of years becoming parties to or executing the conveyance.
- (2) Where in accordance with subsection (1) above the conveyance to a tenant will be effective to discharge the house and premises from a charge to secure the payment of money, then except as otherwise provided by this section it shall be the duty of the tenant to apply the price payable for the house and premises, in the first instance, in or towards the redemption of any such charge (and, if there are more than one, then according to their priorities); and if any amount payable in accordance with this subsection to the person entitled to the benefit of a charge is not so paid nor paid into court in accordance with section 13 below, then for the amount in question the house and premises shall remain subject to the charge, and to that extent subsection (1) above shall not apply.
- (3) For the purpose of determining the amount payable in respect of any charge under subsection (2) above a person entitled to the benefit of a charge to which that subsection applies shall not be permitted to exercise any right to consolidate that charge with a separate charge on other property; and if the landlord or the tenant is himself entitled to the benefit of a charge to which that subsection applies, it shall rank for payment as it would if another person were entitled to it, and the tenant shall be entitled to retain the appropriate amount in respect of any such charge of his.

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- (4) For the purpose of discharging the house and premises from a charge to which subsection (2) above applies, a person may be required to accept three months or any longer notice of the intention to pay the whole or part of the principal secured by the charge, together with interest to the date of payment, notwithstanding that the terms of the security make other provision or no provision as to the time and manner of payment; but he shall be entitled, if he so requires, to receive such additional payment as is reasonable in the circumstances in respect of the costs of re-investment or other incidental costs and expenses and in respect of any reduction in the rate of interest obtainable on reinvestment.
- (5) Subsection (2) above shall not apply to any debenture holders' charge, that is to say, any charge, whether a floating charge or not, in favour of the holders of a series of debentures issued by a company or other body of persons, or in favour of trustees for such debenture holders; and any such charge shall be disregarded in determining priorities for purposes of subsection (2):

Provided that this subsection shall not have effect in relation to a charge in favour of trustees for debenture holders which at the date of the conveyance to the tenant is (as regards the house and premises) a specific and not a floating charge.

- (6) Where the house and premises are discharged by this section from a charge (without the obligations secured by the charge being satisfied by the receipt of the whole or part of the price), the discharge of the house and premises shall not prejudice any right or remedy for the enforcement of those obligations against other property comprised in the same or any other security, nor prejudice any personal liability as principal or otherwise of the landlord or any other person.
- (7) Subsections (1) and (2) above shall not be taken to prevent a person from joining in the conveyance for the purpose of discharging the house and premises from any charge without payment or for a less payment than that to which he would otherwise be entitled; and, if he does so, the persons to whom the price ought to be paid shall be determined accordingly.
- (8) A charge on the landlord's estate to secure the payment of money or the performance of any other obligation shall not be treated for the purposes of this Part of this Act as a tenant's incumbrance by reason only of the grant of the tenancy being subsequent to the creation of the charge and not authorised as against the persons interested in the charge; and this section shall apply as if the persons so interested at the time of the grant had duly concurred in the grant for the purpose (but only for the purpose) of validating it despite the charge on the grantor's estate:

Provided that, where the tenancy is granted after the commencement of this Part of this Act (whether or not it is, by virtue of section 3(3) above, to be treated for other purposes as forming a single tenancy with a previous tenancy) and the tenancy has not by the time of the conveyance of the house and premises to the tenant become binding on the persons interested in the charge, the conveyance shall not by virtue of this section discharge the house and premises from the charge except so far as it is satisfied by the application or payment into court of the price payable for the house and premises.

- (9) Nothing in this section shall apply in relation to any charge falling within section 11 above, and for purposes of subsection (2) above the price payable for the house and premises shall be treated as reduced by any amount to be paid out of it before execution of the conveyance for the redemption of a rent in accordance with section 11(4).

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13 Payment into court in respect of mortgages etc. E+W

- (1) Where under section 12(1) above a house and premises are, on a conveyance to the tenant, to be discharged of any charge falling within that subsection, and in accordance with section 12(2) a person is or may be entitled in respect of the charge to receive the whole or part of the price payable for the house and premises, then if—
- (a) for any reason difficulty arises in ascertaining how much is payable in respect of the charge; or
 - (b) for any reason mentioned in subsection (2) below difficulty arises in making a payment in respect of the charge;
- the tenant may pay into court on account of the price for the house and premises the amount, if known, of the payment to be made in respect of the charge or, if that amount is not known, the whole of the price or such less amount as the tenant thinks right in order to provide for that payment.
- (2) Payment may be made into court in accordance with subsection (1)(b) above where the difficulty arises for any of the following reasons:—
- (a) because a person who is or may be entitled to receive payment cannot be found or ascertained;
 - (b) because any such person refuses or fails to make out a title, or to accept payment and give a proper discharge, or to take any steps reasonably required of him to enable the sum payable to be ascertained and paid; or
 - (c) because a tender of the sum payable cannot, by reason of complications in the title to it or the want of two or more trustees or for other reasons, be effected, or not without incurring or involving unreasonable cost or delay.
- (3) Without prejudice to subsection (1)(a) above, the price payable for a house and premises on a conveyance under section 8 above shall be paid by the tenant into court if before execution of the conveyance written notice is given to him—
- (a) that the landlord or a person entitled to the benefit of a charge on the house and premises so requires for the purpose of protecting the rights of persons so entitled, or for reasons related to any application made or to be made under section 36 below, or to the bankruptcy or winding up of the landlord; or
 - (b) that steps have been taken to enforce any charge on the landlord's interest in the house and premises by the bringing of proceedings in any court, or by the appointment of a receiver, or otherwise;
- and where payment is to be made into court by reason only of a notice under this subsection, and the notice is given with reference to proceedings in a court specified in the notice other than the county court, payment shall be made into the court so specified.
- (4) For the purpose of computing the amount payable into court under this section, the price payable for the house and premises shall be treated as reduced by any amount to be paid out of it before execution of the conveyance for the redemption of a rent in accordance with section 11(4) above.

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