



# Leasehold Reform Act 1967

## 1967 CHAPTER 88

### PART I

#### ENFRANCHISEMENT AND EXTENSION OF LONG LEASEHOLDS

##### *Enfranchisement*

#### **12 Discharge of mortgages etc. on landlord's estate.**

- (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

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*Changes to legislation: There are currently no known outstanding effects for the Leasehold Reform Act 1967, Section 12. (See end of Document for details)*

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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.

- (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.

**Changes to legislation:** *There are currently no known outstanding effects for the Leasehold Reform Act 1967, Section 12. (See end of Document for details)*

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- (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).

**Changes to legislation:**

There are currently no known outstanding effects for the Leasehold Reform Act 1967, Section 12.