



# Law of Property Act 1925

1925 CHAPTER 20 15 and 16 Geo 5

## PART V **E+W**

### LEASES AND TENANCIES

#### **139 Effect of extinguishment of reversion. **E+W****

- (1) Where a reversion expectant on a lease of land is surrendered or merged, the estate or interest which as against the lessee for the time being confers the next vested right to the land, shall be deemed the reversion for the purpose of preserving the same incidents and obligations as would have affected the original reversion had there been no surrender or merger thereof.
- (2) This section applies to surrenders or mergers effected after the first day of October, eighteen hundred and forty-five.

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

- C1** S. 139 extended by [Housing Act 1985 \(c. 56, SIF 61\)](#), s. **151(2)**
- C2** S. 139(1) extended by [Reserve and Auxiliary Forces \(Protection of Civil Interests\) Act 1951 \(c. 65\)](#), s. **32(3)** and [Landlord and Tenant Act 1954 \(c. 56\)](#), s. **65(2)**

#### **140 Apportionment of conditions on severance. **E+W****

- (1) Notwithstanding the severance by conveyance, surrender, or otherwise of the reversionary estate in any land comprised in a lease, and notwithstanding the avoidance or cesser in any other manner of the term granted by a lease as to part only of the land comprised therein, every condition or right of re-entry, and every other condition contained in the lease, shall be apportioned, and shall remain annexed to the severed parts of the reversionary estate as severed, and shall be in force with respect to the term whereon each severed part is reversionary, or the term in the part of the land as to which the term has not been surrendered, or has not been avoided or has not otherwise ceased, in like manner as if the land comprised in each severed part, or the

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land as to which the term remains subsisting, as the case may be, had alone originally been comprised in the lease.

- (2) In this section “right of re-entry” includes a right to determine the lease by notice to quit or otherwise; but where the notice is served by a person entitled to a severed part of the reversion so that it extends to part only of the land demised, the lessee may within one month determine the lease in regard to the rest of the land by giving to the owner of the reversionary estate therein a counter notice expiring at the same time as the original notice.

F1

- (3) This section applies to leases made before or after the commencement of this Act and whether the severance of the reversionary estate or the partial avoidance or cesser of the term was effected before or after such commencement:

Provided that, where the lease was made before the first day of January eighteen hundred and eighty-two nothing in this section shall affect the operation of a severance of the reversionary estate or partial avoidance or cesser of the term which was effected before the commencement of this Act.

**Textual Amendments**

F1 Proviso repealed with savings by [Agricultural Holdings Act 1948 \(c. 63\)](#), ss. 98–100, [Sch. 8](#)

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

C3 [S. 140](#) amended (1.9.1995) by [1995 c. 8, ss. 5\(3\)\(4\), 41\(2\)](#), (with s. 37)

**141 Rent and benefit of lessee’s covenants to run with the reversion. E+W**

- (1) Rent reserved by a lease, and the benefit of every covenant or provision therein contained, having reference to the subject-matter thereof, and on the lessee’s part to be observed or performed, and every condition of re-entry and other condition therein contained, shall be annexed and incident to and shall go with the reversionary estate in the land, or in any part thereof, immediately expectant on the term granted by the lease, notwithstanding severance of that reversionary estate, and without prejudice to any liability affecting a covenantor or his estate.
- (2) Any such rent, covenant or provision shall be capable of being recovered, received, enforced, and taken advantage of, by the person from time to time entitled, subject to the term, to the income of the whole or any part, as the case may require, of the land leased.
- (3) Where that person becomes entitled by conveyance or otherwise, such rent, covenant or provision may be recovered, received, enforced or taken advantage of by him notwithstanding that he becomes so entitled after the condition of re-entry or forfeiture has become enforceable, but this subsection does not render enforceable any condition of re-entry or other condition waived or released before such person becomes entitled as aforesaid.
- (4) This section applies to leases made before or after the commencement of this Act, but does not affect the operation of—
  - (a) any severance of the reversionary estate; or

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- (b) any acquisition by conveyance or otherwise of the right to receive or enforce any rent covenant or provision;  
effected before the commencement of this Act.

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

- C4 S. 141 excluded by Housing Act 1988 (c. 50, SIF 61), ss. 74(4), 104(4)  
C5 S. 141 excluded (6.4.1992) by S.I. 1992/581, art. 5(2)  
C6 S. 141 excluded (11.10.1993) by Housing Act 1988 c. 50, s.84A (as inserted (11.10.1993) by 1993 c. 28, s. 125(5) (with ss. 94(2), 95); S.I. 1993/2134, arts. 2,4); and (31.3.1994) by S.I. 1994/566, art. 5(2); and (1.1.1996) by 1995 c. 30, s. 30(4)(b) (with ss. 2(2), 26(1)(2)); S.I. 1995/2963, art. 2; and (25.9.1995) by S.I. 1995/2248, art. 5(2)

**142 Obligation of lessor's covenants to run with reversion. E+W**

- (1) The obligation under a condition or of a covenant entered into by a lessor with reference to the subject-matter of the lease shall, if and as far as the lessor has power to bind the reversionary estate immediately expectant on the term granted by the lease, be annexed and incident to and shall go with that reversionary estate, or the several parts thereof, notwithstanding severance of that reversionary estate, and may be taken advantage of and enforced by the person in whom the term is from time to time vested by conveyance, devolution in law, or otherwise; and, if and as far as the lessor has power to bind the person from time to time entitled to that reversionary estate, the obligation aforesaid may be taken advantage of and enforced against any person so entitled.
- (2) This section applies to leases made before or after the commencement of this Act, whether the severance of the reversionary estate was effected before or after such commencement:

Provided that, where the lease was made before the first day of January eighteen hundred and eighty-two, nothing in this section shall affect the operation of any severance of the reversionary estate effected before such commencement.

This section takes effect without prejudice to any liability affecting a covenantor or his estate.

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

- C7 S. 142 excluded (1.1.1996) by 1995 c. 30, s. 30(4)(b) (with ss. 2(2), 26(1)(2)); S.I. 1995/2963, art. 2

**143 Effect of licences granted to lessees. E+W**

- (1) Where a licence is granted to a lessee to do any act, the licence, unless otherwise expressed, extends only—
- (a) to the permission actually given; or
  - (b) to the specific breach of any provision or covenant referred to; or
  - (c) to any other matter thereby specifically authorised to be done;
- and the licence does not prevent any proceeding for any subsequent breach unless otherwise specified in the licence.

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- (2) Notwithstanding any such licence—
- (a) All rights under covenants and powers of re-entry contained in the lease remain in full force and are available as against any subsequent breach of covenant, condition or other matter not specifically authorised or waived, in the same manner as if no licence had been granted; and
  - (b) The condition or right of entry remains in force in all respects as if the licence had not been granted, save in respect of the particular matter authorised to be done.
- (3) Where in any lease there is a power or condition of re-entry on the lessee assigning, subletting or doing any other specified act without a licence, and a licence is granted—
- (a) to any one or two or more lessees to do any act, or to deal with his equitable share or interest; or
  - (b) to any lessee, or to any one of two or more lessees to assign or underlet part only of the property, or to do any act in respect of part only of the property;
- the licence does not operate to extinguish the right of entry in case of any breach of covenant or condition by the co-lessees of the other shares or interests in the property, or by the lessee or lessees of the rest of the property (as the case may be) in respect of such shares or interests or remaining property, but the right of entry remains in force in respect of the shares, interests or property not the subject of the licence.
- This subsection does not authorise the grant after the commencement of this Act of a licence to create an undivided share in a legal estate.
- (4) This section applies to licences granted after the thirteenth day of August, eighteen hundred and fifty-nine.

**144 No fine to be exacted for licence to assign. E+W**

In all leases containing a covenant, condition, or agreement against assigning, underletting, or parting with the possession, or disposing of the land or property leased without licence or consent, such covenant, condition, or agreement shall, unless the lease contains an express provision to the contrary, be deemed to be subject to a proviso to the effect that no fine or sum of money in the nature of a fine shall be payable for or in respect of such licence or consent; but this proviso does not preclude the right to require the payment of a reasonable sum in respect of any legal or other expense incurred in relation to such licence or consent.

**145 Lessee to give notice of ejectment to lessor. E+W**

Every lessee to whom there is delivered any writ for the recovery of premises demised to or held by him, or to whose knowledge any such writ comes, shall forthwith give notice thereof to his lessor or his bailiff or receiver, and, if he fails so to do, he shall be liable to forfeit to the person of whom he holds the premises an amount equal to the value of three years' improved or rack rent of the premises, to be recovered by action in any court having jurisdiction in respect of claims for such an amount.

**146 Restrictions on and relief against forfeiture of leases and underleases. E+W**

- (1) A right of re-entry or forfeiture under any proviso or stipulation in a lease for a breach of any covenant or condition in the lease shall not be enforceable, by action or otherwise, unless and until the lessor serves on the lessee a notice—

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- (a) specifying the particular breach complained of; and
  - (b) if the breach is capable of remedy, requiring the lessee to remedy the breach; and
  - (c) in any case, requiring the lessee to make compensation in money for the breach;
- and the lessee fails, within a reasonable time thereafter, to remedy the breach, if it is capable of remedy, and to make reasonable compensation in money, to the satisfaction of the lessor, for the breach.
- (2) Where a lessor is proceeding, by action or otherwise, to enforce such a right of re-entry or forfeiture, the lessee may, in the lessor's action, if any, or in any action brought by himself, apply to the court for relief; and the court may grant or refuse relief, as the court, having regard to the proceedings and conduct of the parties under the foregoing provisions of this section, and to all the other circumstances, thinks fit; and in case of relief may grant it on such terms, if any, as to costs, expenses, damages, compensation, penalty, or otherwise, including the granting of an injunction to restrain any like breach in the future, as the court, in the circumstances of each case, thinks fit.
  - (3) A lessor shall be entitled to recover as a debt due to him from a lessee, and in addition to damages (if any), all reasonable costs and expenses properly incurred by the lessor in the employment of a solicitor and surveyor or valuer, or otherwise, in reference to any breach giving rise to a right of re-entry or forfeiture which, at the request of the lessee, is waived by the lessor, or from which the lessee is relieved, under the provisions of this Act.
  - (4) Where a lessor is proceeding by action or otherwise to enforce a right of re-entry or forfeiture under any covenant, proviso, or stipulation in a lease, or for non-payment of rent, the court may, on application by any person claiming as under-lessee any estate or interest in the property comprised in the lease or any part thereof, either in the lessor's action (if any) or in any action brought by such person for that purpose, make an order vesting, for the whole term of the lease or any less term, the property comprised in the lease or any part thereof in any person entitled as under-lessee to any estate or interest in such property upon such conditions as to execution of any deed or other document, payment of rent, costs, expenses, damages, compensation, giving security, or otherwise, as the court in the circumstances of each case may think fit, but in no case shall any such under-lessee be entitled to require a lease to be granted to him for any longer term than he had under his original sub-lease.
  - (5) For the purposes of this section—
    - (a) "Lease" includes an original or derivative under-lease; also an agreement for a lease where the lessee has become entitled to have his lease granted; also a grant at a fee farm rent, or securing a rent by condition;
    - (b) "Lessee" includes an original or derivative under-lessee, and the persons deriving title under a lessee; also a grantee under any such grant as aforesaid and the persons deriving title under him;
    - (c) "Lessor" includes an original or derivative under-lessor, and the persons deriving title under a lessor; also a person making such grant as aforesaid and the persons deriving title under him;
    - (d) "Under-lease" includes an agreement for an under-lease where the under-lessee has become entitled to have his underlease granted;
    - (e) "Under-lessee" includes any person deriving title under an under-lessee.

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- (6) This section applies although the proviso or stipulation under which the right of re-entry or forfeiture accrues is inserted in the lease in pursuance of the directions of any Act of Parliament.
- (7) For the purposes of this section a lease limited to continue as long only as the lessee abstains from committing a breach of covenant shall be and take effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for re-entry on such a breach.
- (8) This section does not extend—
- (i) To a covenant or condition against assigning, underletting, parting with the possession, or disposing of the land leased where the breach occurred before the commencement of this Act; or
  - (ii) In the case of a mining lease, to a covenant or condition for allowing the lessor to have access to or inspect books, accounts, records, weighing machines or other things, or to enter or inspect the mine or the workings thereof.
- (9) This section does not apply to a condition for forfeiture on the bankruptcy of the lessee or on taking in execution of the lessee's interest if contained in a lease of—
- (a) Agricultural or pastoral land;
  - (b) Mines or minerals
  - (c) A house used or intended to be used as a public-house or beershop;
  - (d) A house let as a dwelling-house, with the use of any furniture, books, works of art, or other chattels not being in the nature of fixtures;
  - (e) Any property with respect to which the personal qualifications of the tenant are of importance for the preservation of the value or character of the property, or on the ground of neighbourhood to the lessor, or to any person holding under him.
- (10) Where a condition of forfeiture on the bankruptcy of the lessee or on taking in execution of the lessee's interest is contained in any lease, other than a lease of any of the classes mentioned in the last sub-section, then—
- (a) if the lessee's interest is sold within one year from the bankruptcy or taking in execution, this section applies to the forfeiture condition aforesaid;
  - (b) if the lessee's interest is not sold before the expiration of that year, this section only applies to the forfeiture condition aforesaid during the first year from the date of the bankruptcy or taking in execution.
- (11) This section does not, save as otherwise mentioned, affect the law relating to re-entry or forfeiture or relief in case of non-payment of rent.
- (12) This section has effect notwithstanding any stipulation to the contrary.
- [<sup>F2</sup>(13) The county court has jurisdiction under this section—
- (a) in any case where the lessor is proceeding by action in court to enforce the right of entry or forfeiture; and
  - (b) where the lessor is proceeding to enforce the said right otherwise than by action, in a case where the net annual value for rating of the property comprised in the lease does not exceed the county court limit.]

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#### Textual Amendments

**F2** S. 146(13) added by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 Pt. II para. 5**

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

**C8** S. 146 amended by Landlord and Tenant Act 1927 (c. 36), s. 18(2)(3) and Law of Property (Amendment) Act 1929 (c. 9); applied with modifications by Leasehold Property (Repairs) Act 1938 (c. 34), s. 7

**C9** S. 146 extended by Housing Act 1985 (c. 68, SIF 61), s. 82(4)

**C10** S. 146 amended by S.I. 1990/776, art. 4(1)(b)

**C11** S. 146(1) restricted by Leasehold Property (Repairs) Act 1938 (c. 34), ss. 1-5

**C12** S. 146(4) saved by Leasehold Reform Act 1967 (c. 88), ss. 22(1), 34, **Sch. 3 para. 3(2)**

**C13** S. 146(8)–(10) excluded by Law of Property (Amendment) Act 1929 (c. 9)

**C14** S. 146(13) modified by County Courts Act 1984 (c. 28, SIF 34), s. 24(2)(c)

### 147 Relief against notice to effect decorative repairs. **E+W**

(1) After a notice is served on a lessee relating to the internal decorative repairs to a house or other building, he may apply to the court for relief, and if, having regard to all the circumstances of the case (including in particular the length of the lessee's term or interest remaining unexpired), the court is satisfied that the notice is unreasonable, it may, by order, wholly or partially relieve the lessee from liability for such repairs.

(2) This section does not apply:—

(i) where the liability arises under an express covenant or agreement to put the property in a decorative state of repair and the covenant or agreement has never been performed;

(ii) to any matter necessary or proper—

(a) for putting or keeping the property in a sanitary condition, or

(b) for the maintenance or preservation of the structure;

(iii) to any statutory liability to keep a house in all respects reasonably fit for human habitation;

(iv) to any covenant or stipulation to yield up the house or other building in a specified state of repair at the end of the term.

(3) In this section “lease” includes an underlease and an agreement for a lease, and “lessee” has a corresponding meaning and includes any person liable to effect the repairs.

(4) This section applies whether the notice is served before or after the commencement of this Act, and has effect notwithstanding any stipulation to the contrary.

[<sup>F3</sup>(5) The county court has jurisdiction under this section where the net annual value for rating of the house or other building does not exceed the county court limit.]

#### Textual Amendments

**F3** S. 147(5) added by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 Pt. II para. 6**

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

**C15** S. 147(5) modified by County Courts Act 1984 (c. 28, SIF 34), s. 24(2)(c)

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**C16** S. 147(5) amended by S.I. 1990/776, art. 4(1)(b)

**148 Waiver of a covenant in a lease. E+W**

- (1) Where any actual waiver by a lessor or the persons deriving title under him of the benefit of any covenant or condition in any lease is proved to have taken place in any particular instance, such waiver shall not be deemed to extend to any instance, or to any breach of covenant or condition save that to which such waiver specially relates, nor operate as a general waiver of the benefit of any such covenant or condition.
- (2) This section applies unless a contrary intention appears and extends to waivers effected after the twenty-third day of July, eighteen hundred and sixty.

**149 Abolition of interesse termini, and as to reversionary leases and leases for lives. E+W**

- (1) The doctrine of interesse termini is hereby abolished.
- (2) As from the commencement of this Act all terms of years absolute shall, whether the interest is created before or after such commencement, be capable of taking effect at law or in equity, according to the estate interest or powers of the grantor, from the date fixed for commencement of the term, without actual entry.
- (3) A term, at a rent or granted in consideration of a fine, limited after the commencement of this Act to take effect more than twenty-one years from the date of the instrument purporting to create it, shall be void, and any contract made after such commencement to create such a term shall likewise be void; but this subsection does not apply to any term taking effect in equity under a settlement, or created out of an equitable interest under a settlement, or under an equitable power for mortgage, indemnity or other like purposes.
- (4) Nothing in subsections (1) and (2) of this section prejudicially affects the right of any person to recover any rent or to enforce or take advantage of any covenants or conditions, or, as respects terms or interests created before the commencement of this Act, operates to vary any statutory or other obligations imposed in respect of such terms or interests.
- (5) Nothing in this Act affects the rule of law that a legal term, whether or not being a mortgage term, may be created to take effect in reversion expectant on a longer term, which rule is hereby confirmed.
- (6) Any lease or underlease, at a rent, or in consideration of a fine, for life or lives or for any term of years determinable with life or lives, or on the marriage of the lessee, or any contract therefor, made before or after the commencement of this Act, or created by virtue of Part V. of the <sup>M1</sup>Law of Property Act, 1922, shall take effect as a lease, underlease or contract therefor, for a term of ninety years determinable after the death or marriage (as the case may be) of the original lessee, or of the survivor of the original lessees, by at least one month's notice in writing given to determine the same on one of the quarter days applicable to the tenancy, either by the lessor or the persons deriving title under him, to the person entitled to the leasehold interest, or if no such person is in existence by affixing the same to the premises, or by the lessee or other persons in whom the leasehold interest is vested to the lessor or the persons deriving title under him:



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Provided that—

- (a) this subsection shall not apply to any term taking effect in equity under a settlement or created out of an equitable interest under a settlement for mortgage, indemnity, or other like purposes;
- (b) the person in whom the leasehold interest is vested by virtue of Part V. of the Law of Property Act, 1922, shall, for the purposes of this subsection, be deemed an original lessee;
- (c) if the lease, underlease, or contract therefor is made determinable on the dropping of the lives of persons other than or besides the lessees, then the notice shall be capable of being served after the death of any person or of the survivor of any persons (whether or not including the lessees) on the cesser of whose life or lives the lease, underlease, or contract is made determinable, instead of after the death of the original lessee or of the survivor of the original lessees;
- (d) if there are no quarter days specially applicable to the tenancy, notice may be given to determine the tenancy on one of the usual quarter days.

#### Marginal Citations

M1 1922 c. 16.

### 150 Surrender of a lease, without prejudice to underleases with a view to the grant of a new lease. **E+W**

- (1) A lease may be surrendered with a view to the acceptance of a new lease in place thereof, without a surrender of any under-lease derived thereout.
- (2) A new lease may be granted and accepted, in place of any lease so surrendered, without any such surrender of an under-lease as aforesaid, and the new lease operates as if all under-leases derived out of the surrendered lease had been surrendered before the surrender of that lease was effected.
- (3) The lessee under the new lease and any person deriving title under him is entitled to the same rights and remedies in respect of the rent reserved by and the covenants, agreements and conditions contained in any under-lease as if the original lease had not been surrendered but was or remained vested in him.
- (4) Each under-lessee and any person deriving title under him is entitled to hold and enjoy the land comprised in his under-lease (subject to the payment of any rent reserved by and to the observance of the covenants agreements and conditions contained in the under-lease) as if the lease out of which the under-lease was derived had not been surrendered.
- (5) The lessor granting the new lease and any person deriving title under him is entitled to the same remedies, by distress or entry in and upon the land comprised in any such under-lease for rent reserved by or for breach of any covenant, agreement or condition contained in the new lease (so far only as the rents reserved by or the covenants, agreements or conditions contained in the new lease do not exceed or impose greater burdens than those reserved by or contained in the original lease out of which the under-lease is derived) as he would have had—
  - (a) If the original lease had remained on foot; or

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(b) If a new under-lease derived out of the new lease had been granted to the under-lessee or a person deriving title under him;  
as the case may require.

(6) This section does not affect the powers of the court to give relief against forfeiture.

**151 Provision as to attornments by tenants. E+W**

(1) Where land is subject to a lease—

- (a) the conveyance of a reversion in the land expectant on the determination of the lease; or
  - (b) the creation or conveyance of a rentcharge to issue or issuing out of the land;
- shall be valid without any attornment of the lessee:

Nothing in this subsection—

- (i) affects the validity of any payment of rent by the lessee to the person making the conveyance or grant before notice of the conveyance or grant is given to him by the person entitled thereunder; or
- (ii) renders the lessee liable for any breach of covenant to pay rent, on account of his failure to pay rent to the person entitled under the conveyance or grant before such notice is given to the lessee.

(2) An attornment by the lessee in respect of any land to a person claiming to be entitled to the interest in the land of the lessor, if made without the consent of the lessor, shall be void.

This subsection does not apply to an attornment—

- (a) made pursuant to a judgment of a court of competent jurisdiction; or
- (b) to a mortgagee, by a lessee holding under a lease from the mortgagor where the right of redemption is barred; or
- (c) to any other person rightfully deriving title under the lessor.

**152 Leases invalidated by reason of non-compliance with terms of powers under which they are granted. E+W**

(1) Where in the intended exercise of any power of leasing, whether conferred by an Act of Parliament or any other instrument, a lease (in this section referred to as an invalid lease) is granted, which by reason of any failure to comply with the terms of the power is invalid, then—

- (a) as against the person entitled after the determination of the interest of the grantor to the reversion; or
- (b) as against any other person who, subject to any lease properly granted under the power, would have been entitled to the land comprised in the lease;

the lease, if it was made in good faith, and the lessee has entered, thereunder, shall take effect in equity as a contract for the grant, at the request of the lessee, of a valid lease under the power, of like effect as the invalid lease, subject to such variations as may be necessary in order to comply with the terms of the power:

Provided that a lessee under an invalid lease shall not, by virtue of any such implied contract, be entitled to obtain a variation of the lease if the other persons who would have been bound by the contract are willing and able to confirm the lease without variation.

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- (2) Where a lease granted in the intended exercise of such a power is invalid by reason of the grantor not having power to grant the lease at the date thereof, but the grantor's interest in the land comprised therein continues after the time when he might, in the exercise of the power, have properly granted a lease in the like terms, the lease shall take effect as a valid lease in like manner as if it had been granted at that time.
- (3) Where during the continuance of the possession taken under an invalid lease the person for the time being entitled, subject to such possession, to the land comprised therein or to the rents and profits thereof, is able to confirm the lease without variation, the lessee, or other person who would have been bound by the lease had it been valid, shall, at the request of the person so able to confirm the lease, be bound to accept a confirmation thereof, and thereupon the lease shall have effect and be deemed to have had effect as a valid lease from the grant thereof.

Confirmation under this subsection may be by a memorandum in writing signed by or on behalf of the persons respectively confirming and accepting the confirmation of the lease.

- (4) Where a receipt or a memorandum in writing confirming an invalid lease is, upon or before the acceptance of rent thereunder, signed by or on behalf of the person accepting the rent, that acceptance shall, as against that person, be deemed to be a confirmation of the lease.
- (5) The foregoing provisions of this section do not affect prejudicially—
  - (a) any right of action or other right or remedy to which, but for those provisions or any enactment replaced by those provisions, the lessee named in an invalid lease would or might have been entitled under any covenant on the part of the grantor for title or quiet enjoyment contained therein or implied thereby; or
  - (b) any right of re-entry or other right or remedy to which, but for those provisions or any enactment replaced thereby, the grantor or other person for the time being entitled to the reversion expectant on the termination of the lease, would or might have been entitled by reason of any breach of the covenants, conditions or provisions contained in the lease and binding on the lessee.
- (6) Where a valid power of leasing is vested in or may be exercised by a person who grants a lease which, by reason of the determination of the interest of the grantor or otherwise, cannot have effect and continuance according to the terms thereof independently of the power, the lease shall for the purposes of this section be deemed to have been granted in the intended exercise of the power although the power is not referred to in the lease.
- (7) This section does not apply to a lease of land held on charitable, ecclesiastical or public trusts.
- (8) This section takes effect without prejudice to the provision in this Act for the grant of leases in the name and on behalf of the estate owner of the land affected.

### **153 Enlargement of residue of long terms into fee simple estates. E+W**

- (1) Where a residue unexpired of not less than two hundred years of a term, which, as originally created, was for not less than three hundred years, is subsisting in land, whether being the whole land originally comprised in the term, or part only thereof,—
  - (a) without any trust or right of redemption affecting the term in favour of the freeholder, or other person entitled in reversion expectant on the term; and

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- (b) without any rent, or with merely a peppercorn rent or other rent having no money value, incident to the reversion, or having had a rent, not being merely a peppercorn rent or other rent having no money value, originally so incident, which subsequently has been released or has become barred by lapse of time, or has in any other way ceased to be payable;

the term may be enlarged into a fee simple in the manner, and subject to the restrictions in this section provided.

- (2) This section applies to and includes every such term as aforesaid whenever created, whether or not having the freehold as the immediate reversion thereon; but does not apply to—
- (i) Any term liable to be determined by re-entry for condition broken; or
  - (ii) Any term created by subdemise out of a superior term, itself incapable of being enlarged into fee simple.

- (3) This section extends to mortgage terms, where the right of redemption is barred.

- (4) A rent not exceeding the yearly sum of one pound which has not been collected or paid for a continuous period of twenty years or upwards shall, for the purposes of this section, be deemed to have ceased to be payable:

Provided that, of the said period, at least five years must have elapsed after the commencement of this Act.

- (5) Where a rent incident to a reversion expectant on a term to which this section applies is deemed to have ceased to be payable for the purposes aforesaid, no claim for such rent or for any arrears thereof shall be capable of being enforced.

- (6) Each of the following persons, namely—

- (i) Any person beneficially entitled in right of the term, whether subject to any incumbrance or not, to possession of any land comprised in the term, and, in the case of a married woman without the concurrence of her husband, whether or not she is entitled for her separate use or as her separate property, . . . <sup>F4</sup>;
- (ii) Any person being in receipt of income as trustee, in right of the term, or having the term vested in him in trust for sale, whether subject to any incumbrance or not;
- (iii) Any person in whom, as personal representative of any deceased person, the term is vested, whether subject to any incumbrance or not;

shall, so far as regards the land to which he is entitled, or in which he is interested in right of the term, in any such character as aforesaid, have power by deed to declare to the effect that, from and after the execution of the deed, the term shall be enlarged into a fee simple.

- (7) Thereupon, by virtue of the deed and of this Act, the term shall become and be enlarged accordingly, and the person in whom the term was previously vested shall acquire and have in the land a fee simple instead of the term.

- (8) The estate in fee simple so acquired by enlargement shall be subject to all the same trusts, powers, executory limitations over, rights, and equities, and to all the same covenants and provisions relating to user and enjoyment, and to all the same obligations of every kind, as the term would have been subject to if it had not been so enlarged.

- (9) But where—

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- (a) any land so held for the residue of a term has been settled in trust by reference to other land, being freehold land, so as to go along with that other land, or, in the case of settlements coming into operation before the commencement of this Act, so as to go along with that other land as far as the law permits; and
- (b) at the time of enlargement, the ultimate beneficial interest in the term, whether subject to any subsisting particular estate or not, has not become absolutely and indefeasibly vested in any person, free from charges or powers of charging created by a settlement;

the estate in fee simple acquired as aforesaid shall, without prejudice to any conveyance for value previously made by a person having a contingent or defeasible interest in the term, be liable to be, and shall be, conveyed by means of a subsidiary vesting instrument and settled in like manner as the other land, being freehold land, aforesaid, and until so conveyed and settled shall devolve beneficially as if it had been so conveyed and settled.

- (10) The estate in fee simple so acquired shall, whether the term was originally created without impeachment of waste or not, include the fee simple in all mines and minerals which at the time of enlargement have not been severed in right or in fact, or have not been severed or reserved by an inclosure Act or award.

#### Textual Amendments

**F4** Words repealed by [Married Women \(Restraint upon Anticipation\) Act 1949 \(c. 78\)](#), [Sch. 2](#)

#### **154 Application of Part V. to existing leases. E+W**

This Part of this Act, except where otherwise expressly provided, applies to leases created before or after the commencement of this Act, and “lease” includes an under-lease or other tenancy.

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

**C17** [S. 154](#) applied by [Leasehold Property \(Repairs\) Act 1938 \(c. 34\)](#), [s. 7\(1\)](#)

**Status:**

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