



# Law of Property Act 1925

1925 CHAPTER 20 15 and 16 Geo 5

## PART XI

### MISCELLANEOUS

#### *Redemption and Apportionment of Rents, &c.*

#### **190 Equitable apportionment of rents and remedies for non-payment or breach of covenant.**

(1) Where in a conveyance for valuable consideration, other than a mortgage, of part of land which is affected by a rentcharge, such rentcharge or a part thereof is, without the consent of the owner thereof, expressed to be—

- (a) charged exclusively on the land conveyed or any part thereof in exoneration of the land retained or other land; or
- (b) charged exclusively on the land retained or any part thereof in exoneration of the land conveyed or other land; or
- (c) apportioned between the land conveyed or any part thereof, and the land retained by the grantor or any part thereof;

then, without prejudice to the rights of the owner of the rentcharge, such charge or apportionment shall be binding as between the grantor and the grantee under the conveyance and their respective successors in title.

(2) Where—

- (a) any default is made in payment of the whole or part of a rentcharge by the person who, by reason of such charge or apportionment as aforesaid, is liable to pay the same; or
- (b) any breach occurs of any of the covenants (other than in the case of an apportionment the covenant to pay the entire rentcharge) or conditions contained in the deed or other document creating the rentcharge, so far as the same relate to the land retained or conveyed, as the case may be;

the owner for the time being of any other land affected by the entire rentcharge who—

*Status: Point in time view as at 01/04/1996.*

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- (i) pays or is required to pay the whole or part of the rentcharge which ought to have been paid by the defaulter aforesaid; or
- (ii) incurs any costs, damages or expenses by reason of the breach of covenant or condition aforesaid;

may enter into and distrain on the land in respect of which the default or breach is made or occurs, or any part of that land, and dispose according to law of any distress found, and may also take possession of the income of the same land until, by means of such distress and receipt of income or otherwise the whole or part of the rentcharge (charged or apportioned as aforesaid) so unpaid and all costs, damages and expenses incurred by reason of the non-payment thereof or of the breach of the said covenants and conditions, are fully paid or satisfied.

- (3) Where in a conveyance for valuable consideration, other than a mortgage, of part of land comprised in a lease, for the residue of the term or interest created by the lease, the rent reserved by such lease or a part thereof is, without the consent of the lessor, expressed to be—
  - (a) charged exclusively on the land conveyed or any part thereof in exoneration of the land retained by the assignor or other land; or
  - (b) charged exclusively on the land retained by the assignor or any part thereof in exoneration of the land conveyed or other land; or
  - (c) apportioned between the land conveyed or any part thereof and the land retained by the assignor or any part thereof;

then, without prejudice to the rights of the lessor, such charge or apportionment shall be binding as between the assignor and the assignee under the conveyance and their respective successors in title.

- (4) Where—
  - (a) any default is made in payment of the whole or part of a rent by the person who, by reason of such charge or apportionment as aforesaid, is liable to pay the same; or
  - (b) any breach occurs of any of the lessee's covenants (other than in the case of an apportionment the covenant to pay the entire rent) or conditions contained in the lease, so far as the same relate to the land retained or conveyed, as the case may be;

the lessee for the time being of any other land comprised in the lease, in whom, as respects that land, the residue of the term or interest created by the lease is vested, who—

- (i) pays or is required to pay the whole or part of the rent which ought to have been paid by the defaulter aforesaid; or
- (ii) incurs any costs, damages or expenses by reason of the breach of covenant or condition aforesaid;

may enter into and distrain on the land comprised in the lease in respect of which the default or breach is made or occurs, or any part of that land, and dispose according to law of any distress found, and may also take possession of the income of the same land until (so long as the term or interest created by the lease is subsisting) by means of such distress and receipt of income or otherwise, the whole or part of the rent (charged or apportioned as aforesaid) so unpaid and all costs, damages and expenses incurred by reason of the non-payment thereof or of the breach of the said covenants and conditions, are fully paid or satisfied.

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- (5) The remedies conferred by this section take effect so far only as they might have been conferred by the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned as aforesaid, but a trustee, personal representative, mortgagee or other person in a fiduciary position has, and shall be deemed always to have had, power to confer the same or like remedies.
- (6) This section applies only if and so far as a contrary intention is not expressed in the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned as aforesaid, and takes effect subject to the terms of that conveyance and to the provisions therein contained.
- (7) The remedies conferred by this section apply only where the conveyance whereby the rent or any part thereof is expressed to be charged or apportioned is made after the commencement of this Act, and do not apply where the rent is charged exclusively as aforesaid or legally apportioned with the consent of the owner or lessor.
- (8) The rule of law relating to perpetuities does not affect the powers or remedies conferred by this section or any like powers or remedies expressly conferred, before or after the commencement of this Act, by an instrument.

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

C1 S. 190(1)(2) applied by [Leasehold Reform Act 1967 \(c. 88\)](#), s. 11(1)(3)(a)

191 ..... F1

**Textual Amendments**

F1 S. 191 repealed by [Rentcharges Act 1977 \(c. 30, SIF 98:1\)](#), s. 17(2), [Sch. 2](#) (subject to a saving in s. 17(4) in relation to applications for apportionment or redemption made before 1.2.1978)

**192 Apportionment of charges payable for redemption of tithe rentcharge.**

An order of apportionment of a charge on land by way of annuity for redemption of tithe rentcharge may be made by the Minister under sections ten to fourteen (inclusive) of the <sup>MI</sup>Inclosure Act, 1854, on the application of any person interested, according to the provisions of the Inclosure Acts, 1845 to 1882, in the land charged or any part thereof without the concurrence of any other person:

Provided that the Minister may, in any such case, on the application of any person interested in the annuity, require as a condition of making the order that any apportioned part of the annuity which does not exceed the yearly sum of two pounds shall be redeemed forthwith.

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

C2 Functions of Minister of Agriculture and Fisheries as to certain annuities under s. 192 now exercisable by Commissioners of Inland Revenue: [Tithe Act 1951 \(c. 62\)](#), s. 10(4) and [S.I. 1959/1971](#) (1959 II, p. 2618)

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#### **Marginal Citations**

**M1** [1854 c. 97.](#)

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