



Law of Property Act 1925

1925 CHAPTER 20

PART III

MORTGAGES, RENTCHARGES, AND POWERS OF ATTORNEY.

Mortgages.

99 Leasing powers of mortgagor and mortgagee in possession.

- (1) A mortgagor of land while in possession shall, as against every incumbrancer, have power to make from time to time any such lease of the mortgaged land, or any part thereof, as is by this section authorised.
- (2) A mortgagee of land while in possession shall, as against all prior incumbrancers, if any, and as against the mortgagor, have power to make from time to time any such lease as aforesaid.
- (3) The leases which this section authorises are—
 - (i) agricultural or occupation leases for any term not exceeding twenty-one years, or, in the case of a mortgage made after the commencement of this Act, fifty years; and
 - (ii) building leases for any term not exceeding ninety-nine years, or, in the case of a mortgage made after the commencement of this Act, nine hundred and ninety-nine years.
- (4) Every person making a lease under this section may execute and do all assurances and things necessary or proper in that behalf.
- (5) Every such lease shall be made to take effect in possession not later than twelve months after its date.
- (6) Every such lease shall reserve the best rent that can reasonably be obtained, regard being had to the circumstances of the case, but without any fine being taken.

Status: This is the original version (as it was originally enacted).

- (7) Every such lease shall contain a covenant by the lessee for payment of the rent, and a condition of re-entry on the rent not being paid within a time therein specified not exceeding thirty days.
- (8) A counterpart of every such lease shall be executed by the lessee and delivered to the lessor, of which execution and delivery the execution of the lease by the lessor shall, in favour of the lessee and all persons deriving title under him, be sufficient evidence.
- (9) Every such building lease shall be made in consideration of the lessee, or some person by whose direction the lease is granted, having erected, or agreeing to erect within not more than five years from the date of the lease, buildings, new or additional, or having improved or repaired buildings, or agreeing to improve or repair buildings within that time, or having executed, or agreeing to execute within that time, on the land leased, an improvement for or in connexion with building purposes.
- (10) In any such building lease a peppercorn rent, or a nominal or other rent less than the rent ultimately payable, may be made payable for the first five years, or any less part of the term.
- (11) In case of a lease by the mortgagor, he shall, within one month after making the lease, deliver to the mortgagee, or, where there are more than one, to the mortgagee first in priority, a counterpart of the lease duly executed by the lessee, but the lessee shall not be concerned to see that this provision is complied with.
- (12) A contract to make or accept a lease under this section may be enforced by or against every person on whom the lease if granted would be binding.
- (13) This section applies only if and as far as a contrary intention is not expressed by the mortgagor and mortgagee in the mortgage deed, or otherwise in writing, and has effect subject to the terms of the mortgage deed or of any such writing and to the provisions therein contained.
- (14) The mortgagor and mortgagee may, by agreement in writing, whether or not contained in the mortgage deed, reserve to or confer on the mortgagor or the mortgagee, or both, any further or other powers of leasing or having reference to leasing; and any further or other powers so reserved or conferred shall be exercisable, as far as may be, as if they were conferred by this Act, and with all the like incidents, effects, and consequences:
- Provided that the powers so reserved or conferred shall not prejudicially affect the rights of any mortgagee interested under any other mortgage subsisting at the date of the agreement, unless that mortgagee joins in or adopts the agreement.
- (15) Nothing in this Act shall be construed to enable a mortgagor or mortgagee to make a lease for any longer term or on any other conditions than such as could have been granted or imposed by the mortgagor, with the concurrence of all the incumbrancers, if this Act and the enactments replaced by this section had not been passed:
- Provided that, in the case of a mortgage of leasehold land, a lease granted under this section shall reserve a reversion of not less than one day.
- (16) Subject as aforesaid, this section applies to any mortgage made after the thirty-first day of December, eighteen hundred and eighty-one, but the provisions thereof, or any of them, may, by agreement in writing made after that date between mortgagor and mortgagee, be applied to a mortgage made before that date, so nevertheless that any such agreement shall not prejudicially affect any right or interest of any mortgagee not joining in or adopting the agreement.

- (17) The provisions of this section referring to a lease shall be construed to extend and apply, as far as circumstances admit, to any letting, and to an agreement, whether in writing or not, for leasing or letting.
- (18) For the purposes of this section "mortgagor" does not include an incumbrancer deriving title under the original mortgagor.
- (19) The powers of leasing conferred by this section shall, after a receiver of the income of the mortgaged property or any part thereof has been appointed by a mortgagee under his statutory power, and so long as the receiver acts, be exercisable by such mortgagee instead of by the mortgagor, as respects any land affected by the receivership, in like manner as if such mortgagee were in possession of the land, and the mortgagee may, by writing, delegate any of such powers to the receiver.