



Defence Act 1860

1860 CHAPTER 112

Apportionment and Release of Rents and Incumbrances

XXVI Provision for Apportionment of Rents and Incumbrances.

If Part only of any Lands comprised in any Lease or Mortgage, or otherwise subject to any Rent Service or other Rent, or any annual or other Payment or Incumbrance, be taken under this Act, such Rent, Payment, or Incumbrance may be apportioned by Agreement between the Parties entitled thereto and to the Lands subject thereto and the said Secretary of State, or in case no such Agreement be made, the same may be apportioned by the Jury or Justices by whom the Compensation payable in respect of the Part of the said Lands taken by the said Secretary of State is determined, or if not so determined, may be determined by Two Justices, as herein provided in certain Cases of Compensation:

After such Apportionment such apportioned Part only of such Rent, Payment, or Incumbrance shall be payable out of the Residue of the said Lands, and all Covenants, Provisoes, Conditions, Agreements, Powers, and Remedies in respect of the said Rent, Payment, or Incumbrance shall remain in force in respect of the apportioned Part which is to remain payable, as against the Residue of such Lands, and where any Rent originally reserved was an ancient and accustomed Rent the Part so continuing payable shall be deemed to be the ancient and accustomed Rent for such Residue of the said Lands.

XXVII Power to release Land from Rentcharge, &c.

With the Consent of the Party entitled to the Lands, the Party entitled to any Rentcharge, Payment, or Incumbrance may release therefrom the Portion of the said Lands taken as aforesaid on condition or in consideration of the remaining Part remaining exclusively subject to the whole Rentcharge, Payment, or Incumbrance, and in such Case all Covenants, Provisoes, Conditions, Agreements, Powers, and Remedies in respect of such Rentcharge, Payment, or Incumbrance shall remain in force against the said Residue of the said Lands.

Status: This is the original version (as it was originally enacted).

XXVIII. Who competent to make Apportionment, &c.

All Bodies and Persons who are enabled to agree for the Sale of Lands to the said Secretary of State shall be competent to agree for and make an Apportionment or Release under either of the Two last preceding Enactments.