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Law of Property Act 1925

1925 CHAPTER 20 15 and 16 Geo 5

PART V

LEASES AND TENANCIES

146 Restrictions on and relief against forfeiture of leases and underleases.

(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—

(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.

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(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.

(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;

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(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.

[F1(13) The county court has jurisdiction under this section—

F2(a) . . . . . .

(b) . . . . . .**]**

Annotations:

Amendments (Textual)

F1 S. 146(13) added by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 Pt. II para. 5**

F2 S. 146(13)(a)(b) omitted (1.7.1991) by virtue of S.I. 1991/724, art. 2(8), **Sch. Pt. I** (with art. 12)

Modifications etc. (not altering text)

C1 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**

C2 S. 146 extended by Housing Act 1985 (c. 68, SIF 61), **s. 82(4)**; s. 146 extended (1.7.1991) by S.I. 1991/724, **art. 2(1)(a)** (with art. 12)

C3 S. 146 amended by S.I. 1990/776, **art. 4(1)(b)**

C4 S. 146 excluded (3.11.1994) by 1994 c. 33, **s. 7(3)(b)**; s. 146 excluded (3.11.1994) by 1991 c. 53, **s. 84(3)(b)** (as substituted (3.11.1994) by 1994 c. 33, **s.96**); s. 146 excluded (1.8.2000) by 1999 c. 33, **s. 149(3)(b)**; S.I. 2000/1985, art. 2, **Sch.**

C5 S. 146(1) restricted by Leasehold Property (Repairs) Act 1938 (c. 34), **ss. 1-5**
S. 146(1) restricted (28.2.2005 for E. and 31.5.2005 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 168**, 169, 181(1); S.I. 2004/3056, **art. 3(f)** (subject to art. 4 (as amended by S.I. 2005/193, art. 2)); S.I. 2005/1353, **art. 2(f)** (subject to art. 3)

C6 S. 146(4) saved by Leasehold Reform Act 1967 (c. 88), ss. 22(1), 34, **Sch. 3 para. 3(2)**

C7 S. 146(7) applied (28.2.2005 for E. and 31.5.2005 for W.) by Commonhold and Leasehold Reform Act 2002 (c. 15), **ss. 169(6)**, 181(1); S.I. 2004/3056, **art. 3(f)** (subject to art. 4 (as amended by S.I. 2005/193, art. 2)); S.I. 2005/1353, **art. 2(f)** (subject to art. 3)

C8 S. 146(8)–(10) excluded by Law of Property (Amendment) Act 1929 (c. 9)

C9 S. 146(13) modified by County Courts Act 1984 (c. 28, SIF 34), **s. 24(2)**(*c*)

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Changes and effects yet to be applied to :

– s. 146(3) applied (with modifications) by S.I. 2011/2866 Sch. 2

Commencement Orders yet to be applied to the Law of Property Act 1925:
Commencement Orders bringing legislation that affects this Act into force:

– S.I. 2003/1725 art. 2(1) commences (2002 c. 9)
– S.I. 2003/3142 art. 3(2) commences (2003 c. 21)
– S.I. 2005/1353 art. 2(f) commences (2002 c. 15)
– S.I. 2005/3175 art. 2(1) Sch. 1 commences (2004 c. 33)
– S.I. 2007/1897 art. 2(1)(b) art. 2(1)(d) commences (2005 c. 9)
– S.I. 2009/1604 art. 2 commences (2005 c. 4)
– S.I. 2010/37 art. 2 commences (2009 c. 18)
– S.I. 2010/1937 art. 2-5 commences (2010 c. 32)
– S.I. 2011/2329 art. 2 3 commences (2011 c. 5)
– S.I. 2011/3019 art. 3 Sch. 1 commences (2011 c. 13)
– S.I. 2012/84 art. 2 3 commences (2011 c. 21)
– S.I. 2012/628 art. 2-8 commences (2011 c. 20)
– 2012 No. 1 art. 2 commences (2011 No. 3)