

### **109 Appointment, powers, remuneration and duties of receiver**

- (1) A mortgagee entitled to appoint a receiver under the power in that behalf conferred by this Act shall not appoint a receiver until he has become entitled to exercise the power of sale conferred by this Act, but may then, by writing under his hand, appoint such person as he thinks fit to be receiver.
- (2) A receiver appointed under the powers conferred by this Act, or any enactment replaced by this Act, shall be deemed to be the agent of the mortgagor; and the mortgagor shall be solely responsible for the receiver's acts or defaults unless the mortgage deed otherwise provides.
- (3) The receiver shall have power to demand and recover all the income of which he is appointed receiver, by action [or under section 72(1) of the Tribunals, Courts and Enforcement Act 2007 (commercial rent arrears recovery)], or otherwise, in the name either of the mortgagor or of the mortgagee, to the full extent of the estate or interest which the mortgagor could dispose of, and to give effectual receipts accordingly for the same, and to exercise any powers which may have been delegated to him by the mortgagee pursuant to this Act.
- (4) A person paying money to the receiver shall not be concerned to inquire whether any case has happened to authorise the receiver to act.
- (5) The receiver may be removed, and a new receiver may be appointed, from time to time by the mortgagee by writing under his hand.
- (6) The receiver shall be entitled to retain out of any money received by him, for his remuneration, and in satisfaction of all costs, charges, and expenses incurred by him as receiver, a commission at such rate, not exceeding five per centum on the gross amount of all money received, as is specified in his appointment, and if no rate is so specified, then at the rate of five per centum on that gross amount, or at such other rate as the court thinks fit to allow, on application made by him for that purpose.
- (7) The receiver shall, if so directed in writing by the mortgagee, insure to the extent, if any, to which the mortgagee might have insured and keep insured against loss or damage by fire, out of the money received by him, any building, effects, or property comprised in the mortgage, whether affixed to the freehold or not, being of an insurable nature.
- (8) Subject to the provisions of this Act as to the application of insurance money, the receiver shall apply all money received by him as follows, namely:—
- (i) In discharge of all rents, taxes, rates, and outgoings whatever affecting the mortgaged property; and
  - (ii) In keeping down all annual sums or other payments, and the interest on all principal sums, having priority to the mortgage in right whereof he is receiver; and
  - (iii) In payment of his commission, and of the premiums on fire, life, or other insurances, if any, properly payable under the mortgage deed or under this Act, and the cost of executing necessary or proper repairs directed in writing by the mortgagee; and
  - (iv) In payment of the interest accruing due in respect of any principal money due under the mortgage; and
  - (v) In or towards discharge of the principal money if so directed in writing by the mortgagee;

and shall pay the residue, if any, of the money received by him to the person who, but for the possession of the receiver, would have been entitled to receive the income of which he is appointed receiver, or who is otherwise entitled to the mortgaged property.

#### **NOTES**

##### **Initial Commencement**

###### ***Specified date***

Specified date: 1 January 1926.

**Extent**

This Act does not extend to Scotland: see s 209(3).

**Amendment**

Sub-s (3): words from “or under section” to “rent arrears recovery)” in square brackets substituted by the Tribunals, Courts and Enforcement Act 2007, s 86, Sch 14, paras 21, 22.

Date in force: 6 April 2014: see SI 2014/768, art 2(1).

<b>Document information</b>
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Law of Property Act 1925

**Date made**

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