



# Tithe Act 1838

## 1838 CHAPTER 64

An Act to facilitate the Merger of Tithes in Land.

[4th August 1838]

WHEREAS by an Act passed in a Session of Parliament of the Sixth and Seventh Years of the Reign of His late Majesty King William the Fourth, intituled *An Act for the Commutation of Tithes in England and Wales*, it was (amongst other Things) provided that it should be lawful for any Person seised in possession of an Estate in Fee Simple or Fee Tail of any Tithes, or Rentcharge in lieu of Tithes, by any Deed or Declaration under his Hand and Seal, to be made in such Form as the Tithe Commissioners for *England and Wales* should approve, and to be confirmed under their Seal, to release, assign, or otherwise dispose of the same so that the same might be absolutely merged and extinguished in the Freehold and Inheritance of the Lands on which the same should have been charged: And whereas it is expedient that the aforesaid Provision should be extended in manner hereinafter mentioned :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same,

### **Persons having the Power of Appointment over Tithes may merge them in the Land.**

That from and after the passing of this Act it shall be lawful for any Person or Persons who shall, either alone or together, be seised of or have the Power of acquiring or disposing of the Fee Simple in possession of any Tithes, or Rent-charge in lieu of Tithes, by any Deed or Declaration under his or their Hand and Seal or Hands and Seals, to be made in such Form as the Tithe Commissioners for *England and Wales* shall approve, and to be confirmed under their Seal, to convey, appoint, or otherwise dispose of the same, so that the same may be absolutely merged and extinguished in the Freehold and Inheritance of the Lands out of or on which the same shall have been issuing or charged; and every such Deed or Declaration as aforesaid shall be valid and effectual for the Purpose aforesaid, although the same may not be executed or made in the Manner or with the Formalities or Requisites which if this Act had not been passed would have been essential to the Validity of any Instrument by which such Person or Persons could have acquired or disposed of the Fee Simple in possession of such Tithes, or Rent-charge in lieu of Tithes.

**II Deeds not chargeable with Duty.**

And be it enacted, That no Deed or Declaration authorized by this Act for the merging of Tithes shall be chargeable with any Stamp Duty.

**III Where Tithes and the Lands charged therewith are settled to same Uses, the Tenant for Life may cause them to merge in the Land.**

And be it enacted, That in all Cases where Tithes, or Rentcharge in lieu of Tithes, and the Lands out of which the same are payable, are both settled to the same Uses, it shall be lawful for any Person in possession of an Estate for Life in both such Lands and Tithes, or Rent-charge in lieu of Tithes, by any Deed or Declaration under his Hand and Seal, to be made in such Form as the said Commissioners shall approve, and to be confirmed under their Seal, to release, assign, or otherwise dispose of such Tithes or Rent-charge, so that the same may be absolutely merged and extinguished in the Freehold and Inheritance of the Lands out of which such Tithes shall have been issuing or on which such Rent-charge shall have been charged.

**IV Tithes may be merged in Copyhold Lands.**

And whereas Doubts have been entertained whether, according to the true Construction of the said Act, any Tithes, or Rent-charge in lieu of Tithe, can be merged in Lands of Copyhold Tenure, and it is expedient that such Doubts should be removed; be it therefore declared and enacted, That the Provisions in the said Act and this Act contained as to the Merger of any Tithe, or Rent-charge in lieu of Tithe, shall be deemed and taken to extend to all Lands, being Copyhold of Inheritance or Copyhold for Lives, or of any other Tenure whatsoever.

**V Meaning of Words, " Person ", " Lands ", " Tithes ".**

And be it enacted, That in the Construction and for the Purposes of this Act the several Words " Person, " " Lands, " and " Tithes " shall respectively mean and include whomsoever and whatsoever the same Words would have meant and included if the Enactment hereinbefore made had been contained in the said recited Act instead of this Act.

**VI Limits of Act.**

And be it enacted, That this Act shall extend only to *England* and *Wales*.

**VII Act may be altered this Session.**

And be it further enacted, That this Act may be amended, altered, or repealed by any Act or Acts to be passed in this present Session of Parliament.