Tithe Act 1936

1936 CHAPTER 43 26 Geo 5 and 1 Edw 8

An Act to extinguish tithe rentcharge and extraordinary tithe rentcharge, and to make provision with respect to the compensation of the owners thereof and rating authorities and to the liabilities of the owners of land charged therewith in respect of the extinguishment thereof; to reduce the rate at which tithe rentcharge is to be payable pending its extinguishment and to make provision with respect to the recovery of arrears thereof; to make provision for the redemption and extinguishment of corn rents and similar payments; and for purposes connected with the matters aforesaid. [31st July 1936]

Modifications etc. (not altering text)

C1 Act amended as to "payment date" by Finance Act 1958 (c. 56), **s. 38(2)(a)**; extended by Finance Act 1962 (c. 44), **s. 32**

C2 Words of enactment omitted under authority of Statute Law Revision Act 1948 (c. 62), **s. 3**

C3 Act amended by Finance Act 1977 (c. 36, SIF 98:5), **s. 56**

Commencement Information

I1 Act wholly in force at Royal Assent

PART I

EXTINGUISHMENT OF TITHE RENTCHARGE, COMPENSATION OF OWNERS THEREOF AND LIABILITIES OF LANDOWNERS

Extinguishment, Compensation by issue of Stock, Charge of Redemption Annuities

1 Extinguishment of tithe rentcharge.

Subject to the provisions of this Act, all tithe rentcharge shall be extinguished on the second day of October, nineteen hundred and thirty-six (in this Act referred to as "the appointed day" and accordingly as from that day the land out of which any

Status: *Point in time view as at 01/01/2001.*
Changes to legislation: *There are currently no known outstanding effects for the Tithe Act 1936. (See end of Document for details)*

tithe rentcharge issued immediately before that day shall be absolutely discharged and freed therefrom.

2 [F1](1) . . . . . .

[F2](2) . . . . . .

[F2](3) . . . . . .

Textual Amendments

F1 Ss. 2(1), 7, 31(7), Sch. 7 Pt. I para. 3(a), Pt. II, Pt.III para. 2 repealed by Finance Act 1989 (c. 26, SIF 63:2, 98:5, 99:3), s. 187(2), **Sch. 17**, Pt. XIV

F2 Ss. 2(2)(3), 6(1)(2), 8, 22, 23, 31(6), Sch. 3 Pt. I, Sch. 8 paras. 2–4, 6, 7 repealed by Statute Law Revision Act 1953 (2 & 3 Eliz. 2 c. 5)

[F3]**3** . . . . . .

Textual Amendments

F3 Ss. 3, 4(2)(*b*), 10, 11, 12(1), 13(3)(4)(7)–(9)(11), 15, 16(1)–(3)(7), 17, 29, 34 repealed by Finance Act 1977 (c. 36, SIF 98:5), s. 59(5), **Sch. 9 Pt. V**

Establishment of Commission and Delivery of Information as to Rentcharges

Modifications etc. (not altering text)

C4 Functions of Tithe Redemption Commission now exercisable by Commissioners of Inland Revenue: S.I. 1959/1971 (1959 II, p. 2618)

C5 Style and title of Minister of Agriculture and Fisheries now changed to Minister of Agriculture, Fisheries and Food by S.I. 1955/554 (1955 I, p. 1200)

4 **Tithe Redemption Commission.**

(1) There shall be established for the purposes of this Act a Commission to be called the "Tithe Redemption Commission" (in this Act referred to as "the Commission"), consisting of a chairman and not more than four other commissioners appointed by the Treasury after consultation with the Minister of Agriculture and Fisheries (in this Act referred to as "the Minister").

(2) It shall be the duty of the Commission, subject to and in accordance with the provisions of this Act—

(a) to determine what tithe rentcharges have been extinguished by this Act, . . . [F4]

(b) . . . . . [F5]

(3) The expenses incurred by the Commission in the performance of their functions under this Act, to such amount as may be approved by the Treasury, shall be defrayed out of moneys provided by Parliament.

(4) The provisions of the Second Schedule to this Act shall have effect with respect to the constitution, procedure, staff and expenses of the Commission.

Textual Amendments

F4 Words repealed by Finance Act 1989 (c. 26, SIF 63:2, 98:5, 99:3), s. 187(2), **Sch. 17**, Pt. XIV

F5 Ss. 3, 4(2)(*b*), 10, 11, 12(1), 13(3)(4)(7)–(9)(11), 15, 16(1)–(3)(7), 17, 29, 34 repealed by Finance Act 1977 (c. 36, SIF 98:5), s. 59(5), **Sch. 9 Pt. V**

[F6]5 . . . . . .

Textual Amendments

F6 S. 5 repealed by Statute Law Revision Act 1953 (2 & 3 Eliz. 2 c. 5) and Tithe Act 1951 (c. 62), **Sch. 2**

6 Documents to be placed at disposal of the Commission.

(1) . . . . . [F7]

(2) . . . . . [F7]

(3) As soon as may be after the commencement of this Act, the Minister shall place at the disposal of the Commission all instruments of apportionment in his custody or control and all such other documents relating to tithe rentcharge in his custody or control as ought in his opinion to be so placed.

(4) Any person having in his custody or control a sealed copy made pursuant to the Tithe Acts of an instrument of apportionment shall place it at the disposal of the Commission on being required by them so to do.

Textual Amendments

F7 Ss. 2(2)(3), 6(1)(2), 8, 22, 23, 31(6), Sch. 3 Pt. I, Sch. 8 paras. 2–4, 6, 7 repealed by Statute Law Revision Act 1953 (2 & 3 Eliz. 2 c. 5)

Stock

[F8]7 . . . . . .

Textual Amendments

F8 Ss. 2(1), 7, 31(7), Sch. 7 Pt. I para. 3(a), Pt. II, Pt.III para. 2 repealed by Finance Act 1989 (c. 26, SIF 63:2, 98:5, 99:3), s. 187(2), **Sch. 17**, Pt. XIV

[F9]8 . . . . . .

Status: *Point in time view as at 01/01/2001.*
Changes to legislation: *There are currently no known outstanding effects for the Tithe Act 1936. (See end of Document for details)*

Textual Amendments

F9 Ss. 2(2)(3), 6(1)(2), 8, 22, 23, 31(6), Sch. 3 Pt. I, Sch. 8 paras. 2–4, 6, 7 repealed by Statute Law Revision Act 1953 (2 & 3 Eliz. 2 c. 5)

Annuities

F10 9 . . . . . .

Textual Amendments

F10 S. 9 repealed by Tithe Act 1951 (c. 62), s. 1(1), **Sch. 2**

F11 10 . . . . . .

Textual Amendments

F11 Ss. 3, 4(2)(*b*), 10, 11, 12(1), 13(3)(4)(7)–(9)(11), 15, 16(1)–(3)(7), 17, 29, 34 repealed by Finance Act 1977 (c. 36, SIF 98:5), s. 59(5), **Sch. 9 Pt. V**

F12 11 . . . . . .

Textual Amendments

F12 Ss. 3, 4(2)(*b*), 10, 11, 12(1), 13(3)(4)(7)–(9)(11), 15, 16(1)–(3)(7), 17, 29, 34 repealed by Finance Act 1977 (c. 36, SIF 98:5), s. 59(5), **Sch. 9 Pt. V**

12 F13(1) . . . . . .

F14(2) . . . . . .

Textual Amendments

F13 Ss. 3, 4(2)(*b*), 10, 11, 12(1), 13(3)(4)(7)–(9)(11), 15, 16(1)–(3)(7), 17, 29, 34 repealed by Finance Act 1977 (c. 36, SIF 98:5), s. 59(5), **Sch. 9 Pt. V**

F14 Ss. 12(2)–(6), 18–20, 39(4), 42(2), 43, 45 repealed by Tithe Act 1951 (c. 62), **Sch. 2**

13 F15(1) . . . . . .

F16(3) . . . . . .

F17(5) . . . . . .

F16(7) . . . . . .

F18(10) . . . . . .

F16(11) . . . . . .

Textual Amendments

F15 S. 13(1)(2) repealed by Finance Act 1958 (c. 56), **Sch. 9 Pt. IV**

F16 Ss. 3, 4(2)(*b*), 10, 11, 12(1), 13(3)(4)(7)–(9)(11), 15, 16(1)–(3)(7), 17, 29, 34 repealed by Finance Act 1977 (c. 36, SIF 98:5), s. 59(5), **Sch. 9 Pt. V**

F17 S. 13(5)(6) repealed by Income Tax Act 1952 (c. 10), **Sch. 25**

F18 S. 13(10) repealed by Land Charges Act 1972 (c. 61, SIF 98:2), s. 18, **Sch. 5**

F19 14 . . . . . .

Textual Amendments

F19 S. 14, Sch.4 repealed by Finance Act 1963 (c. 25), **Sch. 13 Pt. IV**

F20 14A . . . . . .

Textual Amendments

F20 S.14A repealed by Statute Law (Repeals) Act 1975 (c. 10), s. 1, **Sch. Pt. XIII**

F21 15 . . . . . .

Textual Amendments

F21 Ss. 3, 4(2)(*b*), 10, 11, 12(1), 13(3)(4)(7)–(9)(11), 15, 16(1)–(3)(7), 17, 29, 34 repealed by Finance Act 1977 (c. 36, SIF 98:5), s. 59(5), **Sch. 9 Pt. V**

16

F22(1) . . . . . .

F23(4) . . . . . .

F22(7) . . . . . .

F23(8) . . . . . .

Textual Amendments

F22 Ss. 3, 4(2)(*b*), 10, 11, 12(1), 13(3)(4)(7)–(9)(11), 15, 16(1)–(3)(7), 17, 29, 34 repealed by Finance Act 1977 (c. 36, SIF 98:5), s. 59(5), **Sch. 9 Pt. V**

Status: *Point in time view as at 01/01/2001.*
Changes to legislation: *There are currently no known outstanding effects for the Tithe Act 1936. (See end of Document for details)*

F23 Ss. 16(4)–(6)(8) repealed by Tithe Act 1951 (c. 62), s. 11(6), **Sch. 2**

[F24]17 . . . . . .

Textual Amendments

F24 Ss. 3, 4(2)(*b*), 10, 11, 12(1), 13(3)(4)(7)–(9)(11), 15, 16(1)–(3)(7), 17, 29, 34 repealed by Finance Act 1977 (c. 36, SIF 98:5), s. 59(5), **Sch. 9 Pt. V**

[F25]18— . . . . . .
20.

Textual Amendments

F25 Ss. 12(2)–(6), 18–20, 39(4), 42(2), 43, 45 repealed by Tithe Act 1951 (c. 62), **Sch. 2**

Transitional Provisions

21 Provisions as to tithe rentcharge vested in owner of land charged.

(1) Where immediately before the appointed day a tithe rentcharge and the whole of the land out of which it issues are vested in the same person, having been so vested on the twenty-sixth day of February, nineteen hundred and thirty-six, and continuously thereafter, the provisions of this Act, other than the provisions of sections one and thirty-one thereof, shall not have effect in relation to that rentcharge or, so far as regards provisions relating to that rentcharge, to that land.

(2) For the purposes of this section a tithe rentcharge and the land out of which it issued shall be deemed to have been vested in the same person at any date—

(a) in any case, if the legal estate in fee simple in the rentcharge and in the land respectively were vested in the same person at that date, and, where any other estate or interest, whether legal or equitable, vested in any person was then subsisting in the rentcharge, if the like estate or interest was then subsisting in the land and was vested in that person; or

(b) in the case of a rentcharge the fee simple in possession whereof was vested in Queen Anne's Bounty by the Tithe [M1]Act, 1925, if the land was at that date land belonging to the benefice for the incumbent of which, or belonging to the ecclesiastical corporation for which, the rentcharge was held in trust;

and not otherwise.

Modifications etc. (not altering text)

C6 S. 21 extended by Tithe Act 1951 (c. 62), **s. 6**

Marginal Citations

M1 1925 c. 87.

[F26 22, ...
23.

Textual Amendments

F26 Ss. 2(2)(3), 6(1)(2), 8, 22, 23, 31(6), Sch. 3 Pt. I, Sch. 8 paras. 2–4, 6, 7 repealed by Statute Law Revision Act 1953 (2 & 3 Eliz. 2 c. 5)

PART II

FINANCIAL PROVISIONS

[F27 24— . . . . . .
26.

Textual Amendments

F27 Pt. II (ss. 24–28) repealed by Finance Act 1989 (c. 26, SIF 63:2, 98:5, 99:3), s. 187(2), **Sch. 17 Pt. XIV** the repeal being in force 30.9.1989 by S.I. 1989/1788, **art. 2**, except for s. 27 which remains (*prosp.*)

[F28 27 Audit of accounts.

(1) The Treasury shall prepare an account of the transactions of the Redemption Annuities Account in each financial year, and such other accounts as the Treasury may direct shall be prepared in relation to other transactions under this Act.

(2) On or before the thirtieth day of November in each year, the said accounts shall be transmitted to the Comptroller and Auditor-General, who shall examine and certify the accounts and lay copies thereof, together with his report thereon, before both Houses of Parliament.**]**

Textual Amendments

F28 Pt. II (ss. 24–28) repealed by Finance Act 1989 (c. 26, SIF 63:2, 98:5, 99:3), s. 187(2), **Sch. 17 Pt. XIV** the repeal being in force 30.9.1989 by S.I. 1989/1788, **art. 2**, except for s. 27 which remains (*prosp.*)

Modifications etc. (not altering text)

C7 S. 27(2) extended by Tithe Act 1951 (c. 62), **s. 8(2)**

[F29 28 . . . . . .

Textual Amendments

F29 Pt. II (ss. 24–28) repealed by Finance Act 1989 (c. 26, SIF 63:2, 98:5, 99:3), s. 187(2), **Sch. 17 Pt. XIV** the repeal being in force 30.9.1989 by S.I. 1989/1788, **art. 2**, except for s. 27 which remains (*prosp.*)

PART III

MISCELLANEOUS AND GENERAL

Miscellaneous

[F30]29 . . . . . .

Textual Amendments

F30 Ss. 3, 4(2)(*b*), 10, 11, 12(1), 13(3)(4)(7)–(9)(11), 15, 16(1)–(3)(7), 17, 29, 34 repealed by Finance Act 1977 (c. 36, SIF 98:5), s. 59(5), **Sch. 9 Pt. V**

[F31]30 . . . . . .

Textual Amendments

F31 S. 30 repealed (19.11.1998) by 1998 c. 43, s. 1(1), **Sch. 1 Pt. II**Group 2.

31 Liabilities to repair chancels, &c.

(1) The provisions of this section shall have effect with respect to liabilities to repair chancels of churches or other ecclesiastical buildings arising from the ownership of—

(a) tithe rentcharge extinguished by this Act in respect of which stock is to be issued under this Act;

(b) tithe rentcharge extinguished by this Act to which the provisions of section twenty-one of this Act apply; or

(c) land in which merger or extinguishment of tithe rentcharge has taken effect and to which the provisions of section one of the Tithe [M2]Act, 1839, apply.

(2) In respect of liability to repair arising from the ownership of a tithe rentcharge extinguished by this Act in respect of which stock is to be issued under this Act, the Diocesan Authority shall be entitled to receive a part of the stock to be issued in respect of the rentcharge equal in amount to such a sum (in this section and in the Seventh Schedule to this Act referred to as "the sum required for repairs") as may be reasonably sufficient, having regard to the condition of the chancel or building at the appointed day, to provide for the cost of future repairs thereof and to provide a capital sum the income of which will be sufficient to insure it for a sum adequate to reinstate it in the event of it being destroyed by fire:

Provided that, where the rentcharge was vested immediately before the appointed day for an interest in fee simple in possession in any of the following corporations or bodies, namely, Queen Anne's Bounty, the Ecclesiastical Commissioners, a spiritual rector of a rectory with cure of souls, an ecclesiastical corporation, or a university or college to which the [M3]Universities and College Estates Act, 1925, applies, the foregoing provisions of this subsection shall not have effect, but the corporation or body shall be subject to liability to repair in like manner as if the rentcharge had continued in existence and in the ownership of the corporation or body.

(3) In respect of liability to repair arising from the ownership of a tithe rentcharge extinguished by this Act to which the provisions of section twenty-one of this Act apply, the land out of which the rentcharge issued immediately before the appointed day and the owner thereof for the time being shall be subject to liability to repair in like manner as if the land had been land to which the provisions of section one of the Tithe Act, 1839, apply.

(4) In respect of liability to repair arising from the ownership of land in which merger or extinguishment of a tithe rentcharge has taken effect and to which the provisions of section one of the Tithe [M4]Act, 1839, apply, the land and the owner thereof for the time being shall be subject to liability to repair in like manner as if this Act had not passed.

(5) The foregoing provisions of this section shall have effect subject to the provisions of Part I of the Seventh Schedule to this Act, which relate to the apportionment of liability to repair in certain cases.

[F32](6) . . . . . .

[F33](7) . . . . . .

(8) This section and the Seventh Schedule to this Act shall have effect in relation to a chancel or building in Wales or Monmouthshire subject to the modifications specified in Part III of that Schedule.

(9) In this section and in the Seventh Schedule to this Act the expression "Diocesan Authority" has the meaning assigned to it by the [M5]Ecclesiastical Dilapidations Measure, 1923, and that Measure, as amended by the [M6]Ecclesiastical Dilapidations (Amendment) Measure, 1929, is referred to as "the Measure."

Textual Amendments

F32 Ss. 2(2)(3), 6(1)(2), 8, 22, 23, 31(6), Sch. 3 Pt. I, Sch. 8 paras. 2–4, 6, 7 repealed by Statute Law Revision Act 1953 (2 & 3 Eliz. 2 c. 5)

F33 Ss. 2(1), 7, 31(7), Sch. 7 Pt. I para. 3(a), Pt. II, Pt.III para. 2 repealed by Finance Act 1989 (c. 26, SIF 63:2, 98:5, 99:3), s. 187(2), **Sch. 17**, Pt. XIV

Modifications etc. (not altering text)

C8 Functions of Queen Anne's Bounty and Ecclesiastical Commissioners now exercisable by Church Commissioners: Church Commissioners Measure 1947 (No. 2), **ss. 1(2)**, 2, 18(2).

Marginal Citations

M2 1839 c. 62.

M3 1925 c. 24.

M4 1839 c. 62.

M5 1923 No. 3.

M6 1929 No. 3.

32 Furnishing of information by rating authorities.

(1) The rating authority by whom a rate has been made shall, on being requested by the Commission so to do, supply to the Commission any information which is in their possession as to the amount paid or payable on account of the rate so far as assessed on any tithe rentcharge issuing out of land in the area to which the rate applied.

(2) A rating authority shall, on being requested by the Commission so to do, inform the Commission as respects any land in their area whether it was on the first day of April, nineteen hundred and thirty-six, land in respect of which rates were assessable.

Modifications etc. (not altering text)

C9 S. 32(1) repealed (prosp.) by Corn Rents Act 1963 (c. 14), s. 3(4), **Sch.**

33 Limitation of personal liability of trustees &c. as owners of land.

In proceedings taken against any person for the enforcement of a personal liability to pay any sum imposed by this Act on that person as being the owner of land, if he proves that the ownership of the land was vested in him in the capacity of a trustee or personal representative, and that his rights of indemnity are, otherwise than by reason of negligence or default on his part, insufficient to provide for his reimbursement in respect of that liability, the court may give such directions for the limitation or release of that liability as the court thinks just and equitable.

[F34]34 . . . . . .

Textual Amendments

F34 Ss. 3, 4(2)(*b*), 10, 11, 12(1), 13(3)(4)(7)–(9)(11), 15, 16(1)–(3)(7), 17, 29, 34 repealed by Finance Act 1977 (c. 36, SIF 98:5), s. 59(5), **Sch. 9 Pt. V**

35 Application to Crown lands, &c.

This Act shall apply to tithe rentcharge, to corn rents, rentcharges and money payments which are liable to redemption under the Tithe Acts, and to land, belonging to any Government department, or belonging to any public officer or body on behalf of His Majesty for government purposes, or belonging to His Majesty in right of the Crown, or of the Duchy of Lancaster, or belonging to the Duchy of Cornwall, and in relation to such rentcharge, rent, payment or land this Act binds the Crown and, for the purposes of this Act, the officer or body having the management of any such rentcharge, rent, payment or land shall represent His Majesty.

36 Ultimate custody of tithe apportionments, collecting lists, &c.

(1) As soon as it appears to the Commission . . . [F35] that a document placed at their disposal under section six of this Act is no longer required by the Commission . . . [F35] for the

purpose of the discharge of their functions under this Act, they shall cause it to be delivered into the custody of the person who but for the provisions of that section would have been entitled to the custody thereof.

(2) Subject to the provisions of section six of this Act, sealed copies made pursuant to the Tithe Acts of instruments of apportionment shall be under the charge and superintendence of the Master of the Rolls, who may direct that any such copy shall be transferred to the Public Record Office, or to any public library or museum or historical or antiquarian society which may be willing to receive it, and if any such copy is transferred to any public library or museum or historical or antiquarian society, the governing body thereof shall thereafter have the custody thereof and shall be responsible for the proper preservation thereof.

The Master of the Rolls may make rules for giving effect to this subsection.

Textual Amendments

F35 Words repealed by the Tithe Act 1951 (c. 62), **Sch. 2**

Modifications etc. (not altering text)

C10 S. 36(1) restricted by Tithe Act 1951 (c. 62), **s. 10(5)**

C11 S. 36(2) amended by Local Government (Records) Act 1962 (c. 56), **s. 7(1)**

37 Adaptation of references to tithe rentcharge.

(1) Any enactment or instrument whereby the extent of any right or obligation is to be determined by reference to the amount for the time being payable in respect of tithe rentcharge shall, unless the context otherwise requires, have effect in relation to any period after the appointed day as if the amount so payable had been ninety-one pounds eleven shillings and two pence for every hundred pounds of tithe rentcharge, and proportionately greater or lesser amounts for tithe rentcharge of more or less than one hundred pounds.

(2) In the case of a testamentary instrument executed before the commencement of this Act, a disposition referring to tithe rentcharge shall be construed and have effect in relation to a rentcharge extinguished by this Act as if the reference had included a reference to the stock issued in respect thereof.

[F36]38 . . . . . .

Textual Amendments

F36 S. 38 repealed (1.1.2001) by 2000 Measure No. 1, s. 20, **Sch. 8 Pt. I**; Instrument dated 14.12.2000 made by the Archbishops of Canterbury and York

General

39 Powers for determination of questions in performance of functions under this Act.

(1) The provisions of **[**[F37]Part I of the Arbitration Act 1996**]**, with respect to—

(a) the administration of oaths and the taking of affirmations;

(b) the correction of mistakes and errors in awards;

(c) the summoning, attendance and examination of witnesses and the production of documents;

(d) the cost of proceedings; and

[[F38](e) the making of an application to the court to determine a preliminary point of law and the bringing of an appeal to the court on a point of law;**]**

shall apply in respect of proceedings before the Commission . . . [F39] for the purposes of this Act, . . . [F39] and at any inquiry held by the Commission . . . [F39] for the purposes of this Act, but save as aforesaid **[**[F40]Part I of the Arbitration Act 1996**]** shall not apply to or at any such proceedings, . . . [F39] or inquiry.

(2) Before making a determination in relation to any matter which they are authorised by this Act to determine, the Commission . . . [F39] shall give to any person who satisfies them that he is interested in the land or in the compensation to be made in respect of the tithe rentcharge, as the case may be, to which the determination relates an opportunity of making representations, and any person who satisfies the Commission, . . . [F39] or the court, as the case may be, that he is so interested may apply for the statement in the form of a special case of any question of law arising in relation to the matter.

(3) Subject as aforesaid, a determination of the Commission . . . [F39] in relation to any matter which they are authorised by this Act to determine shall be binding and conclusive for all purposes.

(4) . . . . . [F41]

Textual Amendments

F37 Words in s. 39(1) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 3(a)** (with s. 81(2)); S.I. 1996/3146, **art.3** (with art. 4, Sch. 2 paras. 1-3)

F38 S. 39(1)(e) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 3(b)** (with s. 81(2)); S.I. 1996/3146, **art.3** (with art. 4, Sch. 2 paras. 1-3)

F39 Words repealed by the Tithe Act 1951 (c. 62), **Sch. 2**

F40 Words in s. 39(1) substituted (31.1.1997) by 1996 c. 23, s. 107(1), **Sch. 3 para. 3(c)** (with s. 81(2)); S.I. 1996/3146, **art.3** (with art. 4, Sch. 2 paras. 1-3)

F41 Ss. 12(2)–(6), 18–20, 39(4), 42(2), 43, 45 repealed by Tithe Act 1951 (c. 62), **Sch. 2**

40 Exercise by the Commission of certain powers conferred by the Tithe Acts.

(1) The powers conferred by . . . [F42] section thirty-four of the [M7]Tithe Act, 1860 (which relates to the determination of the parish in respect of which a tithe rentcharge ought to have been charged where land has been made chargeable in more than one parish), shall be exercisable by the Commission either before or after the appointed day, and in relation to a tithe rentcharge or to land in respect of which any of the said powers is exercised by the Commission after the appointed day this Act shall have effect as if the . . . [F42] determination, . . . [F42] had been made immediately before the appointed day.

(2) The powers conferred by section twenty-six of the Tithe Act, 1860 (which relates to the detachment of maps from instruments of apportionment), shall be exercisable by the Commission either before or after the appointed day.

Textual Amendments

F42 Words repealed by the Tithe Act 1951 (c. 62), **Sch. 2**

Marginal Citations

M7 1860 c. 93.

41 Power to enter and inspect land.

Any person authorised in writing by the Commission . . . [F43] for the purpose shall have a right, on production of his authority, to enter on and inspect at all reasonable times any land for the purpose of obtaining any information required by them for the discharge of their functions under this Act.

Textual Amendments

F43 Words repealed by the Tithe Act 1951 (c. 62), **Sch. 2**

42 Service and proof of documents.

(1) Any notice or other document required or authorised to be served under this Act may be served either—

(a) by delivering it to the person on whom it is to be served; or

(b) by leaving it at the usual or last known place of abode of that person; or

(c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode; or

(d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at its registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office.

(2) . . . . . [F44]

Textual Amendments

F44 Ss. 12(2)–(6), 18–20, 39(4), 42(2), 43, 45 repealed by Tithe Act 1951 (c. 62), **Sch. 2**

[F45]43 . . . . . .

Textual Amendments

F45 Ss. 12(2)–(6), 18–20, 39(4), 42(2), 43, 45 repealed by Tithe Act 1951 (c. 62), **Sch. 2**

44 Treasury authorisation.

A consent, approval or direction, required to be given by the Treasury for the purposes of this Act may be given either generally for any class of case or for any particular transaction.

[F46]45 . . . . . .

Textual Amendments

F46 Ss. 12(2)–(6), 18–20, 39(4), 42(2), 43, 45 repealed by Tithe Act 1951 (c. 62), **Sch. 2**

[F47]46 . . . . . .

Textual Amendments

F47 S. 46 repealed by Statute Law Revision Act 1964 (c. 79)

47 Interpretation.

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

. . . . . [F48]

. . . [F49]

"benefice" includes all rectories with cure of souls, vicarages, perpetual curacies, endowed public chapels and parochial chapelries, and chapelries or districts belonging or reputed to belong or annexed or reputed to be annexed to any church or chapel, and districts formed for ecclesiastical purposes by virtue of statutory authority, and includes benefices in the patronage of the Crown or of the Duchy of Cornwall;

"contingent rentcharge" means tithe rentcharge issuing out of lands exempted by virtue of section seventy-one of the [M8]Tithe Act, 1836, from the payment thereof whilst in the occupation of the owner of the lands or otherwise subject to special incidents;

"district" means the parish or other district treated as a separate district for the commutation of tithes under the Tithe Act, 1836;

"ecclesiastical corporation" has the meaning assigned to it by the [M9]Episcopal and Capitular Estates Act, 1851;

. . . [F50]

"extraordinary tithe rentcharge" means a rentcharge payable under the [M10]Extraordinary Tithes Acts, 1886 [M11] and 1897;

. . . . . [F51]

"instrument of apportionment" means an instrument of apportionment made and confirmed, or an instrument of altered apportionment made, under the Tithe Acts, and includes a certificate of capital value sealed under the Extraordinary Tithes Acts, 1886 and 1897, and a map annexed to any such instrument or certificate or detached therefrom under section twenty-six of the Tithe Act, 1860;

. . . . . [F50]

"prescribed" means prescribed by rules made by the Commission . . . [F52];

. . . [F53]

"re-apportioned rentcharge" means a tithe rentcharge which has been re-apportioned by the authority for the time being exercising jurisdiction in that behalf under the Tithe Acts, or which has, before the first day of April, nineteen hundred and thirty-three, been re-apportioned, as between lands identified by numers in an instrument of apportionment, by the owners of the rentcharge and of the lands and has been recovered on the basis of such re-apportionment;

"stock" means redemption stock;

"Tithe Acts" means the Tithe Acts, 1836 to 1925;

"tithe rentcharge" means tithe rentcharge issuing out of lands and payable in pursuance of the Tithe Acts, and includes a rentcharge into which a corn rent was converted under those Acts, and also (except in such portions of this Act as do not have effect in relation to extraordinary tithe rentcharge) extraordinary tithe rentcharge, but does not include a rentcharge payable under the [M12]Tithe Act, 1860, in respect of the tithes on any gated or stinted pasture, nor a sum or rate payable for each head of cattle or stock turned on land subject to common rights or held or enjoyed in common.

(2) In this Act, unless the context otherwise requires, in relation to a re-apportioned rentcharge, references to a tithe rentcharge shall be construed as references to each of the rentcharges resulting from the re-apportionment, and references to the land out of which a tithe rentcharge issued shall be construed as references to the lands respectively on which those rentcharges were reapportioned.

(3) References in this Act to the amount of a tithe rentcharge shall be construed as references to the apportioned or par amount thereof.

(4) In calculating for the purposes of this Act the amount . . . [F54]or of any sum payable on account of tithe rentcharge, fractions of a penny less than a halfpenny shall be disregarded, and fractions of a penny amounting to a halfpenny or more shall be treated as a whole penny.

Textual Amendments

F48 Definitions repealed by Finance Act 1977 (c. 36, SIF 98:5), s. 59(5), **Sch. 9 Pt. V**

F49 Definitions repealed by Tithe Act 1951 (c. 62), **Sch. 2**

F50 Definition repealed by Statute Law Revision Act 1953 (2 & 3 Eliz. 2 c. 5)

F51 Definition repealed by Finance Act 1989 (c. 26, SIF 63:2, 98:5, 99:3), s. 187(2), **Sch. 17 Pt. XIV**

F52 Words repealed by the Tithe Act 1951 (c. 62), **Sch. 2**

F53 Definition repealed by Local Government Act 1958 (c. 55), **Sch. 9 Pt. II**

F54 Words repealed by Finance Act 1977 (c. 36, SIF 98:5), s. 59(5), **Sch. 9 Pt. V** and by Finance Act 1989, (c. 26, SIF 63:2, 98:5, 99:3), s. 187(2), Sch. 17 Pt. XIV

Marginal Citations

M8 1836 c. 71.

M9 1851 c. 104.

M10 1886 c. 54.

M11 1897 c. 23.

M12 1860 c. 93.

[X1]48 †Short title, construction, extent and repeal.

(1) This Act may be cited as the Tithe Act, 1936, and shall be construed with the Tithe Acts, 1836 to 1925, and those Acts and this Act may be cited together as the Tithe Acts, 1836 to 1936.

(2) This Act shall extend to England and Wales only.

[F55](3) . . . . . .

Editorial Information

X1 A dagger appended to a marginal note means that it is no longer accurate

Textual Amendments

F55 S. 48(3), Sch. 9 repealed by Statute Law Revision Act 1950 (14 Geo. 6 c. 6)

Status: *Point in time view as at 01/01/2001.*
Changes to legislation: *There are currently no known outstanding effects for the Tithe Act 1936. (See end of Document for details)*

[F56]FIRST SCHEDULE

Textual Amendments
F56 Sch. 1 repealed by Statute Law Revision Act 1953 (c. 5)

. . . . . .

SECOND SCHEDULE

Section 4.

CONSTITUTION, PROCEDURE, STAFF AND EXPENSES OF THE COMMISSION

F57 . . . . . .

1—5.

Textual Amendments
F57 Sch. 2 paras. 1–5, 8, 11, 12 repealed by S.I. 1959/1971 (1959 II, p. 2618)

6 The functions of the Commission, and of the officers and servants of the Commission, shall be exercised on behalf of the Crown.

7 The Commission may hold such inquiries as appear to them to be necessary or desirable for the purpose of the proper discharge of their functions.

Before holding any such inquiry the Commission shall give such notice as appears to them best adapted for informing persons affected of the date on which and the place at which the inquiry will be held and at any such inquiry any person appearing to the person holding the inquiry to be affected may appear either in person or by counsel, solicitor or agent.

F58 . . . . . .

8

Textual Amendments
F58 Sch. 2 paras. 1–5, 8, 11, 12 repealed by S.I. 1959/1971 (1959 II, p. 2618)

9 The Commission may authorise, subject to such limitations or restrictions as they may determine, a committee appointed by them, or any person appointed by them for the purpose, to exercise in the name and on behalf of the Commission any of the Commission's powers or to perform or discharge on their behalf any duty or liability of the Commission.

10 Subject to the foregoing provisions of this Schedule, the Commission shall have power to make rules regulating the procedure of the Commission and the procedure at any inquiry under this Schedule.

Modifications etc. (not altering text)

C12 Para. 10 repealed except so far as it applies to inquiries under para. 7 by S.I. 1959/1971 (1959 II, p. 2618)

F59 . . . . . .

11, 12.

Textual Amendments

F59 Sch. 2 paras. 1–5, 8, 11, 12 repealed by S.I. 1959/1971 (1959 II, p. 2618)

THIRD SCHEDULE

Sections 7, 38.

F60 PART I

Textual Amendments

F60 Ss. 2(2)(3), 6(1)(2), 8, 22, 23, 31(6), Sch. 3 Pt. I, Sch. 8 paras. 2–4, 6, 7 repealed by Statute Law Revision Act 1953 (2 & 3 Eliz. 2 c. 5)

. . . . . .

PART II

PROVISIONS AS TO STOCK TO BE ISSUED TO QUEEN ANNE'S BOUNTY

Modifications etc. (not altering text)

C13 Functions of Queen Anne's Bounty now exercisable by Church Commissioners: Church Commissioners Measure 1947 (No. 2), **ss. 2**, 18(2)

F61 1—3. . . . . .

Textual Amendments

F61 Sch. 3 Pt. II paras. 1–3 repealed by Endowments and Glebe Measure 1976 No. 4, ss. 47(4), 48, **Sch. 8** (Provinces of Canterbury and York)

4 (1) Where any such rentcharge as aforesaid was immediately before its extinguishment charged with an annual money payment, the charge shall pass to the sum appropriated as aforesaid to the benefice:
Provided that, where any such charge is vested in the holder of any ecclesiastical office, Queen Anne's Bounty shall have power by Order to abate it either permanently or for such term as they may direct, if in their discretion they are satisfied that such abatement is desirable.

(2) Queen Anne's Bounty shall have the like powers to abate any charge, being a charge so vested as aforesaid, on the general revenues of a benefice in cases in which the general revenues included income derived from tithe rentcharge extinguished by this Act.

Modifications etc. (not altering text)
C14 Para. 4 extended by Queen Anne's Bounty Measure 1939 (No. 1), **s. 3**

[F62]FOURTH SCHEDULE

Textual Amendments
F62 S. 14, Sch.4 repealed by Finance Act 1963 (c. 25), **Sch. 13 Pt. IV**

. . . . . .

[F63]FIFTH SCHEDULE

Textual Amendments
F63 Sch. 5 repealed by Local Government Act 1958 (c. 55), **Sch. 9 Pt. II**

. . . . . .

[F64]SIXTH SCHEDULE

Textual Amendments
F64 Sch. 6 repealed (19.11.1998) by 1998 c. 43, s. 1(1), **Sch. 1 Pt. II**Group 2.

. . . . . .

Status: *Point in time view as at 01/01/2001.*
Changes to legislation: *There are currently no known outstanding effects for the Tithe Act 1936. (See end of Document for details)*

SEVENTH SCHEDULE

Section 31.

LIABILITIES TO REPAIR CHANCELS, &C.

PART I

APPORTIONMENT OF LIABILITY

1 The Commission shall ascertain in relation to every chancel or other ecclesiastical building for the repair of which liability attached to the ownership of tithe rentcharge agreed or awarded on the original commutation of tithes under the Tithe Acts—

(a) the rentcharges in respect of which such liability attached and the aggregate amount of those rentcharges;

(b) which, if any, of those rentcharges was or were redeemed under the Tithe Acts or ceased before the appointed day to be subject to such liability, and the amount, or the aggregate amount, as the case may be, of any such rentcharges; and

(c) the identity and the aggregate amount (in this Part referred to as "the apportionable amount of rentcharge liability") of the residue of those rentcharges.

2 Where the Commission ascertain, in relation to any chancel or building, that the residue aforesaid comprises two or more rentcharges, they shall ascertain the amount of each of those rentcharges which—

(a) was a rentcharge in respect of which stock is to be issued under this Act and which was not so vested as to fall within the next succeeding sub-paragraph;

(b) was a rentcharge in respect of which stock is to be issued under this Act and which was vested immediately before the appointed day for an interest in fee simple in possession in any of the corporations or bodies mentioned in the proviso to subsection (2) of section thirty-one of this Act;

(c) was so vested between the twenty-sixth day of February, nineteen hundred and thirty-six, and the appointed day as to render the provisions of section twenty-one of this Act applicable thereto; or

(d) was merged or extinguished under the Tithe Acts in land to which the provisions of section one of the [M13]Tithe Act, 1839, apply;

and shall ascertain, as respects each of those rentcharges, the proportion (in this Part referred to in relation to that rentcharge as "the appropriate proportion") which the amount thereof bears to the apportionable amount of rentcharge liability.

Marginal Citations

M13 1839 c. 62.

3 Where the Commission ascertain, in relation to any chancel or building, that the residue aforesaid comprises two or more rentcharges, then—

[F65](a) . . . . . .

(b) any such liability to repair related to any of those rentcharges as is mentioned in the proviso to subsection (2) of section thirty-one of this Act,

or in subsection (3) or (4) of that section, shall be limited to the appropriate proportion of the cost of putting the chancel or building in proper repair.

Textual Amendments

F65 Ss. 2(1), 7, 31(7), Sch. 7 Pt. I para. 3(a), Pt. II, Pt.III para. 2 repealed by Finance Act 1989 (c. 26, SIF 63:2, 98:5, 99:3), s. 187(2), **Sch. 17**, Pt. XIV

4 References in the [M14]Chancel Repairs Act, 1932, to the cost of putting a chancel in repair shall, in relation to a liability limited under this Schedule to a proportion of such cost, be construed as references to that proportion of such cost.

Marginal Citations

M14 1932 c. 20.

5 Nothing in this Act shall prejudice the right of any person against whom proceedings are taken to enforce any such liability to repair related to any rentcharge as is mentioned in the proviso to subsection (2) of section thirty-one of this Act, or in subsection (3) or (4) of that section, to put in issue the question whether liability to repair attached to that rentcharge on the original commutation of tith es under the Tithe Acts or continued thereafter.

PART II

[F66]1—5. . . . . .

Textual Amendments

F66 Ss. 2(1), 7, 31(7), Sch. 7 Pt. I para. 3(a), Pt. II, Pt.III para. 2 repealed by Finance Act 1989 (c. 26, SIF 63:2, 98:5, 99:3), s. 187(2), **Sch. 17**, Pt. XIV

PART III

MODIFICATIONS AS TO WALES AND MONMOUTHSHIRE

1 For references to the Diocesan Authority or to Queen Anne's Bounty there shall be substituted references to the Representative Body incorporated under section thirteen of the [M15]Welsh Church Act, 1914.

Marginal Citations

M15 1914 c. 91.

[F67]2 . . . . . .

Textual Amendments

F67 Ss. 2(1), 7, 31(7), Sch. 7 Pt. I para. 3(a), Pt. II, Pt.III para. 2 repealed by Finance Act 1989 (c. 26, SIF 63:2, 98:5, 99:3), s. 187(2), **Sch. 17**, Pt. XIV

[F68]EIGHTH SCHEDULE

. . . . . .

Textual Amendments

F68 Sch. 8 repealed (1.1.2001) by 2000 Measure No. 1, s. 20, **Sch. 8 Pt. I**; Instrument dated 14.12.2000 made by the Archbichops of Canterbury and York

[F71]NINTH SCHEDULE

Textual Amendments

F71 S. 48(3), Sch. 9 repealed by Statute Law Revision Act 1950 (14 Geo. 6 c. 6)

. . . . . .

Status:
Point in time view as at 01/01/2001.

Changes to legislation:
There are currently no known outstanding effects for the Tithe Act 1936.