



Tithe Act 1936

1936 CHAPTER 43 26 Geo 5 and 1 Edw 8

PART III

MISCELLANEOUS AND GENERAL

General

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

- (1) The provisions of the Arbitration Acts, 1889 to 1934, with respect to—
- the administration of oaths and the taking of affirmations;
 - the correction of mistakes and errors in awards;
 - the summoning, attendance and examination of witnesses and the production of documents;
 - the cost of proceedings; and
 - the statement in the form of a special case for the decision of the court of any question of law arising in the course of the reference;

shall apply in respect of proceedings before the Commission . . . ^{F1} for the purposes of this Act, . . . ^{F1} and at any inquiry held by the Commission . . . ^{F1} for the purposes of this Act, but save as aforesaid the said Acts shall not apply to or at any such proceedings, . . . ^{F1} or inquiry.

- (2) Before making a determination in relation to any matter which they are authorised by this Act to determine, the Commission . . . ^{F1} 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, . . . ^{F1} 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.

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- (3) Subject as aforesaid, a determination of the Commission . . . ^{F1} in relation to any matter which they are authorised by this Act to determine shall be binding and conclusive for all purposes.
- (4) ^{F2}

Textual Amendments

F1 Words repealed by the [Tithe Act 1951 \(c. 62\)](#), [Sch. 2](#)

F2 Ss. 12(2)–(6), 18–20, 39(4), 42(2), 43, 45 repealed by [Tithe Act 1951 \(c. 62\)](#), [Sch. 2](#)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 . . . ^{F3} section thirty-four of the ^{M1}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 . . . ^{F3} determination, . . . ^{F3} 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

F3 Words repealed by the [Tithe Act 1951 \(c. 62\)](#), [Sch. 2](#)

Marginal Citations

M1 [1860 c. 93](#).

41 Power to enter and inspect land.

Any person authorised in writing by the Commission . . . ^{F4} 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

F4 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

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- (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) F5

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Textual Amendments

F5 Ss. 12(2)–(6), 18–20, 39(4), 42(2), 43, 45 repealed by [Tithe Act 1951 \(c. 62\)](#), [Sch. 2](#)

F6 43

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Textual Amendments

F6 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.

F7 45

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Textual Amendments

F7 Ss. 12(2)–(6), 18–20, 39(4), 42(2), 43, 45 repealed by [Tithe Act 1951 \(c. 62\)](#), [Sch. 2](#)

F8 46

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Textual Amendments

F8 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:—

..... F9
..... F10

“benefice” includes all rectories with cure of souls, vicarages, perpetual curacies, endowed public chapels and parochial chapelries, and chapelries or districts

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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 ^{M2}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 ^{M3}Episcopal and Capitular Estates Act, 1851;

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F11

“extraordinary tithe rentcharge” means a rentcharge payable under the ^{M4}Extraordinary Tithes Acts, 1886 ^{M5} and 1897;

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F12

“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;

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F11

“prescribed” means prescribed by rules made by the Commission . . . F13;

...
F14

“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 numbers 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 ^{M6}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.

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- (4) In calculating for the purposes of this Act the amount . . . ^{F15}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

- F9** Definitions repealed by [Finance Act 1977 \(c. 36, SIF 98:5\)](#), s. 59(5), **Sch. 9 Pt. V**
- F10** Definitions repealed by [Tithe Act 1951 \(c. 62\)](#), **Sch. 2**
- F11** Definition repealed by [Statute Law Revision Act 1953 \(2 & 3 Eliz. 2 c. 5\)](#)
- F12** Definition repealed by [Finance Act 1989 \(c. 26, SIF 63:2, 98:5, 99:3\)](#), s. 187(2), **Sch. 17 Pt. XIV**
- F13** Words repealed by the [Tithe Act 1951 \(c. 62\)](#), **Sch. 2**
- F14** Definition repealed by [Local Government Act 1958 \(c. 55\)](#), **Sch. 9 Pt. II**
- F15** 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

- M2** 1836 c. 71.
- M3** 1851 c. 104.
- M4** 1886 c. 54.
- M5** 1897 c. 23.
- M6** 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.

^{F16}(3)

Editorial Information

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

Textual Amendments

- F16** [S. 48\(3\), Sch. 9](#) repealed by [Statute Law Revision Act 1950 \(14 Geo. 6 c. 6\)](#)

Status:

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