



Tithe Act 1951

1951 CHAPTER 62

Amendments and repeals of certain provisions of the principal Act, and subsidiary provisions

2 Extinguished rentcharges undisclosed: exclusion from provisions for compensation and for charge of annuity

- (1) The provisions of the principal Act relating to compensation in respect of the extinguishment of tithe rentcharge shall not have effect in relation to a rentcharge in respect of which the particulars required by section five of the principal Act have not been transmitted in accordance with the requirements of that section before the commencement of this Act, without prejudice however to the validity of any issue of stock for compensation in respect thereof, or other thing done under the said provisions in relation thereto, before the commencement of this Act.
- (2) The preceding subsection shall have effect in substitution for the provisions of subsection (4) of the said section five (which conferred a power on the Commission to withhold compensation, or to reduce the amount thereof or to postpone interest thereon, in the case of a rentcharge as to which the said requirements were not satisfied).
- (3) Where subsection (1) of this section has effect as to a rentcharge and there has been no issue of stock for compensation in respect thereof before the commencement of this Act, section three of the principal Act (which charges annuities in respect of the lands respectively out of which rentcharges extinguished by that Act issued) shall not have effect, and shall be deemed never to have had effect, in relation to that rentcharge.

3 Additional powers for apportionment of annuities, and power to consolidate annuities

- (1) In addition to their duty under section ten of the principal Act to apportion annuities charged in respect of land in the ownership of two or more owners, to their duty under subsection (2) of section eleven thereof to apportion annuities and to their power in that behalf under subsection (5) of section fourteen thereof, the Commission shall have power—

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- (a) for the purpose of securing that there shall not be more than one annuity charged in respect of any given land, to apportion annuities, and, where two or more annuities are charged in respect of the same land, to consolidate them;
 - (b) to apportion an annuity which is charged in respect of land parts of which are detached from one another, as between the several parts.
- (2) An apportionment under this section shall be made in the like manner, and having regard to the like matters, as in the case of an apportionment under the said section ten, and subsection (2) of that section (which relates to the extinguishment of an apportioned annuity and the charge of substituted annuities) shall have effect in relation to an apportionment under this section.
- (3) Where the Commission consolidate two or more annuities charged in respect of any land, they shall make an order specifying the aggregate amount of those annuities, and those annuities shall be deemed to have been extinguished as from the day following the last payment date before the date on which the order is made, and an annuity of the aggregate amount shall be charged by virtue of the principal Act in respect of the land for the use of His Majesty for the period commencing on the day following that payment date and ending (subject to the provisions of section twenty-eight of the principal Act as to the earlier extinguishment of all annuities) on the day preceding the sixtieth anniversary of the appointed day.
- (4) Any of the duties or powers of apportionment, consolidation or extinguishment conferred by the principal Act or this Act may be exercised in combination (whether by apportioning an annuity and consolidating an annuity substituted for a part thereof with another annuity or otherwise howsoever), and the orders to be made for that purpose may be made in the form of separate orders or of provisions of a single order as circumstances may appear to the Commission to require.
- (5) An annuity charged on an apportionment under this section, or on a consolidation thereunder, shall be treated as falling within references in the principal Act to a " substituted annuity ", and accordingly, in the definition of that expression in subsection (1) of section forty-seven of the principal Act, there shall be inserted, after the reference to section ten of that Act, the words " and section three of the Tithe Act, 1951. "

4 Mistake as to ownership of land not to invalidate redemption or reduction of an annuity

- (1) Where, either before or after the commencement of this Act, a payment has been made by any person, as being the owner of any land, pursuant to a redemption notice served on him under section fifteen of the principal Act or to a notice served on him under subsection (7) of that section, or for the purposes of the redemption or reduction under subsection (6) or (9) of that section of an annuity charged in respect of that land, and it has appeared after the making of the payment that the person making it was not in fact the owner of that land, the provisions of that section for the extinguishment, discharge or reduction of the relevant annuity shall be treated as having taken effect notwithstanding that fact, and the person making the payment shall not be entitled to recover it.
- (2) Subsection (10) of the said section fifteen (which provides for the granting to a person making a payment for the redemption of an annuity of a charge on any land in respect of which the annuity was charged) shall apply in favour of a person making a payment pursuant to a notice under subsection (7) of that section as respects any land in respect

of which the relevant annuity would have been charged if the notice had not been served, and in favour of a person making a payment for the purposes of the reduction of an annuity under subsection (9) thereof.

5 Ascertainment of ownership of land in respect of which an annuity is charged

- (1) Subsections (1) to (6) of section eighteen of the principal Act (which provide for registration by the Commission of owners of lands in respect of which annuities are charged) are hereby repealed.
- (2) Subsection (7) of the said section eighteen (which renders proof of payment by any person of a tithe rentcharge which issued out of any land, or proof of an order for recovery thereof from any person, evidence of that person's being the owner of the land) shall have effect in relation to an annuity charged in respect of any land as it has effect in relation to a tithe rent-charge which issued out of any land.
- (3) The duty imposed by subsection (9) of the said section eighteen on an owner of land in respect of which an annuity is charged to furnish particulars to the Commission where an estate or interest therein is disposed of or created, so as to bring about a change in the ownership thereof, shall extend to the person by whom an estate or interest in such land is so disposed of or created if other than the owner, as well as to the owner:

Provided that, on the furnishing of the particulars by either of them within the period mentioned in that subsection, the duty of the other so to do shall be extinguished.
- (4) The provisions of the said subsections (7) and (9) as amended by this Act are set out, together with the provisions of subsection (8) of the said section eighteen, in the First Schedule to this Act, and accordingly that Schedule shall have effect in substitution for those subsections.

6 Confirmation of past dealings based on application of s. 21 of principal Act

Where—

- (a) there has been before the commencement of this Act an ascertainment by the Commission for the purposes of the Seventh Schedule to the principal Act that a rent-charge extinguished by that Act was so vested as to render applicable thereto section twenty-one of that Act (which excepts a rentcharge that was in the same ownership as the land charged therewith from the provisions of that Act as to compensation on the one hand and the charge of an annuity on the other hand), and
- (b) at the commencement of this Act there has been no issue of stock for compensation in respect of that rentcharge and no steps have been taken for recovery of any annuity as charged in respect of the land out of which it issued, that rentcharge shall be deemed for all the purposes of the principal Act to have been so vested.

7 Records and other documents: proof and right to inspection and copies

- (1) The Commission shall cause proper records to be kept of determinations, ascertainments and orders made by them, and any entry in any book or other document kept for the purposes of this subsection or of subsection (4) of section thirty-nine of the principal Act shall in all legal proceedings be evidence of the determination, ascertainment or order referred to and of the regularity thereof.

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- (2) Instruments of apportionment, deeds or declarations of merger under the Tithe Acts, annuities registers sealed under section one of this Act and the maps therein referred to, declarations sealed under that section, and records kept as aforesaid shall be open to inspection by any person during all usual office hours, and any person may require a copy thereof, or extract therefrom, to be furnished to him, and may require any such copy or extract to be certified by an officer of the Commission, and there shall be paid for any such copy or extract such reasonable fee as may be prescribed.
- (3) A copy of, or extract from, any document issued or kept by or in the custody of the Commission under or for the purposes of the principal Act or this Act, being a copy or extract upon which is endorsed a certificate signed by an officer of the Commission stating that it is a true copy or extract, shall in all legal proceedings be admissible in evidence as of equal validity with the document in question, and a certificate purporting to be so signed shall, unless the contrary is proved, be deemed to be so signed.
- (4) The preceding provisions of this section shall have effect in substitution for subsection (4) of section thirty-nine, subsection (2) of section forty-two, and section forty-three, of the principal Act.

8 Reports of proceedings of the Commission

- (1) Section forty-five of the principal Act (which requires the Commission to cause a report of their proceedings to be laid before Parliament biennially) shall cease to have effect.
- (2) Where in any financial year the proceedings of the Commission include items relating to matters (other than of routine) which are not dealt with in accounts for that year copies whereof are required to be laid before Parliament under section twenty-seven of the principal Act, a report thereof shall be sent by the Commission to the Treasury and appended by them to the said accounts.

9 Determination of particulars of charged land for purposes of remission under s. 14 of principal Act

- (1) Where an application is made under the Fourth Schedule to the principal Act (which relates to the valuation of land in an agricultural holding in connection with the remission granted by section fourteen of that Act in the case of certain annuities charged in respect of agricultural land) for a certificate of the annual value of the charged land in such a holding, the surveyor of taxes to whom the application is made "shall, before proceeding as required by the said Schedule, transmit a copy of the application to the Commission with a view to their examining whether the particulars of the holding and of the charged land therein are correctly stated in the application.
- (2) If the Commission are satisfied that the particulars are correctly stated they shall notify the surveyor that they are so satisfied, and he shall thereupon proceed as required by the said Schedule on the basis of the particulars as stated in the application.
- (3) If the Commission are not so satisfied, the particulars shall be determined as hereinafter provided and notified by the Commission to the surveyor, who shall thereupon proceed as required by the said Schedule on the basis of the particulars as so determined.
- (4) In a case falling within the last preceding subsection—

- (a) the Commission shall as soon as possible after receiving the copy of the application notify to the owner the alterations appearing to them to be required and give him an opportunity of making representations, and, if agreement is reached, the particulars shall be taken to be as agreed between the Commission and the owner ;
- (b) if after the owner has been given an opportunity of making representations it appears to the Commission that agreement will not be reached, the Commission shall notify the owner to that effect, stating the particulars as then appearing to them to be correct, and, if within one month from the date of his being so notified the owner makes an application in that behalf to the county court, the particulars shall be determined by the court;
- (c) if in a case falling within the last preceding paragraph the owner does not make an application to the Court within the period therein mentioned, or an application so made is not duly prosecuted, the particulars shall be taken to be as notified to the owner under the last preceding paragraph.

10 Minor amendments, and repeals

- (1) No power to create tithe rentcharge shall be exercisable after the commencement of this Act, and accordingly—
 - (a) the enactments in the Tithe Acts which were repealed by the Statute Law Revision Act, 1890, the Statute Law Revision (No. 2) Act, 1890, and the Statute Law Revision Act, 1891, but with an exception as to tithes not commuted at the date of the passing of those Acts, are hereby repealed as to such tithes; and
 - (b) sections eighteen and twenty-five of the Tithe Act, 1860, are hereby repealed.
- (2) Section three of the Tithe Act, 1847 (which relates to the correction of instruments of apportionment) is hereby repealed.
- (3) In the exercise of the power to order detachment of the map annexed to an instrument of apportionment from that instrument which was conferred on the Tithe Commissioners by section twenty-six of the Tithe Act, 1860, and is made exercisable by the Commission by section forty of the principal Act, the Commission shall not be bound, and shall be deemed never to have been bound, by the requirement of the said section twenty-six that the power as exercisable by the Tithe Commissioners should be exercised by order under their hands.
- (4) In so far as they concern annuities charged on land for the redemption of tithe rentcharge or of corn rents, rentcharges or money payments redeemed under the Tithe Acts, 1836 to 1936, the functions of the Minister under section one of the Tithe Annuities Apportionment Act, 1921, and under sections one hundred and ninety-one and one hundred and ninety-two of the Law of Property Act, 1925, are hereby transferred to the Commission, who may prescribe the procedure to be followed in connection with the exercise of those functions and the manner in which costs are to be borne by the respective parties to proceedings in connection therewith, and such reasonable fees as they may with the approval of the Treasury prescribe shall be payable to the Commission in connection therewith.
- (5) Instruments of apportionment (which by subsection (3) of section six of the principal Act were required to be placed at the disposal of the Commission by the Minister) shall be in the custody of the Commission, and subsection (1) of section thirty-six of that Act (which requires the Commission, when a document placed at their disposal

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under the said section six is no longer required by them, to deliver it into the custody of the person who but for that section would have been entitled thereto) shall not apply to such instruments.

- (6) The following paragraph shall be substituted for paragraph (c) of subsection (1) of section ten of the principal Act (which specifies the annual value of land as ascertained for the purposes of income tax under Schedule B as a matter to which the Commission are to have regard in apportioning an annuity), that is to say.—
- “(c) in the case of an annuity charged in respect of agricultural land, to the annual value of the land or any part thereof, which shall be taken to be the annual rent which a tenant might reasonably be expected to pay therefor.”
- (7) Sections nineteen and twenty of the principal Act (which related to sums that became due before the second day of October, nineteen hundred and thirty-six, in respect of or as an addition to tithe rentcharge extinguished by that Act, and which are spent) are hereby repealed.
- (8) Paragraph (d) of section twenty-nine of the principal Act (which excludes annuities charged in respect of the lands out of which extraordinary tithe rentcharges issued from the remission granted by section fourteen of that Act in the case of certain annuities charged in respect of agricultural land) shall cease to have effect, but without prejudice to any other of the provisions of the said section twenty-nine.
- (9) The provision made by section thirty-four of the principal Act for reduction or extinguishment of an annuity where land in respect of which an annuity is charged is washed away by the sea shall apply where such land is destroyed by any natural casualty.
- (10) Rules made by the Commission for prescribing anything which they are authorised by this Act or the principal Act to prescribe shall be a statutory instrument, and the provisions of the Statutory Instruments Act, 1946, shall apply thereto accordingly, and such rules shall be subject to annulment in- pursuance of a resolution of either House of Parliament.

11 Power to transfer functions of the Commission to another Government Department

- (1) His Majesty may by Order in Council provide for the transfer to any other Government Department of all or any of the functions of the Commission.
- (2) An Order under the preceding subsection may contain such 'incidental, consequential and supplemental provisions as may be necessary or expedient for the purpose of giving full effect to the Order, including provisions—
- (a) for the transfer of any property, rights and liabilities held, enjoyed or incurred by the Commission in connection with any functions transferred;
 - (b) for the carrying on and completion by or under the authority of the Department to whom any functions are transferred of anything commenced by or under the authority of the Commission before the date when the Order takes effect;
 - (c) for such adaptations of the principal Act or this Act or of any other enactment relating to any functions transferred as may be necessary to enable them to be exercised by the Department to whom they are transferred and the officers thereof;

- (d) for the substitution of the Department to whom functions are transferred for the Commission in any instrument, contract, or legal proceedings made or commenced before the date when the Order takes effect;
 - (e) for the dissolution of the Commission if and when all their functions have been transferred.
- (3) A draft of any Order under this section shall be laid before Parliament.
- (4) Any Order under this section may be varied by a subsequent Order made in the like manner and subject to the like conditions.
- (5) The preceding provisions of this section shall be in substitution for subsections (2) to (6) of section twelve of the principal Act (which provided for transfer of the management of annuities to the Commissioners of Inland Revenue), and accordingly—
- (a) the said subsections (2) to (6). and the words referring to transfer thereunder in paragraph (b) of subsection (2) of section four of the principal Act and in subsection (1) of the said section twelve, are hereby repealed ; and
 - (b) a reference to the Commission shall be substituted for each reference in the principal Act to the " appropriate authority " (which expression was defined in section forty-seven of that Act so as to import either the Commission or the Commissioners of Inland Revenue when having the management of annuities), and the definition of that expression in the said section forty-seven is hereby repealed:

Provided that nothing in this subsection shall be construed as excluding provision for transfer to the Commissioners of Inland Revenue from the provision which may be made under subsection (1) of this section.

- (6) Subsections (4), (5), (6) and (8) of section sixteen of the principal Act (being special provisions relating to the recovery of annuities by the Commissioners of Inland Revenue) are hereby repealed, but any Order under subsection (1) of this section transferring to those Commissioners functions of the Commission as to the recovery of annuities may include those provisions or provisions to the like effect.

12 Short title, citation, construction, repeal and commencement

- (1) This Act may be cited as the Tithe Act, 1951, and this Act and the Tithe Acts, 1836 to 1936, may be cited together as the Tithe Acts, 1836 to 1951.
- (2) This Act shall be construed as one with the principal Act, and may be cited together with that Act as the Tithe Acts, 1936 and 1951.
- (3) The Acts mentioned in the Second Schedule to this Act shall be repealed to the extent specified in the third column of that Schedule.
- (4) This Act shall come into operation at the expiration of one month from the passing thereof.