



Tithe Act 1846

1846 CHAPTER 73 9 and 10 Vict

An Act further to amend the Acts for the commutation of tithes in England and Wales. [26th August 1846]

Modifications etc. (not altering text)

- C1 Short title “The Tithe Act 1846” given by [Short Titles Act 1896 \(c. 14\)](#)
- C2 Act amended by [Tithe Act 1918 \(c. 54\)](#)
- C3 Functions of Tithe Commissioners for England and Wales now exercisable by Minister of Agriculture, Fisheries and Food: [Settled Land Act 1882 \(c. 38\)](#), [s. 48\(1\)](#), [Board of Agriculture Act 1889 \(c. 30\)](#), [s. 2\(1\)\(b\)](#), [Sch. 1](#), [Ministry of Agriculture and Fisheries Act 1919 \(c. 91\)](#), [s. 1](#) and [S.I. 1955/554 \(1955 I, p. 1200\)](#)
- C4 Preamble recites Tithe Act 1836, the Acts amending that Act and Tithe Act 1838 and is omitted under authority of [Statute Law Revision Act 1891 \(c. 67\)](#)
- C5 Words of enactment repealed by [Statute Law Revision Act 1891 \(c. 67\)](#)

1, 2. ^{F1}

Textual Amendments

- F1 [Ss. 1, 2, 16](#) repealed by [Statute Law Revision Act 1891 \(c. 67\)](#) and [Tithe Act 1951 \(c. 62\)](#), [s. 10\(1\)\(a\)](#)

3, 4. ^{F2}

Textual Amendments

- F2 [Ss. 3, 4, 15](#) repealed by [Statute Law Revision Act 1953 \(2 & 3 Eliz. 2 c. 5\)](#)

Status: Point in time view as at 01/02/1991.

Changes to legislation: There are currently no known outstanding effects for the Tithe Act 1846 (repealed 19.11.1998). (See end of Document for details)

5 **Separate rent-charges, not exceeding twenty shillings in amount, may be redeemed after apportionment.**

In every case in which, under any confirmed instrument of apportionment or any altered apportionment under the powers of the said Acts, the whole amount of the rent-charge or separate portion of rent-charge with which the lands of any owner shall be charged in respect either of all tithes or of any kind of tithes payable to separate tithe-owners shall be a sum not exceeding twenty shillings, it shall be lawful for such owner at his option, and with the consent of the person or persons for the time being entitled to the receipt thereof, or, in the case of an infant, feme covert, or lunatic, with the consent of the guardian, husband, or committee of the estate of the person so under disability, at any time to redeem such rent-charge or separate portion of rent-charge on payment, according to the provisions of this Act, of such a sum of money as shall be not less than twenty-four times the amount of the rent-charge or portion of rent-charge; and after payment of such consideration money according to the provisions of this Act, the commissioners shall certify that such rent-charge or portion of rent-charge has been redeemed, and the same, from and after the payment of the half-yearly portion of such rent-charge or portion of rent-charge which shall next accrue due subsequently to the time of the payment of such consideration money, shall cease and be extinguished; . . . ^{F3}

Textual Amendments

F3 Proviso repealed by [Statute Law Revision Act 1953 \(2 & 3 Eliz. 2 c. 5\)](#)

Modifications etc. (not altering text)

C6 [S. 5](#) repealed (prosp.) by [Corn Rents Act 1963 \(c. 14\)](#), s. 3(4), [Sch.](#)

C7 Reference to twenty shillings to be read as referring to equivalent amount in new currency: [Decimal Currency Act 1969 \(c. 19, SIF 10\)](#), s. **10(1)**

C8 [S. 5, 9, 10](#) excluded by [Mental Health Act 1983 \(c.20, SIF 85\)](#), s. 113, [Sch. 3](#)

6 **Commissioners to certify the amount of consideration money for redemption.**

In every case in which a rent-charge is redeemable under the provisions of this Act, the commissioners shall, upon the request of the owners of land chargeable with such rent-charge or any of them, certify under the hands and seal of the commissioners the sum of money in consideration of which such rent-charge may be redeemed; and when it shall appear to the commissioners that payment or tender of such consideration money has been duly made, it shall be lawful for the commissioners to certify that such rent-charge has been redeemed under the provisions of this Act, and such certificate shall be final and conclusive: Provided that if any consideration money shall be paid for the redemption of a rent-charge to a person not entitled under the provisions of this Act to receive the same, the land which was charged with such rent-charge before the redemption thereof shall be charged in equity with the payment of such consideration money to the person rightfully entitled thereto as if the same were purchase money for such land remaining unpaid; but the same remedies may be had against the person who shall have wrongfully received such money as purchasers are entitled to by the rules of law and equity.

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Modifications etc. (not altering text)

C9 S. 6 repealed (prosp.) by [Corn Rents Act 1963 \(c. 14\)](#), s. 3(4), [Sch.](#)

7 Consideration money for redemption, how payable.

Where the person entitled to a rent-charge redeemable under the provisions of this Act shall be absolutely entitled thereto in fee simple in possession, or shall be enabled to dispose of the fee simple in possession independently of the provisions of this Act, and shall not be a spiritual person entitled in respect of his benefice or cure, or a corporation prevented from aliening such rent-charge otherwise than under the provisions of this Act, a payment or tender to the person so entitled, or to the proper officer of the corporation so entitled, of the sum of money certified by the commissioners as aforesaid, shall be deemed a due payment of the consideration money; and in every other case the payment of the sum of money so certified according to the provisions herein-after contained shall be deemed a due payment of the consideration money.

Modifications etc. (not altering text)

C10 S. 7 repealed (prosp.) by [Corn Rents Act 1963 \(c. 14\)](#), s. 3(4), [Sch.](#)

8 Consideration for redemption of rent-charges payable to spiritual owners to be paid to governors of Queen Anne's Bounty.

The consideration money for the redemption under this Act of any rent-charge agreed or awarded to be paid or payable under any apportionment to any spiritual person in respect of his benefice or cure shall be paid to the "Governors of Queen Anne's Bounty for the Augmentation of the Maintenance of the poor Clergy," and such consideration money shall be applied and disposed of by the said governors as money in their hands appropriated for the augmentation of such benefice or cure should by law and under the rules of the said governors be applied and disposed of; and the receipt of the treasurer of the said governors shall be a sufficient discharge for such consideration money, and the person paying the same to such treasurer shall not be concerned to see to the application or disposal thereof.

Modifications etc. (not altering text)

C11 S. 8 repealed (prosp.) by [Corn Rents Act 1963 \(c. 14\)](#), s. 3 (4), [Sch.](#)

C12 Functions of Queen Anne's Bounty now exercisable by Church Commissioners: [Church Commissioners Measure 1947 \(No. 2\)](#), ss. 2, 18(2)

9 Consideration money, in case of owners under disability, how payable.

In all other cases in which the person for the time being entitled to any rent-charge or apportioned rent-charge subject to be redeemed under the provisions of this Act shall be only entitled thereto for a limited estate or interest therein, or shall be under any disability, or shall be a corporation not authorized to make an absolute sale of such rent-charge otherwise than under the provisions of this Act, the consideration money to be paid for the redemption thereof shall be applied in manner hereafter provided;

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(that is to say,) shall, at the option of the person for the time being entitled as aforesaid; [^{F4}be paid into the Supreme Court in order that it may be applied] to some one or more of the following purposes; (that is to say,) in the purchase or redemption of the land tax, or the discharge of any debt or incumbrance affecting the rent-charge in respect of which such money shall have been paid, or the tithes for which the same shall have been substituted, or affecting other hereditaments settled therewith, to the same or the like uses, trusts, or purposes; or in the purchase of other lands, to be conveyed, limited, and settled upon the like uses, trusts, purposes, and in the same manner, as the rent-charge for redemption of which such money shall have been paid stood settled; or in payment to any party becoming absolutely entitled to such money; and such money may be so applied as aforesaid upon an Order of the Court of Chancery made on the petition of the party who would have been entitled to the receipt of the rent-charge in respect of which such money shall have been deposited; [^{F4}and if, before it is so applied, it is [^{F5}invested under section 38 of the Administration of Justice Act 1982], the dividends thereof shall be paid] to the party who would for the time being have been entitled to the rent-charge in case the same had not been redeemed, or otherwise such consideration money may be paid, at the like option of the person for the time being so entitled, to the trustees acting under the will, conveyance, or settlement under which such person having such limited interest shall be entitled to or interested in such rent-charge, or if there are no such trustees, then into the hands of trustees to be nominated under the hands and seal of the said commissioners; and the money, when so paid to such trustees, shall be applied by the said trustees, with the consent of the said commissioners, in the manner herein-before directed concerning any money [^{F4}to be paid into the Supreme Court]; and upon every vacancy in the office of such trustee some other fit person shall be appointed by the said commissioners in like manner.

Textual Amendments

- F4** Words substituted by [Administration of Justice Act 1965 \(c. 2\), Sch. 1](#)
F5 Words substituted by [Administration of Justice Act 1982 \(c. 53, SIF 34\), s. 46\(1\)\(2\)\(a\)\(iv\)](#)

Modifications etc. (not altering text)

- C13** Jurisdiction of High Court of Chancery now exercisable by High Court of Justice: [Supreme Court of Judicature \(Consolidation\) Act 1925 \(c. 49\), s. 18](#)
C14 [S. 5, 9, 10](#) excluded by [Mental Health Act 1983 \(c.20, SIF 85\), s. 113, Sch. 3](#)

10 As to consideration money under 20/.

Provided also, that when any consideration money so to be paid as last herein-before mentioned shall not exceed the sum of twenty pounds for the redemption of all the rent-charge which shall be redeemable under this Act, and shall not be payable to the governors of Queen Anne's Bounty as aforesaid, the same shall be paid, if the said commissioners shall so direct, to the person for the time being entitled to the rent-charge, for his own use and benefit, or in case of coverture, infancy, idiotcy, lunacy, or other incapacity of the person for the time being entitled, then such money shall be paid, for the use of the person so entitled, to the husband, guardian, committee, or trustee of such person; and in case any dispute shall arise as to the proper application, appropriation, or investment of any money according to the intention of this Act, it shall be lawful for the said commissioners to decide such question, and their decision shall be final and conclusive thereon.

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Modifications etc. (not altering text)

- C15 S. 10 repealed (prosp.) by [Corn Rents Act 1963 \(c. 14\)](#), s. 3(4), [Sch.](#)
- C16 Functions of Queen Anne's Bounty now exercisable by Church Commissioners: [Church Commissioners Measure 1947 \(No. 2\)](#), ss. 2, 18(2)
- C17 S. 5, 9, 10 excluded by [Mental Health Act 1983 \(c.20, SIF 85\)](#), s. 113, [Sch. 3](#)

11 Power to persons entitled for limited interests to charge expences of redemption.

Every owner of an estate in land less than an immediate estate in fee simple or fee tail, or which may be settled upon any uses or trusts, may, with the consent of the commissioners, or in such manner as they shall direct, charge so much of the consideration money and other monies payable in respect of the redemption of a rent-charge, or any part thereof, with interest after the yearly rate of four pounds by the hundred upon the lands of such owner which would have been subject to such rent-charge, or to an apportioned part thereof, but so, nevertheless, that the charge upon such land shall be lessened in every year after the redemption of such rent-charge by one twentieth part at least of the whole original charge thereon.

Modifications etc. (not altering text)

- C18 S. 11 amended by [Tithe Act 1918 \(c. 54\)](#), s. 5(1); repealed (prosp.) by [Corn Rents Act 1963 \(c. 14\)](#), s. 3(4), [Sch.](#)

12 Commissioners certificates of redemption to show amount of consideration for the same.

Every certificate of the commissioners of the redemption of a rent-charge under the provisions of this Act shall be under the hands and seal of the commissioners, and shall show the amount of the consideration money for the redemption thereof, and to whom or in what manner the same shall have been paid; and copies of every such certificate shall be made, and sealed with the seal of the commissioners, and shall be deposited in the like custody and in like manner as by the said first-recited Act is provided concerning every confirmed instrument of apportionment; and copies of and extracts from any copy of such certificate shall be furnished in like manner as copies of any copy of a confirmed instrument of apportionment; and every recital or statement in any such certificate or in any sealed copy thereof, shall be evidence of the matters therein recited.

Modifications etc. (not altering text)

- C19 S. 12 repealed (prosp.) by [Corn Rents Act 1963 \(c. 14\)](#), s. 3(4), [Sch.](#)

13 Alteration of apportionment may be made after inclosure, &c. Such alteration, when confirmed, to be valid.

Where lands now charged or hereafter to be charged with rent-charges or portions of rent-charges under confirmed instruments of apportionment have been or shall be (after the confirmation of such apportionment) inclosed or divided, allotted or

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exchanged, by agreement or award made under the powers of any general or local Act of inclosure (or otherwise), in such manner that the apportionment shall appear to the commissioners to be inconvenient with reference to the altered distribution of the land among the several owners thereof, it shall be lawful for the commissioners, upon the application of the owners of such lands, or the majority in number and value of such owners, or upon the application of the person or persons entitled to such rent-charges or portions of rent-charges, or any of them, to make or confirm an altered instrument of apportionment adapted to the altered distribution of the lands, in order that the rent-charges or portions of rent-charges originally charged on the several portions of land which shall have been taken or allotted away from the former owners on such inclosure, division, allotment, or exchange shall be charged on the lands which shall have been allotted or received in the way of substitution or compensation for the land so taken or allotted away from the former owners thereof, or as near thereto as circumstances will admit; and every such altered apportionment, when confirmed under the hands and seal of the commissioners, shall be valid as from the date of such confirmation, and shall be taken to be an amendment of the original apportionment.

Modifications etc. (not altering text)

C20 S. 13 repealed (prosp.) by [Corn Rents Act 1963 \(c. 14\)](#), s. 3(4), [Sch.](#)

14 Expences of alteration of apportionment shall be borne by owners of lands to which it shall relate.

All the expences of the altered apportionment last aforesaid shall be borne by the owners of the lands to which such altered apportionment shall relate, and shall be recovered in the same manner as expences chargeable on the same owners in or about the making of an original apportionment of the sum of the rent-charges charged on the same lands respectively would have been recoverable; and all the provisions of the said Acts in relation to such of the expences of or incident to making an apportionment of a rent-charge as are payable by the owners of the land included therein shall extend and be applicable to the expences of such altered apportionment.

Modifications etc. (not altering text)

C21 S. 14 repealed (prosp.) by [Corn Rents Act 1963 \(c. 14\)](#), s. 3(4), [Sch.](#)

15 ^{F6}

Textual Amendments

F6 Ss. 3, 4, 15 repealed by [Statute Law Revision Act 1953 \(2 & 3 Eliz. 2 c. 5\)](#)

16 ^{F7}

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Textual Amendments

F7 Ss. 1, 2, 16 repealed by [Statute Law Revision Act 1891 \(c. 67\)](#) and [Tithe Act 1951 \(c. 62\)](#), s. 10(1)(a)

17 **Place of deposit of copy of confirmed apportionment may be altered by quarter sessions.**

Where the place of deposit of the copy of a confirmed instrument of apportionment which by the Tithe ^{M1}Act, 1836, is directed to be deposited with the incumbent and church or chapel wardens for the time being, or such other fit person as the commissioners shall approve, shall be alleged to be inconvenient to the majority of the persons interested therein, or otherwise inconvenient or unsafe, it shall be lawful for any person interested in the lands or rent-charge to which such apportionment shall relate to apply to the court of general quarter sessions of the peace for the county, riding, division, or place in which such place of deposit shall be situate for an order for the deposit of such copy in some more convenient or secure custody or place, and fourteen days notice in writing of every such application shall be given to the persons in whose custody such copy shall at the time of such application be deposited; and it shall be lawful for the court at the quarter session for which such notice shall be given to hear and determine such application in a summary way, or they may, if they think fit, adjourn it to the following session; and upon the hearing of such application, the court may, if they think fit, order such copy to be removed from the custody of the persons with whom the same shall have been deposited, and to be deposited with such other persons or in such other custody as the court having reference to the security and due preservation of such copy, and to the convenience of the parties interested therein, may think fit, and may make such order concerning the notice to be given of such removal and deposit, and concerning the costs of such application, or of any opposition thereto, as they may think reasonable.

Modifications etc. (not altering text)

C22 S. 17 repealed (prosp.) by [Corn Rents Act 1963 \(c. 14\)](#), s. 3(4), [Sch.](#)

Marginal Citations

M1 [1836 c. 71](#).

18 **Tithes or rent-charge in lieu thereof may be merged after agreement or award, but before apportionment.**

Where by any agreement or award already made or hereafter to be made a rent-charge shall have been agreed or awarded to be paid instead of the tithes of any parish, or instead of any of such tithes, and shall not have been apportioned, it shall be lawful for the person who under the provisions of the said recited Acts would have been enabled in case such agreement or award had not been made to merge the tithes in lieu of which such rent-charge shall have been agreed or awarded to be paid, or such of the same tithes as were payable out of part of the said lands, by any deed or declaration, to be made in such form as the commissioners shall approve, and to be confirmed under their hands and seal, to declare that the tithes which he would have been so entitled to merge shall, so far as respects all the lands, or, if he shall think fit, so far as respects only any specified part of the lands out of which the same were payable, and the rent-charge or

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portion of rent-charge which shall have been awarded or ought to be apportioned in lieu thereof on such lands, or specified parts of such lands, as the case may be, shall be merged, and such merger shall take effect accordingly; and in case such merger shall extend to all the lands which would have been chargeable with such rent-charge, no apportionment of such rent-charge shall be made under the provisions of the said recited Acts; but in case such merger shall extend to part only of the lands which would have been chargeable with such rent-charge, then such portion of the rent-charge shall be apportioned among the other lands which would have been chargeable with such rent-charge as such other lands would have been subject to in case such merger had not taken place; and the owner of the land to which such merger shall extend shall pay such portion of the expences of or incident to the apportionment as the commissioners or any assistant commissioner may under the special circumstances order to be paid by such owner, instead of the rateable proportions to which he would have been liable in case the whole of such rent-charge had been apportioned.

Modifications etc. (not altering text)

C23 S. 18 repealed (prosp.) by [Corn Rents Act 1963 \(c. 14\)](#), s. 3(4), [Sch.](#)

19 Powers relating to the merger, &c. of any tithes may be executed by a person entitled in equity.

All powers relating to the merger and extinguishment of any tithes, or rent-charge instead thereof, may be executed by a person entitled in equity to such tithes or rent-charge, in all respects and with the same consequences as he could have done if he had been legally entitled thereunto; and every instrument already executed and purporting to be made in pursuance of the powers of the said Acts or any of them by any person so entitled in equity shall in every respect be as effectual and have the same consequence as if he had been legally entitled to the said tithe or rent-charge at the time of the execution of such instrument, subject nevertheless in every case to any charge, incumbrance, or liability which lawfully or equitably existed on such tithes or rent-charge to the extent of the value of such tithes or rent-charge; and any such charge, incumbrance, or liability shall have such priority, and the lands and the owners thereof for the time being shall be liable in the same manner in respect of such rent-charge, incumbrance, or liability, or of any penalty or damages for nonpayment or nonperformance thereof respectively, as by the Tithe^{M2} Act, 1839, is provided in the case of such merger or extinguishment as therein mentioned; . . .^{F8}

Textual Amendments

F8 Words repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

Modifications etc. (not altering text)

C24 S. 19 repealed (prosp.) by [Corn Rents Act 1963 \(c. 14\)](#), s. 3(4), [Sch.](#)

Marginal Citations

M2 1839 c. 62.

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Changes to legislation: There are currently no known outstanding effects for the Tithe Act 1846 (repealed 19.11.1998). (See end of Document for details)

20 1 & 2 Vict. c. 64, to be construed as part of the Tithe Commutation Acts.

The Tithe Act, 1838, shall be construed with and as part of the first-recited Act as amended by the several Acts passed for the amendment thereof and by this Act.

Modifications etc. (not altering text)

C25 S. 20 repealed (prosp.) by [Corn Rents Act 1963 \(c. 14\)](#), s. 3(4), [Sch.](#)

21 ^{F9}

Textual Amendments

F9 Ss. 21, 24 repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

22 Glebe lands may be exchanged although no commutation be pending.

The provisions of the Tithe^{M3} Act, 1842, for the exchange of glebe lands for other lands shall authorize and be deemed to have authorized the exchange of glebe lands for other lands, although at the time of such exchange, or of the applications in relation thereto, no proceedings for or concerning the commutation of tithes in the parish in which such glebe lands may be situate shall have been pending, and whether the commutation of tithes in such parish shall or shall not have been completed.

Modifications etc. (not altering text)

C26 S. 22 amended by [Tithe Act 1860 \(c. 93\)](#); repealed (prosp.) by [Corn Rents Act 1963 \(c. 14\)](#), s. 3(4), [Sch.](#)

Marginal Citations

M3 1842 c. 54.

23 Construction of Act.

This Act shall be construed with and as part of the first-recited Act, as amended by the several Acts passed for the amendment thereof, and by this Act.

24 ^{F10}

Textual Amendments

F10 Ss. 21, 24 repealed by [Statute Law Revision Act 1875 \(c. 66\)](#)

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