



# Tithe Act 1936

## 1936 CHAPTER 43

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

#### **2 Compensation by issue of stock.**

(1) Subject to the provisions of this Act, stock (to be called "redemption stock"), charged by way of guarantee on the Consolidated Fund and the growing produce thereof, shall be issued for the compensation of the persons interested in a tithe rentcharge in respect of the extinguishment thereof by this Act.

(2) The amount of stock to be issued for compensation in respect of a rentcharge shall be such an amount as will yield interest equal in amount to the gross annual value of the rentcharge less the deductions specified in Part I of the First Schedule to this Act:

Provided that, in the cases specified in Part II of the said First Schedule, the amount of stock to be issued shall be modified in accordance with the provisions of the said Part II.

(3) For the purposes of this Act the gross annual value of a rentcharge shall be taken to be the amount which bears to the amount of the rentcharge the same proportion as the following sum bears to the sum of one hundred pounds, that is to say—

- (a) if any of the land out of which the rentcharge issued immediately before the appointed day was on the first day of April, nineteen hundred and thirty-six, agricultural land, ninety-one , pounds eleven shillings and twopence;
- (b) if none of the said land was on the said first day of April agricultural land—
  - (i) in the case of a lay tithe rentcharge, one hundred and five pounds, or
  - (ii) in the case of an ecclesiastical tithe rentcharge, ninety-one pounds eleven shillings and twopence.

### **3 Charge of redemption annuities.**

- (1) Subject to the provisions of this Act, an annuity (to be called a "redemption annuity") shall be charged in respect of the land, out of which a tithe rentcharge extinguished by this Act issued immediately before the appointed day, for the use of His Majesty, for the period commencing on the appointed day and ending on the day preceding the sixtieth anniversary thereof.
- (2) The amount of an annuity charged by this section in respect of the land out of which a rentcharge issued shall be the amount which bears to the amount of the rent-charge the same proportion as the following sum bears to the sum of one hundred pounds, that is to say—
  - (a) if any of the said land was on the first day of April, nineteen hundred and thirty-six, agricultural land, ninety-one pounds eleven shillings and twopence;
  - (b) if none of the said land was on that day agricultural land, one hundred and five pounds :

Provided that an annuity charged by this section in respect of the land out of which a contingent rentcharge issued shall be an annuity of such amount as would have been charged if the rentcharge had not been a contingent rentcharge reduced by such an amount, to be determined by the Commission to be established for the purposes of this Act, as appears to them to be just having regard to the special incidents to which the rentcharge was subject.

*Establishment of Commission and Delivery of Information as to Rentcharges.*

### **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, the amount of stock to be issued for compensation in respect of the extinguishment thereof, and the persons entitled to receive the stock to be so issued;
  - (b) to determine what annuities are charged by section three of this Act and to record particulars thereof, to apportion annuities which are charged in respect of land in the ownership of two or more owners, and to manage annuities until

directions for the transfer of the management thereof to the Commissioners of Inland Revenue have been given under the subsequent provisions of this Act; and to perform such other functions for the purposes of this Act as are hereafter in this Act mentioned.

- (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.

## **5 Obligation of owners of rentcharges to give particulars thereof to the Commission.**

- (1) Not later than the thirty-first day of October, nineteen hundred and thirty-six, there shall be transmitted to the Commission, in respect of every tithe rent-charge extinguished by this Act, particulars in writing, in such form as may be prescribed by rules made by the Minister, as to—
  - (a) the amount of the rentcharge;
  - (b) the land out of which the rentcharge issues including (except in the case of an extraordinary tithe rentcharge) a statement whether any of that land was on the first day of April, nineteen hundred and thirty-six, agricultural land;
  - (c) the collection of the rentcharge last effected, including particulars as to the payment date on which the sum collected became due, the name and address of the person by whom and of the person from whom and the land in respect of which that sum was collected and, in a case in which that sum was recovered under an order of the court, the date of commencement of the proceedings;
  - (d) the title to the rentcharge, including particulars as to the person in whom the legal estate in fee simple therein is vested, the instrument, if any, other than an instrument of apportionment or a public general Act, by virtue of which that estate became vested in that person, and as to any other estate or interest subsisting in or affecting the rentcharge by virtue of any settlement, trust for sale, lease, mortgage, or other disposition, or otherwise howsoever.
- (2) The particulars to be transmitted under the foregoing subsection, other than particulars thereby-required to be related to a date therein mentioned, shall, if transmitted before the appointed day, be related to the facts as existing at the date on which the particulars are transmitted and, if transmitted on or after the appointed day, be related to the facts as existing immediately before the appointed day.
- (3) The particulars to be transmitted under subsection (1) of this section as to matters relating to the title to a rentcharge shall be in the form of a statutory declaration made by the person in whom the legal estate in fee simple in the rentcharge is vested or was vested immediately before the appointed day:

Provided that, if it appears to the Commission, in the case of any rentcharge or of rentcharges in the ownership of any person or class of persons, that it is impracticable or is in the circumstances unnecessary for the statement to be made by way of statutory declaration or to be made by the person in whom the said estate is or was vested or that it is expedient that the statement should be made by some other person, they may accept or require, in lieu of a statutory declaration made by the person in whom the said estate is or was vested, a statement made in writing under the hand of that person

or a statutory declaration or statement in writing made by some other person approved by them in that behalf.

- (4) If, in the case of any rentcharge in respect of which the foregoing requirements of this section have effect, those requirements are not satisfied on or before the thirty-first day of October, nineteen hundred and thirty-six, or within such period thereafter as the Commission may in special circumstances allow on application being made to them in that behalf, or if any person interested in any rentcharge refuses or neglects to give to the Commission on being requested by them so to do any information in his possession with respect thereto which they may reasonably require, the Commission shall have power to direct that the provisions of this Act relating to compensation in respect of extinguishment shall not have effect in relation to that rentcharge, or shall have effect in relation thereto subject to a reduction of the amount of the stock to be issued, or to a postponement of the date from which interest thereon is to accrue.

## **6 Documents to be placed at disposal of the Commission.**

- (1) A person having in his custody or control any collecting list or similar document relating to tithe rentcharge shall place it at the disposal of the Commission on being required by them so to do:

Provided that, where any person who but for the provisions of this subsection would have been entitled to the custody of such a list or document satisfies the Commission that the custody thereof is reasonably required by him, the Commission shall either authorise him to retain it, or if it has been transmitted to them return it to him subject to an obligation to transmit a true copy thereof to them, or, if they require it to be transmitted to them or to remain in their custody, shall furnish him with a true copy thereof, and a person who transmits a copy to the Commission under this proviso shall be entitled to be paid by the Commission such sum as appears to them to represent the reasonable cost of the preparation thereof.

- (2) Any person having such a list or document in his custody or control who fails to place it at the disposal of the Commission on being required by them so to do, or who fails to transmit to them a copy thereof which he is under obligation to transmit within twenty-eight days after the obligation is incurred, shall be liable on summary conviction to a fine not exceeding five pounds.
- (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.

*Stock.*

## **7 Issue of stock and provision as to beneficial interests therein.**

- (1) Stock to be issued for compensation in respect of a tithe rentcharge shall be issued to the person specified in that behalf in Part I of the Third Schedule to this Act, and shall be held and disposed of for the like purposes as if the stock had been an investment of consideration money paid for the redemption of the rentcharge under the Tithe Acts,

and, in the case of stock issued to the proper officer of the court, according to the orders of the court :

Provided that the foregoing provisions of this subsection shall have effect subject, in the case of stock to be issued to Queen Anne's Bounty, to the provisions of Part II of the Third Schedule to this Act, and subject to the provisions of this Act relating to the issue of stock in certain cases in respect of liabilities to repair chancels of churches or other ecclesiastical buildings.

- (2) When the Commission have satisfied themselves that a tithe rentcharge has been extinguished by this Act, and have determined the amount of the stock to be issued in respect thereof, and the person entitled to receive the stock, they shall transmit to the Bank of England a certificate specifying the amount of the stock to be issued and the name and address of the person entitled to receive it, and stock of that amount shall be issued to that person in accordance with the provisions of Part II of this Act.

## **8 Transitional provisions as to interest on, and issue of, stock.**

- (1) Interest in respect of stock shall, subject to the provisions of this Act, commence to accrue on the first day of October, nineteen hundred and thirty-six.
- (2) When as regards any tithe rentcharge the right to an issue of stock in respect thereof, and the minimum amount of the stock to be issued, have been established to the satisfaction of the Commission with reasonable certainty, the Commission shall thereupon pay to the person appearing to them to be the person who will be entitled to receive the stock an amount equal to the interest accrued on that amount of stock up to the day preceding the interest date then last, and shall on each interest date thereafter pay to that person an amount equal to the interest in respect of so much of that amount of stock as remains unissued accrued between the interest date then last and the day preceding the date on which the payment is to be made.

Interest paid under this subsection is in this Act referred to as " provisional interest. "

- (3) In a case in which the Commission are authorised to pay provisional interest, they may, if the person to whom such interest would be payable so requests, transmit to the Bank of England a certificate specifying an amount of stock equal to the amount in respect of which they are authorised to pay provisional interest less such deduction, not being less than ten per cent., as they think fit, and the name and address of the person appearing to the Commission to be entitled to receive it, with a view to the immediate issue of stock of that reduced amount to that person, and stock of that amount shall be issued to that person in accordance with the provisions of Part II of this Act:

Provided that, before transmitting a certificate under this subsection, the Commission shall obtain from the person to be therein specified such security or indemnity as appears to the Treasury to be sufficient to provide against loss in the event of it appearing that that person was not in fact entitled to the amount of stock specified.

- (4) On the date of the issue of any stock the Commission shall pay to the person to whom it is issued any interest accrued thereon up to the day preceding the interest date then last which has not been paid to him as provisional interest.
- (5) If any interest is paid under this section in respect of any stock to a person other than the person entitled to receive that stock, or to the last mentioned person in excess of the interest accrued thereon for the period for which the interest was paid, the Commission shall be entitled to recover the amount so paid, or the amount of the excess, as the case

may be, as money had and received to the use of the Commission, and, in the case of an amount paid in excess to the person entitled to receive any stock, to a charge in respect of that stock for that amount, enforceable against the person to whom the stock is issued in like manner as if the rentcharge in respect of which the stock is issued had been subject immediately before the appointed day to a mortgage to secure the amount charged, with priority over all other interests so enforceable.

- (6) Nothing in this section shall affect the Bank of England, or a person purchasing in good faith and for valuable consideration stock in respect of which any such charge as aforesaid exists, with notice of any such charge.

### *Annuities.*

## **9 Register of annuities and of lands in respect of which they are charged.**

- (1) As soon as may be after the appointed day, the Commission shall determine in relation to every district the amount of each annuity charged in respect of land in the district and the land in respect of which each such annuity is charged, and shall prepare a register specifying the amount of each such annuity and indicating by reference to a map the land in respect of which it is charged, and, after giving to the owners of land in the district an opportunity of inspecting the register and map and after making any amendments therein which in accordance with information furnished to them by such owners or otherwise in their possession appear to them to be requisite, shall seal two copies thereof, of which one shall be deposited at the principal office of the Commission and the other shall be deposited at such place in, or in the neighbourhood of, the district as the Commission may direct.
- (2) Where under the subsequent provisions of this Act an annuity charged in respect of land in a district in respect of which an annuities register has been sealed is extinguished or reduced in amount, or a substituted annuity is charged in respect of land in such a district, the Commission shall forthwith make such consequential alterations in the annuities register and map as appear to the Commission to be requisite.
- (3) Entries relating to an annuity in an annuities register shall be conclusive evidence that an annuity of the amount therein specified was charged in respect of the land therein indicated, as delineated in the annuities map, at the following date, that is to say, in the case of original entries, at the date stated in the register as the date of sealing thereof, or, in the case of entries consequent upon an alteration of the register, at the date stated therein as the date on which the alteration was made, and shall be prima facie evidence that an annuity of the said amount is for the time being so charged.
- (4) If it is shown to the satisfaction of the Commission that any error exists in an annuities register or map, they shall forthwith amend it in such manner as appears to them to be requisite.

## **10 Apportionment and extinguishment of certain annuities.**

- (1) Subject to the provisions of this Act, the Commission shall, in every case in which they ascertain that an annuity is charged in respect of land in the ownership of two or more owners, apportion the annuity as between the several parts of the land that are in different ownership in such manner as appears to the Commission to be just and equitable:

- Provided that in making any such apportionment they shall have regard—
- (a) to any informal arrangement which is shown to their satisfaction to have been made before the appointed day for the apportionment of the tithe rentcharge which issued out of the land in respect of which the annuity is charged;
  - (b) to any agreement with respect to the apportionment which may be arrived at between the owners of the land and notified to the Commission ;
  - (c) to the annual value of the land or any part thereof as ascertained for the purposes of income tax under Schedule B; and
  - (d) to the areas of the several parts of the land that are in different ownership.
- (2) When the Commission have apportioned an annuity, they shall make an order specifying the amount apportioned to each part of the land, and, subject to the provisions of this Act, where such an order is made, the existing annuity 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 annuities (in this Act referred to as " substituted annuities ") of the amounts apportioned to the several parts of the land shall be charged by virtue of this Act in respect of those parts respectively for the use of His Majesty for the period commencing on the day following that payment date and ending on the day preceding the sixtieth anniversary of the appointed day.
- (3) Where an annuity is charged in respect of land in the ownership of numerous owners and it appears to the Commission that the cost of apportioning the annuity under the foregoing provisions of this section would be excessive in relation to the amount of the annuity, the Commission may, with the consent of the Treasury, either—
- (a) make an order extinguishing the annuity without ordering any apportionment; or
  - (b) include in an order for apportionment a direction as respects any parts of the land as to which difficulties of apportionment exist that no substituted annuities shall be charged in respect thereof.
- (4) If it appears to the Commission that the cost of collection and management of an annuity would be excessive in relation to the amount thereof, the Commission may, with the consent of the Treasury, by order extinguish the annuity.

## **11 Compulsory redemption of certain annuities.**

- (1) Where—
- (a) an annuity of one pound or less, or two or more annuities amounting in the aggregate to one pound or less, is or are charged in respect of land in any district or of land in that district and of adjacent land in another district, being land which is in the ownership of a single owner who does not own in the same capacity any other land in respect of which an annuity is charged situate in that district or adjacent to the land in respect of which that annuity, or any of those annuities, is charged;
  - (b) an annuity is charged in respect of land the whole of which is divided for building or other purposes into numerous plots; or
  - (c) the Commission are satisfied that the whole of the land in respect of which an annuity is charged is about to be divided as aforesaid;
- the annuity or annuities shall be redeemable compulsorily.
- (2) Where a part of land in respect of which an annuity is charged is land divided or about to be divided for building or other purposes into numerous plots, the annuity shall be

apportioned and the provisions of subsections (1) and (2) of the last foregoing section shall have effect as if the part so divided or about to be so divided and the residue of the land had been in different ownership.

## **12 Transfer of management of annuities from Commission to Commissioners of Inland Revenue.**

- (1) Annuities whilst under the management of the Commission, that is to say until directions given by the Treasury in relation thereto respectively under this section take effect, shall be ascertained, recovered and applied by the Commission.
- (2) At any time after an annuities map and register have been sealed by the Commission, and the entering in the register by the Commission under the subsequent provisions of this Act of the names of the owners of land in the district charged with annuities has been completed or nearly completed, the Treasury may direct that the management of annuities charged in respect of land in the district shall be transferred to the Commissioners of Inland Revenue (hereafter in this Act referred to as " the Board ").
- (3) A direction under this section shall specify a date, not being earlier than the expiration of seven years from the appointed day, on which the direction is to take effect, and as from that date the annuities charged in respect of land in the district to which the direction relates shall be under the management of the Board and shall be ascertained, recovered and applied by them.
- (4) Proceedings pending in any court at the date on which a direction under this section takes effect, for the recovery of a sum payable in respect of an annuity charged in respect of land in the district to which the direction relates, may be continued by the Commission, but, subject as aforesaid, all sums which have become so payable before that date shall be recoverable by the Board.
- (5) The provisions of section six of this Act relating to the placing of documents at the disposal of the Commission shall have effect, as respects documents relating to tithe rentcharge which issued out of land in a district in relation to which a direction under this section has taken effect, as if for references therein to the Commission there had been substituted references to the Board.
- (6) The foregoing provisions of this Part of this Act relating to the apportionment, extinguishment and redemption of annuities, the charging of substituted annuities, and the deposit, alteration and amendment of an annuities register and map shall have effect, in relation to a district in respect of which a direction under this section has taken effect, as if for references therein to the Commission there had been substituted references to the Board.

## **13 Incidents of annuities.**

- (1) An annuity shall be payable half-yearly on each payment date.
- (2) The first instalment of an annuity charged by section three of this Act shall be payable on the first day of April, nineteen hundred and thirty-seven, and the first instalment of a substituted annuity shall be payable on the first payment date occurring after it is charged.
- (3) The extinguishment or termination of an annuity shall not affect any right or liability in respect of sums which became due theretofore on account thereof.



- (4) An annuity shall be deemed to be a periodical payment in the nature of income within the meaning of the Apportionment Act, 1870.
- (5) No deduction in respect of income tax shall be made from any instalment of an annuity.
- (6) For all the purposes of the Income Tax Acts, five-sixths and no more of each instalment of an annuity shall be deemed to be a payment by way of interest, and the amount deemed to be so payable in any year of assessment shall be allowed as a deduction in respect of that year from the annual value, as assessed under Schedule A, of the lands in respect of which the annuity is charged:  
  
Provided that, if by reason of a remission under this Act or for any other cause an instalment is not paid, no such deduction shall be allowed in respect thereof, and, if part of an instalment is not paid, the amount of the deduction to be allowed shall be reduced in the proportion which the amount not paid bears to the amount of the instalment.
- (7) Where an annuity is charged in respect of land in the ownership of two or more owners, any one of those owners who makes pursuant to this Act a payment in respect of an instalment of the annuity, or in respect of an amount payable in respect of the compulsory redemption of the annuity, shall be entitled to recover from the other, or from each of the others, of them as a simple contract debt such proportion of the payment as may be agreed between the owners or, in default of agreement, may be fixed by the appropriate authority.
- (8) An annuity shall be deemed to be an incumbrance for the purposes of section one hundred and eighty-three of the Law of Property Act, 1925 (which relates to the concealment of incumbrances by persons disposing of property).
- (9) Subject to the provisions of this Act, section one hundred and twenty-one of the Law of Property Act, 1925 (which relates to remedies for the recovery of annual sums charged on land), and sections one hundred and ninety-one and one hundred and ninety-two of that Act (which relate to the redemption and apportionment of certain annual sums issuing out of land), shall not have effect in relation to an annuity.
- (10) An annuity shall not for the purposes of the Land Charges Act, 1925, be deemed to be a land charge of a class which may be registered under that Act.
- (11) An annuity shall for the purposes of the Land Registration Act, 1925, be deemed to be included among the interests specified in subsection (1) of section seventy of that Act (which relates to over-riding interests).

#### **14 Remission of excess of annuity over one-third of annual value of agricultural land.**

- (1) Where one or more annuities is or are charged in respect of land wholly comprised in an agricultural holding, then, if the amount of the annuity, or the aggregate of the amounts of the annuities, as the case may be, exceeds one-third of the annual value, for the twelve months ending on the fifth day of April in any year, of the holding exclusive of any part thereof in respect of which no annuity is charged, payment of an amount equal to one-half of the excess shall, subject to the provisions of this section, be remitted, in proportion where there are two or more annuities to the amounts thereof respectively, in the case of each instalment payable in that year.
- (2) In this section the expression " annual value " means annual value for income tax purposes under Schedule B as specified in a certificate issued in accordance with the

provisions of the Fourth Schedule to this Act, subject to any amendment which may be made in such a certificate for the correction of any clerical or arithmetical error.

- (3) An owner of land comprised in an agricultural holding shall not be entitled to a remission under this section in respect of an instalment payable in any year unless he has, before the first day of March in that year, made in relation to the holding such an application for a certificate as is mentioned in paragraph 2 of the Fourth Schedule to this Act.
- (4) Where an owner has made an application for a certificate with a view to a remission under this section in the case of an instalment which becomes payable on a date before the certificate is issued, the instalment shall be recoverable in full on or after that date, but on the issue of the certificate the owner shall be entitled to recover from the appropriate authority an amount equal to any remission to which he may then appear to have been entitled under this section in the case of that instalment, and for the purposes of the proviso to subsection (6) of the last foregoing section that amount shall be deemed not to have been paid.
- (5) Where an annuity is charged in respect of land part of which constitutes, or is comprised in, an agricultural holding, the appropriate authority may, if so requested by the owner of the land, apportion the annuity as between that part and the residue of the land, and the provisions of subsections (1) and (2) of section ten of this Act shall have effect as if that part and the residue of the land had been in different ownership.
- (6) In this section and in the Fourth Schedule to this Act the expression " agricultural holding " means agricultural land which is occupied or farmed or, in the case of land used for a plantation or a wood or for the growth of saleable underwood, managed, as a single unit or which is usually so occupied or farmed, or managed, as the case may be, except that, in relation to a case in which such agricultural land is in the ownership of two or more owners, that expression means each part of that land which is in the ownership of a single owner.

## **15 Procedure for redemption of annuities.**

- (1) Subject to the provisions of this section, the amount of the consideration money to be paid for the redemption of an annuity, and the procedure for the redemption of an annuity, and for the reduction under this section of the amount of an annuity, shall be such as may be prescribed by rules made by the Treasury (in this section referred to as " the rules ").
- (2) The rules shall provide for the determination of the amount of the consideration money to be paid for the redemption of an annuity on the basis of the discounting of all sums which, if the annuity were not redeemed, would be payable in respect of instalments of the annuity on or after the redemption date, reduced by such sum, if any, as the Treasury may think fit in respect of cost of collection, at a rate of interest fixed by reference to the yield of such Government security or securities as the Treasury consider appropriate.
- (3) Where an annuity is redeemable compulsorily, the appropriate authority may serve upon the owner of any land in respect of which the annuity is charged a notice in writing (in this Act referred to as a " redemption notice "):

Provided that the appropriate authority may postpone service of a redemption notice during such period as they may think fit, and may revoke or amend such a notice, and generally may make such provision in respect of the compulsory redemption of

annuities as will avoid any undue hardship on any owner of land in respect of which an annuity redeemable compulsorily is charged.

- (4) A redemption notice shall specify the amount of the consideration money to be paid for the redemption, shall require the owner to pay that amount on a date to be specified therein, and shall be served on the owner not less than one month before the redemption date :

Provided that the appropriate authority may provide for payments by instalments on dates to be specified in the notice.

- (5) An annuity in respect of which a redemption notice is served shall be extinguished as from the day following the payment date next before the redemption date.
- (6) An owner of land in respect of which an annuity is charged shall be entitled, on making application in that behalf to the appropriate authority, to have notified to him the amount of the consideration money required for the redemption of the annuity in accordance with the rules, and, on payment by an owner in accordance with the rules of an amount notified to him under this subsection, the annuity shall be extinguished as from the day following the payment date next before the redemption date.
- (7) Where on an apportionment of an annuity under this Act a substituted annuity would, if charged, be redeemable compulsorily, the appropriate authority may include in the order for apportionment a direction that the annuity shall not be charged and serve upon the owner of the land in respect of which it would have been charged the like notice as if it had been charged and the notice were a redemption notice served in respect thereof.
- (8) Where the appropriate authority are satisfied that the owner of the land in respect of which a substituted annuity would be charged on an apportionment of an annuity under this Act is willing to pay to them, within such period as they may determine, the amount of the consideration money which would be payable for the redemption of the substituted annuity, they may include in the order for apportionment directions for securing that if that amount is paid to them within that period the substituted annuity shall not be charged.
- (9) An owner of land in respect of which an annuity is charged may at any time pay to the appropriate authority, with a view to the reduction of the amount of the annuity, a capital sum not being less than twenty-five pounds, and, where such a payment is made, the amount of the annuity shall be reduced by such an amount, and as from such date, as may be determined by the appropriate authority in accordance with the rules, and the annuity as so reduced shall continue to be charged in respect of the whole of the land in respect of which it was theretofore charged.
- (10) The appropriate authority may, on the application of the person by whom any sum is paid in respect of the redemption of an annuity, grant to him a certificate charging any land in respect of which the annuity was charged or any estate or interest therein with that sum or any part thereof, together with interest at such rate as the authority may determine, and a person to whom such a certificate is granted shall be entitled to a charge in accordance with the terms thereof having such priority in relation to other charges on the property charged as may be specified in the certificate.
- (11) Rules made under this section shall be laid before each House of Parliament as soon as may be after they are made, and if either House, within the next subsequent twenty-eight days on which that House has sat after any such rules are laid before it, resolves

that the rules shall be annulled, they shall thenceforth be void, but without prejudice to anything previously done thereunder or to the making of any new rules.

- (12) In this section the expression " redemption date " means, in a case in which a redemption notice or a notice under subsection (7) of this section is served, the date or the first date, as the case may be, on which a payment is thereby required, and means, in a case in which a payment is made under subsection (6) of this section, the date on which that payment is made.

## 16 Recovery of annuities from owners of land.

- (1) An instalment of an annuity payable on any payment date shall be a debt due to His Majesty from the person who is on that date the owner of any land in respect of which the annuity is charged.
- (2) A payment required by a redemption notice or by a notice served under subsection (7) of the last foregoing section, together with interest thereon from the date on which the payment is thereby required at the rate fixed under subsection (2) of the last foregoing section for the purpose of the determination of the amount of the consideration money, shall be a debt due to His Majesty from the person on whom such a notice is duly served.
- (3) The provisions of sections two, three and seven of the Tithe Act, 1891 (other than the provisions of subsections (6) and (9) of section two thereof), shall have effect with the necessary modifications in relation to the recovery by the Commission of a debt due to His Majesty under this section from an owner of land as defined by this Act as they had effect in relation to the recovery of sums due on account of tithe rentcharge from an owner of land as defined by that Act, and shall so have effect as respects recovery from a railway company notwithstanding anything in subsection (1) of section ten of that Act:

Provided that an order made under subsection (1) of section two of the said Act for the recovery of a debt due to His Majesty under this section may, and shall if the Commission so request, be executed as an order for the recovery of a debt from the defendant personally, and—

- (a) the words " in manner provided by this Act, and " tithe rentcharge as defined by this Act shall " not be recoverable in any other manner ", in subsection (1) of the said section two, shall not have effect in relation to the recovery of a debt due to His Majesty under this section; and
- (b) the words " and may provide that if the owner of " any lands is not known any proceedings " under this Act may be taken against the owner " of the lands without naming the person who " is the owner", in subsection (7) of the said section two, shall not have effect in relation to the recovery of a debt due to His Majesty under this section from a defendant personally.
- (4) A debt due to His Majesty under this section may be recovered by the Board either by proceedings in the High Court or in the county court or by any other means whereby a debt due to the Crown may be recovered, and, where the sum claimed in respect of a debt due to His Majesty under this section is less than fifty pounds, that sum may be recovered by the Board summarily as a civil debt in proceedings commenced in the name of some person authorised in that behalf by the Board.

- (5) If an owner, upon demand made by a person who holds an appointment by the Board as collector of taxes, neglects or refuses to pay a debt due from him to His Majesty under this section, the collector may, for non-payment thereof—
- (a) in a case where the owner is in occupation of land in respect of which the annuity is charged or of any other land in the same district, distrain upon that land; and
  - (b) in any case, distrain the owner by his goods and chattels;
- and the provisions of subsections (2) to (5) of section one hundred and sixty-two of the Income Tax Act, 1918, shall have effect in relation to any such distress as they have effect in relation to a distress under subsection (1) of that section, with the substitution for the reference to the general commissioners of a reference to the Board.
- (6) The Board may, for the purpose of recovering a debt due to His Majesty under this section from an owner who is in occupation of the land in respect of which the annuity is charged or of any other land in the same district, take such proceedings as are specified in subsection (4) of section one hundred and twenty-one of the Law of Property Act, 1925, as if the amount of that debt had been such a sum as is mentioned in that subsection unpaid for the period therein mentioned.
- (7) No application to the court for an order for recovery shall be made, and no proceedings under subsection (5) or (6) of this section shall be taken, in respect of an instalment of an annuity payable on any payment date until the expiration of three months from that date.
- (8) Section twenty-nine of the Finance Act, 1921 (which relates to evidence of payment of wages in proceedings under subsection (2) of section one hundred and sixty-nine of the Income Tax Act, 1918, for recovery of income tax), shall apply in the case of proceedings taken under this section by the Board and as if references therein to wages included references to salaries, fees and other emoluments.

## 17 Definition of " owner " in relation to land.

- (1) Subject to the provisions of this Act, the person who is to be deemed for the purposes of this Act to be the owner of land shall be—
- (a) the estate owner in respect of the fee simple thereof, unless it is subject to a long lease at a rent less than a rack rent; or
  - (b) if the land is subject to a long lease at a rent less than a rack rent, the estate owner in respect of the term.
- (2) Where land is subject both to a head lease and to one or more original or derivative underleases each of which is a long lease at a rent less than a rack rent, the foregoing subsection shall have effect as if that one of the terms thereby created on which the other or others is or are reversionary were alone subsisting.
- (3) In this section—
- " lease " includes an original or derivative underlease, and an agreement for a lease or underlease where the right to have the lease or underlease granted is subsisting, but does not include a mortgage;
  - " long lease " means a lease granted for a term of more than fourteen years;
  - " estate owner " has the same meaning as in the Law of Property Act, 1925, so, however, that in relation to such an agreement as aforesaid that expression

means the person entitled to have vested in him the legal term agreed to be created;

" rack rent " means a rent which is not less than two-thirds of the full net annual value of the property out of which the rent arises, and the full net annual value shall be taken to be the rent at which the property might reasonably be expected to let from year to year, free from all usual tenant's rates and taxes, and deducting therefrom the probable average annual cost of the repairs, insurance and other expenses (if any) necessary to maintain the property in a state to command such rent.

- (4) Where the estate owner, who by virtue of the foregoing provisions of this section would be deemed to be the owner of any land, is the official trustee of charity lands or other trustee on or for charitable, ecclesiastical or public trusts or purposes not entitled to act in the trust, or the Public Trustee holding in circumstances in which he is not entitled to act in the trust, references in this Act to the owner of the land in relation to any action required or authorised to be taken by or against the owner shall be construed as references—
- (a) in the case of a trustee on or for charitable, ecclesiastical or public trusts or purposes, to the managing trustees or committee of management; and
  - (b) in the case of the Public Trustee, to the person in receipt of the rent incident to the Public Trustee's estate, or, if there is no rent incident thereto, to the person in occupation of the land.
- (5) Where under section nine of the Administration of Estates Act, 1925, the estate of a person who died intestate is vested in the Probate Judge, that judge shall not be deemed to be the owner of any land comprised in the estate for the purpose of any action required or authorised by this Act to be taken by or against the owner of the land, but upon administration being granted the administrator shall be deemed for those purposes to have been the owner thereof as from the date of the death.
- (6) For the purposes of this Act—
- (a) land in the ownership of two or more persons holding as joint tenants shall be deemed to be in the ownership of a single owner;
  - (b) where a person owns a part of the land in respect of which an annuity is charged in one capacity and another part thereof in a different capacity, those parts shall be deemed to be in different ownership and the land to be in the ownership of two or more owners.
- (7) Where, by virtue of a contract entered into before the commencement of this Act, a person would have been entitled to an indemnity from another person in respect of the recovery from the first mentioned person of a sum due on any payment date on account of a tithe rentcharge if the rentcharge had not been extinguished by this Act, the first mentioned person shall be entitled to the like indemnity from that other person in respect of the recovery from the first mentioned person of an instalment due on that payment date of an annuity charged in respect of any land as being land out of which the rentcharge issued, or of a substituted annuity charged on an apportionment of such an annuity.

## **18 Ascertainment and registration of owners of land.**

- (1) The appropriate authority may serve upon the person who appears to them to be the owner of any land in respect of which an annuity is charged notice in writing that they propose to enter his name in the annuities register as the owner of that land.

- (2) If a person, on whom a notice has been served by the appropriate authority under the foregoing subsection in relation to any land, by notice in writing served on the authority within three months of the date of the service on him of the authority's notice, denies that he is the owner thereof, the High Court or the county court may, if satisfied that he is the owner thereof, make, on the application of the authority, a declaration that he is the owner thereof.
- (3) Where a person has been served by the appropriate authority with a notice under this section in relation to any land and has not within the period aforesaid served on the authority notice in writing denying that he is the owner thereof, or has been declared by the court on an application under this section to be the owner of any land, or has consented to the entry of his name in the annuities register as the owner of any land, then, notwithstanding any change in the ownership of the land, any sum becoming payable under this Act to the appropriate authority on any date thereafter from the owner of the land may be recovered by the authority from that person or, after his death, from his personal representative, and anything which is authorised or required by this Act to be done on any date thereafter by or to the owner of the land shall be deemed to be validly done if done by or to that person, or, after his death, by or to his personal representative, unless that person or his personal representative has before that date given to the appropriate authority notice in writing of the change of ownership and all information in his possession as to the identity of the person who has become the owner of the land or of any part thereof.
- (4) Where under the last foregoing subsection a sum becoming payable to the appropriate authority on any date is recovered from a person who was not on that date the owner of the land in respect of which that sum became due, that person shall be entitled to recover from the owner as a simple contract debt the amount recovered by the authority from that person.
- (5) When the requirements of subsection (3) of this section have been satisfied as respects any person, the appropriate authority shall make in the annuities register entries specifying the name of that person as the owner of the land in relation to which those requirements have been satisfied and indicating the land by reference to the annuities map or otherwise, and such entries shall be prima facie evidence that the said requirements were satisfied as respects that person in relation to that land before the date stated in the register as the date on which the entries were made.
- (6) Where the appropriate authority are satisfied that a person other than the person specified in an annuities register as the owner of any land is the owner thereof, or that a person has been so specified otherwise than in accordance with the provisions of this section, they shall alter the register as appears to them to be requisite.
- (7) Proof that a person paid a sum due on account of a tithe rentcharge which issued out of any land, or that a person was treated by the court as the owner of any land for the purposes of an order for the recovery of a tithe rentcharge which issued thereout, shall for the purposes of this Act be prima facie evidence that that person was the owner of that land on the date on which the payment or order, as the case may be, was made and that he remains the owner thereof.
- (8) A person who is in occupation of, or who receives rent in respect of, land in respect of which an annuity is charged shall, on being required so to do by an officer of the appropriate authority, inform him of the name and address of any other person to whom that person pays rent in respect of that land or of any part thereof and give him any other information in that person's possession relevant to the ascertainment of the identity of

the owner of the land, and any person who when required to give information under this subsection fails so to do, or gives any information which is to his knowledge false, shall, without prejudice to any other liability, be liable on summary conviction to a fine not exceeding five pounds.

- (9) Where an estate or interest in any land, in respect of which an annuity under the management of the Commission is charged, is disposed of or created in such manner as to bring about a change in the ownership of the land, it shall be the duty of the person who was the owner of that land immediately before the execution of the instrument whereby that estate or interest was disposed of or created, within one month from the date of the execution thereof, to furnish to the Commission particulars in the prescribed form of that instrument and of the name and address of every person who has thereby become an owner of the land or of any part thereof, and any person who fails to furnish within the period mentioned in this subsection any particulars which he is thereby required to furnish shall be liable on summary conviction to a fine not exceeding five pounds.

*Transitional Provisions.*

**19 Abatement of tithe rentcharge and sinking fund payments due on 1st October, 1936.**

- (1) The sum becoming payable on the first day of October, nineteen hundred and thirty-six, in respect of a tithe rentcharge to be extinguished by this Act shall, if the person from whom it is demanded claims, or in the event of dispute proves, that any of the land out of which the rentcharge issued was on the first day of April, nineteen hundred and thirty-six, agricultural land, be computed as if a reference to ninety-one pounds eleven shillings and twopence had been substituted for the reference to one hundred and five pounds in subsection (1) of section one of the Tithe Act, 1925.
- (2) Any sum which, by virtue of section four of the Tithe Act, 1925, would but for this provision have been payable on the first day of October, nineteen hundred and thirty-six, by way of sinking fund payment in respect of a tithe rentcharge to be extinguished by this Act, shall not be payable, and accordingly the amount to be carried by Queen Anne's Bounty to the sinking fund in respect of any such rentcharge in the year ending on the said first day of October, under paragraph (a) of subsection (1) of section five of that Act, shall be computed as if for the reference therein to four pounds ten shillings there had been substituted a reference to two pounds five shillings.

**20 Recovery of tithe rentcharge due on or before 1st October, 1936.**

- (1) The extinguishment by this Act of tithe rentcharge shall not affect any right or liability in respect of sums which became due on account thereof before the appointed day (in this Act referred to as " arrears ").
- (2) On the first day of April, nineteen hundred and thirty-seven, power to recover and give a discharge for arrears shall vest in the Commission to the exclusion of any other person, and the subsequent provisions of this section shall have effect with respect to the recovery thereof on or after that date.
- (3) No legal proceedings for the recovery of arrears of a rentcharge shall be commenced or continued by the Commission on or after the said first day of April until one month after the person who would have been entitled to recover the arrears (in this section



referred to as the "tithe-owner") has, by notice in writing served after that date, given to the person who for the purposes of an application for an order under section two of the Tithe Act, 1891, for the recovery of the arrears would be treated as the owner of the land out of which the rentcharge issued (in this section referred to as the "tithe-payer"), and to the Commission, particulars in writing in the prescribed form of the arrears which the tithe-owner claims to be recoverable from the tithe-payer.

- (4) A tithe-payer upon whom a notice is served for the purposes of the last foregoing subsection may, within one month after service thereof upon him, or within such extended period as the Commission may in special circumstances allow on application being made to them in that behalf by the tithe-payer, serve upon the Commission notice in writing in the prescribed form stating that he desires to have the matter of the recovery from him of the arrears referred to a committee (to be called the "Arrears Investigation Committee") which shall be established for the purposes of this section and shall consist of a chairman appointed by the Lord Chancellor and two other members appointed by the Minister.
- (5) Where a tithe-payer duly serves notice on the Commission claiming to have the matter of the recovery from him of arrears referred to the Committee, the Commission shall refer the matter to them and shall not commence or continue any legal proceedings for the recovery of the arrears until the matter has been disposed of by them.
- (6) If the tithe-payer satisfies the Committee, on a reference to them under this section, that his financial circumstances are such as to render it fair and reasonable that a part or the whole of the arrears should be remitted, or that any order made for the recovery thereof should provide for the recovery thereof by instalments, the Committee, after giving to the tithe-owner an opportunity of making representations, may direct accordingly.
- (7) Where a tithe-payer serves notice on the Commission claiming to have the matter of the recovery from him of arrears referred to the Committee, he shall be deemed thereby to admit legal liability for the payment thereof, and as soon as the matter has been disposed of by the Committee, the Commission shall pay to the tithe-owner an amount equal to the arrears in respect of which the notice was served, less an amount equal to any remission directed by the Committee :

Provided that this subsection shall not have effect as respects any arrears which are irrecoverable by the Commission by virtue of proviso (a) to subsection (10) of this section.

- (8) As respects any arrears as to which a tithe-payer does not claim a reference to the Committee within one month after service on him of a notice giving particulars thereof served for the purposes of subsection (3) of this section, or within such extended period as may have been allowed under subsection (4) of this section, the Commission shall at the expiration of that period, unless they are satisfied, after consultation with the tithe-owner, that the tithe-payer is not legally liable for the payment thereof, or that there is no reasonable prospect of the recovery thereof or of any part thereof, take all requisite steps, including if necessary the commencement or continuance of legal proceedings, for the recovery thereof, and pay to the tithe-owner a sum equal to the amount thereof in respect of which the tithe-payer has admitted or admits legal liability or the court has made or makes an order for recovery.
- (9) For the purposes of the Tithe Act, 1925, sums received by a tithe-owner from the Commission under this section in respect of any arrears shall be deemed to be sums received by him on account of tithe rentcharge for the year in which the arrears became due, and a proportionate part of any remission directed by the Committee of arrears

of a rentcharge to which the provisions of section four of that Act, relating to sums payable by way of sinking fund payment, apply shall be treated as attributable to the sum so payable for that year.

- (10) The right to recover arrears vested in the Commission by this section may be enforced in any manner in which the right of the Commission to recover an instalment of an annuity may be enforced under section sixteen of this Act:

Provided that—

- (a) the provisions of subsection (2) of section ten of the Tithe Act, 1891 (which provides that a sum on account of tithe rentcharge shall not be recoverable under that Act unless proceedings for such recovery have been commenced before the expiration of two years from the date at which it became payable), shall have effect in relation to the recovery of arrears by the Commission from a tithe-payer, so, however, that in reckoning the said period of two years time after the tithe-owner has served a notice for the purposes of subsection (3) of this section on the tithe-payer, during which legal proceedings may not, by virtue of this section, be commenced or continued, shall be excluded;
  - (b) the court before which legal proceedings for the recovery of arrears are taken by the Commission shall give effect to any direction given by the Committee in relation thereto.
- (11) A county court by which directions for the execution of an order for the recovery of arrears have been given before the first day of April, nineteen hundred and thirty-seven, shall have power to give such directions as the court thinks just and equitable for the prevention of injustice which might otherwise arise from the suspension of proceedings by virtue of this section on that date.
- (12) The Committee shall have power, in a case in which it appears to them that the claim of a tithe-payer to have a matter referred to them was frivolous, to direct that the tithe-payer shall pay to the Commission or to any other person a sum fixed by the Committee in respect of the expenses incurred by the Commission or by that person in relation to the reference, and any sum so fixed shall be recoverable from the tithe-payer either as an addition to the arrears or summarily as a civil debt.
- (13) Subject to the foregoing provisions of this section, the procedure of the Committee shall be such as they may determine.
- (14) The expenses incurred by the Committee in the performance of their functions under this section, to such amount as may be allowed by the Treasury, shall be defrayed out of moneys provided by Parliament.
- (15) There shall be paid to the members of the Committee such remuneration as the Treasury may determine.

## **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 rent-charge 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 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 rent-charge was held in trust;
- and not otherwise.

## **22 Provisions as to redemption or merger on or after 26th February, 1936.**

- (1) Except in a case in which—
- (a) an application to the Minister for redemption, or for the confirmation of a deed or declaration of merger, of a tithe rentcharge was made before the twenty-sixth day of February, nineteen hundred and thirty-six; or
  - (b) such an application was or is made on or after that date (whether before or after the commencement of this Act) and the Minister is satisfied and certifies to the Commission that the application was or is made for the purpose of giving effect to arrangements made before that date; or
  - (c) the Minister is satisfied and certifies to the Commission that it is expedient that the provisions of this section should not have effect;
- the provisions of the Tithe Acts relating to redemption or merger shall be deemed to have ceased to have effect as respects tithe rentcharge, other than extraordinary tithe rentcharge, on that date, and accordingly—
- (i) no proceedings under any of the said provisions as respects any such tithe rentcharge shall be commenced or continued after the commencement of this Act otherwise than in such a case as aforesaid; and
  - (ii) the provisions of this Act shall have effect in relation to any such tithe rentcharge which has been extinguished by virtue of any of the said provisions on or after the said twenty-sixth day of February otherwise than in such a case as aforesaid, and to the land out of which it issued, as if that rentcharge had been extinguished by this Act on the appointed day, and any consideration money payable in respect of the redemption or merger thereof (whether by way of annual payment or otherwise) shall cease to be payable and, if and so far as paid before the commencement of this Act, shall be repaid.
- (2) Where in any such case as aforesaid proceedings for the redemption or merger of any such tithe rentcharge under any of the said provisions of the Tithe Acts are commenced or continued after the commencement of this Act, the provisions of this Act shall not have effect in relation to that rentcharge or, so far as regards provisions relating to that rentcharge, to the land out of which it issued, unless the proceedings are discontinued, but upon a discontinuance thereof the rentcharge shall be extinguished and the provisions of this Act relating to a tithe rentcharge extinguished by this Act and the land out of which it issued, except the provisions of subsections (1) to (3) of section five thereof, shall have effect accordingly.

**23 Transitional provisions as to rating of tithe rentcharge.**

- (1) The sum payable by way of rates in respect of the ownership during the whole or any part of the half-year ending on the thirtieth day of September, nineteen hundred and thirty-six, of a tithe rentcharge to be extinguished by this Act issuing out of land any of which was on the first day of April, nineteen hundred and thirty-six, agricultural land shall be reduced to seven-eighths of the sum which but for this provision would have been so payable, and accordingly the amount to be paid by Queen Anne's Bounty on account of rates in respect of any such rentcharge in the year ending on the first day of October, nineteen hundred and thirty-six, under paragraph (b) of subsection (1) of section five of the Tithe Act, 1925, shall be computed as if, for the reference therein to the sum of five pounds or, in the case of a rentcharge previously attached to an ecclesiastical corporation, sixteen pounds, there had been substituted a reference to fifteen-sixteenths of that sum.
- (2) A person shall be entitled to recover from the rating authority any sum paid by him which by virtue of the foregoing subsection represents an over-payment of rates.
- (3) No proceedings for the alteration for rating purposes of the value of such a tithe rentcharge as aforesaid on the ground of the reduction by section nineteen of this Act of the sum becoming payable in respect thereof on the said first day of October shall be entertained.
- (4) For the purposes of valuation lists in force at the commencement of this Act, a tithe rentcharge to be extinguished by this Act shall, as from the first day of October, nineteen hundred and thirty-six, be deemed to have no rateable value, and, notwithstanding anything in any enactment relating to rating and valuation, no particulars with respect to such a tithe rentcharge shall be included in any subsequent valuation list.