



Tithe Act 1936

1936 CHAPTER 43

PART III

MISCELLANEOUS AND GENERAL.

General.

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

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

shall apply in respect of proceedings before the Commission or the Board for the purposes of this Act, and, except as regards costs and the statement of special cases, in respect of references to the Arrears Investigation Committee, and at any inquiry held by the Commission or the Board for the purposes of this Act, but save as aforesaid the said Acts shall not apply to or at any such proceedings, reference or inquiry.

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

Status: This is the original version (as it was originally enacted).

- (3) Subject as aforesaid, a determination of the Commission or of the Board in relation to any matter which they are authorised by this Act to determine shall be binding and conclusive for all purposes.
- (4) The Commission, the Board and the Arrears Investigation Committee shall cause proper records to be kept of determinations and directions made or given by them respectively, and any entry in any book or other document kept for the purposes of this subsection, or a copy thereof upon which is endorsed a certificate purporting to be signed by an officer of the Commission, or of the Board, or by a person authorised in that behalf by the Committee, as the case may be, stating that the copy is a true copy, shall in all legal proceedings be evidence of the entry and of the determination or direction referred to and of the regularity thereof.

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

- (1) The powers conferred by section three of the Tithe Act, 1847 (which relates to the correction of instruments of apportionment), and of section thirty-four of the Tithe Act, 1860 (which relates to the determination of the parish in respect of which a tithe rent-charge ought to have been charged where land has been made chargeable in more than one parish), shall be exercisable by the Commission either before or after the appointed day, and in relation to a tithe rentcharge or to land in respect of which any of the said powers is exercised by the Commission after the appointed day this Act shall have effect as if the correction or determination, as the case may be, had been made immediately before the appointed day.
- (2) The powers conferred by section twenty-six of the Tithe Act, 1860 (which relates to the detachment of maps from instruments of apportionment), shall be exercisable by the Commission either before or after the appointed day.

41 Power to enter and inspect land.

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

42 Service and proof of documents.

- (1) Any notice or other document required or authorised to be served under this Act may be served either—
 - (a) by delivering it to the person on whom it is to be served; or
 - (b) by leaving it at the usual or last known place of abode of that person; or
 - (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode; or
 - (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at its registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office.
- (2) In relation to any document issued by or under the authority of any Government department for the purposes of this Act, the Documentary Evidence Act, 1868, as amended by the Documentary Evidence Act, 1882, shall have effect as if the

Commission and the Board were included in the first column of the Schedule to the first-mentioned Act, and any person authorised to act on behalf of the Commission or the Board, as the case may be, were mentioned in the second column of that Schedule, and the regulations referred to in those Acts included any such document as aforesaid.

43 Inspection of, and evidence of entries in, annuities register and map.

- (1) An annuities register and map shall be open for inspection by any person during all usual office hours, and any person may require a copy of, or extract from, entries in an annuities register or map to be certified by an officer of the appropriate authority, and there shall be paid for any such certified copy or extract such reasonable fee as may be prescribed.
- (2) A copy of, or extract from, entries in an annuities register or map, upon which is endorsed a certificate purporting to be signed by an officer of the appropriate authority stating that the copy is a true copy, shall in all legal proceedings be admissible in evidence as of equal validity with the register or map, without proof of the handwriting or official position of the person purporting to sign the certificate.

44 Treasury authorisation.

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

45 Commission's reports to Parliament.

The Commission shall cause a report of their proceedings to be laid before both Houses of Parliament at the expiration of seven years from the commencement of this Act, and thereafter at the expiration of each period of two years until the date on which all matters with respect to which they have jurisdiction under this Act have been settled, and also as soon as may be after that date.

46 Consequential amendment of 18 and 19 Geo. 5. No. 2.

In subsection (3) of section one of the Tithe (Administration of Trusts) Measure, 1928, there shall be substituted for the words " through a committee for " a collection area constituted under section ten of " the Tithe Act, 1925," the words " by Queen Anne's " Bounty."

47 Interpretation.

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—
 - " agricultural land " means agricultural land as defined in section two of the Rating and Valuation (Apportionment) Act, 1928, and buildings (including dwelling-houses) occupied together with such land and used primarily in connection with agricultural operations thereon;
 - " annuity " means a redemption annuity charged by section three of this Act or a substituted annuity, and " substituted annuity " has the meaning assigned to it by section ten of this Act;

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" annuities register " and " annuities map " mean respectively a register and a map sealed under section nine of this Act;

" appropriate authority " means, in relation to an annuity under the management of the Commission, the Commission, and, in relation to an annuity under the management of the Board, the Board;

" arrears " has the meaning assigned to it by section twenty of this Act;

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

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

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

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

" ecclesiastical tithe rentcharge " means tithe rent-charge the fee simple in possession whereof was vested in Queen Anne's Bounty by the Tithe Act, 1925, or which became attached to a benefice or to an ecclesiastical corporation for an interest in fee simple in possession after the appointed day for the purposes of that Act, or which is at the commencement of this Act and immediately before the appointed day vested in fee simple in possession in the Ecclesiastical Commissioners;

" extraordinary tithe rentcharge " means a rent-charge payable under the Extraordinary Tithes Acts, 1886 and 1897;

" interest date " and " payment date " mean the first day of April and the first day of October;

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

" lay tithe rentcharge " means any tithe rentcharge other than ecclesiastical tithe rentcharge;

" prescribed " means prescribed by rules made by the Commission, or, in relation to annuities under the management of the Board, the Board;

" present value " means, in relation to a payment made or sum issued on any date, the value of that payment or sum at the first day of October, nineteen hundred and thirty-six, as determined by the Treasury on the basis of interest at three per cent per annum;

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

the rentcharge and of the lands and has been recovered on the basis of such re-apportionment;

" stock " means redemption stock;

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

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

- (2) In this Act, unless the context otherwise requires, in relation to a re-apportioned rentcharge, references to a tithe rentcharge shall be construed as references to each of the rentcharges resulting from the re-apportionment, and references to the land out of which a tithe rent-charge issued shall be construed as references to the lands respectively on which those rentcharges were reapportioned.
- (3) References in this Act to the amount of a tithe rentcharge shall be construed as references to the apportioned or par amount thereof.
- (4) In calculating for the purposes of this Act the amount of any stock, of any annuity, of any instalment of an annuity, or of any sum payable on account of tithe rentcharge, fractions of a penny less than a halfpenny shall be disregarded, and fractions of a penny amounting to a halfpenny or more shall be treated as a whole penny.

48 Short title, construction, extent and repeal.

- (1) This Act may be cited as the Tithe Act, 1936, and shall be construed with the Tithe Acts, 1836 to 1925, and those Acts and this Act may be cited together as the Tithe Acts, 1836 to 1936.
- (2) This Act shall extend to England and Wales only.
- (3) The Acts mentioned in the Ninth Schedule to this Act shall be repealed as from the appointed day to the extent specified in the third column of that Schedule, except as regards any tithe rentcharge not extinguished by this Act.