



PCC EXPLANATION NOTE

This note sets out to explain the impact of the Land Registration Act 2002 on Chancel Repair Liability

Chancel repair liability can arise from a number of different sources. Briefly, these are:

- (i) Rentcharges in respect of which compensation stock was issued (normally to the DBF) as they were not vested in corporations or bodies such as the Ecclesiastical Commissioners, a Dean and Chapter or an Oxbridge College.
- (ii) Ownership by ecclesiastical or educational bodies (such as Queen Anne's Bounty, the Ecclesiastical Commissioners and Deans and Chapters) or their successors of the title rent charges abolished in 1936 for which compensation was paid to those bodies (referred to as class 4(b) in the records of the Tithe Redemption Commission).
- (iii) Ownership of tithe rent charges which were not payable in 1936 because the land was in the same ownership as the individual or body entitled to receive the rent charge. In these cases the Tithe Act 1936 merged the rent charge with the land, extinguishing the rent charge without compensation (referred to as class 4(c) in the records of the Tithe Redemption Commission). Chancel repair liability remained attached to such land.
- (iv) Ownership of rent charges merged with the ownership of the land and extinguished under earlier legislation (the Tithe Act 1836 or subsequent Acts). These had been extinguished prior to the 1936 Act but still had a chancel repair liability attached to them (referred to as class 4(d) in the records of the Tithe Redemption Commission).
- (v) Ownership of former rectorial land ("Pure Land"). This is largely the category which is currently subject of public attention or controversy with ownership by private individuals carrying with it the liability for chancel repair. Originally, there would have been a single rectorial ownership but, as the land ownership became fragmented over the centuries, the liability is often split between several or many lay rectors. However, we are advised that they are all jointly and severally liable for the total cost of a chancel repair, with the relevant landowners having the right to call on neighbouring relevant landowners if approached by a PCC to deal with chancel repairs.

What needs to be done if this affects your church and Parochial Church Council?

PCCs may be aware of the broad provisions of the Land Registration Act 2002 but, in the briefest terms, any tithe liabilities coming under Categories 4 (c) and (d) of the Tithe Redemption Commission's Records of Ascertainments and any former rectorial land

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(i.e. non-tithe based) liabilities will need action under the Land Registration Act 2002 Act. Other than where the Commissioners will be registering their own liabilities against their own land, PCCs will need to take steps to identify the land to which the liability relates and then to either (a) enter a caution (of chancel repair liability) against the first registration of unregistered land; or (b) enter notice of the liability against the land in the case of registered land. These notes are intended to help PCCs understand our spreadsheet setting out our *provisional* understanding of their chancel repair liability where some of it (at least) affects the Commissioners. Enclosed is the National Archives Leaflet 33 which gives a fuller description of the background to Chancel Repair Liability.

Please note that the Commissioners reserve the right to reach a different conclusion on the liability for a particular case as a result of further forensic review .

What is the deadline?

This should be done by 13 October 2013 and the Land Registry will not charge a fee.

What does the spreadsheet mean?

CHURCH COMMISSIONERS

A tithe: Commissioners

'A' tithe liability arises from the ownership of former tithe rentcharges which were abolished in 1936 but did not remove, in the case of ecclesiastical corporations, the liability of the lay rector to meet the cost of repairs pursuant to the provisions of the Chancel Repairs Act 1932. Often this liability was discharged by the payment of stock to the Diocesan Board of Finance in the 1940's. However, in some cases no payment was made because the Commissioners accepted the relevant proportion of the liability. Such liabilities are not affected by the Land Registration Act 2002 and therefore no further action needs to be taken by the PCC on these proportions.

B tithe: Commissioners

The 'B' tithe liability is accepted by the Commissioners. This liability is not affected by the Land Registration Act 2002 and does not need to be registered under its provisions. It will continue unless and until a Government repeals chancel repair liability.

C and D tithe/land: Commissioners

Liability arising from section 4 (c) and (d) of the schedule (tithe/land merged in land belonging to the Commissioners) is affected by the Land Registration Act 2002, and should be registered with the Land Registry before 13 October 2013 to ensure that the PCC continues to have the ability to enforce this element of the liability where there is a change of ownership of the subject land after this date.

Pure land: Commissioners

The liability in such cases does not attach to former rentcharges but to former rectorial land which was sometimes the subject of an Enclosure Award. It is affected by the requirement under the provisions of the Land Registration Act 2002 for any liability attaching to the land to be registered against the property by 13 October 2013.

Free from Incumbrances/ FFI / Sold with Exoneration: Commissioners

Our research in many cases has shown that we are able to continue to accept (partial) liability in respect of Commissioners' sold land because the land in question was sold "free from incumbrances" ("FFI") or "with exoneration" from chancel repair liability. This position will continue past the October 2013 deadline unless and until the Commissioners become aware that the property has thereafter since changed hands. PCCs will want to register such liabilities against the subject land if they can identify it so that they are protected in the event of a sale of the subject land post October 2013 pre chancel liability registration.

OTHERS

A tithe: PCC

'A' tithe liability arises from the ownership of former tithe rentcharges which were abolished in 1936 but did not remove, in the case of ecclesiastical corporations, the liability of the lay rector to meet the cost of repairs pursuant to the provisions of the Chancel Repairs Act 1932. This was normally discharged by the payment of stock to the Diocesan Board of Finance in the 1940's. The liability normally rests with the PCC, but in such cases we recommend that the PCC approaches the DBF to see whether it still has any of the compensation stock. Such liabilities are not affected by the Land Registration Act 2002 and therefore no further action needs to be taken by the PCC on these proportions.

B tithe: Queen Anne's Bounty (QAB)

The liability titled 'B tithe QAB pp incumbent' was originally borne by Queen Anne's Bounty on behalf of the incumbent but became the responsibility of the PCC from 1 April 1978 when section 39 (b) of the Endowments and Glebe Measure 1976 transferred liabilities of this kind to PCCs. Section 39 (b) reads as follows:

"The liability to repair, or to pay a proportion of the cost of repairing, the chancel of a church, being a liability –

- (b) arising from the ownership of any tithe rentcharge which was extinguished on 2 October 1946 by the Tithe Act 1936 and immediately before that date was held by Queen Anne's Bounty in trust for the incumbent of a benefice,

shall on the appointed day and without any assurance be transferred to and become the liability of the parochial church council of the parish in which the church is situated."

This liability is not affected by the Land Registration Act 2002 and does not need to be registered under its provisions.

B tithe: Dean & Chapter

The liability entitled 'B tithe D&C of (diocese name)' is the responsibility of the Dean & Chapter of the diocese named in the document. Please note that in some cases the Dean & Chapter responsible for a share of the chancel repair is not the Dean and Chapter of the Mother Church of the diocese in which the chancel is located. There are also some chancels where both the Commissioners and a Dean and Chapter share elements of a liability. This liability is not affected by the Land Registration Act 2002 and does not need to be registered under its provisions. It will continue unless and until a Government repeals chancel repair liability.

C and D glebe and other benefice property

The liability entitled 'C/D tithe/land merged in glebe land' became the responsibility of the PCC in 1978 under section 39 (a) of the Endowments and Glebe Measure 1976. Section 39 (a) reads as follows:

"The liability to repair, or pay a proportion of the cost of repairing, the chancel of a church, being a liability –

- (a) arising from the ownership immediately before the appointed day of glebe land or any other property constituting part of the endowments of a benefice and held by or in trust for the incumbent of the benefice,

shall on the appointed day and without any assurance be transferred to and become the liability of the parochial church council of the parish in which the church is situated."

This liability is not affected by the Land Registration Act 2002 and does not need to be registered under its provisions.

C and D tithe/land: Others

Liability arising from section 4 (c) and (d) of the schedule (tithe/land merged in land belonging to parties other than the Commissioners) is affected by the Land Registration Act 2002, and should be registered with the Land Registry before 13 October 2013 to ensure that the PCC continues to have the ability to enforce this element of the liability where there is a change of ownership of the subject land after this date.

Pure land: Others

The liability in such cases does not attach to former rentcharges but to former rectorial land which was sometimes the subject of an Enclosure Award. It is affected by the requirement under the provisions of the Land Registration Act 2002 for any liability attaching to the land to be registered against the property by 13 October 2013.

General

Please note that the percentage shown in the box at the top of our spreadsheet is the liability provisionally accepted by the Church Commissioners. Looking at the spreadsheet as a whole, it provides the Commissioners' current understanding of the whole liability for a particular chancel, and not just our element of it. In most cases therefore, the figure in the bottom right hand corner will be 100%.

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Church Commissioners
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July 2011



Copied by
E. G.
L.R. 1120

Record of Ascertainments.

COUNTY: York, North Riding

CHANCEL: Kilburn (St. Mary)

| | | | |
|--|-----|----|----|
| | £ | s. | d. |
| 1. The Tithe Redemption Commission have ascertained in relation to the chancel above mentioned, that the apportionable amount of rentcharge liability is | 720 | 3 | 8 |

2. The Commission have also ascertained in relation to the chancel above mentioned, that the residue mentioned in paragraph 1 (c) of Part I of the Seventh Schedule to the Act comprises two or more rentcharges and consists of:

(a) rentcharges in respect of which stock is to be issued under the Act and which were not vested immediately before the second day of October, 1936, for an interest in fee simple in possession in any of the corporations or bodies mentioned in the proviso to sub-section (2) of Section 31 of the Act, amounting in all to

NIL

(b) certain rentcharges in respect of which stock is to be issued under the Act and which were vested immediately before the second day of October, 1936, for an interest in fee simple in possession in the corporations or bodies following (being among those mentioned in the proviso to sub-section (2) of Section 31 of the Act) to the aggregate amounts mentioned opposite the name of each:

225 13 9

If there are any values in the A or B tithe columns there is **NO** action needed by the PCC. In the majority of cases this liability will be the responsibility of the Church Commissioners or the Dean & Chapter and no registration of liability is needed under the Land Registration Act 2002.

(c) certain rentcharges specified in the First Schedule hereto and so vested between the twenty-sixth day of February, 1936, and the second day of October, 1936, as to render the provisions of Section 21 of the Act applicable thereto, amounting in all to

NIL

(d) certain rentcharges specified in the Second Schedule hereto and merged or extinguished under the Tithe Acts, 1836 to 1925, in land to which the provisions of Section 1 of the Tithe Act, 1839, apply, amounting in all to

494 9 11

| | | | |
|---|-----|---|---|
| £ | 720 | 3 | 8 |
|---|-----|---|---|

3. In respect of each tithe rentcharge mentioned in paragraph 2 hereof, the Commission have ascertained that the appropriate proportion of the liability for the repair of the above chancel is 1/172844 for a tithe rentcharge of 1d. (par value) and proportionately for any other amounts.

If there are any values in the C and/or D tithe columns there is action required by the PCC! This liability is affected by the Land Registration Act 2002, and should be registered with the Land Registry before 13 October 2013. This is to ensure that the PCC continues to have the ability to enforce this element of the liability.

been hereunto
hundred and

CHANCEL

Example St Example - 12345
29.42%

| L | S | D | | % |
|--------|-----|---|--------|-----|
| 240 | 12 | 1 | | |
| 500 | 10 | 5 | 120125 | 100 |
| 120000 | 120 | 5 | | |

The CC are liable for these.

Commissioners

- A
- B
- C
- D Sold with exoneration (FFI)

| | | | | |
|----------------------------|-----|---|--------------|-------|
| 0 | 0 | 0 | 0 | 0.00 |
| 0 | 0 | 0 | | |
| 53 | 8 | 0 | 12816 | 10.67 |
| 12720 | 96 | 0 | | |
| 51 | 7 | 3 | 12327 | 10.26 |
| 12240 | 84 | 3 | | |
| 42 | 10 | 0 | 10200 | 8.49 |
| 10080 | 120 | 0 | | |
| TOTAL COMMISSIONERS | | | 29.42 | |

The CC are not liable for these.

- A tithe discharged from liability
- B tithe QAB pp incumbent
- C tithe/land merged in non-CC land
- D tithe/land merged in non-CC land

| | | | | |
|-------|-----|---|-------|-------|
| 150 | 7 | 0 | 36084 | 30.04 |
| 36000 | 84 | 0 | | |
| 101 | 9 | 0 | 24348 | 20.27 |
| 24240 | 108 | 0 | | |
| 101 | 5 | 0 | 24300 | 20.23 |
| 24240 | 60 | 0 | | |
| 0 | 4 | 3 | 51 | 0.04 |
| 0 | 48 | 3 | | |

The PCC should undertake research to register CRL on this land under the Land Registration Act 2002 by 2013.

Total **120126 100.00**

IMPORTANT NOTE
 PCC action needed by 2013.
 Compensation may have been paid to DBF in respect of A tithe being discharged.
 QAB pp incumbent B tithe transferred to PCC in 1978 via section 39 of Endowments and Glebe Measure 1976.
 Some C tithe/land merged in land belonging to the Commissioners
 Some D tithe/land sold with exoneration on a Free From Incumbrances (FFI) basis.
 Some C and D tithe merged in land not belonging to the Commissioners.

| | | |
|--------------------|-----|-----------------|
| Schedule updated? | yes | (if applicable) |
| Computer updated? | yes | |
| Documents scanned? | yes | |
| Excel scanned? | yes | |

These notes are a summary of the detailed research undertaken by the Chancel Research Team at the Church Commissioners to aid PCCs with their own research to register chancel repair liability to the Land Registry.