

1960 No 2440

TITHES, ENGLAND

**Tithe (Copies of Instruments of
Apportionment) Rules 1960**

Made

22nd December, 1960

Coming into Operation

16th January, 1961

I, Raymond, Baron Evershed, Master of the Rolls, in exercise of the powers conferred upon me by subsection (2) of section 36 of the Tithe Act, 1936(a), hereby make the following Rules:—

1—(1) In these Rules:—

“diocesan copy” means the sealed copy of an instrument of apportionment (including the relative map) made pursuant to the Tithe Acts and originally deposited in the registry of a diocese;

“parish copy” means the sealed copy of an instrument of apportionment (including the relative map) made pursuant to the Tithe Acts and originally deposited with the incumbent and church or chapel wardens of a parish or such other fit persons as are referred to in section 64 of the Tithe Act 1836;

“record repository” means the Public Record Office, any local authority, public library, museum or historical or antiquarian society to which any diocesan or parish copy may be transferred pursuant to any direction given by the Master of the Rolls by virtue of subsection (2) of section 36 of the Tithe Act 1936 or that Subsection as applied by Section 7(1) of the Local Government (Records) Act 1962;

“governing body” means, in the case of a public library or museum maintained by the council of a county, county borough or county district, the council of such county, county borough or county district, and in any other case, the governing body of any public library, museum or historical or antiquarian society;

“statutory custodian”, in relation to any diocesan or parish copy, means the person entitled to the custody of that copy under the Tithe Acts or the Welsh Church Act 1914, including the National Library of Wales in relation to copies lodged therein pursuant to subsection (3) of section 29 of the said Act of 1914, but does not include the Public Record Office, any local authority or the governing body of any public library, museum or historical or antiquarian society to which the copy has been transferred pursuant to any direction given by these Rules or otherwise by the Master of the Rolls by virtue of subsection (2) of section 36 of the Tithe Act 1936 or that

subsection as applied by section 7(1) of the Local Government (Records) Act 1962;

“Tithe Acts” means the Tithe Acts 1836 to 1951.

(2) The Interpretation Act 1889 shall apply to the interpretation of these Rules as it applies to the interpretation of an Act of Parliament.

2. Any person, not being a governing body of a record repository, who has in his possession or under his control any diocesan or parish copy (other than a parish copy deposited in his custody pursuant to a direction given under subsection (2) of section 281 of the Local Government Act 1933, or any enactment repealed by that Act) of which he is not the statutory custodian, shall forthwith transfer that copy either to the statutory custodian or, in a case to which the next following Rule applies, to a record repository; and the statutory custodian or the governing body of the record repository, as the case may be, shall inform the Secretary of the Historical Manuscripts Commission of the transfer.

3 If the statutory custodian of a diocesan or parish copy is not in a position to preserve that copy in a place of safety which is convenient for inspection by members of the public, he shall transfer it to a record repository, provided that—

(a) if the record repository does not lie within the county or diocese which comprises the district to which the copy relates, the Master of the Rolls has given his consent, and

(b) in the case, the governing body of the record repository is willing to receive the copy;

and the governing body shall inform the Secretary of the Historical Manuscripts Commission of the transfer.

4 Where the governing body of a record repository is unwilling to receive a diocesan or parish copy in accordance with the foregoing rule, the statutory custodian shall inform the Secretary of the Historical Manuscripts Commission of the reasons given, if any, for the governing body’s refusal and of any proposals for the transfer of the copy to another record repository; and the Secretary of the Historical Manuscripts Commission shall inform him what action, if any, the Master of the Rolls directs him to take.

5 Where the statutory custodian of a diocesan or parish copy receives notice from the Master of the Rolls that he has it in mind to direct the transfer of that copy to a record repository, the statutory custodian may within 28 days submit his objections in writing.

6 All diocesan or parish copies shall be kept and used under conditions suitable for their safe and proper preservation and shall be available, subject to the provisions of section 64 of the Tithe Act 1836 as to the payment of fees by interested persons, to be inspected and copied by any person appearing to be entitled to do so or appearing to require them for historical research.

7 No diocesan or parish copy may be removed outside England and Wales without the consent of the Master of the Rolls.

8 These Rules shall not apply to instruments of altered apportionment relating to corn rents.

9 The Tithe (Copies of Instruments of Apportionment) Rules 1946, and the Tithe (Copies of Instruments of Apportionment) (Amendment) Rules 1947, are hereby revoked.

10 These Rules may be cited as the Tithe (Copies of Instruments of Apportionment) Rules 1960 and shall come into force on the sixteenth day of January, 1961.

EXPLANATORY NOTE

(This Note is not part of the Rules, but is intended to indicate their general purport.)

These Rules, which replace the Tithe (Copies of Instruments of Apportionment) Rules, 1946 and 1947, make provision for public access to and the preservation of sealed copies of instruments of tithe apportionment and lay down the functions of the Historical Manuscripts Commission in relation to such copies.