



Isle of Man

Ellan Vannin

AT 1 of 1704

ACT OF SETTLEMENT 1704



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<i>Received Royal Assent:</i>	<i>Date unknown</i>
<i>Passed:</i>	<i>Date unknown</i>
<i>Commenced:</i>	<i>Date unknown</i>

AN ACT for the perfect Settling and Confirmation of the Estates, Tenures, Fines, Rents, Suits, and Services of the Tennants of the Right Honourable James Earl of Derby, within his Isle of Man.

[Short title given by Pre-Revestment Written Laws (Ascertainment) Act 1978 Sch.]

[Whole Act confirmed by Pre-Revestment Written Laws (Ascertainment) Act 1978 Sch.]

Recital

Proposition to James Earl of Derby by Commissioners

Whereas severall Disputes, Questions, and Differences have heretofore arisen and been contested between the Lords of the said Isle and their Tennants, touching their Estates, Tenures, Fines, Rents, Suites, and Services, to the great Prejudice of the Lords, and Impoverishment of the Tennants and people there, who by that Means have been discouraged from making such Improvements as their Estates were and are capable of; for the absolute and perpetual ascertaining whereof, and the avoiding all Ambiguitys, Doubts, and Questions that may or might at any Time hereafter arise or grow touching or concerning the same, Proposals were made unto the said James Earl of Derby, now Lord of the said Isle, at Lathome, the 8th Day of September last past, by Ewan Christian, of Unerigg, in the County of Cumberland, Esquire, John Stevenson of Balladoole, and Ewan Christian of Lewaige within the said Isle, Gentlemen, who by an Instrument under the Hands of the 24 Keyes now remaining upon Record, were impowered to treat concerning the same, as well for and on the Behalf of themselves as all and every the Tennants within the said Isle, in Manner following:

1 Fines to be paid on Confirmation of Tenures

First, That in case his Lordship would be pleased to declare and confirm unto his Tennants their antient customary Estates of Inheritance in their respective Tenements, descendable from Ancestor to Heir according to the Laws and Customes of the said Isle, that then the said Tennants should in consideration thereof advance and pay unto his said Lordship the same Fines which they severally and respectively paid for their several and respective Tenements at the

Generall Fining, which was in or about the Year of our Lord one thousand six hundred forty and three; except where any Tennant or Tennants have or hath one or more Life or Lives in being, and that then and in such Case he or they should severally and respectively pay Two-thirds only of the said generall Fine for their respective Tenements.

2 Fines to be paid on Alienation

Intacks, Cottages, and Milns, chargeable with Debts, and devisable by Will, etc

Secondly, That upon the change of any Tennant by Death or Alienation, the next and succeeding Heir or Alienee should pay unto the Lord of the said Isle for the Time being, the third Part of the said intire Sum which was paid for a Fine at the said Generall Fining in Manner following; that is to say, in case of the change of a Tennant by Death, then the said Fine should be paid within twelve Months after the Death of such Tennant; and in case of the change or removal of a Tennant by Alienation, then the same should be paid immediately after such Alienation made, proportionably to the Lands and Tenements which should descend or be aliened, and this to continue for ever hereafter as a fixed and certain Fine upon every Descent and Alienation; provided nevertheless, that all Intacks, Cottages, and Milnes, which by the Laws and Customes of the said Isle were and are reputed Chattels, might be chargeable with Debts, and devisable by Gift, Grant, Will, or Assignment, as formerly accustomed, paying such Fines respectively as were paid at the General Fining afforesaid, to wit, the whole Fine where there were no Lives in being, and two Parts thereof only where there were, and still are one or two Lives in being, and a third Part of the said Generall Fine for ever hereafter upon every Descent or alienation as afforesaid.

3 Abbey Tenants included in Proposals

Reserving ancient Duties, etc

Thirdly, That the Tennants of the Abbey Lands, as well as the Lord's Tennants, should be included in the said Proposals, they and every one of them paying the same Fines that were agreed for upon their late Compositions or Leases made in or about the Year of our Lord one thousand six hundred sixty and six, (except such as have one or more Life or Lives yet in being to pay two Parts only of the said Fine now, and a third Part thereof always afterwards, upon the Admittance of any new Tennant, either upon Death or Alienation, as afforesaid:) and also yielding, paying, performing, and doing the annuall Rents, Customes, Suites, and Servises as formerly and anciently accustomed: And that the Tythes arising out of the Abbey Demeasnes, and reserved by James late Earle of Derby upon the Compositions by him made in the Year one thousand six hundred fourty and three, and afterwards by Charles late Earle of Derby, granted to Bishop Barrow (since deceased) and his Successors for the Use of the Clergy of the said Isle, should be reserved and for ever hereafter payable to them.

4 Double Rents of Quarterlands reserved

Fourthly, That the double Rents of the Quarterlands as they were then payable, together with all other Rents, Suites, and Servises, payable out of those, or any other Estates within the said Isle, should be reserved and payable for ever hereafter as formerly to the said James Earle of Derby, his Heirs and Assignes, or to such other Person or Persons as for the Time being should be Lord of the said Isle; and that the antient Boons and Carriages payable by the respective Tennants should be considered at a Tynwald Court.

5 What shall be counted an Alienation**Mortgagee to be entered as Tenant after five Years and Alienation Fine paid**

Fifthly, That if any Tennant should then after pass away any Part of his Estate, either to any of his Children, or other Person whatsoever, by Gift, Grant, Assignment, or any other Deed or Contract whatsoever, whereby to divest himself of the Premises, that the same should be esteemed and accounted as an Alienation within the Intendment of the said Proposals;

Or if any Tennant who then had mortgaged, or should thenceafter mortgage, all or any Part of his Messuages, Lands, Tenements, Milns, Cottages, Intacks, or other Hereditaments, unto any Person, and should not actually redeem the same to his own proper Use within the Space of five Years next after the Commencement of the said Mortgage, that then such Mortgage should be likewise looked upon and reputed as an Alienation, and the Mortgagee should be admitted Tennant, and his name entered into the Court Rolls, and should pay the third Part of the general Fine charged and chargeable upon the said Messuages, Lands, Tenements, Milns, Cottages, Intacks, and Hereditaments, so mortgaged or to be mortgaged as afforesaid:¹

6 and 7 [Repealed]²**8 Intacks and Cottages taken from Highways, not included in Proposals**

Eightly, And that all such Intacks and Cottages as had been taken out of the Highways adjoining to the Quarterlands, or other Estates, but not belonging to the same, should not, nor were not, intended to be included in the said Proposals; but that such Intacks and Cottages (being complained of as great Nusances) should be referred to the consideration of a Tynwald Court to determine where the Rents and Fines of and for such Intacks and Cottages might most conveniently be fixed.

9 Special Proposal for Estate of Loughmollo and Dry Close

Ninthly, That whereas the Fine lately paid out of the Estate called Loughmollo and dry Closes was not comprized in the Generall Fining in the said Year one thousand six hundred fourty and three, the same being since that Time leased by the Right Honourable Charles late Earl of Derby; it was therefore (upon

special consideration had) proposed, that the said Estate should only pay one hundred and twenty Pounds for the present Fine; but if any of the Lives nominated in the last Lease made thereof by the said late Earl Charles should be found to be still in being, then only two third Parts of the said one hundred and twenty Pounds should be paid as a present Fine, and a third Part of the said one hundred and twenty Pounds should for ever hereafter be paid as a fixed and certain Fine upon the Change of any Tennant by Death, Alienation, or Mortgage as afforesaid.

10 Fines to be paid in currency of Isle

Tenthly, That the present Fines should be accepted and received according to the Currency of Money then within the said Isle, and that one third Part thereof should be paid within six Months next after the passing of this Act, another third Part should be paid at the end of twelve Months now next ensuing, and the last Payment to be made within six Months then next following; so that the whole should be paid within eighteen Months next after the passing of this Act.

11 Ancient Rents preserved

New Tenant to give Notice to Setting Quest before next Sheading Court

Tenant refusing or neglecting to enter his Name, fined £3

Eleventhly, That the antient Rents (except only of such Lands as were then in the Lord's Hands) should for the future be preserved by the Setting Quest and that the Tennants Names should be entered in the Court Rolls as formerly; and that when any Tennant should come to any Estate by Death, Alienation, or Mortgage, such Tennant should be obliged to give Notice thereof to the Setting Quest of the Parish where such Estate lay some Time before the next Sheading Court that should be holden after he became Tennant to the said Estate, to the Intent that the said Enquest might present the said Tennant's Name to the Court, (which they should upon Oath be obliged to do at every Sheading Court as oft as any such should happen,) to the End that such Tennant's Name might be entered upon Record either by himself, or some other Person in his Behalf, whereby the Lord's Fines might be had and received at such Time and in such Manner as are hereinbefore for that Purpose limited and appointed, without Fraud or Concealment; and if the said Tennant should refuse or faile to have his Name entered accordingly at the said Court, that then such Tennant so refusing or neglecting should be fined in three Pounds to the Lord for the Time being; and that upon the Change of any Tennant by Death, Alienation, or Mortgage, one single Person, and no more, should be admitted, unless he became Tennant in the Right of his Wife, and not otherwise.

12 Proposals to be passed into a Law

Lord's Royalties and Rights reserved

Commissioners appointed by Earl Derby

Proposals agreed to

And lastly, That all the before-mentioned Proposals, and every Matter and Thing therein contained, should forthwith be passed into a Law, and confirmed by the Authority of a Tynwald Court, (saving always to the Lord all such Royaltys and Regalities in and concerning the Premises as were invested by his Lordship by virtue of his Prerogatives within the said Isle;) and the said James Earl of Derby, out of his great Zeal and Care for the Welfare and Quiet of his People, and to the End that such an Establishment might be treated and agreed upon as might compleat and for ever confirm a constant mutual Love and Friendship between the Lords of the said Isle and their People, did nominate and appoint the afforenamed Robert Mawdesley, Thomas Lord Bishop of Sodor and Mann, and Nicholas Starkie, Esquire, Commissioners, to treat and consult with the said Ewan Christian, John Stevenson, and Ewan Christian of Lewaige, concerning the said Proposals, which were consented and agreed unto by all Partys commissioned for that Purpose, as in and by the said Proposals, inrolled and remaining on Record in the Comptroller's Office within the said Isle, more at large it doth and may appear: And the said Right Honourable James Earl of Derby, and all and singular the Tennants and Inhabitants within the said Isle, and Members of the same, are contented and well pleased that the said Proposals, and all Things therein contained, should be ratified and confirmed by an Act of Tynwald Court:

13 Enactment

May it therefore please your Lordship that it may be enacted, and be it enacted by the said James Earl of Derby, now Lord of the said Isle, (by and with the Advice and Consent of the said Governor, and the rest of his said Lordship's Officers, and by the twenty-four Keyes, in this present Tynwald Court assembled, and by the Authority of the same,) That the said Proposals, and every Clause, Article, Sentence, Matter, and Thing in the same contained, shall stand and be ratified, allowed, approved off, and confirmed by the Authority of this present Tynwald Court; and that the said Proposals shall stand and be of force to bind and conclude as well as the said James Earl of Derby, his Heirs and Assignes, and all Persons claiming or to claime, from, by, or under him or them, or to his Use, or in Trust for him, as the said Ewan Christian, John Stevenson, and Ewan Christian of Lewaige, and all and singular other the Tennants and Inhabitants within the said Isle, their and every of their Heirs and Assigns, and all Persons claiming, or to claime, from, by, or under them, or any of them, or to or for their Use, or in Trust for them, or any of them, in all Things, according to the Purport, Effect, and true Meaning of the said Proposals; and that every Clause, Article, Sentence, Matter, and Thing in the said Proposals contained, shall for ever hereafter stand, be, and remain, and be adjudged and taken to be of such and the same Force and Effect to all Intents and Purposes as if the said Proposals, and every Clause, Article, Sentence, Matter, and Thing therein contained, were especially and particularly herein again expressed and repeated, and by the authority of this present Court enacted.

14 Estates to be considered of Inheritance, descendable to Heir, except Chattels

And be it further enacted, ordained, and declared by the Authority aforesaid, That all Estates made or to be made of any Messuages, Lands, Tenements, and Hereditaments within the said Isle, or Members of the same, to any Person or Persons, and his and their Heirs, shall be, and shall be adjudged, esteemed, and taken, from the making or granting of such Estates, to be good and perfect customary Estates of Inheritance, descendable from Ancestor to Heir according to the Laws and Customs of the said Isle, (except such as are reputed Chattels as is before mentioned;) and that all and every such Person and Persons to whom any such customary Lands, Tenements, or Hereditaments are or shall be granted to him and his Heirs according to the Laws and Customs of the said Isle, shall be, and shall be adjudged, esteemed, and taken, and are hereby declared to be seized thereof as of good and perfect customary Estates of Inheritance to them and their Heirs, descendable from Ancestor to Heir according to the Customes of the said Isle.

15 Clause for peaceable enjoyment

Performance of Services, and payment of Rents, etc.

And that all and every the said Tennants of and within the said Isle, and Members of the same, as well all Tennants in Possession as in Reversion and Remainder, particularly or generally named, mentioned, or intended to be Partys to the said Proposals, and not thereby excluded, their and every of their respective Heirs and Assignes, shall and may from henceforth for ever quietly and peaceably have, hold, and enjoy all their several and respective Messuages, Lands, Tenements and Hereditaments, with their and every of their Appurtenances, to them and their Heirs severally and respectively, as customary Tennants of and within the said Isle, against the said James Earl of Derby, his Heires and Assignes, and against all and every other Person or Persons claiming, or to claime, from, by, or under him, them, or any of them, all and singular the Tennants within the said Isle, and Members of the same, their Heirs and Assignes, and all and every other Person and Persons claiming, or to claime, from, by, or under them, or any of them, respectively and severally yielding, paying, performing, and doing unto the said James Earl of Derby, his Heires and Assignes, and all and every other the Lords of the said Isle for the Time being, such yearly Rents, Boons, Suites, and Services, as herein-before are mentioned, and which now are or heretofore have been usually paid and performed; and also paying unto the said James Earl of Derby, his Heirs and Assignes, such generall and other Fines certaine, as in the said Proposals are also for that Purpose particularly mentioned and expressed:

16 Royalties reserved

Saving always unto the said James Earl of Derby, his Heirs and Assigns, and unto all and every other Person and Persons that shall at any Time hereafter

become Lords of the said Isle, all such Royaltys, Regalia, Prerogatives, Homages, Fealtys, Escheats, Forfeitures, Seizures, Franchises, Libertys, Priviledges, and Jurisdictions whatsoever, as now are or at any Time heretofore have been invested in the said James Earl of Derby, or in any of his Ancestors Lords of the said Isle; and saving nevertheless to all and every Person and Persons, Bodys Politick and Corporate, their Heirs and successors, (other than the said James Earl of Derby, his Heires and Assignes,) all such Actions, Estate, Right, Title, Interest, Use, Trust, Claime, and Demand whatsoever, in Law or Equity, as they or any of them have, may, should, or ought to have, of, in, to, or out of the said Isle, or any Part thereof, (and in such Sort and Manner as if this Act had never been made):³

17 Accustomed Rents, Boons, Suits and Services to be paid to Lord

Provided that such Person or Persons, their Heirs, Executors, and Administrators, do yield, pay, perform, and do unto the said James Earl of Derby, his Heyrs and Assigns, and to all and every other the Lords of the said Isle for the time being, the severall yearly Rents, Boons, Suits, and Services, that have been accustomedly and usually paid for the Estates which they, or any of them, shall or may make any Claime or Title, and do also pay unto the said Lord and Lords of the said Isle for the Time being all such Fines certain for the same, and in such Manner and Form as in the said Proposals are particularly mentioned and agreed unto, and not otherwise:

18 Reservations not to prejudice Tenures, etc

And it is further provided, that nothing of the said Saving shall impeach, or be prejudiciall to, or be construed or taken to impeach or be prejudicial to the Settlement of the Nature and Quality of the Estates, Tenures, Fines, Rents, Suits, and Servises, which hereby and by the said Proposals are agreed upon and intended to be enacted, granted, and confirmed, any Thing in the said Saving to the contrary notwithstanding.

19 Note referring to the original manuscript

Note, The words (Law or) interlined in the 31st Line in the first Sheet, and the Word (named) in the third Line in this Sheet, and the Words (or be construed or taken to impeach or be prejudicial to) in the nineteenth Line, were inserted before the Signed hereof.

20 This Act not to dispense with Tenant's Services in Time of War

Note further, That it is agreed and consented unto by the Governor, Officers, and twenty-four Keyes aforesaid, at the Signing hereof, that this Act shall be no way construed and taken to free and discharge the Tennants and Inhabitants of this Isle from giving their best Assistance or Supply for the Defence of the Isle in Time of Warr, or imminent Danger, in such Manner as shall be agreed upon by

the Governor, Officers, and twenty-four Keyes of the Island for the Time being, as Occasion and Necessity will require.

ACCEPTANCE BY EARL DERBY

I do hereby declare my full and free consent to this Act of Settlement, saving and except so much thereof as relates to the Tythes arising out of the Abbey Demeasnes therein mentioned, to be sold by Charles late Earl of Derby to Bishop Barrow, and the several Rectorys of Kirk Christ Lezayre, Kirk Marown, Kirk Lonnan, Kirk Conchan, Kirk Malew, Kirk Maughold, Kirk Arborey, Kirk Christ Rushen, Kirk Michael, and Kirk Santan, with their and every of their Appurtenances, and all Tenths and Tythes renewing, growing, within or belonging to the said Rectorys, and all Oblations, Obventions, Pentions, Rights, and Dutys thereunto belonging or appertaining, which were by Indenture bearing Date the first Day of November one thousand six hundred sixty-six, made between the said Charles Earl of Derby of the one Part, and Issac Lord Bishop of Sodor and Mann, and Jonathan Fletcher, Archdeacon of the said Isle, of the other Part, granted, bargained, and sold to the said Bishop and Archdeacon, their Executors and Assignes, for ten thousand Yeares, at the severall yearly Rents, and upon the Trusts therein mentioned, and such Estate, Right, Title, Interest, Claime, and Demand, as I have, or may or can claime or demand of, into, or out of the same, as if this Act had never been made or passed: And I do hereby confirm this Act (save and except as afforesaid) according to my undoubted Prerogative within the said Isle, and require that the said Act be published at the next Tynwald Court in usual Manner.*

DERBY

**[Published 6/6/1704]*



ENDNOTES**Table of Legislation History**

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

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- ¹ S 5 amended by Mortgages Act 1835 s 1 and by Registration of Deeds Act 1847 s 1.
² Ss 6 and 7 repealed by Governor's General Functions (Transfer) Act 1980 Sch 2.
³ S 16 amended by Minerals Act 1986 Sch 3.