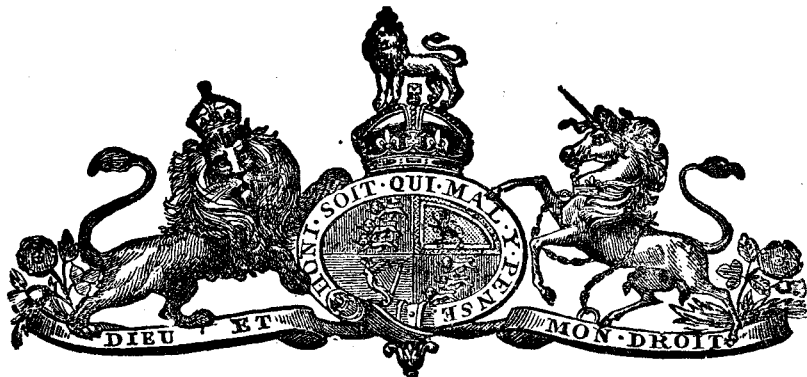


TASMANIA.



1921.

ANNO DUODECIMO
 GEORGII V. REGIS.
 No. 50.

ANALYSIS.

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| <ol style="list-style-type: none"> 1. Short title. 2. Repeal of 7 Geo. V. No. 30. 3. Amendment of Section 6 of Principal Act. 4. Repeal of Section 7 of Principal Act, and substitution of new section. 5. Repeal of Section 9 of Principal Act, and substitution of new section. 6. Time for payment of duty. Commissioner may extend time. Penalty for non-payment. Recovery of duty. 7. Amendment of Section 16 of Principal Act.
Joint interests.
Sale on nominal consideration.
Sale on annual payments. | <p>Policies.</p> <ol style="list-style-type: none"> 8. Amendment of Section 22 of Principal Act. 9. Repeal and re-enactment of Section 37 of Principal Act. 10. Repeal of Section 42 of Principal Act, and substitution of new section.
Pending appeal not to delay payment of duty. 11. Repeal of Section 55 of Principal Act and substitution of new section. 12. Service of notices. 13. Retrospective operation. 14. Repeal of Schedule (2) of Principal Act, and substitution of new schedule. |
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AN ACT to amend "The Deceased Persons' Estates Duties Act, 1915." A.D. 1921.

[30 January, 1922.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as "The Deceased Persons' Estates Duties Act, 1921." Short title.

(2) "The Deceased Persons' Estates Duties Act, 1915," is herein after referred to as "the Principal Act." 6 Geo. V. No. 66.

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Repeal of 7 Geo.
V. No. 30.Amendment of
Section 6 of
Principal Act.Repeal of Section
7 of Principal
Act, and substi-
tution of new
section.Cf. (Com.) No.
22 of 1914, s. 32.Repeal of Section
9 of Principal
Act, and substi-
tution of new
section.

57 Vic. No. 4.

Time for payment
of duty.
Cf. (Com.) No.
22 of 1914, s. 29.

2 "The Deceased Persons' Estates Duties Act, 1916," is hereby repealed.

3 Section Six of the Principal Act is hereby amended by deleting therefrom the words "had a general power of appointment exercised by his will" where the same occur in Paragraphs I., II., and III., and substituting therefor in each instance the words "exercised a general power of appointment."

4 Section Seven of the Principal Act is hereby repealed, and the following new section substituted therefor :—

"**7** The duty assessed under this Act shall be deemed when payable to be a debt due to His Majesty, and payable to the Commissioner as prescribed, and shall be a first charge upon the estate of the person in consequence of whose death it becomes payable in priority to all other liabilities except the funeral and testamentary expenses of such person."

5 Section Nine of the Principal Act is hereby repealed, and the following new Section Nine substituted therefor :—

"**9**—(1) Save as hereinafter provided if any person takes possession of any part of the estate of a deceased person in respect of which duty is payable under this Act, and in any way administers the same without paying all duty payable under this Act in respect of such estate within Six months after the death of such deceased person, he shall forfeit and pay by way of penalty such sum not exceeding Ten Pounds per centum of the amount of duty payable in respect of such estate as the Commissioner may impose.

"(2) In any case in which any suit or dispute respecting the will or the right to letters of administration in such estate shall not be determined within Four months after the death of such deceased person, the duty may be paid without penalty within Two months after the determination of such suit or dispute.

"(3) In any case where an estate is dealt with under the provisions of 'The Probate (Foreign) Act, 1893,' the time for payment of duty shall be extended to Nine months.

"(4) Upon application within the times hereinbefore limited respectively the Commissioner may extend the time for payment of duty without penalty.

"(5) All penalties under this section may be recovered summarily before any Two justices or by action of debt in any court of competent jurisdiction, and if the person from whom any such penalty is recoverable is entitled to probate or letters of administration in respect of such estate such penalty shall be added to and form part of the duty payable under this Act."

6 After Section Thirteen of the Principal Act the following new Section **13a** is hereby inserted :—

"**13a**—(1) All duties assessed under this Act shall be payable within Thirty days after service of a notice of assessment.

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“(2) If the Commissioner is satisfied that the duty cannot be paid within such Thirty days, he may, upon obtaining sufficient security for payment thereof—

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Commissioner
may extend time.
Ib., s. 30.

- i. Extend the time for payment as he considers the circumstances warrant : and
- ii. Permit payment of duty by instalments—

Provided that the whole of the duty payable shall be paid within One year.

“(3) If the duty is not paid within the time or extended time (as the case may be) prescribed by this section, additional duty amounting to One-tenth of the duty unpaid, shall be payable.

Penalty for non-
payment.
Ib., s. 31.

“(4) Any unpaid duty or additional duty, may be recovered by the Commissioner in any court of competent jurisdiction.”

Recovery of duty
Ib., s. 33.

7 Section Sixteen of the Principal Act is hereby amended—

Amendment of
Section 16 of
Principal Act.

- i. By expunging division (*d*) of Paragraph 1. of Subsection (1) and substituting the following new division (*a*) therefor—

“(d) Held by any person so dying as a joint tenant or joint owner with any other person to the extent of the interest accruing to such other person by survivorship, and any such estate shall be assessed and shall be liable to duty only in proportion to the amount (if any) paid, or the property (if any) contributed, or transferred, by the person so dying in or towards the purchase, investment, or settlement upon which such joint tenancy or ownership was created.”

Joint interests.

- i. By expunging division (*g*), and inserting after division (*f*) of Paragraph 1. of Subsection (1) the following new divisions (*g*) and (*h*) :—

“(g) Passing under any conveyance, or any instrument in exercise of a general power of appointment, which any person so dying has made within Three years next preceding his death upon any consideration (other than marriage) which is less by One-third than the *bonâ fide* saleable value at the time of the making of such conveyance or instrument of the property so passing, to the extent to which such value exceeds such consideration ;

Sale on nominal
consideration.

“(h) Passing under any conveyance made by any person so dying within Three years before his death in consideration of annual or other periodical payments to be made to or for such person, and terminating at his death, and less by One-third than the annuity which the person so dying could reasonably expect to

Sale on annual
payments.

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purchase for the amount of the assessed value of the estate, if realty or the market value, if personalty, (such value to be taken at the time such conveyance was made) to the extent to which the payments made to or for such person in respect thereof are less in the aggregate than such value as aforesaid."

Policies.

III. By inserting after Paragraph III. of Subsection (1), the following new Paragraph IV. :—

" IV. All moneys payable upon the death of any person so dying in respect of any policy of insurance effected by him, and kept in force wholly or partially by him and assigned by him by way of gift. Provided that if such person has paid portion only of the premiums in respect of such policy, the amount to be charged with duty shall bear the same proportion to the total moneys payable under such policy as the premiums paid by such person bear to the total premiums paid in respect of such policy :"

IV. By expunging Subsection (3) thereof.

Amendment of Section 22 of Principal Act.

8 Section Twenty-two of the Principal Act is hereby amended by deleting the word "such," at the end of the Fourth line, and the whole of the Fifth and Sixth lines thereof.

Repeal and re-enactment of Section 37 of the Principal Act. Cf. (Com.), No. 52 of 1914, s. 20.

9 Section Thirty-seven of the Principal Act is hereby repealed, and the following New Section Thirty-seven substituted therefor :—

" **37**—(1) The Commissioner may at any time, within Three years after probate has been granted, make all such alterations in or additions to the assessment as he thinks necessary in order to insure its completeness and accuracy.

" (2) Every alteration or addition which has the effect of imposing any fresh liability, or increasing any existing liability, shall be notified to the person affected, and unless made with his consent shall be subject to appeal.

" (3) Such person shall only be liable for such additional or increased duty to the extent of any property then under his control or which can be applied by him for payment of such duty, unless it is owing to any fraud or gross negligence on his part that the proper amount of duty was not paid in the First instance, in which case he shall be personally liable for the additional or increased duty.

" (4) If the alteration of any assessment made by the Commissioner under this Section has the effect of reducing the duty payable on the estate, the Commissioner shall refund the duty which has been paid in excess of the amount payable on the altered assessment."

Deceased Persons' Estates Duties.

10 Section Forty-two of the Principal Act is hereby repealed and the following New Section Forty-two substituted therefor :—

“**42**—(1) Any person by whom any duty is payable under this Act who is dissatisfied with the assessment made by the Commissioner under this Act may within Thirty days after service of the notice of assessment or such further time not exceeding Thirty days as the Commissioner may allow, lodge an objection in writing with the Commissioner against the assessment, stating fully the reasons for the objection.

“(2) The Commissioner shall consider the objection, and may either disallow it or allow it wholly or in part.

“(3) The Commissioner shall give to the objector written notice of his decision on the objection.

“(4) Any person who is dissatisfied with the decision of the Commissioner on his objection, may, within Thirty days after the receipt of notice of the decision of the Commissioner, appeal to the Supreme Court.

“(5) Notice of the appeal may be in the prescribed form, and a copy shall forthwith be served on the Commissioner.

“(6) If the assessment has been reduced by the Commissioner after considering the objection, the reduced assessment shall be the assessment appealed from.

“(7) The fact that an appeal is pending shall not in the meantime interfere with or affect the assessment appealed from, and the duty may be levied and recovered on the assessment as if no appeal were pending.

“(8) On the hearing of the appeal the Court may make such order as it thinks fit, and may either reduce or increase the assessment, and may make such order as to costs as it thinks fit, and the order of the Court shall be final and conclusive.

“(9) If the assessment is altered on appeal a due adjustment shall be made, for which purpose amounts paid in excess shall be refunded and amounts short paid shall be recoverable as unpaid duty.”

11 Section Fifty-five of the Principal Act is hereby repealed and the following new Section Fifty-five substituted therefor :—

“**55**—(1) Where duty has been paid under this Act in respect of property abroad of any person dying after the commencement of this Act, and it is shown to the satisfaction of the Commissioner that duty, other than duty under any Commonwealth Act, has been paid abroad in respect of such property in consequence of the death of the person so dying, the Commissioner shall refund to the person who shall have paid the duty under this Act an amount equal to the duty so paid abroad or to the duty so paid under this Act, whichever amount shall be the less.

“(2) In this section the expression ‘abroad’ shall mean ‘in any part of His Majesty’s dominions other than Tasmania.’”

A. D. 1921.

Repeal of Section 42 of Principal Act, and substitution of new section.
Cf. (Com.), No. 22 of 1914, s. 24.

Pending appeal not to delay payment of duty.

Ib., s. 26.

Repeal of Section 55 of Principal Act, and substitution of new section.

Deceased Persons' Estates Duties.

A.D. 1921.

Service of notices.
Vide 6 Ed. VII.
 No. 12, s. 39.

Retrospective
 operation.

Repeal of
 Schedule (2) of
 Principal Act,
 and substitution
 of new schedule.

12 All notices required by this Act to be given by the Commissioner to any person may be served personally or by post on such person, or delivered to any clerk or employee of such person, at his usual place of business, or to his proctor or solicitor.

13 The provisions of this Act shall apply to the estates of all persons who shall have died on or after the Tenth day of January, One thousand nine hundred and twenty-two.

14 Schedule (2) of the Principal Act is hereby repealed, and the following new schedule substituted therefor :—

“ (2)

“ PART I.

“ ASSESSMENT OF DUTY.

“ 1. Except as provided by Paragraph 3 of Part II. hereof the rate or rates of duty, as the case may be, payable in respect of any estate under this Act shall be based upon the aggregate value of such estate, and shall be in accordance with the scale in Part III., as applied by Part II., of this schedule.

“ 2. For the purpose of determining the rate of duty payable on the estate of any deceased person who at the time of his death was domiciled elsewhere than in Tasmania, the whole of his estate in Tasmania and his personal estate without Tasmania shall be aggregated.”

“ PART II

“ CLASSES OF BENEFICIARIES.

“ 1. Where property passes to a widow, widower, child (whether legitimate or illegitimate), descendant, or ancestor of the person upon whose death duty becomes chargeable, the duty in respect of that property shall be at the rate applicable to the aggregated estate of such person under Part III. hereof.

“ 2. Where property passes to a brother, or sister, or a child, or descendant of a brother or sister of the person upon whose death duty becomes chargeable, or to any other collateral relation, not beyond the third degree, of such person, the duty in respect of that property shall be at double the rate applicable to the aggregated estate of such person under Part III. hereof, but shall not in any case exceed Ten Pounds per centum.

“ 3. Where property passes to any person other than those enumerated in Paragraphs 1 and 2 hereof, the duty in respect of that property (whatever its value) shall be at the rate of Ten Pounds per centum.

Deceased Person's Estate Duties.

" PART III.

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" RATES OF DUTY.

" SCALE.

Where the Aggregate Value of the Estate, after deducting all Debts—		Duty in respect of every Part shall be Payable at the Rate Per Centum of—	
Exceeds	£ 500 and does not exceed	£ 1000	Two Pounds
Exceeds	1000 and does not exceed	2000	Two Pounds Ten Shillings
Exceeds	2000 and does not exceed	3000	Two Pounds Sixteen Shillings and Eightpence
Exceeds	3000 and does not exceed	4000	Three Pounds Three Shillings and Fourpence
Exceeds	4000 and does not exceed	5000	Three Pounds Ten Shillings
Exceeds	5000 and does not exceed	6000	Three Pounds Fifteen Shillings
Exceeds	6000 and does not exceed	8000	Four Pounds
Exceeds	8000 and does not exceed	10,000	Four Pounds Five Shillings
Exceeds	10,000 and does not exceed	12,000	Four Pounds Ten Shillings
Exceeds	12,000 and does not exceed	14,000	Four Pounds Fifteen Shillings
Exceeds	14,000 and does not exceed	16,000	Five Pounds
Exceeds	16,000 and does not exceed	18,000	Five Pounds Four Shillings
Exceeds	18,000 and does not exceed	20,000	Five Pounds Eight Shillings
Exceeds	20,000 and does not exceed	22,000	Five Pounds Twelve Shillings
Exceeds	22,000 and does not exceed	24,000	Five Pounds Sixteen Shillings
Exceeds	24,000 and does not exceed	26,000	Six Pounds
Exceeds	26,000 and does not exceed	28,000	Six Pounds Four Shillings
Exceeds	28,000 and does not exceed	30,000	Six Pounds Eight Shillings
Exceeds	30,000 and does not exceed	32,000	Six Pounds Twelve Shillings
Exceeds	32,000 and does not exceed	34,000	Six Pounds Sixteen Shillings
Exceeds	34,000 and does not exceed	36,000	Seven Pounds
Exceeds	36,000 and does not exceed	40,000	Seven Pounds Four Shillings
Exceeds	40,000 and does not exceed	44,000	Seven Pounds Eight Shillings
Exceeds	44,000 and does not exceed	48,000	Seven Pounds Twelve Shillings
Exceeds	48,000 and does not exceed	52,000	Seven Pounds Sixteen Shillings
Exceeds	52,000 and does not exceed	56,000	Eight Pounds
Exceeds	56,000 and does not exceed	60,000	Eight Pounds Four Shillings
Exceeds	60,000 and does not exceed	64,000	Eight Pounds Eight Shillings
Exceeds	64,000 and does not exceed	68,000	Eight Pounds Twelve Shillings
Exceeds	68,000 and does not exceed	72,000	Eight Pounds Sixteen Shillings
Exceeds	72,000 and does not exceed	76,000	Nine Pounds
Exceeds	76,000 and does not exceed	80,000	Nine Pounds Four Shillings
Exceeds	80,000 and does not exceed	84,000	Nine Pounds Eight Shillings
Exceeds	84,000 and does not exceed	88,000	Nine Pounds Twelve Shillings
Exceeds	88,000 and does not exceed	92,000	Nine Pounds Sixteen Shillings
Exceeds	92,000		Ten Pounds "

