

T A S M A N I A.



1865.

ANNO VICESIMO-NONO

VICTORIÆ REGINÆ,

No. 34.

AN ACT to impose Duties on Successions to Real and Personal Property in *Tasmania*.
[29 September, 1865.]

WHEREAS it is expedient to obtain a portion of the Public Revenue of this Colony from Duties on Successions to Real and Personal Property: Be it therefore 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:—

PREAMBLE.

1 In the construction and for the purposes of this Act the following terms in inverted commas shall, unless the context otherwise indicates, have the meaning and interpretation set against them respectively:—

Interpretation of terms used in this Act.

- “Real Property.” All freehold, leasehold, and other hereditaments and property whether corporeal or incorporeal:
- “Personal Property.” All moneys payable under any engagement, and all other property not comprised in the preceding definition of Real Property:
- “Property.” All real and personal property:
- “Succession.” Any property chargeable with Duty under this Act:
- “Trustee.” An Executor and an Administrator, and any person having or taking upon himself the administration of property affected by any express or implied trust:

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“Person” shall include a Body Corporate, Company, and Society :

“Commissioner” shall apply to the Commissioner or Commissioners of Succession Duties to be appointed as hereinafter mentioned.

What dispositions of Property shall confer Successions.

2 Every past or future disposition of property by reason whereof any person has or shall become beneficially entitled to any property or the income thereof upon the death of any person dying after the commencement of this Act, either immediately or after any interval, either certainly or contingently, and either originally or by way of substitutive limitation, and every devolution by law of any beneficial interest in property or the income thereof upon the death of any person dying after the commencement of this Act to any other person in possession or expectancy ; and every gift by will or testamentary instrument of any person which by virtue of any such will or testamentary instrument shall be payable or shall have effect or be satisfied out of the personal estate which such person shall have had power to dispose of by will, or which gift shall be payable, or shall have effect or be satisfied out of, or shall be charged or rendered a burden upon the real estate of such person, or any real estate which such person shall have had any right or power to charge, burden, or affect with the payment of money, or out of or upon any moneys to arise by the sale, mortgage, burden, or other disposition of any such real estate, whether such gift shall be by way of annuity or in any other form, and also every gift which shall have effect as a donation *mortis causâ* ; and the clear residue of the personal estate of every person dying after the commencement of this Act which shall remain after deducting his debts, funeral expenses, and all other charges and specific and pecuniary legacies, if any, upon such estate, and whether the person so dying shall die testate or intestate, and whether the title to such residue, or to any part thereof, shall accrue by virtue of any testamentary disposition, or upon intestacy, shall be deemed to have conferred or to confer on the person entitled by reason of any such disposition or devolution, gift, will, testamentary instrument, or intestacy a “Succession ;” and the term “Successor” shall denote the person so entitled ; and the term “Predecessor” shall denote the settlor, disponent, testator, obligor, ancestor, intestate, or other person from whom the interest of the successor is or shall be derived.

Definition of terms “Successor,” “Predecessor.”

Joint tenants taking by Survivorship to be deemed Successors.

3 Where any persons shall, at or after the commencement of this Act, have any Property vested in them jointly by any Title not conferring on them a Succession, any beneficial interest in such Property accruing to any of them by Survivorship shall be deemed to be a “Succession,” and every person to whom any such interest shall accrue shall be deemed to be the “Successor,” and the person upon whose death such accruer shall take place shall be deemed to be the “Predecessor ;” and where any persons after the commencement of this Act shall take any Succession jointly, they shall pay the Duty, if any, chargeable thereon by this Act in proportion to their respective interests in the Succession ; and any beneficial interest in such Succession accruing to any of them by Survivorship shall be deemed to be a new Succession derived from the Predecessor from whom the joint Title shall have been derived.

General powers of appointment to confer Successions.

4 Where any person shall have a general power of appointment over Property under any disposition of Property taking effect upon the death of any person dying after the commencement of this Act, he

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shall, in the event of his making any appointment thereunder, be deemed to be entitled at the time of his exercising such power to the Property or interest thereby appointed as a Succession derived from the donor of the power; and where any person shall have a limited power of appointment under a disposition taking effect upon any such death over Property, any person taking any Property by the exercise of such power shall be deemed to take the same as a Succession derived from the person creating the power as Predecessor.

5 Where any Property shall, at or after the commencement of this Act, be subject to any charge, estate, or interest determinable by the death of any person, or at any period ascertainable only by reference to death, the increase of benefit accruing to any person or persons upon the extinction or determination of such charge, estate, or interest shall be deemed to be a Succession accruing to the person or the persons, if more than one, then entitled beneficially to the property or income thereof, according* to his or their respective estate or interest therein or beneficial enjoyment thereof; and the person or persons from whom such Successor or Successors shall have derived Title to the Property so charged shall be deemed to be the Predecessor or Predecessors as the case may be.

Extinction of determinable charges to confer Successions.

6 Provided that no person entitled at the commencement of this Act to the immediate reversion in any Real Property expectant upon the determination of any lease for life, or for years determinable on life, shall be chargeable with duty in respect of such determination in the event of the same occurring in his lifetime.

Persons now beneficially entitled to Real Property subject to leases for life not liable to Duty.

7 Where any disposition of Property not being a *bonâ fide* sale, and not conferring an interest expectant on death on the person in whose favour the same shall be made, shall be accompanied by the reservation or assurance of or contract for any benefit to the Grantor or any other person for any term of life, or for any period ascertainable only by reference to death, such disposition shall be deemed to confer at the time appointed for the determination of such benefit an increase of beneficial interest in such Property as a Succession, equal in annual value to the yearly amount or yearly value of the benefit so reserved, assured, or contracted for, on the person in whose favour such disposition shall be made.

Dispositions accompanied by the reservation of a benefit to the Grantor, &c., to confer Successions.

8 Where any disposition of Property shall be made to take effect at a period ascertainable only by reference to the date of the death of any person dying after the commencement of this Act, such disposition shall be deemed to confer a Succession on the person in whose favour the same shall be made; and where any disposition of Property shall purport to take effect presently or under such circumstances as not to confer a Succession, but by the effect or in consequence of any engagement, secret trust, or arrangement capable of being enforced in a Court of Law or Equity, the beneficial ownership of such Property shall not *bonâ fide* pass according to such disposition, but shall in fact devolve to any person on death, or at some period ascertainable only by reference to death, then such last-mentioned person shall be deemed to acquire the Property so passing as a Succession derived from the person making the disposition as the Predecessor; and where any Court of competent jurisdiction shall declare any disposition to have been fraudulent and made for the purpose of evading the Duty imposed by this Act, such Court may declare a Succession to have been conferred on such person at such time and to such an extent as such Court shall

Dispositions to take effect at periods depending on death or made for evading Duty to confer Successions.

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think just; and such last-mentioned person shall be deemed to have taken a Succession accordingly, derived from the person making such disposition as predecessor.

Duties to be under the care and management of the Commissioner.

9 The Commissioner to be appointed as hereinafter mentioned shall be charged with the levying, collection, recovery, and management of the duties imposed by this Act; and shall have, use, and exercise all the powers and authorities which may for the time being be vested in him by virtue of any Regulations to be framed and published in manner hereinafter mentioned for the carrying out the provisions of this Act.

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10 On and after the First day of *January*, 1866, there shall be levied, collected, and paid in and throughout this Colony in respect of every "Succession" as aforesaid, according to the value thereof, the following Duties; that is to say:—

Where the Successor is the lineal issue or lineal ancestor of the Predecessor, a Duty at the rate of One Pound per centum upon the value :

Where the Successor is a brother or sister or descendant of a brother or sister of a Predecessor, a Duty at the rate of Three per cent. upon such value :

Where the Successor shall be in any other degree of consanguinity to the Predecessor than is hereinbefore described, or shall be a stranger in blood to him, a Duty at the rate of Five Pounds per centum upon such value.

Provision as to married persons chargeable with Succession Duties.

11 Where any person chargeable with Duty under this Act in respect of any Succession shall have been married to any wife or husband of nearer consanguinity than himself or herself to the Predecessor, then the person taking such Succession shall pay in respect thereof the same rate of Duty only as such his wife or her husband would have been chargeable with if she or he had taken the same.

What Duties payable when the Successor is also the Predecessor.

12 Where any person shall take a Succession under a disposition made by himself, then, if at the date of such disposition he shall have been entitled to the property comprised in the Succession expectantly on the death of any person dying after the commencement of this Act, and such person shall have died during the continuance of such disposition, he shall be chargeable with Duty on his Succession at the same rate as he would have been chargeable with if no such disposition had been made; but a Successor shall not in any other case be chargeable with Duty upon a Succession taken under a disposition made by himself, and no person shall be chargeable with Duty upon the extinction or determination of any charge, estate, or interest created by himself, unless at the date of the creation thereof he shall have been entitled to the property subjected thereto expectantly on the death of some person dying after the commencement of this Act.

Provision as to joint Predecessors.

13 Where the Successor shall derive his Succession from more Predecessors than one, and the proportional interest derived from each of them shall not be distinguishable, the Commissioner may agree with the Successor as to the duty payable; but if no such agreement shall be made, the Successor shall be deemed to have derived his Succession in equal proportions from each Predecessor, and shall be chargeable with duty accordingly.

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14 Where the interest of any Successor in any personal Property shall before he shall have become entitled thereto in possession, have passed by reason of death to any other Successor or Successors, then one duty only shall be paid in respect of such interest, and shall be due from the Successor who shall first become entitled thereto in Possession; but such duty shall be at the highest rate which if every such Successor had been subject to duty would have been payable by any one of them.

Duty on transmitted Successions.

15 Where at the commencement of this Act any reversionary Property expectant on death shall be vested by alienation or other derivative Title in any person other than the person who shall have been originally entitled thereto under any such disposition or devolution as is mentioned in the Second Section of this Act, then the person in whom such Property shall be so vested shall be chargeable with Duty in respect thereof as a Succession at the same time and at the same rate as the person so originally entitled would have been chargeable with if no such alienation had been made or derivative Title created; and where after the commencement of this Act any Succession shall, before the Successor shall have become entitled thereto or to the income thereof in possession, have become vested by alienation or by any Title not conferring a new Succession in any other person, then the duty payable in respect thereof shall be paid at the same rate and time as the same would have been payable if no such alienation had been made or derivative Title created; and where the Title to any Succession shall be accelerated by the surrender or extinction of any prior interests, then the duty thereon shall be payable at the same time and in the same manner as such Duty would have been payable if no such acceleration had taken place.

Duties payable in respect of transferred interests.

16 No Policy of Insurance on the life of any person shall create the relation of Predecessor and Successor between the insurers and the assured, or between the insurers and any assignee of the assured, and no bond or contract made by any person *bonâ fide* for valuable consideration in money or money's worth for the payment of money or money's worth after the death of any other person shall create the relation of Predecessor and Successor between the person making such bond or contract and the person to or with whom the same shall be made; but any disposition or devolution of the moneys payable under such policy, bond, or contract, if otherwise such as in itself to create a Succession within the provisions of this Act, shall be deemed to confer a Succession.

Provision for Life Policies and Post Obit Bonds.

17 Where the whole Succession or Successions derived from the same Predecessor and passing upon any death to any person or persons shall not amount in money or principal value to the sum of One hundred Pounds, no Duty shall be payable under this Act in respect thereof, or of any portion thereof; and no Duty shall be payable under this Act upon any Succession which, as estimated according to the provisions of this Act, shall be of less value than Twenty Pounds in the whole, or upon any moneys applied to the payment of the Duty on any Succession according to any Trust for that purpose, or by any person in respect of a Succession surrendered by him or extinguished before the commencement of this Act, nor upon any Succession which shall be acquired upon any Trust for charitable, religious, or public purposes, or which shall be derived by any Husband from his deceased Wife, or by any Wife from her deceased Husband.

Exemption.

18 The Duty imposed by this Act shall be paid at the time when the Successor, or any person in his right or on his behalf, shall become

Duties to be paid on the Successor

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becoming entitled in possession, but in the case of outstanding interests on the determination thereof.

entitled in possession to his Succession or to the receipt of the income and profits thereof: Provided that, if there shall be any prior charge, estate, or interest not created by the Successor himself upon or in the Succession by reason whereof the Successor shall not be presently entitled to the full enjoyment or value thereof, the Duty in respect of the increased value accruing upon the determination of such charge, estate, or interest shall, if not previously paid, compounded for, or commuted, be paid at the time of such determination: Provided also that, in case of an Annuity or Property hereby made chargeable as an Annuity, the Duties shall be paid by such instalments as are herein directed or referred to: Provided further, that no Duty shall be payable upon the determination of any lease purporting at the date thereof to be a lease at rack rent in respect of the increase accruing to the Successor upon such determination.

The interest of a Successor in Real Property to be considered as an Annuity.

19 The interest of every Successor, except as herein provided, in Real Property shall be considered to be of the value of an Annuity equal to the annual value of such property, after making such allowances as are hereinafter directed, and payable from the date of his becoming entitled thereto in possession, or to the receipt of the income or profits thereof during the residue of his life, or for any less period during which he shall be entitled thereto; and every such Annuity, for the purposes of this Act, shall be valued according to the probable duration of the life of the Successor in the manner provided by this Act, and the Duty chargeable thereon shall be paid by Eight equal half-yearly instalments; the first of such instalments to be paid at the expiration of Twelve months next after the Successor shall have become entitled to the beneficial enjoyment of the Real Property in respect whereof the same shall be payable, and the Seven following instalments at half-yearly intervals of Six months each, to be computed from the day on which the first instalment shall have become due: Provided, that if the Successor shall die before all such instalments shall have become due, then any instalments not due at his decease shall cease to be payable, except in the case of a Successor who shall have been competent to dispose by will of a continuing interest in such Property, in which case the instalments unpaid at his death shall be a continuing charge on such interest in exoneration of his other Property, and shall be payable by the owner for the time being of such interest.

Rules for valuing lands, houses, &c.

20 In estimating the annual value of lands used for agricultural purposes, houses, buildings, rent-charges, and other property yielding or capable of yielding income not of a fluctuating character, an allowance shall be made of all necessary outgoings.

Rules as to property subject to beneficial Leases.

21 Where a Successor entitled to any Real Property subject to any lease by reason whereof he shall not be presently entitled to the full enjoyment thereof, shall not have paid duty in respect of the full yearly value of such Property, he shall be chargeable with Duty upon his interest in any fine or other consideration which may be received during his life for the renewal of any such Lease, or the grant of any reversionary Lease of the same Property.

Rule as to lands, quarries, mines, &c.

22 The yearly value of any lands, quarry, mine or other Real Property of a fluctuating yearly income shall either be calculated upon the average profits or income derived therefrom, after deducting all necessary outgoings, during such a number of preceding years as shall be agreed upon for this purpose between the Commissioner and the Successor, before the first payment of Duty on the Succession shall have

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become due ; or if no such period shall be agreed upon, then the principal value of such Property shall be ascertained, and the annual value thereof shall be considered to be equal to interest calculated at the Rate of Six Pounds *per centum* per annum on the amount of such principal value.

23 Where any body corporate, company, or society shall become entitled as Successors to any Real Property, the Duty in respect thereof shall be assessed upon the principal value of such Property, but shall be payable by such instalments, at such times, and in such manner as the same would be payable if assessed in respect of Property devolving on a Successor in Fee Simple ; and such body corporate, company, or society, or any Trustee thereof, may raise the amount of Duty due in respect of their Succession upon the security thereof, at interest, with power for them to give effectual discharges for the money so raised.

Duty payable by Corporations taking Real Estates.

24 If a Successor, or any person on his behalf, upon becoming entitled to any property shall be subject to any fines or other charges incident to the tenure thereof and due in respect of his Succession, he shall be entitled to have a deduction allowed to him of the amount of such fine or other charges from the assessable value of his interest in such property.

Allowance for fines and other charges paid by Successor.

25 The interest of any Successor in moneys to arise from the sale of Real Property under any Trust for the Sale thereof shall be deemed to be Personal Property chargeable with Duty under this Act : Provided that where such moneys shall be subject to any Trust for the re-investment thereof in the purchase of other Real Property to which the Successor would not be absolutely entitled, such moneys shall be deemed to be Real Property, and for the purposes of this Act each Successor's interest therein shall be considered to be of the value of an annuity payable during his life or for any less period, during which he shall be entitled equal in amount to the annual produce of the actual Trust Property at the time of his becoming entitled in possession, whether the same shall then be the Real Property subject to the Trust or direction for Sale, or any property purchased in substitution for it, or any intermediate investment of the produce of the Sale of the original Property.

Real Property directed to be sold, how to be charged.

26 The interest of any Successor in any sum of money or other Personal Property, subject to any Trust for the investment thereof in the purchase of Real Property to which the Successor would be absolutely entitled, shall be chargeable with Duty under this Act as Personal Property ; and Personal Property subject to any Trust for the investment thereof in the purchase of Real Property to which the Successor would not be absolutely entitled shall be chargeable with Duty under this Act as Real Property ; and for the purposes of this Act each Successor's interest therein shall be considered to be of the value of an annuity payable during his life, or for any less period, during which he shall be entitled equal in amount to the annual produce of the actual Trust Property at the time of his becoming entitled in possession whether the same shall be the Real Property directed to be purchased, or any intermediate investment of the Personal Property, directed to be invested in such purchase : Provided that if before the Personal Property subject to such Trust for investment in Real Property or some part thereof, shall be actually so applied, any

Personal property to be invested in Real Property, how to be charged.

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person shall become entitled to an estate of inheritance in possession in the Real Estate to be purchased therewith, or with so much thereof as shall not have been applied in the purchase of Real Estate, the same Duty which ought to be paid by such person if absolutely entitled thereto as Personal Estate, by virtue of any bequest thereof as such, shall be charged on such person and raised and paid out of the fund remaining to be applied in such purchase.

How value of Annuities to be computed, and the Duty paid thereon.

27 The value of any Succession being a Legacy given by way of Annuity, whether payable annually or upon any contingency, shall be assessed in the manner hereinafter provided, and the Duty chargeable thereon shall be charged according to the value as so assessed; and the Duty chargeable on such Annuity shall be paid by four equal payments, the first of which payments shall be made before or on completing the payment of the first year's Annuity, and the three others of such payments of such Duty shall be made in like manner successively, before or on completing the respective payments of the Three succeeding years' Annuity respectively; and the value of any such Annuity, if determinable upon any contingency except the death of any person, shall be calculated without regard to such contingency: Provided that if any such Annuity shall determine by the death of any person before Four years' payment of such Annuity shall become due and payable, the Duty shall be payable in proportion only to so many of the payments of the said Annuity as actually accrued and became due and payable; and in case any such Annuity shall at any time determine upon any other contingency than the death of any person, then not only all the payments of Duty which would otherwise become due after the happening of such contingency shall cease, but the person who shall have paid any Duties previously due may apply for and obtain a return of so much of the Duty so paid as will reduce the same to the like Duty as would have been payable by such person for such Annuity, calculated according to the term for which the same shall have endured; and the Commissioner shall settle and determine such abatement by valuation as hereinafter provided, and shall cause the amount of such abatement to be paid to the person entitled to the same out of any moneys in his hands arising from the Duties imposed by this Act.

Value of Annuities payable out of Legacies.

28 The value of any Succession being a Legacy given by way of Annuity for any life or lives, or for years determinable on any life or lives, or for years or other period of time, and charged on and made payable out of any other Legacy shall be calculated, and the Duty shall be charged thereon in the same manner as herein directed with respect to other Annuities; and the Duty on the Legacy charged with such Annuity, if any Duty shall be payable for such Legacy, shall be calculated on the value of such Legacy after deducting the value of such Annuity; and the Duty for such Annuity shall be paid by the person entitled to the Legacy charged with such Annuity by four equal payments, in the same manner as the same would be payable according to the provisions hereinbefore contained if such Annuity had been a direct gift to the Annuitant, and subject to the like proviso in case such Annuity shall determine before Four years' payment shall become due; and the payment which shall be made for such Duty shall be retained by the person paying the same out of the first Four years' payment of such Annuity, if so many shall become due, or out of so many of such payments as shall become due by equal portions.

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29 The Duty payable upon any Succession being a Legacy given by direction to purchase with any personal estate of the testator, or any part thereof, an Annuity of a certain amount for any life or lives or other term shall be calculated upon the sum necessary to purchase such Annuity according to the assessment or valuation hereinbefore referred to, and shall be deducted from such sum, and paid as in case of other pecuniary Legacies, and the person paying or satisfying such Legacy, and the person for whose benefit the same shall be paid or satisfied, shall be discharged by payment of such Duty, so calculated, from all other demands in respect of the Duty payable on such Legacy; and the Annuity to be purchased for the benefit of the person entitled to the benefit of such Legacy shall be reduced in proportion to the amount of the Duty payable thereon as aforesaid, such reduction to be calculated in the same manner as this Duty so payable is hereby directed to be calculated; and the purchase of such reduced Annuity, together with the payment of such Duty, shall satisfy and discharge such Legacy as fully as if an Annuity had been purchased equal in amount to the Annuity so directed to be purchased.

Duty on Successions given to purchase Annuities, how to be calculated.

30 If any benefit shall be given by any will or testamentary instrument in such terms that the amount or value of such benefit can only be ascertained from time to time by the actual application for that purpose of the fund allotted for such purpose, or made chargeable therewith; or if the amount or value of any benefit given by any will or testamentary instrument cannot by reason of the form and manner of the gift be so ascertained that the Duty can be charged thereon under any other of the directions herein contained, then and in every such case such Duty shall be charged upon the several sums of money or effects which shall be applied from time to time for the purposes directed by such will or testamentary instrument as separate and distinct Successions, and shall be paid out of the fund applicable for such purposes or charged with answering the same.

Duty on Successions the value of which can only be ascertained by application of the allotted fund.

31 The duty payable on a Succession being a legacy or residue or part of residue of any personal Estate given to or for the benefit of, or so that the same shall be enjoyed by different persons in succession who shall be chargeable with the Duties hereby imposed at one and the same rate, shall be charged upon and paid out of the legacy or residue or part of residue so given as in the case of a legacy to one person; and where any legacy or residue or part of residue shall be given to or for the benefit of, or so that the same shall be enjoyed by different persons in succession, some or one of whom shall be chargeable with no Duty or some of whom shall be chargeable with different rates of Duty, so that one rate of Duty cannot be immediately charged thereon, all persons who under or in consequence of any such bequest shall be entitled for life only or any other temporary interest shall be chargeable with the Duty in respect of such bequest in the same manner as if the annual produce thereof had been given by way of annuity, and such persons respectively shall be so chargeable with such Duty, and the same shall be payable when they shall respectively become entitled to and begin to receive such produce, and shall be paid by equal portions during the aforesaid term of Four years, if they shall so long continue to receive such produce; and where any other partial interest shall be given or shall arise out of such property so to be enjoyed in succession, the Duty on such partial interest shall be charged and paid in the same manner as the Duty is hereinbefore directed to be charged and paid in like cases of partial interest charged on any Property given otherwise

Duty on Successions enjoyed by different persons in succession or having partial interests therein.

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than to different persons in succession; and all persons who shall become absolutely entitled to any such legacy or residue or part of residue so to be enjoyed in succession shall, when and as such persons respectively shall receive the same or begin to enjoy the benefit thereof, be chargeable with and pay the Duty for the same or such part thereof as shall be so received, or of which the benefit shall be so enjoyed, in the same manner as if the same had come to such persons respectively immediately on the death of the person by whom such Property shall have been given to be enjoyed, or in such manner that the same shall be enjoyed in succession.

Duty on Successions being legacies in joint tenancy.

32 Where any Succession being a legacy or residue or part of residue shall be given to or for the benefit of any persons in joint tenancy, some or one of whom shall be chargeable with any Duty hereby imposed, and some or one of whom shall not be so chargeable, the persons chargeable with Duty shall pay such Duty in proportion to their respective interests in such bequest; and if any persons chargeable with Duty, and entitled in joint tenancy as aforesaid, shall become entitled by survivorship, or by severance of the joint tenancy, to any larger interest in the property bequeathed than that in respect of which such Duty shall have been paid, then all such persons so becoming entitled by survivorship, or by severance, shall be charged with the same Duty as if the property to which such joint tenants shall so become entitled had been originally given to or for the benefit of such persons only.

Duty on Successions being legacies subject to contingencies.

33 When any Succession being a legacy, or any residue or part of residue, shall be given subject to any contingency which may defeat such gift, and whereupon the same may go to some other person, such bequest, unless chargeable as a Succession by way of annuity under the provisions herein contained, shall be charged with Duty as an absolute bequest to the person who shall take the same subject to such contingency, and such Duty shall be paid out of the capital of such legacy, or residue or part of residue, notwithstanding the same may, on such contingency, go to some person not chargeable with the same Duty or with any Duty; and if such contingency shall afterwards happen, and the property so bequeathed shall thereupon go in such manner that the same, if taken immediately after the death of the Testator under the same title would have been chargeable with a higher rate of Duty than the Duty so paid, the person becoming entitled thereto shall be charged with, and shall pay the difference between, the Duty so paid and such higher rate of Duty.

Duty on Successions being legacies or residue subjected to power of appointment.

34 Where any Succession being a legacy, or the residue or any part of the residue of any personal estate, shall be subjected to any power of appointment to or for the benefit of any persons specially named or described as objects of such power, such property shall be charged with Duty as property given to different persons in succession; and in so charging such Duty not only the persons who shall take previous or subject to such power of appointment, but also any persons who shall take under or in default of any such appointment, when and as they shall so take respectively, shall, in respect of their several interests, whether previous or subject to, under or in default of, such appointment, be charged with the same Duty and in the same manner as if the same interests had been given to them respectively by the will or testamentary disposition containing such power in the same order and course of succession as shall take place under and by virtue of such power of appointment, or in default of execution thereof, as the case

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may be ; and where any Property shall be given for any limited interest, and a general and absolute power of appointment shall also be given to any person to whom the property would not belong in default of such appointment, such property upon the execution of such power shall be charged with the same Duty and in the same manner as if the property had been immediately given to the person having and executing such power after allowing any Duty before paid in respect thereof ; and where any property shall be given with any such general power of appointment, which property in default of appointment will belong to the person to whom such power shall also be given, such property shall be charged with and shall pay the Duty by this Act imposed in the same manner as if such property had been given to such person absolutely in the first instance without such power of appointment.

35 Estates *pur auter vie* applicable by law in the same manner as personal estate shall be charged with the Duties hereby imposed as personal estate.

Estates *pur auter vie* applicable as personal estates to be charged as such.

36 Where any Succession being a legacy or part of any legacy, or residue or part of residue, whereon any Duty shall be chargeable by this Act, shall be satisfied otherwise than by payment of money or application of specific effects for that purpose, or shall be released for consideration, or compounded for less than the amount or value thereof, the Duty shall be charged and paid in respect of such legacy or part of legacy, or residue or part of residue, according to the amount or value of the Property taken in satisfaction thereof, or as the consideration for release thereof or composition for the same : Provided that, if any legacy or bequest shall be made in satisfaction of any other legacy or bequest or title to any residue or part of residue of any personal estate remaining unpaid, the Duty shall not be paid on both subjects, although both may be chargeable with Duty, but shall be paid only on the subject yielding the largest Duty.

Duties on Successions being legacies or shares of residue not payable in money to be paid according to value of actual satisfaction thereof.

37 Where it shall be required to calculate, for the purposes of this Act, the value of any interest acquired by way of annuity, or of any interest chargeable with Duty as an annuity, the value of such interest shall be determined by the Commissioner, who may, at the request of the party chargeable, submit the valuation of such annuity to the arbitration of Two indifferent persons, one to be appointed by the Commissioner and the other by the person chargeable, and such Arbitrators shall have power to appoint an Umpire ; and the award of the said Arbitrators, or of such Umpire, shall be final and conclusive.

Power to value Annuities for assessment of Duty.

38 The Duty imposed by this Act shall be a first charge on the interest of the Successor, and of all persons claiming in his right, in all the Real Property in respect whereof such Duty shall be assessed ; and such Duty shall also be a first charge on the interest of the Successor in the Personal Property in respect whereof the same shall be assessed while the same shall remain in the ownership or control of the Successor, or of any Trustee for him, or of his Guardian or Committee or Tutor or Curator, or of the Husband of any Wife who shall be the Successor ; and the said Duty shall be a debt due to Her Majesty from the Successor having, in the case of Real Property comprised in any Succession, priority over all charges and interests created by him ; but such Duty shall not charge or affect any other Real Property of the Successor than the Property comprised in such Succession : Provided that, where any settled Real Property comprised in a Succession shall be subject to any power of sale, exchange, or partition exercisable with

Duty to be a first charge on Property.

Succession Duties.

the consent of the Successor, or by the Successor with the consent of another person, he shall not be disqualified by the charge of Duty on his Succession from effectually authorising by his consent the exercise of such power, or exercising any power with proper consent, as the case may be; and in such case the Duty shall be charged substitutively upon the Successor's interest in all Real Property acquired in substitution for the Real Property before comprised in the Succession, and in the meantime upon his interest also in all moneys arising from the exercise of any such power and in all investments of such moneys.

Notice of the Succession to be given, and a return of the property made.

39 The persons hereby made accountable for the payment of Duty in respect of any Succession, or some of them, shall, in the case of Personal Property at the time of the first payment, delivery, retainer, satisfaction or other discharge of the same, or any part thereof, to or for the Successor or any person in his right, and in the case of Real Property when any Duty in respect thereof shall first become payable, give notice to the Commissioner of their liability to such Duty, and shall at the same time deliver to the Commissioner a full and true account of the Property for the Duty whereon they shall respectively be accountable, and of the value thereof, and of the deductions claimed by them, together with the names of the Successor and Predecessor, and their relation to each other, and all such other particulars as shall be necessary or proper for enabling the Commissioner fully and correctly to ascertain the Duties due; and the Commissioner, if satisfied with such account and estimate as originally delivered, or with any amendments that may be made therein upon his requisition, may assess the Succession Duty on the footing of such account and estimate; but the Commissioner, if dissatisfied with such account and estimate, may cause an account and estimate to be taken by any person or persons to be appointed by him for that purpose, and to assess the duty on the footing of such last-mentioned account and estimate, subject to appeal as hereinafter provided; and if the Duty so assessed shall exceed the duty assessable according to the return made to the Commissioner, and with which he shall have been dissatisfied, and if there shall be no appeal against such assessment, then it shall be in the discretion of the Commissioner, having regard to the merits of each case, to charge the whole or any part of the expenses incident to the taking of such last-mentioned account and estimate on the interest of the Successor in respect whereof the Duty shall be due in increase of such Duty, and to recover the same forthwith accordingly; and if there shall be an appeal against such last-mentioned assessment, then the payment of such expenses shall be in the discretion of the Court of appeal hereinafter appointed.

Penalty on not giving notice of Succession or account.

40 If any person required to give any such notice or deliver such account as aforesaid shall wilfully neglect to do so at the prescribed period, he shall incur a penalty at the rate of Ten Pounds *per centum* upon the amount of Duty payable by him, or in the case of a Succession chargeable with a higher rate of Duty than One Pound *per centum* upon the value thereof upon such less sum as such Duty if assessable at the rate of One Pound *per centum* upon the value of the Succession would amount to, and a like penalty for every month after the first month during which such neglect shall continue; and if any person liable under this Act to pay any Duty shall, after such Duty shall have been finally ascertained, wilfully neglect to do so within Twenty-one days, he shall also incur a penalty at the rate of Ten Pounds *per centum* upon the amount of duty so unpaid, or upon such less sum as such duty if assessable at the rate of One Pound *per centum* on the value of the Succession would amount to, and a like penalty for every month after the first month during which such neglect shall continue.

Succession Duties.

41 The following persons besides the Successor shall be personally accountable to Her Majesty for the Duty payable in respect of any Succession, but to the extent only of the Property or Funds actually received or disposed of by them respectively after the time appointed for the commencement of this Act; that is to say, every Trustee, Executor, Administrator, Guardian, Committee, Tutor, Curator, or Husband in whom respectively any Property or the management of any Property subject to such Duty shall be vested; and every person in whom the same shall be vested by alienation or other derivative Title at the time of the Succession becoming an interest in Possession, and all such Trustees, Executors, Administrators, Guardians, Committees, Tutors, Curators, Husbands, and persons shall be authorised to compound or pay in advance or commute any Duty and retain out of the Property subject to any such Duty the amount thereof, or to raise such amount and the expenses incident thereto at interest on the security of such Property, with power to give effectual discharges for the same, and such security shall have priority over any charge or incumbrance created by the Successor; and in the event of the non-payment of such Duty as aforesaid, every person hereby made accountable shall be a debtor to Her Majesty in the amount of the unpaid Duty for which he shall be so accountable.

What persons
accountable for
Duty.

42 The Duty payable on any Succession by way of legacy or residue or part of residue given to or to be enjoyed by different persons in succession, upon whom the Duty shall be chargeable at one and the same rate, shall be deducted and paid by the person having or taking the burden of the execution of the will or testamentary instrument under which the Title thereto shall arise, upon payment or other satisfaction or discharge of every or any part of such legacy or residue, or part of residue, to any Trustee or other person to whom the same shall be payable or paid in trust for, or for the benefit of, the persons so entitled thereto in succession; and if the same shall not be so paid or satisfied to any such Trustee, then such Duty shall be deducted and paid out of the capital of the property so given upon receipt by any of the persons so entitled in succession of any produce of such capital or any part thereof, according to the amount of the capital of which such produce shall be received; and where the Duty chargeable upon any such bequest for the benefit of, or to be enjoyed by, different persons in succession shall be chargeable at different rates, so that the same cannot be paid at one and the same time, but must be paid in succession as aforesaid, then the person having or taking the burden of the execution of the will or testamentary instrument in which such bequest shall be contained shall be chargeable with such Duties in succession, in the same manner as such persons would be chargeable with the like Duties in case of immediate bequest, unless the property bequeathed shall have been paid or otherwise satisfied to or vested in any Trustee as aforesaid, in which case any Trustee or his representatives shall be chargeable with the Duties for and in respect of such Property so vested in him, in the same manner as if he had had or taken the burden of the execution of the will or the testamentary instrument by which such bequest shall have been made; and in like manner where any partial interest shall be given or shall arise out of any such Property so to be enjoyed in succession, and such partial interest shall be satisfied or paid by the person so enjoying such Property, such person shall be chargeable with the Duties for and in respect of such partial interest, and shall retain and pay the same accordingly in the same manner as if he had had or taken the burden of the will or testamentary instrument by which such

Duty, by whom
payable on Suc-
cessions to be
enjoyed by differ-
ent persons in
succession

Succession Duties.

partial interest shall have been created ; and in all such cases the person so chargeable with Duty shall be debtors to Her Majesty in like manner, and shall be subject to the like penalties as persons having or taking the burden of the execution of such will or testamentary instrument are hereby made chargeable with and subject to.

Executors previous to retaining their own legacies to transmit particulars with Duty offered.

43 Whenever any person having or taking the burden of the execution of any will or testamentary instrument, or the administration of any personal estate, shall be entitled to any Succession by way of legacy or the residue or any part of the residue of the personal estate of any testator or intestate, such person shall be chargeable with the Duty whenever he shall be entitled in the due course of administration to retain to his own use any part of the said estate in satisfaction of such legacy or residue, or any part thereof ; and every such person shall, before any such retainer, transmit to the Commissioner a note containing the particulars of such legacy, residue, or part of residue intended to be retained, and the amount or value thereof, and the Duty which such person shall offer to pay thereon, and the Commissioner shall charge and assess the Duty thereon in such manner as the Duty shall be chargeable thereon by virtue of the provisions of this Act, and such Duty shall be paid accordingly ; and on payment of the said Duty the Commissioner shall give a receipt for such Duty in such form and manner as he shall think fit, and such receipt shall be a discharge for the same ; and any such person who shall neglect to pay such Duty within Fourteen days after the same ought to have been paid as aforesaid shall incur a penalty equal in amount to treble the value of the Duty which ought to have been paid.

Mode of ascertaining Duty on Property not reduced into money.

44 In cases of Successions by way of specific legacies, and where the residue of any Personal Estate shall consist of Property which shall not be reduced into money, the person having or taking the burden of the administration of such effects, or the person by whom the Duty thereon ought to be paid, may set a value thereon and offer to pay the Duty according to such value, or may require the Commissioner to appoint a person to set such value at the expense of the person by whom such Duty ought to be paid ; and the Commissioner may accept the Duty offered to be paid upon the value set by the person having or taking the administration of such effects, or by whom the Duty for the same shall be payable, without such appraisement, if the Commissioner shall think fit so to do ; but if he shall not be satisfied with the value so set on which the Duty shall be so offered, the Commissioner, notwithstanding such offer, may appoint a person to appraise such effects and to set the value thereon, on which value so set he shall assess the Duty payable in respect thereof, and require the same to be paid ; but if the person by whom such Duty shall be payable shall not be satisfied with the valuation made under the authority of the Commissioner, and shall not pay the Duty accordingly, such person may cause the valuation so made to be reviewed, upon appeal, in manner hereinafter mentioned ; and if the valuation made under the authority of the Commissioner shall not be duly appealed from within the time from the date of the assessment of the Duty limited for Appeals by this Act, or shall be affirmed upon appeal, the Duty shall be paid according to such valuation, and if any variation shall be made on such appeal the Duty shall be paid according to such variation ; and if the Duty assessed in manner aforesaid shall exceed the Duty offered to and refused by the Commissioner, the expense of such appraisement and other proceedings in assessing such Duty shall be borne by the person by whom such Duty shall be payable ;

Succession Duties.

and if any dispute shall arise between any person entitled to any such legacy or residue or part of residue and any persons having or taking the burden of the administration of such effects, with respect to the value thereof or with respect to the Duty to be paid thereon, the Duty shall be assessed by the Commissioner on reference to them by either party for that purpose; and if the value of any Property on which such Duty ought to be paid shall be in dispute, the Commissioner shall cause an appraisement to be made thereof, at the expense of the person by whom such Duty ought to be paid, in the manner herein directed in other cases, and assess the Duty thereon accordingly; and if such person by whom Duty ought to be paid shall be dissatisfied with such valuation or with the assessment of Duty made upon such valuation, the same shall be reviewed and finally determined by appeal within the time and under the restrictions and in the manner hereinbefore directed in other cases; but if such valuation or assessment shall not be duly appealed from within the time limited for that purpose, or shall be affirmed upon appeal, the Duty shall be paid according to such valuation; and in case the effects whereon any such Duty shall be payable shall be at the distance of Ten miles and upwards from the City of *Hobart Town*, it shall be lawful to make the like application to a person deputed for that purpose by the Colonial Treasurer to act in such cases within the District in which such effects shall be; and the person so deputed shall act in such cases in all respects in the same manner as the Commissioner is hereby authorised to act, subject nevertheless to his instructions.

45 Whenever any suit shall be pending in any Court for the administration of any Property chargeable with Duty under this Act, such Court shall provide out of any Property which may be in the possession or control of the Court for the payment of such Duty.

Courts in suits for administration of Property to provide for payment of Duty.

46 No Duty shall be paid on articles of plate, furniture, or other things not yielding any income, and given to or for the benefit of or so as that the same be enjoyed by different persons in succession whilst the same shall be so enjoyed in kind only by any person not having any power of selling or disposing thereof so as to convert the same into money or other Property yielding an income; but if the same shall be actually sold or disposed of, or shall come to any person having power to sell or dispose thereof, or having an absolute interest therein, then the same Duty shall be chargeable and paid thereon as if the same had been originally given absolutely and with full power to sell or dispose thereof, and shall be chargeable upon and paid by the person for whose benefit the same shall be sold, or who shall have power to sell or dispose thereof, or an absolute interest therein, and shall become the debt of such person, but shall not be a charge on any person by reason of his having assented to such bequest as the person having or taking the burden of the execution of the will or testamentary instrument by which such bequest shall have been made.

Chattels not liable to Duty until in possession of persons having power to dispose thereof.

47 If any accountable party required by the Commissioner to deliver any Account required by this Act to be delivered, or to pay any Duty payable in respect of any Succession and required by this Act to be paid, shall make default in delivering such Account, or in paying such Duty or any part thereof, the Commissioner may sue out of the Supreme Court a Writ of Summons in such form as the Judges of the said Court shall from time to time frame, commanding the party so in default to deliver such Account, or to pay such Duties

Proceeding if return not made by any accountable party.

Succession Duties.

or so much thereof as shall not be duly paid, within such period as may be appointed in the Writ, or to show cause to the contrary; and if such Account shall be delivered, or such Duty shall be paid, in pursuance of such Writ of Summons, without cause being shown as therein mentioned, the person against whom such proceeding shall be taken shall pay the Duty which may be assessed on such amount or the Duty sued for as the case may be, and also the costs of such proceedings; and if cause shall be shown, such Order shall be made as to such Account or Duty, and the costs of such proceedings, as the Judges of the said Court, or either of them, shall deem just; and for any of the purposes aforesaid the Judges of the said Court shall frame all necessary Writs, Rules, and Orders.

Accounting party
to verify his ac-
count.

48 Every person who, under the provisions of this Act, may deliver any account or estimate of any property of which an account is required by virtue thereof to be rendered shall, if required by the Commissioner, produce before him such books and documents in the custody or control of such person so far as the same relate to such account or estimate as may afford any necessary information for the purpose of ascertaining such property and the Duty payable thereon; and the Commissioner may, without payment of any fee, inspect and take copies of any public book; but all such information shall be deemed to be confidential, and the Commissioner shall not disclose the same or the contents of any document or book to any person otherwise than for the purposes of this Act.

No Succession by
way of legacy
or share of residue
to be paid without
proper receipt, and
no receipt availa-
ble as evidence
unless Duty duly
denoted thereon.

49 No person having or taking the burden or execution of any Will or testamentary instrument, or the administration of the Personal Estate of any person deceased, nor any Trustee or other person hereby directed and required to account for any Duty, shall pay, deliver, or otherwise dispose of, or in any manner satisfy, discharge, or compound for any legacy whatsoever, or any part thereof, or the residue of any Personal Estate or any part thereof in respect whereof any Duty is hereby imposed without taking a receipt or discharge in writing for the same, expressing the date of such receipt or discharge, and the names of the Testator or Intestate under whose Will or testamentary disposition, or upon whose intestacy the Title to such legacy or part of legacy, or to such residue or part of residue shall accrue, and of the person to whom such receipt or discharge shall be given, and of the person to whom such legacy or residue or part of residue shall have been given or shall have belonged in consequence of intestacy, and the amount or value of the legacy or part of legacy or residue or part of residue for which such receipt or discharge shall be given, and also the amount and rate of the Duty payable and allowed thereon; and no written receipt or discharge for any legacy or part of any legacy, or for the residue of any Personal Estate or any part of such residue in respect whereof any Duty is hereby imposed, shall be received in evidence or be available in any manner whatever unless the Duty paid in respect of the same shall be denoted in manner required by this Act; and no evidence whatsoever shall be given of any payment, satisfaction, or discharge whatsoever, or of any release or composition of such legacy or any part thereof, or of such residue or any part thereof, without producing such receipt or discharge with the Duty paid in respect thereof duly denoted thereon in manner required by this Act, unless the actual payment of the Duty hereby imposed shall first be given in evidence: Provided, that a copy of the entry in the books of the Commissioner of the payment of such Duty shall be admitted as evidence thereof: Provided also, that payment of any annuity shall not be deemed a payment for which a receipt with Duty denoted as aforesaid shall be required under the directions of this

Succession Duties.

Act, except the several payments which shall complete the payments for each of the first four years during which such annuity shall be payable; and in like manner any payment in respect of any legacy or bequest hereby directed to be charged with the Duty, in the same manner as annuities are hereby made chargeable with Duty, shall not be deemed a payment for which such receipt with Duty denoted as aforesaid shall be required, except the several payments which shall complete the payments for each of the first four years in respect of which such legacy or bequest shall be chargeable with Duty as an annuity.

50 Any person having or taking the burden of the execution of any Will or testamentary instrument, or the administration of the Personal Estate of any person deceased, and any Trustee or other person hereby directed and required to account for any Duty who shall pay, deliver, or otherwise dispose of, or in any manner satisfy or discharge or compound for any legacy given by such Will or testamentary instrument, or the residue or any part of the residue of such Personal Estate, without taking such receipt or discharge in writing as aforesaid, and causing the Duty payable in respect of such legacy to be paid and duly denoted in manner required by the provisions of this Act, within the time hereby allowed for payment of the same, shall incur a penalty at the rate of Ten Pounds *per centum* on the sum of money or the value of the property for which such receipt or discharge ought to have been or was given in pursuance of this Act; and every person receiving or taking the benefit of any such money or other property without giving a written receipt or discharge for the same, on which the Duty payable in respect thereof shall be expressed to have been paid, and which shall bear date on the day of signing the same, shall incur a penalty at the rate of Ten Pounds *per centum* on the sum of money or on the value of the property so received or taken.

Penalty for paying or receiving legacies without taking receipts and causing Duty to be denoted thereon.

51 Every such receipt or discharge shall be brought within Sixty days after the date thereof to the Commissioner, and the Duty payable in respect of the same shall be paid within such period; and upon receipt of such Duty the Commissioner shall forthwith give his receipt for the same in manner required by the provisions of this Act.

Receipts to be brought to Commissioner within Sixty days.

52 Where the Donee of a general power of appointment shall become chargeable with Duty in respect of the Property appointed by him under such power, he shall be allowed to deduct from the duty so payable any Duty he may have already paid in respect of any limited interest taken by him in such property.

Allowance to Donee of general power of appointment.

53 In estimating the value of a Succession no allowance shall be made in respect of any incumbrance thereon created or incurred by the Successor not made in execution of a prior special power of appointment, but an allowance shall be made in respect of all other incumbrances, and also in respect of any moneys which the Successor may previously to his possession have laid out in the substantial repairs or permanent improvement of Real Property comprised in his Succession: Provided that upon any Successor becoming entitled to Real Property subject to any prior principal charge, an allowance shall be made to him in respect only of the yearly sums payable by way of interest or otherwise on such charge, as reducing the annual value *pro tanto* of such Real Property.

What allowance to be made for incumbrances.

54 In estimating the value of a Succession no allowance shall be made in respect of any contingent incumbrance thereon; but in the

No allowance to be made in respect

Succession Duties.

of contingent
incumbrances
unless they take
effect.

event of such incumbrance taking effect as an actual burden on the interest of the Successor, he shall be entitled to a return of a proportionate amount of the Duty so paid by him in respect of the amount or value of the incumbrance when taking effect.

The Duty on Suc-
cessions to be
calculated without
regard to contin-
gencies.

55 In estimating the value of a Succession no allowance shall be made in respect of any contingency upon the happening of which the Property may pass to some other person; but in the event of the same so passing the Successor shall be entitled to a return of so much of the Duty paid by him as will reduce the same to the amount which would have been payable by him if such Duty had been assessed in respect of the actual duration or extent of his interest.

Provision for
allowance or
return of Duty.

56 Where a Successor shall not have obtained the whole of his Succession at the time of the Duty becoming payable, he shall be chargeable only with Duty on the value of the Property or benefit from time to time obtained by him; and whenever any Duty shall have been paid on account of any Succession, and it shall afterwards be proved to the satisfaction of the Commissioner that such Duty, not being due from the person paying the same, was paid by mistake, or was paid in respect of Property which the Successor shall have been unable to recover, or from or of which he shall have been evicted or deprived by any superior Title, or that for any other reason it ought to be refunded, the Commissioner shall thereupon refund the same to the person entitled thereto.

Allowance to be
made to Successor
in respect of
relinquishing
Property.

57 Where any Successor upon taking a Succession shall be bound to relinquish or be deprived of any other Property, the Commissioner shall, upon the computation of the assessable value of his Succession, make such allowance to him as may be just in respect of the value of such property.

Power to com-
pound Duties.

58 Where in the opinion of the Commissioner any Succession shall be of such a nature or so disposed or circumstanced that the value thereof shall not be fairly ascertainable under any of the preceding directions, or where from the complication of circumstances affecting the value of a Succession, or affecting the assessment or recovery of the Duty thereon, he shall think it expedient to exercise this present authority, he may compound the Duty payable on the Succession upon such terms as he shall think fit, and may give discharges to the Successor upon payment of Duty according to such composition, and may, in any special cases in which it may be deemed expedient, enlarge the time for payment of any Duty.

Duty may be com-
pounded for, if
residue cannot be
ascertained within
Two years.

59 If at the end of Two years after the death of any person it shall appear to the satisfaction of the Commissioner that it will require time to collect the debts or effects of such person then outstanding, or that from circumstances it will be difficult to ascertain or adjust the amount of the clear residue of the personal estate of such person liable to Duty, and the parties interested therein shall be desirous of compounding for the Duty thereon, such parties may apply to the Colonial Treasurer for leave to compound such Duty, stating to his satisfaction the particulars of the Personal Estate for which such composition shall be proposed to be made, and declaring upon oath whether any other Property of the deceased then outstanding, besides the Property for which such composition shall be proposed to be made, has come to the knowledge of the said parties, or any of them, and the nature thereof, and the circumstances attending the same; and in such

Succession Duties.

case the Colonial Treasurer may appoint a proper person to set a value on the Personal Estate, or such part thereof for which no Duty shall have been charged, as the Property for which such composition shall be desired, and to adjust and settle the Duty which justly and equitably under all circumstances ought to be paid in respect of such Personal Estate; and thereupon the Colonial Treasurer shall accept payment of the sum so adjusted and settled in full discharge of the Duty on so much of such Personal Estate as shall be specified, and shall order that the same shall be entered in the books of the Commissioner accordingly, and the Commissioner shall grant Certificates thereof expressing the receipt of such Duty by way of composition under such Order; and every such person to whom such Certificate shall be granted, and every future representative of the same estate, and all persons entitled to the benefit of the Property for which composition shall be so paid shall be discharged from any further payment of Duty on the same; and on all future payments of such Property the person having or taking the burden of the execution of the Will or testamentary instrument disposing of such Property, or the administration thereof, may pay, apply, and dispose of such Property, and all persons entitled to the benefit thereof may receive the same without having the Duty paid thereon by way of composition expressed on the receipts and discharges in writing hereby required to be given and taken for the same as hereinbefore directed: Provided such receipts or discharges shall be expressed to be given on the authority of such composition as aforesaid, and not liable to Duty: Provided that the Duty shall be charged and paid upon every part of the Personal Estate of such person deceased other than that which shall be included in the valuation in which such composition shall have been made as aforesaid, and for which the Colonial Treasurer shall allow such composition to be taken as aforesaid, in the same manner as if no such composition had been made; and every person shall be liable to all the like penalties for not duly paying the Duty for such personal estate not compounded for, and subject to the like rules, methods, and directions for charging such Duty as such person would be liable to if such composition had not been made.

60 The Commissioner may receive any Duty tendered in advance, and may allow discount thereon at such rate as may, from time to time, be directed by the Colonial Treasurer; and no person by reason of his having made any payment of Duty in advance shall be prejudiced in his right to have any repayment of Duty made to him to which he may become entitled under any of the provisions of this Act.

Power to receive Duties in advance.

61 The Commissioner, upon application made by any person who shall be entitled to a Succession in expectancy, may commute the Duty presumptively payable in respect of such Succession for a certain sum to be presently paid, and for assessing the amount which shall be so payable he shall cause a present value to be set upon such presumptive Duty, regard being had to the contingencies affecting the liability to such Duty, and the interest of money involved in such calculation being reckoned at the rate for the time being allowed by the Colonial Treasurer in respect of Duties paid in advance, and upon the receipt of such certain sum he shall give a discharge to the Successor accordingly.

Power to commute future Duties.

62 The Commissioner shall, at the request of any Successor or any person claiming in his right, accept or cause to be made so many separate assessments of the Duty payable in respect of the interest of the Successor in any separate properties, or in defined portions of the

Provision for the separate assessment of Properties.

Succession Duties.

same property as shall be reasonably required, and in such cases the respective properties shall be chargeable only with the amount of Duty separately assessed in respect thereof; and the Commissioner may by his Certificate, to be issued in such form as shall be ordered by the Colonial Treasurer, from time to time declare that any Duties already assessed, whether collectively or distributively in respect of any Succession, shall thenceforth be charged as to any unpaid instalments according to any further distribution thereof upon separate parts only of the Property in respect of which such Assessment shall have been made, in which case the charge of such Duties shall be thenceforth limited according to such further distribution.

Power for
accountable party
to appeal.

63 Any accountable party dissatisfied with the assessment of the Duty payable under any of the provisions of this Act, upon giving, within Twenty-one days after the date of such assessment, notice in writing to the Commissioner of his intention to appeal against such assessment, and a statement of the grounds of such appeal, such statement to be furnished within the further period of Thirty days, may appeal by petition accordingly to the Supreme Court; and such Court or any Judge thereof sitting in Chambers shall have jurisdiction to hear and determine the matter of such appeal, and the Cost thereof, with power to direct for the purposes of such appeal any inquiry, valuation, or report to be made by any Officer of the Court or other person as such Court or Judge may think fit: Provided that where the sum in dispute in respect of Duty on such assessment does not exceed Thirty Pounds, the accountable party, having given notice of appeal and delivered a statement of the grounds thereof as hereinbefore directed, may appeal to the Commissioner of the Court of Requests in the District in which the appellant shall be resident, or the Property be situate, and every such Judge or Commissioner shall have Jurisdiction to hear and determine the matter of such last-mentioned appeal, with the like power and authority as are by this Section given to a Judge of the Supreme Court.

Rectification of
mistakes in paying
Duty.

64 If it shall appear to the satisfaction of the Commissioner that less Duty has been paid for any Succession than ought to have been paid for the same by mistake without any intention to defraud, and if application shall be made to them to rectify such mistake, and accept the Duty really due before any suit shall be instituted concerning the same, and within Three months after payment of the money actually paid, the Commissioner may accept the difference between the money paid and the just Duty, together with a sum at the rate of Ten Pounds *per centum* on such difference by way of penalty in full for the just Duty, and which shall be in discharge of all penalties incurred by non-payment of such Duty, and shall cause an acknowledgment of the payment of the just Duty to be given in the same manner as would have been done if the just Duty had been originally paid.

How payments or
receipts of money
contrary to Act
may be condoned.

65 The party paying or satisfying any Succession, or any part of such Succession, or receiving the same contrary to the provisions of this Act, who shall, within the space of Twelve months after the offence committed, discover the other party offending therein, so that such party so discovered be thereupon convicted, such person so discovering shall be indemnified and discharged from all penalties incurred for any offence in that behalf against this Act.

If any Succession
be refunded Duty
to be repaid.

66 If at any time after payment of Duty on any Succession or part of a Succession arising out of the estate of any person deceased any

Succession Duties.

debt shall be recovered against the estate of such deceased person, or any loss shall happen by reason whereof or for any other just cause any legatee or other person by whom any Succession or part of a Succession shall have been received or retained shall be obliged to refund the same or any part thereof, the Commissioner, on satisfactory proof of such sums refunded, and that by reason thereof there has been an over-payment of Duty, shall settle and adjust the amount of such over-payment and may repay the same out of the money in his hands arising from the Duties by this Act imposed or allow the same in future payments, as the case may permit or require.

67 If the authority under or by colour of which any person shall have administered the estate or effects of any person deceased, or any part thereof, shall be void or be repealed or declared void, and such person shall before the avoidance, repeal, or declaration of avoidance have paid any Duty hereby imposed which shall not be allowed to such person out of the estate or effects of such deceased person by reason that the same Duty was not really due or payable, the money paid for such Duty shall, on proof thereof to the satisfaction of the Commissioner, be repaid to the person who shall have paid the same or his representatives out of any moneys arising from the Duties imposed by this Act; but in case such Duty ought to have been paid by the rightful executor or administrator of such deceased person, the payment of such Duty shall be valid and effectual notwithstanding such avoidance, repeal, or declaration of avoidance as aforesaid; and no such person shall by reason of the avoidance, repeal, or declaration of avoidance of such authority be sued for or in respect of such payment, but all such payments in respect of Duty shall be all owed in account with such rightful executor or administrator, and the same shall be deemed payments in the due course of administration as fully and effectually as if such payments had been made by rightful executors or administrators, any law, usage, or custom to the contrary notwithstanding.

Refund of Duty
if improperly paid.

68 The Colonial Treasurer shall be charged with the administration of this Act, and have the chief control of all matters relating to the imposition of the Duties hereby imposed.

Colonial Treasurer
to have chief
control.

69 The Governor in Council may, from time to time, appoint one or more persons to be Commissioners of Succession Duties; and the Governor in Council may suspend from office and remove any Commissioner so appointed as aforesaid, and appoint some other person to be a Commissioner in the place and stead of the Commissioner so removed.

Governor may
appoint Commis-
sioners.

70 The Colonial Treasurer may, from time to time, appoint such other persons as he may consider necessary to carry out the provisions of this Act; and the Colonial Treasurer may suspend or remove from office any person so appointed as aforesaid, and appoint some other person in his place or stead.

Colonial Treasurer
may appoint offi-
cers.

71 Whenever the Colonial Treasurer shall hereafter consider it expedient to discontinue the method hereinafter provided for collecting the several Duties imposed by this Act, he shall provide such adhesive Stamps or Dies as may from time to time be required for the purposes of this Act; and thereafter the Duties paid by virtue of this Act shall be denoted by such adhesive Stamps or Dies affixed to or impressed upon the paper or parchment on which the account of any matter which is chargeable with such Duty is written, and not by a Receipt or Certificate under the hand and seal of office of the Commissioner for the time being as hereinafter is otherwise provided.

Colonial Treasurer
may provide
stamps, &c.

Succession Duties.

Power to use adhesive stamps.

72 Whenever the Colonial Treasurer shall provide adhesive stamps of the requisite denomination to be affixed to the paper or parchment on which any matter is written which is chargeable with a Duty thereunder, the Officer issuing the stamp shall affix such stamp, and immediately cancel it by obliteration so as to prevent such stamp from being used for any other purpose.

One stamp may be used to denote total amount of Duty, and Two or more stamps may be used to denote one Duty, &c.

73 Any single stamp may be used to denote the total amount of any Duties, and two or more stamps may be used to denote any one Duty until a single stamp be provided; and all instruments stamped with one, two, or more stamps for denoting the amount of Duty charged thereon shall be as valid as if the same had been stamped with a single stamp or any number of stamps for denoting such Duty.

Until stamps provided, Duties how denoted.

74 Until the Colonial Treasurer shall consider it expedient to provide adhesive stamps or dies in manner hereinbefore mentioned, the Duties hereby imposed shall in each case be denoted by a Receipt or Certificate, under the hand and seal of Office of the Commissioner, en faced or endorsed upon the paper or parchment containing the account of the Property whereon such Duty shall be chargeable and required by the provisions of this Act to be delivered by the person hereby made accountable for the payment of the same.

Commissioner to provide seal.

75 The Commissioner shall procure, or cause to be procured, a Seal of Office, bearing such device as the Colonial Treasurer may approve, to be used in manner mentioned in the last preceding Section.

Duties, how to be paid.

76 The Duties imposed by this Act shall be paid at the Office of the Commissioner, who shall cause the same to be duly entered in his books, and to be set down therein to the account of the estate in respect whereof the said Duty shall be paid; and the accounts of such payments shall be kept, with proper references, in alphabetical order, according to the surname of the testator, testatrix, intestate, or other person in respect of whose estate such payments shall have been made respectively, so that it may at all times appear upon the books of the Commissioner what payments have been made in respect of the estate of such testator, intestate, or other person.

Commissioner to provide forms of receipts for Duties.

77 The Commissioner shall, from time to time, provide sufficient quantities of printed forms adapted for rendering accounts of Property chargeable with Duty, and for Receipts and Discharges on the payment or satisfaction of any legacy or gift chargeable with Duty under this Act; and such forms shall be printed in such manner as he shall direct, and shall be delivered gratuitously by the Commissioner to any person applying for the same.

Receipts to be given.

78 Whenever any payment of Duty shall be made under this Act, the Commissioner shall give a Receipt or Certificate for the same in such form as shall be provided by the Regulations to be issued under the authority of this Act stamped with his proper seal of office and denoting the Duty so received; and the Commissioner shall, from time to time, deliver to any person interested in any Property affected by such Duty, on applying for the same for any reasonable purpose approved by them, a Certificate of such payment in such form as in the Regulations to be issued under the authority of this Act may be directed.

Protection to *bonâ fide*

79 Every Receipt or Certificate purporting to be in discharge of the whole Duty payable for the time being in respect of any Succession

Succession Duties.

or any part thereof shall exonerate a *bonâ fide* purchaser for valuable consideration and without notice from such Duty, notwithstanding any suppression or mis-statement in the account, upon the footing whereof the same may have been assessed, or any insufficiency of such assessment; and no *bonâ fide* purchaser of Property for valuable consideration under a title not appearing to confer a Succession shall be subject to any Duty with which such Property may be chargeable under the provisions of this Act by reason of any extrinsic circumstances of which he shall not have had notice at the time of such purchase.

purchasers as to
Duties on Suc-
cessions.

80 Any sum of money chargeable with Duty under this Act, and ordered to be paid into the Supreme Court under any Act now in force, shall not be so paid in except upon production to the Officer chargeable with the receipt thereof of a receipt in evidence of the payment of such Duty, and such Officer is hereby directed to require production of such receipt.

Upon payment
into Court receipts
to be produced.

81 Any person who shall write or cause to be written any receipt or certificate purporting to be a receipt or discharge for any Duties payable under this Act, or shall forge or cause to be forged to any such receipt or certificate the name of any Commissioner or other Officer who may be appointed as herein-before mentioned for the purposes of this Act; or shall forge or counterfeit, or cause or procure to be forged or counterfeited, any seal, stamp, or die, or any part of any seal, stamp, or die which shall have been provided, made, or used in pursuance of this Act; or shall forge, counterfeit, or resemble, or cause or procure to be forged, counterfeited, or resembled, the impression or any part of the impression of any such seal, stamp, or die upon any parchment or paper, or shall stamp or mark, or cause or procure to be stamped or marked, any parchment or paper with any such forged or counterfeited seal, stamp, or die, or part of any seal, stamp, or die as aforesaid, with intent to defraud Her Majesty of any of the Duties hereby granted or any part thereof; and any person who shall utter or sell or expose to sale any parchment or paper having thereupon the impression of any such forged or counterfeited seal, stamp, or die, or part of any seal, stamp, or die, or any such forged or counterfeited impression or resemblance of any impression or part of an impression as aforesaid, knowing the same respectively to be forged, counterfeited, or resembled; and any person who shall privately and secretly use any seal, stamp, or die which shall have been so provided, made, or used as aforesaid with intent to defraud Her Majesty of any of the said Duties or any part thereof; and any person who shall fraudulently cut, tear, or get off, or cause or procure to be torn or got off, the impression of any seal, stamp, or die which shall have been provided, made, or used in pursuance of this Act for expressing or denoting any Duty under the care and management of the Colonial Treasurer, or any part of such Duty, from any parchment or paper whatsoever with intent to use the same for or upon any other parchment or paper or any instrument or writing charged or chargeable with any of the Duties hereby granted; and every person knowingly and wilfully aiding, abetting, or assisting any person in committing any such offence as aforesaid, and being thereof lawfully convicted, shall be deemed guilty of Felony, and shall be liable to penal servitude for any term not less than Seven years, or to be imprisoned with or without hard labour for any term not exceeding Four nor less than Two years.

Forging a receipt
or die to be
felony, &c.

82 All Affidavits required by this Act shall be made before the Commissioner or any Supreme Court Commissioner; and any person who shall knowingly and wilfully make a false oath concerning any

Affidavit, how to
be made, and
penalty for false
oath.

Succession Duties.

matter in this Act contained shall be liable to the punishment imposed by law for wilful and corrupt perjury.

Power to make regulations and forms.

83 The Governor in Council may frame all such Regulations and Forms as may be necessary from time to time for carrying out the provisions of this Act, and all such Regulations and Forms when published in the *Gazette* shall have the force of Law; and they shall be laid before both Houses of Parliament forthwith if Parliament be sitting, and if not, then within Twenty-one days after the commencement of the next Session.

Duties, how disposed of.

84 The Duties imposed by this Act shall be paid into the Colonial Treasury and form part of the General Revenue.

Recovery of penalties.

85 All penalties imposed by this Act may be recovered in a summary way before any two Justices of the Peace, in the mode prescribed by *The Magistrates Summary Procedure Act*; and any person who thinks himself aggrieved by any penalty hereby made recoverable, or by the decision of any such Justices, may appeal against the same in the mode prescribed by *The Appeals Regulation Act*.

Appropriation of Penalties.

86 All penalties imposed under this Act shall be appropriated the one-half thereof to the General Revenue, and the other half thereof to the use of the person suing for the same.

Commencement of Act.

87 This Act shall be taken to have come into operation on the First day of *January*, one thousand eight hundred and sixty-six, and shall take effect accordingly.

Short Title.

88 This Act may be cited for all purposes as *The Succession Duty Act*.