

# DEATH DUTY ASSESSMENT.

---

No. 2 of 1977

---

**AN ACT to amend the Death Duty Assessment Act,  
1973-1976.**

*[Assented to 29th August, 1977.]*

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the *Death Duty Assessment Act Amendment Act, 1977.* Short title and citation.

(2) In this Act the Death Duty Assessment Act, 1973-1976 is referred to as the principal Act.

Act No. 80 of 1973 as amended by Acts Nos. 79 of 1974 and 144 of 1976.

(3) The principal Act as amended by this Act may be cited as the Death Duty Assessment Act, 1973-1977.

Application  
of  
amendments.

2. (1) Where immediately before the first day of July, 1977 any provision of the principal Act applied to and in relation to the death or estate of any person who died before that date, that provision shall continue to so apply on and after that date.

(2) The principal Act as amended by this Act shall apply to and in relation to the death and estate of any person dying on or after the first day of July, 1977.

Section 4  
amended.

3. Section 4 of the principal Act is amended by inserting before the word "*Allowances*" in line eleven the passage "*Exemption*,".

Heading  
amended.

4. The heading preceding section 22 of the principal Act is amended by inserting before the word "*Allowances*" the passage "*Exemption*,".

Section 22  
repealed and  
re-enacted.

5. The principal Act is amended by repealing section 22 and re-enacting that section as follows—

Exemption  
for  
widows and  
widowers.

22. Where property comprised in the estate of a deceased person for the purposes of this Act passes to the widow or widower of the deceased person—

- (a) no duty shall be assessable or payable in respect of that property; and
- (b) the Commissioner shall deduct an amount of fifty thousand dollars from the final balance of the estate for the purpose of, and before, assessing the duty payable in respect of any property comprised in the estate that passes to any person to whom Table 1 of the Schedule to the Death Duty Act, 1973, applies. .

6. The principal Act is amended by repealing section 23 and re-enacting that section as follows—

Section 23  
repealed and  
re-enacted.

23. (1) Where property comprised in the estate of a deceased person for the purposes of this Act passes to the widow or widower of the deceased person and that widow or widower has a child who was a dependent child of the deceased person at the date of his death the Commissioner shall deduct the prescribed amount from the final balance of the estate for the purpose of, and before, assessing the duty payable in respect of any property comprised in the estate that passes to any person to whom Table 1 of the Schedule to the Death Duty Act, 1973, applies.

Allowances in  
relation to  
dependent  
children.

(2) The prescribed amount for the purposes of subsection (1) of this section is an amount of ten thousand dollars in respect of each such dependent child, in addition to the sum of fifty thousand dollars referred to in section 22.

(3) Where property comprised in the estate of a deceased person for the purposes of this Act passes to—

- (a) a dependent child of the deceased person; or
- (b) a dependent child of the deceased person and such child has no surviving parents,

the Commissioner shall—

- (c) deduct the prescribed amount from the value of that property for the purpose of, and before, assessing the duty payable in respect of that property; and
- (d) deduct the prescribed amount from the final balance of the estate for the purpose of, and before, assessing the duty payable in respect of any property comprised in the estate that passes to any person to whom Table 1 of the Schedule to the Death Duty Act, 1973, applies.

(4) The prescribed amount for the purposes of subsection (3) of this section is—

- (a) in a case to which paragraph (a) of that subsection applies—an amount of ten thousand dollars in respect of each such dependent child; and
- (b) in a case to which paragraph (b) of that subsection applies—an amount of thirty-five thousand dollars in respect of each such dependent child.

(5) The Commissioner may, if in the circumstances he considers it just and reasonable to do so, deem a grandchild of a deceased person to be a child of the deceased person and of the deceased person's widow or widower, and apply the provisions of this section accordingly. .

Section 24  
repealed and  
re-enacted.

7. The principal Act is amended by repealing section 24 and re-enacting that section as follows—

Furniture  
and  
personal  
effects  
allowance.

24. For the purpose of and before assessing the total duty payable in respect of property comprised in the estate of a deceased person for the purposes of this Act that passes to persons to whom Table 1 of the Schedule to the Death Duty Act, 1973, applies, the Commissioner shall—

- (a) deduct from the final balance of the estate—
  - (i) the aggregate value of furniture and personal effects comprised in the estate that pass to the widow or widower of the deceased person or to persons to whom Table 1 of the Schedule to the Death Duty Act, 1973, applies; or
  - (ii) one thousand five hundred dollars,

whichever is the lesser amount; and

- (b) deduct from the aggregate value of that property—
  - (i) the aggregate value of furniture and personal effects included in that property; or
  - (ii) one thousand five hundred dollars,whichever is the lesser amount. .

8. Section 25 of the principal Act is amended—

Section 25  
amended.

- (a) by adding after the word “who” in line twenty-two of the interpretation “deceased successor” in subsection (1) the words “was the widow or widower of that predecessor or”;

- (b) by repealing subsection (2) and substituting subsections as follows—

(2) Subject to subsection (4) of this section where the Commissioner is satisfied that—

- (a) any property comprised in the estate of a deceased successor for the purposes of this Act,—

- (i) passed from the predecessor directly to the deceased successor; and

- (ii) passes from the deceased successor to the widow or widower of the deceased successor or to a person to whom Table 1 of the Schedule to the Death Duty Act, 1973, applies; and

- (b) duty has been paid on that property under this Act or under the Administration Act, 1903,

the Commissioner shall deduct the prescribed percentage of the value of that property from the final balance of the estate for the purpose of, and before, assessing the duty payable in respect of any property comprised in the estate that passes to any person to whom Table 1 of the Schedule to the Death Duty Act, 1973, applies.

(2a) Subject to subsection (4) of this section where the Commissioner is satisfied that—

(a) any property comprised in the estate of a deceased successor for the purposes of this Act,—

(i) passed from the predecessor directly to the deceased successor; and

(ii) passes from the deceased successor to a person to whom Table 1 of the Schedule to the Death Duty Act, 1973, applies; and

(b) duty has been paid on that property under this Act or under the Administration Act, 1903,

the Commissioner shall deduct the prescribed percentage of the value of that property from the total value of property passing to that person, for the purpose of, and before, assessing the duty payable in respect of property so passing. ;

(c) by deleting the passage “subsection (2)” in line two of subsection (3) and substituting the passage “subsections (2) and (2a)”;

and

(d) by adding after the expression “(2)” in line three of subsection (4) the passage “or paragraph (b) of subsection (2a)”.