



ANNO DECIMO

GEORGII V REGIS.

A.D. 1919.

No. 1396.

An Act to amend the Succession Duties Acts, 1893 and 1915, and for other purposes.

[Assented to, November 27th, 1919.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited alone as the "Succession Duties Act Further Amendment Act, 1919." Short titles.

(2) The Succession Duties Acts, 1893 and 1915, the Succession Duties (Killed in War) Act, 1915, the Succession Duties Act Further Amendment Act, 1917, and this Act, may be cited together as the "Succession Duties Acts, 1893 to 1919." No. 667 of 1893.
No. 1217 of 1915.
No. 1205 of 1916.
No. 1308 of 1917.

(3) The Succession Duties Act, 1893, is hereinafter referred to as "the principal Act."

2. This Act is incorporated with the other Acts mentioned in section 1 of this Act, and those Acts and this Act shall be read as one Act. Incorporation with other Acts.

Amendments.

3. Section 16 of the principal Act is amended—

- (a) by inserting the words "or which shall or may take effect" after the words "to take effect" in the sixth line thereof; and Amendment of section 16 of principal Act—
Deed of gift.
- (b) by striking out the words "and not being a settlement within the meaning of this Act" in the seventh line thereof.

4. The

Succession Duties Act Further Amendment Act.—1919.

Amendment of *ibid.*,
section 17—

Settlements and deeds
of gift liable to duty.

4. The second paragraph of section 17 of the principal Act is amended so as to read as follows:—

The property given or accruing to any person under any deed of gift shall be chargeable with succession duty according to the scale in the Third Schedule hereto, immediately after the death of the donor, if he dies within twelve months after the date of such deed of gift.

Duty chargeable on
property passing
under deed of gift
made before this
Act, where donor
dies after this Act.

5. The second paragraph of section 17 of the principal Act (as hereby enacted) shall apply to any non-testamentary disposition of property which is a deed of gift within the meaning of section 16 of the principal Act (as hereby amended), whether such deed of gift was made before or after the passing of this Act, if the donor dies after the passing of this Act.

Amendment of *ibid.*,
section 36—

When too little
duty paid.

6. Section 36 of the principal Act is amended—

(a) by striking out the words “and upon being required by the Registrar so to do” in the eleventh line thereof; and

(b) by substituting the words “such discovery shall have been made after the Registrar has given” for the words “such requirement be made by the Registrar after giving” in the thirteenth and fourteenth lines thereof.

Amendment of *ibid.*,
section 41—

Appeal from
Registrar.

7. Section 41 of the principal Act is amended by inserting the words “and within the prescribed time” after the word “manner” in the second line thereof.

Amendment of *ibid.*,
section 48.

8. Section 48 of the principal Act is amended by striking out the words “this part of” in the third line thereof.

Amendment of *ibid.*,
Third Schedule.

9. The proviso in the Third Schedule to the principal Act (as enacted by the Succession Duties Act Amendment Act, 1915) is amended by substituting the words “property comprised in the settlement or deed of gift” for the words “estate of the settlor or donor.”

Repeal of 1217, 1915,
s. 4—
Duration of Act.

10. Section 4 of the Succession Duties Act Amendment Act, 1915, is hereby repealed.

Various Provisions.

Definition of
“person” and “net
present value.”

11. For the purposes of this Act and the Acts incorporated herewith, unless the context otherwise requires—

(a) “person” includes body corporate, company, and society; and

(b) “net present value” means, in relation to property derived from a deceased person, the net value of such property at the time of the death of such person, and in relation to property given or accruing under a settle-
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Succession Duties Act Further Amendment Act.—1919.

ment or deed of gift, or to an increase of benefit, beneficial interest, or property accruing under any of the circumstances specified in sections 15 and 18 of this Act, the net value of such increase of benefit, beneficial interest, or property at the time any duty becomes chargeable thereon.

12. Every administrator may, in the statement filed with the Registrar for the purpose of ascertaining the net value of all the property derived from the deceased person, deduct from the gross value of such property all reasonable funeral and testamentary expenses, in the same manner as such administrator, for the purpose of ascertaining such net value, might lawfully deduct debts and other liabilities contracted by such deceased person during his lifetime.

Reasonable funeral and testamentary expenses may be deducted.

13. For the purposes of the principal Act property shall be deemed to be derived from a deceased person—

Property derived from a deceased person.

(a) if a title thereto is conferred beneficially upon any person either immediately or after any interval, either certainly or contingently, and either originally or by way of substitutive limitation by the will of such deceased person or by devolution of law consequent on the death of such person:

(b) if the title thereto consists, wholly or in part, of any non-testamentary disposition of property, including therein any debt, covenant, bond, obligation, mortgage, incumbrance, or engagement made, incurred, given, created, or entered into by such deceased person during his lifetime, otherwise than before and in consideration of marriage, or for full consideration in money or money's worth wholly for the benefit of such deceased person, to the extent of any property which the administrator of such deceased person is bound to transfer, convey, deliver, or pay in satisfaction of such disposition, unless the same property so deemed to be derived from the deceased person is otherwise liable to duty under the principal Act.

14. The same non-testamentary disposition of property may be in part a "settlement" and in part a "deed of gift" within the meaning of the principal Act, and the property given or accruing under such respective parts shall be chargeable with duty under section 17 of the principal Act accordingly.

Disposition may be in part a "settlement" and in part a "deed of gift."

15. (1) Succession duty shall be chargeable according to the scale in the Third Schedule to the principal Act (as enacted by the Succession Duties Act Amendment Act, 1915) on the net present value of—

Property liable to duty under this Act.

(a) the increase of benefit hereafter accruing to any person by the extinction or determination of any charge, encumbrance,

Succession Duties Act Further Amendment Act.—1919.

encumbrance, estate, or interest determinable by the death of any person, or at any period ascertainable only by reference to death, to which any property has become subject by any non-testamentary disposition since the coming into operation of the principal Act :

- (b) the increase of benefit hereafter accruing to any person by the extinction or determination of any benefit reserved or assured to the grantor or any other person for the term of his life, or for any period ascertainable only by reference to death, by any reservation, assurance, or contract in or accompanying any non-testamentary disposition of property, not being a *bona fide* sale, made since the coming into operation of the principal Act :
- (c) the beneficial interest in any property vested since the coming into operation of the principal Act in any persons jointly which hereafter accrues to the other or others of such persons by survivorship :
- (d) the beneficial interest in any money received under a policy of assurance hereafter effected on his life by any person dying after the coming into operation of this Act, where the policy was wholly kept up by him for the benefit of a donee, whether nominee or assignee, or a part of such money, in proportion to the premiums paid by him, where the policy was partially kept up by him for such benefit :
- (e) any annuity or other interest purchased or provided by a person dying hereafter, either by himself alone, or in concert or by arrangement with any other person, to the extent of the beneficial interest accruing or arising by survivorship or otherwise on the death of the person so dying :
- (f) the property given or accruing to any person under any deed of gift to the extent to which such property, or property required to satisfy the same, or the beneficial enjoyment thereof, has not been parted with by the donor at least twelve months prior to the date of his death.

(2) The duty chargeable under this section shall be a first charge upon the property on which the same is imposed.

(3) Section 43 of the principal Act shall be construed as conferring power upon the Governor from time to time to make, alter, and revoke regulations for fixing the value of any property or benefit upon which duty is chargeable under this section.

Exemptions from
liability under sec-
tion 16.

16. Succession duty shall not be chargeable in respect of the increase of benefit or the beneficial interest accruing as mentioned in subdivisions (a), (b), (c), (d), and (e) of section 15 by reason only
of

Succession Duties Act Further Amendment Act.—1919.

of a *bona fide* purchase from the person under whose disposition the benefit or interest accrues, nor in respect of the falling into possession of the reversion on any lease for lives, nor in respect of the determination of any annuity for lives, where such purchase was made, or such lease or annuity granted, for full consideration in money or moneys worth paid to the vendor or grantor for his own use or benefit, or in case of a lease for the use or benefit of any person for whom the grantor was a trustee.

17. (1) For the purposes of the Third Schedule to the principal Act (as enacted by the Succession Duties Act Amendment Act, 1915) in its application to subdivisions (a) and (b) of section 15 of this Act, the increase of benefit therein mentioned shall be deemed to be property given or accruing under a deed of gift, and the person making the non-testamentary disposition therein mentioned shall be deemed the donor.

Application of Third Schedule of principal Act to section 16.

(2) For the purposes of the said Third Schedule in its application to subdivision (c) of section 15, the beneficial interest therein mentioned shall be deemed to be property given or accruing under a deed of gift, and the person on whose death such beneficial interest accrued shall be deemed the donor.

(3) For the purposes of the said Third Schedule in its application to subdivisions (d) and (e) of section 15, the beneficial interest therein mentioned shall be deemed property given or accruing under a deed of gift, and the person dying as mentioned in the said subdivisions shall be deemed the donor.

18. (1) Duty shall be chargeable according to the scale in the Third Schedule to the principal Act (as enacted by the Succession Duties Act Amendment Act, 1915) upon the net present value of any property hereafter given or accruing to any person under any conveyance, assignment, gift, delivery, transfer, or other non-testamentary disposition of property, whether in writing or otherwise, and whether by way of declaration of trust or otherwise, not being a deed of gift or settlement within the meaning of the principal Act, and not being before and in consideration of marriage, or for full consideration in money or money's worth wholly for the benefit of the person making such disposition, in the event of the death of such last-mentioned person within one year of the making of such disposition.

Duty chargeable on gifts otherwise than by deed.

(2) For the purposes of the said Third Schedule in its application to subsection (1) hereof, the conveyance, assignment, gift, delivery, transfer, or other non-testamentary disposition mentioned in the said subsection shall be deemed a deed of gift, and the person making the same shall be deemed the donor.

(3) The provisions of subsection (1) hereof shall not apply to gifts to any person not exceeding in the aggregate the sum of Fifty Pounds.

19. (1) The

Succession Duties Act Further Amendment Act.—1919.

Statement to be filed
and duty paid.

19. (1) The persons becoming beneficially entitled to any property chargeable with duty under sections 15 or 18, or any trustee, guardian, or committee in whom the property is vested, or such one or more of them as the Registrar nominates, shall file a statement with the Registrar, showing all such particulars as the Registrar requires to enable him to assess the duty.

(2) Such statement shall, in any of the cases mentioned in subdivisions (a), (b), (c), (d), and (e) of section 15, be filed immediately after the interest or benefit chargeable with duty has accrued, and shall, in the case mentioned in subdivision (f) of the said section or any case mentioned in section 18, be filed immediately after the death of the person who is deemed to be the donor.

(3) Immediately after the Registrar has approved such statement and assessed the duty the person filing such statement shall pay the duty so assessed.

(4) The Registrar may extend the time for payment.

Registrar may require
payment of duty
before he approves
statement.

20. (1) The Registrar may, if he deems it desirable, require payment of the duty appearing by such statement to be chargeable from any of the persons filing the same, before he has certified his approval.

(2) The duty shall thereupon immediately become payable, but the amount thereof shall be subject to adjustment by the Registrar when he has certified his approval of the statement.

If statement not filed,
Registrar may assess.

21. If the statement is not filed within the prescribed time or a time fixed by the Registrar, or if the Registrar is dissatisfied with any such statement, the Registrar may assess the duty payable in respect of the interest chargeable.

Sales for non-pay-
ment of duty and
adjustment of duty.

22. The provisions of the principal Act relating to sales for non-payment of duty, and adjustment of duty, shall be available *mutatis mutandis* to the person paying any such duty, or any person interested, or the Registrar, and the powers thereby conferred on the Court shall extend to any property made chargeable with duty under this Act.

General provisions
of principal Act to
apply.

23. The "General Provisions" of the principal Act *mutatis mutandis* shall, except where inconsistent with this Act, extend to all property and persons affected by this Act.

When limited interest
taken, duty thereon
payable out of *corpus*.

24. Subject to any specific direction to the contrary in any will or other testamentary instrument, deed of gift, settlement, or non-testamentary disposition of property made chargeable with duty under section 18, every administrator or trustee or other person whose duty it is to adjust the incidence of any duties payable or paid by him shall, in carrying out such adjustment—

(a) charge upon and pay out of the *corpus* of any property in which any limited interest is taken under such will or other

Succession Duties Act Further Amendment Act.—1919.

other testamentary instrument, deed of gift, settlement, or non-testamentary disposition mentioned in section 18, all duties paid or payable in respect of such limited interest and the remainders or the reversion expectant thereon, and the *corpus* so diminished shall thereafter, as between the respective persons entitled thereto, be deemed to be the property in which such interests are taken:

- (b) charge the duty payable on any annuity on the property or fund out of which the same is derived or which may be invested or may require to be invested to produce such annuity, and abate the annuity itself by the same percentage at which the duty in respect thereof is assessed.

25. (1) Duty when it becomes chargeable under this Act or the principal Act shall be deemed a debt due to His Majesty, and shall be payable to the Registrar.

Duty deemed a debt due to Crown.
Com. 22, 1914, ss. 32, 33.

(2) Any duty unpaid may be sued for, and recovered, in any Court of competent jurisdiction by the Registrar suing in his official name.

26. The validity of any assessment shall not be affected by reason that any provisions of this Act have not been complied with.

Validity of assessments.
Ibid., s. 21.

27. (1) Production of any assessment or of any document under the hand of the Registrar purporting to be a copy of an assessment shall—

Evidence of assessments.
Ibid., s. 22.

(a) be conclusive evidence of the due making of the assessment; and

(b) be conclusive evidence that the amount and all particulars of the assessment are correct, except in proceedings on appeal against the assessment, when it shall be *prima facie* evidence only.

(2) The production of any document under the hand of the Registrar purporting to be a copy of or extract from any statement or assessment shall, for all purposes, be sufficient evidence of the matter therein set forth, without the production of the original.

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

Pending appeal not to delay payment of duty.
Ibid., s. 25.

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

(3) Interest shall be paid at the rate of Four Pounds per centum per annum upon the amounts so refunded from the date of payment of

Succession Duties Act Further Amendment Act.—1919.

of the same up to the date when the same are refunded, or upon the amounts so recovered from the date of the assessment appealed against up to the date when the same are recovered, as the case may be.

Property not to be disposed of until duty paid.
Ibid., s. 34.

29. (1) After any duty has become chargeable upon any property, there shall not be any disposition of such property, or any part of it, until the duty thereon has been paid, or the Registrar certifies that he holds security for the payment of the duty sufficient to permit any specified part of such property to be disposed of.

(2) Any administrator, trustee, or other person who disposes of any property in contravention of this section shall, without prejudice to the recovery of the duty by any other means, be personally liable for the duty.

Interest on duty.

30. Interest at the rate of Four Pounds per centum per annum shall be charged on all duty payable under the principal Act or this Act from and after the expiration of three months from the time when such duty first became payable until such duty is paid, and shall be deemed part of the duty imposed by the principal Act or this Act, as the case may be.

Persons interested may inspect statements filed and have copies.

31. Any person who satisfies the Registrar, by declaration or otherwise, that he is beneficially interested in any property chargeable with duty under the principal Act or this Act or the Probate and Succession Duty Act, 1876, shall be entitled, on payment of the fee of One Shilling, to inspect the statements filed in respect of such property, and on payment of a charge at the rate of Three Pence per folio, but not less than Two Shillings and Six Pence, to receive a copy of such statements.

Where charge of duty duplicated, only duty under principal Act or one duty under this Act to be payable.

32. (1) If any property chargeable with duty under this Act is also chargeable with duty under the principal Act in respect of the same event and the same interest, the duty under the principal Act only shall be payable.

(2) If any property is chargeable with duty under more than one provision of this Act in respect of the same event and the same interest, only one duty shall be chargeable, but if there is any difference between the rates thereof the higher shall be payable.

Regulations.

33. The regulations heretofore made under the principal Act and still in force shall, until altered or revoked, apply to all persons and property affected by this Act.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

H. L. GALWAY, Governor.