

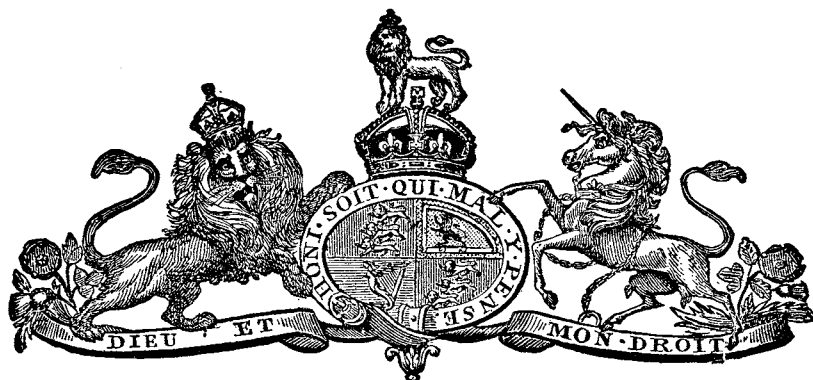
TASMANIA.

 THE DECEASED PERSONS' ESTATES DUTIES ACT,
 1931.

ANALYSIS.

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TASMANIA.



1931.

ANNO VICESIMO SECUNDO

GEORGII V. REGIS.

No. 23.

AN ACT to consolidate and amend the Law relating to Duties on the Estates of Deceased Persons and to Provide for the Assessment and Collection thereof.

A.D.
1931.

[3 December, 1931.]

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

1 This Act may be cited as “The Deceased Persons’ Estates Duties Act, 1931.” Short title.

2—(1) The Acts enumerated in Schedule (1) are hereby repealed.
 (2) Such repeal as aforesaid shall not exclude the operation of the said Acts in respect of the estate of any person who shall have died before the commencement of this Act or in respect of any estate the subject of any settlement made by any person who shall have so died.

Repeal of 6 Geo.
V. No. 66 and
its amendments.

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Interpretation.

3 In this Act, unless the contrary intention appears—

“Administration,” with reference to the estate of a deceased person, means letters of administration or a rule to administer, whether general, special, or limited, or with the will annexed or otherwise; and includes any exemplification or other formal evidence of letters of administration purporting to be under the seal of a court of competent jurisdiction which, in the opinion of the Court, is sufficient; or any instrument whereby any person becomes entitled at law to administer:

“Administrator” means any person to whom administration is granted, and includes any person who becomes entitled to administer any property of a deceased person:

“Child” includes a step-child:

“Commissioner” means the Commissioner of Taxes:

“Court” means the Supreme Court of Tasmania:

“Personal estate” includes chattels real and any interest therein:

“Probate” means probate of a will, and includes exemplification of probate and any other formal evidence of probate purporting to be under the seal of a court of competent jurisdiction which in the opinion of the Court is sufficient:

“Property” includes real and personal property:

“Schedule” means such one of the schedules to this Act as is indicated by the context:

“Section” means such one of the sections into which this Act is divided as is indicated by the context:

“Settlement” means any contract, agreement, or declaration entered into or made voluntarily or otherwise by any person whereby any property is settled or agreed to be settled or which contains any trust or disposition to take effect after the death of any person:

“Will” includes a codicil.

Imposition of duties.

4—(1) Upon and after the commencement of this Act there shall be payable in respect of the real and personal estate of every deceased person who shall die after the commencement of this Act duties at the rates and in the cases set forth in Schedule (2).

(2) All such duties shall be calculated upon the nett estate of the deceased ascertained as provided by Section Five, and shall be paid by the executor or administrator, as the case may be, to the Commissioner.

Estate upon which duty is payable.

5—(1) For the purposes of this Act the real and personal estate of a deceased person shall comprise—

i. If the deceased at the time of his death was domiciled in this State—

(a) His real estate within this State: and

(b) His personal estate wherever the same may be: and

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ii. In any other case—

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- (a) His real estate within this State : and
- (b) His personal estate within this State, including all debts, money, or choses in action receivable or recoverable by the executor or administrator in this State—

and in each such case shall include any such real estate or personal estate, as the case may be, over which the deceased exercised a general power of appointment.

(2) In relation to any person dying after the commencement of this Act, all real and personal estate—

- i. Of which such person at any time has disposed by will or other instrument containing any trust in respect thereof to take effect after his death in pursuance of any power or authority enabling such person to make such disposition :
- ii. Of which such person has disposed at any time by voluntary disposition purporting to operate as an immediate conveyance, or gift *inter vivos*, whether by way of conveyance, transfer, delivery, declaration of trust, or otherwise, unless such disposition was made in good faith at least three years before such person's death :
- iii. Which such person at any time, being absolutely entitled thereto, has voluntarily caused to be conveyed or transferred to, or vested in, himself jointly with any other person, whether by disposition or otherwise, whereby the beneficial interest therein or in some part thereof passes or accrues by survivorship to that other person to the extent of the interest so passing :
- iv. Held by such person as a joint tenant or joint owner with any other person to the extent of the interest accruing to that other person by survivorship and in proportion to the amount, if any, paid or the property, if any, contributed or transferred by the person so dying, in or towards the purchase, investment, or settlement whereby such joint tenancy was created :
- v. Which passes under a voluntary settlement made by such person at any time in any manner otherwise than by testamentary disposition, whereby any interest in the property comprised therein is reserved to the settlor either for life or for any period determinable by reference to death, or whereby the settlor reserves to himself the right by the exercise of any power to restore to himself or retake the absolute interest in such property :
- vi. In respect of which such person, after the twenty-ninth day of January, one thousand nine hundred and sixteen, has given any power of appointment, unless it is proved—
 - (a) That the donee of the power has received the rents, dividends, interest, or other income from such estate in good faith for his own use from the date when such power was given : or

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(b) Such power as aforesaid was exercised by the donee not less than three years before the death of the donor :

- vii. Which passes under any conveyance, or any instrument in exercise of a general power of appointment, which any such person has made within three years next preceding his death upon any consideration other than marriage which is less by one-third than the *bona fide* saleable value at the time of the making of such conveyance or instrument of the property so passing, to the extent to which such value exceeds such consideration :
- viii. Which passes under any conveyance made by any such person within three years before his death in consideration of annual or other periodical payments to be made to or for such person, and terminating at his death, and less by one-third than the annuity which the person so dying could reasonably expect to purchase for the amount of the assessed value of the estate, if realty, or the market value, if personalty (such value to be taken at the time such conveyance was made), to the extent to which the aggregate amount of such payments is less than such value as aforesaid :
- ix. Which is comprised in any gift, by deed or otherwise, or any voluntary conveyance or disposition at any time made by such person, and of which the person in whom the same purports to vest such property has not assumed in good faith the possession and enjoyment immediately upon the making of such gift, conveyance, or disposition, and thenceforth retained the same to the entire exclusion of the person so dying and of any benefit whatsoever to him :
- x. Which consists of moneys payable upon the death of any such person in respect of any policy of insurance effected by him, and kept in force wholly or partially by him and assigned by him by way of gift ; but, where such policy has been only partially kept in force by such person, then such proportion only of such moneys as the premiums paid by such person bear to the total premiums paid in respect of such policy—

shall be deemed to be part of the estate of such person and shall be liable to duty under this Act.

Duty to be a charge on estate.

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

Moneys from friendly societies to be exempt.

7—(1) No duty shall be payable under this Act upon or in respect of—
i. Any moneys payable by a friendly society registered under the Friendly Societies Act, 1888, upon the death of any

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member of such society or upon the death of the wife or child of any such member : A.D. 1931.

- ii. Any property or estate the subject-matter of a devise, bequest, legacy, settlement, or gift in favour of any charitable object within the meaning of this section, whether or not the institution or body in whose favour the same purports to be made was in existence at the time the same was made.

(2) For the purposes of this section the expression charitable object shall include—

- i. Any free public library ; any free public museum ; any public institution for the promotion of science and art (including working men's colleges and schools of mines) ; any public university ; any public hospital or convalescent home : any public institution dispensing charity, relief, or aid ; any public benevolent asylum or society ; any public dispensary ; any public institution for the improvement of the blind, deaf, or dumb ; any ministering children's league or children's aid society ; any women's refuge ; any miners' benevolent fund ; or any public institution or society to which the Governor, by proclamation, declares that the provisions of this section shall apply :

- ii. The support or promotion of any of the religious bodies enumerated in Schedule (2) to the Marriage Act, 1895, 59 Vict. No. 23. and for the purchase of sites for, and the erection and maintenance of, places of public worship used or to be used by any such religious body : or

- iii. Any public school registered under the Registration of Teachers and Schools Act, 1906.

(3) The provisions of this section shall not apply in respect of any devise, bequest, legacy, settlement, or gift which does not take effect within this State nor in relation to any institution, society, or body not within this State.

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

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

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

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Statement of
assets and
calculation of
duty.

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

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

9—(1) Every executor and every administrator, within the prescribed time, shall lodge with the Commissioner a statement in the prescribed form showing full particulars as prescribed of—

- i. The real and personal estate of or to which the deceased person was possessed or entitled at the time of his death (including therein any property of which the deceased person disposed by way of *donatio mortis causa*) and the value thereof at the time of his death :
- ii. The debts due by the deceased person :
- iii. The balance remaining after deducting the amount of such debts from the value of such estate :
- iv. Any further information which the Commissioner may require for the purpose of enabling him to ascertain the amount of duty payable under this Act—

and every such statement shall be verified by affidavit.

(2) Where probate or administration is limited to any particular property, such statement shall be in respect only of that property.

(3) The Commissioner shall examine every such statement, and, if satisfied therewith, shall assess the duty payable under this Act upon the balance shown therein after deducting the debts due by the deceased from the gross value of the estate.

(4) The Commissioner may extend the time for lodging any such statement as aforesaid, and may permit the executor or administrator to amend or alter any statement lodged by him.

(5) Where—

- i. The executor or administrator has failed to lodge the statement required by this section within the prescribed time or such further time, if any, as the Commissioner may have allowed :
- ii. Probate or administration has not been obtained in respect of the estate of the deceased person within six months after his death : or
- iii. The Commissioner is dissatisfied with the statement lodged under this section—

the Commissioner may assess the duty payable in respect of such estate as may be prescribed.

(6) The statement required by this section shall be lodged by an executor or administrator although appointed only conditionally or for a limited period, and such executor or administrator shall pay the duty payable under this Act in relation thereto.

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10—(1) All duties assessed under this Act shall be payable within thirty days after service of a notice of assessment. A.D. 1931.

(2) If the Commissioner is satisfied that the duty cannot be paid within such thirty days, he may, upon obtaining sufficient security for payment thereof— Duty when payable.

i. Extend the time for payment as he considers the circumstances warrant : and

ii. Permit payment of duty by instalments —

but the whole of the duty payable shall be paid in every case within one year after the date of assessment.

(3) If the duty is not paid within the time or extended time, as the case may be, prescribed by this section, there shall be paid by way of additional duty interest on the amount of the duty unpaid at the rate of Ten Pounds per centum per annum, calculated from the expiration of the period allowed in the particular case for payment of duty until the date of payment.

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

(5) The Public Trustee shall retain in his hands out of the proceeds received by him of all estates the management and administration whereof is committed to, or assumed by, him as Public Trustee, the duty which would be payable in respect thereof if letters of administration thereof were granted.

11—(1) Duty in respect of property of which the deceased person has disposed by way of *donatio mortis causa* shall be paid by the executor or administrator when payable. *Donationes mortis causa.*

(2) The amount of all duty so paid shall be a first charge upon such property as aforesaid except against a purchaser in good faith for valuable consideration and without notice.

12—(1) All duty payable under this Act shall be paid or credited as hereinafter provided before probate or administration in respect of that estate is granted by the Court. Duty to be paid before probate, &c.

(2) Where the Commissioner is satisfied that an executor or person entitled to administration is unable to obtain sufficient money of the deceased to enable him to pay the duty payable, or some part of such duty, before obtaining probate or administration, the Commissioner may give credit to such executor or person therefor.

(3) In any such case the Commissioner shall cause the probate or letters of administration to be duly stamped to denote payment of the duty payable thereon and shall allow such time for the payment of such duty, or of the unpaid part thereof, as the Commissioner may think necessary.

(4) The Commissioner may require and take such security, if any, for the payment of any such unpaid duty as aforesaid as he may think necessary, and may give credit therefor upon such terms and conditions as he may think expedient.

(5) While any such duty or any part thereof remains unpaid, the probate or letters of administration shall be deposited with and retained

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by the Commissioner, but the same shall be produced in evidence and exhibited to any person reasonably requiring production thereof at the expense of the executor or administrator.

Certain instru-
ments to be
registered.

13—(1) Every such settlement, trust deed, deed of gift, assurance, or other disposition as is mentioned in Section Five (all and every of which shall be included in the term “such instrument” hereinafter used) shall be registered within six months after the death of the settlor or person making or executing such instrument, or within such further period as the Commissioner may allow, and in default thereof the same may be registered only upon payment of such fine, not exceeding Ten Pounds per centum of the duty payable under this Act in respect of the property disposed of by such instrument, as the Commissioner may impose.

(2) No trust or disposition contained in, or intended to be made by, any such instrument shall take effect until such instrument shall have been registered under this Act.

Registration,
how effected.

14—(1) The registration of every such instrument shall be effected by the trustee or some person interested thereunder.

(2) Such trustee or person shall produce such instrument to the Commissioner, together with an attested copy thereof, and the Commissioner shall cause such copy to be examined and compared with the original, and, upon being satisfied as to the correctness of such copy, shall endorse upon the original a certificate that the same was produced to him and an attested copy thereof left with him, and that the same is registered under this Act, and the date of such production.

(3) There shall be paid to the Commissioner upon every such registration a fee of Ten Shillings by the person effecting the same.

(4) In the case of any such instrument registered under the Real Property Act a duplicate or copy thereof duly certified by the Recorder of Titles may be produced in lieu of the original, and for the purposes of Subsection (2) hereof shall be deemed to be the original.

Statement by
trustee or
beneficiary in
certain cases.

15—(1) Where in relation to any such instrument no statement is lodged by the executor or administrator of the estate of the deceased person, it shall be the duty of the trustee, if any, of such instrument to lodge a statement as provided by Section Nine in respect of the property affected by such instrument.

(2) Where there is no such trustee such statement shall be filed by such person interested under such instrument as the Commissioner may direct.

(3) Every statement required under this section shall be filed within six months after the death of the person upon whose death any property affected by such instrument becomes chargeable with duty under this Act or within such further time as the Commissioner may allow, and the provisions of Section Nine so far as the same are applicable thereto shall apply to every such statement and the proceedings thereon.

Deceased Persons' Estates Duties.

(4) The person required under this section to lodge any such statement shall pay out of the property comprised therein the duty payable in respect thereof as and when the same is assessed by the Commissioner. A.D. 1931.

(5) The Commissioner, in default of registration of any such instrument or in default of any statement required under this section or if he is dissatisfied with any such statement, may assess the duty payable in respect of the property comprised, or which should be comprised, therein.

16—(1) In any case where the Commissioner is dissatisfied with the value of any estate comprised in any statement lodged under this Act, or any part thereof, he may value the same, and, if he thinks it necessary or desirable for that purpose so to do, may appoint a valuator to advise him as to the value thereof. Valuation of property.

(2) Where the Commissioner makes any such valuation as aforesaid he shall communicate the same to the person lodging such statement.

(3) If such person does not agree with the Commissioner's valuation the Commissioner, if he thinks fit, may call before him such person and any such valuator or other person as he may think fit, and may take evidence upon oath, either orally or otherwise, and may determine such value as aforesaid upon any evidence so taken.

(4) Any person who is dissatisfied with any such valuation of the Commissioner may appeal to the Court as hereinafter provided.

17—(1) Any person required to pay duty under this Act, if not otherwise empowered for that purpose to sell the property in respect of which such duty is payable, or any part thereof, may apply to the Court for an order authorising the sale of the whole or a sufficient portion of such property for that purpose. Sale of property for payment of duty.

(2) Where any such duty has not been paid as provided by this Act, the Commissioner may apply to the Court for such order as aforesaid.

(3) Upon any such application the Court may order that the whole or a sufficient portion of such property shall be sold by such person, in such manner, at such time, and upon such terms or conditions as the Court may direct, and may make such order as to costs as the Court may think fit.

(4) The proceeds of any such sale shall be applied first in payment of any costs and expenses ordered to be paid, and secondly in payment of such duty as aforesaid, and the balance, if any, subject to any order of the Court thereon, shall be paid to the executor, administrator, or other person entitled thereto, subject to such trusts as affected the property so sold.

(5) The Court may make such order as to any such balance as aforesaid, and as to the disposal or investment thereof, as the Court may think necessary.

18—(1) Upon any sale of property as provided by this Act, the title of any person in good faith becoming the purchaser, transferee, or Protection purchasers.

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mortgagee for valuable consideration, whether holding the legal estate or not, shall not be prejudiced by the non-payment of duty imposed under this Act.

(2) No such purchaser shall be concerned to enquire as to the propriety of a sale made, or purporting to be made, in pursuancè of an order made under Section Seventeen.

Vesting orders
by the Court.

19—(1) When any property is sold under an order made as provided by Section Seventeen, the Court may make an order vesting such property or any part thereof in such person, for such estate or interest, and in such manner as the Court may think fit, and every such order shall have effect accordingly.

(2) The Court in any such case may direct any conveyance or transfer to be executed by such person as the Court may think fit.

General juris-
diction of the
Court.

20—(1) Upon any application to the Court under this Act, all such persons as would be necessary or proper parties if such application were a proceeding by a creditor for the administration of the estate of the deceased person shall be entitled to notice, and may be heard, but the Court may order substituted service or may dispense with service upon any such person as the Court may think fit.

(2) For the purpose of any such application the Court may appoint guardians, and may refer any question to the Registrar of the Court as it may deem expedient.

(3) Subject to the provisions of this Act, the Court shall decide any such application upon the same principles as if the order were to be made in a proceeding by a creditor to obtain payment of a debt from the estate of the deceased person.

(4) The Court may exercise in relation to such applications all or any of the powers vested in it and applicable thereto, including the power to make rules of court.

Adjustment
of duty.

21—(1) Subject to any special provision by a testator or by the maker of any such instrument as defined in Section Thirteen for the payment of any duty imposed by this Act, the executor, administrator, or trustee, as the case may be, responsible for the payment of duty payable in respect of any estate, shall deduct from each distributive portion of such estate an amount equal to the duty payable under this Act in respect of that portion thereof according to the rates applicable thereto in the particular case.

(2) All such duties as aforesaid shall be adjusted so as to throw the burden thereof upon the respective portions of the estate upon which the same are properly chargeable, and for that purpose any executor, administrator, or trustee may sell, or mortgage with a power of sale, all, or any part of, the estate upon such terms and conditions as he thinks proper.

(3) For the purpose aforesaid any such executor, administrator, or trustee, by instrument in writing, may impose a charge upon any property forming portion of the estate in favour of any person, whether ascertained or not, entitled contingently to any other portion thereof.

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(4) Any such charge—

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- i. In relation to land not under the Real Property Act may be in such form and upon such terms and conditions as the person imposing the same may think proper, and may contain a power of sale in respect of the property charged: and
- ii. In relation to land under the Real Property Act, may be effected by memorandum of encumbrance under that Act, upon such terms and conditions as such person as aforesaid shall think proper, but no covenant by the encumbrancer shall be implied in any such encumbrance.

(5) The powers and discretions conferred by this section shall be subject to the control and direction of the Court, and the Court, on application by summons or otherwise, may make such order as it may think just in any case for the purpose of adjusting the duties and determining the incidence of the duties payable under this Act.

22 If, from any cause, adjustment of the duties payable under this Act has not been made within a reasonable time, the Court, on the application, by summons or otherwise, of any person interested may make such order for adjusting such duties and determining the incidence thereof and, where required, for the sale or encumbrance of any part of the estate, as to the Court may seem just, and any such order may direct how, by whom, and in what manner the costs of any such application shall be paid and borne.

Adjustment
by Court in
certain cases.

23—(1) Where an estate or any part thereof or interest therein in respect of which duty is payable under this Act passes or may ultimately pass to an uncertain person, or to a certain person contingently, duty shall be paid in respect thereof on the nett present value thereof at the highest rate applicable on any potential vesting under the will or instrument containing such limitation.

Duty in respect
of contingent
interests.

(2) If upon the ultimate vesting of such property as aforesaid the same vests in a person in relation to whom the duty would have been at a lower rate if the property had so vested at the time when the duty was payable, the Commissioner shall refund the difference between the duty paid and the duty at such lower rate to the person for the time being entitled to receive the same.

24 Where in the opinion of the Commissioner the circumstances relating to any property assessable under this Act are such that the value thereof is not fairly ascertainable or the assessment or recovery of the duty in respect thereof is complicated or difficult, he may compound the duty payable in respect thereof on such terms and conditions as he may think fit and may discharge the person responsible therefor upon payment of duty as so compounded.

Power to
Commissioner
to compound
duty.

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

Amendment of
assessment.

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

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

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

Discovery of debts or assets after assessment.

26—(1) If within three years after duty under this Act has been paid in respect of any estate the Commissioner is satisfied that debts not included in the statement lodged under this Act were owing by the deceased person at the time of his death, he shall refund any duty found to have been overpaid to the person for the time being entitled to receive the same.

(2) Where any executor, administrator, or trustee receives or discovers any property of a deceased person which was not included in the statement of the estate of such person lodged under this Act, he shall give notice thereof to the Commissioner forthwith and shall pay the duty payable in respect thereof.

(3) If any person fails within six months after the receipt or discovery of such property as aforesaid to give notice thereof to the Commissioner, he shall pay by way of additional duty an amount equal to Ten Pounds per centum of the unpaid duty.

Allowance for duty paid abroad in certain cases.

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

(2) In this section the expression "abroad" shall mean in any State of the Commonwealth or part of His Majesty's dominions other than Tasmania.

Wills not to be registered or admissible in evidence until proved.

28 No will of any person who shall have died after the twenty-second day of October, one thousand nine hundred and four, shall be registered or be admissible or receivable in evidence, except in criminal proceedings, or upon application for probate or letters of administration until probate or administration of the estate comprised therein has been obtained.

Deceased Persons' Estates Duties.

29—(1) No instrument requiring registration under this Act shall be admissible or receivable in evidence, except in criminal proceedings, unless the same has been so registered. A.D. 1931.

(2) A certificate of registration endorsed on any such instrument and signed by the Commissioner shall be evidence of such registration. Unregistered instruments not admissible.

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

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

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

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

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

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

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

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

(9) If the valuation or assessment is altered on appeal a due adjustment shall be made, and, where necessary for that purpose, amounts paid in excess shall be refunded and amounts short paid shall be recoverable as unpaid duty.

31—(1) The Commissioner shall cause to be made and kept in a book to be provided for that purpose a record of all payments of duty under this Act in such form as may be prescribed. Record of duties paid.

(2) Upon application to him for any reasonable purpose by any person interested in any property in any estate, the Commissioner shall give to such person a certificate that duty in respect thereof has been paid or that no duty is payable, as the case may be.

32—(1) In any case in which the Commissioner may think it necessary so to do for the purpose of ascertaining the value of any property or of making any assessment of any estate for the purposes of Additional powers of Commissioner.

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this Act, the Commissioner, by notice in writing, may require any person—

- i. To furnish him with any information specified in such notice : or
- ii. To attend before him and to answer any questions put by him, and to produce all books, documents, and papers in the custody or control of such person—

concerning any such property or estate.

(2) The Commissioner, or any officer authorised by him in that behalf, shall have full and free access at all times to all lands, buildings, places, books, and documents belonging to, concerning, or relating to any estate for the purpose of inspecting, valuing, or assessing such estate, or any part thereof, or for ascertaining to whom any property belongs.

Inspection
of official
documents.

33 It shall be the duty of the Recorder of Titles and the Registrar of Deeds respectively to produce for inspection by the Commissioner, or any officer authorised in writing by him to inspect the same, all instruments and documents required by the Commissioner for the purposes of this Act and in the custody or control of the person hereby required to produce the same, and to permit extracts from, or copies of, the same to be taken by or on behalf of the Commissioner.

Affidavits and
declarations.

34 All affidavits and declarations required under this Act shall be sworn or made before the Commissioner or before a notary public or a Commissioner of the Supreme Court.

Application of
duties and
payment of
refunds.

35 All amounts received by the Commissioner by way of duty and all amounts of duty retained by the Public Trustee shall be paid into the Consolidated Revenue, and the Treasurer, upon the certificate of the Commissioner that the same are payable, shall pay out of the Consolidated Revenue all amounts which the Commissioner is required under this Act to pay by way of refund.

Enforcement
by Court of
performance of
statutory duties.

36 If any person makes default in the doing of any act or the performance of any duty required by this Act to be done or performed by him, the Court, on the application of the Commissioner or of any person thereby affected, may make an order requiring such person in default to do such act or perform such duty.

Service of
notices.

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

Offences.

38—(1) No person, with intent to evade payment of duty under this Act, shall fail or neglect to—

- i. Lodge any statement required to be lodged by him :
 - ii. Pay any duty payable by him : or
 - iii. Register any instrument which he is required to register—
- under this Act.

Penalty : Five hundred Pounds.

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(2) No person, with intent to evade payment of duty under this Act, shall make any return which to his knowledge is false in any material particular. A.D. 1931.

Penalty : One hundred Pounds.

(3) No person shall—

- i. Obstruct or hinder any officer acting in the execution of his duty under this Act :
- ii. Fail when required to furnish any information to the Commissioner : or
- iii. Fail when required to attend before the Commissioner or to answer any question lawfully put to him or produce any book or document in his custody or control.

Penalty : Fifty Pounds.

(4) No person being the executor, administrator, or trustee of any estate shall fail to give notice to the Commissioner as required by this Act of any assets of or belonging to that estate received or discovered by him after duty has been paid in respect of that estate.

Penalty : Minimum : Twenty-five Pounds.

Maximum : One hundred Pounds.

(5) Any penalty imposed under this section shall be in addition to any amount payable by the defendant under this Act by way of penal or additional duty.

39 All proceedings in respect of offences against this Act shall be taken, heard, and determined, and all penalties may be enforced and recovered, in accordance with the provisions of the Justices Procedure Act, 1919. Procedure.
10 Geo. V. No.
55.

40 The Governor may make regulations under and for the purposes of this Act prescribing all such matters and things as may be found necessary or desirable in the administration of this Act or for giving effect to its provisions. Regulations.

41 The operation of Part III. of Schedule (2) prescribing rates of duty payable under this Act shall expire on the thirty-first day of December, one thousand nine hundred and thirty-two. Limitation of
operation of
Part III. of
Schedule (2).

SCHEDULES.

(1)

| Regnal Year and Number. | Title of Act Repealed. |
|-------------------------|--|
| 6 Geo. V. No. 66 | The Deceased Persons' Estates Duties Act, 1915 |
| 8 Geo. V. No. 10 | The Deceased Persons' Estates Duties Act, 1917 |
| 12 Geo. V. No. 50 | The Deceased Persons' Estates Duties Act, 1921 |
| 14 Geo. V. No. 45 | The Deceased Persons' Estates Duties Act, 1924 |
| 21 Geo. V. No. 10 | The Deceased Persons' Estates Duties Act, 1930 |

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(2)

PART I.

ASSESSMENT OF DUTY.

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

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

PART II.

CLASSES OF BENEFICIARIES.

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

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

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

4. Where the net property within and without this State of a deceased person which passes to—

I. The widow or widower:

II. The widow or widower and children: or

III. The children—

of such person does not exceed in the aggregate an amount of One thousand Pounds no duty shall be payable in respect thereof, and where the same exceeds in the aggregate One thousand Pounds, but does not exceed Two thousand Pounds, duty shall be payable only in respect of the excess thereof over One thousand Pounds, and shall be at one-half the rate prescribed in respect of such amount by Part III. hereof.

5. The provisions of Paragraph 4 of this Part shall be applied in respect of every estate which is assessed for duty after the commencement of this Act, although the deceased person, in respect of whose death such duty is payable, shall have died before that date.

6. Where the aggregate value of the estate of a deceased person after deducting all debts does not exceed Four thousand Pounds, no duty shall be payable in respect of any real estate comprised therein—

I. Which within five years before the death of such person has passed to him from his spouse, father, mother, or child, and has been subject on so passing to duty under this Act: and

II. Which, or the proceeds of which, passes to the spouse or child of such person.

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PART III
RATES OF DUTY.
SCALE.

| Where the Aggregate Value of the Estate, after deducting all Debts— | | Duty in respect of every Part shall be Payable at the Rate Per Centum of— |
|--|--------|--|
| £ | £ | |
| Exceeds 500 and does not exceed | 1000 | Three Pounds |
| Exceeds 1000 and does not exceed | 1500 | Three Pounds Five Shillings |
| Exceeds 1500 and does not exceed | 2000 | Three Pounds Ten Shillings |
| Exceeds 2000 and does not exceed | 2500 | Three Pounds Fifteen Shillings |
| Exceeds 2500 and does not exceed | 3000 | Four Pounds |
| Exceeds 3000 and does not exceed | 4000 | Four Pounds Five Shillings |
| Exceeds 4000 and does not exceed | 5000 | Four Pounds Ten Shillings |
| Exceeds 5000 and does not exceed | 6000 | Four Pounds Fifteen Shillings |
| Exceeds 6000 and does not exceed | 7000 | Five Pounds |
| Exceeds 7000 and does not exceed | 8000 | Five Pounds Five Shillings |
| Exceeds 8000 and does not exceed | 9000 | Five Pounds Ten Shillings |
| Exceeds 9000 and does not exceed | 10,000 | Five Pounds Fifteen Shillings |
| Exceeds 10,000 and does not exceed | 11,000 | Six Pounds |
| Exceeds 11,000 and does not exceed | 12,000 | Six Pounds Five Shillings |
| Exceeds 12,000 and does not exceed | 13,000 | Six Pounds Ten Shillings |
| Exceeds 13,000 and does not exceed | 14,000 | Six Pounds Fifteen Shillings |
| Exceeds 14,000 and does not exceed | 15,000 | Seven Pounds |
| Exceeds 15,000 and does not exceed | 16,000 | Seven Pounds Five Shillings |
| Exceeds 16,000 and does not exceed | 17,000 | Seven Pounds Ten Shillings |
| Exceeds 17,000 and does not exceed | 18,000 | Seven Pounds Fifteen Shillings |
| Exceeds 18,000 and does not exceed | 19,000 | Eight Pounds |
| Exceeds 19,000 and does not exceed | 20,000 | Eight Pounds Five Shillings |
| Exceeds 20,000 and does not exceed | 21,000 | Eight Pounds Ten Shillings |
| Exceeds 21,000 and does not exceed | 22,000 | Eight Pounds Fifteen Shillings |
| Exceeds 22,000 and does not exceed | 23,000 | Nine Pounds |
| Exceeds 23,000 and does not exceed | 24,000 | Nine Pounds Five Shillings |
| Exceeds 24,000 and does not exceed | 25,000 | Nine Pounds Ten Shillings |
| Exceeds 25,000 and does not exceed | 26,000 | Nine Pounds Fifteen Shillings |
| Exceeds 26,000 and does not exceed | 27,000 | Ten Pounds |
| Exceeds 27,000 and does not exceed | 28,000 | Ten Pounds Five Shillings |
| Exceeds 28,000 and does not exceed | 29,000 | Ten Pounds Ten Shillings |
| Exceeds 29,000 and does not exceed | 30,000 | Ten Pounds Fifteen Shillings |
| Exceeds 30,000 and does not exceed | 31,000 | Eleven Pounds |
| Exceeds 31,000 and does not exceed | 32,000 | Eleven Pounds Five Shillings |
| Exceeds 32,000 and does not exceed | 33,000 | Eleven Pounds Ten Shillings |
| Exceeds 33,000 and does not exceed | 34,000 | Eleven Pounds Fifteen Shillings |
| Exceeds 34,000 and does not exceed | 35,000 | Twelve Pounds |
| Exceeds 35,000 and does not exceed | 36,000 | Twelve Pounds Five Shillings |
| Exceeds 36,000 | | Twelve Pounds Ten Shillings |

