

New Zealand.

ANALYSIS.

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1885, No. 21.

Title.

AN ACT to amend "The Deceased Persons' Estates Duties Act, 1881."
[11th September, 1885.]

Short Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The Deceased Persons' Estates Duties Act 1881 Amendment Act, 1885." It shall be read and construed together with "The Deceased Persons' Estates Duties Act, 1881" (hereinafter referred to as "the said Act").

Definition of "children."

2. In the construction of the said Act "Children" shall be deemed to include stepchildren.

ADMINISTRATION.

Penalty for taking possession of property without administration.

3. If any person takes possession of, or in any manner deals with, any part of the real or personal estate of any person deceased without obtaining administration of his estate within six months after his decease, or within two months after the termination of any suit or dispute respecting the grant of such administration, or within such further time as shall be allowed by the Commissioner on application, the Commissioner may apply to the Supreme Court, by summons, for an order commanding the person so taking possession or dealing as aforesaid to

deliver to the Commissioner, within such time as the Commissioner may order, an account of the estate of the deceased, and of its value, and to pay such duty as would have been payable if administration had been obtained and the cost of the proceedings, or to show cause to the contrary; and if no cause, or no sufficient cause, be shown to the contrary, the said person so offending shall, in addition to the duties payable by him as aforesaid, forfeit a sum not exceeding five hundred pounds in the discretion of the Judge; but if cause be shown such order shall be made as seems just.

Such proceedings shall be taken and such order made in accordance with the rules of the Supreme Court for the time being in force, so far as they are applicable.

4. From and after the passing of this Act no real or personal property whatsoever in New Zealand belonging to any person who has died or may die abroad shall vest in any person or persons under any devise, intestacy, or by heirship, until probate or letters of administration of such property has been granted in New Zealand, or if probate or letters of administration of such property has or have been granted in any place out of the colony, unless such probate or letters of administration are resealed in New Zealand as hereinafter provided.

No property of person dying abroad to vest without administration granted in the colony.

Upon such property becoming legally vested in accordance with the provisions of this section, the legal estate therein shall vest as from the time of the death of the person from whom it is obtained.

5. No probate or letters of administration granted in any place outside of New Zealand shall be received in evidence of the title of any person to any real or personal property in New Zealand, until such probate or letters of administration are resealed in New Zealand as hereinafter provided.

No English or other probate or administration to have effect unless resealed in the colony.

6. In any case where probate or letters of administration have been granted in any part of Her Majesty's dominions outside of New Zealand effect may be given to such probate or letters of administration in New Zealand by having the same resealed in New Zealand by the Supreme Court thereof in manner provided in "The Intercolonial Probate Act, 1879."

Resealing of foreign probates may be made under "Intercolonial Probate Act, 1879."

For the purposes aforesaid, the Act last mentioned is hereby extended, and shall apply and shall be read *mutatis mutandis* for the purpose of applying such Act to all probates and letters of administration granted by any competent Court in any part of Her Majesty's dominions outside of New Zealand.

7. All probates and letters of administration and exemplifications thereof respectively granted in New Zealand or resealed therein under the foregoing sections of this Act, or under "The Intercolonial Probate Act, 1879," shall be deemed to be included in the term "administration" as defined in "The Deceased Persons Estates Act, 1881," and shall, immediately upon the grant thereof, be sent by the Registrar or Clerk of the Court granting or resealing the same to the Commissioner of Stamps as provided in section ten of the Act last mentioned.

All such probates and letters to be sent to Stamp Office before issue.

Sections three to six, both inclusive, of this Act shall be read subject to any law for the time being in force authorising the payments

to be made out of the estate of any deceased person without requiring probate or letters of administration.

Duty may be charged upon value of real property under Property Assessment Acts.

8. Subsection (d) of section five of the said Act is hereby amended by the addition of the following words :

" Provided that in all cases the Commissioner may insist upon duty being paid upon the value of such real property, with the buildings and improvements thereon, as assessed at the time of the death of the deceased for the purposes of 'The Property Assessment Act, 1879,' and the several Acts amending the same, and of any buildings and improvements erected or made thereon since the date of the last assessment under the said Acts."

DEEDS OF GIFT.

Definition of "Deed of gift."

9. For the purposes of the said Act and this Act

"Deed of Gift" shall be deemed to mean and include every deed of gift absolute, and every deed of conveyance, transfer, or other disposition of any property made by any person, and containing trusts or dispositions to take effect during his lifetime, and not being made before and in consideration of marriage, or in favour of a *bonâ fide* purchaser or incumbrancer for valuable consideration in money or money's worth, and whether or not the property comprised in such deed is subject to any limitation.

Gifts to be charged the same as settlements.

10. There shall be payable under the said Act in respect of any property comprised in any deed of gift the same duties as are payable under the said Act in respect of property comprised in any settlement whereof the trusts and dispositions take effect after the death of the settlor.

Duty to be paid by donee of property.

11. The said duties shall be paid out of the property gifted, in addition to any duties which may be payable under any law relating to stamp duties, in respect to property alienated by deed, and shall be paid when the persons to whom the property passes receive the same.

Deeds of gift to be registered under Act.

12. Every deed of gift of any property as aforesaid, containing trusts or dispositions, to take effect during the life of the donor, shall be registered in manner hereinafter described.

Trustees or beneficiaries to be liable for registration.

13. The trustees, or, failing them, some person benefited under the deed of gift, shall produce such deed to the Commissioner, with a duly-certified copy thereof, and shall deliver such copy to the Commissioner, together with a statement setting forth the property comprised in such deed of gift; and such statement shall be verified by a declaration to be made in the form and manner prescribed as to statements of property under section five of the said Act.

Limit of time for registration.

14. The deed of gift shall be registered within two months after the trusts or dispositions therein shall take effect, provided that the Commissioner may, in any case, upon sufficient cause shown, allow further time for the registration of any such deed.

Penalty for failing to register deed.

15. Every trustee named in any deed of gift and acting thereunder, and every person benefited under any such deed who has notice

thereof, shall be liable to a penalty of not more than ten pounds for every day during which such deed is unregistered after the expiration of the aforesaid two months, or of the further time aforesaid which the Commissioner may have granted :

Provided always that no penalty shall exceed twice the amount of the duty payable.

MISCELLANEOUS.

16. Section thirty-one of the said Act is hereby amended as follows : All the words at the beginning of the section from "if" in the first line to the word "duty," both inclusive, in the second line are hereby repealed, and there shall be substituted therefor the following words : "If after an assessment under this Act has been made it shall be discovered that too little or no duty at all."

Section 31 of principal Act amended.

17. Section thirty-three of the said Act is hereby repealed, and the following substituted in lieu thereof :—

Appeals against assessments.

An appeal to the Supreme Court in the manner provided by section fifty-five of "The Stamp Act, 1882," may be made from any assessment of the Commissioner under the said Act or this Act.

18. Section thirty-six of the said Act is hereby repealed, and the following substituted in lieu thereof :—

No duty on property coming from husband or wife to widow or widower.

No duty shall be payable in respect of any real or personal property to which any wife or husband shall become absolutely entitled by reason of the wife or the husband's intestacy or under her or his will or a settlement or deed of gift made by her or him.

19. Section thirty-eight of the said Act is hereby repealed, and in lieu thereof it is hereby enacted as follows :—

Payment of duty on property subject to any life estate or interest.

(1.) If there is a life estate or interest granted in any property by will, deed of gift, or settlement, to which a widower or widow becomes entitled, then the trustee, executor, or administrator shall be chargeable with and shall pay the duties payable in respect of such property by the persons entitled thereto in remainder, or by the residuary legatees, or other persons entitled to such property after the determination of the life estate or interest therein : Provided that the capital value of the said property is equal to a sum which, invested at six pounds per centum per annum, would produce a yearly income of not less than five hundred pounds.

(2.) The said duties shall be a first charge upon the said property until paid ; but may be paid out of moneys raised on the security of the said property by way of charge, mortgage, or otherwise.

(3.) The trustee, executor, or administrator may pay the said duties during the lifetime of the widower or widow, although the capital value of such property is not equal to such a sum as hereinabove mentioned in subsection one ; and in any such case the Commissioner may refund to the widower or widow any amount not exceeding fifty per centum of the duties so paid.

20. Section thirty-nine of the said Act is hereby repealed, and the following substituted in lieu thereof :—

How value of contingent interests ascertained.

When it shall be necessary for the purposes of the said Act or this Act to ascertain the value of the interest of any person whomsoever in any estate of a deceased person, the Commissioner and the administrator may agree as to the value of such interest, and, failing such agreement, such value shall be decided by such actuary as the Commissioner and the administrator may agree upon, and, if they cannot agree as to the actuary to decide the same, then by some person appointed by the Governor.

Section 40 of principal Act amended.

21. Section forty of the said Act is hereby amended by striking out the words "acquires any property," in the first line, and substituting the words "is absolutely entitled to any property" in lieu thereof.

Section 49 of principal Act amended.

22. Section forty-nine is hereby amended by adding thereto the following words: "In addition to double the amount of the duty for which such person would have been otherwise liable."

Registering charges on property liable for duty.

23. Where under the said Act or this Act the liability to duty is declared to be the first charge upon real estate, the Commissioner may register in the Land Transfer District or the Deeds Registration District, as the case may be, against the real estate so charged a memorandum under his hand setting forth the property intended to be affected and the amount of duty chargeable, and upon the registration of such memorandum as aforesaid the same shall be deemed and taken to be notice to all persons of the existence of such charge as aforesaid, and to take priority over all dealings and dispositions made subsequent to such memorandum as aforesaid being registered.

Amended duties payable.

24. The Schedule to the said Act is hereby repealed, and there shall be substituted for the same the Schedule hereto annexed.

And the said Act shall be read and construed as if the Schedule to this Act had originally been enacted therein.

Schedule.

SCHEDULE.

ON the estates, real and personal, of deceased persons upon the final balance of the estate:—

1. Not exceeding £100	No duty.
2. Upon any amount exceeding £100, but not exceeding £1,000:—	
On the first £100	No duty.
And on the remainder... ..	£2½ per cent.
3. Upon any amount exceeding £1,000, but not exceeding £5,000	£3½ per cent.
4. Upon any amount exceeding £5,000, and up to £20,000	£7 per cent.
Upon £20,000, and any amount over that sum	£10 per cent.
Strangers in blood excepting adopted children	£3 per cent. additional.