

## ESTATE AND GIFT DUTIES AMENDMENT BILL

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### EXPLANATORY NOTE

THIS Bill amends the Estate and Gift Duties Act 1955.

*Clause 1* relates to the Short Title.

*Clause 2* transfers to section 2 of the principal Act the definition of the term "infant child of the deceased" which at present appears in section 17 (1) of that Act. The term appears in the new section 5 (2) (e) which is set out in clause 3 of the Bill.

*Clause 3* amends section 5 (2) (e) of the principal Act so as to extend the exemption under that provision to allowances payable from superannuation funds to, or for the benefit of, an infant child of the deceased until that child attains an age not greater than 21 years.

*Clause 4* provides that, where the final balance of the dutiable estate of a deceased woman does not exceed £12,000, the first £1,000 of her husband's succession is to be exempt from estate duty in the same way as the first £500 of a child's succession is exempt under section 17 (3) of the principal Act. The exemption is to apply in the estates of persons dying on or after 25 July 1957.

*Clause 5* authorises the Commissioner, on special grounds, to remit unpaid estate duty and interest thereon in cases where the duty became payable because of the discovery more than ten years after the date of death of relevant facts, such as a further asset or notional asset, if the Commissioner is satisfied that the non-disclosure was not due to any wilful act or negligence of the administrator or other person liable to pay the duty.

*Hon. Mr Watts*

## ESTATE AND GIFT DUTIES AMENDMENT

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### ANALYSIS

Title 1. Short Title 2. Interpretation	3. Exemption of superannuation benefits of infant child of deceased 4. Exemption for succession of husband 5. Commissioner may remit unpaid duty in certain cases
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### A BILL INTITULED

#### An Act to amend the Estate and Gift Duties Act 1955

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

1. **Short Title**—This Act may be cited as the Estate and Gift Duties Amendment Act 1957, and shall be read together with and deemed part of the Estate and Gift Duties Act 1955 (hereinafter referred to as the principal Act).

10 2. **Interpretation**—(1) Section two of the principal Act is hereby amended by inserting in subsection one, after the definition of the term “general power of appointment”, the following definition:

15 “‘Infant child of the deceased’ means a child or step-child of the deceased who is living and under the age of twenty-one years at the date of the death of the deceased; and includes any person (other than the wife of the deceased) who is living and under the age of twenty-one years at the date of the death of the deceased and is, in the opinion of the Commissioner, a dependant of the deceased.”

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(2) Subsection one of section seventeen of the principal Act is hereby consequentially amended by repealing the definition of the term “infant child of the deceased”.

**3. Exemption of superannuation benefits of infant child of deceased**—Section five of the principal Act is hereby amended by repealing paragraph (e) of subsection two, and substituting the following paragraph: 5

“(e) Paragraph (g) shall not apply to any pension payable from a superannuation fund to which the deceased was a contributor if,— 10

“(i) In accordance with the rules governing the fund, that pension is payable to the widow of the deceased for the rest of her life or during her widowhood, or is payable to, or for the benefit of, an infant child of the deceased until that child attains an age not greater than twenty-one years; and 15

“(ii) That pension is not a pension or additional pension payable pursuant to an election made by the deceased to surrender the whole or any part of any benefit from the fund in consideration of the payment of that pension or additional pension.” 20

**4. Exemption for succession of husband**—(1) Section seventeen of the principal Act is hereby amended by inserting, after subsection two, the following subsection: 25

“(2A) Where the final balance of the estate of the deceased does not exceed twelve thousand pounds, there shall, in respect of the succession acquired by the husband of the deceased in her dutiable estate, be deducted from the estate duty calculated in accordance with the scale of rates set out in the First Schedule to this Act an amount bearing the same proportion to that duty as the value of that succession or the amount of one thousand pounds (whichever is the less) bears to the amount of the final balance of the estate: 30 35

“Provided that, subject to the provisions of subsection four of this section, the amount of the deduction shall where necessary be reduced so as not to exceed the maximum allowance.”

(2) This section shall be deemed to have come into force on the twenty-fifth day of July, nineteen hundred and fifty-seven, and shall apply to the estates of all persons dying on or after that date.

5   **5. Commissioner may remit unpaid duty in certain cases—**  
Section seventy-eight of the principal Act is hereby amended by adding the following subsections:

10   “(4) Where it is discovered after the expiration of ten years from the date of the death of a person (whether the death occurred before or after the commencement of this Act) that the estate duty payable in his estate has not been fully assessed and paid because of material facts not originally disclosed, and the Commissioner is satisfied that the non-disclosure of those facts was not due to the wilful act or  
15 negligence of the administrator or other person liable to pay the duty, the Commissioner may, on special grounds, remit the duty so unpaid together with the interest thereon.

“(5) For the purposes of subsection four of this section—

20   “(a) The expression “estate duty”, in relation to the estate of a person who has died before the commencement of this Act, shall include estate duty and succession duty under the Death Duties Act 1921:

25   “(b) The term “Commissioner” shall not include a District Commissioner of Stamp Duties.”