

STAMP DUTIES ACT.

Act No. 47, 1920.

An Act to impose certain stamp duties ; to amend and consolidate the laws relating to stamp duties upon instruments and upon the estates of deceased persons ; to amend the Friendly Societies Act, 1899, and the Companies (Death Duties) Act, 1901 ; and for purposes consequent thereon or incidental thereto. [Assented to, 31st December, 1920.]

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No. 47.

BE

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BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

PART I.

PRELIMINARY.

Short title
and division.

1. This Act may be cited as the "Stamp Duties Act, 1920," and is divided into Parts and Divisions as follows :—

PART I.—PRELIMINARY—*ss.* 1-7.

PART II.—ADMINISTRATION—*ss.* 8-15.

PART III.—DUTIES ON INSTRUMENTS—

DIVISION 1.—*General provisions—ss.* 16-38.

DIVISION 2.—*Special provisions—ss.* 39-99.

PART IV.—DEATH DUTY—

DIVISION 1.—*General provisions—ss.* 100-112.

DIVISION 2.—*Assessment and collection of death duty—ss.* 113-123.

PART V.—MISCELLANEOUS—*ss.* 124-142.

Repeal of
Acts.
First
Schedule.

2. (1) The Acts mentioned in the First Schedule to this Act are to the extent therein mentioned hereby repealed, but such repeal shall be without prejudice to the past operation of anything in the said Acts or the Schedules thereto.

Officers under
Act hereby
repealed.

(2) All persons appointed under the Acts hereby repealed and holding office at the time of the passing of this Act shall be deemed to have been appointed hereunder.

Regulations
under Acts
hereby
repealed.

(3) All regulations made and forms prescribed under the authority of any Act hereby repealed and being in force at the time of the passing of this Act shall be deemed to have been made under this Act.

Interpreta-
tion.

Sec. 1898, No. 27,
s. 3,
54 & 55 *Vic.*,
c. 38, *s.* 27.
54 & 55 *Vic.*,
c. 39, *s.* 122.

3. In this Act, unless the context or subject-matter otherwise indicates or requires,—

"Commissioner" means the Commissioner of Stamp Duties, and includes an Assistant Commissioner.

"Die"

- “Die” means any plate, type, tool, or implement **George V, No. 47.** whatever used for expressing or denoting any duty, or the fact that any duty or fine has been paid, or that an instrument is duly stamped, or is not chargeable with any duty; and includes any part of any such plate, type, tool, or implement. [54 & 55 Vic., c. 38, s. 27.]
- “Duty” means the stamp duty for the time being chargeable by law.
- “Executed,” with reference to instruments under seal, means signed and sealed, and with reference to instruments not under seal means signed. [1904, No. 24, s. 25; 54 & 55 Vic., c. 38, s. 27.]
- “Execution,” with reference to instruments under seal, means signature and sealing, and with reference to instruments not under seal means signature.
- “Fine,” and all references thereto, include penalty.
- “Forge” and “forged” include counterfeit and counterfeited.
- “Instrument” includes every written document. [Vict. Stamps Act, 1915, s. 3.]
- “Marketable security” includes any stock, funds, shares, bonds, or debentures of any municipal or other corporation, company, or society.
- “Material” includes every sort of material upon which words or figures can be expressed.
- “Minister” means any Minister charged with the administration of this Act.
- “Money” includes all sums expressed in British or in any foreign or colonial currency.
- “Person” includes company, corporation, and society.
- “Person primarily liable” in respect of any instrument or matter means the person who comes within the description specified in the column of the Second Schedule hereto headed “persons primarily liable” in respect of such instrument or matter.
- “Property” includes all property, whether real or personal.
- “Regulations”

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- “Regulations” means regulations under this Act.
- “Stamp” means either a stamp impressed by means of a die or an adhesive stamp.
- “Stamped,” with reference to instruments and material, applies as well to instruments and material impressed with stamps by means of a die, as to instruments and material having adhesive stamps affixed thereto.
- “Valuer” means a person whose business it is to make valuations of the particular class of property of which a valuation is required.
- “Will” includes any testamentary instrument.
- “Write,” “written,” and “writing” include every mode in which words or figures can be expressed upon material.

Charge of
duties.

See 54 and 55
Vic., c. 39,
s. 1;
1898, No. 27,
s. 4.

4. From and after the commencement of this Act there shall be charged for the use of His Majesty and to form part of the Consolidated Revenue Fund upon and in respect of the several instruments and matters described or mentioned in this Act and in the Second and Third Schedules hereto the several duties and at the several rates in the Act and in the said Schedules specified, which duties shall be in substitution for the duties theretofore chargeable under the enactments repealed by this Act, and shall be subject to the exemptions contained in this Act and the said Schedules and in any other Act for the time being in force.

Duties and
other moneys
recoverable
summarily.

See N.Z.
Acts, 1908,
No. 182, s. 4.

5. All duties and other moneys payable under this Act shall, from and after the day on which the same become due and payable, be deemed to be debts due to His Majesty from every person liable to the payment of the same, and may be recovered by action or suit in any court of competent jurisdiction.

Duties to be
denoted, &c., in
accordance with
Act and
regulations.
1898, No. 27,
ss. 7, 20.

6. (1) All stamp duties for the time being chargeable by law upon any instruments or matters specified in this Act shall be denoted and paid according to this Act and the regulations.

How duties to
be denoted.

(2) Except where express provision is made to the contrary, all duties are to be denoted by impressed stamps only.

7. The Schedules to this Act and everything therein contained shall be read and construed as part of this Act.

George V,
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Schedules
part of Act.
1898, No. 27,
s. 8.

PART II.

ADMINISTRATION.

8. The Governor may appoint—

- (a) a Commissioner who shall be charged with the levying and collection of the duties imposed by this Act; and also
- (b) an Assistant Commissioner of Stamp Duties, who shall perform such duties and exercise such powers as the Governor may prescribe; and also
- (c) such other officers, including inspectors, as may be deemed necessary for the due execution of this Act.

Power to
appoint
commissioner
and officers.
Ibid. s. 5.

The said persons shall give such security for the due discharge of the duties hereby reposed in them as the Governor may direct.

9. The Governor may frame regulations not being inconsistent with this Act and prescribe forms for carrying out this Act, and such regulations and forms when published in the Gazette shall have the force of law:

Power to
make
regulations
and forms.
Ibid. s. 71.

Provided that the same shall be laid before both Houses of Parliament forthwith if Parliament is sitting, and if not, then within twenty-one days after the commencement of the next session.

10. The Governor may by notice in the Gazette prescribe what forms of adhesive stamps may be used for the purpose of denoting the payment of duty under the provisions of this Act.

Governor to
declare what
stamps may
be used.
1900, No. 53,
s. 2.

11. The Minister shall provide for denoting the several duties hereby imposed, such stamps or dies as may

Stamps to be
provided.
1898, No. 27,
s. 6 (2).

George V, may be required for the purposes of this Act, and do
 No. 47. any other act which may be necessary for effectually
 collecting the said duties.

Licenses to
 deal in
 stamps.

See 54 & 55
 Vic., c. 38,
 ss. 3, 4, 6 ;
 1898, No. 27,
 s. 6 ;
 N.Z. Act,
 1908, No.
 182, ss. 12, 13.

12. (1) The Minister may grant a license to any person to deal in stamps at any place to be named in the license.

(2) The license shall specify the full name and place of abode of the person to whom the same is granted, and a description of every building at which he is authorised to deal in stamps, and such person shall not be thereby entitled to deal in stamps at any place not described in his license.

(3) Every person licensed to deal in stamps shall cause to be visibly and legibly painted, and shall keep so painted in letters of not less than one inch in length on some conspicuous place on the outside of the front of every building at which he is licensed to deal in stamps, his full name, together with the words "Licensed to sell duty stamps," and for every neglect or omission so to do shall be liable to a fine not exceeding ten pounds.

Unauthorised
 dealing in
 stamps.

(4) Every person is liable to a fine not exceeding twenty pounds who,—

- (a) not being duly licensed to deal in stamps, deals in any manner in stamps ; or
- (b) being so duly licensed, deals in any manner in stamps at any place not specified in his license ;
- (c) whether licensed to deal in stamps or not hawks or carries about for sale or exchange any stamps.

(5) Upon the sale of stamps to be dealt in by a licensee as aforesaid such discount shall be allowed to the purchasing licensee as the Minister directs.

Recovery of
 fines.
 1898, No. 27,
 s. 69.

13. Any fine incurred under this Act may be recovered in a summary way before any two justices of the peace, or by action of debt in the Supreme Court in the name of the Attorney-General, and with costs in either case.

Commissioner
 may remit
 fines.

14. Except in cases where a minimum fine is imposed, the Commissioner may remit the whole or any part of any fine incurred under this Act.

15.

15. Any person possessed of any stamp rendered useless by being inadvertently spoiled, may upon application to the Commissioner be allowed in lieu thereof other stamps of the same or any other denomination amounting in the whole to the value of such spoiled stamps.

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Allowance in
case stamps
becoming
useless.
See 1898,
No. 27, s. 70.

PART III.

DUTIES ON INSTRUMENTS.

DIVISION 1.—*General provisions.*

16. (1) Every instrument written on stamped material is to be written in such manner, and every instrument partly or wholly written before being stamped is to be so stamped, that the stamp may appear on the face of the instrument, and cannot be used for or applied to any other instrument written on the same piece of material.

How instru-
ments are to
be written
and stamped.
1898, No. 27,
s. 6.
1914, No. 3,
s. 6.

(2) If more than one instrument is written on the same piece of material, every one of such instruments is to be separately and distinctly stamped with the duty with which it is chargeable.

17. (1) Except where express provision to the contrary is made by this or any other Act, an instrument containing or relating to several distinct matters is to be separately and distinctly charged with duty in respect of each of such matters, as if each matter were expressed in a separate instrument.

Instruments
to be
separately
charged with
duty in
certain cases.
1914, No. 3,
s. 7.

(2) An instrument made for more than one consideration is to be charged with duty in respect of each such consideration, according to the rate with which each is chargeable, as though each consideration were expressed in a separate instrument.

18. (1) A stamp which by any word or words on the face of it is appropriated to any particular description of instrument is not to be used, or if used is not to be available for any instrument of any other description.

As to the use
of appropri-
ated stamps.
54 & 55 Vic.,
c. 39, s. 10.

(2)

**George V,
No. 47.** (2) An instrument falling under the particular description to which any stamp is so appropriated as aforesaid is not to be deemed duly stamped unless it is stamped with the stamp so appropriated.

Facts and circumstances affecting duty to be set forth in instruments. **19.** (1) All the facts and circumstances affecting the liability of any instrument to ad valorem duty, or the amount of the ad valorem duty with which it is chargeable, are to be fully and truly set forth in such instrument.

Ibid. s. 5. (2) This provision shall not prevent the Commissioner exercising the powers conferred upon him by the next succeeding section, and, if the facts justify it, charging or assessing a greater amount of duty than would appear to be chargeable or assessable by a reference to the language and contents of such instrument.

Commissioner may call for and refuse to proceed without evidence. **20.** (1) On any application to the Commissioner with reference to any instrument, he may require to be furnished with an abstract of the instrument and also with such evidence on oath or otherwise as he deems necessary in order to show to his satisfaction whether all the facts and circumstances affecting the liability of the instrument to duty, or the amount of the duty chargeable thereon, are fully and truly set forth therein, and may refuse to proceed on any such application until such evidence has been furnished accordingly.

Protection of witnesses. **(2)** No oath, affidavit, or statutory declaration made in pursuance of this section shall be used against any person making the same in any proceeding whatever, except in an inquiry as to the duty with which the instrument to which it relates is chargeable; and, except as provided by the next succeeding section, every person by whom any such oath, affidavit, or declaration is made shall, on payment of the full duty with which the instrument to which it relates is chargeable, be relieved from any fine, forfeiture, or disability he may have incurred by reason of the omission to state truly in such instrument any of the facts or circumstances aforesaid.

Penalty for not fully setting forth facts. **21.** Every person who, with intent to defraud His Majesty,—

Ibid. s. 5. (a) executes any instrument in which all the said facts and circumstances are not fully and truly set forth; or

Ibid. s. 10 (2).

(b)

- (b) being employed or concerned in or about the preparation of any instrument, neglects or omits fully and truly to set forth therein all the said facts and circumstances,

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is liable to a fine of fifty pounds in addition to the amount of duty of which His Majesty has been deprived by any such fraudulent act as aforesaid.

22. (1) An instrument the duty on which is required or permitted by law to be denoted by an adhesive stamp is not to be deemed duly stamped with an adhesive stamp unless the person required by law to cancel such adhesive stamp cancels the same, at the time of the execution of the instrument by him, by writing or impressing or marking in ink on or across the stamp his name or initials, or the name or initials of his firm, together with the true date of his so writing, so that the stamp may be effectually cancelled and rendered incapable of being used for any other instrument, or unless it is otherwise proved that the stamp appearing on the instrument was affixed thereto at the proper time.

General
direction as
to the
cancellation
of adhesive
stamps.
See 1898,
No. 27, s. 21.

(2) If there are several parties to any such instrument, the cancellation shall be deemed effectual if made in manner aforesaid by any one of the parties thereto.

Cancellation
by one party
effectual in
certain cases.

(3) Every person who, being required by law to cancel an adhesive stamp, neglects or refuses duly and effectually to do so in manner aforesaid is liable to a fine not exceeding ten pounds.

Neglect or
refusal to
cancel
adhesive
stamps.

23. Every person who—

- (a) fraudulently removes or causes to be removed from any instrument any adhesive stamp, or affixes to any instrument any adhesive stamp which has been removed from any other instrument with intent that such stamp may be used again; or
- (b) knowingly sells, or offers for sale, or utters any adhesive stamp which has been removed from any instrument, or utters any instrument having thereon an adhesive stamp which, to his knowledge, has been so removed as aforesaid; or

Fine in
relation to
adhesive
stamps or to
any duty.
See *Ibid.*
s. 22.

(c)

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(c) practises or is concerned in any fraudulent act, contrivance, or device with intent to evade any duty under this Act,

shall be liable to a fine of twenty pounds over and above any other penalty to which he may be liable.

Penalty for registering instrument not duly stamped.

See 54 & 55 Vic., c. 39, s. 17.
1898, No. 27, s. 23.

24. (1) If any person whose office it is to enrol, register, or enter in or upon any books or records any instrument chargeable with duty, enrolls, registers, or enters any such instrument which is unstamped or insufficiently stamped, he shall incur a fine not exceeding five pounds for each offence.

(2) No instrument which is marked as sufficiently or fully or duly stamped, or as not liable to stamp duty shall, for the purposes of this section, be deemed to be unstamped or insufficiently stamped.

Terms on which instruments may be stamped after execution.

See *Ibid.* s. 14.
1904, No. 24, s. 17;
1914, No. 3, s. 32.

25. (1) Except where other express provision is made by this or any other Act any unstamped or insufficiently stamped instrument may be stamped or further stamped after the first execution thereof on payment of the unpaid duty and fine in addition to the duty as follows:—

- (a) Where such instrument is presented to be stamped more than one month and not more than two months after it has been first executed, or after it has been first received in New South Wales in case it was first executed at any place out of New South Wales, a fine of twenty per centum on the amount of duty payable.
- (b) Where such instrument is not presented to be stamped within two months after such execution or receipt as aforesaid a fine of one hundred per centum on the amount of the duty payable; but in no case shall the last-mentioned fine be less than two pounds in case the ad valorem duty on the instrument does not exceed five pounds, nor less than five pounds in case such duty exceeds five pounds:

Provided that any unstamped or insufficiently stamped instrument which has been first executed at any place
out

out of New South Wales may be stamped at any time within one month after it has been first received in New South Wales on payment of the unpaid duty only. George V, No. 47.

(?) The payment of any fine shall be denoted on the instrument by a particular stamp.

26. For the purposes of this Act an instrument is deemed to be first executed the first time that it is signed and sealed, or signed (as the case may be) by any party thereto: Execution of instruments. 1914, No. 3, s. 4 (2).

Provided that if the instrument is ineffective by reason of a failure of the necessary parties to execute it, a refund may be made of any money paid for stamping.

27. (1) On the production of an instrument chargeable with stamp duty as evidence in any court of civil judicature, the officer whose duty it is to read the instrument shall call the attention of the Judge to any omission or insufficiency of the stamp thereon; and if the instrument is one which may legally be stamped after execution it may, on payment to such officer of the amount of the unpaid duty and the fine payable by law, be received in evidence, saving all just exceptions on other grounds. Terms on which unstamped or insufficiently stamped instruments may be received in evidence. cf. 1898 No. 27, s. 15 (1). cf. 54 and 55 Vic., c. 39, s. 14.

(2) Such officer shall detain and immediately transmit to the Commissioner the instrument, together with the duty and fine so paid thereon, and the payment thereof shall be denoted on such instrument accordingly. The officer of the court to transmit instrument for stamping.

28. In proceedings in any court secondary evidence of a document may, saving all just exceptions on other grounds, be admitted notwithstanding that such document is subject to stamp duty and has not been duly stamped, if the amount of the stamp duty or the amount of the deficiency of the stamp duty and any fine imposed by this Act are paid to an officer of the court. Secondary evidence of unstamped documents. 1914, No. 3, s. 7 (2).

29. Except as aforesaid, no instrument executed in New South Wales or relating (wheresoever executed) to any property situate or to any matter or thing done or to be done in any part of New South Wales, shall, except in criminal proceedings, be pleaded or given in evidence, or admitted to be good, useful, or available in law or equity, unless it is duly stamped in accordance with the law in force at the time when it was first executed. Instruments not duly stamped inadmissible. 1898, No. 27, s. 15 (1). 54 & 55 Vic., c. 39, s. 14.

30.

George V. **30.** (1) No instrument executed out of New South
No. 47. Wales, and which by the law of the country in which it
 Rule as to instruments executed out of New South Wales.
 cf. 1898, No. 27, s. 16. was executed is inadmissible in evidence in such country
 by reason of not having been stamped, shall be for such
 reason inadmissible in evidence in New South Wales,
 unless it is proved that such instrument is, by the
 statute law of such country, expressly made void if made
 or executed without being stamped.

(2) Nothing herein shall be deemed to render valid in New South Wales any instrument executed out of New South Wales which is void by the law of the place in which the same was executed for any other reason than that the same was not duly stamped.

Contingent stamp duties. **31.** Where the duty with which an instrument is
 1898, No. 27, s. 13. chargeable depends in any manner upon the duty paid
 upon another instrument the payment of the last-
 54 & 55 Vic., c. 39, s. 11. mentioned duty shall upon application to the Commis-
 sioner and production of both the instruments, be
 denoted upon the first-mentioned instrument in such
 manner as the Commissioner thinks fit.

Money in foreign or colonial currency to be valued. **32.** Where an instrument is chargeable with ad
Ibid. s. 11. valorem duty in respect of any money in any foreign or
Ibid. s. 6 (1). colonial currency, such duty shall be calculated on the
 value of such money in British currency according to
 the current rate of exchange on the day of the date of
 the instrument.

Marketable securities to be valued. **33.** Where an instrument is chargeable with ad
Ibid. s. 12. valorem duty in respect of any marketable security, such
Ibid. s. 6 (1). duty shall be calculated on the price of such security as
 quoted in any stock or share market in or out of New
 South Wales, or on the average value according to the
 best evidence that can be obtained of such security on
 the day of the date of the instrument.

Effect of statement of value. **34.** (1) Where an instrument contains a statement
Ibid. s. 6 (2). of current rate of exchange, or quoted price, or average
 value, and is stamped in accordance with such state-
 ment, it is, so far as regards the subject-matter of such
 statement, to be deemed duly stamped.

(2) If such statement is proved to be untrue, the deficient duty and fine may be recovered.

35.

35. Where an instrument is presented to the Commissioner for assessment he shall state whether it is liable to duty; and, if he is of opinion—

- (a) that it is not so liable, it may be stamped with a particular stamp denoting that it is not so liable; or
- (b) that it is liable to duty or fine, he shall assess the duty or fine with which it is in his opinion chargeable, and when the instrument is stamped in accordance with the assessment it may be stamped with a particular stamp denoting the amount of duty or fine so paid, and denoting that it is duly stamped.

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The Commis-
sioner to
assess duty.
1898, No. 27,
s. 17.

cf. 54 & 55
Vic., c. 39,
s. 12 (1) (3)
(4).

36. Any instrument presented at the stamp office for assessment or otherwise may be impounded and detained by the Commissioner until the duty or fine, or both, have been paid in respect thereof.

Instruments
may be im-
pounded till
duty paid.

37. (1) If it appears that the Commissioner has stamped an instrument having assessed an insufficient amount of duty or fine thereon, or erroneously or improperly put on the same a stamp denoting that it is not liable to duty or is duly stamped. In cases where all the facts and circumstances affecting the liability of the instrument to duty have not been truly and fully set forth in such instrument the Commissioner may at any time call upon the person on whose behalf the instrument was presented for assessment to pay the amount with which in his opinion such instrument was properly chargeable in respect of duty or fine, or both duty and fine, at the time of stamping the same.

Insufficient
duty may be
recovered.
See N.Z. Act,
1908, No. 182,
s. 51.

(2) The aforesaid amount shall be a debt due to the Crown, and may be recovered from such person accordingly: Provided

- (a) that such person, if dissatisfied, may appeal against the decision of the Commissioner under section one hundred and twenty-four, the provisions of which shall, mutatis mutandis, apply; and
- (b) that the instrument so stamped shall be as good and available for all purposes as though full duty and fine had been paid thereon.

Interim
validity of
instrument.

38.

George V, No. 47. **38.** (1) Every person primarily liable with respect to any instrument or matter of the nature mentioned in the Second Schedule hereto is personally liable to His Majesty for the payment of the duty so chargeable on such instrument immediately upon the execution thereof, and every such person may be sued for the amount of such duty as for a debt due to the Crown.

Persons primarily liable for such duties.

(2) Nothing herein shall be deemed to exonerate any other person from any liability imposed upon him by or under this Act, or to exempt any instrument or matter from any duty or disability to which it is liable under this Act.

DIVISION 2.—*Special provisions.*

Affidavits and declarations.

39. (1) The duty on an affidavit or declaration may be denoted by an adhesive stamp, which is to be cancelled by the person making such affidavit or declaration.

Duty on affidavits and declarations.
N.Z. Act, 1908, No. 182, s. 57.
54 & 55 Vic., c. 39.

(2) Where two or more persons join in one affidavit or declaration, such affidavit or declaration is to be separately and distinctly charged in respect of the affidavit or declaration of each such person.

Agreements.

40. The duty on an agreement under hand other than an agreement chargeable with ad valorem conveyance duty may be denoted by an adhesive stamp, which is to be cancelled by the person by whom the agreement is first executed.

Duty on certain agreements under hand may be denoted by adhesive stamp.
1898, No. 27, s. 25.

Agreements for sale or conveyance.

41. (1) Every agreement for the sale or conveyance of any property in New South Wales shall be charged with the same ad valorem duty to be paid by the purchaser or person to whom the property is agreed to be conveyed as if it were a conveyance of the property agreed to be sold or conveyed and shall be stamped accordingly.

Agreements for sale or conveyance to be chargeable as conveyances.
See 1914, No. 3, s. 8;
N.Z. Act, 1915, No. 39, s. 76.

(2) An agreement for the exchange of any property for any other property shall for the purposes of this Act be deemed to be an agreement for the sale of the property to be exchanged. (3)

Agreement for exchange.

(3) Where the agreement is constituted or evidenced by two or more instruments it shall be sufficient if any one of such instruments is stamped with the duty aforesaid.

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One only of
several instru-
ments to be
stamped.

(4) (a) Where duty has been duly paid in conformity with the foregoing provision, the conveyance made in conformity with the agreement or agreements shall not be chargeable with ad valorem duty, but shall be chargeable with a duty of one shilling.

Stamping
conveyance.

(b) The Commissioner upon application and on production of the conveyance and the agreement or agreements leading thereto, duly stamped as aforesaid, and subject to the next succeeding section, shall mark the conveyance as duly stamped.

(5) In case the full amount on which ad valorem duty is payable cannot be immediately ascertained the duty may be paid upon so much (if any) thereof as is ascertainable, and the agreement may be stamped accordingly and marked "interim stamp only," and where so stamped shall be admissible in evidence for the mere purpose of proceedings to enforce specific performance or enforce damages for the breach thereof. The balance of such duty shall be paid as soon as the same is ascertained or assessed by the Commissioner, and thereupon the agreement shall be stamped with the amount of such balance and shall be marked as duly stamped.

Interim
stamp.

(6) No deduction shall be made from the duty payable as provided by subsection one in respect of any agreement on account of any exemption under the Second Schedule to this Act unless particulars and the value of the property in respect of which exemption is claimed and the consideration money apportioned in respect thereof are fully and truly set forth in the agreement.

Particulars
where exemp-
tion claimed.

(7) (a) In case the agreement is afterwards rescinded or annulled, or for any other reason is not substantially performed or carried into effect so as to operate as or be followed by a conveyance, the ad valorem duty paid thereon shall be refunded by the Commissioner to the party to the agreement by whom or on whose behalf the duty was paid, or to his executors, administrators, or assigns.

Return of
duty.

(b)

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(b) The amount of any duty other than such ad valorem duty to which the instrument may be liable, shall be deducted from the amount of such refund.

(8) This section applies only to agreements made after the passing of this Act.

(9) Nothing in this section shall relieve any conveyance made after the passing of this Act from any liability to a fixed duty of one pound incurred under subsection five of section eight of the Stamp Duties (Amendment) Act, 1914, where any agreement leading to such conveyance was made before the passing of this Act but ad valorem duty was not paid on such agreement before the passing of this Act.

Property sold
at one price
conveyed by
separate
deeds.
1898, No. 27,
s. 37 (1).

42. (1) Where any property has been agreed to be sold for one consideration for the whole, and is conveyed to the purchaser in separate parts or parcels by different instruments, the consideration shall be apportioned in such manner as the parties think fit, so that a distinct consideration for each separate part or parcel shall be set forth in the conveyance relating thereto.

Where sold to
several at one
price and
conveyed in
parts by
separate
deeds.
Ibid. s. 37 (2).

(2) Where any property agreed to be purchased for one consideration for the whole by two or more persons jointly, or by any person for himself and others, or wholly for others, is conveyed in parts or parcels by separate instruments to the persons by or for whom the same was purchased for distinct parts of the consideration, each such part of the consideration shall be set forth in the conveyance of each separate part or parcel.

Subsales.

(3) (a) Where property is sold, but not conveyed, to any person, and is subsequently subsold to another person or other persons in succession as sub-purchasers, the instrument whereby each sale or subsale is effected shall be liable to ad valorem stamp duty as if it were a conveyance to the purchaser and each sub-purchaser from his immediate vendor, and if the said duty is not paid on any of such instruments the amount of such unpaid duty, together with any fine payable in respect thereof, shall be paid as an additional duty on the conveyance to the ultimate purchaser.

(b) Notwithstanding any stipulation to the contrary the ultimate purchaser shall be entitled to deduct any such unpaid duty and fine from any consideration payable by him under his agreement of purchase.

(4)

(4) The conveyance by the original vendor to the ultimate purchaser shall be exempt from the said ad valorem duty, but shall be chargeable with a duty of one shilling, and shall be marked as duly stamped.

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Conveyance by original vendor to ultimate purchaser.
See 1898, No. 27, s. 37(5).

(5) Where a vendor of any property conveys the same or part thereof by direction, whether written or oral, to any person other than the original purchaser such conveyance shall set forth the consideration for any agreement whether written or oral leading thereto, and shall be liable to additional duty equal in amount to the ad valorem duty which would have been payable if each of such agreements had been an actual conveyance. This provision shall not apply to cases where each of such agreements has been duly stamped as hereinbefore provided.

Conveyance by direction.

(6) Every instrument purporting to be a conveyance or an agreement to convey any property in which the name of the purchaser is not written in ink on or before the execution thereof, shall be wholly and absolutely void and inoperative both at law and in equity; and each party executing the same shall be liable to a fine not exceeding fifty pounds.

Name of purchaser or transferee to be written in conveyance.

Fine.

(7) In case the full amount on which ad valorem duty is payable cannot be immediately ascertained, the duty may be paid upon so much (if any) thereof as is ascertainable and the conveyance may be stamped accordingly and marked "interim stamp only," and when so stamped shall be admissible in evidence. The balance of such duty shall be paid as soon as the same is ascertained or assessed by the Commissioner, and thereupon the conveyance shall be stamped with the amount of such balance and shall be marked as duly stamped.

Interim duty.

Appraisements.

43. (1) Every appraiser by whom an appraisement or valuation is made shall, within fourteen days after the making thereof, write out the same in words and figures, showing the full amount thereof, on duly stamped material, and if he neglects or omits so to do, or in any other manner delivers out or states the amount of any such appraisement or valuation, he shall be liable to a fine not exceeding fifty pounds.

Appraisements to be made out on duly stamped material.

54 & 55 Vic., c. 39, s. 24.

N.Z. Act, 1908, No. 182, s. 59.

(2)

**George V,
No. 47.** (2) Every person who receives from any appraiser or pays for the making of any appraisal or valuation, unless the same is written out and stamped as aforesaid, is liable to a fine not exceeding fifty pounds.

Appraiser
defined.
46 Geo. 3,
c. 43, s. 4.

(3) For the purposes of this Act the expression "appraiser" means a person who values or appraises any property for or in expectation of any fee or reward.

Bank notes.

Definition of
bank. **44.** For the purposes of this Act the expression "bank" has the same meaning as in the Banks and Bank Holidays Act, 1912.

Composition
in respect of
bank notes.
1898, No. 27,
s. 26.

45. (1) There shall be payable quarterly to the Commissioner by every bank an annual composition at the rate of forty shillings for every one hundred pounds and forty shillings for any remaining fraction of one hundred pounds upon the amount of notes stated to be in circulation in the return made by such bank pursuant to the Banks and Bank Holidays Act, 1912.

Time for
making
quarterly
payments by
banks.

(2) Each of such quarterly payments shall be made within one month after the date of the payment by each such bank immediately preceding it.

(3) Any bank not making any such payment within such time shall be liable to a fine not exceeding twenty pounds.

Bills of exchange and promissory notes.

Bill of
exchange
defined.
54 & 55 Vic.,
c. 39, s. 32.
1898, No. 27,
s. 3.

46. (1) For the purposes of this Act the expression "bill of exchange" includes also draft, order, cheque, and letter of credit, and any document or writing entitling or purporting to entitle any person, whether named therein or not, to payment by any other person of, or to draw upon any other person for, any sum of money therein mentioned.

(2) An order for the payment of any sum of money by a bill of exchange or promissory note, or for the delivery of any bill of exchange or promissory note in satisfaction of any sum of money, or for the payment of any sum of money out of any particular fund which
may

may or may not be available, or on any condition or contingency which may or may not be performed or happen, is to be deemed a bill of exchange for the payment of money on demand. George V,
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47. (1) The expression "promissory note" includes any document or writing containing a promise to pay any sum of money and any debenture issued by any company, corporation, or society in New South Wales, or any debenture issued out of New South Wales, if negotiated therein. Promissory
note defined.
54 & 55 Vic.,
c. 39, s. 33.
1898, No. 27,
s. 3.

(2) A note promising the payment of any sum of money out of any particular fund which may or may not be available, or on any condition or contingency which may or may not be performed or happen, is to be deemed a promissory note for the said sum of money.

48. (1) The ad valorem duties upon bills of exchange and promissory notes drawn or made out of New South Wales may be denoted by adhesive stamps; and every holder, whether in due course or for collection only, of any unstamped bill of exchange or promissory note drawn out of New South Wales shall, before he presents it for payment, or indorses, transfers, or in any manner uses, negotiates, or pays the same, cause it to be duly stamped. Adhesive
stamps for
foreign bills,
&c.
See 1914,
No. 3, s. 9;
54 & 55 Vic.,
c. 39, s. 35.

(2) If, at the time when any such bill or note comes into the hands of any such holder thereof, there is affixed thereto an adhesive stamp appearing to be duly cancelled, such stamp shall, so far as relates to such holder, be deemed to be duly cancelled, although it may not appear to have been so affixed or cancelled by the proper person.

(3) If, at the time when any such bill or note comes into the hands of any such holder thereof, there is affixed thereto an adhesive stamp of proper amount but not duly cancelled, such holder shall forthwith cancel such stamp, and upon his so doing, such bill or note shall be deemed duly stamped, and be as valid and available as if the stamp had been cancelled by the person by whom it was affixed: if he fails so to cancel such stamp he shall be liable to a fine not exceeding twenty pounds.

49.

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Documents to
be deemed to
be made as
drawn.

1914, No. 3,
s. 10.

Terms on
which bills or
notes may be
stamped after
execution.

See 54 & 55
Vic., c. 39,
s. 37.

49. A bill of exchange or promissory note purporting to be drawn or made out of New South Wales is, for the purpose of determining the mode in which the stamp duty thereon is to be denoted, to be deemed to have been so drawn or made, although it may, in fact, be drawn or made within New South Wales.

50. (1) Where a bill of exchange or promissory note has been written on material bearing an impressed stamp of insufficient amount, it may be stamped with a further stamp for the amount of the deficiency on payment of a fine of twenty shillings.

(2) Except as aforesaid, no bill of exchange or promissory note shall be stamped after the execution thereof.

Fines.

1914, No. 3,
s. 11.

51. (1) Whosoever issues, indorses, transfers, uses, negotiates, presents for payment, or pays any bill of exchange or promissory note liable to duty and not duly stamped, shall be liable to a fine not exceeding twenty pounds.

(2) Whosoever takes or receives from any other person any bill of exchange or promissory note not duly stamped, either for collection or in payment, or as a security, or by purchase, or otherwise, without causing the same to be duly stamped within fourteen days after receiving it, shall be liable to a fine not exceeding twenty pounds, and shall not be entitled to recover thereon, or to make the same available for any purpose whatever until the same is duly stamped.

Imp. Finance
Act, 1918,
s. 36 (2).

(3) Provided that an adhesive penny stamp may be affixed on any bill of exchange liable under this Act to a duty of twopence which is stamped only with a penny stamp and on cancellation of such adhesive stamp the bill of exchange shall be deemed to be duly stamped.

Stamping of
bills drawn
in sets.

1914, No. 3,
s. 12.

52. Any number of bills of exchange or promissory notes drawn in or forming part of one set or series, according to the custom of merchants or bankers, shall be held to be one such bill or note for the purposes of this Act, provided that one of the number is duly stamped.

Bills

Bills of lading.

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53. For the purposes of this Act the expression "bill of lading" means any instrument signed by the master, mate, or other person in charge of any ship or vessel, or by the agent, shipping clerk, or other person acting as such for such ship or vessel, for the conveyance therein of goods, wares, or merchandise to any place beyond New South Wales, and includes any receipt given in lieu thereof.

Definition of bill of lading.
See 1898, No. 27, s. 3.

54. (1) A bill of lading shall not be stamped after the execution thereof.

Bills of lading not to be stamped after execution.
Ibid. s. 33.

(2) Whosoever makes or executes any bill of lading not duly stamped is liable to a fine not exceeding fifty pounds.

Fine.

(3) No master or mate of any ship or vessel, and no agent or shipping clerk or other person acting for any ship or vessel, shall sign any bill of lading unless it is duly stamped. Any such person so signing any unstamped bill of lading shall be liable to a fine of ten pounds.

No master or mate to sign bill of lading unless stamped.
See *Ibid.* s. 34.

Charter-parties.

55. For the purposes of this Act the expression "charter-party" includes any agreement or contract for the charter of any vessel, or any memorandum, letter, or other writing between the captain, master, owner, or agent of any vessel and any other person for or relating to the freight or conveyance of any money, goods, or effects on board of such vessel.

Charter-party defined.
54 & 55 Vic., c. 39, s. 49.

56. The duty on a charter-party may be denoted by an adhesive stamp, which is to be affixed and cancelled at the time of execution by the person by whom the instrument is first executed.

Adhesive stamp may be used.
Ibid. s. 50.

57. Where a charter-party not being duly stamped is first executed out of New South Wales, any party thereto may, within seven days after it has been first received, and before it has been executed by any person in New South Wales, affix thereto an adhesive stamp denoting the duty chargeable thereon, and at the same time cancel such adhesive stamp, and the instrument shall thereupon be deemed duly stamped.

As to charter-parties executed abroad.
Ibid. s. 50.

Company :

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Memorandum
and articles
to be
stamped.

1914, No. 3,
s. 14.

Company : Memorandum and articles.

58. (1) A memorandum or articles of association of a company shall not be filed with the Registrar-General unless duly stamped.

(2) Unless the duty payable in respect of the certificate of incorporation of any company is paid within one month after the same is issued the company shall be liable to a fine not exceeding ten pounds.

Company : Share capital.

Charge of
duty on
capital of
limited-
liability
companies.
Ibid. s. 15.

59. (1) A statement of the amount which is to form the nominal share capital of any company to be registered under Part I or Part II of the Companies Act, 1899, shall be delivered to the Registrar-General, and a statement of the amount of any increase of registered capital of any company now registered or to be registered as aforesaid shall be delivered to the Registrar-General, and every such statement shall before delivery as aforesaid be charged with an ad valorem stamp duty of two shillings for every one hundred pounds and any fraction of one hundred pounds over any multiple of one hundred pounds of the amount of such capital or increase of capital, as the case may be.

(2) Such statement of the amount of any increase of registered capital shall be delivered, duly stamped, with the duty charged thereon within fifteen days after adoption of the resolution by which the registered capital is increased, and in default of that delivery, the duty, with interest thereon, at the rate of six and one-half per centum per annum from the adoption of the resolution, shall be a debt to His Majesty, recoverable from the company.

Duty on
capital of
companies
with limited
liability
otherwise
than under
the Com-
panies Act.
Ibid. s. 16.

60. (1) Where, by virtue of any letters-patent granted by His Majesty, or by virtue of any Act, the liability of the holders of shares in the capital of any corporation or company is limited otherwise than by registration, with limited liability under the law in that behalf, a statement of the amount of the nominal share capital of the corporation or company shall be delivered
by

by the corporation or company to the Commissioner **George V,**
 within one month after the date of the letters-patent or **No. 47.**
 the passing of the Act; and in case of any increase of
 the amount of nominal share capital of any corporation
 or company, whether now existing or to be hereafter
 formed, being authorised by any letters-patent or Act,
 a statement of the amount of such increase shall be
 delivered by the corporation or company to the Com-
 missioner within the like period.

(2) The statement shall be charged with an
 ad valorem stamp duty of two shillings for every one
 hundred pounds and any fraction of one hundred pounds
 over every multiple of one hundred pounds of the
 amount of such capital or increase of capital, as the
 case may be, and shall be duly stamped accordingly.

(3) In the case of neglect to deliver such a
 statement as is hereby required to be delivered, the
 corporation or company shall be liable to a fine equal to
 ten per centum upon the duty payable, and a like fine
 for every month after the first month during which the
 neglect continues.

Contract notes.

61. (1) For the purposes of this Act the expression
 "contract note" means the note sent by a broker or
 agent to his principal advising him of the sale or
 purchase of any stock or marketable security, but does
 not include a note sent by a broker or agent to a person
 who is acting as broker or agent for a principal and is
 himself a member of a stock exchange in the Common-
 wealth of Australia.

Provisions as
 to contract
 notes.
 1914, No. 3,
 s. 17.
 See Imp.
 Finance
 (1909-10)
 Act, 1910,
 s. 77 (3) and
 (4).

(2) Where a contract note advises the sale or
 purchase of more than one description of stock or
 marketable security, the note shall be deemed to be as
 many contract notes as there are descriptions of stock or
 marketable securities sold or purchased.

(3) Where a contract note is a continuation or
 carrying-over note made for the purpose of continuing
 or carrying over any transaction for the sale or purchase
 of stock or marketable securities, the contract note,
 although it is made in respect of both a sale and
 purchase,

George V, No. 47. purchase, shall be charged with duty under the Second Schedule to this Act as if it related to one of those transactions only, and, if different amounts are chargeable as duty in respect of those transactions, to that one of those transactions which would render the contract note chargeable with the greatest amount of duty.

Adhesive stamps may be used.
1914, No. 3, s. 18.

62. (1) The duty on a contract note may be denoted by an adhesive stamp.

(2) Every adhesive stamp on a contract note shall be cancelled by the person by whom the note is executed.

Any person not conforming to the provisions of this subsection shall be liable to a fine not exceeding ten pounds.

Penalty for not making a stamped note.
Ibid. s. 19.

63. (1) Any person who effects a sale or purchase of any stock or marketable security as a broker or agent shall forthwith make and execute a contract note, and transmit the same to his principal, and in default of so doing shall be liable to a penalty not exceeding twenty pounds, provided that this provision shall not apply in the case of transactions carried out in the course of their ordinary business relations between brokers or agents who are members of stock exchanges in the Commonwealth of Australia.

(2) If any person makes or executes any contract note chargeable with duty and not being duly stamped he shall be liable to a fine not exceeding twenty pounds.

(3) No broker, agent or other person shall have any legal claim to any charge for brokerage, commission or agency with reference to the sale or purchase of any stock or marketable security mentioned or referred to in any contract note, unless the note is duly stamped.

(4) The duty upon a contract note may be added to the charge for brokerage or agency, and shall be recoverable as part of such charge.

Contracts for option.
Ibid. s. 20.

64. (1) The provisions of this Act as to contract notes shall apply to any contract under which an option is given or taken to purchase or sell any stock or marketable security at a future time at a certain price, as it applies to the sale or purchase of any stock or marketable

marketable security, but the stamp duty on such a contract shall be one-half only of that chargeable on a contract note: Provided that, if under the contract a double option is given or taken, the contract shall be deemed to be a separate contract in respect of each option.

(2) Any contract note made or executed in pursuance and in consequence of the exercise of an option given or taken under a contract duly stamped in accordance with the provisions of this section shall be charged with one-half only of the duty which would otherwise have been chargeable thereon under the Second Schedule to this Act, provided that it bears on its face a certificate by the broker, agent, or other person mentioned in the last preceding section to the effect that it is made or executed in the exercise of an option for which a duly stamped contract has been rendered on the date mentioned in the certificate.

Conveyances.

65. For the purposes of this Act the expression "conveyance" includes any transfer, lease, assignment, exchange, appointment, settlement, surrender, release, foreclosure, disclaimer, declaration of trust, and every other instrument (except a will), and every decree or order of any court whereby any property in New South Wales is transferred to or vested in or accrues to any person; and "convey" has a meaning corresponding with that of "conveyance."

66. Subject to the provisions of this Act as to the duty chargeable on particular instruments every conveyance is to be charged with ad valorem duty in respect of the value of the property thereby conveyed.

67. (1) In the case of a conveyance made on the sale of any property but subject to the provisions of the next succeeding section, the ad valorem duty is to be assessed on the amount or value of the consideration for the sale.

(2) The person to whom property is conveyed by way of exchange is to be deemed the purchaser thereof and the person by whom property is so conveyed is to be deemed the seller thereof.

68.

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Ascertain-
ment of the
value of
property
conveyed.

See 1904,
No. 24,
ss. 10, 18.

68. (1) In the case of every conveyance and agreement chargeable with ad valorem duty under this Act the Commissioner may require the purchaser or other person primarily liable with respect to such instrument to furnish him within the time specified by him with a declaration by a competent valuer as to the value of the property comprised in such instrument, or with such other evidence of the value of such property as the Commissioner thinks fit.

(2) If the Commissioner is not satisfied with such evidence of value he may cause a valuation of the property to be made and may assess the duty on the footing of such valuation.

(3) Any such assessment shall be subject to appeal in the manner and subject to the conditions prescribed by section one hundred and twenty-four.

(4) If there is no appeal against such assessment the Commissioner may add the whole or any part of the expenses incurred by him in obtaining such valuation to the duty payable and the same shall be recoverable as part of the duty payable in respect of such instrument.

(5) If there is an appeal as aforesaid the payment of such expenses shall be in the discretion of the court hearing the appeal.

How
ad valorem
duty to be
calculated in
respect of
marketable
securities.

54 & 55 Vic.,
c. 39, s. 55-6.
1898, No. 27,
s. 35.
1904, No. 24,
s. 6.

[1914, No. 3,
s. 21.]

69. (1) Where the consideration, or any part of the consideration, for a conveyance on sale consists—

- (a) of any marketable security, such conveyance is to be charged with ad valorem duty in respect of the value of such security;
- (b) of any security not being a marketable security, such conveyance is to be charged with ad valorem duty in respect of the amount due on the day of the date thereof for principal and interest;
- (c) of shares or debentures to be issued by a company or a contract to issue such shares or debentures, such conveyance is to be charged with ad valorem duty in respect of the face value of the shares or debentures;

(d)

- (d) of money payable periodically for a definite period, so that the total amount to be paid can be previously ascertained, such conveyance is to be charged in respect of such consideration with ad valorem duty on such total amount ;
- (e) of money payable periodically in perpetuity or for any indefinite period not terminable with life, such conveyance is to be charged in respect of such consideration with ad valorem duty on the total amount which will or may, according to the terms of sale, be payable during the period of fifteen years next after the day of the date of such instrument ;
- (f) of money payable periodically during any life or lives, such conveyance is to be charged in respect of such consideration with ad valorem duty on the amount which will or may, according to the terms of sale, be payable during the period of nine years next after the day of the date of such instrument.

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How
consideration
consisting of
periodical
payments to
be charged.

(2) No conveyance chargeable with ad valorem duty in respect of periodical payments, and containing also provision for securing such periodical payments, is to be charged with any duty whatsoever in respect of such provision, and no separate instrument made in any such case for securing such periodical payments is to be charged with any higher duty than one pound.

70. (1) Where property is conveyed to any person in consideration wholly or in part of any debt due to him or subject either certainly or contingently to the payment or transfer of any money or marketable security, whether being or constituting a charge or incumbrance upon the property or not, such debt, money, or marketable security is to be deemed the whole or part, as the case may be, of the consideration in respect whereof the conveyance is chargeable with ad valorem duty.

How convey-
ance in con-
sideration of
a debt, or
subject to
future pay-
ment, to be
charged.
1898, No. 27,
s. 36.
N. Z. Act,
1908, No. 182,
s. 83.

(2) Where there is more than one owner of property, and one of such owners sells his share or interest therein in consideration of any such debt, or subject as mentioned in the last preceding subsection, then the duty shall be assessed and paid on or in respect of

Proviso where
one of several
owners sells
his share.

of

George V, of the share or interest of the vendor in such debt,
No. 47. money, or marketable security as aforesaid, and any further or other consideration (if any), and not on the full amount or value of such debt, money, or marketable security as the case may be.

As to the sale of an annuity or right not before in existence.
 See 54 & 55 Vic., c. 39, s. 60.

71. Where upon the sale of any annuity or other right not before in existence such annuity or other right is not created by actual grant or conveyance, but is only secured by bond, warrant of attorney, covenant, contract, or otherwise, the bond or other instrument, or some one of such instruments, if there is more than one, is to be charged with the same duty as a conveyance.

Where several instruments, one only to be charged with ad valorem duty.
Ibid. s. 106.

72. Where several instruments are executed for effecting the conveyance of the same property, one only of such instruments is to be charged with the ad valorem duty.

Certain conveyances not chargeable with ad valorem duty.
 See *Ibid.* ; 1904, No. 24, s. 16.

73. (1) The following instruments are not to be charged with ad valorem duty as conveyances, namely :—

- (a) An instrument merely appointing a new trustee or executed on the retirement of a trustee or a conveyance made for nominal consideration upon the appointment or the retirement of a trustee (whether the trust is expressed or implied).
- (b) A conveyance under which no beneficial interest passes in the property conveyed, or made to a beneficiary by a trustee or other person in a fiduciary capacity under any trust (whether expressed or implied) and not made for valuable consideration.
- (c) An instrument made or executed bona fide by way of completion or confirmation of title whereby no benefit accrues to the person in whose favour the instrument is made or executed, or no greater benefit than he originally had or was entitled to have by law or by virtue of some other instrument.
- (d) An instrument of appointment in favour of persons specially named or described as the objects

objects of a power of appointment contained in a conveyance on which ad valorem duty has been paid, or in a will in respect of property on which death duty, or duty under any Act, imposing duties on the estates of deceased persons has been paid.

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- (c) A marriage settlement made before and in consideration of marriage by either party to the marriage, or made after marriage by either party thereto in pursuance of a binding antenuptial contract.

(2) In each of the aforesaid cases the instruments not chargeable with ad valorem duty are to be charged with the duty of one pound.

(3) Nothing in this section shall be deemed to exempt any of such instruments from liability to any other duty to which it is or may be liable under this Act.

Deeds of assignment.

74. (1) Every deed of assignment is liable to a stamp duty of one pound.

Duty on
certain deeds
of assignment.

(2) For the purpose of this section "deed of assignment" means every deed or other instrument executed by any person and providing or purporting to provide in any way for the distribution of the whole or any part of the property of such person amongst the whole or any of his creditors for the purpose of obtaining a release of the debts due by him to them; but it does not include subsequent and supplementary deeds or instruments executed by such person in favour of or at the request of the trustees for the purpose of effecting such distribution or giving effect to the arrangement contemplated by such deed of assignment.

See N.Z. Act,
1903, No. 182,
s. 91.

Duplicates or counterparts.

75. The duplicate or counterpart of an instrument chargeable with duty is not to be stamped as such unless it is proved to the satisfaction of the Commissioner that the full and proper duty has been paid on the original instrument of which it is the duplicate or counterpart.

As to duplicates
or counterparts.
Ibid. s. 94.

See 74 and 55
Vic. c. 39, s. 72.

Leases.

George V,
No. 47.

Definition of
lease.
See 1898,
No. 27, s. 39.

Leases.

76. (1) For the purposes of this Act the expression "lease" includes any promise of or agreement for a lease of any property, but does not include any clause in a mortgage providing for attornment by a mortgagor.

(2) A lease made subsequently to and in conformity with any such promise or agreement duly stamped is to be charged with the duty of two shillings and sixpence.

Leases, how
to be charged
in respect of
produce, &c.
Ibid. s. 40.
N.Z. Act,
1908, No. 182,
s. 105.

77. Where the consideration or any part of the consideration for which any lease is granted or agreed to be granted does not consist of money but of any produce or other goods, the duty is to be calculated on the value of such produce or goods at the average market price thereof on the day of the date of the instrument.

Duty not to
be charged on
penal rents.
Ibid. s. 41 (1).

78. A lease is not to be charged with duty in respect of any penal rent or increased rent in the nature of a penal rent, thereby reserved, or by reason of being made in consideration of the surrender or abandonment of any existing lease of or relating to the same subject-matter.

Leases, how
to be charged
in respect of
royalty.
See N.Z. Act,
1908, No. 182,
s. 107.

79. (1) Where the consideration for a lease is wholly or partly a royalty, payable either in money, produce, or goods, or any other consideration whatever other than a fixed sum of money, then, if it is stipulated that the amount of such money, or the value of such produce or goods, is to amount at least to or not to exceed a given sum, or where the lessee is specially charged with or has the option of paying after any permanent rate of conversion, the yearly amount of such money and value of such produce or goods is to be estimated at such given sum or according to such given rate.

Provision
in case value
thereof can-
not be ascer-
tained.

(2) Where there is no possible means of discovering what is the maximum value of the consideration dealt with under a lease, then the duty payable in respect of such lease shall be a fixed sum of one pound.

Duty not to
be charged
on improve-
ments.
1898, No. 27,
s. 41 (2).

80. No lease made for any consideration in respect whereof it is chargeable with ad valorem duty, and in further consideration either of a covenant by the lessee
to

to make, or of his having previously made, any substantial improvement of or any addition to the property demised to him, or of any covenant relating to the matter of the lease, is to be charged with any duty in respect of such further consideration :

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Provided that if such further consideration consists of a covenant which if it were contained in a separate deed would be chargeable with ad valorem duty, the lease shall in any such case be charged with duty in respect of any such further consideration under section sixteen of this Act.

Imp. Revenue
Act, 1909,
s. 8.

Letter of allotment and letter of renunciation.

81. (1) A separate duty shall be chargeable in respect of letters of allotment and letters of renunciation although they may be contained in the same instrument.

Duty on letters
of allotment and
letters of
renunciation.
Imp. Finance
Act, 1899, s. 9.

(2) The stamp duty chargeable under this Act on a letter of renunciation may be denoted by an adhesive stamp which is to be cancelled by the person by whom the letter of renunciation is executed.

Use of
adhesive
stamp.

Letters and powers of attorney.

82. (1) Every letter or power of attorney for the purpose of appointing a proxy to vote at a meeting, and every voting-paper, hereby respectively charged with the duty of threepence, is to specify the day upon which the meeting at which it is intended to be used is to be held, and is to be available only at the meeting so specified, and any adjournment thereof.

Provisions as
to proxies
and voting-
papers.
1914, No. 3,
s. 26.
54 & 55 Vic.,
c. 39, s. 80.

(2) The duty of threepence may be denoted by an adhesive stamp, or adhesive stamps, which is or are to be cancelled by the person by whom the instrument is executed, or by the person or persons in whose favour the proxy is made, and a letter or power of attorney or voting-paper charged with the duty of threepence is not to be stamped after the execution thereof by any person :

Imp. Finance
Act, 1907,
s. 9.

Provided that where the instrument has been executed at some place out of New South Wales it may be stamped after execution thereof at any time before the day upon which the said meeting is to be held and
within

George V, within one month after the instrument is first received
No. 47. in New South Wales. Any adhesive stamps used on
any such instrument may be cancelled by any person.

(3) Every person who makes or executes, or votes, or attempts to vote, under or by means of any such letter or power of attorney or voting-paper, not being duly stamped, shall be liable to a fine not exceeding fifty pounds, and every vote given or tendered under the authority or by means of the letter or power of attorney or voting-paper shall be void.

Fine.

(4) If any person presiding at the voting at any meeting allows a vote to be given by means of a letter or power of attorney, or voting-paper which has not been duly stamped, he shall be liable to a fine not exceeding twenty pounds.

Mortgages.

Definition of mortgage.
See 54 & 55
Vic., c. 39,
s. 86.
N.Z. Act,
1915, No. 39,
s. 77.

83. For the purposes of this Act the expression "mortgage" means a security by way of mortgage—

- (a) for the payment of any definite and certain sum of money advanced or lent at the time, or previously due and owing, or forborne to be paid, being payable; or
- (b) for the repayment of money to be thereafter lent, advanced, or paid, or which may become due upon an account current, together with any sum already advanced or due, or without, as the case may be.

Disclaimer or foreclosure order.
1904, No. 24,
s. 13.

84. (1) Where a disclaimer under the Bankruptcy Act, 1898, or a foreclosure order is executed or made, the disclaimer or foreclosure order shall be lodged by the mortgagee with the Commissioner within one month after the execution or making of the same.

Fine.

(2) If default is made in lodging the disclaimer or order within the time limited by this section, the person so making default shall be liable to a fine not exceeding ten pounds in addition to the fine payable on stamping the instrument.

Partition

*Partition or division.*George V,
No. 47.

85. (1) Where upon the partition or division of any property any consideration is paid or given, or agreed to be paid or given, for equality, the principal or only instrument whereby the partition or division is effected is to be charged with the same ad valorem duty as a conveyance for such consideration, and with a fixed duty of one pound.

Partition or
division of
any property.
Sec 54 & 55
Vic., c. 39,
s. 73.

(2) Where in any such case there are several instruments for completing the title of either party the principal instrument is to be ascertained, and the other instruments are to be charged with a fixed duty of one pound.

Policies of insurance.

86. For the purposes of this Act—

(1) the expression “policy of insurance” includes every instrument whereby any contract of insurance is made or agreed to be made, or is evidenced, and the expression “insurance” includes assurance.

Definition of
policy of
insurance and
policy of
marine
insurance.
54 & 55 Vic.,
c. 39, ss. 91-2.

(2) the expression “policy of marine insurance” means any insurance made upon any ship or vessel or upon the machinery, tackle, or furniture of any ship or vessel, or upon any goods, merchandise, or property of any description whatever on board of any ship or vessel, or upon the freight of, or any other interest which may be lawfully insured in or relating to any ship or vessel, and includes any insurance of goods, merchandise, or property for any transit which includes not only a sea risk, but also any other risk incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance.

87. (1) The duties imposed by this Act upon policies of insurance may be denoted by adhesive stamps, or partly by adhesive and partly by impressed stamps.

Duties may be
denoted by
adhesive stamps
1895, No. 27,
s. 44.

(2) When the whole or any part of the duty upon a policy of insurance is denoted by an adhesive stamp, such adhesive stamp shall be cancelled by the person by whom the policy is first executed.

Adhesive
stamp to be
cancelled.

(3)

George V,
No. 47. (3) In default of such cancellation the person issuing such policy shall be liable to a fine not exceeding twenty pounds.

Fine.

Fine for not making out, &c., duly stamped policy.
1898, No. 27, s. 43.

88. Any person who—

(a) receives or takes credit for any premium or consideration for any insurance, and does not, within one month after receiving or taking credit for the premium or consideration, make out and execute a duly stamped policy of such insurance;

(b) makes, executes, or delivers out or pays, or allows in account, or agrees to pay or allow in account any money upon or in respect of any policy which is not duly stamped,

shall be liable to a fine not exceeding twenty pounds.

How foreign policy may be stamped.
1898, No. 27, s. 42.
1914, No. 3, s. 32

89. (1) A policy, declaration or other instrument of insurance which is executed out of New South Wales by or on behalf of any person carrying on the business of insurance in New South Wales, by which, according to any stipulation, agreement, or understanding, expressed or implied, any loss or damage, or any sum of money shall be payable or recoverable in New South Wales upon the happening of any contingency whatever, shall be charged with the same duty as is chargeable on policies executed within New South Wales.

(2) Every such policy, declaration or instrument shall be brought to the Commissioner for the purpose of being stamped within fourteen days next after the same has been received in New South Wales, and upon proof of that fact to the Commissioner he shall cause such policy, declaration or instrument to be duly stamped on payment of the duties chargeable thereon.

Fine.

(3) If such policy, declaration or instrument is not stamped within the time aforesaid, the holder thereof for the time being shall be liable to a fine of not less than two pounds nor more than ten pounds.

Receipts.

Receipt defined.
54 & 55 Vic., c. 39, s. 101.
1898, No. 27, s. 3.

90. For the purposes of this Act the expression "receipt" includes any note, memorandum or writing whereby any money amounting to two pounds or upwards is acknowledged or expressed to have been received

received or deposited or paid, or whereby any debt or demand or any part of a debt or demand of the amount of two pounds or upwards is acknowledged to have been settled, satisfied or discharged, or which signifies or imports any such acknowledgment, and whether the same is or is not signed with the name of any person.

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91. Subject to the general exemptions contained in the Second Schedule hereto, all receipts given to His Majesty, or to any person on his behalf, shall be chargeable with duty.

Receipts to His Majesty subject to duty.
N.Z. Act, 1908, No. 182, s. 117.

92. (1) The duty on a receipt may be denoted by an adhesive stamp which is to be affixed and cancelled by the person by whom the receipt is given before he delivers it out of his hands.

Duty on receipts may be denoted by adhesive stamps.
1914, No. 3, s. 29.
N.Z. Act, 1908, No. 182, s. 118.

(2) Every person is liable to a fine of not less than two pounds nor more than ten pounds who—

Offences relating to receipts.

(a) gives any receipt liable to duty without the same being duly stamped; or

(b) in any case where a receipt would be liable to duty refuses or without reasonable excuse omits to give or tender a receipt duly stamped, or on payment to the amount of two pounds or upwards gives a receipt for a sum not amounting to two pounds, or separates or divides the amount paid, with intent to evade the duty.

(3) Where any person has committed a breach of this section then in case such person satisfies the Commissioner that the breach was due to inadvertence or to some other cause which in the opinion of the Commissioner is a reasonable excuse for such breach, and such person pays to the Commissioner within fourteen days after the day on which the breach was committed the sum of two pounds, he shall not be liable to a fine under this section.

93. (1) When on any division of profits made by any bank the banker carries to the credit of any depositor or shareholder of the bank the amount payable to him on such division of profits, such transaction shall be considered a receipt liable to the duty on receipts under this Act.

Division of profits carried to credit to be deemed a receipt.
See 1898, No. 27, s. 45 (repealed).

(2)

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Fine.

(2) The said banker shall make a sworn return of every such transaction within one week after the same has taken place, and pay the duty thereon according to the rates imposed under the head of receipt. In default of so doing he shall be liable to a fine not exceeding one hundred pounds.

Share certificates.

Provisions as to
share certifi-
cates.
54 & 55 Vic,
.39, s. 79.
See 1914,
No. 3, s. 30.

94. Any person who issues or delivers out any document chargeable with duty as a share certificate or as scrip before the same is duly stamped shall be liable to a fine of not less than five pounds nor more than twenty pounds.

Transfer of shares or stock.

Definition of
stock.
1898, No. 27,
s. 3.

95. For the purposes of this Act the expression "stock" means any share in stocks or funds of Great Britain, or of any foreign or colonial State or Government, or in the capital, stock, or funded debt of any company, corporation, or society, British, foreign, or colonial.

Transfer of
shares to be
stamped.
See *Ibid.* s. 66.

96. Whosoever receives any transfer of any shares not duly stamped without causing the same to be duly stamped within fourteen days after receiving the same shall be liable to a fine not exceeding twenty-five pounds.

Transfer of
shares not to
be registered
unless duly
stamped.
N.Z. Act,
1908, No. 182,
s. 127.

97. No transfer of any share or shares of or in the stock or funds of any corporation, company, or society whatever liable to duty shall be registered, recorded, or entered in the books of such corporation, company, or society in New South Wales unless such transfer is duly stamped.

Fine for
registering
unstamped
transfer.
See 1898,
No. 27, s. 66;
1914, No. 3,
s. 23

98. If any such corporation, company, or society so registers any such transfer in contravention of the above provision it shall be liable to a fine not exceeding fifty pounds unless it proves—

- (a) that the instrument was stamped, and that the manager, directors, or other officers of the corporation, company, or society who authorised or directed the registration of the transfer had reasonable cause to believe that the instrument was duly and sufficiently stamped as provided in this Act; or
- (b)

(b) that the instrument being unstamped, was accompanied with a certificate given by— George V,
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(i) both transferor and transferee; or

(ii) by a member of the Sydney Stock Exchange, or a solicitor, acting for either of the parties; or

(iii) by an accredited representative of a bank, stating the facts of the transaction, and that the instrument is not liable to stamp duty.

99. No sharebroker, auctioneer, commission agent, or any other person shall be entitled to any brokerage, commission, or any other fee or reward in respect of the sale or transfer of any such share or shares unless the instrument of sale or transfer is filled up with all necessary particulars to make it a complete instrument, and is duly stamped. Agent not entitled to fee if instrument not duly executed and stamped.
Ibid. s. 130.

PART IV.

DEATH DUTY.

DIVISION 1.—*General provisions.*

100. In this Part and Part V and the Third Schedule hereto, unless the context or subject-matter otherwise indicates or requires,— Interpretation.

“Administration” means any probate, letters of administration, rule or order of any court or any other document, including any order to the
Public

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Public Trustee to collect, whereby any person becomes entitled at law to administer the estate of a deceased person or any part of his estate; and includes all probates or letters of administration granted out of New South Wales and all exemplifications thereof, if those probates, letters of administration or exemplifications have been resealed in New South Wales under the provisions of the Wills, Probate and Administration Act, 1898.

“Administrator” means any person to whom probate or letters of administration have been granted or who is entitled by virtue of any other administration to administer the estate of a deceased person or any part of his estate.

“Deceased person” or “the deceased” means a person dying after the passing of this Act.

“Disposition of property” means—

- (a) any conveyance, transfer, assignment, mortgage, delivery, payment, or other alienation of property whether at law or in equity;
- (b) the creation of any trust;
- (c) the release, discharge, surrender, forfeiture, or abandonment at law or in equity of any debt, contract, or chose in action, or of any right, power, estate, or interest in or over any property;
- (d) the exercise of a general power of appointment in favour of any person other than the donee of the power;
- (e) any transaction entered into by any person with intent thereby to diminish directly or indirectly the value of his own estate and to increase the value of the estate of any other person.

Sec N.Z. Act,
1909, No. 10,
s. 39.

57 & 58 Vic.,
c. 30, ss. 2
[2 (1a)], 22
(2a).

“General power of appointment” includes any power or authority which enables the donee or other holder thereof, or would enable him if he were of full capacity, to appoint or dispose of any property, or to charge any sum of money upon any property, as he thinks fit for his own benefit,

benefit, whether exercisable by instrument inter vivos or by will, but exclusive of any power exercisable in a fiduciary capacity under a disposition not made by himself, or exercisable as tenant for life under Part IV of the Conveyancing and Law of Property Act, 1898, or as mortgagee.

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“Gift” means any disposition of property made otherwise than by will whether with or without an instrument in writing without full consideration in money or money’s worth; if any such disposition is made for a consideration in money or money’s worth which is less than the value of the property the disposition shall be deemed to be a gift to the extent by which such value exceeds the consideration.

See N.Z. Act,
1909, No. 10,
s. 38.

“Private company” means a company which by its articles limits the persons to whom its shares may be transferred, or restricts the right to transfer its shares (otherwise than by a general right in the directors to refuse to register any transfer).

See 1914,
No. 3, s. 35.

“Settlement” means any instrument other than a will (whether without consideration or upon any consideration other than full consideration in money or money’s worth) whereby any property is settled or agreed to be settled, or containing any trust or disposition of property to take effect after the death of any person.

See 1898,
No. 27, s. 3.

101. In the case of every person who dies after the passing of this Act, whether in New South Wales or elsewhere, and wherever the deceased was domiciled, hereinafter called death duty, at the rate mentioned in the Third Schedule to this Act shall be assessed and paid—

Duties on
estates of
persons
dying after
the passing
of this Act.

- (a) upon the final balance of the estate of the deceased, as determined in accordance with this Act; and
- (b) upon all property forming part of the dutiable estate of the deceased constituted in accordance with this Act, in respect of which a separate assessment is required by this Act.

See 1898, No.
27, ss. 49, 56;
N.Z. Act,
1909, No. 10,
s. 3.

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Property
subject to duty
as part of the
estate of
deceased person.

1898, No. 27,
s. 49 (1).

102. For the purposes of the assessment and payment of death duty but subject as hereinafter provided, the estate of a deceased person shall be deemed to include and consist of the following classes of property:—

- (1) (a) All property of the deceased which is situate in New South Wales at his death; and
(b) all property of the deceased mentioned in the next succeeding section

to which any person becomes entitled under the will or upon the intestacy of the deceased, except property held by the deceased as trustee for another person under a disposition not made by the deceased.

Ibid. ss. 49
(2) [A (a)], 58.
1904, No. 24,
s. 20.

- (2) (a) All property which the deceased has disposed of, whether before or after the passing of this Act, by will or by a settlement containing any trust in respect of that property to take effect after his death, including a will or settlement made in the exercise of any general or special power of appointment, whether exercisable by the deceased alone or jointly with another person:

Provided that the property deemed to be included in the estate of the deceased shall be the property which at the time of his death is subject to such trust.

See *Ibid.* s. 49
(2) [A (b)];
1914, No. 3,
s. 35.

- (b) Any property comprised in any gift made by the deceased within three years before his death, and whether made before or after the passing of this Act, including any money paid or other property conveyed or transferred by the deceased within such period in pursuance of a covenant or agreement made at any time by him without full consideration in money or money's worth.

See 1898,
No. 27,
s. 49 (2)
[A (c)].

- (c) Any property passing under any settlement, trust, or other disposition of property made by the deceased whether before or after the passing of this Act—

- (i) by which an interest in or benefit out of or connected with that property, or in the proceeds of the sale thereof, is reserved either

- either expressly or by implication to the deceased for his life or for the life of any other person, or for any period determined by reference to the death of the deceased or of any other person ; or
- (ii) which is accompanied by the reservation or assurance of, or a contract for, any benefit to the deceased for the term of his life or of the life of any other person, or for any period determined by reference to the death of the deceased or of any other person ; or
- (iii) by which the deceased has reserved to himself the right, by the exercise of any power, to restore to himself or to reclaim that property or the proceeds of the sale thereof.
- (d) Any property comprised in any gift made by the deceased at any time, whether before or after the passing of this Act, of which bona fide possession and enjoyment has not been assumed by the donee immediately upon the gift and thenceforth retained to the entire exclusion of the deceased, or of any benefit to him of whatsoever kind or in any way whatsoever. 1898, No. 27, s. 49 (2) (b). 1914, No. 3, s. 36.
- (e) Any property comprised in a donatio mortis causa made by the deceased at any time, whether before or after the passing of this Act. 1898, No. 27, s. 52 (2).
- (f) Any property which the deceased has at any time, whether before or after the passing of this Act, caused to be conveyed to or vested in himself and any other person jointly, so that the beneficial interest therein passes or accrues by survivorship to any person on the death of the deceased. See *Ibid.* s. 4 (2) [A (c) & (c)].
- (g) Any property in which the deceased or any other person had an estate or interest limited to cease on the death of the deceased notwithstanding that that estate or interest has been surrendered, [63 Vic., c. 7, s. 11.]

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surrendered, assured, divested, or otherwise disposed of (whether before or after the passing of this Act) whether for value or not, to or for the benefit of any person entitled to an estate or interest in remainder, or reversion in such property, unless:—

- (i) such disposition was bona fide made or effected within three years before the death of the deceased; and
- (ii) bona fide possession and enjoyment of the property was assumed thereunder immediately upon the disposition and thenceforward retained to the entire exclusion of the person who had the estate or interest limited to cease as aforesaid, or of any benefit to him of whatsoever kind or in any way whatsoever.

See 52 & 53
Vic., c. 7,
s. 11;
57 & 58 Vic.,
c. 30, s. 2.

(h) Any money payable under a policy of assurance effected by the deceased on his life, whether before or after the passing of this Act, where the policy is wholly kept up by him for the benefit of a beneficiary (whether nominee or assignee), or a part of that money in proportion to the premiums paid by him where the policy is partially kept up by him for such benefit.

See 52 & 53
Vic., c. 7,
s. 11.

(i) Any annuity or other interest purchased or provided by the deceased, whether before or after the passing of this Act, 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 deceased.

57 & 58 Vic.,
c. 30,
ss. [2 (1) (a)],
22 (2) (a).

(j) Any property over or in respect of which the deceased had at the time of his death a general power of appointment.

(k) Any property which on the death of the deceased passes to any other person under or by virtue of any agreement made by the deceased

deceased (whether before or after the passing of this Act) to the extent by which the value of such property exceeds any consideration in money or money's worth receivable by the estate of the deceased under such agreement.

- (1) Any property which the deceased has within three years before his death and whether before or after the passing of this Act transferred to, or vested in, or caused to be transferred to or vested in a private company or some person in trust for any such company, in consideration of any shares or other interest including any office or place of profit therein.

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See 1914,
No. 3, s. 37.

103. (1) The estate of a deceased person whether domiciled at the time of his death in or out of New South Wales shall also be deemed to include—

- (a) every specialty debt due to such person and secured or partly secured by mortgage, incumbrance, pledge or lien, legal or equitable, of or over any property situate within New South Wales, and notwithstanding that the specialty was, at the time of the death of such person, outside New South Wales;
- (b) every share and all stock held by such person at the time of his death in any company, corporation or society, whether registered or incorporated within or out of New South Wales, and carrying on the business of mining for gold or other minerals as defined in the Mining Act, 1906 in New South Wales, or of treating any such minerals, or the business of pastoral or agricultural production or timber-getting in New South Wales;
- (c) every share held by such person in any corporation, company or society having a share register in New South Wales for any purpose whatever.

Certain debts
and shares of
deceased
person to be
included in
his estate.

See 1898,
No. 27, s. 51.

(2) Death duty shall be payable in respect of such debts and shares notwithstanding that the same were not at the time of the death of the deceased bona notabilia within New South Wales.

(3)

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Proviso. (3) Nothing in this section shall render any person liable to a fine for taking possession of or administering the estate of a deceased person where the estate includes no property in respect of which administration may be granted in New South Wales.

Dutiable estate.
See 1898, No. 27, s. 54; 1914, No. 3, s. 41. **104.** The estate of a deceased person constituted as provided in the last two preceding sections together with all rents, profits, dividends, interest, and other income, due or accruing due or payable in respect thereof and all accretions to the capital thereof including the progeny of live stock after the death of the deceased and before grant of administration, is in this Act referred to as his dutiable estate.

Final balance of estate.
See N.Z. Act, 1909, No. 10, s. 6. **105.** (1) The final balance of the estate of a deceased person shall be computed as being the total value of his dutiable estate (except such part thereof as is the subject of a separate assessment under the next succeeding section) after making such allowances as are hereinafter authorised in respect of the debts of the deceased.

57 & 58 Vic., c. 30, s. 7 (5). (2) Subject to the preceding section the principal value of the property included in his dutiable estate shall be estimated as at the date of the death of the deceased.

Certain property to be separately assessed. **106.** (1) Property disposed of by the deceased in exercise of a special power of appointment and included in his dutiable estate where the deceased was not the donor of the power, nor entitled to any beneficial interest in the property either directly, or as an object of the power or in default of appointment thereunder shall not be aggregated with the other property included in the dutiable estate of the deceased, but shall be separately assessed.

Rate of duty. (2) The rate at which death duty is payable on such property shall, subject as provided in section one hundred and twelve, be as follows:—

- (a) Where the value of the property does not exceed five thousand pounds, two pounds per centum.
- (b) Where the value exceeds five thousand pounds, then at the rate prescribed in the Third Schedule to this Act in respect of an estate the final balance of which exceeds five thousand pounds.

107.

107. (1) In computing the final balance of the estate of a deceased person an allowance shall, subject to the provisions of this Act, be made for all debts actually due and owing by him at the time of his death.

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No. 47.
Allowance to
be made for
debts.

- (2) No such allowance shall be made—
- (a) for debts incurred by the deceased otherwise than for full consideration in money or money's worth wholly for his own use and benefit; or
 - (b) for debts in respect whereof there is a right of reimbursement from any other estate or person, except to the extent to which reimbursement cannot be obtained; or
 - (c) more than once for the same debt charged upon different portions of the estate; or
 - (d) for contingent debts or any other debts the amount of which is in the opinion of the Commissioner incapable of estimation.

See 57 & 58
Vic., c. 30,
s. 7.
N.Z. Act,
1909, No. 10,
s. 9.
1908, No. 27,
s. 53.
1914, No. 3,
s. 40.

(3) If any debt for which by reason of the provisions of paragraph (d) of this section an allowance has not been made becomes at any time within three years after the death of the deceased actually payable or, in the opinion of the Commissioner, capable of estimation, an allowance shall be made therefor, and a refund of any death duty paid in excess shall be made to the person entitled thereto, but no action for the recovery of any such refund shall be commenced except within three years after the payment of the duty so paid in excess.

108. (1) The allowance so to be made for debts shall extend to all debts whether incurred or payable in New South Wales or elsewhere, save that, where there are foreign assets; such portion only of the unsecured debts shall be allowed as bears the same ratio to the total unsecured debts as the value of the dutiable estate available for the payment of such debts of the deceased bears to the value of the total assets wherever situate, so available.

Apportion
ment of debt
between
dutiable
estate and
foreign assets.
See N.Z. Act,
1909, No. 10,
s. 10.

(2) In this Act the expression "foreign assets" means any property which is available or which the deceased might by his will have made available for the payment of his debts upon his death, but which by reason of its local situation is not part of the dutiable estate of the deceased.

(3)

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(3) The administrator shall furnish the Commissioner with such evidence by statutory declaration or otherwise as he may require respecting all debts which the administrator claims to deduct from the estate of the deceased person and the value of any such foreign assets.

Allowance for secured debts where there are foreign assets.

109. The allowance so to be made for secured debts where there are foreign assets shall be as follows:—

(1) Where a debt is secured by mortgage or charge solely upon any part of the dutiable estate of the deceased—

(a) allowance shall be made for the debt so far as it does not exceed the value of the property charged;

(b) the balance (if any) of the debt shall be deemed to be unsecured, and allowance shall be made for the apportioned part thereof only, determined as in the last preceding section provided.

(2) Where a debt is so secured solely upon any part of the foreign assets—

(a) Allowance shall be made for such part of the debt as exceeds the value of the assets charged;

(b) the balance (if any) of the debt shall be deemed to be unsecured and allowance made for the apportioned part thereof determined as aforesaid.

See 1914,
No. 3, s. 40.

(3) Where a debt is so secured upon any part of the dutiable estate and also upon any of the foreign assets, the amount by which the debt exceeds the value of the foreign assets so charged shall be deemed to be secured upon the dutiable estate so charged, but only to the extent of the value of such estate, and allowance shall be made for the debt in accordance with this section.

Allowance for secured debt only to include interest due and payable at death.
1914, No. 3,
s. 40.

110. Any allowance under the foregoing provisions of this Act for a debt secured by mortgage or charge, whether upon any part of the dutiable estate of the deceased or upon any part of the foreign assets, shall not include any interest payable in respect of the debt except interest due and payable at the time of the death of the deceased.

111.

111. (1) No death duty shall be payable on the estate of a deceased person who at the time of his death was domiciled in New South Wales, the final balance of which estate does not exceed one thousand pounds.

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Certain
estates
exempted
from duty.

(2) This section shall not apply to property separately assessed in accordance with this Act.

See 1914,
No. 3,
Schedule II.

112. (1) Where the final balance of the estate of the deceased does not exceed five thousand pounds, death duty shall be calculated at one-half the rate prescribed in the Third Schedule to this Act on any property devolving by the intestacy on, or passing under the will of the deceased to his widow or to any of his children who at the time of his death were under the age of twenty-one years, and on any other property included by this Act in the dutiable estate of the deceased (except property separately assessed in accordance with this Act) the beneficial interest in which property is vested in or on the death of the deceased passes to the widow or such child.

Abatement in
favour of
widow and
children.

See *Ibid.*,
s. 37 (4).

(2) Where the value of any property included in the dutiable estate of the deceased which is separately assessed in accordance with this Act does not exceed five thousand pounds the duty thereon shall likewise be calculated at one-half the prescribed rate where the property passes to the widow or any of the children of the deceased who at the time of his death were under the age of twenty-one years.

(3) This section shall not apply where the deceased was at the time of his death domiciled at some place outside New South Wales.

DIVISION 2.—*Assessment and collection of death duty.*

113. (1) Death duty shall be a stamp duty, and shall be assessed and collected by the Commissioner in accordance with this Act.

Death duty
to be a stamp
duty, and
payment
denoted by
impressed
stamp.

(2) The payment of death duty shall be denoted by a stamp to be impressed by the Commissioner on the probate or letters or other instrument of administration.

See 57 & 58
Vic., c. 30,
s. 6.

114.

George V, No. 47. **114.** (1) Death duty shall constitute a debt payable to His Majesty out of the estate of the deceased in the same manner as the debts of the deceased, and such duty shall be paid by the administrator accordingly out of all real or personal property vested in him and forming part of the dutiable estate of the deceased whether that property is available for the payment of the other debts of the deceased or not and whether the property in respect of which the duty or any part thereof has been assessed is vested in the administrator or not.

Death duty to be payable by the administrator.

See N.Z. Act, 1909, No. 10, s. 24; 1898, No. 27, s. 56.

(2) For the purpose of paying the duty the administrator shall have the same power of selling, leasing or mortgaging any real or personal property vested in him as in the case of other debts of the deceased.

[57 & 58 Vic, c. 30, s. 8 (3).]

(3) The administrator shall not be liable for any duty in excess of the assets which he has received as administrator or might but for his own neglect or default have received.

[*Ibid.* s. 6(4).]

(4) Death duty so far as not paid by the administrator shall be collected upon an account delivered in accordance with section one hundred and twenty.

Death duty to become due on assessment or six months after death of the deceased.

See 57 & 58 Vic, c. 30, ss. 6 (7), 9 (1).

115. (1) Death duty shall become due and payable on the assessment thereof by the Commissioner, or if not duly so assessed within six months from the death of the deceased then on the expiration of that period of six months.

(2) Such duty shall constitute as from his death a charge upon the whole dutiable estate of the deceased and upon all property included in that estate, whether vested in the administrator or not, but no such charge shall affect the title of a bona fide purchaser for value (whether before or after the death of the deceased) without notice.

Death duty to be payable although no grant of administration.

N.Z. Act, 1909, No. 10, s. 27.

116. The estate of a deceased person shall not be exempt from death duty by reason merely of the fact that no grant of administration has been, or need be, or can be made in New South Wales in respect of that estate; and in any such case all the provisions of this Act shall, so far as applicable, apply notwithstanding the fact that there is no administrator of the estate.

117.

117. (1) No probate or letters or other administration of the estate of any deceased person shall be granted unless the applicant lodges with his application an affidavit of value in the prescribed form verifying an account containing the prescribed particulars with respect to the dutiable estate of the deceased and all allowances claimed in respect of debts owing by the deceased at the time of his death.

George V,
No. 47.
Affidavit of
value to be
lodged by
applicants
for probate
or adminis-
tration.
See 1898,
No. 27, s. 54.

(2) The Registrar of the Probate Jurisdiction of the Supreme Court shall transmit to the Commissioner every such affidavit and account, together with a copy of the will or letters of administration to which they relate, within thirty days from the granting of any such administration under a penalty not exceeding fifty pounds for any neglect therein.

(3) The applicant shall furnish the Commissioner with such other evidence, including valuations by competent valuers, as may be prescribed or as the Commissioner may in any case require to enable him to ascertain all the property liable to death duty and the value thereof, and all allowances to be made in respect of debts owing by the deceased, and to assess the duty payable.

(4) The Commissioner shall assess the duty on the final balance of the estate of the deceased and also upon any property in respect of which a separate assessment is required by this Act to be made, according to the rates set forth in the Third Schedule hereto, and upon payment of the duty such probate or letters shall be stamped accordingly.

(5) The Commissioner may lodge with the Registrar-General a caveat against any application to be registered as proprietor by transmission of land of any deceased proprietor when the land does not clearly appear to have been included in any affidavit or account lodged with the Commissioner in connection with the estate of the deceased proprietor (whether dying before or after the passing of this Act) upon which death duty or duty on such estate under any of the Acts hereby repealed has been assessed, or where probate or administration has not been granted by the Supreme Court.

Every

**George V,
No. 47.** Every such caveat shall be dealt with in all respects as if it were a caveat filed by the Registrar-General, except that the Commissioner shall be considered as the caveator.

Penalty for
not taking
out adminis-
tration.

1898, No. 27,
s. 50.

118. Whosoever takes possession of and in any manner administers any part of the estate of a deceased person without obtaining administration of his estate within six months after the decease of such person, or two months after the termination of any suit or dispute respecting the will or the right to administration (if there is any such) which is not ended within four months after the decease of such person, shall incur a fine not exceeding one hundred pounds, and also such further fine not exceeding ten pounds per centum on the amount of the death duty as the Commissioner may impose :

Proviso.

Provided that no duty shall be charged on the taking out of any second administration if the proper amount of death duty has been paid on the first taking out of the same.

Probates, &c.,
not to issue
until duty
paid.

Ibid. s. 57.

119. No administration or certificate of the grant of the same shall issue from the office of the Registrar of Probates until death duty has been paid or security given for the same, and the administration duly stamped.

Account
duty.

See 1904, No.
24, ss. 21, 22.
1914, No. 3,
s. 42.
44 Vic., c. 12,
s. 39.

120. (1) Where any property included in the dutiable estate of a deceased person is vested in any person other than the administrator, the duty payable in respect thereof shall be paid thereout by the persons entitled thereto according to the value of their respective interests therein, to the administrator.

(2) Every person who as beneficiary, trustee, or otherwise acquires possession or assumes the management of any such property, shall, upon retaining the same for his own use, or distributing or disposing thereof, and in any case within three months after the death of the deceased, deliver to the Commissioner a full and true account verified by oath of such property, together with

a valuation thereof by a competent valuer: Provided George V., No. 47. that the time for delivering the account or valuation may be extended by the Commissioner.

(3) Any person directed by this section to deliver an account of any property shall upon the assessment of the duty payable in respect thereof be liable to pay such duty.

(4) A person who wilfully fails to comply with any of the foregoing provisions of this section shall be liable to a fine not exceeding fifty pounds.

(5) In case the account and valuation is not lodged within the time abovementioned, or if the duty is not paid within one month after assessment, the Commissioner or any person interested may apply to the Supreme Court, which may order that a sufficient part of such property be sold, and the proceeds of such sale applied in payment of the duty and of the costs consequent thereon. 1898, No. 27, s. 58 (2).

(6) Where any property has been sold under any such order the Supreme Court may make an order vesting the property in the purchaser. [Ibid. s. 59.]

(7) Every such vesting order shall have the same effect as if all persons entitled to the property had been free from all disability and had duly executed all proper conveyances, transfers, and assignments of the property for such estate or interest as is specified in the order.

121. (1) Except where administration is granted or issued, and the death duty is paid within six months after the death of the deceased, interest at the rate of six and one-half per centum per annum on the amount of the duty payable shall be paid to the Commissioner by the administrator or person directed to deliver an account under the last preceding section. Interest on unpaid duty. 1914, No. 3, s. 43.

(2) Such interest shall be calculated from the date of the expiration of the said six months.

(3) Where administration has been granted out of New South Wales such interest shall not be so payable before the expiration of twelve months after the death of the deceased.

122.

George V.
No. 47.

No dealings
with shares,
&c., of
deceased
persons to be
registered
without
certificate of
Commis-
sioner.

122. (1) Where any shares, stock, debentures, money on fixed deposit, or any other property except money on current account at any bank, stand in the books in New South Wales of any corporation, company, or society carrying on business in New South Wales, in the name of any deceased person, either alone or jointly with any other person as owner, no dealings with any such shares, stock, debentures, money on fixed deposit, or property shall be registered, recorded, or otherwise given effect to by such corporation, company, or society having notice of the death of the deceased without the production of a certificate in the prescribed form of the Commissioner to the effect that the same has been included in the account lodged in accordance with this Act, or that the same does not form part of the dutiable estate of the deceased.

(2) Any corporation, company, or society to which this section applies which acts in contravention of this section, shall incur a fine not exceeding fifty pounds.

(3) This section shall apply to the Commonwealth Bank of Australia and the Government Savings Bank of New South Wales, and moneys on deposit in the Savings Bank Department of the former bank and in the latter bank, shall not for the purposes of this section be deemed to be money on current account.

(4) Any administrator who omits to give notice of the death of the deceased to any such corporation, company, or society within one month after his death shall be liable to a fine not exceeding twenty pounds.

Deduction of
stamp duty from
death duty in
respect of
property com-
prised in certain
instruments.
1904, No. 24,
Sched I.

123. Where the dutiable estate of a deceased person includes any property comprised in any instrument specified in subsection two of section one hundred and two there shall be deducted from the death duty assessed in respect of that property any ad valorem duty paid on such instrument in respect of that property under Part III of this Act.

PART V.

George V,
No. 47.

MISCELLANEOUS.

124. (1) Any person liable to the payment of duty in respect of any instrument, and any administrator liable to the payment of death duty, who is dissatisfied with the assessment of the Commissioner may, within thirty days after the date of the assessment in the case of an instrument and within thirty days after notice of the assessment has been given to the administrator in the case of death duty, and on payment of duty in conformity with the assessment, and of the sum of twenty pounds as security for costs, deliver to the Commissioner a notice in writing requiring him to state a case for the opinion of the Supreme Court.

Appeal to
Supreme
Court from
assessment of
Commis-
sioner.
Sec 1898,
No. 27, s. 18 ;
1914, No. 3,
s. 33 ;
Queens. Act,
58 Vic., No.
8, s. 24 ;
54 & 55 Vic.,
c. 39, s. 13.

(2) The Commissioner shall thereupon state and sign a case accordingly, setting forth the facts before him on making the assessment, the assessment made by him, and the question to be decided, and shall deliver the case so signed to the person by whom the same is required (hereinafter referred to as the appellant).

(3) The appellant shall within seven days after receiving the case cause the same to be set down for hearing before the next sittings of the Full Court at which the same can be heard.

(4) On the hearing of the case the court shall determine the question submitted, and shall assess the duty chargeable and also decide the question of costs.

(5) If it is decided by the court that the assessment of the Commissioner is erroneous, any excess of duty paid in conformity with such erroneous assessment, together with any fine paid in consequence thereof, and the sum paid as security for costs shall be ordered by the court to be repaid to the appellant.

(6) If it appears to the court that the facts necessary to enable the question submitted to be determined are not sufficiently set forth in the case or that such facts are in dispute, the court may direct all such inquiries to be made or issues to be tried as it deems necessary

George V,
No. 47. necessary in order to ascertain such necessary facts, and, if it deems fit, may amend the case. Any such inquiry may be made before a judge of the court or the Master in Equity, and any such issue may be tried by any such judge or a judge of any District Court sitting either with or without a jury as the court may direct.

(7) On the hearing of the case the court shall be at liberty to draw from the facts and documents stated in the case any inference whether of fact or law which might have been drawn therefrom if proved at a trial.

Costs of
appeals.

(8) In every appeal under this section the costs of the appeal, including the costs of any issue therein, shall be in the discretion of the court, having regard to the evidence furnished to the Commissioner and to the extent to which the Commissioner's assessment exceeds the amount admitted by the appellant before the appeal was commenced and the extent to which the Commissioner's assessment is sustained or otherwise.

(9) If the appellant fails to set down such case for hearing within the time aforesaid, the Commissioner may deduct all expenses incurred by him in preparing such case from the said sum paid as security for costs.

(10) For the purposes of this section the court may be holden before one judge only.

Valuation of
property.
See 57 & 58
Vic., c. 30
s. 7 (8).

125. (1) In every case in which the Commissioner deems it necessary to ascertain the value of any property for the purpose of assessing duty under this Act he may ascertain such value by such means as he thinks fit, subject in the case of land to the Valuation of Land Act, 1916.

(2) Where the Commissioner authorises a person to inspect any property and report to him the value thereof for the purposes of this Act, the person having the custody or possession of the property shall permit the person so authorised to inspect the same at such reasonable time as the Commissioner deems necessary.

(3) The Commissioner may assess the duty payable on the footing of the value so ascertained as aforesaid, subject to appeal therefrom in accordance with section one hundred and twenty-four.

126.

126. Where the Commissioner appoints a person to make a valuation and assesses duty in respect of any instrument or matter on the footing thereof, then—

- George V,
No. 47.**
Payment of expense of obtaining valuation.
See 1898, No. 27, s. 54 (3); 1904, No. 24, s. 18.
- (a) if there is no appeal against the assessment, the Commissioner may, having regard to the merits of the case, charge the whole or any part of the expenses incident to such valuation against the person primarily liable with respect to the instrument or matter, and in that case such expenses shall be deemed to be a debt of such person due to His Majesty and recoverable accordingly, or in the case of death duty the Commissioner may recover such expenses as part of the duty; and
- (b) if there is an appeal, the payment of such expenses shall be in the discretion of the court.

127. (1) For the purposes of valuation and assessment of duty under this Act—

- Valuation of shares in certain companies and partnerships.**
- (a) shares in a private company; and
- (b) shares in any other company incorporated in New South Wales, or which, being incorporated out of New South Wales, has a share register in New South Wales, in case the market price of the shares of any such company is not quoted on the current official list of the Sydney Stock Exchange; and
- (c) a share in a partnership,

shall be deemed to represent aliquot portions of the whole value of the business of the company or partnership notwithstanding anything contained in the memorandum or articles of association of the company, or in the partnership agreement or any agreement for a dissolution of the partnership.

- (d) This section shall not apply to the valuation of preference shares.

(2) In all cases in which it is necessary for the purposes of this Act to ascertain the value of shares in any such company as aforesaid, any director or member of the governing body, or the manager or public officer, of the company shall, at the request of the Commissioner, deliver to him such balance sheets and accounts of the company

See 1914, No. 3, s. 39.

George V,
No. 47. company, and such other information as the Commissioner may require for the purpose of ascertaining the value of the shares.

(3) If any such director, member, manager, or public officer fails to comply with any provision of this section he shall be liable to a fine not exceeding fifty pounds, and a further fine not exceeding five pounds for every day after the first during which such default continues.

(4) No agreement whereby the value of the share of a deceased partner in any of the partnership assets is determined as between the partners shall be conclusive as to the value thereof for the purposes of this Act.

Further claim
may be made
in case of
payment of
too little
duty.

See 44 Vic.,
c. 12, s. 32.

128. (1) Notwithstanding any assessment or payment of death duty under this Act or of duty on the estate of any deceased person under any of the Acts hereby repealed, or any statement of the Commissioner that no duty is payable, in respect of the estate of any person whether dying before or after the passing of this Act, it shall be lawful for the Commissioner at any time thereafter, if it is discovered that any duty payable has not been fully assessed and paid, to make a further assessment of the duty so unpaid, and to recover the same in the same manner as if no previous assessment or payment had been made.

(2) Except in the case of fraud an administrator shall not be personally liable for any death duty under any such further assessment by reason of having administered or distributed the estate of the deceased without retaining sufficient assets to satisfy the duty.

(3) Nothing in this section shall affect the operation of any settlement by way of composition under the next succeeding section.

(4) Any such further assessment shall be liable to appeal under section one hundred and twenty-four.

Commissioner
may compromise a claim
for duty.

See N.Z. Act,
1909, No. 10,
s. 85.

129. (1) Where by reason of the complexity or uncertainty of the facts or from any other cause it is difficult or impracticable to ascertain exactly the amount of death duty or to ascertain the same without undue delay or expense the Commissioner may assess by way of composition for the duty so payable such sum as the
Commissioner

Commissioner thinks proper under the circumstances and may accept payment of the sum so assessed in full discharge of all claims for such duty. **George V, No. 47.**

(2) No such composition shall constitute a good discharge from duty if it is procured by fraud or by a wilful failure to disclose material facts.

130. (1) For the purpose of obtaining information respecting the liability of any person in respect of any duty under this Act the Commissioner may summon before him and examine on oath any person whom the Commissioner deems capable of giving information as aforesaid. **Inquiries by the Commissioner. N.Z. Act, 1915, No. 39, s. 34.**

(2) On any inquiry under this section the Commissioner shall have all the powers of a person appointed sole Commissioner under the Royal Commissioners Evidence Act, 1901.

131. (1) Any person having in his custody any books, records, papers, documents, or proceedings, the inspection whereof may tend to secure the payment of any duty or to prove or lead to the discovery of any fraud or omission in relation to any duty, shall at all reasonable times permit any inspector thereto authorised by the Commissioner to inspect the books, records, papers, documents, and proceedings, and to take such notes and extracts as he may deem necessary, without fee or reward. **Books to be open to inspection. See 54 & 55 Vic., c. 39, s. 16. See 1904, No. 24, s. 26.**

(2) Every person who refuses to permit such inspection is liable to a fine for every offence not exceeding fifty pounds. **Refusing inspection.**

(3) Where any instrument which ought to be but is not stamped or is insufficiently stamped is produced for inspection under this section, or otherwise lawfully comes into the possession of the Commissioner, he may impound and retain the same until the duty or fine or both of them have been paid. **Commissioner may retain possession of instrument until duty or fine paid. See 1914 No. 8, s. 32.**

132. Whenever any suit is pending in any court for the administration of any property chargeable with duty under this Act, such court shall provide for the payment of such duty out of any property the subject matter of such suit which may be in the possession or control of the court. **Courts in suits for administration of property to provide for payment of duty. 1898, No. 27, s. 63.**

M

133.

George V, No. 47. **133.** (1) If any person makes default in delivering to the Commissioner any account or statement required by this Act to be so delivered for the purpose of any duty under this Act the Commissioner may apply to the Supreme Court by motion for an order directing the person so in default to deliver the account or statement within such period as the court may order; and on the hearing of the motion the court may make such order in that behalf as is thought just, and any such order may be enforced by attachment or otherwise.

Supreme Court may order account or statement to be delivered.

N.Z. Act, 1909, No. 10, s. 63.
1898, No. 27, s. 61.

(2) The Commissioner may apply to the Supreme Court for such order although the time allowed by this Act for the delivery of the account or statement has not expired, and the court may, if it thinks fit, make an order for such delivery to be made before the said time has expired.

Supreme Court may enforce payment of moneys received for duty or fine.
1898, No. 27, s. 24.

134. The Commissioner may apply to the Supreme Court by motion for an order directing any person who has received money payable by way of duty or fine under this Act or the administrator of such person to deliver to the Commissioner an account on oath of such duty or money and to pay the same to the Commissioner, and any such order may be enforced by attachment or otherwise.

Accounting party to verify his account.
Ibid. s. 62.

135. Every person delivering any account of property under this Act shall, if required by the Commissioner, produce before him such books and documents in the custody or control of such person so far as the same relate to such account as may afford any necessary information for the purpose of ascertaining such property and the duty payable in respect thereof, and the Commissioner may without payment of any fee inspect and take copies of any public book; and any commissioner or other officer who discloses the same or the contents of any document or book to any person other than for the purposes of this Act shall be liable to a fine not exceeding one hundred pounds.

Persons fraudulently misstating property or debts.
Ibid. s. 64.

136. Whosoever makes or assists in making any false statement, or any fraudulent alterations in any statement or document required under this Act, with intent to evade the payment of duty, shall be deemed guilty

guilty of a misdemeanour, and on conviction thereof shall be liable to imprisonment for any period not exceeding three years, and to a fine not exceeding one hundred pounds. **George V, No. 47.**

137. (1) Where a deceased person makes a disposition of property (whether before or after the passing of this Act) with intent to evade the payment of duty under this Act or any Act hereby repealed, such property shall be deemed to form part of his dutiable estate. Duty payable on property disposed of for purposes of evasion. *Ibid.* s. 52.

(2) Any disposition of property which is made to take effect upon the death of the deceased shall be deemed to have been made with such intent as aforesaid.

138. The Commissioner shall enter and keep on record in a book every payment of duty made under the Third Schedule hereto, and shall upon application for any reasonable purpose, deliver to any person interested in any property affected thereby a certificate of such payment. Books to be kept and receipts given. *Ibid.* s. 63.

139. Every affidavit or statutory declaration required or authorised by this Act or by any regulations thereunder shall be exempt from stamp duty. All affidavits and declarations exempt from stamp duty.

140. (1) Where it is proved to the satisfaction of the Commissioner that any property has been wrongly included in the dutiable estate of a deceased person the death duty paid in respect of such property shall be repaid by him. Refund of duty where property wrongly included in dutiable estate.

(2) Nothing in this section shall affect the duty or the rate of the duty previously assessed on any other part of the dutiable estate.

(3) Any claim for a refund of duty so paid in excess may be enforced by action or suit against the Commissioner in his official name as nominal defendant on behalf of the Crown in any court of competent jurisdiction and not otherwise.

(4) No such action or suit shall be brought after the expiration of three years from the date of payment.

141.

Stamp Duties Act.

George V,
No. 47.
Amendment
of Companies
(Death
Duties) Act,
1901, s. 10.

141. Subsection one of section ten of the Companies (Death Duties) Act, 1901, is amended by omitting paragraph (a) and inserting the following new paragraph in place thereof :—

(a) of mining for gold or other minerals as defined in the Mining Act, 1906, in New South Wales, or of treating any such minerals ;

and by omitting paragraph (a) of the proviso to such subsection.

Stamping of
conveyance
not to give
notice of trust
or written
contract.

142. Where any conveyance made after the passing of this Act is marked by the Commissioner as duly stamped, a purchaser shall not by reason only of the conveyance bearing a one shilling stamp or being so marked as aforesaid be deemed to have notice of any trust or of any written contract of sale affecting the title.

SCHEDULES.

FIRST SCHEDULE.

Reference to Act.	Title or Short Title.	Extent of repeal.
1898, No. 27 ...	Stamp Duties Act, 1898 ...	The whole.
1899, No. 31 ...	Friendly Societies Act, 1899	Section 29 (the un- repealed section).
1900, No. 53 ...	Stamp Duties (Amendment) Act, 1900.	The whole.
1904, No. 24 ...	Stamp Duties (Amendment) Act, 1904.	The whole.
1907, No. 8 ...	Stamp Duties (Amendment) Act, 1907.	The whole.
1914, No. 3 ...	Stamp Duties (Amendment) Act, 1914.	The whole.

SECOND

SECOND SCHEDULE.
STAMP DUTIES AND EXEMPTIONS.

George V,
No. 47.

Nature of Instrument.	Amount of Duty.	Persons primarily liable.
ACKNOWLEDGMENT by executor or administrator in lieu of conveyance under section 83 of the Wills, Probate and Administration Act, 1898.	£ s. d. 1 0 0	The devisee.
AFFIDAVIT OF DECLARATION made under statute. <i>Exemptions.</i> —Every affidavit or declaration— (a) Filed, read, or used in any Court, or before any Judge, Master, Registrar, Clerk, or Officer of any Court ; (b) Required by the Commissioner ; (c) Required under any Act or regulation for the time being in force for the management of the Government Savings Bank of New South Wales ; (d) Required to be made before any Registrar of Births, Deaths, or Marriages ; (e) Required to be made by any officer of the Government in respect of any matters relating to the duties of his office ; (f) Required to be made under the Parliamentary Electorates and Elections Act, 1912, the Registration of Deeds Act, 1897, and the Real Property Act, 1900	0 2 6	Each person making the affidavit or declaration.
AGREEMENT OR MEMORANDUM OF AN AGREEMENT, and not otherwise specifically charged with any duty—	0 1 0	The parties thereto.
(1) Under hand only—	0 1 0	
(a) Whether the same is only evidence of a contract, or obligatory on the parties from its being a written instrument, including every schedule, receipt, or other matter put or indorsed thereon or annexed thereto. (b) Where divers letters are offered in evidence to prove any agreement between the writers thereof it shall be sufficient if any one of such letters is stamped with the duty of.	0 1 0	
<i>Exemptions.</i> —Any agreement or memorandum under hand—	1 0 0	The parties thereto.
(a) made for or relating to the sale of any goods, wares, or merchandise ;	1 0 0	
(b) made between a master and any mariner of any ship or vessel for wages on any voyage coastwise from port to port in the State of New South Wales.	1 0 0	
(2) Under seal.....	1 0 0	The parties thereto.

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No. 47.

SECOND SCHEDULE—*continued.*STAMP DUTIES AND EXEMPTIONS—*continued.*

Nature of Instrument.	Amount of Duty.	Persons primarily liable.
AGREEMENT FOR A MORTGAGE OR INSTRUMENT RELATING TO A MORTGAGE HEREINAFTER SPECIFIED.	<p style="text-align: center;">£ s. d.</p> The same duty as on a mortgage or such instrument.	The mortgagee or person liable with respect to the instrument.
AGREEMENT FOR THE SALE OR CONVEYANCE (INCLUDING EXCHANGE) OF ANY PROPERTY.	The same duty as on a conveyance of the property.	The purchaser or person deemed to be the purchaser, or the person to whom the property is agreed to be conveyed.
APPOINTMENT OF TRUSTEES— For every appointment of a trustee by any instrument or by order of the Supreme Court or a judge thereof. <i>Exemptions.</i> — (a) The appointment of a trustee by or pursuant to a will. (b) Every instrument for the appointment of a trustee or trustees of property held in trust for any corporation or body of persons associated for religious, charitable, or educational purposes.	1 0 0	The person making or executing the appointment (in the case of an instrument) and the trustee or trustees in any other case.
APPOINTMENT in execution of a power— (a) Any instrument not being a will appointing any property, or any use, share, or interest therein. (b) Where the appointment is made in favour of persons specially named or described as the objects of a power contained in a conveyance on which ad valorem duty has been paid or in a will in respect of property on which death duty or duty under any Act imposing duties on the estates of deceased person has been paid.	The same duty as on a conveyance of the appointed property. 1 0 0	The person making or executing the appointment. The person making or executing the appointment.
APPRAISEMENTS.—Instrument setting forth any appraisal or valuation of any property, or of any interest therein, or of the annual value thereof, or of any dilapidation, or of any repairs wanted, or of the materials and labour used or to be used in any building, or of any artificers' work whatsoever:— Where the amount of appraisal or valuation—	0 1 0 0 2 6 0 5 0 0 10 0 0 15 0 1 0 0	The person making the appraisal.
Does not exceed £20	0 1 0	
Exceeds £20 and does not exceed £50 ..	0 2 6	
Exceeds £50 and does not exceed £100 ..	0 5 0	
Exceeds £100 and does not exceed £200...	0 10 0	
Exceeds £200 and does not exceed £500...	0 15 0	
Exceeds £500	1 0 0	

SECOND SCHEDULE—*continued.*

STAMP DUTIES AND EXEMPTIONS—*continued.*

Nature of Instrument.	Amount of Duty.	Persons primarily liable.
APPRAISEMENTS—(continued).		
<i>Exemptions.</i> —Instrument setting forth any appraisal or valuation made—		
(a) For the information of one party only, and not being in any manner obligatory as between parties, either by agreement or by operation of law.	£ s. d.	
(b) For or on behalf of His Majesty or the Government of New South Wales, or of any local authority having power by law to make or levy rates.		
AWARD, whether under hand only or under hand and seal,—		
Where the amount or value of the matter in dispute—		
Does not exceed £20	0 1 0	} The person making or executing the award.
Exceeds £20 and does not exceed £50 ...	0 2 6	
Exceeds £50 and does not exceed £100 ...	0 5 0	
Exceeds £100 and does not exceed £200...	0 10 0	
Exceeds £200 and does not exceed £500...	0 15 0	
Exceeds £500	1 0 0	
<i>Exemption.</i> —Award made in any matter in which His Majesty is a party, either directly or by some public officer acting in such matter or representing His Majesty or the Government of New South Wales therein.		
BANK NOTES. —An Annual Composition to be paid quarterly by Banks in lieu of duties on promissory notes payable on demand issued by them—		
For every £100 and also for any remaining fractional part of £100 of the amount of such notes in circulation as certified under the Banks and Bank Holidays Act, 1912.	2 0 0	The bank.
BILL OF EXCHANGE AND PROMISSORY NOTES—		
Payable on demand and sola	0 0 2	The drawer or acceptor of a bill of exchange and the maker of a promissory note.
Payable otherwise than on demand—		
For every £25 and every fractional part of £25.	0 0 6	
If drawn in a set... ..	One of the set to	
<i>Exemptions.</i> —		
(a) Letter written by a banker in New South Wales to any other banker in New South Wales directing the payment of any sum of money, the same not being payable to bearer or to order, and such letter not being sent or delivered to the person to whom payment is to be made, or to any person on his behalf.	be stamped with the duty payable on a single bill.	

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No. 47.SECOND SCHEDULE—*continued*;
STAMP DUTIES AND EXEMPTIONS—*continued*.

Nature of Instrument.	Amount of Duty.	Persons primarily liable.
BILL OF EXCHANGE AND PROMISSORY NOTES—(<i>continued</i>).	£ s. d.	
<i>Exemptions—(continued)</i> .		
(b) Letter of credit granted in New South Wales authorising drafts to be drawn out of New South Wales payable in New South Wales.		
(c) Cheque or order payable on demand drawn on the Government Savings Bank of New South Wales in respect of a deposit in the Savings Bank Department of such bank.		
(d) Any draft or order for the payment of money issued by any duly authorised officer of the Government on account of the Public Service.		
(e) Any draft or order for the payment of money commonly called an advance note issued by a master of a ship or vessel in favour of a seaman.		
BILL OF LADING OR RECEIPT for any goods, merchandise, or effects to be carried to any place outside New South Wales—		
For every such bill of lading or copy thereof.	0 1 0	The person by whom the goods are consigned.
For every such receipt or copy thereof	0 1 0	
CHARTER PARTY for conveyance beyond New South Wales.	0 1 0	The charterer.
COMPANIES—		
Upon the amount of the nominal capital of any company to be registered under Part I or Part II of the Companies Act, 1899, as shown by the statement delivered in accordance with section 59.		
Upon the amount of any increase of the registered capital of any company registered as aforesaid as shown by the statement delivered in accordance with the said section.		
For every £100 and any fraction of £100 over every multiple of £100....	0 2 0	The Company.
Upon every memorandum of association accompanied by articles of association....	1 0 0	
Upon every memorandum of association not accompanied by articles of association....	2 0 0	} The Company.
Upon every articles of association.....	1 0 0	
Upon every certificate of incorporation....	5 0 0	
CONTRACT NOTE for or relating to the sale or purchase of any stock or marketable security—		
For each £100, and also for any fractional part of £100 of such value....	0 0 6	} The person who makes or executes the contract note.

SECOND SCHEDULE—*continued.*

STAMP DUTIES AND EXEMPTIONS—*continued.*

Nature of Instrument.	Amount of Duty.	Persons primarily liable.
CONTRACT NOTE—(continued).	£ s. d.	
<p><i>Exemptions.—</i></p> <p>(a) Transactions carried out in the course of their ordinary business relations between brokers or agents who are members of Stock Exchanges in the Commonwealth of Australia.</p> <p>(b) Contract note for or relating to the sale or purchase of any stock, debentures, or Treasury bills of the Government of New South Wales or of the Commonwealth of Australia.</p>		
CONVEYANCES OF ANY PROPERTY—		
<p>(1) Upon every conveyance as defined in section 65 made otherwise than on sale or exchange—</p> <p>Where the value of the property conveyed—</p> <p>Does not exceed £50</p> <p>Exceeds £50 and does not exceed £100</p> <p>For every £100 and also for any fractional part of £100 of such value</p>	<p style="text-align: center;">0 7 6</p> <p style="text-align: center;">0 15 0</p> <p style="text-align: center;">0 15 0</p>	<p style="text-align: center;">} The parties to the conveyance or any one of them.</p>
<p>(2) Upon every conveyance on sale or exchange—</p>		
<p>On the amount or value of the consideration for the sale or exchange. Provided as follows:—</p> <p>(a) If the consideration for the sale is less than the value of the property conveyed ad valorem duty is payable on the value of the property.</p> <p>(b) Where such property is a debenture, other than a debenture of the city of Sydney or of a municipality or shire, and such amount or value does not exceed £15, the amount of the duty shall be as follows:—</p>	<p>The same duty as on a conveyance otherwise than on sale or exchange</p>	<p>The purchaser, or in the case of an exchange the person deemed to be the purchaser.</p>
<p>Where the amount or value of the consideration for the sale does not exceed £5</p> <p>Exceeds £5 and does not exceed £10</p> <p>Exceeds £10 and does not exceed £15</p>	<p style="text-align: center;">0 0 6</p> <p style="text-align: center;">0 1 0</p> <p style="text-align: center;">0 1 6</p>	<p style="text-align: center;">} The purchaser.</p>
<p>(c) Where such property consists of shares the duty payable shall be the duty hereinafter in this Schedule set out as on a transfer of shares.</p>		

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No. 47.

SECOND SCHEDULE—*continued.*

STAMP DUTIES AND EXEMPTIONS—*continued.*

Nature of Instrument.	Amount of Duty.	Persons primarily liable.
CONVEYANCES OF ANY PROPERTY—(continued).		
(3) Upon every conveyance of any property by the official assignee to a mortgagee or disclaimer by the official assignee under the Bankruptcy Act, 1898. On the amount at which the security has been valued by the mortgagee.	£ s. d. The same duty as on a conveyance for such consideration.	
(4) Upon each of the following instruments—		
a) An instrument merely appointing a new trustee, or executed on the retirement of a trustee, or a conveyance made for nominal consideration upon the appointment or the retirement of a trustee (whether the trust is expressed or implied).....		
(b) A conveyance under which no beneficial interest passes in the property conveyed, or made to a beneficiary by a trustee or other person in a fiduciary capacity under any trust (whether expressed or implied).....	1 0 0	The transferee.
(c) An instrument made or executed bona fide by way of completion or confirmation of title whereby no benefit accrues to the person in whose favour the instrument is made or executed, or no greater benefit than he originally had or was entitled to have by law, or by virtue of some other instrument.....		
(d) A conveyance following upon a decree or order for foreclosure where ad valorem duty has been paid upon such decree or order.....	1 0 0	
(e) A marriage settlement made before and in consideration of marriage by either party to the marriage, or made after marriage by either party thereto in pursuance of a binding ante-nuptial contract.....	1 0 0	The parties to the settlement or any one of them.
(5) Upon every conveyance made in conformity with an agreement where ad valorem duty has been paid on the agreement and the agreement is produced to the Commissioner ...	0 1 0	The transferee.
DECLARATION OF TRUST—		
(1) Any instrument declaring that a person in whom property is vested as the apparent purchaser thereof holds the same in trust for the person or persons who have actually paid the purchase-money therefor.....	1 0 0	The person declaring the trust.

SECOND SCHEDULE—*continued.*

STAMP DUTIES AND EXEMPTIONS—*continued.*

Nature of Instrument.	Amount of Duty.	Persons primarily liable.
£ s. d.		
DECLARATION OF TRUSTS— <i>(continued).</i>		
(2) Any instrument declaring that the property vested in the person executing the same is or shall be held in trust for the person or persons mentioned therein,— Upon the amount or value of such property	The same duty as on a conveyance.	The person declaring the trust.
DEED—		
(1) Deed of any kind whatever not otherwise charged in this Schedule	1 0 0	The parties to the deed, or any one of them.
(2) Any instrument which under the provisions of any statute is given the operation or effect of a deed either before or after registration		
DUPLICATE OR COUNTERPART of any instrument chargeable with any duty— Where such duty does not amount to 2s. 6d.	The same duty as the original instrument. 0 2 6	The person chargeable in the original instrument.
In any other case		
EXCHANGE—		
Any instrument effecting an exchange of any property upon the value of any property conveyed by way of exchange.	The same duty as on a conveyance. 1 0 0	The person to whom any property is conveyed by way of exchange.
In any other case		
FORECLOSURE ORDER—		
On the value of the property included in the order.	The same duty as on a conveyance.	The mortgagee.
GUARANTEE—		
Any instrument guaranteeing or promising to answer for the debt or default of any other person, and signed by the party to be charged, where such guarantee or promise is the leading object of the instrument—		
Under hand	0 1 0	The guarantor.
Under seal	1 0 0	
LEASE OR PROMISE OF OR AGREEMENT FOR LEASE OR HIRE of any property not being a ship or vessel—		
(1) Without any consideration by way of premium, fine, or foregift—		
In respect of the yearly rent, where such rent does not exceed £50.....	0 2 6	The lessee or tenant.
And for every additional £50 or part of £50	0 2 6	

George V,
No. 47.SECOND SCHEDULE—*continued.*STAMP DUTIES AND EXEMPTIONS—*continued.*

Nature of Instrument	Amount of Duty.	Persons primarily liable.
	£ s. d.	
LEASE OR PROMISE OF OR AGREEMENT FOR LEASE OR HIKE—(<i>continued.</i>)		
(2) In consideration of a sum of money by way of premium, fine, or foregift without rent	The same duty as on a conveyance.	The lessee or tenant.
(3) In consideration of a sum of money by way of premium, fine, or foregift, and also of a yearly rent whether real or nominal..... On the amount of premium		
And on the yearly rent.....	The same duty as on a lease.	
(4) Where the consideration is nominal, or where there is no consideration	The same duty as on a conveyance.	
(5) Where the consideration or any part of the consideration is an indeterminable amount— In respect of such amount and in addition to any other duty hereinbefore provided	1 0 0	
(6) Of any other kind whatsoever.....	1 0 0	
(7) A lease made subsequently to and in conformity with a contract or agreement to grant such lease duly stamped	0 2 6	
<i>Exemption.</i> —Where the sole consideration is a fixed rent at a rate of less than £75 a year, a lease of a house used solely as a dwelling, and a lease granted under the Crown Lands Act are exempt.		
LETTER OF ALLOTMENT AND LETTER OF RENUNCIATION or any other document having the effect of a letter of allotment— Of any share in the stock and funds of any company or proposed company..	0 0 6	The person by whom the instrument is executed.
LETTER OR POWER OF ATTORNEY or other instrument in the nature of—		
(1) For the purpose of voting by any person entitled to vote at any meeting of any body exercising a public trust, or of the shareholders, or members, or contributors to the funds of any company, society, or institution	0 0 3	The person by whom the instrument is executed or made.
(2) For the sole purpose of appointing or authorising a proxy to vote at any one meeting at which votes may be given by proxy, for each person executing such instrument	0 0 3	

George V,
No. 47.SECOND SCHEDULE—*continued.*STAMP DUTIES AND EXEMPTIONS—*continued.*

Nature of Instrument.	Amount of Duty.	Persons primarily liable.
LETTER OR POWER OF ATTORNEY—(continued).	£ s. d.	
(3) For the receipt of the dividends or interest of any stock—		
Where made for the receipt of one payment only	0 1 0	The person by whom the instrument is executed or made.
In any other case	0 5 0	
(4) For the receipt of any other sum of money, or any bill of exchange or promissory note for any sum of money, not exceeding £20, or any periodical payments not exceeding the annual sum of £10 (not being hereinbefore charged)	0 5 0	
(5) Of any kind whatsoever not hereinbefore described	1 0 0	
<i>Exemptions.—</i>		
(a) Letter or power of attorney solely for the receipt of dividends, or the sale, purchase, or transfer of any definite and certain share of the stocks or funds of the Government of New South Wales.		
(b) Order, request, or direction, under hand only, from the proprietor of any stock to any company, or to any officer of any company, or to any banker, to pay the dividends or interest arising from the stock to any person therein named.		
(c) Any order or authority, authorising any agent to lodge a specific application under the Crown Lands Acts or the Closer Settlement Acts, or to pay or receive any specific sum in connection therewith.		
MORTGAGES AND INSTRUMENTS RELATING TO MORTGAGES—		
(1) Mortgage (except a debenture otherwise charged with duty)—		
(a) being the only, or principal, or primary security for the payment or repayment of money—		The mortgagee or person taking the security.
Not exceeding £500	0 10 0	
Exceeding £500	1 0 0	
(b) being a collateral, or auxiliary, or additional, or substituted security, or by way of further assurance for the above-mentioned purpose where the principal or primary security is duly stamped and produced to the Commissioner	0 1 0	

George V,
No. 47.SECOND SCHEDULE—*continued.*STAMP DUTIES AND EXEMPTIONS—*continued.*

Nature of Instrument.	Amount of Duty.	Persons primarily liable.
MORTGAGES AND INSTRUMENTS RELATING TO MORTGAGES—(continued).		
(2) Instruments relating to mortgages—		
(a) Transfer, assignment, or other disposition of any such security as aforesaid.		The person taking under the disposition.
Where the amount transferred, assigned or disposed—		
Does not exceed £500	0 10 0	
Exceeds £500	1 0 0	
(b) Reconveyance, release, discharge, surrender, or renunciation of any such security.		The person in whose favour the instrument is made.
Where the amount of the money at any time secured—		
Does not exceed £500	0 10 0	
Exceeds £500	1 0 0	
(c) Instrument increasing or reducing the rate of interest, and the amount secured by any such security.		
(d) Instrument whereby the term or currency of any such security is shortened, extended, or renewed with or without alteration of the rate of interest and the amount secured—	.....	The mortgagee.
Where the money secured by the mortgage—		
Does not exceed £500	0 10 0	
Exceeds £500	1 0 0	
<i>Exemption.</i> —Any preferable lien or any lien on crops under the Liens on Crops and Wool and Stock Mortgages Act, 1898.		
PARTITION—		
For any instrument effecting a partition of any property, upon any consideration paid by way of equality, or at the option of the Commissioner on the difference in the value of the divided parts of the property.	The same duty as on a conveyance and a fixed duty of £1.	
Where such consideration or difference in value exceeds £50—		
On the consideration or difference in value.	The same ad valorem duty as on a conveyance and a fixed duty of £1.	The persons making the partition.
(2) In any other case	1 0 0	

SECOND SCHEDULE—*continued.*STAMP DUTIES AND EXEMPTIONS—*continued.*

Nature of Instrument.	Amount of Duty.	Persons primarily liable.
POLICIES OF INSURANCE—	£ s. d.	
(1) Upon every policy—		
(a) For or against loss by fire or hail— For every £100 and also for every fractional part of £100 insured for any term or period.	0 0 4	The company or person issuing the policy.
On every renewal or continuance thereof for every £100 and for every fractional part of £100 insured for any term.	0 0 4	
(b) For any voyage or period— For every £100 and also for any fractional part of £100 so insured.	0 0 4	
On every renewal or continuance thereof for every £100 or fractional part of £100.	0 0 4	
(c) Not otherwise specified— For every £100 and for every fractional part of £100 insured.	0 1 0	
(2) Upon every transfer or assignment of a policy.	0 2 6	The transferee or assignee.
<i>Exemptions.—</i>		
(a) Any policy of insurance on life.		
(b) Any policy of insurance for or against loss by fire on any public hospital.		
(c) Any policy of insurance against loss by fire on the tools, implements of work or labour used by any working mechanic, artificer, handicraftsman, or labourer, such insurance being effected by a separate policy in a distinct sum.		
REAL PROPERTY ACT, 1900—		
(1) Application to bring land under the Act or to be registered under the Act as the proprietor of an estate in land where not otherwise liable to stamp duty not being a transmission application.	1 0 0	The applicant.

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SECOND SCHEDULE—*continued.*STAMP DUTIES AND EXEMPTIONS—*continued.*

Nature of Instrument.	Amount of Duty.	Persons primarily liable.
REAL PROPERTY ACT, 1900—(continued).		
(2) Nomination— Where application is made to bring land under the Act, and the applicant nominates any other person as the person to whom the certificate is to issue.	£ s. d. The same duty as would have been payable on a conveyance of such land from the applicant, and all other necessary parties, to the person nominated for the estate mentioned in such nomination.	The nominee.
(3) Memorandum of Transfer—		
On a sale of the property therein.....	The same duty as on a conveyance on sale.	
Otherwise than on sale or by way of exchange of the property therein.	The same duty as on a conveyance herebefore mentioned in this Schedule.	The transferee.
By way of exchange of the property therein.	The same duty as on a conveyance.	
By way of partition or division.....	The same duty as on partition.	The persons making the partition or division.
In any other case	1 0 0	The transferee.
Agreement in writing for any such transfer.	The same duty as on the transfer.	The person to whom the transfer is agreed to be made.
Transfer made in conformity with an agreement on which ad valorem duty has been paid and such agreement is produced to the Commissioner	0 1 0	The transferee.
(4) Foreclosure order	The same duty as on a conveyance on sale.	The mortgagee.
(5) Memorandum of lease or promise of or agreement therefor.	The same duty as on a lease.	The lessee.
(6) Memorandum of mortgage or incumbrance for securing the payment or repayment of money.	The same duty as on a mortgage.	The mortgagee or incumbrancee.

SECOND SCHEDULE—*continued.*

STAMP DUTIES AND EXEMPTIONS—*continued.*

Name of Instrument.	Amount of Duty.	Persons primarily liable.	
REAL PROPERTY ACT, 1900—(<i>continued.</i>)	£ s. d.		
(7) Transfer of lease or surrender thereof,—			
On a sale of property or estate therein.	The same duty as on a conveyance on sale.	The transferee.	
Otherwise than on sale or by way of exchange.	The same duty as on a conveyance (1) hereinbefore mentioned in this Schedule.		
On an exchange of the property or estate therein.	The same duty as on an exchange.		
On a partition or division.....	The same duty as on partition.		The persons making the partition or division.
In any other case	1 0 0		
Agreement in writing for such transfer.	The same duty as on the transfer.	The transferee. The person to whom the transfer is agreed to be made.	
Transfer made in conformity with an agreement on which ad valorem duty has been paid and such agreement is produced to the Commissioner.....	0 1 0		
(8) Instruments relating to mortgages.....	The same duties as on mortgages (2) hereinbefore mentioned in this Schedule.	The transferee. The same persons as are mentioned hereinbefore in this Schedule in respect of mortgages (2).	
(9) Consent by an executor or administrator to a transmission application by a devisee or person entitled on intestacy.	1 0 0		
(10) Application by tenant in tail for entry of title in fee simple.	1 0 0	The devisee or person entitled on intestacy.	
(11) Release or disclaimer of power	1 0 0	The applicant.	
(12) Application for discharge or modification of restrictive covenant.		The person entitled to exercise the power.	
(13) Application for entry of an estate in fee simple in enlargement of a long term under section 134 of the Conveyancing Act, 1919.	1 0 0		
(14) Application to cancel notifications of leases or under leases as upon merger.		The applicant.	

George V,
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SECOND SCHEDULE—*continued*.
STAMP DUTIES AND EXEMPTIONS—*continued*.

Nature of Instrument.	Amount of Duty.	Persons primarily liable.
<p>REAL PROPERTY ACT, 1900—(<i>continued</i>).</p> <p><i>Exemptions.</i>—</p> <p>(a) The same as in the case of conveyances and agreements relating to land not under the Real Property Act, 1900.</p> <p>(b) Any application for transmission.</p>	<p>£ s. d.</p>	
<p>RECEIPT OR DISCHARGE given for or upon the payment of money amounting to £2 and upwards.</p> <p><i>Exemptions.</i>—</p> <p>(a) Receipts for refunds and reimbursements made by the Government or a Department of the Government of New South Wales.</p> <p>(b) Any receipt for money deposited with a broker or agent for the purchase of stock or marketable securities.</p> <p>(c) Any receipt given for or upon the payment of money to or for the use of His Majesty.</p> <p>(d) Any acknowledgment by any banker of the receipt of any bill of exchange or promissory note for the purpose of being presented for acceptance or payment.</p> <p>(e) Any acknowledgment by any person on receipt of money for the purchase of stock or shares in any Banking or Public Company.</p> <p>(f) Any acknowledgment or receipt given for or on account of any salary or wages at a rate of less than £5 per week.</p> <p>(g) Any receipt written upon or given for a bill of exchange or promissory note duly stamped.</p> <p>(h) Any receipt indorsed or otherwise written upon or contained in any instrument liable to stamp duty and duly stamped acknowledging the receipt of the consideration money therein expressed.</p> <p>(i) Any receipt given by depositors on receiving deposits from the Government Savings Bank of New South Wales.</p> <p>(j) Any acknowledgment given for money deposited in any Bank to be accounted for.</p>	<p>0 0 2</p>	<p>The person giving the receipt.</p>

SECOND SCHEDULE—*continued.*STAMP DUTIES AND EXEMPTIONS—*continued.*

Nature of Instrument.	Amount of Duty.	Persons primarily liab.e.
RECEIPT OR DISCHARGE—(<i>continued.</i>)	£ s. d.	
<p><i>Exemptions—(continued.)</i></p> <p>Provided that this exemption shall not extend to acknowledgments for any sum carried to the credit of any depositor or shareholder in any Bank on any division of profits made by such Bank or for or in respect of any dividend from any Joint Stock or other Company on the same being deposited by any person to the credit of any other person in any Bank or for or in respect of any sum paid to the credit of any person in any Bank for rent or interest by any other person or for or in respect of any sum deposited which would be liable to duty if paid directly by any person to any other person.</p> <p>(k) Any receipt given in anticipation of a Bill of Lading and not to be used in lieu thereof.</p> <p>(l) Receipts for the payment of any interest on debentures, stock, or Treasury Bills of the Government of New South Wales.</p> <p>(m) All receipts given to His Majesty or to any person on his behalf for or in respect of any pension or other superannuation or retiring allowance payable out of the funds of the Imperial or Indian Governments.</p> <p>(n) Any receipt given for or upon the payment of money for the use of any Public Hospital.</p>		
SHARE CERTIFICATE, or other document—		
(a) entitling any person to become the proprietor of any share or shares in any company or proposed company.		
(b) issued or delivered in New South Wales, and entitling any person to become the proprietor of any share or shares in any company or proposed company registered or established or proposed to be registered or established at some place outside New South Wales.		
Where the number of shares in the certificate—		
Does not exceed 100	0 0 6	} The Company.
Exceeds 100, but does not exceed 1,000	0 1 3	
Exceeds 1,000	0 5 0	

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SECOND SCHEDULE—*continued.*STAMP DUTIES AND EXEMPTIONS—*continued.*

Nature of Instrument.	Amount of Duty.	Persons primarily liable.
TRANSFER OF SHARES— Upon the transfer of any share or shares in the stock and funds of—	£ s. d.	
Any company incorporated in New South Wales or being incorporated out of New South Wales has a share register in New South Wales.	0 0 9	The transferee.
For every £10 and also for any fractional part of the consideration for the transfer.		
<i>Exemption.—</i> Any transfer or other dealing with stock, debentures, or Treasury Bills of the Government of New South Wales or of the Commonwealth of Australia.		

GENERAL EXEMPTIONS FROM STAMP DUTY UNDER PART III.

- (1) Every instrument whereby any contract is made with His Majesty, or any other person or authority on his behalf, with any other person.
- (2) Every contract or instrument made or executed by any responsible Minister of the Crown under the authority of any Act.
- (3) All bonds to His Majesty, or any person or authority on his behalf.
- (4) All instruments relating to the services of apprentices, clerks, and servants.
- (5) Any instrument for the sale, transfer, or other disposition of any ship or vessel, or any part, interest, share, or property of or in any ship or vessel.
- (6) In respect of any registration, certificate, agreement, award, statutory declaration, or instrument effected, issued, or made under the Industrial Arbitration Act, 1912.
- (7) In the case of registered societies and branches under the Friendly Societies Act, 1912, the following instruments:—
 - (a) Any draft, or order, or receipt given by any such society or branch in respect of money payable by virtue of its rules or of the said Act.
 - (b) Any receipt given to any such society or branch by a member thereof, or any person claiming through a member thereof for or on account of any benefit payable under the said Act.

(c)

[Sec 1899,
No. 31, s. 29.]

SECOND SCHEDULE—*continued*.GENERAL EXEMPTIONS FROM STAMP DUTY—*continued*.

- (c) Any bond given to or on account of any such society or branch or by the treasurer or other officer thereof.
- (d) Any agreement to which any such society or branch is a contracting party other than an agreement for the purchase of any property.
- (e) Any other instrument required or authorised by the said Act or by the rules of any such society or branch.
- (8) Generally any instrument expressly exempted under any Act.

THIRD SCHEDULE.

DEATH DUTY.

Final balance of estate.		Rate per centum of duty.
Exceeding £1,000	but not exceeding £5,000	2
„ £5,000	„ „ £6,000	2½
„ £6,000	„ „ £7,000	3
„ £7,000	„ „ £8,000	3½
„ £8,000	„ „ £9,000	4
„ £9,000	„ „ £10,000	4½
„ £10,000	„ „ £12,000	5
„ £12,000	„ „ £14,000	5½
„ £14,000	„ „ £16,000	6
„ £16,000	„ „ £18,000	6½
„ £18,000	„ „ £20,000	7
„ £20,000	„ „ £25,000	7½
„ £25,000	„ „ £30,000	8
„ £30,000	„ „ £35,000	8½
„ £35,000	„ „ £40,000	9
„ £40,000	„ „ £45,000	9½
„ £45,000	„ „ £50,000	10
„ £50,000	„ „ £55,000	10½
„ £55,000	„ „ £60,000	11
„ £60,000	„ „ £65,000	11½
„ £65,000	„ „ £70,000	12
„ £70,000	„ „ £75,000	12½
„ £75,000	„ „ £80,000	13
„ £80,000	„ „ £85,000	13½
„ £85,000	„ „ £90,000	14

George V,
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THIRD SCHEDULE—*continued.*DEATH DUTY—*continued.*

Final balance of estate.		Rate per centum of duty.
Exceeding £90,000 but not exceeding £95,000	...	... 14½
“ £95,000 “ “ £100,000	...	... 15
“ £100,000 “ “ £105,000	...	... 15½
“ £105,000 “ “ £110,000	...	... 16
“ £110,000 “ “ £115,000	...	... 16½
“ £115,000 “ “ £120,000	...	... 17
“ £120,000 “ “ £125,000	...	... 17½
“ £125,000 “ “ £130,000	...	... 18
“ £130,000 “ “ £135,000	...	... 18½
“ £135,000 “ “ £140,000	...	... 19
“ £140,000 “ “ £150,000	...	... 19½
“ £150,000 ... ..	...	... 20

Provided that—

- (a) in the case of a person dying after the passing of the Stamp Duties Act, 1920, and at the time of his death domiciled without New South Wales, where the final balance of his estate does not exceed £1,000, duty is payable thereon at the rate of £2 per centum; and
- (b) in the case of property in respect of which duty is separately assessed under section 106, where the value of such property does not exceed £5,000 duty is payable thereon at the rate of £2 per centum.