

Act No. 30, 1901.

An Act to consolidate enactments relating to the registration of the offices of certain companies, and to the imposition of duties on the death of shareholders of those companies. [31st October, 1901.]

COMPANIES (DEATH
DUTIES).

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:—

1. (1) This Act may be cited as the "Companies (Death Duties) Act, 1901." Short title.

(2) All regulations and applications duly made and all registrations duly effected under the enactments hereby repealed shall be of the same force and effect as if this Act had been passed before the same were so made or effected and they had been made or effected hereunder.

2. The Acts mentioned in the First Schedule to this Act, to the extent therein expressed, are hereby repealed. Repeal.

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

"Company" means corporate body or association.

"Registrar" means the person having under the Companies Act, 1899, the powers of the Registrar of Joint Stock Companies.

"Registered office" means office registered in pursuance of this Act, or of any enactment hereby repealed.

Registration of offices of companies.

4. (1) Where any company incorporated according to the laws of some country, possession, or place, other than New South Wales, carries on the business— Application for registration. Act No. 53, 1899, s. 1.

(a) of mining for any minerals in New South Wales; or

(b) of pastoral or agricultural production or timber-getting in New South Wales,

such company shall make application in the form prescribed to the Registrar that an office of the company in New South Wales situated as stated in the application be registered as the registered office of the company for the purposes of this Act.

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The application may be made by the company by the hand of an agent or attorney or any person conducting the business of the company in New South Wales.

Time for making application.

(2) (a) Where the company has commenced to carry on any such business within three months prior to the passing of this Act; or

(b) where the company commences to carry on any such business as aforesaid after the passing of this Act;

the application shall be made before the expiration of a period of three months after the company commenced or commences to carry on the business as aforesaid.

Penalty.

(3) If any such company as is mentioned in the last preceding subsection fails to make such application before the expiration of the period appointed in this section, it shall be liable to a penalty not exceeding fifty pounds nor less than twenty pounds, and to a further penalty not exceeding two pounds, for every day during which the company has carried on any such business as aforesaid after the expiration of such period.

(4) Where a company carrying on any such business has made default in making application within the time prescribed by the Acts hereby repealed, such company shall make application under this Act; but for its default such company shall be liable to a penalty not exceeding fifty pounds nor less than twenty pounds, and to a further penalty not exceeding two pounds for every day during which the company carries or has carried on any such business as aforesaid since the expiration of the time prescribed for making application under and by virtue of the Acts hereby repealed.

Registration of office.
Act No. 53, 1889, s. 2.

5. (1) On the receipt of any such application, it shall be the duty of the Registrar to register the said office of the company in a book to be kept for the purpose, and to issue to the company by posting the same addressed to the company at such registered office a certificate of registration.

(2) A copy of each certificate so issued shall be published in the Gazette.

Change of registered office.
Ibid. s. 3.

6. (1) Where the situation of the registered office of any such company is changed, notice in writing of such change shall forthwith be given by the company to the Registrar, who shall enter the same on the register and, upon the certificate of registration being presented to him for that purpose, upon such certificate, and shall publish a copy of such notice in the Gazette.

(2) If any such company fails to give the notice required by this section it shall be liable to a penalty not exceeding twenty pounds.

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7. Where a member of any such company has died before or dies after the passing of this Act, and probate or letters of administration of the estate of such member are, after the passing of this Act, notified to or lodged with such company, such company, within six months from the day when the probate or letters of administration were notified to or lodged with the company, or such further time as the Commissioner of Stamps may allow, shall cause to be delivered to the Commissioner a return giving the name and address of such member, the date when the probate or letters of administration were notified to or lodged with such company, the number, description, and value of the shares in the said company held by such member at the time of his death, and shall pay the duty thereon.

Company to deliver to commissioner list of deceased members in respect of whose estate administration has been notified to company.
Act No. 76, 1900, s. 3.

If any such list is not delivered in accordance with the provisions of this section, the company making default shall be liable to a penalty not exceeding fifty pounds.

8. Any writ or other process issued against any such company, in pursuance of this Act or any enactment hereby repealed, or the regulations, may be served by being left at the registered office of the company with some person there, or, if there is no registered office or no person is found at the registered office, by being affixed at the office of the Prothonotary of the Supreme Court, or registrar of any other Court from which the writ or process has issued.

Service of writ or process.
Act No. 53, 1899, s. 5.

9. Production of the Gazette purporting to contain the copy of a certificate of registration issued under the provisions of this Act or any enactment hereby repealed, shall for the purpose of proceedings in any Court, or for any other purpose, be evidence that the office of such company has been duly registered under this Act and is situated as mentioned in the certificate.

Evidence of registration and of change of office.
Ibid. s. 6.

Production of the Gazette purporting to contain the copy of a notice of the change of the situation of a registered office shall for the purposes aforesaid be evidence that the registered office of the company mentioned therein has been so changed.

Duty on death of shareholder.

10. (1) Where a company, incorporated according to the laws of some country possession or place other than New South Wales, carries on the business—

Duty on death of members.
Ibid. s. 7.
Act No. 76, 1900, s. 4.

- (a) of mining for any mineral in New South Wales, or
- (b) of pastoral or agricultural production or timber-getting in New South Wales,

and a member of such company dies after the passing of this Act, wheresoever such member may have been domiciled, there shall be

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be charged, levied, collected, and paid under and subject to the provisions of the Stamp Duties Act, 1898, and any Act amending the same (so far as they are applicable), for the use of His Majesty and to form part of the Consolidated Revenue Fund, and, except as hereinafter provided, without any exemption or deduction whatsoever a duty at the rate mentioned in the Second Schedule to this Act on the value of the shares and stock in the company held by such member at the time of his death :

Provisoes.

Provided that—

- (a) the duty mentioned in this section shall not be payable where the value of the shares and stock in the company held by the member at the time of his death does not exceed one thousand pounds ;
- (b) where the company carries on any business outside New South Wales the duty payable by that company under this section shall bear the same proportion to the duty mentioned in the said Schedule as the profits derived from any business carried on by such company in New South Wales, and from the sale at any place of the products of any such business bear to the whole profits of such company derived from any business wheresoever carried on ; and
- (c) where the company carries on the business of pastoral or agricultural production in New South Wales as mortgagee in possession only, or only in relation to property which has fallen into the hands of such company by reason of foreclosure or conveyance of the equity of redemption in discharge of a mortgage debt, or in relation to property acquired by such company for the purpose of working the same in connection with the property so foreclosed or conveyed as aforesaid, and does not carry on the business of mining for any minerals or timber-getting in New South Wales, no duty under this section shall be payable by that company ; and
- (d) where probate of the will or administration of the estate of any member of the company has, in pursuance of the Wills, Probate and Administration Act, 1898, been granted or sealed in New South Wales, and the duty payable in pursuance of the Stamp Duties Act, 1898, or any Act amending the same, on such grant or sealing has been duly paid in respect of all shares and stock in the company held by such member at the time of his death, no duty in respect of those shares or that stock shall be payable under this section.

Payment of duties.

(2) Duty under this section shall be payable as aforesaid by the said company, and may be recovered by the Commissioner of Stamps at

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at any time after the expiration of six months from the day on which probate or letters of administration of the estate of such member were notified to or lodged with the company, and not sooner, as a debt due to His Majesty.

11. Any payment after the commencement of this Act by a company of any duty imposed by this Act in respect of shares or stock in that company held by a member at the time of his death shall be deemed to be a payment on behalf of the personal estate of such member, and may by the company be deducted from any moneys payable by the company to the personal representatives of such member in respect of such shares or stock, or recovered by suit or action from such representatives.

Duty deemed to be paid by company on behalf of member. Act No. 76, 1900, s. 5.

Supplemental.

12. The Governor may make regulations for carrying out the provisions of this Act and providing the forms to be used, and fixing any penalty not exceeding fifty pounds for any breach of those regulations. Such regulations when published in the Gazette shall have the force of law.

Regulations. Act No. 53, 1899, s. 8.

Such regulations shall be laid before both Houses of Parliament forthwith on such publication if Parliament is sitting, and if not then within twenty-one days after the commencement of the next session.

13. Penalties under this Act or the regulations may be imposed by and recovered before a court of petty sessions.

Recovery of penalties. Ibid. s. 9.

SCHEDULES.

FIRST SCHEDULE.

Reference to Act.	Title of Act.	Extent of Repeal.
Act No. 53, 1899...	Companies (Death Duties) Act, 1899	The whole.
Act No. 76, 1900...	Companies Death Duties (Amendment) Act, 1900	The whole.

SECOND

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SECOND SCHEDULE.

Where the value of the shares and stock in the company exceeds £1,000 and does not exceed £5,000...				...	2	per cent.
£5,000	..	£6,000	...	...	3	..
£6,000	..	£7,000	...	...	3 $\frac{1}{2}$	..
£7,000	..	£8,000	...	...	3 $\frac{2}{5}$	..
£8,000	..	£9,000	...	...	3 $\frac{3}{5}$	..
£9,000	..	£10,000	...	...	3 $\frac{4}{5}$	..
£10,000	..	£12,000	...	...	4	..
£12,000	..	£14,000	...	...	4 $\frac{1}{5}$	..
£14,000	..	£16,000	...	...	4 $\frac{2}{5}$	..
£16,000	..	£18,000	...	...	4 $\frac{3}{5}$	..
£18,000	..	£20,000	...	...	4 $\frac{4}{5}$	..
£20,000	..	£22,000	...	...	5	..
£22,000	..	£24,000	...	...	5 $\frac{1}{5}$	..
£24,000	..	£26,000	...	...	5 $\frac{2}{5}$	..
£26,000	..	£28,000	...	...	5 $\frac{3}{5}$	..
£28,000	..	£30,000	...	...	5 $\frac{4}{5}$	..
£30,000	..	£32,000	...	...	6	..
£32,000	..	£34,000	...	...	6 $\frac{1}{5}$	..
£34,000	..	£36,000	...	...	6 $\frac{2}{5}$	..
£36,000	..	£38,000	...	...	6 $\frac{3}{5}$	..
£38,000	..	£40,000	...	...	6 $\frac{4}{5}$	..
£40,000	..	£44,000	...	...	7	..
£44,000	..	£48,000	...	...	7 $\frac{1}{5}$	..
£48,000	..	£52,000	...	...	7 $\frac{2}{5}$	..
£52,000	..	£56,000	...	...	7 $\frac{3}{5}$	..
£56,000	..	£60,000	...	...	7 $\frac{4}{5}$	..
£60,000	..	£64,000	...	...	8	..
£64,000	..	£68,000	...	...	8 $\frac{1}{5}$	..
£68,000	..	£72,000	...	...	8 $\frac{2}{5}$	..
£72,000	..	£76,000	...	...	8 $\frac{3}{5}$	..
£76,000	..	£80,000	...	...	8 $\frac{4}{5}$	..
£80,000	..	£84,000	...	...	9	..
£84,000	..	£88,000	...	...	9 $\frac{1}{5}$	..
£88,000	..	£92,000	...	...	9 $\frac{2}{5}$	..
£92,000	..	£96,000	...	...	9 $\frac{3}{5}$	..
£96,000	..	£100,000	...	...	9 $\frac{4}{5}$	..
And over the value of £100,000	...	...	...	...	10	..