



## ANALYSIS

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1974, No. 32

**An Act to amend the Estate and Gift Duties Act 1968**

[2 August 1974]

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

**1. Short Title, commencement, etc.**—(1) This Act may be cited as the Estate and Gift Duties Amendment Act 1974, and shall be read together with and deemed part of the Estate and Gift Duties Act 1968 (hereinafter referred to as the principal Act).

(2) This Act shall be deemed to have come into force on the 30th day of May 1974.

(3) Except as provided in subsection (2) of section 8 of this Act, this Act shall apply to the estates of all persons dying on or after the day that this Act is deemed to have come into force.

**2. Meaning of “orphan infant child”**—(1) Section 2 of the principal Act is hereby amended by inserting, after the definition of “Minister” in subsection (1), the following definition:

“‘Orphan infant child’, in relation to any deceased person, means a child of that deceased, who is living and under the age of 20 years at the date of death of the deceased, in any case where—

“(a) The other parent of that child did not survive the deceased or, having survived the deceased, did not survive for any period, specified in the will of the deceased or in any *inter vivos* instrument of disposition, necessary for that other parent to take any property included in the dutiable estate of the deceased; or

“(b) The deceased and the other parent of that child die at the same time or in circumstances which give rise to reasonable doubt as to which of them survived the other; or

“(c) The Commissioner is satisfied that the administrator of the estate of the deceased is unable, by reason of undue expense or difficulty, to ascertain whether the other parent of that child survived the deceased or not.”.

(2) Section 91 of the principal Act is hereby consequentially amended by adding to paragraph (a) of the definition of “discretion” in subsection (1), the words “or of the term ‘orphan infant child’ ”.

**3. Exemption for pensions payable under group superannuation schemes**—Section 35 of the principal Act is hereby amended by omitting from subsection (1) the words “one thousand dollars” wherever they occur, and substituting in every case the expression “\$2,000”.

**4. Exemption for certain personal chattels**—Section 35B of the principal Act (as inserted by section 5 of the Estate and Gift Duties Amendment Act 1970) is hereby amended by omitting from subsection (2), from subsection (3), and from subsection (4), the expression “\$2,000”, and substituting in each case the expression “\$4,000”.

**5. Relief for succession of wife**—(1) Section 36 of the principal Act (as amended by section 3 of the Estate and Gift Duties Amendment Act 1969) is hereby further amended by omitting from item “a” the expression “\$40,000”, and substituting the expression “\$60,000”.

(2) Section 3 of the Estate and Gift Duties Amendment Act 1969 is hereby consequentially repealed.

**6. Relief for succession of husband**—(1) Section 37 of the principal Act (as amended by section 4 of the Estate and Gift Duties Amendment Act 1969) is hereby further amended by omitting from item “a” the expression “\$40,000”, and substituting the expression “\$60,000”.

(2) Section 4 of the Estate and Gift Duties Amendment Act 1969 is hereby consequentially repealed.

**7. Relief for succession of orphan infant child**—(1) The principal Act is hereby further amended by inserting, after section 38, the following section:

“38A. (1) There shall, in respect of the succession of each orphan infant child in the dutiable estate of the deceased, be deducted from the estate duty otherwise payable an amount calculated in accordance with the following formula:

$$\frac{a}{b} \times c$$

where—

a is—

“(i) The value of the succession of that orphan infant child; or

“(ii) An amount equal to the appropriate percentage of \$10,000—

whichever is the less; and

b is the final balance of the estate; and

c is the estate duty calculated in accordance with section 4 of this Act.

“(2) For the purposes of subsection (1) of this section, the appropriate percentage shall be—

“(a) Where the orphan infant child is under the age of 5 years at the date of death of the deceased, 100 percent:

“(b) Where the orphan infant child is of the age of 5 years but under the age of 10 years at the date of death of the deceased, 75 percent:

“(c) Where the orphan infant child is of the age of 10 years but under the age of 15 years at the date of death of the deceased, 50 percent:

“(d) Where the orphan infant child is of the age of 15 years but under the age of 20 years at the date of death of the deceased, 25 percent.

“(3) Subject to subsection (4) of this section, the deduction allowed by this section shall be in substitution for, and not in addition to, the deduction allowed by section 38 of this Act.

“(4) Where a deduction from estate duty under this section would, except for this subsection, be made in respect of the succession of the same orphan infant child in the dutiable estate of each deceased parent of that child the deduction shall be made only in respect of whichever such succession gives the greater relief from the estate duty otherwise payable; and the provisions of section 38 of this Act shall apply to that succession in respect of which no deduction from estate duty is made under this section.”

(2) Section 39 of the principal Act is hereby consequentially amended by omitting from subsection (2) the words “section 38”, and substituting the words “sections 38 and 38A”.

**8. Exemption for small gifts**—(1) Section 71 of the principal Act is hereby amended—

(a) By omitting from the heading the expression “\$200”, and substituting the expression “\$400”:

(b) By omitting the words “two hundred dollars”, and substituting the expression “\$400”.

(2) Subsection (1) of this section shall apply—

(a) For the purposes of gift duty under the principal Act, to all gifts made on or after the 1st day of January 1974; and

(b) For the purposes of estate duty under the principal Act, to all gifts, made at any time whether before or after the commencement of this Act, by a donor who dies on or after the commencement of this Act.