

Act No. 2, 1905.

APPORTIONMENT. **An Act for the better apportionment of rents and other periodical payments. [24th July, 1905.]**

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:—

Preliminary.

Short title.

Definitions.

33 & 34 Vic.,
c. 35, s. 5.

1. This Act may be cited as the "Apportionment Act, 1905."
2. In this Act—
 - "Annuities" includes salaries and pensions.
 - "Dividends" includes (besides dividends strictly so called) all payments made by the name of dividend, bonus, or otherwise out of the revenue of trading or other public companies, divisible between all or any of the members of such respective companies, whether such payments are usually made or declared at any fixed times or otherwise; and all such divisible revenue shall, for the purposes of this Act, be deemed to have accrued by equal daily increment during and within the period for or in respect of which the payment of the same revenue is declared or expressed to be made; but the said word "dividend" does not include payments in the nature of a return or reimbursement of capital.
 - "Rents" includes rent service, rent charge, and rent seek, and all periodical payments or renderings in lieu of or in the nature of rent.

Quit-rents.

*Apportionment.**Quit-rents.*

3. (1) Where any quit-rent issues to the Crown out of any land, the Colonial Treasurer may, in his discretion, apportion such quit-rent in respect of the land, and on redemption of the portion of the quit-rent so apportioned in respect of any part of such land may release such part of the land from such quit-rent; but notwithstanding such redemption and release the residue of the quit-rent shall issue out of the residue of the land, subject, however, to apportionment under this section.

Apportionment of quit-rents in respect of the land.

(2) Where, before the commencement of this Act, any such quit-rent has been apportioned and any such redemption has been accepted by the Crown, in respect of any part of land out of which any quit-rent issued to the Crown, the residue of the quit-rent shall, notwithstanding any such redemption and release, be deemed to have issued and to issue out of the residue of the land, subject, however, to apportionment under this section.

Other rents and periodical payments.

4. All rents, annuities, dividends, and other periodical payments in the nature of income (whether reserved or made payable under an instrument in writing executed before or after the commencement of this Act, or otherwise reserved or made payable) shall, like interest on money lent, be considered as accruing from day to day, and shall be apportionable in respect of time accordingly.

Apportionment of rents in respect of time.
33 & 34 Vic.,
c. 35, s. 2.

5. The apportioned part of any such rent, annuity, dividend, or other payment shall be payable or recoverable in the case of a continuing rent, annuity, or other such payment when the entire portion of which such apportioned part forms part becomes due and payable, and not before; and in the case of a rent, annuity, or other such payment determined by re-entry, death, or otherwise, when the next entire portion of the same would have been payable if the same had not so determined, and not before.

When apportioned part payable or recoverable.
Ibid. s. 3.

6. All persons and their respective executors, administrators, and assigns, and also the executors, administrators, and assigns respectively of persons whose interests determine with their own deaths, shall have such or the same remedies at law and in equity for recovering such apportioned parts as aforesaid when payable (allowing proportionate parts of all just allowances) as they respectively would have had for recovering such entire portions as aforesaid if entitled thereto respectively:

Right of recovering apportioned parts.
Ibid. s. 4.

Provided that persons liable to pay rents reserved out of or charged on lands or other hereditaments of any tenure, and the same lands or other hereditaments shall not be resorted to for any such apportioned

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apportioned part forming part of an entire or continuing rent as aforesaid specifically; but the entire or continuing rent, including such apportioned part, shall be recovered and received by the person who, if the rent had not been apportionable under this Act, or otherwise, would have been entitled to such entire or continuing rent; and such apportioned part shall be recoverable from such person by the executors or other parties entitled under this Act to the same by action at law or suit in equity.

Savings.

Policies of assurance.
33 & 34 Vic., c. 35, s. 6.

7. Nothing in this Act shall render apportionable any annual sums made payable in policies of assurance of any description.

Contracting out.
Ibid., s. 7.

8. This Act shall not extend to any case in which it has been before or after the commencement of this Act expressly stipulated that no apportionment shall take place.
