

# Companies (Death Duties) Act 1901 No 30

[1901-30]



New South Wales

## Status Information

### Currency of version

Repealed version for 17 July 2001 to 5 January 2012 (accessed 27 December 2024 at 13:56)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by Sch 5 to the *Statute Law (Miscellaneous Provisions) Act (No 2) 2011 No 62* with effect from 6.1.2012.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

File last modified 6 January 2012

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# Companies (Death Duties) Act 1901 No 30



New South Wales

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.

## 1 Name of Act

- (1) This Act may be cited as the *Companies (Death Duties) Act 1901*.
- (2) All regulations and applications duly made and all registrations duly effected under the enactments hereby repealed shall be of the same force and effect as if this Act has been passed before the same were so made or effected and they had been made or effected hereunder.

## 2 Repeal

The Acts mentioned in the First Schedule, to the extent therein expressed, are hereby repealed.

## 3 Definitions

In this Act, unless the context or subject-matter otherwise indicates or requires:

**Company** means corporate body or association.

## 4-6 (Repealed)

## 7 Company to deliver to commissioner list of deceased members in respect of whose estate administration has been notified to company

Where a company incorporated according to the laws of some country, possession or place other than New South Wales, carries on the business:

- (a) of mining for gold, coal or shale, or any substance prescribed as a mineral under the *Mining Act 1973* in New South Wales, or of treating any such minerals,
- (b) of pastoral or agricultural production or timber-getting in New South Wales,

and a member of such company has died before or dies after the passing of this Act before 31 December 1981, and probate or letters of administration of the estate of such member or notice of the death 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 or such notice of death were notified to or lodged with the company, or such further time as the Commissioner of Stamp Duties 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 or such notice of death 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 hereon.

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 one hundred dollars.

## **8, 9 (Repealed)**

### **10 Duty on death of members**

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

- (a) of mining for gold, coal or shale, or any substance prescribed as a mineral under the *Mining Act 1973* in New South Wales, or of treating any such minerals,
- (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 but before 31 December 1981, wheresoever such member may have been domiciled, there shall be charged, levied, collected, and paid under and subject to the provisions of the *Stamp Duties Act 1920*, 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 on the value of the shares and stock in the company held by such member at the time of his death, at the rate set out in the Fifth Schedule to the *Stamp Duties Act 1920-1924*, as amended by the *Stamp Duties (Amendment) Act 1931*, for an estate the final balance of which is equal to the value of the said shares and stock where such member has died or dies after the passing of the *Stamp Duties (Amendment) Act 1931*, and at the rate set out in the Ninth Schedule to the *Stamp Duties Act 1920-1965*, for an estate the final balance of which is equal to the value of the said shares and stock where such member dies on or after the appointed day as defined in section 3 of the *Stamp Duties Act 1920-1965*, and at the rate set out in the Third Schedule to the *Stamp Duties Act 1920-1931*, for an estate the final balance of which is equal to the value of the said shares and stock where such member has died after the passing of the *Stamp Duties Act 1920*, and before the passing of the *Stamp Duties (Amendment) Act 1931*:

Provided that:

- (c) (Repealed)

- (d) 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 calculated as aforesaid according to the said Schedule as the value of the assets of the company situated in New South Wales bears to the total assets of the company wherever situated,
  - (e) Where the company carries on the business of pastoral or agricultural production in New South Wales as mortgagee in possession only, no duty under this section shall be payable by that company, and
  - (f) 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 1920*, 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.
- (2) Duty under this section shall be payable as aforesaid by the said company, and may be recovered by the Commissioner of Stamp Duties or the Attorney-General 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 or on which notice of the death of such member were notified to or lodged with the company, and not sooner, as debt due to His Majesty.
- (2A) Any duty under this section payable before this subsection comes into operation and any duty under the Acts repealed by this Act shall be deemed to have been and to be recoverable by the Attorney-General or by the Commissioner appointed under the *Stamp Duties Act 1898*, until the repeal of such Act or by the Commissioner appointed under the *Stamp Duties Act 1920*, after the repeal of the *Stamp Duties Act 1898*.
- (3) For the purposes of this section the term **assets** means the gross amount of all the real and personal property of the company of every kind including things in action, and without making any deduction in respect of any debts or liabilities of the company.

## **11 Duty deemed to be paid by company on behalf of member**

- (1) 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.
- (2) This Act shall be read and construed so as not to exceed the legislative power of the

State to the intent that where any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances shall not be affected.

**11A Application of secs 7, 10, 11, 12, 13**

The provisions of sections 7, 10, 11, 12, and 13 shall apply to a company incorporated according to the laws of New South Wales that carries on in New South Wales any of the businesses mentioned in paragraphs (a) and (b) of subsection (1) of section 4 and has a share register outside New South Wales in like manner in all respects (subject as hereinafter provided) as the said sections 7, 10, 11, 12, and 13 apply to a company incorporated according to the laws of some country other than New South Wales and carrying on any of the said businesses in New South Wales: Provided that the said sections shall not apply in respect of shares and stock registered in the share register of the company kept in New South Wales.

**11B Saving**

Nothing in this Act shall affect any liability of shares and stock mentioned in this Act to duty under the *Stamp Duties Act 1920-1965*.

**11C Reduction of duty in certain cases**

- (1) Notwithstanding any other provision of this Act, the amount of duty payable in accordance with this Act by a company consequent upon the death of a member of the company shall be, where the member dies on or after 1 January 1979, and before 1 January 1981, two-thirds of the amount of duty that would, but for this section, be payable in accordance with this Act.
- (2) Notwithstanding any other provision of this Act, the amount of duty payable in accordance with this Act by a company consequent upon the death of a member of the company shall be, where the member dies on or after 1 January 1981, and before 31 December 1981, one-third of the amount of duty that would, but for this section, be payable in accordance with this Act.
- (3) Notwithstanding any other provision of this Act, no duty shall be payable under this Act by a company consequent upon the death of a member of the company where the member dies on or after 31 December 1981.

**12 Regulations**

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 one hundred dollars for any breach of those regulations.

**13 Recovery of penalties**

Penalties under this Act or the regulations may be imposed by and recovered before a

Local Court.

## First Schedule

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

## Second Schedule (Repealed)