



Customs and Inland Revenue Act 1881

1881 CHAPTER 12

PART III

STAMPS

As to Probate and Legacy Duties, and Duties on Accounts

26 Stamp duties to be under the care and management of the Commissioners of Inland Revenue

- (1) The stamp duties herein-after imposed shall be under the care and management of the Commissioners of Inland Revenue, who by themselves and their officers shall have the same powers and authorities for the collection, recovery, and management thereof as are by law vested in them for the collection, recovery, and management of any stamp duties, and shall have all other powers and authorities requisite for carrying into effect the provisions of this Act in relation to such stamp duties.
- (2) Such stamp duties may be denoted by impressed or adhesive stamps, or partly by impressed stamps and partly by adhesive stamps, as the said Commissioners may think proper.
- (3) As respects the duties imposed on affidavits in substitution for the duties on probates or letters of administration, the several provisions now in force in relation to the last-mentioned duties shall, so far as the same are consistent with the provisions of this Act, be deemed to be applicable to the said duties hereby imposed, and in the application thereof a probate or letters of administration having thereon such a certificate as is herein-after mentioned shall for all purposes be deemed to have been duly stamped in respect of the value stated in the certificate.

27 Grant of duties in respect of probate and letters of administration, and on inventories

The duties imposed by the Customs and Inland Revenue Act, 1880, upon probates of wills and letters of administration in England and Ireland shall not be payable upon

Status: This is the original version (as it was originally enacted).

probates or letters of administration granted on and after the first day of June one thousand eight hundred and eighty-one; and on and after that day in substitution for such duties, and in lieu of the duties imposed by the said Act upon inventories in Scotland, there shall, save as is herein-after expressly provided, be charged and paid on the affidavit to be required and received from the person applying for the probate or letters of administration in England or Ireland, or on the inventory to be exhibited and recorded in Scotland, the stamp duties herein-after specified: (that is to say,)

"Where the estate and effects for or in respect of which the probate or letters of administration is or are to be granted, or whereof the inventory is to be exhibited and recorded, exclusive of what the deceased shall have been possessed of or entitled to as trustee, and not beneficially, shall be above the value of 100l, and not above the value of 500l

Where such estate and effects shall be above the value of 500l, and not above the value of 1,000l

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DUTY.

At the rate of one pound for every full sum of 50l, and for any fractional part of 50l over any multiple of 50l:

At the rate of one pound five shillings for every full sum of 50l, and for any fractional part of 50l over any multiple of 50l;

At the rate of three pounds for every full sum of 100l, and for any fractional part of 100l over any multiple of 100l;

Provided that an additional inventory, to be exhibited or recorded in Scotland, of any effects of a deceased person, where a former inventory of the estate and effects of the same person has been exhibited and recorded prior to the first day of June one thousand eight hundred and eighty-one, shall be chargeable with the amount of stamp duty with which it would have been chargeable if this Act had not been passed.

28 Power to deduct debts and funeral expenses where deceased died domiciled in the United Kingdom

On and after the first day of June one thousand eight hundred and eighty-one, in the case of a person dying domiciled in any part of the United Kingdom, it shall be lawful for the person applying for the probate or letters of administration in England or Ireland, or exhibiting the inventory in Scotland, to state in his affidavit the fact of such domicile, and to deliver therewith or annex thereto a schedule of the debts due from the deceased to persons resident in the United Kingdom, and the funeral expenses, and in that case, for the purpose of the charge of duty on the affidavit or inventory, the aggregate amount of the debts and funeral expenses appearing in the schedule shall be

deducted from the value of the estate and effects as specified in the account delivered with or annexed to the affidavit, or whereof the inventory shall be exhibited.

Debts to be deducted under the power hereby given shall be debts due and owing from the deceased and payable by law out of any part of the estate and effects comprised in the affidavit or inventory, and are not to include voluntary debts expressed to be payable on the death of the deceased, or payable under any instrument which shall not have been bona fide delivered to the donee thereof three months before the death of the deceased, or debts in respect whereof any real estate may be primarily liable or a reimbursement may be capable of being claimed from any real estate of the deceased or from any other estate or person.

Funeral expenses to be deducted under the power hereby given shall include only such expenses as are allowable as reasonable funeral expenses according to law.

29 As to forms of affidavit

The affidavit to be required or received from any person applying for probate or letters of administration in England or Ireland shall extend to the verification of the account of the estate and effects, or to the verification of such account and the schedule of debts and funeral expenses, as the case may be, and shall be in accordance with such form as may be prescribed by the Commissioners of Her Majesty's Treasury; and the Commissioners of Inland Revenue shall provide forms of affidavit stamped to denote the duties payable under this Act.

30 Probate or letters of administration to bear a certificate in lieu of stamp duty

No probate or letters of administration shall be granted by the Probate, Divorce, and Admiralty Division of the High Court of Justice in England, or by the Probate and Matrimonial Division of the High Court of Justice in Ireland, unless the same bear a certificate in writing under the hand of the proper officer of the court, showing that the affidavit for the Commissioners of Inland Revenue has been delivered, and that such affidavit, if liable to stamp duty, was duly stamped, and stating the amount of the gross value of the estate and effects as shown by the account.

31 Provision for return of duty overpaid

If at any time after the grant of probate or letters of administration, and during the administration of the estate, the value mentioned in the certificate of the officer of the court shall be found to exceed the true value of the personal estate and effects of the deceased, or if at any time within three years after the grant, or within such further period as the Commissioners of Inland Revenue may allow, it shall appear that no amount or an insufficient amount was deducted on account of debts and funeral expenses, it shall be lawful for the said Commissioners, upon proof of the facts to their satisfaction, to return the amount of stamp duty which shall have been overpaid, and to cause a certificate to be written by an authorised officer on the probate or letters of administration setting forth such true value, or, as the case may be, the amount, or corrected-amount of deduction, and such certificate shall be substituted for, and have the same force and effect as, the certificate of the officer of the court.

32 Provision for payment of further duty

If at any time it shall be discovered that the personal estate ; and effects of the deceased were at the time of the grant of probate or letters of administration of greater value than the value mentioned in the certificate, or that any deduction for debts or funeral expenses was made erroneously, the person acting in the administration of such estate and effects shall, within six months after the discovery, deliver a further affidavit with an account to the Commissioners of Inland Revenue, duly stamped for the amount which, with the duty (if any) previously paid on an affidavit in respect of such estate and effects, shall be sufficient to cover the duty chargeable according to the true value thereof, and shall at the same time pay to the said Commissioners interest upon such amount at the rate of five pounds per centum per annum from the date of the grant, or from such subsequent date as the said Commissioners may in the circumstances think proper.

The Commissioners of Inland Revenue, upon the receipt of such affidavit duly stamped as aforesaid, shall cause a certificate to be written by an authorised officer on the probate or letters of administration setting forth the true value of the estate and effects as then ascertained, or, as the case may be, the corrected amount of deduction, and such certificate shall be substituted for, and have the same force and effect as, the certificate of the officer of the court.

33 Provisions as to obtaining probate, &c. where gross value of estate does not exceed three hundred pounds

- (1) Where the whole personal estate and effects of any person dying on or after the first day of June one thousand eight hundred and eighty-one (inclusive of property by law made such personal estate and effects for the purpose of the charge of duty, and any personal estate and effects situate out of the United Kingdom), without any deduction for debts or funeral expenses, shall not exceed the value of three hundred pounds, it shall be lawful for the person intending to apply for probate or letters of administration in England or Ireland, to deliver to the proper officer of the court or to any officer of inland revenue duly appointed for the purpose, a notice in writing in the prescribed form, setting forth the particulars of such estate and effects, and such further particulars as may be required to be stated therein, and to deposit with him the sum of fifteen shillings for fees of court and expenses, and also, in case the estate and effects shall exceed the value of one hundred pounds, the further sum of thirty shillings for stamp duty.
- (2) If the officer has good reason to believe that the whole personal estate and effects of the deceased exceeds the value of three hundred pounds, he shall refuse to accept the notice and deposit until he is satisfied of the true value thereof.
- (3) The principal registrars of the Probate, Divorce, and Admiralty Division of the High Court of Justice in England, and of the Probate and Matrimonial Division of the High Court of Justice in Ireland, in communication with the Commissioners , of Inland Revenue, shall prescribe the form of notice, and make such regulations as may be necessary with respect to the transmission of notices by officers of Inland Revenue, the steps to be taken for the preparation and filling up of forms and documents, and generally all matters which may be necessary, so as to authorise the grant of probate or letters of administration.

- (4) Officers of Inland Revenue are hereby empowered to administer all necessary oaths or affirmations, and in the case of letters of administration, to attest the bond and accept the same on behalf of the President or Judge of the Division.
- (5) Where the estate and effects shall exceed the value of one hundred pounds, the stamp duty payable on the affidavit for the Commissioners of Inland Revenue shall be the fixed duty of thirty shillings, and no more.

34 Provision as to inventories where gross value of estate does not exceed three hundred pounds

- (1) The Intestates, Widows, and Children (Scotland) Act, 1875, and the Small Testate Estate (Scotland) Act, 1876, as amended by the Sheriffs Court (Scotland) Act, 1876, shall be extended so as to apply to any case where the whole personal estate and effects of a person dying on or after the first day of June one thousand eight hundred and eighty-one, without any deduction for debts or funeral expenses, shall not exceed the value of three hundred pounds, whoever may be the applicant for representation, and wheresoever the deceased may have been domiciled at the time of death, and the fees payable under schedule C of each of the two first-mentioned Acts shall not exceed the sum of fifteen shillings, inclusive of the fee of two shillings and sixpence, to be paid to the commissary clerk, or sheriff clerk.
- (2) In any such case where the estate and effects shall exceed the value of one hundred pounds, the stamp duty payable on the inventory shall be the fixed duty of thirty shillings, and no more.

35 Provision in case of subsequent discovery that the value of estate exceeded three hundred pounds

Where representation has been obtained in conformity with either of the two preceding sections, and it shall be at any time afterwards discovered that the whole personal estate and effects of the deceased were of a value exceeding three hundred pounds, then a sum equal to the stamp duty payable on an affidavit or inventory in respect of the true value of such estate and effects shall be a debt due to Her Majesty from the person acting in the administration of such estate and effects, and no allowance shall be made, in respect of the sums deposited or paid by him, nor shall the relief afforded by the next succeeding section be claimed or allowed by reason of the deposit or payment of any sum.

36 Relief from legacy duty in cases under three hundred pounds

The payment of the sum of thirty shillings for the fixed duty on the affidavit or inventory in conformity with this Act shall be deemed to be in full satisfaction of any claim to legacy duty or succession duty in respect of the estate or effects to which such affidavit or inventory relates.

37 Power to Commissioners to require explanations and proof in support of affidavit or inventory

It shall be lawful for the Commissioners of Inland Revenue at any time and from time to time within three years after the grant of probate or letters of administration or recording of inventory, as they may think necessary, to require the person acting

in the administration of the estate and effects of any deceased person, to furnish such explanations, and to produce such documentary or other evidence respecting the contents of, or particulars verified by, the affidavit or inventory as the case may seem to them to require.

38 Grant of duties on accounts of certain property

- (1) Stamp duties at the like rates as are by this Act charged on affidavits and inventories shall be charged and paid on accounts delivered of the personal or moveable property to be included therein according to the value thereof.
- (2) The personal or moveable property to be included in an account shall be property of the following descriptions, viz.:—
 - (a) Any property taken as a donatio mortis causa made by any person dying on or after the first day of June one thousand eight hundred and eighty-one, or taken under a voluntary disposition, made by any person so dying, purporting to operate as an immediate gift inter vivos whether by way of transfer, delivery, declaration of trust or otherwise, which shall not have been bona fide made three months before the death of the deceased.
 - (b) Any property which a person dying on or after such day having been absolutely entitled thereto, has voluntarily caused or may voluntarily cause to be transferred to or vested in himself and any other person jointly whether by disposition or otherwise, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to such other person.
 - (c) Any property passing under any past or future voluntary settlement made by any person dying on or after such day by deed or any other instrument not taking effect as a will, whereby an interest in such property for life or any other period determinable by reference to death is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right, by the exercise of any power, to restore to himself, or to reclaim the absolute interest in such property.
- (3) Where an account delivered duly stamped comprises property passing under a voluntary settlement, and, upon the production of the settlement, it shall appear that the stamp duty of five shillings per centum has been paid thereon according to the amount or value of the property so passing, or any part thereof, the amount of such stamp duty shall be returned to the person delivering the account.

39 Delivery of accounts on oath

Every person who as beneficiary, trustee, or otherwise, acquires possession, or assumes the management, of any personal or moveable property of a description to be included in an account according to the preceding section shall upon retaining the same for his own use, or distributing or disposing thereof, and in any case within six calendar months after the death of the deceased deliver to the Commissioners of Inland Revenue a full and true account, verified by oath, of such property duly stamped as required by this Act. Any officer authorised by the Commissioners for the purpose may administer the oath.

40 Double duty payable in case of default

If any person who ought to obtain probate or letters of administration or deliver a further affidavit or to exhibit an inventory or who is required to deliver such account as aforesaid shall neglect to do so within the period prescribed by law for the purpose, he shall be liable to pay to Her Majesty double the amount of duty chargeable, and the same shall be a debt due from him to the Crown, and be recoverable by any of the ways or means now in force for the recovery of probate, legacy, or succession duties.

41 Cesser of legacy and succession duties at the rate of one per cent, in certain cases

In respect of any legacy, residue, or share of residue payable out of, or consisting of any estate or effects according to the value whereof duty shall have been paid on the affidavit or inventory or account, in conformity with this Act, the duty at the rate of one pound per centum imposed by the Act of the fifty-fifth year of King George the Third, chapter one hundred and eighty-four shall not be payable;

And in respect of any succession to property according to the value whereof duty shall have been paid on the affidavit or inventory or account in conformity with this Act, the duty at the rate of one pound per centum imposed by the Succession Duty Act, 1853, shall not be payable.

42 Charge of legacy duty on legacies not amounting to twenty pounds

Subject to the relief from legacy duty given by section thirteen of the Customs and Inland Revenue Act, 1880, every pecuniary legacy or residue or share of residue under the will or the intestacy of a person dying on or after the first day of June one thousand eight hundred and eighty-one, although not of an amount or value of twenty pounds, shall be chargeable to the duties imposed by the said Act of the fifty-fifth year of King George the Third chapter one hundred and eighty-four, as modified by this Act.

43 Power to Commissioners to accept composition for legacy duty under a will

It shall be lawful for the Commissioners of Inland Revenue, upon the application of the person acting in the execution of the will of any deceased person, and upon the delivery to them of an account showing the amount of the estate and effects in respect whereof legacy duty is payable, together with the names or description of class of the persons entitled thereto and every part thereof, in possession or expectancy, and their degrees of consanguinity to the testator, to assess the duty upon the amount shown by the said account at such a sum by way of composition as, having regard to the circumstances, shall appear to be proper, and to accept payment of the duty so assessed in full discharge of all claims for legacy duty under such will.

If the Commissioners are of opinion that an application should receive the assent of any person, they shall refuse to entertain the application until such assent shall have been given.