



Australian Capital Territory

Apportionment Act 1905 (repealed)

A1905-2

Republication No 2

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As repealed by A2001-56 sch 4

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Apportionment Act 1905* (repealed) effective 6 September 2001.

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Australian Capital Territory

APPORTIONMENT ACT 1905 (NEW SOUTH WALES)

This consolidation has been prepared by the ACT Parliamentary Counsel's Office

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An Act for the better apportionment of rents and other periodical payments

Short title

1. This Act may be cited as the Apportionment Act 1905.¹

Definitions

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 seck, and all periodical payments or renderings in lieu of or in the nature of rent.

Apportionment of rents in respect of time

4. All rents, annuities, dividends, and other periodical payments in the nature of income (whether reserved or made payable under an instrument in writing, 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.

When apportioned part payable or recoverable

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.

Right of recovering apportioned parts

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:

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 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.

Policies of assurance

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

Contracting out

8. This Act shall not extend to any case in which it has been expressly stipulated that no apportionment shall take place.

NOTE

1. The Apportionment Act 1905 of the State of New South Wales (No. 2, 1905) as shown in this reprint was one of the laws in force in the Australian Capital Territory before 1 January 1911 and was therefore continued in force by the *Seat of Government Acceptance Act 1909* of the Commonwealth.

The text of the Apportionment Act 1905 of the State of New South Wales in its application in the Territory as at 10 August 1984 comprises Part 2 of Schedule 2 to the *New South Wales Acts Application Act 1984* (No. 41, 1984) as amended, details of that amendment is as follows:

Section 3 was repealed by the *New South Wales Acts Application Act 1984*.

The Apportionment Act 1905 of the State of New South Wales (No. 2, 1905) was repealed by the *Statute Law Amendment Act 2001 (No 2)* A2001-56 sch 4 on 5 September 2001 (s 2 and Gaz 2001 No S65).

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