



# New South Wales Consolidated Acts

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## DUTIES ACT 1997 - SECT 63

### Deceased estates

#### 63 Deceased estates

(1) Duty of \$50 is chargeable in respect of--

(a) a [transfer](#) of [dutiabale property](#) by the legal [personal](#) representative of a deceased [person](#) to a beneficiary, being--

(i) a [transfer](#) made under and in conformity with the trusts contained in the will of the deceased [person](#) or arising on an intestacy, or

(ii) a [transfer](#) of property the subject of a trust for sale contained in the will of the deceased [person](#), or

(iii) an appropriation of the property of the deceased [person](#) (as referred to in [section 46](#) of the *Trustee Act 1925*) in or towards satisfaction of the beneficiary's entitlement under the trusts contained in the will of the deceased [person](#) or arising on intestacy, and

(c) a transmission application by a devisee who is also the sole legal [personal](#) representative, and

(d) a declaration by an executor of a will under [section 11](#) of the *Trustee Act 1925* if the Chief Commissioner is satisfied that the declaration is consistent with the entitlements of beneficiaries under the trusts contained in the will.

(2) If a [transfer](#) of [dutiabale property](#) is made by a legal [personal](#) representative of a deceased [person](#) to a beneficiary under an agreement (whether or not in writing) between the beneficiary and one or more other beneficiaries to vary the trusts contained in a will of the deceased [person](#) or arising on intestacy, the [dutiabale value](#) of the [dutiabale property](#) is to be reduced by the portion of the [dutiabale value](#) that is referable to the [dutiabale property](#) to which the beneficiary had an entitlement arising under the trusts contained in the will or arising on intestacy.

(2A) A transmission application made by a beneficiary under a will, with the consent of the legal [personal](#) representative of a deceased [person](#), is taken, for the purposes of this section, to be a [transfer](#) of [dutiabale property](#) by the legal [personal](#) representative to the beneficiary.

(3) [Section 25](#) does not apply to a [dutiabale transaction](#) to which subsection (2) applies.

(4) If the duty chargeable in respect of a [transfer](#) or transmission application referred to in subsection (1) would, but for that subsection, be less than \$50, the duty chargeable is that lesser amount.

(5) This section is subject to [section 273](#), which provides for a minimum duty of \$10.

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