

Queensland



BURIALS ASSISTANCE ACT 1965

**Reprinted as in force on 7 July 2000
(includes amendments up to Act No. 20 of 2000)**

Reprint No. 2A *

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* Minor differences in style between this reprint and another reprint with the same number are due to the conversion to another software program. The content has not changed.

Information about this reprint

This Act is reprinted as at 7 July 2000. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 have been made to use aspects of format and printing style consistent with current drafting practice (s 35).

This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprints.**

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BURIALS ASSISTANCE ACT 1965

[as amended by all amendments that commenced on or before 7 July 2000]

An Act to assist in the disposal of bodies by providing for the burial or cremation of deceased persons in certain cases and for purposes connected therewith, and to validate certain burials

1 Short title

This Act may be cited as the *Burials Assistance Act 1965*.

2 Definitions

In this Act—

“**relative**”, in relation to a deceased person, means—

- (a) in the case of a wife—the husband;
- (b) in the case of a husband—the wife;
- (c) in the case of a child—the father and mother.

3 Burial or cremation of the dead

(1) It shall be the duty of the chief executive to cause to be buried or cremated the body of any person who has died or has been found dead in Queensland, in any case where it appears to the chief executive that no suitable arrangements for the disposal of the body have been or are being made otherwise than by the chief executive.

(2) Nothing in subsection (1) of this section shall affect any enactment regulating or authorising the burial, cremation, or anatomical examination of the body of a deceased person.

(3) The chief executive shall not cause a body to be cremated under this section where the chief executive has reason to believe that cremation would be contrary to the wishes of the deceased.

4 Cost of burial or cremation

(1) All expenses incurred by the chief executive under section 3 (including the expense of conveying the body to a morgue or other place) shall be met by the chief executive, and moneys from the consolidated fund are hereby to the necessary extent appropriated accordingly.

(2) The chief executive on behalf of the State may, by action as for a debt in any court of competent jurisdiction, recover from the estate of the deceased person, or from a relative or relatives of the deceased person, the expenses referred to in subsection (1).

(2A) However, nothing contained in subsection (2) shall be construed as requiring the chief executive to take steps to recover any such expenses from the estate of any deceased person who was, in the opinion of the chief executive, an indigent person, or from any relative who is, in the opinion of the chief executive, an indigent person.

(3) All moneys recovered by the chief executive under subsection (2), other than any amount for GST payable for a supply made by the chief executive relating to the expenses, shall be paid to the consolidated fund.

4A Charge on account with financial institution

(1) Any funds standing to the credit of the deceased, or the deceased's personal representative, with a financial institution at or after the time a notice is given to a financial institution under this section are charged in the hands of the financial institution from the time the notice is given or the time the funds come into the institution's hands, as the case may be.

(2) However, funds held on a joint account or as a trustee, other than as the deceased's personal representative, are not subject to the charge.

(3) The charge attaches to secure payment of the following—

- (a) the expenses recoverable under section 4(2);
- (b) any costs awarded in a proceeding to recover the expenses;
- (c) any proper costs of enforcing a judgement in the proceeding.

(4) A charge under this section is lower in priority than any earlier charge unless the earlier charge provides otherwise.

(5) The chief executive may give a written notice to a financial institution about the charge.

(6) The notice about the charge must state the following—

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- (a) the notice is given under this section;
- (b) the name and address, if known, of the deceased;
- (c) the amount currently subject to the charge;
- (d) the general effect of this section, including the following—
 - (i) the charge applies to funds standing to the credit of the deceased, or the deceased's personal representative, in, or afterwards coming into, the institution's hands;
 - (ii) the charge is lower in priority than any earlier charge (unless the earlier charge provides otherwise);
 - (iii) the institution must pay the funds, other than funds subject to an earlier charge of higher priority, to the chief executive within 7 days after the notice is given to the extent of the amount the notice states is currently subject to the charge;
 - (iv) payment in accordance with the notice is a valid discharge of the institution's liability to the person otherwise entitled to the funds paid.

(7) Further notices may be given to correct a mistake or to state a different amount if circumstances change.

(8) If a financial institution is given a notice under this section, it must pay the funds, other than funds subject to an earlier charge of higher priority, to the chief executive within 7 days after the notice is given to the extent of the amount the notice states is currently subject to the charge.

(9) Payment to the chief executive in accordance with a notice under this section is a valid discharge of the institution's liability to the person otherwise entitled to the funds paid.

5 Regulation making power

The Governor in Council may make regulations under this Act.

ENDNOTES

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 7 July 2000. Future amendments of the Burials Assistance Act 1965 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

4 Table of earlier reprints

TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 58 of 1995	21 December 1995
1A	to Act No. 82 of 1997	10 December 1997
2	to Act No. 5 of 2000	7 April 2000

5 Tables in earlier reprints

TABLES IN EARLIER REPRINTS

Name of table	Reprint No.
Changed names and titles	1
Obsolete and redundant provisions	1
Renumbered provisions	1

6 List of legislation

Burials Assistance Act 1965 No. 23

date of assent 29 April 1965
commenced on date of assent
amending legislation—

Status of Children Act 1978 No. 30 s 14 sch

date of assent 8 June 1978
commenced 1 January 1979 (see s 1(2))

Public Service (Administrative Arrangements) Act (No. 2) 1990 No. 80 s 3 sch 6

date of assent 14 November 1990
commenced 7 December 1989 (see s 2(4)(b))

Statute Law Revision Act (No. 2) 1995 No. 58 ss 1–2, 4 sch 1

date of assent 28 November 1995
commenced on date of assent

Justice and Other Legislation (Miscellaneous Provisions) Act (No. 2) 1997 No. 82 ss 1–2 pt 3

date of assent 5 December 1997
commenced on date of assent

Police Powers and Responsibilities Act 2000 No. 5 ss 1–2(1)–(2), 373 sch 2

date of assent 23 March 2000

commenced on date of assent (see s 2(1)–(2))

GST and Related Matters Act 2000 No. 20 ss 1, 2(4), 29 sch 3

date of assent 23 June 2000

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2000 (see s 2(4))

7 List of annotations

Definitions**prov hdg**

sub 1995 No. 58 s 4 sch 1

s 2def “**child**” amd 1978 No. 30 s 14 sch

om 1995 No. 58 s 4 sch 1

def “**Director-General**” ins 1990 No. 80 s 3 sch 6

om R1 (see RA s 39)

def “**relative**” amd 1990 No. 8 s 3 sch 6def “**Under Secretary**” om 1990 No. 80 s 3 sch 6**Burial or cremation of the dead****s 3**

amd 1990 No. 80 s 3 sch 6

Cost of burial or cremation**s 4**

amd 1990 No. 80 s 3 sch 6; 1997 No. 82 s 8; 2000 No. 20 s 29 sch 3

Charge on account with financial institution**s 4A**

ins 1997 No. 82 s 9

Regulation making power**s 5**

amd 1990 No. 80 s 3 sch 6

sub 1995 No. 58 s 4 sch 1

amd 2000 No. 5 s 373 sch 2

Regulations**s 6**

om 1995 No. 58 s 4 sch 1

Publication of regulations**s 7**

om 1995 No. 58 s 4 sch 1