



Queensland

# Burials Assistance Act 1965

Reprinted as in force on 30 January 2012

Reprint No. 2C

This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
Warning—This reprint is not an authorised copy

# Information about this reprint

This Act is reprinted as at 30 January 2012. 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. Also see list of legislation for any uncommenced amendments.

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

**Also see endnotes for information about—**

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

## Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

## Dates shown on reprints

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

**Replacement reprint date** If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

# Burials Assistance Act 1965

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# Burials Assistance Act 1965

[as amended by all amendments that commenced on or before 30 January 2012]

## **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*.

### **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).
- (3) 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.
- (4) 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.
- (5) In this section—  
*relative*, of a deceased person, means—
  - (a) for an adult—the person’s spouse; or
  - (b) for a child—the person’s parents.

#### **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);

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- (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.
- (4A) A charge under this section is declared to be a statutory interest to which section 73(2) of the *Personal Property Securities Act 2009* (Cwlth) applies.
- (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—
- (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.

[s 5]

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- (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.

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## Endnotes

### 1 Index to 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 30 January 2012. 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)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	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 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

### 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	1995 Act No. 58	28 November 1995	21 December 1995
1A	1997 Act No. 82	5 December 1997	10 December 1997
2	2000 Act No. 5	23 March 2000	7 April 2000
2A	2000 Act No. 20	1 July 2000	7 July 2000

Reprint No.	Amendments included	Effective	Notes
2B	2002 Act No. 74	1 April 2003	
2C	2010 Act No. 44	30 January 2012	

## 5 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))

### **Discrimination Law Amendment Act 2002 No. 74 ss 1–2, 90 sch**

date of assent 13 December 2002  
 ss 1–2 commenced on date of assent  
 s 90 commenced 31 March 2003 (2003 SL No. 51)  
 remaining provisions commenced 1 April 2003 (2003 SL No. 51)

**Personal Property Securities (Ancillary Provisions) Act 2010 No. 44 ss 1–2, ch 4 pt 43**

date of assent 14 October 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 30 January 2012 (2011 SL No. 262)

## **7 List of annotations**

### **Definitions**

- prov hdg** sub 1995 No. 58 s 4 sch 1  
**s 2** om 2002 No. 74 s 90 sch  
def “**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 6  
om 2002 No. 74 s 90 sch  
def “**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; 2002 No. 74 s 90 sch

### **Charge on account with financial institution**

- s 4A** ins 1997 No. 82 s 9  
amd 2010 No. 44 s 168

### **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