

Queensland



BURIAL ASSISTANCE ACT 1965

**Reprinted as in force on 7 April 2000
(includes amendments up to Act No. 5 of 2000)**

Reprint No. 2

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 7 April 2000. The reprint—

- shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c))
- incorporates all necessary consequential amendments, whether of punctuation, numbering or another kind (Reprints Act 1992 s 5(d)).

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

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.**

Queensland



BURIAL ASSISTANCE ACT 1965

TABLE OF PROVISIONS

Section		Page
1	Short title	3
2	Definitions	3
3	Burial or cremation of the dead	3
4	Cost of burial or cremation	4
4A	Charge on account with financial institution	4
5	Regulation making power	5

ENDNOTES

1	Index to endnotes	6
2	Date to which amendments incorporated	6
3	Key	7
4	Table of earlier reprints	7
5	Tables in earlier reprints	7
6	List of legislation	8
7	List of annotations	8

BURIAL ASSISTANCE ACT 1965

[as amended by all amendments that commenced on or before 7 April 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

Short title

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

Definitions

2. 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.

Burial or cremation of the dead

3.(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.

Cost of burial or cremation

4.(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) shall be paid to the consolidated fund.

Charge on account with financial institution

4A.(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

Burial Assistance Act 1965

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—

- (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.

Regulation making power

5. The Governor in Council may make regulations under this Act.

ENDNOTES**1 Index to endnotes**

	Page
2 Date to which amendments incorporated	6
3 Key	7
4 Table of earlier reprints	7
5 Tables in earlier reprints	7
6 List of legislation	8
7 List of annotations	8

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 April 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

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	s	=	section
notfd	=	notified	sch	=	schedule
o in c	=	order in council	sdiv	=	subdivision
om	=	omitted	SIA	=	Statutory Instruments Act 1992
orig	=	original	SIR	=	Statutory Instruments Regulation 1992
p	=	page	SL	=	subordinate legislation
para	=	paragraph	sub	=	substituted
prec	=	preceding	unnum	=	unnumbered
pres	=	present			
prev	=	previous			

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

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
 as amended by—

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))

7 List of annotations

Definitions

prov hdg sub 1995 No. 58 s 4 sch 1
s 2 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
 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

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