



# **Burials Assistance Act 1965**

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Queensland

# Burials Assistance Act 1965

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# Burials Assistance Act 1965

**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);
  - (b) any costs awarded in a proceeding to recover the expenses;

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- (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.
- (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.