

# War Graves Act 1980

No. 100 of 1980

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## An Act relating to war graves

[Assented to 6 June 1980]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

### Short title

1. This Act may be cited as the *War Graves Act 1980*.

### Interpretation

2. (1) In this Act, unless the contrary intention appears—  
“Department” means the Department of Veterans’ Affairs;  
“Director” means the Director of War Graves;  
“Secretary” means the Secretary to the Department of Veterans’ Affairs.

(2) A reference in this Act to war graves shall be read as including a reference to all graves, cemeteries and memorials in respect of which the Department has responsibilities.

### Director of War Graves

3. There shall be a Director of War Graves.

### Functions of Director

4. The Director shall, under the Secretary, administer, on behalf of the Department, both in and outside Australia, matters relating to the responsibilities of the Department in respect of war graves.

### Appointment of Director

5. (1) The Director shall be appointed by the Governor-General.

(2) Subject to this Act, the Director holds office for such period, not exceeding 3 years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

(3) A person who has attained the age of 65 years shall not be appointed or re-appointed as the Director, and a person shall not be appointed or re-appointed as the Director for a period that extends beyond the date on which he will attain the age of 65 years.

(4) The Director holds office on such terms and conditions (if any) in respect of matters not provided for by this Act as are determined by the Governor-General.

#### **Remuneration and allowances of Director**

6. (1) The Director shall be paid such remuneration as is determined by the Remuneration Tribunal, but, if no determination of that remuneration by the Tribunal is in operation, he shall be paid such remuneration as is prescribed.

(2) The Director shall be paid such allowances as are prescribed.

(3) This section has effect subject to the *Remuneration Tribunals Act* 1973.

#### **Leave of absence of Director**

7. The Minister may grant leave of absence to the Director on such terms and conditions as to remuneration or otherwise as the Minister determines.

#### **Resignation of Director**

8. The Director may resign his office by writing signed by him and delivered to the Governor-General.

#### **Termination of office of Director**

9. (1) The Governor-General may terminate the appointment of the Director for misbehaviour or physical or mental incapacity.

(2) If the Director—

- (a) engages in paid employment outside the duties of his office without the approval of the Minister;
- (b) is absent from duty except on leave granted by the Minister for 14 consecutive days or for 28 days in any 12 months; or
- (c) becomes bankrupt or applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit,

the Governor-General shall terminate his appointment.

#### **Acting Director**

10. (1) The Minister may appoint a person to act as Director—

- (a) during a vacancy in the office of Director, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Director is absent from duty or from Australia or is, for any reason, unable to perform the functions of his office,

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

(2) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.

(3) The Minister may—

- (a) determine the terms and conditions of appointment, including remuneration and allowances, of a person acting as Director; and
- (b) at any time, terminate such an appointment.

(4) Where a person is acting as Director in accordance with paragraph (1) (b) and the office of Director becomes vacant while that person is so acting, then, subject to sub-section (2), that person may continue so to act until the Minister otherwise directs, the vacancy is filled or a period of 12 months from the date on which the vacancy occurred expires, whichever first happens.

(5) The appointment of a person to act as Director ceases to have effect if he resigns his appointment by writing signed by him and delivered to the Minister.

(6) While a person is acting as Director, he has and may exercise all the powers and shall perform all the functions, of the Director under this Act or any other law.

(7) The validity of anything done by a person purporting to act under sub-section (1) shall not be called in question on the ground that the occasion for his appointment had not arisen, that there is a defect or irregularity in or in connection with his appointment, that the appointment had ceased to have effect or that the occasion for him to act had not arisen or had ceased.

### **Officers' Rights Declaration Act**

11. Where the Director was, immediately before his appointment, an officer of the Australian Public Service or a person to whom the *Officers' Rights Declaration Act* 1928 applied—

- (a) he retains his existing and accruing rights;
- (b) for the purpose of determining those rights, his service under this Act shall be taken into account as if it were service in the Australian Public Service; and
- (c) the *Officers' Rights Declaration Act* 1928 applies as if this Act and this section had been specified in the Schedule to that Act.

### **Staff**

12. The staff necessary to assist the Director shall be officers of, or performing duties in, the Department or employees employed in the Department.

### **Annual Report**

13. (1) The Secretary shall, as soon as practicable after 30 June in each year, prepare and furnish to the Minister a report on the operations of the Department in relation to war graves during the 12 months ending on that date.

**(2)** The Minister shall cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the report is received by him.

**Regulations**

**14.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.