



War Graves Act 1980

Act No. 100 of 1980 as amended

This compilation was prepared on 11 July 2008
taking into account amendments up to Act No. 73 of 2008

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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An Act relating to war graves

1 Short title [see Note 1]

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

2 Interpretation

- (1) In this Act, unless the contrary intention appears:

Director means the Director of War Graves.

Secretary means the Secretary to the Department.

- (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.

3 Director of War Graves

There shall be a Director of War Graves.

4 Functions of Director

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.

5 Appointment of Director

- (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 or her appointment, but is eligible for re-appointment.
- (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.

6 Remuneration and allowances of Director

- (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 or she 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 Tribunal Act 1973*.

7 Leave of absence of Director

- (1) The Director has such recreation leave entitlements as are determined by the Remuneration Tribunal.
- (2) The Minister may grant the Director leave of absence, other than recreation leave, on such terms and conditions as to remuneration or otherwise as the Minister determines.

8 Resignation of Director

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

9 Termination of office of Director

- (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 or her office without the approval of the Minister;
 - (b) is absent from duty except on leave of absence 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 or her creditors or makes an assignment of his or her remuneration for their benefit;the Governor-General shall terminate his or her appointment.

10 Acting Director

- (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 or her 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 subsection (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 subsection (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 or she resigns his or her appointment by writing signed by him or her and delivered to the Minister.
- (6) While a person is acting as Director, he or she 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 subsection (1) shall not be called in question on the ground that the occasion for his or her appointment had not arisen, that there is a defect or irregularity in or in connection with his or her appointment, that the appointment had ceased to have effect or that the occasion for him or her to act had not arisen or had ceased.

12 Staff

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

13 Annual Report

- (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 or her.

14 Regulations

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.

Table of Acts**Notes to the *War Graves Act 1980*****Note 1**

The *War Graves Act 1980* as show in this compilation comprises Act No. 100, 1980 amended as indicated in the Tables below.

All relevant information pertaining to application, saving or transitional provisions prior to 1 October 2001 is not included in this compilation. For subsequent information *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>War Graves Act 1980</i>	100, 1980	6 June 1980	4 July 1980	
<i>Statute Law (Miscellaneous Amendments) Act (No. 2) 1982</i>	80, 1982	22 Sept 1982	Part LXXVII (s. 280): Royal Assent (a)	S. 280(2) and (3)
<i>Statute Law (Miscellaneous Provisions) Act (No. 1) 1985</i>	65, 1985	5 June 1985	S. 3: 3 July 1985 (b)	—
<i>Industrial Relations Legislation Amendment Act 1991</i>	122, 1991	27 June, 1991	Ss. 4(1), 10(b) and 15-20: 1 Dec 1988 Ss. 28(b)-(e), 30 and 31: 10 Dec 1991 (<i>see Gazette</i> 1991, No. S332) Remainder: Royal Assent	S. 31(2)
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 4 (item 151): Royal Assent (c)	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (item 978): 5 Dec 1999 (<i>see Gazette</i> 1999, No. S584) (d)	—
<i>Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001</i>	159, 2001	1 Oct 2001	29 Oct 2001	Sch 1 (item 97) [see Table A]
<i>Statute Law Revision Act 2008</i>	73, 2008	3 July 2008	Schedule 4 (items 502–514): 4 July 2008	—

Act Notes

- (a) The *War Graves Act 1980* was amended by Part LXXVII (section 280) only of the *Statute Law (Miscellaneous Amendments) Act (No. 2) 1982*, subsection 2(1) of which provides as follows:
- (1) Sections 1, 2, 166 and 195 and Parts III, VI, VII, XVI, XXXVI, XLIV, LI, LIII, LIV, LXI and LXXVII shall come into operation on the day on which this Act receives the Royal Assent.
- (b) The *War Graves Act 1980* was amended by section 3 only of the *Statute Law (Miscellaneous Provisions) Act (No. 1) 1985*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act shall come into operation on the twenty-eighth day after the day on which it receives the Royal Assent.
- (c) The *War Graves Act 1980* was amended by Schedule 4 (item 151) only of the *Statute Law Revision Act 1996*, subsection 2(1) of which provides as follows:
- (1) Subject to subsections (2) and (3), this Act commences on the day on which it receives the Royal Assent.
- (d) The *War Graves Act 1980* was amended by Schedule 1 (item 978) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
 - (2) Subject to this section, this Act commences at the commencing time.

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 2.....	am. No. 80, 1982
S. 5.....	am. No. 159, 2001; No. 73, 2008
S. 6.....	am. No. 43, 1996; No. 73, 2008
S. 7.....	rs. No. 122, 1991 am. No. 146, 1999
S. 8.....	am. No. 73, 2008
S. 9.....	am. No. 122, 1991; No. 73, 2008
S. 10.....	am. No. 73, 2008
S. 11.....	rep. No. 65, 1985
S. 13.....	am. No. 73, 2008

Table A

Table A

Application, saving or transitional provisions

Abolition of Compulsory Age Retirement (Statutory Officeholders) Act 2001
(No. 159, 2001)

Schedule 1

97 Application of amendments

The amendments made by this Schedule do not apply to an appointment if the term of the appointment began before the commencement of this item.