

FUNERAL FUNDS (AMENDMENT) ACT, 1981, No. 111

New South Wales



ANNO TRICESIMO

ELIZABETHÆ II REGINÆ

Act No. 111, 1981.

An Act to amend the Funeral Funds Act, 1979, with respect to the exemption of certain existing contributory and pre-arranged funeral funds from the operation of certain provisions of that Act, and for certain other purposes. [Assented to, 18th December, 1981.]

Funeral Funds (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Funeral Funds (Amendment) Act, 1981".

Amendment of Act No. 106, 1979.

2. The Funeral Funds Act, 1979, is amended in the manner set forth in Schedule 1.

SCHEDULE 1.

(Sec. 2.)

AMENDMENTS TO THE FUNERAL FUNDS ACT, 1979.

(1) Section 3—

(a) After the matter relating to Division 1 of Part VIII, insert:—

DIVISION 1A.—*Exemption of Existing Funeral Contribution Funds—ss. 97A, 97B.*

(b) After the matter relating to Division 1 of Part IX, insert:—

DIVISION 1A.—*Exemption of Existing Pre-arranged Funeral Funds—ss. 114A–114C.*

Funeral Funds (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE FUNERAL FUNDS ACT, 1979—*continued.*

(2) Part VIII, Division 1A—

After Division 1, insert:—

DIVISION 1A.—*Exemption of Existing Funeral Contribution Funds.***Exemption of existing funeral contribution funds.**

97A. (1) The Registrar may, by a notice served on an existing funeral contribution fund, exempt that fund from the operation of section 94.

(2) An existing funeral contribution fund may be exempted under subsection (1) from the operation of section 94 notwithstanding that a notice has not been served on that fund under section 94 (1).

(3) An existing funeral contribution fund granted an exemption under subsection (1)—

(a) shall not accept any new contributors; and

(b) shall carry on the contributory funeral benefit business of the fund in accordance with any directions given by the Minister under section 97B (1),

so long as the exemption remains in force.

(4) The Registrar may at any time revoke an exemption granted under subsection (1).

Exempted funds subject to certain terms and conditions.

97B. (1) The Minister may, by a notice served on an existing funeral contribution fund who has been granted an exemption under section 97A (1), direct the fund to comply with such terms and conditions—

(a) as the Minister considers are necessary or desirable to safeguard the interests of the contributors to the fund; and

(b) as are specified in the notice.

Funeral Funds (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE FUNERAL FUNDS ACT, 1979—*continued.*

(2) The Minister may at any time vary, revoke, substitute or add to the terms and conditions specified in a notice served under subsection (1) by giving to the existing funeral contribution fund concerned a further direction under that subsection.

(3) Without limiting the generality of subsection (1), the terms and conditions specified in a notice given to an existing funeral contribution fund under that subsection may—

- (a) prohibit the alteration of, or addition to, the rules of the fund without the prior approval of the Registrar;
- (b) require the making of such accounting and audit arrangements by the fund as the Registrar may request by notice given to the fund;
- (c) require the fund to curtail the investment of money paid to the fund by contributors where the Registrar has given notice to the fund that he considers such investment is prejudicial to the interests of the contributors;
- (d) require the furnishing of returns and financial information to the Registrar regarding contributors to the fund and the contributory funeral benefits business generally of the fund;
and
- (e) require the furnishing by the fund of any security the Registrar may request, by notice given to the fund, to safeguard payment of benefits to contributors to the fund.

(4) Without limiting the generality of section 97A (4), the Minister may revoke an exemption granted to a fund under section 97A (1) if that fund fails to comply with a term or condition referred to in subsection (1).

Funeral Funds (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE FUNERAL FUNDS ACT, 1979—*continued.*

(3) Section 102 (2), (3)—

Omit section 102 (2), insert instead:—

(2) If the Registrar cannot, after due inquiry, ascertain the whereabouts of a person who is entitled to a payment of money from the repayment fund under subsection (1), the Registrar—

(a) is not required to make that payment; and

(b) may—

- (i) make any distribution under that subsection without regard to any claim by that person;
- (ii) pay the money to the Treasurer for the use of the public revenue; or
- (iii) distribute part of the money under subparagraph (i) and pay part of the money to the Treasurer under subparagraph (ii).

(3) Sections 9 and 10 of the Unclaimed Moneys Act, 1917, shall apply to money paid to the Treasurer under subsection (2) in the same way as they apply to unclaimed money within the meaning of that Act.

(4) Part IX, Division 1A—

After Division 1, insert:—

DIVISION 1A.—*Exemption of Existing Pre-arranged Funeral Funds.*

Application of Division.

114A. This Division applies to a person who has been served with a notice under section 112 (1) specifying a period in respect of him for the purposes of that subsection.

Funeral Funds (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE FUNERAL FUNDS ACT, 1979—*continued.***Exemption of existing pre-arranged funeral funds.**

114B. (1) The Registrar may, by a notice served on a person to whom this Division applies, exempt that person from the operation of section 112.

(2) The Registrar may at any time revoke an exemption granted under subsection (1).

(3) While an exemption granted to a person under subsection (1) remains in force—

- (a) section 112 shall be deemed never to have applied in respect of existing pre-arranged contracts entered into by that person; and
- (b) that person shall carry on his pre-arranged funeral benefit business in accordance with any directions given by the Minister under section 114C (1).

(4) Upon the revocation of an exemption granted to a person under subsection (1), section 112 shall apply to that person as if the words “within 1 month after the commencement of section 34 or within such other” had been omitted from subsection (1) of that section and the words “within such” had been inserted instead.

Exempted funds subject to certain conditions.

114C. (1) The Minister may, by a notice served on a person granted an exemption under section 114B (1), direct that person to comply with such terms and conditions—

- (a) as the Minister considers necessary or desirable to safeguard the interests of the other contracting parties to existing pre-arranged contracts entered into by that person; and
- (b) as are specified in the notice.

Funeral Funds (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE FUNERAL FUNDS ACT, 1979—*continued.*

(2) The Minister may at any time vary, revoke, substitute or add to the terms and conditions specified in a notice served under subsection (1) by giving to that person a further direction under that subsection.

(3) Without limiting the generality of subsection (1), the terms and conditions specified in a notice given to a person under that subsection may—

- (a) require the making of such accounting and audit arrangements by that person as the Registrar may request by notice given to the person;
- (b) require that person to curtail the investment of money paid to him under existing pre-arranged contracts where the Registrar has given notice to the person that he considers such investment is prejudicial to the interests of the other contracting parties to existing pre-arranged contracts entered into by that person; and
- (c) require the furnishing of returns and financial information to the Registrar regarding existing pre-arranged contracts, and the funeral business relative to those contracts, entered into by that person.

(4) Without limiting the generality of section 114B (2), the Minister may revoke an exemption granted to a person under section 114B (1) if that person fails to comply with a term or condition referred to in subsection (1).

(5) Section 119 (2), (3)—

Omit section 119 (2), insert instead:—

(2) If the Registrar cannot, after due inquiry, ascertain the whereabouts of a person who is entitled to a payment of money from the repayment fund under subsection (1), the Registrar—

- (a) is not required to make that payment; and

Funeral Funds (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE FUNERAL FUNDS ACT, 1979—*continued.*

(b) may—

- (i) make any distribution under that subsection without regard to any claim by that person;
- (ii) pay the money to the Treasurer for the use of the public revenue; or
- (iii) distribute part of the money under subparagraph (i) and pay part of the money to the Treasurer under subparagraph (ii).

(3) Sections 9 and 10 of the Unclaimed Moneys Act, 1917, shall apply to money paid to the Treasurer under subsection (2) in the same way as they apply to unclaimed money within the meaning of that Act.
