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Funeral Expenses of a Deceased Person

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Who is responsible for burying the deceased?

The executor is normally responsible for burying the deceased. In most wills, the executor is a close family member but this is not always the case.

If the executor is not a close family member, then it is customary for an executor to allow a close family member to take care of the burial arrangements.

How much should be spent on the funeral?

If the deceased died leaving a will, then the amount of funeral costs to be expended is a decision for the executor of the deceased.

If there is no will and the deceased died intestate (which means there is no will), then the convention is for a family member of the deceased to make a sensible and reasonable decision as to the costs of the funeral.

It is usual to expect that the funeral costs would be of a reasonable amount considering the value of the deceased person's estate.

It is customary in Australia that friends and relatives celebrate the life of their loved one following the funeral. The costs of such activities are the responsibility of the family members and at law, are not payable by the deceased's estate.

Are the deceased's funeral direction's binding?

Most wills of deceased person's specify the deceased's wishes concerning the disposal of their body.

At law, an executor is not bound by the deceased's wishes concerning the disposal of the body because "wishes" are not binding on the executor. Most executors however will follow the deceased's intentions.

Who must pay for the funeral expenses?

Relatives and friend are not responsible at law to pay for the deceased's funeral expenses as this is the responsibility of the Executor using Estate moneys. Of course many family members prefer to pay the deceased's funeral expenses because of their love and affection for the deceased.

If money for the payment of funeral costs is not readily available to family members from their own resources, then CharterLaw can often negotiate that the deceased's bank release funds for the payment of funeral expenses. Generally this requires a Notice of Death, a certified copy from the Estate lawyer and the tax invoice from the funeral home.

At law, the deceased's estate is liable to pay for the deceased's funeral expenses. Before payment can be made however, the executors must first obtain a Grant of Probate from the relevant Supreme Court of NSW. Once a Grant of Probate has been paid and subject to the financial position of the deceased's estate, funeral expenses can then be paid.

Given the legal position, many Funeral Homes will not seek the repayment of funeral expenses until after probate has been granted

Once probate has been obtained then money is available to cover the funeral expenses. Payment of funeral costs at the time of the funeral is a practical matter.

The deceased may have a funeral plan or funeral insurance and sometimes this is included in the deceased's private health insurance. The executors or relatives may know about this and enquiries should be made. If there is a plan or insurance available, the executor should make an immediate claim.

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CharterLaw Legal Pty Limited ABN 48 607 087 329

Level 10, 60 York Street, Sydney, NSW, Australia, 2000

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