

Procedures for Disinterments - Burial and Cremation Act 1964

- 1) Applications must be in writing and are usually made by:
 - person(s) related to the deceased;
 - the executor of the will of the deceased;
 - a funeral director acting on behalf of either of the above;
 - an iwi/Māori authority acting on behalf of the close relatives; or
 - a person acting for the family.

- 2) Applications should be submitted to the applicant's local District Health Board ("DHB") Public Health Unit addressed to the Health Protection Officer, who will assess the application and forward it, together with a report and recommendations, to the Ministry of Health, Wellington.

- 3) If the proposed disinterment is urgent, details of the disinterment may be e-mailed or faxed to the applicant's local DHB Public Health Unit.

- 4) The fee (see clause 11) and all supporting papers (see clauses 7 to 12) must accompany the application.

- 5) Please note that it is not usual to issue licences between one month and one year after burial because of decomposition during this period. If a body has been embalmed, this limitation may not apply, depending on the drainage of the site, likely state of the casket and recommendation of the Health Protection Officer. Applications to disinter within one month of interment may be deferred if the deceased died of an infectious disease.

- 6) A licence is normally issued three working days after receipt by the Ministry of a complete application. Unless otherwise indicated, the licence is issued to the applicant and copied to the local DHB Public Health Unit Health Protection Officer who reported on the application.

Disinterment application requirements

- 7) Before a disinterment licence is issued, the wishes of all next of kin (e.g. spouse, parent(s), children, sibling(s), and guardian(s)) **must be confirmed in writing. Each family or whanau member is required to:**
 - **indicate their consent (or otherwise); and**
 - **note their respective relationship with the deceased.**

Any given authority for a person to speak for other next of kin must be specified in writing and signed by the person giving the authority.

The Ministry of Health usually only approves applications for disinterment licences where there is absolute agreement among next of kin. Where there is no absolute agreement, the Ministry of Health nor the Public Health Unit will not act as a negotiator.

For Pacific families, an elder may have authority to speak on behalf of the deceased, even though the elder may not be a close relative of the deceased. A representative nominated in writing by the extended family is acceptable.

- 8) *Reason for the disinterment:* The application must state the reason for the disinterment. Examples of reasons may include cultural reasons, burial in the wrong plot, relatives who have moved to another area, or mental anguish. Each reason will be assessed on its own merits.
- 9) A description of the intended disposal of the remains, i.e. reburial (specify cemetery) cremation etc.
- 10) *Cause of death:* The original certificate of death or a certified copy is required with each application, (available as a certified copy of entry in the Register Book of Deaths from the Registry of Births, Deaths and Marriages – Department of Internal Affairs – Births, Deaths and Marriages, phone 0800 22 52 52) so that the cause of death and other details can be confirmed.

In cases where a death certificate cannot be obtained in time to submit with the application (e.g. the certificate has not yet been issued), the Ministry will accept a statement from the cemetery or burial ground authority identifying where the deceased is buried and a statement describing the cause of death.

Please note that the documentation submitted with your application must be the originals. However the Ministry of Health can copy these for its records and return the originals, if requested to do so.

- 11) *Licence fee:* A \$90.00 fee (including GST) is payable **by Cheque** to the Ministry of Health for each licence applied for. Usually one licence is required for each body that is to be disinterred, although exceptions would include a common grave.
- 12) If the body has been buried less than three years then confirmation is required as to whether it was embalmed. An embalmer's certificate, if the body was embalmed, or a written statement from the funeral directors who carried out the burial that the body was not embalmed is required.
- 13) The fee may be waived where special reasons make it appropriate to do so (for example compassionate or hardship grounds). Any request for a waiver should be supported by documentary evidence of hardship or alternative justification.
- 14) ***Application to be made under oath:*** The licence application must include a **Statutory Declaration from the applicant that the information contained within**

it is true and correct, and be witnessed by a Justice of the Peace, serving Police Officer of Court official. An example of statutory declaration is attached.

Supervision of Disinterment's

15) Disinterment occurs whenever a casket (or body) is uncovered, even if only partially uncovered. A Health Protection Officer must supervise the disinterment unless that requirement is specifically waived in the issued licence. Supervision of the disinterment by a Health Protection Officer is to ensure that the disinterment is carried out with due respect to the deceased and in a sanitary manner so as to prevent any public health risk arising or any offence being created to the body and any family/next of kin that may be present. The licence will be copied to the Health Protection Officer to whom the application was first lodged.

16) The person(s) undertaking the disinterment are responsible for ensuring that the disinterment is legally, safely and properly carried out, with decency and due respect to the deceased and adjacent burial sites.

Usually disinterments are arranged and carried out by funeral directors, but this is not obligatory. However if funeral directors are not to be used it is important that applicants are aware of the requirements in relation to protective clothing, hygienic handling and transport of the disinterred remains, proper standards of dignity and that the appropriate equipment, (including a new coffin or body bag as circumstances require) is available. Applicants should discuss these issues with the Health Protection Officer before the disinterment commences.

17) The Department of Labour has published an 'Approved Code of Practice for Safety in Excavations and Shafts for Foundations' and, in particular, the following extract is relevant:

Excavation requirements

4.3.1.1 Excavations shallower than 1.5 metres: Excavations shallower than 1.5 m have been known to collapse. If an employee is in the trench and bending over at the time of the collapse, he or she may suffer serious injury. Employers are to consider such excavations and determine if special precautions or work methods are necessary.

4.3.1.2 Excavations 1.5 metres or deeper: Excavations greater than or equal to 1.5 m deep are particularly hazardous and must be shored unless:

- a) The face is cut back to a safe slope and the material in the face will remain stable under all anticipated conditions of work and weather; or
- b) Shoring is impracticable or unreasonable, and safety precautions certified by a registered engineer to be adequate, have been taken.

18) Such work is also notifiable under Regulation 26 of the Health and Safety in Employment Regulations 1995. The Ministry Of Business, Innovation & Employment has published the notification form required and a list of what is notifiable (refer <http://www.osh.govt.nz/services/notification/hazardous-work.shtml>).

Registrar to be notified when body removed or disposed of

- 19) Where the body is not returned to the same plot, the licence holder must give full details as to where and how the body was disposed of to the Registrar for Births, Deaths, and Marriages at the Department of Internal Affairs (as required by section 51 of the Births, Deaths, Marriages and Relationships Registration Act 1995).

Once a disinterment licence is issued to applicants they can arrange the date of the disinterment with the cemetery owner, funeral directors, and the Health Protection Officer.

Application for Disinterment Licence

This form should accompany all applications for a disinterment licence and to be sent to the Health Protection Officers at the District Health Board public health unit:

Name of applicant: _____

Postal Address: _____

Street Address: _____

E-mail: _____

Fax: _____

Phone: _____

Relationship to deceased: _____

Name of deceased: _____

Cause of death: _____

When buried: _____

Where buried: _____

Reason for disinterment: _____

Next of kin of the deceased: List names of all next of kin (eg, spouse, parent(s)' children, sibling(s), guardian(s)). Please add more entries as required. (Please continue on a separate page if necessary and attach to your application.)

Name: _____ Relationship: _____

Each next of kin should sign their written consent (or attach this separately):

I, *[insert full name]*, *[insert relationship to deceased]* have been consulted on this application to disinter the remains of *[insert name of deceased]* to *[insert reason for disinterment]*. I support this application.

Signed: _____

Date: _____

I, *[insert full name]*, *[insert relationship to deceased]* have been consulted on this application to disinter the remains of *[insert name of deceased]* to *[insert reason for disinterment]*. I support this application.

Signed: _____

Date: _____

I, *[insert full name]*, *[insert relationship to deceased]* have been consulted on this application to disinter the remains of *[insert name of deceased]* to *[insert reason for disinterment]*. I support this application.

Signed: _____

Date: _____

Note: Any given authority for a person to speak for other next of kin must be specified in writing and signed by the person giving the authority. For Pacific families, an elder may have authority to speak on behalf of the deceased, even though the elder may not be a close relative of the deceased. A representative nominated in writing by the extended family is acceptable.

Attachments to accompany this application:

- Original certificate of death or a certified copy (eg countersigned as a true and accurate copy by a Justice of the Peace)
- Licence Fee (\$90.00) cheque made out to the 'Ministry of Health'
- Consent forms from next of kin (if not above)
- Statutory Declaration that the information in, and accompanying, this application is true and correct (eg countersigned as a true and accurate copy by a Justice of the Peace)

Statutory Declaration

Declaration – Oaths & Declaration Act 1957	
<p>I, _____, _____, (insert full name of applicant/agent/authorised person) (insert occupation)</p> <p>of _____, and _____, (insert location where you reside) (insert relationship to deceased)</p> <p>do solemnly and sincerely declare that the statements made in the accompanying application are true and correct.</p> <p>I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.</p> <p>Declared at _____ this _____ day of _____, 20____ (insert location) (insert date) (insert month) (insert year)</p> <p>_____</p> <p>Signature of Applicant</p>	
<p>Declared before me:</p> <p>Name: _____</p> <p>A person authorised under section 9 Oaths and Declarations Act 1957 to take this declaration.</p> <p>Designation: _____ Stamp:(Optional)</p> <p>Signed: _____ Date: _____</p>	

A declaration made in New Zealand must be made before:

- a) A barrister or solicitor of the High Court
- b) A Justice of the Peace
- c) A notary public
- d) The Registrar or a Deputy Registrar of the Supreme Court
- e) The Registrar or a Deputy Registrar of the Court of Appeal
- f) The Registrar or a Deputy Registrar of the High Court or a District Court
- g) Some other person authorised by law to administer an oath
- h) A member of Parliament
- i) A person who is a fellow of the New Zealand Institute of Legal Executives and is acting in the employment of a practising barrister and solicitor of the High Court
- j) An employee of the New Zealand Transport Agency authorised for that purpose by the Minister of Justice or an employee of Public Trust authorised or an officer in the service of the Crown or of a local authority authorised for that purpose.