



New South Wales

Public Health (Disposal of Bodies) Amendment Regulation 2007

under the

Public Health Act 1991

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Public Health Act 1991*.

JOHN HATZISTERGOS, M.L.C.,
Minister for Health

Explanatory note

The object of this Regulation is to amend the *Public Health (Disposal of Bodies) Regulation 2002* (*the Principal Regulation*) as follows:

- (a) to amend the definition of *exhumation* to exclude from the definition the removal of a dead person's ashes,
- (b) to amend the definition of *mortuary* to provide that it does not include any premises (such as a hospital) in which bodies may be temporarily stored pending their transfer to a mortuary,
- (c) to extend an existing requirement under the Principal Regulation to funeral directors, so that a funeral director who keeps a body in a mortuary or holding room and who has reason to believe that not refrigerating the body will prejudice public health or amenity must put the body in a refrigerated body storage facility,
- (d) to provide that body bags may be made of similar material to low density polyethylene film, and to alter the minimum dimensions of body bags for adults and children,
- (e) to allow for the removal of a body that is believed to be infected with a List B disease from a body bag where the body is the subject of an inquest under the *Coroners Act 1980* or a post-mortem examination carried out under the *Human Tissue Act 1983*,
- (f) to make it clear that a certain provision of the Principal Regulation relating to the keeping of a body in a holding room is not intended to apply to funeral directors,
- (g) to allow for the burial of a person in a grave or vault located on land reserved under the *National Parks and Wildlife Act 1974* or acquired under Part 11 of that Act where the location has been approved for that purpose:

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Explanatory note

- (i) by a person or body (including a local council, trust or board of management within the meaning of that Act) in which the care, control and management of the land is vested, or
 - (ii) if no such person or body has been vested with the care, control and management of the land, by the Director-General of the Department of Environment and Conservation,
- (h) to allow a funeral director, with a coroner's order or the approval of the Director-General of the Department of Health, to transfer a coffin from a vault in a cemetery to a mortuary for the purpose of the coffin being immediately repaired and returned to the vault, and to provide that the coffin must be returned to the cemetery within 24 hours of its transfer,
- (i) to increase the fee payable for an application for approval to exhume the remains of the body of a dead person, the increase being in line with movements in the Consumer Price Index,
- (j) to effect law revision in respect of:
 - (i) a repealed provision (formerly section 52 of the *Public Health Act 1991*) by omitting the corresponding fee for the approval of equipment for a crematory, and
 - (ii) a repealed provision (item 9 of Part F of the Table to section 68 of the *Local Government Act 1993*) by omitting the provision requiring the inclusion of a copy of an approval under that section in relation to a mortuary to accompany a notification to the Department of Health, and
 - (iii) a spent provision by repealing clause 48 (4) of the Principal Regulation,
- (k) to move a penalty provision from clause 48 (2) to clause 48 (1) of the Principal Regulation as a consequence of the law revision referred to in paragraph (j) (ii),
- (l) to extend the entry and inspection powers of environmental health officers to holding rooms.

This Regulation is made under the *Public Health Act 1991*, including section 82 (the regulation-making power).

**Public Health (Disposal of Bodies) Amendment
Regulation 2007**

under the

Public Health Act 1991

1 Name of Regulation

This Regulation is the *Public Health (Disposal of Bodies) Amendment Regulation 2007*.

2 Amendment of Public Health (Disposal of Bodies) Regulation 2002

The *Public Health (Disposal of Bodies) Regulation 2002* is amended as set out in Schedule 1.

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Schedule 1 Amendments

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(Clause 2)

[1] Clause 3 Definitions

Omit the definitions of *exhumation* and *mortuary* from clause 3 (1).

Insert instead in alphabetical order:

exhumation means the removal of a dead person's remains (not being ashes) from a grave or vault, but does not include their removal from one vault for immediate transfer to another vault in the same cemetery.

mortuary means premises that are used, or intended to be used, for the preparation or storage of bodies as part of the arrangements for their burial or cremation, but does not include any premises (such as a hospital) in which bodies may be temporarily stored pending their transfer to a mortuary.

[2] Clause 10 Retention of bodies by a funeral director

Omit clause 10 (2). Insert instead:

- (2) A funeral director who keeps a body in a mortuary or holding room and who has reason to believe that not refrigerating the body will prejudice public health or amenity must put the body in a refrigerated body storage facility.

[3] Clause 13 Bodies to be placed in body bags

Insert "(or a similar material)" after "polyethylene film" in clause 13 (2) (a).

[4] Clause 13 (2) (b)

Omit "1 metre in width, or if for enclosing the body of a child, not less than 1.5 metres in length".

Insert instead "75 centimetres in width, or if for enclosing the body of a child, not less than 75 centimetres in length and 50 centimetres in width".

[5] Clause 15 Removal of bodies from body bags

Insert after clause 15 (4):

- (5) Subclause (4) does not apply to a body that is the subject of an inquest under the *Coroners Act 1980* or a post-mortem examination carried out under the *Human Tissue Act 1983*.

[6] Clause 17 48 hours' holding

Insert "(other than a funeral director)" after "person" wherever occurring.

[7] Clause 22 Burials in certain areas prohibited

Insert at the end of clause 22 (1) (c):

, or

- (d) on land reserved under the *National Parks and Wildlife Act 1974* or acquired under Part 11 of that Act, where the location has been approved for that purpose by:
 - (i) a person or body (including a local council, trust or board of management within the meaning of that Act) in which the care, control and management of the land is vested, or
 - (ii) if no such person or body has been vested with the care, control and management of the land—the Director-General of the Department of Environment and Conservation.

[8] Clause 25 Exhumation without approval prohibited

Insert at the end of the clause (but before the penalty provision):

- (2) Despite subclause (1), a funeral director may, without a coroner's order or Director-General's approval, transfer a coffin from a vault in a cemetery to a mortuary for the purpose of the coffin being immediately repaired and returned to the vault.
- (3) A funeral director must return the coffin to the cemetery within 24 hours of its transfer pursuant to subclause (2).

[9] Clause 26 Application to exhume remains

Omit "\$255" from clause 26 (2) (c). Insert instead "\$270".

[10] Clause 46 Fee for approval of equipment for a crematory

Omit the clause.

[11] Clause 48 Notification of details of mortuaries and crematories

Insert at the end of clause 48 (1):

Maximum penalty: 20 penalty units.

[12] Clause 48 (2)

Omit the subclause. Insert instead:

- (2) A fee of \$50 is payable when a notification is given pursuant to subclause (1).

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Schedule 1 Amendments

[13] Clause 48 (4)

Omit the subclause.

[14] Clause 49 Inspection

Insert after clause 49 (3):

(3A) An environmental health officer may enter and inspect a holding room.

[15] Clause 49 (4)

Omit “or cemetery”. Insert instead “, cemetery or holding room”.

BY AUTHORITY
