

# *Guideline for the management of human remains*

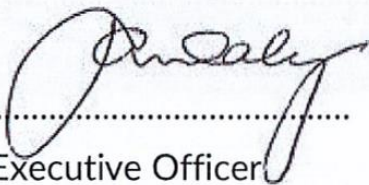
Department of the Chief Minister and Cabinet

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*Burial and Cremation Act 2022*

**Making of Guideline**

I, Frank Frederick Stewart Daly, Chief Executive Officer of the Department of the Chief Minister and Cabinet, under section 192(2) and section 194(1) of the *Burial and Cremation Act 2022*, hereby make this Guideline.

  
.....  
Chief Executive Officer  
Department of the Chief Minister and Cabinet  
1 / 9 / 2023

## Contents

1	Title .....	4
2	Commencement.....	4
3	Definitions.....	4
4	Relevance to Act.....	4
5	Purpose .....	5
6	Identification.....	5
7	Declared infectious diseases.....	5
8	Exhumation inside cemetery.....	6
9	Decision making.....	6
10	Communication protocols.....	7
11	Transportation and storage .....	7

# 1 Title

1.1 This Guideline is titled *Guideline for the management of human remains*.

# 2 Commencement

2.1 This Guideline commences on the day after the day it is made.

# 3 Definitions

For the purposes of this Guideline:

**Act** means the *Burial and Cremation Act 2022*.

**CEO** means the Chief Executive Officer of the Agency administering the Act.

**CHO** means the Chief Health Officer.

**declared infectious disease**, see clause 7.

**exhumation** means the removal of human remains from a burial site, including the temporary removal of human remains for reburial at the same burial site.

**exhumed remains** means human remains that have been exhumed from a burial site and have not yet been buried, disposed of, or otherwise relocated.

**funeral director** means a person who carries on the business of arranging for the burial of human remains or the disposal of human remains.

**identifier**:

(a) for human remains – means information that is attached to the deceased person for the purposes of identifying the human remains; or

(b) for a funerary box – means information that is attached to, or marked on, the funerary box for the purposes of identifying the human remains that are in the funerary box.

**vehicle** includes the following:

(a) an aircraft;

(b) a motor vehicle;

(c) a vessel as defined in the *Marine Act 1981*.

*Note for clause 3*

*The Act also contains definitions that are relevant to this Guideline.*

# 4 Relevance to Act

4.1 Section 192(2) of the Act provides that the CEO may, after consulting with the CHO, make guidelines in relation to any declared infectious disease for the purposes of burials, disposals or exhumations under this Act.

4.2 Section 194(1) of the Act provides that the CEO may make guidelines relating to any matter under this Act.

## 5 Purpose

5.1 This Guideline provides guidance and rules for the following matters relating to the management of human remains:

- (a) identification of human remains;
- (b) exhumations and declared infectious diseases;
- (c) exhumation of human remains inside cemeteries;
- (d) decision making with regard to human remains;
- (e) protocols in relation to communicating with next of kin;
- (f) transportation of human remains; and
- (g) storage of human remains.

## 6 Identification

6.1 As soon as practicable after human remains of a deceased person are received into the care of a funeral director, or a person responsible for managing the disposal of human remains, the identity of the deceased person is to be verified through the use of an identifier on:

- (a) the human remains;
- (b) the funerary box for the human remains, if applicable.

*Example for clause 6.1(a)*

*An identifier used for human remains may be a wrist or ankle band that has the deceased person's identifying details written in indelible ink.*

6.2 A funeral director or a person responsible for managing the disposal of human remains is to establish and maintain electronic records relating to identifiers.

*Notes for clause 6*

1. *A funeral director or a person responsible for managing the disposal of human remains includes a regional morgue provider, and any other persons responsible for providing funeral services.*
2. *The information on the identifier should be verified with:*
  - i. *information on the Medical Certificate of Cause of Death. See section 34(1) of the Births, Deaths and Marriages Registration Act 1996 and regulations 5 and 6 of the Births, Deaths and Marriages Registration Regulations 1996; or*
  - ii. *if the deceased person's death was reported to the coroner, information on the coroner's certificate. See sections 12 and 17 of the Coroners Act 1993.*
3. *The identifier should be placed on the human remains at all times while the human remains are in the care of the funeral director or the person responsible for managing the disposal of the human remains.*

## 7 Declared infectious diseases

7.1 In accordance with section 192(1) of the Act, in relation to exhumations, a declared infectious disease is one of the following diseases:

- (a) diphtheria;
- (b) human coronavirus with pandemic potential;
- (c) human influenza with pandemic potential;

- (d) Middle East respiratory syndrome;
- (e) plague;
- (f) severe acute respiratory syndrome;
- (g) smallpox;
- (h) tuberculosis;
- (i) viral haemorrhagic fevers.

## 8 Exhumation inside cemetery

**8.1** In accordance with section 87(5)(c) of the Act, an application for approval to exhume human remains of a deceased person in a cemetery will require consultation with the CHO if:

- (a) the deceased person suffered from a declared infectious disease at the time of the person's death; and
- (b) the burial occurred less than 6 months prior to the date of the proposed exhumation.

*Note for clause 8.1*

*Consultation with the CHO is also required in relation to an exhumation of human remains outside a cemetery if the circumstances set out in paragraphs (a) and (b) apply. See section 94(3)(b) of the Act.*

**8.2** In accordance with section 87(6) of the Act, in relation to giving an exhumation approval for an exhumation inside a cemetery, the CEO may impose conditions that the CEO considers appropriate that are consistent with, or otherwise in addition to, this Guideline.

**8.3** For section 90 of the Act, in relation to an exception for an exhumation approval, human remains are still considered to have been immediately returned to the burial site despite:

- (a) the exhumed remains being transported for temporary storage; or
- (b) the exhumed remains being placed in funerary box, receptacle, container or wrapping.

*Note for clause 8*

*Consultation with the coroner is required in relation to an exhumation of human remains if the circumstances set out in section 24 of the Coroners Act 1993 apply.*

## 9 Decision making

**9.1** Subject to any other legislative requirements, decision making for the transportation and storage of human remains of a deceased person is to be done in accordance with:

- (a) the wishes of the decision maker for the deceased person; and
- (b) this Guideline.

*Note for clause 9.1*

*A decision maker, for a deceased person, is defined in section 9 of the Act as:*

- (a) the executor or administrator of the estate of the deceased person; or
- (b) if there is no executor or administrator of the estate of the deceased person – the senior next of kin; or
- (c) in any other case – the Public Trustee.

## 10 Communication protocols

- 10.1** Next of kin of a deceased person should be provided with timely, adequate and accurate information, for the purpose of making decisions related to the disposal of the deceased person's remains.

*Note for clause 10.1*

*Consideration should be given to the next of kin's preferred method of communication and reasonable requests such as:*

- (a) having a support person present; and/or*
- (b) having an interpreter present; and/or*
- (c) receiving information in written and/or verbal form.*

- 10.2** If applicable, interpreters who are accredited or recognised by the National Accreditation Authority for Translators and Interpreters should be used when discussing matters related to decisions about human remains.

*Note for clause 10.2*

*A suitable interpreter may be identified by contacting the Interpreting and Translating Service NT, or the Aboriginal Interpreter Service.*

- 10.3** Where a dispute has arisen in relation to determining the decision maker or senior next of kin for a deceased person, the disputing parties may:

- (a) in the first instance, participate in mediation in accordance with provisions in section 12 of the Act; and*
- (b) if the dispute remains unresolved, make an application with the Northern Territory Civil Administration Tribunal for a determination of the decision maker or senior next of kin for the deceased person.*

## 11 Transportation and storage

- 11.1** Human remains that are being transported in a vehicle are to be contained in a funerary box, receptacle, container or wrapping, and placed in a part of the vehicle that:

- (a) allows for the secure placement or restraint of the human remains; and*
- (b) is capable of being easily cleaned and disinfected.*

*Notes for clause 11.1*

- 1. Where applicable, the transportation of human remains must be in accordance with any other additional civil aviation safety regulations.*
- 2. Grieving parents who have suffered a perinatal loss (stillbirths and neonatal deaths between a gestational period of more than 20 weeks and less than 28 days old) may choose to hold the remains of their deceased baby during transportation. The remains are to be transported in a leak proof wrapping with an outer blanket/sheet for the parent to hold.*

- 11.2** Human remains are not to be transported in a vehicle for more than 8 hours while unrefrigerated.

- 11.3** A vehicle is not to be used for the storage of human remains.

- 11.4** Human remains that are being transported in a vehicle are to be contained in a funerary box, receptacle, container or wrapping that does not allow any bodily discharge, contaminants or infectious substances to escape.

- 11.5** A funerary box, receptacle, container or wrapping is to be an appropriate size to accommodate the human remains lying flat and straight.
- 11.6** When not being transported, human remains must be stored in a location that:
- (a) has adequate temperature controls to manage the condition of the human remains; and
  - (b) is solely reserved for the storage of human remains or is otherwise physically separated from other areas of the location that are used for other purposes.

*Note for clause 11.6*

*Human remains can be temporarily stored in a room:*

- (a) immediately after death and prior to being transported to a morgue or funeral home; and
- (b) during the funeral for purposes of fulfilling Aboriginal ceremonial practices and traditions.

- 11.7** If human remains are to be exhumed within 12 months after burial, the storage of the exhumed remains must be:
- (a) in a freezer facility; and
  - (b) arranged and confirmed prior to the exhumation taking place.

*Note for clause 11.7*

*Consultation with the Department of Health is required to ensure that the storage of human remains conforms with Northern Territory health policies related to the storage of human remains.*

- 11.8** Clauses 11.4, 11.5, 11.6 and 11.7 do not apply if the containment or storage of the human remains relates to the exercise of rights and interests mentioned in section 5 of the Act.

*Example for clause 11.8*

*Human remains kept in a traditional keeping place as an exercise of traditional rights to use Aboriginal land in accordance with the Aboriginal Land Rights (Northern Territory) Act 1976 (Cth).*