



Department of Local Government,
Industry Regulation and Safety

Exhumation Policy

Department of Local Government, Industry Regulation and Safety

Purpose of this Policy

The purpose of this policy is to provide clear guidance on the circumstances in which the Minister for Local Government's approval is required for an exhumation under section 58 of the *Cemeteries Act 1986* (the Act), and to outline the information that must accompany an application. It also sets out the roles and responsibilities of applicants, the Department of Local Government, Industry Regulation and Safety (LGIRS), and interested parties throughout the assessment and decision-making process.

This policy is intended to support consistent, transparent and fair decision-making, ensure compliance with legislative requirements, and assist families, funeral directors, cemetery authorities and other stakeholders to understand the procedural steps involved in seeking approval for an exhumation.

Introduction

Exhumations in Western Australia (WA) are governed by the Act. In certain circumstances, the Minister for Local Government's (Minister's) approval under section 58 may be required. Specifically, section 58 of the Act provides:

The Minister may in writing order the exhumation of a body and the re-burial or disposal of the ashes after cremation of the body in accordance with the Act and may further order how and by whom the costs of the exhumation, re-burial or disposal shall be met.

Circumstances requiring Minister's approval

Exhumation requests can be made to the Minister for the following reasons:

- reburial of the body in another cemetery within WA;
- reburial of the body in WA outside of a proclaimed cemetery;
- reburial of the body in a cemetery located interstate or overseas;
- cremation of the body that has previously been buried; or
- cultural, spiritual, or religious beliefs and traditions.

A request must be made prior to the exhumation being conducted. The Minister is unable to provide retrospective approval for an exhumation that has already occurred.

Circumstances not requiring Minister's approval

If a body is to be exhumed and reburied in the same cemetery, an application can be made to the local government or cemetery board responsible for the care, control and management of that cemetery.

The Act does not apply to exhumations conducted for the purposes of investigating the death of a person.

Requirements for exhumation applications:

Applicants should complete the Exhumation Application Form.

The Exhumation Application Form requires the following information to be provided:

1. The identity of the applicant and their relationship to the deceased.
2. Details of the deceased by attaching a copy of the deceased's death certificate or a certificate permitting burial, cremation or other disposal issued under Form 4 of the Coroners Regulations 1997.
3. Details of the deceased's current place of burial (i.e. cemetery name, grave number, and section) where the exhumation will take place. A copy of the Grant of Right of Burial can be attached to provide these details.
4. If the current place of burial is located outside of a proclaimed cemetery, a copy of the Certificate of Title and a map (preferably with GPS coordinates), indicating the actual burial place.
5. Reasons for seeking the exhumation (e.g. cremation or reburial of the remains or expiry of Grant of Right of burial). If the deceased is being cremated, confirmation of who will be receiving the ashes following the cremation and where the ashes will be placed.
6. A list setting out:
 - a) all known interested parties (see section below titled 'interested parties');
 - b) their contact details (phone number, email address and postal address, where known);
 - c) whether the party objects or consents to the application.
7. For interested parties who *consent* to the application, the applicant should provide a letter completed by the interested party which records the party's consent. A letter of consent can include the consent of multiple interested parties although, each interested party must sign the letter. Further, a copy of their photo identification including their signature should also be included for verification purposes.

Where an interested party objects to the application, LGIRS will contact them to seek their views on the application.

8. If the body is being reburied in Australia or overseas, details of the receiving cemetery together with a letter from the relevant cemetery authority confirming the deceased will be buried there.

Note: If it is proposed that the deceased is to be reburied in a location outside of a proclaimed cemetery in WA, a separate application for a burial outside of a proclaimed cemetery will need to be submitted. See policy on '[Burials outside a proclaimed cemetery](#)' and accompanying [application form](#).

9. Details of the proposed funeral director or funeral company who will be conducting the exhumation and reburial (if applicable).
10. Costs associated with exhumation, cremation and re-interment include:
 - Details of the party responsible for meeting all costs associated with the exhumation must be clearly identified. This includes all costs arising from an exhumation including, but not limited to, cemetery fees, exhumation and re-interment or cremation costs, memorial removal or replacement and any associated administrative fees are to be borne by the applicant.
 - For the purposes of this policy, the applicant may include a family member, extended family member, executor, administrator, power of attorney or another person or entity authorised to make the request.
11. The proposed date of exhumation (if known). Applicants should allow at least **seven working days** after receipt of all requested information for the application to be processed, and a decision made. This will also give the applicant time to make the necessary arrangements.

Interested parties

Prior to approving an exhumation under section 58 of the Act, the Minister is obliged to provide persons with an interest in the application ('interested parties') with a fair opportunity to be heard on the application.

Accordingly, each interested party has a right to view (either in whole or in part) the exhumation application and any submissions or materials that have been provided to LGIRS and have a reasonable opportunity to respond. Personal information will be removed from such documents before they are released, unless the author consents to release of that information. Interested parties (including the applicant) will generally be given a right of reply to any matters raised by other interested parties in such documents, if those materials are adverse to their interests.

Interested parties are persons whose interests will be adversely affected by the Minister's decision on the exhumation application, for example where the Minister's approval of the application will mean an interested party is no longer able to visit the deceased's gravesite which ordinarily will include but are not limited to the deceased's close relatives.

As a guide to whom interested parties may be, section 37(5) of the *Coroners Act 1996* provides that a *senior next of kin* to the deceased person means the first person who is available from the following list (in the order of priority):

- Spouse (either married or in a defacto relationship)
- Separated spouse (still legally married)
- Son or daughter, who is of or over the age of 18 years
- Parent
- Brother or sister, who is of or over the age of 18 years
- Executor named in the will of the person (or a person who is a personal representative of the person)
- A person nominated by the person to be contacted in an emergency.

While the above list establishes a priority order for the 'senior next of kin' of the deceased, the Minister may consider other factors in deciding the application. These include but are not limited to the age of any children of the deceased (if applicable), religious matters, spiritual beliefs or practices including those pertaining to Aboriginal and Torres Strait Islanders and people from culturally and linguistically diverse backgrounds.

If there is a dispute between interested parties about the proposed exhumation, parties should seek independent legal advice prior to applying for an approval for an exhumation.

Approval process

Upon receipt of an application, LGIRS will review the information submitted by the applicant and seek further information from the applicant if required. A recommendation based on this policy may be made by LGIRS to the Minister for their consideration.

Applicants should allow at least **seven working days** after receipt of all requested information for the application to be processed. Depending on the circumstances, further time may be required for a decision to be made by the Minister.

The Minister may approve or refuse a request. If an application is approved, the Minister may impose conditions on the approval.

Once the Minister's decision has been made, the applicant will be advised in writing.

The Minister's approval is valid until the body is exhumed. However, if a significant period of time has passed since the Minister's approval is provided, the local government or cemetery board may require an application to be resubmitted if the family still wishes to exhume the body.

Applicants should notify the Minister of any change in circumstances which could lead to a variation or withdrawal of the approval as soon as practicable.

Contact details

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