

**GUIDELINES AND APPLICATION FORM FOR THE EXHUMATION AND CREMATION
OF HUMAN REMAINS**

“ The City of Heritage ”



Prepared by:

**PARKS, GARDENS AND CEMETERIES DIVISION
DEPARTMENT OF COMMUNITY SERVICES**

APPLICATION FORM FOR EXHUMATION BY NEXT OF KIN (STANDARD APPROACH)

Administered in terms of Section 20 of the KwaZulu-Natal Cemeteries and Cremation Act, 1996 (Act of 1996) and read with relevant regulations.

The application must be completed within three days of obtaining the birth certificate from the Home Affairs Department.

- Section 20(5) of the Act specifies that “save where it is desired to remove human remains from one grave to another in the same cemetery or to return them to the same grave. The Minister shall not, except in circumstances of a special nature, give his or her consent for the exhumation of the human remains until at least two years after interment, and in the case of a person who died of infection disease until at least four years after interment.
- The application must contain an indication of the exact location where (a) the human remain of the landowner are currently buried and (b) the remains of the deceased are to be reburied (re-interred) including, for example the name of cemetery, name of the Municipality and (if applicable) the Traditional Authority who manages the cemetery or in whose area exhumation/reburial is to take place (if not in a registered format) cemetery or in some cases the private land owner.
- Copy of the deceased's death certificate- In cases where the applicant's surname differs from the deceased an affidavit is required indicating the reason as to why the surname differs and by what relationship the deceased person is to the next of kin. If a death certificate is not available, then an affidavit from the applicant, duly assigned by a police officer, indicating the cause, the place, and the date of death, etc., is required.
- Certified copy of the applicant's identity document (ID)
- **NOTE:** Section 1 (definition) of the Act is very specific as to who is regarded as the next of kin of the deceased in respect of the application. The following persons qualify to be the next of kin at the time of death –
- Was the husband or wife in a **monogamous marriage**- means the surviving spouse of such person or the **representative of such surviving spouse**.
 - ii) Was married by religious law or customary unions to more than one person, means that the person who, in terms of the relevant religious law or custom, is regarded as the head of the family to which the deceased belongs.
- (b) In those cases where there is no next of kin as contemplated in paragraph (a) or **the next of kin cannot be traced or is, for any reason, incapable of reaching and communicating a reasoned decision**, means the adult who is responsible as undertaking the functions of the head of the family of such deceased person: or
- (c) failing the **person contemplated** in paragraphs (a) and (b) means **the person who has been appointed as the executor of the deceased's estate**
- A letter from the undertakers confirming that they will be conducting the exhumation and the re-interment, as well as an indication IN DETAIL OF THE METHOD AND THE PROCEDURE THAT WILL BE FOLLOWED WHILE CONDUCTING THE ENTIRE EXHUMATION AND RE-INTERMENT PROCESS.

This is to guard against “fly-by-night” operators who are possibly not conversant with/do not qualify to undertake such works.

NOTE: Ulundi Municipality has a specialized unit that performs the exhumation process, and the requirements of undertakers do not therefore apply to exhumation where they were performing functions.

Section 23&24 of the regulations issued in terms of the Cemeteries and Crematoria Act provide some of the requirements. Qualified registered Undertakers will/should be in a position to indicate what precautionary measures are used in the operation, e.g. The use by the exhumation staff of protective wear such as gloves, gumboots, masks, etc., the adequate screening of the grave site, and the preparation of the soil coffin and human exhumation process..

B. APPLICATION FOR THE EXCAVATION ONLY OF A GRAVE.

- These applications are made on a less regular basis and are for the excavation only of the grave. This is usually required when there is a need by the next of kin to, for different reasons, merely “confirm” the identity of the deceased or that the human remains are still buried in the grave. I.e. Not having been switched, tampered with, etc.
- Section 20 (50 of the Act to, in respect of the excavation application, exempt the requirements of having to obtain the Minister's approval in terms of section 20(1). However, in a number of cases, it has been experienced that the municipality or municipalities concerned have adopted a stance of being overcautious and insisted on obtaining the Minister's approval.
- In such cases, absolute discretion is to be exercised as to what the documentation requirements are, but essentially the same type of document is necessary, and processes are to be followed as in the case of general exhumation and re-interment applications. It should be borne in mind, however, that in most of these cases the human remains are being re-interred in the same grave from which they were exhumed. In these cases, the process of the inspection still needs to be overseen by the Municipality from an environmental health point of view (usually done by the district Municipality), and the opening of the grave is to be performed by the registered firm of undertakers.

C.APPLICATION FOR EXHUMATION WITH THE INTENTION TO CREMATE HUMAN REMAINS.

- For first-time applicants, applications are made by the next of kin for the exhumation of the human remains with the intention to cremate them.
- In such cases, the usual (exhumation for re-interment) documents are required, and processes are to be followed as indicated in the foregoing provisions.

**APPLICATION FOR THE CONSENT OF THE MINISTER TO EXHUME HUMAN REMAINS COMPLETE EITHER
PART A AND PART C OR PART B AND PART C**

PART A: APPLICATION BY NEXT OF KIN

Surname.....of (address).....being

- a) The next of kin of the deceased
- b) The executor of the state of the deceased person.
- c) Authorized by the next of kin to make this application.
- d) Delete where not applicable.

I hereby in terms of the Section 20 of The KwaZulu Natal Cemeteries Act,1996 (Act 12 of 1996) read with the regulation 20 of the regulation made under that Act, for the consent of the Minister to exhume the remains of the person whose details are given in Part C

PART B: APPLICATION BY THE PERSON OTHER THAN THE NEXT OF KIN OR EXECUTOR.

(name).....of (address).....hereby apply in terms of Section 20 of the KwaZulu Natal Cemeteries and Cremation Act,1996 (Act No.12 of 1996) read with regulation 20 of the regulation made under the Act, for the consent of the Minister to exhume the human remains of the person whose details are given in Part C

This application is made in the capacity as.....

(address):.....

The reason why this application is not being made by the next of kin the executor of the estate of the deceased, or by the person authorized thereto the next of kin is.....

.....
.....
.....
.....

These are the following steps that were taken to get hold of the next of kin or the nearest surviving relative:.....

.....
.....
.....

PART C: DETAILS OF DECEASED AND THE PROPOSED EXHUMATION AND REINTERMENT

Full names of the deceased:.....

Place of death:.....

ii) burial:.....

Date of death:.....

Cause of death:.....

Reason for exhumation

:.....
.....
.....
.....

The method to be adopted in enclosing and removing the human remains and the precaution to be taken to prevent any danger to health or offence which may be caused:.....

.....
.....

The proposed place of the re-interment:.....

Each of the following documents:

1. A medical certificate of the cause of death or a duly certified copy thereof, or if such certificate or copy is not reasonably obtained, other evidence of the cause of death of satisfaction of the Minister.
2. The written permission of the operators of the cemeteries in which the human remains were interred and to be re-interred.
3. I hereby state that I will comply with the above regulations of Act 20 Section 20 of the Minister of KZN Cemetery: date:..... Signature:.....

AUTHORITY OF CREMATION/TO CREMATE THE HUMAN REMAINS

Whereas an application has been made for the cremation of the human remains of

Name:.....

Date:.....

IDENTITY NUMBER:.....

And whereas I have satisfied myself that has been compliance with all relevant requirements of the KwaZulu-Natal Cemeteries and Cremation Act, 1996 (Act no 12 of 1996) and the regulations made under, that the cause of death has been ascertained, and that there exists no reason for further enquiry or examination.

Now therefore I hereby authorize the operator of the crematorium to cremate the said remains.

Signed at:.....on:.....

Witness 1:.....on:.....

Medical referee:.....cremation.

Note: the original of the is certificate is to be retained by the medical referee and a copy to be sent to the operator of the crematorium is handed to the funeral undertaking arranging such creation