

## Bodies - Retention for Longer than Permitted in Public Health (Disposal of Bodies) Regulation 2002

**Document Number** GL2006\_006

**Publication date** 15-May-2006

**Functional Sub group** Population Health - Environmental

**Summary** This guideline will provide the conditions on which approvals may be granted in receipt of an application to retain bodies for longer than permitted by Clause 9 or 10 of the Public Health (Disposal of Bodies) Regulation 2002.

**Author Branch** Environmental Health

**Branch contact** Otto Puntsag 9816 0559

**Applies to** Public Health Units

**Audience** Environmental Health Officers

**Distributed to** Public Health System, NSW Ambulance Service, NSW Department of Health, Public Health Units

**Review date** 15-Nov-2012

**Policy Manual** Not applicable

**File No.** 04/6216

**Status** Active

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## **BODY RETENTION FOR LONGER THAN PERMITTED IN *PUBLIC HEALTH (DISPOSAL OF BODIES) REGULATION 2002***

This document is intended as a guide to Public Health Unit Environmental Health Officers in receipt of an application to retain the body of a deceased person longer than is permitted by Clause 9 or 10 of the *Public Health (Disposal of Bodies) Regulation 2002*.

### **Body retention by a person who is not a funeral director**

Clause 9(1) of the *Public Health (Disposal of Bodies) Regulation 2002* provides that “A person who is not a funeral director must not retain a body if more than 5 days have passed since death.” It is very rare that a person will seek application to retain a body.

### **Body retention by a funeral director**

Clause 10(4) of the *Public Health (Disposal of Bodies) Regulation 2002* provides that “A funeral director must not retain a body, other than a body that has been embalmed, for more than 7 working days after the issue of a death certificate, a burial permit issued by a coroner or a cremation permit issued by a coroner in relation to the body.”

This clause applies to funeral directors who wish to retain an unembalmed body only. If the body has been embalmed an approval to retain a body is not required.

### **Approval required**

Further, clauses 9(2) & 10(5) state “The Director-General may approve, in a particular case, of a body being retained for a longer time than that permitted by this clause, subject to any conditions that the Director-General considers appropriate.”

A person or funeral director, as appropriate who wishes to retain the body of a deceased person longer than is permitted under clauses 9(1) & 10(4) has to seek the approval from the Director-General, or delegate. The Director-General’s authority under clause 9 & 10 of the *Public Health (Disposal of Bodies) Regulation 2002* has been delegated to an Area Health Service’s Public Health Unit Director and/or Medical Officer of Health. An application to the Public Health Unit may be made in the form of a facsimile by the nearest surviving relative of the deceased (or by a person who is acting on behalf of the deceased’s family) or by the funeral director, as appropriate. The following information should be considered when granting approval to retain a body:

- Reason(s) for retaining a body longer than specified in *Public Health (Disposal of Bodies) Regulation 2002*
- Condition of the body
- Embalming (Is the body embalmed? Is the body to be embalmed? Is the deceased infected with a list B disease?)
- Premises where the body will be kept
- Proposed date of interment

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**Title: Body Retention for Longer than Permitted in *Public Health (Disposal Of Bodies) Regulation 2002***

- Transportation

### **Reason(s) for retaining a body longer than specified in *Public Health (Disposal of Bodies) Regulation 2002***

The reason(s) given by the person or funeral director wishing to delay the interment of the body of the deceased person should be sound. Extenuating circumstances such as the need for interstate or overseas relatives to attend the funeral is reasonable. Circumstances on which approval will be given will be determined on a case by case basis by the Public Health Unit involved.

### **Condition of the body**

Should the body appear to be unfit for further retention and/or may prejudice public health and amenity then permission should not be granted. Environmental Health Officers may need to make additional enquiries or conduct an inspection in order to determine the condition of the body.

### **Embalming of the body**

Embalming preserves the body of the deceased as well as removing liquid from the body to prevent leakages. If the body has been embalmed approval may be granted to a person who is not a funeral director. If the body is to be fully arterially embalmed an opinion of a qualified embalmer about the state of the body needs to be considered, as this will adversely affect the efficacy of embalming.

The embalming of the body may only be performed by a person who has a certificate of proficiency of, or equivalent to, Certificate IV standard issued by an institute approved by the Director-General. See policy on *Qualifications Required to Embalm Bodies and for Invasive Body Procedures in the Funeral Industry*.

A body infected with a List B disease:

- must not be embalmed [Clause 11(2), *Public Health (Disposal of Bodies) Regulation 2002*].
- must not be handled or retained by a person other than a funeral director or staff trained in infection control.
- must not be made available for viewing.

### ***Premises where the body will be kept***

The person or funeral director must be able to demonstrate that the body will be kept under refrigeration in a facility at between 1 and 5 degrees Celsius and is constructed for such a purpose. Generally, the bodies should only be stored in a registered mortuary or holding room. Clause 17 of the *Public Health (Disposal of Bodies) Regulation 2002* prohibits keeping a body in a holding room for more than 48 hours. This will require written verification from a storage facility such as a mortuary or morgue, that arrangements have been made for the body of the deceased to be kept at that premises within the time specified in the application.

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The premises where the body is to be kept should be secure.

## **Proposed date of interment**

The proposed date of interment is a major factor in determining body retention. If the time period between death and interment is considered excessive it may prejudice public health and amenity, then permission should not be granted.

## **Transportation**

When the body of a deceased person is moved from one place to another, for example, from the hospital to a mortuary, the body must be placed and secured in a body bag or wrapping. The body bag or wrapping must be of the type that is approved by the Director-General, so as to prevent the leakage of any body exudate or substance.

The body of the deceased must be placed in a coffin for burial or cremation, unless otherwise separately approved.

The person should also have appropriate means of transporting the body to a storage facility to preserve the condition of the body e.g. from a nursing home to the mortuary.

If the body of the deceased person is infected with an infectious disease, the person in charge of the deceased must so inform the owner or driver of the vehicle (other than a hearse or body collection vehicle) who will be transporting the deceased of the fact.

## **Approval by authority**

Circumstances under which an approval can be given:

- I. A body can be retained for a short term (hours to 2 days) in unrefrigerated premises or home if ambient conditions will not lead to deterioration of the body. However once the body has been refrigerated it must not remain unrefrigerated for more than 8 hours such as for a viewing.
- II. A body can be retained when there is no deterioration of the body and it is to be kept at 1-5 degrees Celsius for up to 10 extra days (extension) period.
- III. A body can be retained when there is no deterioration of the body and it is to be kept at 1 degree Celsius for up to 30 extra days (extension) period.
- IV. A body can be retained when the body is embalmed or to be embalmed for more than 30 extra days (extension) period.

Approval by the appropriate authority for retention of a body for more than permitted in *Public Health (Disposal of Bodies) Regulation 2002* may be given by formal correspondence, which includes an exchange of facsimile if considered appropriate. The appropriate authority in this instance is the Public Health Unit of the Area Health Service where in the body of the deceased is located. For further information contact with local Public Health Unit should be sought or visit <http://www.health.nsw.gov.au> for a list of Public Health Units.

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Attached at Annexures 1, 2 and 3 respectively are templates which may be used by the person/funeral director seeking approval, draft approval instrument and a draft reply which may be used by the Public Health Unit.



APPLICATION TO RETAIN A BODY

- Application to retain a body by person for longer than 5 days – Clause 9(2), Public Health (Disposal of Bodies) Regulation 2002.
Application to retain a unembalmed body by a funeral director for longer than 7 working days – Clause 10(5) Public Health (Disposal of Bodies) Regulation 2002.

(please tick above as appropriate)

Name of applicant: .....

Address of applicant:.....

Contact number: (H).....(W).....(M) .....

Relationship to deceased: .....

Name of deceased: .....

Deceased's date of death: ...../...../.....

Date of Death Certificate or Coroner's Order: ..../...../.....

Condition of the body (description): .....

.....

Embalming: Is the body embalmed? [ ] Yes [ ] No

Is the body to be embalmed? [ ] Yes [ ] No

Is the body infected with a list B disease? [ ] Yes [ ] No

(If yes, list B disease name:.....)

Reason for retaining the body: .....

.....

Name and address of premises where body to be stored: .....

.....

Conditions under which body is to be kept: (give details of refrigeration, including storage temperature and security) .....

.....

Proposed date of interment: ...../...../.....

Type of disposal: \*Vault / Burial / Cremation / At Sea / other

Signature of applicant.....

Date ...../...../.....

\* strike out that which is not applicable



**Public Health Unit  
Environmental Health Section**

**File Number:** XXXXX

**PURPOSE:** To approve the retention of a body  
\*by a person (not being a funeral director) for longer than 5 days since death  
\*by funeral director for longer than 7 working days since the issue of a death certificate.

**SUMMARY OF KEY ISSUES:** [TO BE COMPLETED BY PHU]

**RECOMMENDATION:** Approval be granted by the Director-General pursuant to clause \*9(2) / 10(5) *Public Health (Disposal of Bodies) Regulation 2002* to [NAME OF APPLICANT] to retain the body of [NAME OF DECEASED] until the close of [DATE UNTIL PERMISSION IS GRANTED] subject to the condition that the deceased be retained under refrigeration in a body storage facility in [PREMISE WHERE THE BODY WILL BE KEPT] until just prior to disposal.

**Signature:** [SIGN]

**Author:**  
Environmental Health Officer

**Telephone:**

**Date:**

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1 Senior Environmental Health Officer [SIGN]

2 \*Director, Public Health Unit/ Medical Officer of Health [SIGN]:

\*Approved vide delegation from the Director-General PH297 page 8.46 Public Health Delegations Manual under clause 9(2) Public Health (Disposal of Bodies) Regulation, 2002.

\* Approved vide delegation from the Director-General PH462 page 8.47 Public Health Delegations Manual under clause 10(5) Public Health (Disposal of Bodies) Regulation, 2002.

3 Author

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\* strike out that which is not applicable

**Annexure 3**

LETTER TO APPLICANT

[APPLICANT'S NAME]  
[ADDRESS]

Dear [APPLICANT'S NAME]

Reference is made to your facsimile of [DATE] in regard the retention of the body of [NAME OF DECEASED] beyond the legal limit of \*5 days since death / 7 working days since the death certificate.

Approval has been granted by the Director-General pursuant to clause \*9(2) / 10(5) of the *Public Health (Disposal of Bodies) Regulation 2002* to retain the body of [NAME OF DECEASED] until the close of [DATE UNTIL PERMISSION IS GRANTED] subject to the condition that the deceased be retained in a refrigerated body storage in [PREMISE WHERE THE BODY WILL BE KEPT] until just prior to burial.

Should you have any inquiries please contact the [EHO] on [TELEPHONE].

Yours sincerely,

[NAME]  
Environmental Health Officer

[DATE]

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\* strike out that which is not applicable