# Guidelines for disinterment licence applications

**Introduction**

Disinterment involves the removal of a body from its burial place (whether a cemetery, urupā or other place of burial). Under section 51 of the Burial and Cremation Act 1964 (“the Act”) such removal of a body is prohibited unless a licence is granted by the Minister of Health. Section 51(1) states that that:

*“It shall not be lawful to remove from its burial place any body, or the remains of any body, buried in any cemetery, Māori burial ground, or other burial ground, or place of burial, without licence under the hand of the Minister and except in accordance with such conditions as he may prescribe”.*

In practice, the Minister’s power to issue disinterment licences under the Act has been delegated to the Director of Public Health, Manatū Hauora.

Because the Act does not specify an administrative procedure for making an application and for the issue of a licence for disinterment, the following guidelines are intended to assist the Director of Public Health assess applications consistently and transparently. Application of the guidelines may depend on the circumstances of an individual application.

**Applying for a disinterment licence**

When applying for a licence for disinterment, applicants need to complete and submit the attached application form (see **Appendix 1**). Applications are usually made by:

* person(s) related to the deceased
* the executor of the will of the deceased
* a funeral director acting on behalf of either of the above
* an iwi/Māori authority acting on behalf of the close relatives, or
* a person acting for the family.

Applications should be submitted to the applicant’s local office of the National Public Health Service and addressed to the health protection officer. The officer will assess the application and forward it, together with a report and recommendations, to the National Public Health Service. Officials in Te Whatu Ora will assess the application and provide it to the Director of Public Health for consideration and decision. If the proposed disinterment is urgent, details of the disinterment may be e-mailed to the applicant’s local public health service.

Additional information may be required if the deceased has been buried between one month and one year at the time of the proposed disinterment, because of decomposition during this period. The disinterment is still likely to be approved if the deceased’s body was embalmed, the site is well drained, the likely state of the casket is adequate, and the funeral director and/or sexton are experienced in disinterring deceased. Applications to disinter within one month of interment may be deferred if the deceased died of an infectious disease.

A licence is normally issued three to five working days after receipt by the National Public Health Service of a complete application.

**Completing the application form**

The following information explains some of the requirements to assist applicants.

***Next of kin of the deceased.*** Before a disinterment licence is issued, the wishes of all next of kin (e.g., spouse, parent(s)’ children, sibling(s), guardian(s)) must be confirmed in writing. Each family or whānau member is required to describe their relationship to the deceased and indicate their consent (or otherwise) to the disinterment. The form is provided at **Appendix 2**.

Any given authority for a person to speak for other next of kin must be specified in writing and signed by the person giving the authority. For Pacific families, an elder may have authority to speak on behalf of the deceased, even though the elder may not be a close relative of the deceased. A representative nominated in writing by the extended family is acceptable.

Disinterment licence applications are usually only approved where there is absolute agreement among next of kin. Where there is no absolute agreement, the Ministry will not act as a negotiator.

***Consent of cemetery operator, burial ground or urupā trustees.*** The consent of the cemetery operator or of the burial ground or urupā trustee(s) must be obtained, before a disinterment can proceed, regardless of whether a disinterment licence has been granted by the Director of Public Health. When obtaining consent, the applicant should ask the operator or trustees to confirm the burial site is not a historic or war grave under the care of the New Zealand Government.

For disinterments from an urupā, the consent of the urupā trustees should be included. Consent from the kaumātua or kuia of the urupā should be included after the consent of the trustees has been obtained. If the remains are to be re-interred in another urupā, the consent of the trustees and kaumātua or kuia of that urupā should also be shown.

***Reason for the disinterment.*** The reason could include cultural reasons, the burial being in the wrong plot, relatives who have moved to another area, mental anguish, or other valid reasons. The reason provided will be assessed on its own merits. Frivolous reasons will not be accepted.

***Cause of death.*** A certified copy of the Death Certificate (e.g., countersigned as a true and accurate copy by a Justice of the Peace or a health protection officer) is required with each application, so that the cause of death and other details can be confirmed.

If the Death Certificate cannot be obtained in time to submit with the application (e.g., the certificate has not yet been issued), a statement provided from the cemetery or burial ground authority identifying where the deceased is buried and a statement describing the cause of death can be provided instead*.*

***Licence fee.*** A $90.00 fee (including GST) made payable to the Ministry of Health is required for each licence. Usually, one licence is required for each body that is to be disinterred, although exceptions would include a common grave. The fee may be waived where special reasons make it appropriate to do so (for example, on compassionate or hardship grounds). Any request for a waiver should be supported by documentary evidence of hardship or alternative justification.

Payments for Disinterment Licence Fees are to be made by Direct Credit / online banking / bank deposit to the Ministry of Health's bank account: Westpac account 03-0049-0001805-00. The payer must include details in the online payment reference fields as follows: [name of payer] / Disinter Lic / [surname and initials of deceased]. When payment has been made, the payer or health protection officer handling the application should email details of the remittance advice to receivables@moh.govt.nz and include the details with the application for licence.

***Application to be made under oath.*** The licence application must include a sworn statement from the applicant that the information contained within it is true and correct, and be witnessed by a Justice of the Peace, serving Police Officer, or Court official*.* An example of a statutory declaration is attached at **Appendix 3**.

***Assessment of the application by a health protection officer.*** The health protection officer will assess the submitted documentation to ensure that it is complete, review the application and prepare a report for the National Public Health Service.

**Undertaking the disinterment**

Disinterment occurs whenever a casket (or body) is uncovered, even if only partially uncovered. The person(s) undertaking the disinterment are responsible for ensuring that the disinterment is legally, safely, and properly carried out, with decency and due respect to the deceased and adjacent burial sites. WorkSafe New Zealand has published good practice guidelines for excavations that provide practical guidance to manage excavation health and safety risks. The Excavation Safety - Good Practice Guidelines’ can be found at:

<https://www.worksafe.govt.nz/topic-and-industry/excavation/excavation-safety-gpg/>

A health protection officer may attend and supervise the disinterment to ensure that the disinterment is carried out with due respect to the deceased and in a sanitary manner that prevents any public health risk arising or any offence being created to the body and any family/next of kin that may be present.

**Registrar-General to be notified when body removed or disposed of**

When the body is not returned to the same plot, the licence holder must give full details as to where and how the body was disposed of to the Registrar-General of Births, Deaths, and Marriages at the Department of Internal Affairs (as required by section 51 of the Births, Deaths, Marriages and Relationships Registration Act 2021).

# Appendix 1 - Application for Disinterment Licence

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| **Application for Disinterment Licence** |
| This application form must accompany all applications for a disinterment licence and is to be sent to the health protection officer at the local office of the National Public Health Service. Also ensure the following are included with the application form:* Death Certificate (countersigned as a true and accurate copy by a Justice of the Peace or a health protection officer)
* Declaration of support from next of kin
* Declaration under the Oaths & Declaration Act
* Remittance advice showing the Licence Fee ($90.00 includes GST) has been paid by Direct Credit / online banking / bank deposit to the Ministry of Health's bank account Westpac account 03-0049-0001805-00. When payment has been made, email details of the remittance advice to receivables@moh.govt.nzand include the details with this application for licence.
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| **Name of applicant or agent** |  |
| **Relationship to the deceased** |  |
| **Postal address** |  |
| **Street address** (if different from above) |  |
| **Phone number** | view details |  |
| view details |  |
| **Email** |  |
| **Full name of deceased** |  |
| **Cause of death** |  |
| **Date of death** |  |
| **Burial location** |  |
| **Payment of Fee ($90)**(insert remittance advice) |  |
| **Consent of cemetery operator or urupā trustees or burial ground trustees** (Sight documentation showing appointment as Trustee) |  |
| **Did cemetery operator or urupā trustees or burial ground trustees confirm the burial site is not a historic or war grave?** |  |
| **Burial date** |  |
| **Reason for disinterment** |  |
| **Next of kin** | **Name** | **Relationship** |
| 1. |  |
| 2. |  |
| 3. |  |
| 4. |  |
| 5. |  |
| 6. |  |
| 7. |  |
| **Kaumātua/kuia**(if deceased is buried in an urupā) | **Name** | **Authority** |
|  |  |

Dated at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_this \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_

Signature of applicant/agent: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Appendix 2 - Next of kin declaration of support for disinterment

*Make as many copies of the declaration form that are needed for all next of kin to complete*

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| **Declaration in support of disinterment** |
| I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, have been consulted on this application ( Insert your full name) to disinter my \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (insert relationship to deceased) (insert name of deceased)and I hereby advise I support this application.Signed: Date: |

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| --- |
| **Declaration in support of disinterment** |
| I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, have been consulted on this application ( Insert your full name) to disinter my \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (insert relationship to deceased) (insert name of deceased)I hereby advise the application is supported.Signed: Date: |

*Note: Any given authority for a person to act for other next of kin must be specified in writing and signed by the person giving that authority. For Pacific families, an elder may have authority to act on behalf of the deceased, even though the elder may not be a close relative of the deceased. A representative nominated in writing by the extended family is acceptable*

# Appendix 3 - Statutory declaration

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| **Declaration – Oaths & Declaration Act 1957**  |
| I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, ( insert full name of applicant/agent/authorised person) (insert occupation)of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, (insert location where you reside) (insert relationship to deceased)do solemnly and sincerely declare that the statements made in the accompanying application are true and correct. I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Act 1957.Declared at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_ (insert location) (insert date) ( insert month) (insert year)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Signature of Applicant |
| **Declared before me**:**Name:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_A person authorised under section 9 Oaths and Declarations Act 1957 to take this declaration.**Designation:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **Stamp:**(Optional)**Signed:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Date:**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

A declaration made in New Zealand must be made before:

1. A barrister or solicitor of the High Court
2. A Justice of the Peace
3. A notary public
4. The Registrar or a Deputy Registrar of the Supreme Court
5. The Registrar or a Deputy Registrar of the Court of Appeal
6. The Registrar or a Deputy Registrar of the High Court or a District Court
7. Some other person authorised by law to administer an oath
8. A member of Parliament
9. A person who is a fellow of the New Zealand Institute of Legal Executives and is acting in the employment of a practising barrister and solicitor of the High Court
10. An employee of the New Zealand Transport Agency - Waka Kotahi - authorised for that purpose by the Minister of Justice - Te Tāhū o te Ture - or an employee of Public Trust authorised or an officer in the service of the Crown or of a territorial authority authorised for that purpose.