

Summary of Information Sheet

Draft Burial and Cremation Bill

Burials outside of declared cemeteries

Disclaimer

This information sheet is not legal advice and does not cover all of the requirements proposed under the draft Burial and Cremation Bill. It is intended only as a quick reference for some main provisions. The full Bill should be read for a complete picture.

Meaning of 'outside a cemetery'

The Burial and Cremation Bill provides for burials inside and outside declared cemeteries.

Not all burial grounds will be immediately classed as cemeteries under the new legislation. More will become declared over time.

It will be important to know if a particular cemetery has been declared by the minister. A list of declared cemeteries will be available on the Department of Housing and Community Development's (the department) website.

Proposed burials which are not in declared cemeteries (even though they are in places known to be used as burial grounds or cemeteries) will require permission from the department.

Burial permits

If a burial is to occur in a declared cemetery, a burial permit must be obtained from the council/organisation which administers the cemetery.

If a burial is to occur outside a declared cemetery, a burial permit must be obtained from the department.

If a person buries a deceased person without a permit they commit an offence. The maximum penalty is \$31 000 or imprisonment for two years.

How to obtain a burial permit for a location outside a cemetery

There will be an application form on the department website.

An application is a request for permission to bury the deceased and must include one of the following:

- a notice under section 34(1) of the *Births, Deaths and Marriages Registration Act* (This notice is signed by a doctor, certifying that the death was due to natural causes and includes advice that the death has not been referred to a coroner)
- written authorisation from a coroner for the authority to bury the human remains.

It should include the following information, if known:

- full name of the deceased
- gender
- date of birth
- country of birth
- address of residence immediately before death
- date of death
- place of death
- cause of death
- last occupation before death
- marital status.

There will be other requirements, for example:

- the location of the burial site must not be within 100 metres of a bore or other source of potable water
- written consent of landowners
- no objections to the burial
- the land must be at least 5 hectares in area
- the burial site must not be adjacent to occupied buildings
- remoteness of burial site and distance from nearest cemetery
- historical and cultural connection to the land.

After burial

After a permit has been issued and the burial has occurred the following information must be provided to the department:

- GPS coordinates of grave
- date of burial
- depth of burial
- details about how the human remains are interred (e.g. in shroud/coffin)
- descriptive details of any memorial
- date of erection of any memorial
- name of the person who officiated the ceremony (if there was one).

These details will go into the register of burials maintained by the department.

Register of burials outside a cemetery

The department must maintain a register of burials located outside a cemetery.

The department must also notify the Registrar-General of the appropriate information for the Record of Administrative Interests and Information kept under section 38 of the *Land Title Act*. This means that the existence of the grave will be noted in relation to the land.