

Retention of Bodies - Approval to Retain Bodies for Longer than Permitted

Summary This guideline provides guidance for Public Health Unit authorised officers in receipt of an application to retain a body of a deceased person longer than permitted by clause 54 of the Public Health Regulation 2012.

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RETENTION OF BODIES – APPROVAL TO RETAIN BODIES FOR LONGER THAN PERMITTED – *PUBLIC HEALTH REGULATION 2012*

PURPOSE

This document is intended as a guide to Public Health Unit authorised officers in receipt of an application to retain bodies longer than permitted under Clause 54 of the *Public Health Regulation 2012*. The Guideline also provides information to funeral directors about the retention of bodies in their premises.

KEY PRINCIPLES

A person who is not a funeral director is able to seek approval to retain a body for longer than the permitted time under the *Public Health Regulation 2012*, namely 5 days, by applying to the local Public Health Unit for an exemption. A person who is not a funeral director includes the operators of hospitals, private health care facilities and aged care facilities.

The approval process ensures that there is no public health risk associated with the retention of bodies beyond the prescribed 5 day period.

The Guideline does not apply to a body that is stored at premises licensed under the *Anatomy Act 1977* or the subject of an inquest under the *Coroners Act 2009*.

USE OF THE GUIDELINE

The Guideline outlines the protocols for an applicant, who is not a funeral director to apply to retain a body longer than 5 days.

An application to retain a body (Attachment 1) is required to be completed by the nearest surviving relative of the deceased (or by a person who is acting on behalf of the deceased family) and the information required to support the application is:

- Reasons for retaining the body longer than the 5 day period
- The condition of the body
- Whether the body has been embalmed
- A description of the premises where the body will be kept
- The body storage facilities under which the body will be kept
- Proposed date of interment
- Transportation – under what conditions the body will be transported.

The Guideline also contains a draft approval instrument to be completed by the Public Health Unit (Attachment 2) and a draft letter of reply to the applicant (Attachment 3) whereby the Public Health Unit is either able to approve or reject the application. The Public Health Unit if approving the exemption is to include conditions on which the approval is granted and should the application be rejected the reasons for the rejection.

Public Health Units should retain a copy of the approval on an internal file.

The Guideline provides information on Clause 55 of the *Public Health Regulation 2012* which provides that a funeral director must retain a body in a (a) refrigerated body storage facility and (b) in a mortuary or a holding room. Clause 55 (2) provides the circumstances under which a funeral director may remove a body from a refrigerated body storage facility and to another part of the mortuary for a maximum of 8 hours per day for the purposes of preparing the body for cremation or burial, embalming the body, viewing of the body by mourners or for the purpose of transporting the body to another mortuary or for burial, interment or cremation.

REVISION HISTORY

Version	Approved by	Amendment notes
December 2013 GL2013_015	Deputy Director General, Population and Public Health	A revised guideline to reflect the changes under the <i>Public Health Regulation 2012</i> and to provide guidance to Public Health Units in receipt of an application to retain a body longer than 5 days and to advise the conditions under which a funeral director may retain a body
May 2006 GL2006_006	Director - General	The first guideline for Environmental Health Officers from local Public Health Units in receipt of an application by a person or a funeral director to retain a body longer than the prescribed period under the <i>Public Health (Disposal of Bodies) Regulation 2002</i>

ATTACHMENTS

1. Retention of Bodies – Approval to Retain Bodies for Longer than permitted – *Public Health Regulation 2012: Guideline*

**Retention of Bodies – Approval to Retain Bodies for
Longer than Permitted – *Public Health Regulation 2012***



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1 BACKGROUND

1.1 About this document

The document provides policy direction to Public Health Units of Local Health Districts. The document also provides advice to funeral directors and to other persons. It is about the retention of the bodies of deceased persons in general, and specifically about the assessment of an application to retain the body of a deceased person, by a person who is not a funeral director, under clause 54(2) of the *Public Health Regulation 2012*.

1.2 Background

The effect of clause 50 of the *Public Health Regulation 2012* is that funeral directors must use a mortuary for the purposes of embalming and for the preparation of bodies to be buried or cremated. A holding room can be used to store, under refrigeration, bodies but must not be used for any other purpose i.e. body preparation or placement of bodies in coffins. Registered mortuaries may be subject to periodic inspection by authorised officers. Registered mortuaries must be equipped to store bodies under refrigeration, to perform embalming and other body preparation procedures prior to disposal. The Regulation sets out the requirements for funeral directors to retain bodies – see Section 3 of the Guidelines below.

Hospital morgues are intended to be places of temporary storage before removal of the body from the premises. A person must not use the facilities of a hospital for the purpose of the business of a funeral director. Aged care facilities, nursing homes and other health care facilities are unlikely to have facilities for body storage and are not required to provide such facilities. Private residential premises do not have body storage facilities.

It is usual and traditional practice in NSW that bodies are disposed of before there is any significant deterioration or decomposition and it is for this reason that persons other than funeral directors may not store bodies for longer than five days without approval. It is possible that bodies could significantly deteriorate if retained unrefrigerated or un-embalmed for five days and there is a community expectation that bodies should be removed to an approved and registered mortuary, for storage under refrigeration as soon as practical. Five days is the statutory requirement relating to the retention of bodies before a person, who is not a funeral director, has to apply to retain the body for a longer period - see Section 4.

2 LEGISLATIVE EXPLANATIONS

2.1 Retention of bodies by a funeral director

Clause 55 of the *Public Health Regulation 2012* provides:

- (1) A funeral director must retain a body:
 - (a) In a refrigerated body storage facility
 - (b) In a mortuary or a holding room.

- (2) However, a funeral director may cause the body to be removed from a refrigerated body storage facility:
- (a) To another part of the mortuary, for a maximum of 8 hours a day for the purposes of preparing the body for burial or cremation, embalming the body or viewing of the body by mourners
 - (b) For the purpose of transporting the body for burial, interment or cremation
 - (c) For the purpose of transporting the body to another mortuary.

There is no time limit imposed on a funeral director to retain a body however as outlined above there are conditions under which the body must be retained.

2.2 Retention of bodies by a person who is not a funeral director

Clause 54 of the *Public Health Regulation 2012* states:

- (1) A person who is not a funeral director must not retain a body if more than 5 days have passed since death.
- (2) The Director General may approve, in a particular case, of a body being retained for longer than 5 days, subject to any conditions that the Director-General considers appropriate.
- (3) This clause does not apply to a body that is stored at premises licensed under the *Anatomy Act 1977* or the subject of an inquest under the *Coroners Act 2009*.

It should be noted that the maximum period of time to retain a body is five consecutive days; not five working days.

It is quite rare that a person at residential premises will seek permission to retain a body longer than five days. However there may be circumstances where aged care facilities, private health facilities and public health facilities may need to retain a body longer than five days.

In the case of an aged care facility, health care facility or other institution it is the person in charge of the premises where the body is located who is responsible for submitting an application to retain a body for longer than five days.

Clause 54 does not apply to a body stored at a premises under the *Anatomy Act 1977* or the subject of an inquest under the *Coroners Act 2009*.

The Director General of NSW Ministry of Health has power to approve of the retention of a body for longer than five days by a person who is not a funeral director under clause 54(2). This power is delegated via delegation PH297 page 8.56 Public Health Delegations Manual to the Public Health Officer or Public Health Unit Director of a Local Health District. See Section 7 for the approval mechanism.

3 REASONS FOR A PERSON RETAINING A BODY LONGER THAN FIVE DAYS

The reason(s) given by the person wishing to store the body for longer than five days should be sound and not based on a whim. Extenuating circumstances such as the need for interstate or overseas relatives to attend the funeral may be reasonable. Circumstances under which approval will be given will be considered on a case by case basis by the Public Health Unit involved.

The following parameters about the condition of the body and its storage should be provided for consideration of approval.

3.1 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. Issues that may contribute to the deterioration of a body include that the body is not retained under refrigerated conditions or has not been embalmed.

Authorised Officers may need to make additional enquiries to ensure the request to retain a body for longer than the statutory requirement will not cause potential health risk. The Officer may conduct an inspection of a premises in order to ascertain that the conditions under which the body will be retained are safe.

3.2 Embalming of the body

Embalming preserves the body of the deceased as well as removing liquid from the body to prevent leakages. Whether the body has been embalmed will be a matter for consideration when determining whether an 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 sought, as a deterioration in the condition of the body will adversely affect the efficacy of embalming.

Clause 56 of the Regulation requires that embalming of the body may only be performed by a person who has successfully completed a course in embalming provided by a training provider accredited by the Australian Skills Quality Authority or approved by the Director-General. Clause 56 of the Regulation also requires that a person must not embalm a body where the person has reason to believe the deceased person was infected with a prescribed infectious disease listed in clause 53 of the Regulation.

3.3 Premises where the body will be kept

The person applying for the retention of a body must be able to demonstrate that the body will be kept under refrigeration at between 1 and 5 degrees Celsius in a facility that has been constructed for such a purpose. Bodies should only be stored in a registered mortuary or an approved holding room. A person must not use a holding room for any purpose other than the storage of bodies ie. body preparation or placement of bodies in coffins. The premises or location where the body is to be retained should also be secure.

3.4 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 and the retention of the body may prejudice public health and amenity, then permission should not be granted.

4 TRANSPORTATION

When the body of a deceased person is moved from one place to another, for example, from the place of repose to a mortuary, the body must be placed and secured in a body bag or wrapping (clause 58). The body bag or wrapping must be of the type that prevents the leakage of body exudates or other substance.

The body of the deceased must be placed in a coffin for burial or cremation, unless otherwise separately approved – see Policy Directive – Burials – Exemptions from *Public Health Regulation 2012* for Community and Religious Reasons available on the NSW Health website under ‘Disposal of Bodies’ at <http://www.health.nsw.gov.au/environment/dotd/Pages/default.aspx>

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. A person must not transport an un-embalmed body for more than eight hours unless the body is refrigerated at a temperature of less than 10 degrees Celsius and the person reasonably believes that transporting the body without refrigeration will not be a risk to public health (clause 52(5)).

If the body of the deceased person is infected with a prescribed 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 (clause 65(1)).

5 APPROVAL CIRCUMSTANCES

Circumstances under which an approval to retain a body for longer than five days can be given include but may not be limited to:

- 1) A body can be retained for a short term (hours or up to 2 extra days (extension) period) 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.
- 2) 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.
- 3) 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.
- 4) A body can be retained when the body is embalmed or to be embalmed for more than 30 extra days (extension) period.

6 APPROVAL PROCEDURE

Approval by the appropriate authority for retention of a body for more than five days under the Regulation must be in writing, which may include facsimile or email if considered appropriate. The appropriate authority is the Public Health Unit of the Local Health District where the body of the deceased is to be retained. For further information contact with local Public Health Unit should be sought. Visit www.health.nsw.gov.au for a list of Public Health Units.

The approval procedure is as follows:

An application (**Attachment 1**) must be completed by the nearest surviving relative of the deceased (or by a person who is acting on behalf of the deceased's family) and sent to the Public Health Unit for approval. The following information should be provided and considered when granting approval to retain a body:

- Reason(s) for retaining a body longer than five days is specified
- Condition of the body
- Embalming
- Premises where the body will be kept
- Body storage conditions/facilities
- Proposed date of interment
- Transportation.

The appropriate Officer, usually an Authorised Officer under the *Public Health Act 2010* completes **Attachment 2**, which is a template to recommend approval, or refusal, by the Public Health Officer or Public Health Unit Director under delegation from the Director General.

Attachment 3 is a template reply to the applicant once approval has been granted or refused.

7 LIST OF ATTACHMENTS

Attachment 1 – Template – Application to retain a body longer than five days

Attachment 2 – Template – Approval for the retention of a body for longer than five days

Attachment 3 – Template – Letter to Applicant

Attachment 1 Template – Application to retain a body longer than five days

APPLICATION TO RETAIN A BODY LONGER THAN FIVE DAYS
Clause 54(2) Public Health Regulation 2012

Name of applicant:

Address of applicant:

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

Email address.....

Relationship to deceased:

Name of deceased:

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

Reason for retaining the body
.....

Name and address of premises where body is to be retained:
.....

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

Method of transportation on removal.....

Proposed date of disposal:/...../.....

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

Signature of applicant..... Date/...../.....

Attachment 2 Template - Approval for the retention of a body for longer than five days

(Letterhead)

Briefing Note

Public Health Unit

File Number: XXXXX

PURPOSE: To approve / refuse* the retention of a body by a person (not being a funeral director) for longer than five days since death

RECOMMENDATION: Approval be granted / refused* by the Director General pursuant to clause 54 (2) of the *Public Health Regulation 2012* to [NAME OF APPLICANT] to retain the body of [NAME OF DECEASED] until the close of [DATE UNTIL PERMISSION IS GRANTED] subject to

KEY ISSUES: [TO BE COMPLETED BY PHU] – ensure conditions required to be complied with a listed here.

BACKGROUND: [TO BE COMPLETED BY PHU]

CONSULTATION: [TO BE COMPLETED BY PHU WHERE APPROPRIATE]

Signature: [SIGN]

Author:
Environmental Health Officer

Telephone:

Date:

-
- 1 Senior Environmental Health Officer [SIGN & DATE]
 - 2 Public Health Officer / Public Health Unit Director* [SIGN & DATE]:
Approved vide delegation from the Director General (PH297 page 8.56 Public Health Delegations Manual) under clause 54(2) *Public Health Regulation, 2012*.
 - 3 Author

*delete as appropriate

Attachment 3 Template – Letter to Applicant

(Letterhead)

LETTER TO APPLICANT

File No.

[APPLICANT'S NAME]
[ADDRESS]

Dear [APPLICANT'S NAME]

Reference is made to your application dated [DATE] seeking approval to retain the body of [NAME OF DECEASED] for more than five days.

*Approval has been granted by [INSERT NAME AND POSITION], an authorised delegate of the Director General, pursuant to clause 54(2) of the *Public Health Regulation 2012* 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 [PREMISES WHERE THE BODY WILL BE KEPT] (OR OTHER CONDITIONS AS DETERMINED BY THE PUBLIC HEALTH UNIT) until just prior to burial or cremation.

*Approval has been declined by the Director General pursuant to clause 54(2) of the *Public Health Regulation 2012* to retain the body of [NAME OF DECEASED]. The reasons for not granting approval are [INSERT REASONS]

Should you have any inquiries please contact [AUTHORISED OFFICER] on [TELEPHONE] or [EMAIL].

Yours sincerely,

[NAME]
[TITLE]

[DATE]

* delete as appropriate