



**Cairns Regional Council
Local Law No. 7
(Human Remains and Cemeteries) 2016**

CONSOLIDATED VERSION NO. 1

Current as at 1 July 2024

Cairns Regional Council

Local Law No. 7 (Human Remains and Cemeteries) 2016

Contents

Part 1 Preliminary.....	1
1 Short title.....	1
2 Purposes and how they are to be achieved	1
3 Relationship with other laws.....	1
Part 2 Disturbance of human remains buried or placed outside a local government cemetery.....	1
4 Prescribed activity	1
5 Activities that do not require approval	1
6 Additional criteria for the granting of a permit.....	1
7 Conditions that must be imposed on a permit	2
8 Conditions that will ordinarily be imposed on a permit	2
Part 3 Burial or placement of human remains outside a local government cemetery.....	2
9 Prescribed activity	2
10 Activities that do not require approval.....	3
11 Additional criteria for the granting of a permit	3
12 Conditions that must be imposed on permits	3
13 Conditions that will ordinarily be imposed on permits	4
Part 4 Disturbance of human remains in a local government cemetery	4
14 Prescribed activity.....	4
15 Activities that do not require approval.....	4
16 Additional criteria for the granting of a permit	4
17 Conditions that must be imposed on permits	5
18 Conditions that will ordinarily be imposed on permits	5
Part 5 Burial or placement of human remains in a cemetery.....	6
19 Prescribed activity.....	6
20 Activities that do not require a permit.....	6
21 Additional criteria for the granting of a permit	6
22 Conditions that must be imposed on permits	7

23	Conditions that will ordinarily be imposed on permits	8
Part 6 Erection of a memorial, vault or columbarium.....		9
24	Prescribed activity.....	9
25	Activities that do not require a permit.....	9
26	Additional criteria for the granting of a permit	9
27	Conditions that must be imposed on permits	9
28	Conditions that will ordinarily be imposed on permits	10
Part 7 Management of local government cemeteries		10
29	Application of this part.....	10
30	Preparation by local government	10
31	Transport of human remains.....	11
32	Funerals to be conducted by a funeral director.....	11
33	Purchase of burial rights	11
34	Records to be maintained	13
35	Closure	14
36	Maintenance	14
37	Repairs or removal by local government.....	14
38	Conduct in a local government cemetery.....	14
39	Removal of persons	15
Part 8 Other cemeteries		15
40	Application of this part.....	15
41	Records to be maintained	15
Endnotes.....		16

Part 1 Preliminary

1 Short title

This local law may be cited as *Local Law No. 7 (Human Remains and Cemeteries) 2016*.

2 Purposes and how they are to be achieved

- (1) The purpose of this local law is to regulate the appropriate treatment of human remains in an appropriate and respectful way.
- (2) The purpose will be achieved by regulating the handling of human remains through permits which can be conditioned to require the appropriate and respectful treatment of human remains.

3 Relationship with other laws

This local law is:

- (a) to be read in conjunction with *Local Law No. 1 (Administration) 2016* which contains provisions and definitions that apply to all local laws;
- (b) made under the powers in Chapter 3 of the LGA; and
- (c) otherwise in addition to, and does not derogate from, laws regulating land use planning and development assessment.

Part 2 Disturbance of human remains buried or placed outside a local government cemetery

4 Prescribed activity

- (1) Disturbance of human remains buried or placed outside of a local government cemetery is a category 1 prescribed activity.
- (2) To obtain a permit an application must be made to the local government in accordance with the requirements under *Local Law No. 1 (Administration) 2016* and this local law.

5 Activities that do not require approval

Nil.

6 Additional criteria for the granting of a permit

The following criteria must be considered for the granting of a permit:

- (a) whether the human remains have been buried for not more than three (3) days or not less than twelve (12) months;
- (b) whether the applicant has obtained the written agreement of the owner, and anyone else with a registered interest in, the land on which the remains are buried;
- (c) a written statement of the reasons for the proposed disturbance;
- (d) the expressed wishes of the deceased and the deceased's family; and

- (e) a written statement of how and when the remains are proposed to be disturbed.

7 Conditions that must be imposed on a permit

The following types of conditions must be imposed on a permit:

- (a) The disturbance of the human remains that have been interred outside of a local government cemetery must only be carried out by a funeral director;
- (b) the day on which the disturbance of human remains must be performed; and
- (c) the hours within which the disturbance of human remains must be performed.

8 Conditions that will ordinarily be imposed on a permit

The following types of conditions will ordinarily be imposed on a permit where applicable:

- (a) give notice to the local government prior to the disturbance of human remains to enable an authorised person to enter the land and inspect the grave at any time either before or after the disturbance;
- (b) remove all markers or means of identification on or around the grave if the human remains are to be removed from the grave permanently;
- (c) provide the local government with confirmation of the disturbance of human remains and advise the local government of the findings of the disturbance of the human remains in a written report;
- (d) clean up any spillage of waste, contaminate or other material immediately without hosing, sweeping or otherwise releasing the waste, contaminant or material into any stormwater system or other body of water;
- (e) take specific measures to prevent any harm to the health or safety of persons who may be involved in, or effected by, the carrying out of the prescribed activity; and
- (f) prevent personal injury, property damage or loss of amenity resulting from the carrying out of the prescribed activity.

Part 3 Burial or placement of human remains outside a local government cemetery

9 Prescribed activity

- (1) Burial or placement of human remains outside a local government cemetery is a category 1 prescribed activity.
- (2) To obtain a permit an application must be made to the local government in accordance with the requirements under *Local Law No. 1 (Administration) 2016* and this local law.

10 Activities that do not require approval

The following activity conducted outside of a local government cemetery does not require a permit:

- (a) the scattering of ashes only.

Note: the scattering of ashes does not include the placement of human remains.

11 Additional criteria for the granting of a permit

(1) The following criteria must be considered in deciding whether or not to grant a permit:

- (a) evidence of the identity of the deceased person and the applicant's relationship (if any) with the deceased;
- (b) the expressed wishes of the deceased and the deceased's family;
- (c) whether in the opinion of an authorised person there is a special family, personal or historical association between the deceased person and the place at which it is sought to bury the body of that person;
- (d) whether the applicant has obtained written agreement of the owner, and anyone else with a registered interest in, the land on which the remains are to be buried; and
- (e) a written statement of how and when the remains are proposed to be buried.

(2) The following criteria may be considered in deciding whether or not to grant a permit:

- (a) the nature of the ceremony (if any) to be conducted at the time of the burial.

12 Conditions that must be imposed on permits

The following types of conditions must be imposed on a permit:

- (a) give notice to the local government prior to the preparation of the grave to enable an authorised person to enter the land and inspect the grave before the burial of human remains;
- (b) minimum depth of graves required for either an adult and/or child;
- (c) minimum length and width of graves required for an adult and/or child;
- (d) minimum depth required between the top of a coffin and the surface of the ground;
- (e) minimum clearance required between the sides of a coffin and the sides of a grave;
- (f) the minimum preparation of the human remains required prior to the burial of human remains which is to be performed by a funeral director who is appropriately qualified to undertake the preparation technique;
- (g) maximum number of human remains which may be interred in a single grave, vault or mausoleum;

- (h) the name and contact details of the recognised funeral director performing the burial of human remains ;
- (i) the day on which the burial of human remains must be performed;
- (j) the hours between which the burial of human remains must be performed; and
- (k) supply the Global Positioning System (G.P.S) coordinates of the grave to the local government, so that the location and details of the deceased person can be placed on the local government's record for that property.

13 Conditions that will ordinarily be imposed on permits

The following types of conditions will ordinarily be imposed on a permit where applicable:

- (a) to erect a marker or means of identification on or around the grave and stipulate the information required to be recorded on it.

Part 4 Disturbance of human remains in a local government cemetery

14 Prescribed activity

- (1) Disturbance of human remains in a local government cemetery is a category 1 prescribed activity.
- (2) To obtain a permit an application must be made to the local government in accordance with the requirements under *Local Law No. 1 (Administration) 2016* and this local law.

15 Activities that do not require approval

Nil.

16 Additional criteria for the granting of a permit

- (1) The following criteria must be considered in deciding whether or not to grant a permit:
 - (a) a written statement outlining the reasons for the proposed disturbance;
 - (b) whether the human remains have been buried for not more than three (3) days or not less than twelve (12) months;
 - (c) whether the applicant:
 - (i) is the Burial Right Holder;
 - (ii) has obtained and provided to the local government the written permission from the Burial Right Holder in the form required by the local government; or
 - (iii) if the Burial Right Holder has died or is unable to be contacted by the local government despite reasonable efforts by the applicant— by another person considered appropriate by the local government;

Example

A person may be considered an appropriate person by the local government under subsection (iii) where they can demonstrate their connection to the Burial Right Holder, either through an enduring power of attorney if the Burial Right Holder is still alive, or as administrator of the deceased's estate or as the closest surviving family member.

- (d) the condition of the grave and the surrounding area;
- (e) a written statement outlining the qualifications and work experience of the funeral director who will be responsible for the disturbance of the human remains;
- (f) whether any weather conditions or environmental impacts are likely to impact the activity and the proposed means to mitigate those likely impacts; and
- (g) whether the human remains are to be relocated to another location within the cemetery that it is located in or whether the human remains are being relocated outside of the cemetery.

17 Conditions that must be imposed on permits

The following types of conditions must be imposed on a permit where applicable:

- (a) ensure that where the human remains are to be permanently removed from the grave, any vaults and/or memorials on the existing grave are removed and disposed of appropriately in the opinion of an authorised person;
- (b) ensure that the coffin, body, ashes or other human remains exhumed and/or disinterred are removed under the supervision and to the satisfaction of the local government;
- (c) ensure that only those persons approved by the local government are present for the disturbance of human remains;
- (d) enable the local government to postpone the disturbance of human remains due to weather conditions, for health or safety reasons or any other circumstances which are considered necessary by the local government.
- (e) ensure that the grave is opened and closed by the local government; and
- (f) ensure that for exhumations, the exhumation is carried out by a recognised funeral director.

18 Conditions that will ordinarily be imposed on permits

The following types of conditions will ordinarily be imposed on a permit where applicable to:

- (a) regulate the manner of preparation of the grave;
- (b) stipulate the day on which the disturbance of human remains may be performed;
- (c) stipulate the hours between which the disturbance of human remains may be performed; and

- (d) where the disturbance results in a permanent removal of the human remains from the grave:
 - (i) the grave and any previous rights for the site, reverts to the local government; and
 - (ii) no compensation or reimbursement of any previous fees paid to the local government will be given.

Part 5 Burial or placement of human remains in a cemetery

19 Prescribed activity

- (1) The burial of human remains, placement of human remains or the scattering of ashes in a local government cemetery is a category 1 prescribed activity.
- (2) The erection of a memorial, vault or columbarium for the burial or disposal of human remains is a category 1 prescribed activity.
- (3) To obtain a permit under subsection (1) or (2), an application must be made to the local government in accordance with the requirements under *Local Law No. 1 (Administration) 2016* and this local law.

20 Activities that do not require a permit

The following activity in a cemetery does not require a permit:

- (a) the scattering of ashes in an area within a cemetery designated for the purpose of scattering of ashes and only if 2 business days' notice is provided to the local government prior to the scattering of the ashes occurring.

Example

The local government may designate an area within a cemetery to allow the scattering of ashes by the erection of signage within the cemetery.

21 Additional criteria for the granting of a permit

- (1) The following criteria must be considered in deciding whether or not to grant a permit:
 - (a) evidence of the identity of the deceased person;
 - (b) whether the applicant:
 - (i) is the Burial Right Holder;
 - (ii) has obtained and provided to the local government the written permission from the Burial Right Holder; or
 - (iii) if the Burial Right Holder has died or is unable to be contacted by the local government despite reasonable efforts by the applicant— by another person considered appropriate by the local government;

Example

A person may be considered an appropriate person by the local government under subsection (iii) where they can demonstrate their connection to the Burial Right Holder, either through an enduring power of

attorney if the Burial Right Holder is still alive, or as administrator of the deceased's estate or as the closest surviving family member.

- (c) the relationship of the Burial Right Holder or the applicant to the deceased;
 - (d) the date, time and duration of the burial or placement of human remains;
 - (e) the cemetery of burial or placement of human remains;
 - (f) the provision of an allocated plot;
 - (g) the location of the burial or placement of human remains within the local government cemetery;
 - (h) the condition of the surrounding area, including any graves;
 - (i) for burials, the name and contact details of the funeral director responsible for the funeral;
 - (j) a written statement outlining who will conduct the burial;
 - (k) a written statement detailing how the proposed burial of human remains, placement of human remains or erection of a memorial is to be undertaken; and
 - (l) where the burial of human remains is to be in an occupied grave, evidence that the further burial or placement of human remains will satisfy the local government requirements in place for that grave.
- (2) The following criteria may be considered in deciding whether or not to grant a permit:
- (a) a written statement outlining the qualifications and work experience of the funeral director who will be responsible for conducting the funeral or for the preparation of the human remains required prior to burial.

22 Conditions that must be imposed on permits

The following types of conditions must be imposed on a permit where applicable:

- (a) minimum depth of graves required for either an adult and/or a child;
- (b) minimum length and width of graves required for either an adult and/or a child;
- (c) minimum depth required between the top of a coffin and the surface of the ground;
- (d) minimum clearance required between the sides of a coffin and the sides of a grave;
- (e) maximum number of human remains which may be buried in a single grave, mausoleum or niche;
- (f) the minimum standards and required dimensions of the coffin, casket or ashes receptacle to be used;
- (g) the minimum preparation of the human remains required prior to burial which is to be performed by a funeral director who is appropriately qualified to undertake the preparation technique;

- (h) the name and contact details of the funeral director or other person performing the burial or placement of human remains;
- (i) the cemetery at which the burial of human remains or placement of human remains will occur;
- (j) the time and place of the funeral;
- (k) the allocated plot for the burial or placement of human remains;
- (l) the day on which the burial or placement of human remains must be performed;
- (m) the hours within which the burial or placement of human remains must be performed;
- (n) the human remains transported into the local government cemetery for the purpose of burial, must be:
 - (i) contained in a coffin, casket or receptacle that:
 - (A) is of sound construction with an identifying name plate;
 - (B) is clean and hygienic;
 - (C) is constructed of wood, metal or other substantial material; and
 - (D) from which neither offensive or noxious emissions nor matter from those human remains will escape.
- (o) the Burial Right Holder:
 - (i) must ensure that their contact details recorded with the local government are kept up to date;
 - (ii) is not permitted to sell the burial rights to any other person, but may transfer those rights on payment of the required fee and with the written approval of the local government; and
 - (iii) acknowledges that the burial right granted will revert to the local government within 1 month of the Burial Right Holder's death if no human remains have been interred or inurned in the approved site or if the Burial Right Holder is unable to be contacted by the local government after reasonable efforts to do so.

23 Conditions that will ordinarily be imposed on permits

The following types of conditions will ordinarily be imposed on a permit where applicable:

- (a) the arrival time and departure times at the cemetery for the funeral;
- (b) the specifications of the proposed memorial;
- (c) ashes or other remains must not be placed in a columbarium or vault unless contained in a sealed coffin, casket or receptacle; and
- (d) restrictions on the placing of flowers, other adornments or memorials on the grave.

Part 6 Erection of a memorial, vault or columbarium

24 Prescribed activity

- (1) The erection of a memorial, vault or columbarium in a local government cemetery is a category 1 prescribed activity.
- (2) To obtain a permit an application must be made to the local government in accordance with the requirements under *Local Law No. 1 (Administration) 2016* and this local law.

25 Activities that do not require a permit

Nil.

26 Additional criteria for the granting of a permit

The following criteria must be considered in deciding whether or not to grant a permit:

- (a) whether the applicant:
 - (i) is the Burial Right Holder;
 - (ii) has obtained and provided to the local government the written permission from the Burial Right Holder in the form required by the local government; or
 - (iii) if the Burial Right Holder has died or is unable to be contacted by the local government despite reasonable efforts by the applicant— by another person considered appropriate by the local government;

Example

A person may be considered an appropriate person by the local government under (iii) where they can demonstrate their connection to the Burial Right Holder, either through an enduring power of attorney, as executor of the deceased's will or as the closest surviving family member.

- (b) the construction details of any memorial, vault or columbarium to be erected;
- (c) the proposed location of the memorial, vault or columbarium;
- (d) whether the memorial, vault or columbarium complies with the specific requirements of the local government;
- (e) details of the finish proposed to any memorial, vault or columbarium, including wording to be used; and
- (f) for a memorial, whether the ashes or other human remains are placed in a columbarium, vault or grave.

27 Conditions that must be imposed on permits

The following types of conditions must be imposed on a permit where applicable:

- (a) whether the design and materials of construction of the memorial, vault or columbarium will comply with any standards of the local government (as a separate approval to any approval required under the *Building Act 1975* or any other law);

- (b) the memorial, vault or columbarium must comply with the relevant Australian Standard for Headstones and Cemetery Monuments and Above Ground Burial Structures as well as any other applicable standards adopted by the local government;
- (c) the maintenance, repair and preservation of the memorial, vault or columbarium is the responsibility of the Burial Right Holder or another person given authority by the Burial Right Holder;
- (d) any inscription on a memorial, plaque, vault or columbarium to be erected in a cemetery must:
 - (i) be of uniform quality and construction as prescribed by the local government; and
 - (ii) not be offensive, derogatory or discriminatory in the opinion of an authorised person; and
- (e) the demolition and removal of the memorial, vault or columbarium will be required by the local government if it is not erected or constructed in accordance with the conditions of the approval or if it has fallen into a state of disrepair or is no longer in good order.

28 Conditions that will ordinarily be imposed on permits

The following types of conditions will ordinarily be imposed on a permit where applicable:

- (a) ashes or other remains must not be placed in a columbarium or vault unless contained in a sealed coffin, casket or receptacle; and
- (b) restrictions on the placing of flowers or other adornments on graves or memorials.

Part 7 Management of local government cemeteries

29 Application of this part

This part applies to all local government cemeteries.

30 Preparation by local government

- (1) When an application under section 19 has been approved, the local government will use its best endeavours to have the required grave, columbarium, vault or mausoleum available for use at the required time.
- (2) Notwithstanding subsection (1), the local government may, at the time of receipt of the application or at any later time, including after approval has been granted, advise the applicant that, due to weather, ground condition, difficulty of excavation, safety issue or any other reason:
 - (a) the grave, columbarium, vault or mausoleum will not be ready until a later time in the day proposed for the interment or inurnment or the next available business day than the day proposed for the interment or inurnment; or
 - (b) the interment or inurnment must take place in another grave, columbarium niche, vault or mausoleum at another local government cemetery.

31 Transport of human remains

A person must not bring human remains into a local government cemetery for the purpose of burial unless the human remains are:

- (a) brought in for the purpose of burial pursuant to an approval under this local law; and
- (b) contained in a coffin, casket or receptacle that:
 - (i) is of sound construction with an identifying name plate;
 - (ii) is clean and hygienic;
 - (iii) is constructed of wood, metal or other material approved by the local government; and
 - (iv) from which neither offensive or noxious emissions nor matter from those human remains will escape.

32 Funerals to be conducted by a funeral director

- (1) All funerals in a cemetery must be conducted by a funeral director or as stated in a permit.
- (2) The next of kin or legal personal representative of the deceased must ensure that subsection (1) is complied with.
- (3) The funeral director engaged to conduct the funeral, placement of human remains or any other ceremony must ensure that the attendees comply with the requirements determined by the local government for the cemetery in which the burial or placement of human remains occurs.

33 Purchase of burial rights

- (1) A person may apply to the local government to purchase the burial rights for a grave, mausoleum site or columbarium site within a local government cemetery to be set aside for future use of the person or other nominated person.
- (2) An application under sub-section (1) must be:
 - (a) made in the approved form,
 - (b) provide the required information stipulated by the local government; and
 - (c) be accompanied by payment of the prescribed fee.
- (3) The local government may grant an application only if satisfied that:
 - (a) the application complies with subsection (2);
 - (b) the application is signed by the person who is applying to obtain the burial right; and
 - (c) there are sufficient vacant sites set aside for interments and/or inurnments available in the local government cemetery as determined by the local government.
- (4) On approval granted by the local government under subsection (3), the applicant will be granted the future burial right as the Burial Right Holder for

the site on the conditions the local government considers appropriate, including the following conditions:

- (a) the Burial Right Holder will have the right to be interred or inurned in the specified site as stated in the approval (***the approved site***) for a period of up to 25 years from the date the approval is given;
 - (b) the Burial Right Holder will have the right to authorise the interment or inurnment of others within the approved site, provided it does not exceed the number of burials or placement of human remains that are permitted for the site, for a period of up to 25 years from the date the approval is given;
 - (c) the Burial Right Holder will have the right to make application under Part 6 of this Local Law to erect a memorial over the approved site for another person interred or inurned in the site;
 - (d) the Burial Right Holder must ensure that their contact details provided to the local government are kept up to date at all times;
 - (e) the approval for the burial rights does not entitle the Burial Right Holder to:
 - (i) sell the burial rights to any other person; or
 - (ii) transfer the burial rights to another site within the cemetery without the local government's approval;
 - (f) the burial rights held by the Burial Right Holder under the approval will be automatically revoked and the approved site, will revert to the local government if:
 - (i) the Burial Right Holder has died and, within 1 month of the Burial Right Holder's death, no human remains have been interred or inurned in the approved site; or
 - (ii) the period of 25 years from the date the approval is given has expired; and
 - (A) no human remains have been interred or inurned in the approved site; or
 - (B) the Burial Right Holder has not made a further application to the local government under subsection (2) requesting a further purchase of the burial rights for the approved site; and
 - (g) any reversion to the local government under subsection (4)(f) is absolute and will not give rise to any claim or payment of any compensation to the Burial Right Holder or any other person claiming on behalf of the Burial Right Holder.
- (5) The Burial Right Holder may:
- (a) surrender their approval given under subsection (3) and return the approved site back to the local government at any time;
 - (i) for a fee determined by the local government; and

- (ii) any refund paid may be no more than the amount the Burial Right Holder originally paid for the burial rights, in the local government's absolute discretion; and
 - (b) prior to the expiry of the approval granted under subsection (2), apply to the local government to extend the approval over the site for a further 25 years.
- (6) Subject to subsection (7), where the local government has granted burial rights to a person for a grave, mausoleum site or columbarium site within a local government cemetery prior to the commencement of this section, the approved Burial Right Holder is taken to have an approval under subsection (3) for 25 years.
- (7) For an existing Burial Right Holder that obtained an approval from the local government more than 25 years prior to the commencement of this section, the rights held by the Burial Right Holder will be automatically revoked and the approved site, will revert to the local government if:
 - (a) no human remains have been interred or inurned in the approved site;
 - (b) the local government provides reasonable written notice to the Burial Right Holder; and
 - (c) the Burial Right Holder has not responded to the local government in the timeframe specified in the written notice.
- (8) If, in response to the local government's reasonable written notice issued under subsection (7)(b), a Burial Right Holder responds to the local government within the timeframe specified in the written notice, the response is taken to be an application for the purposes of subsection (3).
- (9) **Reasonable written notice** in subsection (7) means:
 - (a) if the local government has a current contact address for the Burial Right Holder, written correspondence sent to the Burial Right Holder at that address; or
 - (b) where no current contact address is held by the local government, by publishing a public notice in a newspaper circulating generally in the local government area and on the local government's website.

34 Records to be maintained

- (1) In respect of every cemetery, there must be made and retained by the local government, records to the extent that is possible, of:
 - (a) the names of all deceased persons buried or whose ashes or other human remains are buried or placed in the cemetery;
 - (b) the date of burial or placement of human remains;
 - (c) the specific place of burial or placement within the cemetery; and
 - (d) any dealings concerning the body, ashes or other human remains of the deceased person after burial or placement including exhumation.
- (2) Records made and retained pursuant to subsection (1) must:
 - (a) not be destroyed or otherwise disposed of without the written approval of the local government;

- (b) be kept at a specified place approved by the local government; and
- (c) be open to inspection by the public upon payment of a prescribed fee when the place at which the records are kept is open to the public.

35 Closure

The local government may close a local government cemetery to further burials or to the further placement of human remains at any time.

36 Maintenance

The local government may maintain a local government cemetery including all graves and memorials therein in such a manner and to such extent as it deems appropriate.

37 Repairs or removal by local government

- (1) The local government may repair or remove any grave, memorial or adornment:
 - (a) if the repair or removal is necessary for the purpose of public health or safety in the opinion of an authorised person;
 - (b) which in the opinion of an authorised person is in a state of disrepair;
 - (c) which in the case of a memorial has been placed on the wrong grave site;
 - (d) which has been installed or placed in way that contravenes an approval from the local government; or
 - (e) in the case of a memorial or adornment, if it has been placed on the grave in a way that does not comply with a written policy of the local government.
- (2) The local government:
 - (a) is not required to, but may replace or reinstate a grave or memorial dealt with under subsection (1), including the placement of the memorial on the correct grave site; and
 - (b) if there is no immediate danger to the public, the local government must, before removal of a memorial under subsection (1), give reasonable notice of its intention to remove the memorial to a member of the deceased's family whose identity and contact details are contained within the local government's records.

38 Conduct in a local government cemetery

- (1) An authorised person may give a reasonable direction, either verbally or in writing, to a person in a local government cemetery.
- (2) Failure to comply with a direction given by an authorised person under subsection (1) is an offence.

Maximum penalty—20 penalty units.

39 Removal of persons

- (1) An authorised person may verbally direct any person found committing an offence against this local law to leave a local government cemetery immediately.
- (2) Failure to comply with a direction given under subsection (1) is an offence.
Maximum penalty—20 penalty units.

Part 8 Other cemeteries

40 Application of this part

This part applies to all cemeteries except, for local government cemeteries.

41 Records to be maintained

- (1) In respect of every cemetery, there must be made and retained, records to the extent that is possible of:
 - (a) the names of all deceased persons buried or whose ashes are buried or placed in the cemetery;
 - (b) the date of burial or placement of human remains;
 - (c) the specific place of burial or placement within the cemetery; and
 - (d) any dealings concerning the body, ashes or other remains of the deceased person after burial or placement including exhumation.
- (2) Records made and retained pursuant to subsection (1) must:
 - (a) not be destroyed or otherwise disposed of without the written approval of the local government;
 - (b) be kept at a specified place approved by the local government; and
 - (c) be open to inspection by the public upon application at the place at which the records are kept.
- (3) The owner of land used as a cemetery must ensure that this section is complied with.
Maximum penalty—50 penalty units.

Endnotes

1 Key

Key to abbreviations in list of amending local laws and annotations:

Key	Explanation	Key	Explanation
amd	= amended	prec	= preceding
ch	= chapter	prev	= previous
def	= definition	pt	= part
div	= division	renum	= renumbered
hdg	= heading	s	= section
ins	= inserted	sch	= schedule
num	= numbered	sdiv	= subdivision
om	= omitted	sub	= substituted

2 Table of consolidated versions

Consolidated Version No.	Amendments included	Effective	Notes
1	<i>Amending Local Law No. 7 (Human Remains and Cemeteries) 2023</i>	1 July 2024	

3 List of amending local laws

Amending Local Law No. 7 (Human Remains and Cemeteries) 2023

date notified in the gazette 10 November 2023

commenced on 1 July 2024

4 List of annotations

Part 1 Preliminary

s 2(1)	om, ins	2023 No. 1 s 5(1)
s2(2)	om, ins	2023 No. 1 s 5(2)
pt 2, hdg	om, ins	2023 No. 1 s 6

Part 2 Disturbance of human remains buried or placed outside a local government cemetery

s 4(1)	om, ins	2023 No. 1 s 7(1)
s 4(2)	om, ins	2023 No. 1 s 7(2)
s 6(a)	om, ins	2023 No. 1 s 8(1)
s 6(b)	om, ins	2023 No. 1 s 8(2)
s 7	om, ins	2023 No. 1 s 9
s 8	om, ins	2023 No. 1 s 10
s 9	om	2023 No. 1 s 11

Part 3 Burial or placement of human remains outside a local government cemetery

pt 3, hdg	om, ins	2023 No. 1 s 12
s 10(1)	om, ins	2023 No. 1 s 13(1)
s 10(2)	om, ins	2023 No. 1 s 13(2)
s 10	renum	2023 No. 1 s 13(3)
s 11	om, ins	2023 No. 1 s 14(1)
s 11	renum	2023 No. 1 s 14(2)
s 12(1)(c) and (d)	om, ins	2023 No. 1 s 15(1)
s 12(2)(a)	om	2023 No. 1 s 15(2)
s 12(2)(b)	renum	2023 No. 1 s 15(3)
s 12	renum	2023 No. 1 s 15(4)
s 13	om, ins	2023 No. 1 s 16(1)
s 13	renum	2023 No. 1 s 16(2)
s 14	om, ins	2023 No. 1 s 17(1)
s 14	renum	2023 No. 1 s 17(2)

Part 4 Disturbance of human remains in a local government cemetery

pt 4, hdg	om, ins	2023 No. 1 s 18
s 15(1)	ins	2023 No. 1 s 19(1)
s 15(2)	om, ins	2023 No. 1 s 19(2)
s 15	renum	2023 No. 1 s 19(3)
s 16	renum	2023 No. 1 s 20
s 17	om, ins	2023 No. 1 s 21(1)

s 17	renum	2023 No. 1 s 21(2)
s 18	om, ins	2023 No. 1 s 22(1)
s 18	renum	2023 No. 1 s 22(2)
s 19	om, ins	2023 No. 1 s 23(1)
s 19	renum	2023 No. 1 s 23(2)

Part 5 Burial or placement of human remains in a cemetery

pt 5, hdg	om, ins	2023 No. 1 s 24
s 20	om, ins	2023 No. 1 s 25(1)
s 20	renum	2023 No. 1 s 25(2)
s 21	om, ins	2023 No. 1 s 26(1)
s 21	renum	2023 No. 1 s 26(2)
s 22	om, ins	2023 No. 1 s 27(1)
s 22	renum	2023 No. 1 s 27(2)
s 23	om, ins	2023 No. 1 s 28(1)
s 23	renum	2023 No. 1 s 28(2)
s 24	om, ins	2023 No. 1 s 29(1)
s 24	renum	2023 No. 1 s 29(2)

Part 6 Erection of a memorial, vault or columbarium

s 25(1)	ins	2023 No. 1 s 30(1)
s 25(2)	om, ins	2023 No. 1 s 30(2)
s 25	renum	2023 No. 1 s 30(3)
s 26	renum	2023 No. 1 s 31
s 27	om, ins	2023 No. 1 s 32(1)
s 27	renum	2023 No. 1 s 32(2)
s 28	om, ins	2023 No. 1 s 33(1)
s 28	renum	2023 No. 1 s 33(2)
s 29	om, ins	2023 No. 1 s 34(1)
s 29	renum	2023 No. 1 s 34(2)

Part 7 Management of local government cemeteries

pt 7, hdg	om, ins	2023 No. 1 s 35
s 30	renum	2023 No. 1 s 36
s 31, hdg	om, ins	2023 No. 1 s 37(1)
s 31	om, ins	2023 No. 1 s 37(2)
s 31	renum	2023 No. 1 s 37(3)
s 32	om, ins	2023 No. 1 s 38(1)
s 32	renum	2023 No. 1 s 38(2)
s 33(3)	ins	2023 No. 1 s 39(1)
s 33	renum	2023 No. 1 s 39(2)
s 33, new	ins	2023 No. 1 s 40
s 34(1)	om, ins	2023 No. 1 s 41(1)
s 34(1)(a)	om, ins	2023 No. 1 s 41(2)
s 34(1)(b)	om, ins	2023 No. 1 s 41(3)
s 34(1)(d)	om, ins	2023 No. 1 s 41(4)
s 34(2)	om, ins	2023 No. 1 s 41(5)
s 34(3)	om	2023 No. 1 s 41(6)
s 35	om, ins	2023 No. 1 s 42
s 36	om, ins	2023 No. 1 s 43
s 37(1)	om, ins	2023 No. 1 s 44(1)
s 37(2)	om, ins	2023 No. 1 s 44(2)
s 38	om, ins	2023 No. 1 s 45
s 39(1)	om	2023 No. 1 s 46 (1)
s 39(2)	om	2023 No. 1 s 46 (2)
Part 8 Other cemeteries		
pt 8, new	ins	2023 No. 1 s 47
Certification	om	2023 No. 1 s 48