

**NORTH WEST
NOORDWES
EXTRAORDINARY
PROVINCIAL GAZETTE
BUITENGEWONE
PROVINSIALE KOERANT**

Vol. 251

12 NOVEMBER 2008

No. 6554

CONTENTS • INHOUD

<i>No.</i>	GENERAL NOTICE	<i>Page No.</i>	<i>Gazette No.</i>
629	Exhumation Act, 1985: North West Exhumation Bill, 2008: Invitation to submit written representations.....	3	6554

GENERAL NOTICE

NOTICE 629 OF 2008

NORTH WEST EXHUMATION BILL, 2008

The above mentioned Bill, which the M.E.C for health intends introducing in the Provincial Legislature, is hereby published in terms of rule 203 of the North West Provincial Legislature.

Interested person and institutions are invited to submit written representations on the Bill by not later than 02 December 2008 to:

**The Secretary to the North West Provincial Legislature
For Attention: Mr M.A Pule
Private Bag x 2018
Mmabatho
2735**

**Fax: 018 392 7256
Tel: 018 392 7124**

North West Exhumation Bill, 2008

To regulate the exhumation and reburial of human bodies from graves and other place of burial; to repeal the Exhumation Act, 1985, and to provide for matters incidental thereto.

Arrangement of sections

1. Definitions
2. Desecration of graves
3. Exhumation of bodies
4. Validation
5. Offences
6. Regulations
7. Repeal of laws and savings
8. Short title and commencement

1. Definitions

In this Act, the following words shall, unless the context indicates otherwise, have the words assigned to them:-

"body" means the dead body of a human being and includes-

- (a) the body of a still-born child; and
- (b) any human remains;

"cemetery" means any land, whether public or private, containing one or more graves, and "grave" includes-

- (a) any place, whether wholly or partly above or below the level of the ground and whether public or private, in which a body is permanently interred or intended to be permanently interred, whether in a coffin or other receptacle or not, and
- (b) any monument, tombstone, cross, inscription, rail, fence, chain, erection or other structure of whatsoever nature forming part of or appurtenant to a grave.

“Responsible member” means the member of the executive council responsible for health

2. Desecration of graves

Subject to the provisions of any other law relating to the disposal of bodies, no person shall desecrate, destroy or damage-

- (a) a grave in a cemetery, or
- (b) a coffin, urn or other receptacle in which is contained a body which has not been interred or cause or permit such a grave, coffin, urn or other receptacle to be desecrated, destroyed or damaged.

3. Exhumation of bodies

(1) Subject to the provisions of any other law relating to the disposal of bodies, no person shall exhume, disturb, remove or re-inter any body in a cemetery or cause or permit any such body to be exhumed, disturbed, removed or re-interred:-

- (a) without the prior written approval of the Responsible member; and
- (b) otherwise than in accordance with such conditions as may be imposed by the Responsible member or the Responsible member's nominee;

(2) Any person desirous of obtaining the written approval contemplated by subsection (1) (a) shall make written application and shall -

- (a) in such application-
 - (i) state where the body which is to be exhumed, disturbed, removed or re-interred is interred and where such body is proposed to be re-interred;
 - (ii) state the reasons for the proposed exhumation, disturbance, removal or re-interment; and
 - (iii) specify the methods proposed to be adopted and the precautions proposed to be taken to prevent any danger to health or cause for offence arising, and
- (b) together with such application-
 - (i) submit a medical certificate as to the date and cause of death or a certified copy of such a certificate;
 - (ii) submit the written approval of-

- (aa) the local municipality in whose area of jurisdiction the body concerned is interred and is or proposed to be re-interred; and
 - (bb) the cemetery authority, traditional council or other person in charge of the cemetery in which the body concerned is interred and is proposed to be re-interred;
- (iii) submit the written approval of-
- (aa) the surviving spouse of the deceased person concerned;
 - (bb) if there is no such surviving spouse, an adult child of the deceased person concerned;
 - (cc) if there is no such adult child, a parent of the deceased person concerned;
 - (dd) if there is no such parent, an adult brother or sister of the deceased person concerned; or
 - (ee) if there is no such brother or sister, the nearest available adult relative of the deceased person concerned; and
- (iv) where the cemetery in which the body concerned is interred or is proposed to be re-interred is owned by or under the

control or management of a religious body or is a cemetery in which the controlling body of any particular religious group has a peculiar interest, submit the written approval of such religious body or controlling body.

(3) Where any medical certificate or written approval contemplated by subsection (2) is not or cannot be obtained or is not granted, the written application contemplated by that subsection shall be accompanied by full-

(a) details of the efforts made to obtain such certificate or approval;
and

(b) reasons why the inability to obtain such certificate or approval should not preclude the grant of written approval in terms of subsection (1) (a).

(4) Any written approval in terms of subsection (1)(a) may be granted subject to such conditions as the Responsible member may deem necessary or desirable and the Responsible member may, before any such approval is acted upon -

(a) vary any condition so imposed; and

(b) impose additional conditions in respect of such approval.

4. Validation

Every permit issued by or on behalf of the Responsible member prior to the commencement of this Act and purporting to authorise the exhumation, disturbance, removal or re-interment of a body shall be deemed to have been lawfully issued and any act performed or other thing done in consequence of and

in accordance with any such permit shall be deemed to have been lawfully performed or done.

5. Offences

Any person who contravenes any provision of section 2 or section 3(1) or who fails to comply with any condition contemplated by section 3(1) (b) shall be guilty of an offence and on conviction be liable to:

- (1) imprisonment for a period not exceeding six months; or
- (2) to a fine; or
- (3) to both such imprisonment and fine.

6. Regulations

The Responsible member may make regulations that he or she may deem necessary in relation to:-

- (a) the exhumation; or
- (b) the re-burial

of bodies

7. Repeal of laws and savings

- (1) The laws mentioned in the second column of the schedule are hereby repealed to the extend set-out in the second column of the schedule.

(2) anything done before the commencement of this Act under a provision of a law repealed by subsection(1) and which could be done under the provision of this Act, must be regarded as having been done under the corresponding provision of this Act.

8. Short title and commencement

This Act shall be called the North West Exhumations Act and shall come into effect on a date fixed by the Premier by proclamation in the provincial gazette.

Schedule

	Law	Extend of repeal
1.	Exhumation Act (Bophuthatswana), 1985	The whole
2.	Exhumations Ordinance 12 of 1980 (Cape of Good Hope)	The whole
3.	Removal of Graves and Dead Bodies, Ordinance 7 of 1925 (Transvaal)	The whole

MEMORANDUM TO THE EXHUMATION BILL

1. Background

- 1.1 The North West Province is borne of the Constitution of the Republic of South Africa Act, Act No. 108 of 1996 (the Constitution). It derives its role and functions from Chapter 6 of the Constitution. As a Province the North West enjoys legislative powers and or functions in terms of the provisions of section 104 of the Constitution.
- 1.2 The Province has been assigned, in terms of Proclamation 110 of 17 June 1994 the administration of the Exhumation Act (Bophuthatswana), Act No. 15 of 1985.
- 1.3 The latter legislation has become difficult to administer due to potential competition or conflict between Local Government and the Department of Health. The provision of burial sites generally is the competence of Local Government while exhumation, because of health related risks, is the competence of the Department of Health.
- 1.4 It became clear that this legislation should be passed to reaffirm the position of the Department of Health in matters related to exhumation and to repeal the old Act of 1985 as well as the Ordinances that were applicable to the Old Transvaal and Cape of Good Hope. Such Ordinances still apply in some parts of the North West Province as a result of the changes in geographical boundaries. The current situation therefore poses a challenge to the Province in that it has to apply three different pieces of legislation, hence there is a need to harmonise such pieces of legislation.

2. Objects of the bill

The bill seeks to provide for –

- The repeal of the following pieces of legislation:
 - (a) The Exhumation Act, Act No. 15 of 1985;
 - (b) The Exhumation, Ordinance 12 of 1980;
 - (c) The Removal of Graves and Dead Bodies, Ordinance 7 of 1925.

3. Bodies consulted

3.1 The Bill was presented to the North West Department of Developmental Local Government and Housing and the comments and inputs made by the said Department have been considered when the current draft was generated. South African Local Government Association (SALGA) was also consulted. Although not all its affiliates have given feedback on the provisions of the Bill, the association is comfortable with the Bill as it is.

The Provinces of Gauteng and Northern Cape were also consulted for purpose of striving to have uniformity with those provinces with regard to exhumation matters. Both provinces still apply the old Ordinances and do not have a post-apartheid legislation dealing with exhumation matters. Northern Cape has developed its first draft of the Exhumation Bill which looks substantially identical to the North West Exhumation Bill.

The other provinces with the exclusion of Eastern Cape also do not have post-apartheid legislation dealing with exhumation matters. Eastern Cape has a post-apartheid legislation dealing with Exhumation matters and the said legislation is substantially similar to the North West Exhumation Bill.

3.2 A presentation was also made to the members of the Senior Management Staff in the Department of Health. This was necessitated by the fact that the Department was assigned functions to administer the Act by the Honourable Premier of the North West Province, Mrs B. E. E. Molewa.

4. Provisions of the bill

The Bill is a re-enactment of the old legislation promulgated during the Bophuthatswana Government. The entire legislation therefore contains the same or similar provisions with the old one, save for a few technical changes including resolution of a potential conflict between the Department of Health and the Department of Developmental Local Government and Housing.

Section 1

Deals with definitions

Section 2

Creates an offence for the desecrating destroying or damaging of grave or coffins; in which a human body is contained.

Section 3

Makes provisions for the MEC to issue permits; upon application for the exhumation of a body buried in a grave. The section further provides for requirements; which requirements include, *inter alia*, approval by the local authority in whose area of jurisdiction the grave is situated.

Section 4

Makes permission for exhumation given in terms of the repealed legislation prior to the coming into effect of the Bill, to be deemed to have been issued in terms of the Bill.

Section 6

Empowers the MEC to make regulations.

Section 7

Provides for the repeal of pieces of old legislation that are contained in the schedule to the Bill.

Section 8

Provides for the Short title and commencement, and state that the Act will come into effect on a date to be proclaimed by the Premier.

5. Implications

The implications of the Bill are divided into a category of three sub headings: -

5.1 Financial implication

5.1.1 The Bill does not seek to introduce any new structures for the administration of this legislation. Departmental staff has been responsible for the consideration of applications in respect of exhumations. This position will be upheld.

5.1.2 The financial position of the Department will remain in its current form subject to the necessary budget adjustments from time to time.

5.2 Personnel implications

No new personnel implications are envisaged. Refer to clause 5.1.1 above.

5.3 Political

The promulgation of this legislation will bring certainty as to who has the final say in respect of applications for exhumation. It will bury all potential competition that may result between the Department of Health and the Department of Developmental Local Government and Housing.

Molaotlhommo wa go epololwa ga baswi wa Bokone Bophirima

Go lolamisa go epololwa le go fitlhiwa seswa ga batho mo mabitleng le mo mafelong a mangwe a poloko; go phimola molawana wa go epololwa ga baswi wa 1985, le go tlamela mo mabakeng a tsamaelanang le seno.

Dithulaganyo tsa dikarolo

1. Ditlhaloso
2. Go nyadiwa ga mabitla
3. Kepololo ya ditopo
4. Netefaletso
5. Ditlolomolao
6. Melawana
7. Phimolo ya melao le ditshomarelo
8. Setlhogo se se khutshwane le tshimologo

1. Ditlhaloso

Mo molaong ono, mafoko a a latelang a tla nna le mafoko a a golaganngwang mo go ona, ntle le fa bokao bo tlhalosa sengwe se se farologaneng:-

“**mmele**” o kaya mmele wa motho yo o tlhokofetseng go akaretsa le –

- (a) mmele wa lesea le le sa tswang go tsholwa; le
- (b) masaledi mangwe le mangwe a motho;

“**diphuphu**” a kaya lefatshe lengwe le lengwe, e ka nna la botlhe kgotsa la poraefete, le na le lebitla kgotsa go feta, mme “lebitla” le akaretsa-

- (a) lefelo lengwe le lengwe , le ka tswa le feletse kgotsa bontlhabongwe ba lona bo le kwa godimo kgotsa kwa tlase ga lefatshe, e bile e ka tswa e le la botlhe kgotsa la poraefete, mo setopo se fitlhiwang nakwana kgotsa go ikaeletswe go ka se fitlha sa leruri, e ka tswa e le ka lekase kgotsa sediriswa sengwe se se phuthelang kgotsa sepe, le,
- (b) segopotso sengwe le sengwe, letlapa, sefapano, mokwalo, moparego, legora, ketane, tsepamo kgotsa popego nngwe fela e tla nnang karolo kgotsa e golannngwa le lebitla.

“**Leloko le le maikarabelo**” go tewa leloko la kgotla khuduthamaga e e rweleng maikarabelo a boitekanelo.

2. Go nyadiwa ga mabitla

Go ya ka ditlamelo tsa molao mongwe le mongwe o amanang le go dira ka ditopo, ga go na motho ope yo o tla nyatsang, a senya kgotsa a tlhatlhamolola-

- (a) lebitla mo diphuphung, kgotsa
- (b) lekase, sediriswa se se tsholang masaledi a motho yo o lorafaditsweng, kgotsa sediriswa sengwe se se phuthelang se se tsentseng setopo se se iseng se fitlhiwe kgotsa go tlhola le ga e le go letlelela lebitla, lekase, sediriswa se se tsholang masaledi a motho yo o lorafaditsweng, kgotsa sediriswa sengwe se se phuthelang seo go ka nyadiwa, go ka senngwa kgotsa go ka tlhatlhamololwa.

3. Go epololwa ga ditopo

(1) Go ya ka ditlamelo tsa molao mongwe le mongwe o amanang le go dira ka ditopo, ga go na motho ope yo o tla epololang, a kgoreletsa, a tlosa kgotsa a fitlha seshwa setopo sengwe mo diphuphung kgotsa a tlhola le ga e le go letlelela gore setopo sengwe se ka epololwa, se ka kgorelediwa, se ka tlosiwa kgotsa sa fitlhiwa seshwa-

(a) ntle pele ga thebolo e e kwadilweng ya leloko le le Maikarabelo; mme

(b) legale ka tatelano ya mabaka ano seno se ka dirwa ke leloko le le Maikarabelo kgotsa motho yo o tlhophilweng ke leloko le le Maikarabelo;

(2) Motho mongwe le mongwe yo o eletsang go bona thebolo e e kwadilweng eo e tlhalosiwang ke karolwana (1) (a) o tla dira kopo e kwadilweng-

(a) mme mo kopong eo o tla-

(i) tlhalosa kwa setopo se se tlileng go epololwa, go kgorelediwa, go tlosiwa kgotsa go fitlhiwa seshwa se fithilweng teng le kwa setopo seo se tshwanelwang ke go ya go fitlha seshwa teng;

(ii) tlhalosa mabaka a tshitshinyo ya kepololo, kgoreletso, tloso Kgotsa phitlho seshwa; mme a

- (iii) tlhalosa mekgwa e tshwanetseng go salwa morago le tlhokomelo e tshwanetseng go nna teng go thibela go tsenya boitekanelo ba batho mo kotsing kgotsa kgopiso e e ka tlhagelelang, mme
- (b) mmogo le kopo eo-
- (i) a tlhagise lekwalo la ngaka le bontshang letlha le sebako sa loso kgotsa khopi e kanetsweng ya setifikeiti seo;
 - (ii) a tlhagise thebolo e e kwadilweng ya-
 - (aa) mmasepala wa selegae o nang le taolo ya lefelo le setopo se fitlhilweng mo go lona le kwa se yang kgotsa kwa go tsitsinngwang gore se ye go fitlhelwa seshwa teng; le
 - (bb) bothati ba diphuphu, lekgotla la bogosi kgotsa motho mongwe yo o tlhokomelang mabitla a setopo se se amegang se fitlhilweng teng le kwa go tsitsinngwang gore se fitlhelwe seshwa teng;
 - (iii) a tlhagise thebolo e e kwadilweng ya-
 - (aa) monna kgotsa mosadi wa moswi yo o amegang;
 - (bb) fa monna kgotsa mosadi wa gagwe a se teng, ngwana yo mogolo wa moswi yo o amegang;

- (cc) fa ngwana yo mogolo a se teng, motsadi wa moswi yo o amegang;
- (dd) fa motsadi yoo a se teng, mogolowe wa monna Kgotsa wa mosadi wa moswi yo o amegang; kgotsa
- (ee) fa mogolowe yoo wa monna kgotsa wa mosadi a se teng, mogolo yo o gaufi wa lesika la moswi yo o amegang; le

- (iv) fa e le gore diphuphu tse setopo se se amegang se fitlhilweng teng kgotsa kwa go tsitsinngwang gore se fitlhelwe seshwa teng di mo tlase ga taolo kgotsa tsamaiso ya mokgatlo wa sedumedi, kgotsa e le diphuphu tse e leng gore ke tsa botsamaisi ba setlhopha sengwe sa bodumedi bo na le kgatlhego e e itlhophileng, tlhagisa thebolo e e kwadilweng ya mokgatlo yoo wa sedumedi kgotsa botsamaisi.

(3) Mo lekwalo la ngaka kgotsa thebolo e e kwadilweng e e tlhalosiwang ke karolwana ya (2) e seyo kgotsa e sa kgona go fitlhelwa kgotsa e sa neelwa, kopo e e kwadilweng e tlhalosiwang ke karolwana eo e tla isiwa ka-

- (a) dintlha ka botlalo tsa matsapa a a dirilweng go ka fitlhelela setifikeiti kgotsa thebolo eo; le
- (b) mabaka a tlhalosang go retelwa ga go fitlhelela setifikeiti kgotsa thebolo eo a seka a thibela go neelwa ga thebolo e e kwadilweng go ya ka karolwana ya (1) (a).

(4) Go ya ka karolwana ya (1) (a) thebolo nngwe le nngwe e e kwadilweng e ka neelwa fa leloko le le Maikarabelo le ka bona go le botlhokwa kgotsa go tlhokagala mo maemong ao, mme pele ga leloko le le maikarabelo le dira thebolo le tshwanetse go-

(a) go farologanya maemo mangwe le mangwe a amogelwang; mme

(b) a amogele maemo a tlaeletso mo thebolong eo.

4. Netefaletso

Tetla e nngwe le e nngwe e rebolwang ke leloko le le Maikarabelo kgotsa mo boemong ba gagwe pele ga tshimologo ya molao ono, mme e ikaya go dumela kepololo, kgoreletso, tloso kgotsa phitlho seshwa ya setopo e tla kaiwa gore e rebotswe semmuso. E bile molawana mongwe le mongwe o diragadiwang kgotsa selo sengwe se se dirwang ka ntlha le ka tsamaiso ya tetla eo e tla kaiwa gore e dirilwe kgotsa e diragaditswe semmuso.

5. Ditlolomolao

Motho mongwe le mongwe yo o sa tiotleng tshiamelo ya karolo 2 kgotsa karolo 3(1) kgotsa yo o palelwang ke go tsamaisana le maemo mangwe a tlhalosiwang ke karolo ya 3(1) o tla bonwa molato wa tlolo molao mme o tla atlholelwa:

- (1) dikgwedi tse di sa feteng thataro mo kgolegelong; kgotsa
- (2) tuediso ya madi; kgotsa
- (3) dikotlhao tseo ka bobedi.

6. Melawana

Leloko le le Maikarabelo le ka dira melawana eo a e kayana e le botlhokwa malebana le:-

- (a) kepololo; kgotsa
- (b) go fitlha seshwa

ga ditopo.

7. Phimolo ya melao le ditshomarelo

- (1) Melao e e kailweng mo kholomong ya bobedi ya mametlelelo ya phimolwa go ka atolosediswa go tlhagelela mo kholomong ya bobedi ya mametlelelo.
- (2) Sengwe le sengwe se dirilweng pele ga tshimologo ya Molao ono mo tlase ga tshiamelo ya karolwana (1) le se se tla diriwang mo tlase ga tshiamelo ya Molao ono, se tshwanetse go kaiwa jaaka se se dirilweng mo tlase ga tshiamelo e e tsamaelanang le Molao ono.

8. Setlhogo se se khutshwane le tshimologo

Molao ono o tla bidiwa Molao wa go epololwa ga baswi wa Bokone Bophirima, mme o tla tsena tirisong ka letlha le le tla itsisewang ke Tonakgolo ka kgoeletso mo lekwalong la semmuso la porofense.

Mametlelelo

	Molao	O phimotswe go fitlha kae
1.	Molao wa go epolola baswi (Bophuthatswana), 1985	Molao otlhe
2.	Molawana wa go epolola baswi wa bo 12 wa 1980 (Cape of Good Hope)	Molao otlhe
3.	Tloso ya diphuphu le ditopo, molawana wa bo 7 wa 1925 (Transvaal)	Molao otlhe

NOORDWES WETSONTWERP OP OPGRAWINGS, 2008

Om die opgraving en herbegraving van menslike liggame van grafte en ander plekke van begraving te reguleer; om die Wet op Opgrawings , 1985, te herroep en te voorsien vir sake daarmee gemoeid

Rangskikking van Afdelings

1. Woordomsrywings
2. Grafskending
3. Opgraving van Liggame
4. Bekragtiging
5. Oortredings
6. Regulasies
7. Herroeping van Wette en Voorbehoude
8. Kort Titel en Aanvang

1. Woordomsrywings

In hierdie Wet sal die volgende woorde, behalwe as die inhoud andersins aandui, die volgende beteken:-

Aanspreeklike Lid beteken die Lid van die Uitvoerende Raad verantwoordelik vir Gesondheid

Begraafplaas beteken enige land, hetsy openbaar of privaat, een of meer grafte bevat en “graf” sluit in:-

- a) Enige plek, hetsy heeltemal of gedeeltelik bo of onder grondvlak is, hetsy openbaar of privaat, waar ’n liggaam permanent begrawe is, hetsy in ’n kis of ander houër al dan nie; en
- b) Enige monument, grafsteen, kruis, grafskrif, reëling, omheining, ketting, of oprigting van enige struktuur van watter aard ook al wat bybehorend tot ’n graf is.

Liggaam beteken die afgestorwe menslike liggaam en sluit in:-

- a) Die liggaam van ’n doodgebore kind; en
- b) Enige menslike oorskot.

2. Grafskending

Onderhewig aan die bepalings van enige ander Wet met betrekking tot die verwydering van liggame, sal geen persoon die volgende skend, vernietig of beskadig:-

- a) ’n Graf in ’n begraafplaas; of
- b) ’n Kis, kruik of enige ander houër wat ’n liggaam bevat wat nie permanent begrawe is nie, of veroorsaak of toelaat dat so ’n graf, kis, kruik of enige ander houër geskend, vernietig of beskadig word.

3. Opgrawing van Liggame

(1) Onderhewig aan die bepalings van enige ander Wet met betrekking tot die verwydering van liggame, sal geen persoon enige liggaam opgrawe, steur, verwyder of herbegrawe in ’n begraafplaas of veroorsaak of toelaat dat so ’n liggaam opgegrawe, versteur, verwyder of herbegrawe word nie:-

- a) Sonder die voorafgaande skriftelike toestemming van die Aanspreeklike Lid nie; en
- b) Anders as in ooreenstemming met sulke voorwaardes soos opgelê deur die Aanspreeklike Lid of sy/haar benoemde.

(2) Enige persoon wat skriftelike toestemming verlang soos oorweeg in onderafdeling (1)(a) sal skriftelik aansoek doen en sal:-

- a) In so ’n aansoek:-

- (i) Verklaar word waar die liggaam wat opgegrawe, versteur, verwyder of herbegrawe moet word, begrawe is en waar die voorgestelde herbegrawing moet plaasvind;
 - (ii) Die redes verklaar vir die voorgestelde opgraving, versteuring, verwydering of herbegrawing;
 - (iii) Die spesifieke voorgestelde metodes vir goedkeuring voorlê asook die voorsorgmaatreëls om te neem om te verhoed dat enige gesondheidsgevaar of rede vir aanstoot ontstaan.
- b) Tesame met so 'n aansoek:-
- (i) 'n Mediese sertifikaat of gesertifiseerde afskrif van so 'n sertifikaat indien as bewys van datum en oorsaak van afsterwe
 - (ii) Skriftelike toestemming inhandig van:-
 - aa) Die plaaslike munisipaliteit in wie se regsgebied die betrokke liggaam begrawe is of herbegrawe moet word;
 - bb) Die begraafplaas owerheid, tradisionele raad, of enige ander persoon in beheer van die begraafplaas waar die betrokke liggaam begrawe is of herbegrawe moet word.
 - (iii) Skriftelike toestemming inhandig van:-
 - aa) Die oorlewende gade van die betrokke afgestorwe persoon;
 - bb) Indien geen oorlewende gade, dan 'n volwasse kind van die betrokke afgestorwe persoon;
 - cc) Indien geen volwasse kind, dan 'n ouer van die betrokke afgestorwe persoon;
 - dd) Indien geen ouer, dan 'n volwasse broer of suster van die betrokke afgestorwe persoon;
 - ee) Indien geen volwasse broer of suster dan die naaste beskikbare volwasse familielid van die betrokke afgestorwe persoon.
 - (iv) Indien die begraafplaas waar die betrokke liggaam begrawe is of herbegrawe moet word, behoort aan of onder beheer staan van 'n godsdienstige instelling, of as 'n begraafplaas waar die beheerliggaam of enige bepaalde godsdienstige groep 'n persoonlike belang het, moet skriftelike toestemming van so 'n godsdienstige groep of beheerliggaam ingedien word.
- (3) Indien enige mediese sertifikaat of skriftelike toestemming soos oorweeg in onderafdeling (2) nie verkry is nie of nie verkrygbaar is nie of bewillig is nie, sal die skriftelike aansoek soos oorweeg in daardie onderafdeling vergesel wees van volledige:-
- a) Besonderhede van die pogings aangewend om so 'n sertifikaat of toestemming te verkry; en
 - b) Rede waarom die onvermoë om so 'n sertifikaat of toestemming te verkry nie die bewilliging van 'n skriftelike toestemming moet uitsluit in terme van onderafdeling (1)(a) nie.

- (4) Enige skriftelike toestemming in terme van onderafdeling (1)(a) mag toegestaan word onderhewig aan sulke voorwaardes soos goed of nodig geag deur die Aanspreeklike Lid en hy of sy mag, voordat gehandel is op so 'n toestemming:-
- a) Enige voorwaarde soos voorgeskryf, wysig; en
 - b) Addisionele voorwaardes voorskryf ten opsigte van so 'n toestemming.

4. Bekragtiging

Elke permit uitgereik deur die Aanspreeklike Lid of om sy ontwil, voor die aanvang van die Wet, en met die bedoeling om die opgrawing, versteuring, verwydering of herbegrawing van 'n liggaam te magtig, sal beskou word as regmatig uitgereik en enige handeling daarna, in ooreenstemming met so 'n permit, sal beskou word as regmatig uitgevoer of gedoen.

5. Oortredings

Enige persoon wat enige bepalings van afdeling (2) of afdeling (3) (1) oortree of versuim om enige voorwaardes soos oorweeg in gedeelte (3)(1)(b) na te kom, sal skuldig wees aan 'n oortreding en sal met skuldigbevinding onderhewig wees aan:-

- a) Tronkstraf vir 'n periode nie langer as ses maande nie; of
- b) 'n Boete; of
- c) Beide tronkstraf en 'n boete.

6. Regulasies

Die Aanspreeklike Lid mag enige regulasie maak wat hy of sy nodig mag ag met betrekking tot:-

- a) Die opgrawing; of
- b) Herbegrawing van liggame.

7. Herroeping van Wette en Voorbehoude

(1) Die Wette genoem in die 2de kolom van die Skedule word hierdeur herroep tot die mate soos uiteengesit in die 3de kolom van die Skedule.

(2) Enige iets gedoen voor die aanvang van hierdie Wet onder die bepalings van 'n Wet herroep deur onderafdeling (1) en wat gedoen kan word onder die bepalings van hierdie Wet, moet beskou word as gedoen onder die ooreenstemmende bepalings van die Wet.

8. Kort Titel en Aanvang

Hierdie Wet sal bekend staan as die Noordwes Wet op Opgrawings en sal in werking tree op 'n datum vasgestel deur die Premier van die Provinsie deur 'n kennisgewing in die Staatskoerant.

SKEDULE

NO	WET	OMVANG VAN HERROEPING
1	Wet op Opgrawings (Bophuthatswana) 1985	Die Wet in sy geheel
2	Opgrawings Ordonnansie 12 van 1980 (Kaap de Goeie Hoop)	Die Wet in sy geheel
3	Verwydering van Grafte en Afgestorwe Liggame, Ordonnansie 7 van 1925 (Transvaal)	Die Wet in sy geheel

Umthetho Wokukhutshwa Kwezidumbu wase Mntla Ntshona, 2008

Ukulaulwa-kokukhutshwa kwezidumbu emancwabeni nokuphinda zincwatjwe kwezinye iindawo zokuncwaba; ukurhoxisa umthetho ka 1985, wokukhutshwa kwezidumbu, nokubonelela kwimiba eneziganeko.

Amalungiselelo wemicandelo/isahluko salomthetho

1. Inkcazelo
2. Ukuncoliswa kwamancwabo
3. Ukukhutshwa kwezidumbu
4. Ukumisela kwemthetho
5. Amatjala
6. Imimiselo
7. Ukurhoxiswa kwemithetho nokusindisa
8. Isihloko esifutshane nokusongula

1. Inkcazelo

Kulomthetho, lamazwi azautsho, ngaphandle ukubainkcazo ithethe okuhlukene, lamazwi azakuba nawo awasebenzelayo:-

“**Umzimba**” kutsho isidumbu somuntu, oko kuquka-

- (a) umzimba wesana elisando ukuzalwa lingaphili, kwakunye
- (b) nazo nezintsalelo zesidumbu

“Ngcwabandawo” kutsho umhlaba, nokuba ngoka wonke-wonke Okanye ngeyangasese enengcwaba elinye nangaphezulu Kwakunye “ingwaba” liquka-

- (a) nayo neyiphi iindawo, nkuba yonke ngokupheleleyo okanye ingxenye yayo ingaphazulu okanye ngaphantsi komngngatho womhlaba ka wonke-wonke okanye wangasese, la isidumbu bekwe ngokungena phakathi nesivumelwano sakhona, noma si fakwe ku ibhokisi okanye enye into esetyenzisweyo noma qhaa, kunye
- (b) nalo neliphi ilitye lesikhumbuzo, ilitye lengcwaba, umqamlezo, umbalo, intonga, uthango, ityathanga, isakhiwo nayo yonke into eyinxalenye okanye ehambonengcwaba.

“Ililungu elithembekileyo” kutsho ilungu lebhunga lesebe lombuso elilqwulo ezempilo.

2. Ukungcoliswa kwamangcwaba

Phantsi ko mthetho omalunga nokuqokosha isidumbu, akukho umntu ozakungcolisa, atshabalalise okanye onakalise-

- (a) ingcwaba kwindawo yokungcwabela, okanye
- (b) ibhokisi yokungcwaba, ingqayi okanye isitya ekufakwe kuso isidumbu esingekangcwatywa, ukuba enze, okanye imvume yelongcwaba, ibhokisi yokungcwaba, ingqayi okanye isitya ekufakwe kuso isidumbu zingcoliswe, zitshatyalaliswe okanye zionakaliswe.

3. Ukukhutshwa kwezidumbu engwabeni

(1) Phantsi komthetho omalunga nokuqokosha isidumbu, akukho umntu ozakukhupa isidumbu, aphazamise okanye asiyise kwenye iindawo, okanye aphinde asingwabekwindawo yokungcwaba, okanye avume ukuba isidumbu sikhutshwe, siphazanyiswe, siyiswe kwenye iindawo-

(a) ngaphandle kwe phepha-mvume ebhalwe Ililungu elithenjwe ngalomsebenzi; kwakunye

(b) ngenye indlela engangqinelaniyo nemigwaqo ebekwe Ililungu elithembekileyo; okanye utyunjwa we lungu elithembekileyo

(2) Wonke ubani onomnqweno wokufumana iphepha-mvume elikhankanywa licandlwana

(1) (a) uzakuenza incwadi yesicelo, aze

(a) Kweso isicelo

(i) axele iindawo apho afuna isidumbu sikhutshwe kuyo siphazanyiswe, sisuswe, okanye siphinde sincwatywe, kunye nendawo apho kucetywa ukuba sincwatyelwe kuyo.

(ii) axele nesizathu zokuceba ukukhutshwa komzimba, ukuphazanyiswa, nokususwa kwaso, okanye okuphinda sincwatywe; kunye

(iii) kuchazwe nendlela yokucetywa ukuba isetyenziswe kunye namanyathelo ngenxe'engaphambili okulumkela ekucetywa ukuba asetyenziswe ekuthentheleni nayo neyiphi ingozi empilweni, okanye unobangela wesikhubekiso; kwakunye

(b) kwakunye neso isicelo-

(i) kungeniswe incwadi kagqirha yokuxilongwa enomhla kwakunye nonobangelo wokufa okanye ikopi yayo eqiniselelweyo.

(ii) kungeniswe iphepha-mvume elivela-

(aa) umasipala wedolopu onegunya lokulawula kulo apho loo mzimba uzakuncwatya khona okanye apho kucetywa ukuba uncwatyelwe kuyo;

(bb) abaphathi bamancwaba, ibhunga lwezamasiko okanye nowuphi omnyeumntu owongamele iindawo yokungcwaba apho loo mzimba uncwatyelwe kuyo, okanye indawo le kucetywa ukuba ungcwatyelwe kuyo;

(iii) kungeniswe iphepha-mvume eliphuma-

(aa) kumyeni okanye inkozikazi yalowo ongasekhoyo;

(bb) ukuba loo umyeni okanye inkosikazi ayikho, umntwana osele omdala walowo ongasekho;

(cc) xa ku ngekho nalo umntwana osele mdala, umzali walowo ongasekhoyo

(dd) xa engekho lo umzali, umkhuluwa, umninawa okanye udade waloo ongasekhoyo; okanye

(ee) xa umntakwabo lowo okanye engekho udade, umntu omkhulu ofumanekayo osizalwane salowo ongasekhoyo;kwakunye

(iv) indawo apho isidumbu singwatyelwe khona, okanye apho kucetywa ukuba kuphinde kungwatyelwe khona, ingaphantsi kulawulo okanye kwabalawuli bezenkolo, okanye indawo yokungcwaba apho isebe lezenkolo elilawulayo leqela elithile linomdla owodwa khona, kungangeniswa iphepha- mvume lalonkolo yongameleyo okanye ibhodi elawulayo.

(3) Apho incwadi kagqirha okanye iphepha-mvume ikhankonywa licandelwana (2) lingafumaneki, lingafumaneka okanye isicelo esibhaliweyo esikhakanywa leli candelwana liza kuhamba ngokupheleleyo, ne

(a) inkcukacha zeenzame ezenziyo zokuzama ukufumana incwadi kagqirha yokuxilongwa okanye imvume

(b) isizathu zokuba kutheni ukungafumaneki kwaloncwadi kagqirha okanye iphepha-mvume lenganakunqanda ukunikezelwa kwephepha-mvume ngokwacandelwana (1) (a).

(4) Nalo neliphi iphepha-mvume elikhankanywa kwicandelwana (1) (a) linganikezelwa, kuxhomekeke kwiimfuneko ezikhankanywa lilunga elithembekileyo, phambi kokuba iphepha-mvume lisetyenziswe, ilungu elithembekileyo linga-

(a) tshintsha iimfuneko ezimiselweyo; li

(b) misele iimfuneko ezongezelelweyo kwelo phepha-mvume.

4. Ukumisela emthethweni

Lonke iphepha-mvume elikhutshweyo egameni lelilungu elithembakeleyo, ngaphambili kokuqalisa kwalomthetho, nelinika igunya lekukhupha isidumbu, ukuphazamisa, ukususwa okanye ukuphinda kufihlwe umzimba, lizokuthathwa njenge likhutshwe ngokumthetho, nayo yonke into etheyenziwa ngoko kungqinelana naleyo imvume izakuthathwa nje ngenxo eyenziwe ngokomthethweni.

5. Amatyala

Lowo nalowo othe wophula nowuphi umthetho okwicandelo 2 okanye licandelo 3(1) okanye ongathobeli iimfuneko ezikhankanywa licandelo 3(1) (b) uzakubonwa ityala, ekugwetyeni kwakhe a:

- (1) agwetyelwe etelongweni ixesha elingagqithanga lezithandathu; okanye
- (2) ahlawule; okanye
- (3) agwetyelwe etelongweni, akhupe nemali yentlawulo.

6. Imimiselo

Ililungu elithembekileyo lingenza Imimiselo elibona iimfuneko ngokubhekisela;-

- (a) ekukhutshweni kwezidumbu; okanye
- (b) ukuphinda kungcwatywa kwemizimba

7. Ukurhoxiswa kwemithetho kunye nokusindisa

(1) imithetho ekhankanyiweyo kumhlathi wesibini woludwe lwengqubo eyarhoxiswa ngokobubanzi ekhutshazwe ngabo, kumhlathi wesibini woludwe lwengqubo.

(2) nantoni na eyenziwe yongaphambi kokusunulwa kwalo mthetho Phantsi komthetho orhoxisisweyo licandelo (1) ncbinokwenziwa ngaphantsi kwa lomthetho, kufeneka ithathwe njengenziwe gnokokungqinelana nalo mthetho.

8. Isihloko esifutshane nokusungula

Lo mthetho uza kubizwa Owomntla Ntshona wokukhutshwa kwemizimba kwaye eya kusungulwa ngomhla omiselwe yiNkulumbuso ngokwesaziso sephepha-ndaba lombuso wephondo.

Uludwe lwengqubo

	Umthetho	Ukuandisa kokurhoxisa
1.	Umthetho wokukhutshwa kwemizimba wase (Bophuthatswana), 1985	Wonke
2.	Ummiselo 12 wokukhutshwa kwemizimba ka 1980 (Cape of Good Hope)	Wonke
3.	Ukususwa kwamangcwaba nezidumbu, ummiselo 7 ka 1925 (Transvaal)	Wonke