

(updated)
REGULATIONS RELATING TO FUNERAL UNDERTAKERS' PREMISES

Government Notice No. 237 of 8 February 1985

The Minister of Health and Welfare, in terms of sections 33 and 39 of the Health Act, 1977 (Act 63 of 1977), has made the regulations contained in the Schedule hereto.

SCHEDULE

Definitions

1. In these regulations "**the Act**" shall mean the Health Act, 1977 (Act 63 of 1977), and any expression to which a meaning has been assigned in the Act shall have such meaning and, unless the context otherwise indicates -

"adequately ventilated and illuminated" shall mean adequately ventilated and illuminated as laid down in the standard building regulations enacted in section 14bis of the Standards Act, 1962 (Act 33 of 1962), or the health regulations applicable within the area of jurisdiction of the local authority concerned;

"approved" shall mean approved by the local authority concerned;

"certificate of competence" shall mean a document contemplated in regulation 6;

"existing funeral undertaker's premises" shall mean existing funeral undertaker's premises are legally used as such on the date of commencement of these regulations;

"funeral undertaker's premises" shall mean premises that are used or will be used for the preparation of corpses;

"holder" shall mean the person in whose name a certificate of competence has been issued;

"new funeral undertaker's premises" shall mean funeral undertaker's premises that are put into use as such after the date of commencement of these regulations;

"preparation" shall mean any action aimed at the preparation of a corpse for a funeral or for cremation, export or other disposal and shall include the embalming of such corpse for the said purposes, and "prepare" and any word derived therefrom shall have a corresponding meaning;

"pure water" shall mean clean and clear water that contains no *E. coli* organisms per 100 me and is free from any substance in concentrations that are detrimental to human health;

"rodent proof" shall mean rodent-proof as laid down in the regulations promulgated by Government Notice R. 1411 of 23 September 1966.

Corpses to be prepared only at funeral undertaker's premises in respect of which a certificate of competence has been issued

1. (1) Subject to the provisions of these regulations, no person shall prepare any corpse except on funeral undertaker's premises in respect of which a certificate of competence has been issued and is in effect.

(2) (a) Subject to the provisions of paragraph (b), existing funeral undertaker's premises may for a period of six months after the date of commencement of these regulations, be used for the preparation of corpses without a certificate of competence being issued or being in effect in respect of such premises.

(b) Any local authority may, if it is satisfied that there is a nuisance present on funeral undertaker's premises situated in its area of jurisdiction, issue a written order to the enterprise in question to stop all activities connected with the preparation of corpses until such time as the nuisance referred to in the order has been eliminated.

Exemptions

1. (1) A local authority may, with the approval of the Director-General, in writing exempt any person from compliance with all or any of these regulations where, in the opinion of the local authority, non-compliance does not or will not create a nuisance.

(2) Such exemption shall be subject to such conditions and valid for such period as the local authority may, with the approval of the Director-General, lay down and stipulate in the certificate of exemption.

1. These regulations shall not apply to -
 - a. mortuaries and hospitals under the control of the State or a provincial administration;
 - b. any natural person who is not in the service of a funeral undertaker and who does not, either directly or indirectly, undertake or arrange funerals but only prepares corpses: Provided that such preparation shall not take place on fixed premises that are used by such person specifically for such purpose: Provided further that, for the purpose of this regulation, preparation shall not include the embalming of or incisions into a corpse.

Application for the issue or transfer of a certificate of competence

1. (1) (a) Any person wishing to apply for a certificate of competence in respect of new funeral undertaker's premises shall, not less than 21 days before submitting his application to the local authority concerned, cause a notice to be published in one of the official languages in a newspaper that appears mainly in that language, and in the other official language in a newspaper that appears mainly in the latter language, where each of the said newspapers circulates in the area in which such premises are situated, or shall, where separate newspapers in each of the official languages do not so circulate, cause such notice to be published in both official languages in a newspaper that so circulates.

(b) Such notice shall contain information to the effect that an application for the issue of a certificate of competence in terms of these regulations is to be submitted to the local authority mentioned in the notice and that any person who will be affected by the use of such funeral undertaker's premises and wishes to object to such use shall lodge his objection, together with

substantiated representations, with the local authority concerned in writing within 21 days of the date of publication of such notice.

(2) (a) An application for the issue or transfer of a certificate of competence shall be made in writing by the applicant or his authorised representative to the local authority in whose area of jurisdiction funeral undertaker's premises are being or will be used on such form as the local authority may require.

(b) An application for the issue of a certificate of competence shall be accompanied by-

- i. a description of the premises and the location thereof;
- ii. a complete groundplan of the proposed construction or of existing buildings on a scale of 1:100;
- iii. a block plan of the premises on which north is shown indicating which adjacent premises are already occupied by the applicant or other persons and for what purpose such premises are being utilised or are to be utilised; and
- iv. particulars of any person other than the holder or any of his employees who prepares or will prepare corpses on the premises.

(3) A local authority, when considering issuing or transferring a certificate of competence, may request from the applicant or any other person any such further information as it may deem necessary to enable it to consider the application concerned.

(4) No local authority shall consider any application for the issue or transfer of a certificate of competence unless a complete inspection of the premises concerned has been carried out by a medical officer of health or a health inspector and his report on such inspection, including his recommendation on such issue or transfer, is in the possession of such local authority.

Issue or transfer of certificate of competence

1. Where a local authority, after consideration of an application for the issue or transfer of a certificate of competence, the report concerned by a medical officer of health or health inspector, including his recommendation, and any objections to the use of funeral undertaker's premises, is satisfied that the premises concerned -
 - a. comply with all requirements laid down in these regulations;
 - b. are in all respect suitable for the preparation of corpses; and
 - c. will not be offensive to any occupant of premises in the immediate vicinity of such premises,

it shall, such as it may determine in respect of the funeral undertaker's premises concerned, issue a certificate of competence in the name of the holder in such form as it may determine or shall by endorsement transfer an existing certificate of competence to a new holder, as the case may be.

Validity and transfer of certificate of competence

1. A certificate of competence, excluding a provisional certificate of competence, shall, on endorsement by the issuing authority, be transferable from one holder to a new holder and such certificate shall be valid from the date on which it was issued until it is revoked or suspended in terms of these regulations.

Issue of provisional certificate of competence

1. Notwithstanding the fact that it is not satisfied as contemplated in regulation ~ with regard to funeral undertaker's premises in respect of which a certificate of competence has been applied for, a local authority-
 - a. shall, in the case of existing funeral undertaker's premises; and
 - b. may, in all other cases,

subject to such conditions as such local authority may determine in general or in each specific case, issue a provisional certificate of competence in respect of such premises for a maximum period of 36 months to enable the applicant to alter such premises to comply with the provisions of these regulations: Provided that such local authority shall satisfy itself that the use of such funeral undertaker's premises does not and will not create a nuisance.

Duties of holder

1. The holder shall immediately inform the issuing authority in writing if there are any changes in the particulars supplied to the issuing authority in the application for the certificate of competence concerned.

Suspension or revocation of a certificate of competence or provisional certificate of competence

1. (1) If a local authority in whose area of jurisdiction funeral undertaker's premises are used by virtue of a certificate of competence or a provisional certificate of competence is of the opinion, on the strength of an inspection report and recommendation by a medical officer of health or health inspector, that there are reasonable grounds to suspect that-
 - a. such premises are being used in a way that is hazardous to health, or that conditions entailing a hazard to health have been or are being created on such premises; or
 - b. such premises are being used in contravention of the provisions of the Act or the conditions to which such provisional certificate of competence is subject,

such local authority may, subject to the provisions of subregulation (2), serve a written notice on the holder or the person in charge of such premises in which the holder is instructed to furnish reasons, at a place and a time specified in such notice, why such certificate should not be dealt with in terms of subregulation (12).

(2) Notwithstanding the provisions of subregulation (1), a local authority may, pending on inquiry contemplated in subregulation (1), suspend a certificate of competence or provisional certificate of competence immediately on the strength of a report, whether by the Director-General or by a medical officer or a health inspector in the service of the State or of the local authority concerned, stating that the hazard referred to in subregulation (1) (a) is a nuisance and recommending such suspension.

(3) A notice referred to in subregulation (1) shall set Out such particulars as are reasonably adequate to inform the holder concerned why the withdrawal of the certificate is contemplated and shall be served by the local authority concerned not less than 21 days prior to the date specified in such note for the holding of an inquiry.

(4) The holder may appear personally at such inquiry or be represented thereat by any of his employees specially authorised by him for such purpose in writing, or by his legal representative, or may submit written statements or arguments in the form of an affidavit to the local authority concerned for consideration.

(5) (a) If the holder appears at the inquiry, or if the holder does not appear at the inquiry but the local authority concerned is satisfied that the notice referred to in subregulation (1) has been properly served on the holder, the local authority shall inquire into the matter mentioned in such notice.

(b) For the purpose of such inquiry such local authority may call and interrogate or re-interrogate any person present at such inquiry and shall hear such evidence as may be adduced by or on behalf of the holder and may cross examine any person giving evidence for or on behalf of the holder.

(6) The holder, his authorised employee or his legal representative may interrogate any witness called for or on behalf of the holder at such inquiry and may cross-examine any other witness testifying thereat.

(7) (a) the local authority may instruct any witness at such inquiry to testify on oath or on affirmation.

(b) The local authority may administer an oath to or accept an affirmation from any person appearing before it to testify or to submit a book, document or object.

(8) In regard to the giving of evidence or the submission of a book, document or object at such inquiry, the right of privilege shall apply which is applicable to a witness testifying in a criminal case in a magistrate's court or summonsed to submit a book, document or object.

(9) The local authority may, in its discretion, postpone or adjourn such inquiry for such period or periods as it may deem fit: Provided that, where a suspension has been instituted in terms of subregulation (2), such postponement or adjournment shall be for not more than 14 days.

(10) (a) The local authority shall cause a record of the proceedings at such inquiry to be kept in such manner as it may determine.

(b) Such record shall be accessible to and copies thereof may be made by the holder or his representative on such conditions regarding time and place as the local authority may determine.

(c) The record of such inquiry shall be kept for a period of two years in a place where it is protected against fire and theft, and a clearly legible copy of such record shall be submitted to the Director-General forthwith after the inquiry.

(11) Upon conclusion of such inquiry, the local authority shall deliberate *in camera*.

(12) If it appears to the local authority that-

- a. the funeral undertaker's premises concerned are being used in such a way as to create a nuisance or that conditions constituting a

- nuisance have been or are being created on the funeral undertaker's premises concerned; or
- b. the premises concerned are being used in contravention of the provisions of the Act or any conditions to which the certificate of competence or provisional certificate of competence concerned is subject,

the local authority may, in order to put an end to the matter about which a complaint has been received, make such order as it may deem fit, namely-

- i. in relation to conditions referred to in subregulation (1)(a)-
 - a. where in its opinion the health hazard in question is a real hazard, an order withdrawing the certificate of competence or provisional certificate of competence concerned; and,
 - bb. in other cases, an order requiring the future use of such premises to be so regulated so as to correct without delay the matter complained about; or
- i. in relation to an irregularity referred to in subregulation (1)(b)-
 - . an order suspending the certificate of competence or provisional certificate of competence concerned for such period as the local authority may determine, and informing the holder that, if the conditions complained about as mentioned in such order are not corrected to the local authority's satisfaction within such period of suspension, the certificate concerned will be revoked without further notice; or
 - a. an order requiring the future use of such premises to be so regulated so as to correct without delay the matter complained about.

(13) (a) An order made in terms of subregulation (12) shall be issued in writing, signed by the chief administrative officer of the local authority and then served on the holder; and the person on whom such order has been served shall deal with such order and with the certificate of competence or provisional certificate of competence concerned, in cases where such certificate has been revoked, in the manner laid down in such order.

(b) After making such order, the local authority shall forthwith send a copy thereof to the Director-General.

(14) No decision of a local authority in terms of these regulations-

- a. regarding the revocation of a certificate of competence or provisional certificate of competence; or
- b. which is at variance with a recommendation of a medical officer of health or health inspector as contemplated in subregulation (1),

shall be effective without the written approval of the Director-General and no order in terms of subregulation (12) shall be made without the prior approval of the Director-General.

(15) The suspension or revocation of a certificate of competence or provisional certificate of competence in terms of this regulation shall have the

effect that, from the date of coming into operation of the order of suspension or revocation-

- a. no preparation of any corpse shall be performed on the premises concerned;
- b. no corpse shall be received for preparation on the premises concerned; and
- c. no corpse shall be preserved on the premises concerned and every corpse shall forthwith be removed to a mortuary under the control of the State, a provincial administration or local authority or any other funeral undertaker's premises designated by the local authority that makes such order or approved by such authority after consultation between the holder and such authority: Provided that, where refrigeration facilities for corpses on the premises concerned are, in the opinion of the local authority, suitable for such preservation, this paragraph shall not be applicable and the said order shall not be so construed as to restrict any act relating to the profession, excluding the preparation and receiving of a corpse.

(16) Where a local authority is of the opinion that a condition that gave rise to the revocation of a certificate as contemplated in this regulation was corrected after such revocation, it shall, on written application made by or on behalf of the holder, repeal such revocation by endorsement on the certificate concerned.

Requirements relating to funeral undertaker's premises

1. (1) Provision for at least the following shall be made on funeral undertaker's premises:
 - a. A preparation room for the preparation of corpses.
 - b. Change-rooms, separate for each sex, for the use of the employees employed at such premises.
 - c. Refrigeration facilities for the refrigeration of corpses.
 - d. Facilities for the washing and cleansing of utensils and equipment inside the building.
 - e. Facilities for the cleansing of vehicles on such premises.
 - f. Facilities for the loading and unloading of corpses as contemplated in subregulation (6).

(2) No room on funeral undertaker's premises shall be used for any purpose other than the purpose for which it is intended and no act other than an act related to the said purpose shall occur in such room.

(3) Such preparation room-

- a. shall be so designed as to-
 - i. be separated from all other rooms on the premises and as not to communicate directly with any office or salesroom: Provided that, where a preparation room on existing funeral undertaker's premises so communicates, the entrance thereto shall be so concealed that the interior thereof is completely out of the sight of any person in such office or salesroom;
 - ii. enable obnoxious odours and vapours to be adequately treated; and

- iii. be sufficiently ventilated and lighted;
- a. shall have a floor-
 - i. covering an area of not less than 16m² for the first table of the kind referred to in paragraph (e) and 8m² for each additional such table;
 - ii. constructed of concrete or similar waterproof material with a smooth non slippery surface that is easy to clean, and sloped at an angle to ensure that any run-off will drain into an approved disposal system; and
 - iii. which, if it is replaced or laid after the date of commencement of these regulations, shall be provided with half-round filling where it meets the walls;
- a. shall have walls the inner surfaces of which have a smooth finish and are covered with a light-coloured washable paint or other approved, suitable, smooth, waterproof, light-coloured and washable material;
 - b. shall be provided with a ceiling not less than 2,4 m above the floor level, which ceiling shall be dust-proof and painted with a light-coloured washable paint;
 - c. shall contain not less than one table of stainless steel or glazed earthenware or other approved material, equipped with a raised rim on the outside, a tap with cold running water to which a flexible pipe can be connected and a drainage opening connected to an approved disposal system;
 - d. shall contain not less than one wash-basin for each such table, made of stainless steel or other approved material, with a working surface of the same material, taps with hot and cold running water and a drainage opening permanently connected to an approved disposal system, and provided with disposable towels, a nailbrush and soap;
 - e. shall have not less than one tap with running water to which a flexible pipe, long enough to reach all corners of such room, can be connected for cleaning the interior surfaces;
 - f. shall have door openings that are not less than 0,82m in width and 2,00m in height so that corpses can be taken into and out of such room without any difficulty.

(4) Each such change-room shall contain at least the following:

- a. One hand-basin with hot and cold running water for every six employees or part of this number;
- b. disposable towels, soap, nailbrushes and disinfectant; and
- c. not less than one latrine for every 15 male employees or part of this number and not less than one latrine for every 15 female employees or part of this number employed at the funeral undertaker's premises concerned: Provided that, where a separate urinal for men forms part of such facilities, one latrine plus one separate urinal shall be permissible for every 30 men or part of this number.

(5) Refrigeration facilities such as refrigerators or cold chambers shall be installed in or within easy reach of such preparation room for the keeping of corpses, and-

- a. where refrigerators are provided, they shall be made of a material that does not absorb moisture and shall be provided with removable

trays and shall be so designed as to drain properly and be easy to clean;

- a. the surface temperature of any corpse shall be no higher than 5⁰C within three hours of its being received on the premises and no higher than 15⁰C during preparation; and
- c. where cold chambers are provided, they shall comply with sub-regulation (3)(a)(ii), (b)(ii), (c), (d) and (h) and shall be provided with shelves manufactured from a material that does not absorb moisture and that is easy to clean.

(6) Such cleansing and loading and unloading facilities shall consist of a paved area, screened from public view, with a drainage system into a gully connected to an approved disposal system.

(7) The loading and unloading of corpses and the cleansing of vehicles shall not take place anywhere except in the area contemplated in subregulation (6).

(8) The funeral undertaker's premises shall be rodent-proof.

Hygiene

1. (1) All solid refuse on the premises of a funeral undertaking shall be kept in corrosion-resistant containers with tight-fitting lids and shall be dealt with in accordance with the requirement of the local authority concerned.

(2) Every holder of a certificate of competence relating to funeral undertaker's premises shall -

- a. provide or cause to be provided clean protective over-clothes consisting of surgical gloves, gumboots, plastic aprons so designed that the front hangs over the top of the gumboots, face masks and linen overcoats to all employees and all other persons involved in post mortems, and each such employee or other person shall, at all times when so involved, wear such clothing;
- b. keep such premises free of insects or cause them to be so kept;
- c. cause all working areas or surfaces at such premises where corpses are prepared to be cleaned immediately after the preparation of any corpse;
- d. cause all equipment used for the preparation of corpses to be washed and disinfected immediately after use;
- e. daily cause all protective over-clothes that have been used to be washed, cleansed and disinfected on the premises; and
- f. if a corpse has been transported without a moisture-proof covering, cause the loading space of the vehicle concerned to be washed and disinfected after such corpse has been removed.