5. (DRAFT) Comparison of exhumation and lift and reposition procedures

Why are the remains to be removed from the place of interment?

Exhumation

Part 12	To remove the bodily remains for relocation to a different place of interment or for cremation.
Sec 158 Sec 156 Regs, Sched 5	Person makes an application to the Secretary to the department for an exhumation licence to exhume or remove human remains from a place of interment. *Note that an application must be:* • *In the prescribed form as detailed in Schedule 5 of the Regulations;* • *Include a statement by the cemetery trust detailing any reasons why in their view the exhumation cannot proceed;* • *Lodged at least 7 days before the proposed exhumation; and* • *Accompanied by the prescribed fee ($120).*
	Secretary to the department considers application.
Sec 157 & 159	The Secretary may grant or refuse to grant an exhumation licence. *Note that an exhumation licence may be granted subject to such terms and conditions the Secretary thinks fit. Failure to comply with the terms and conditions of an exhumation licence is an offence punishable by a maximum penalty of 240 penalty units (approx $24,000) or two years imprisonment or both.*
Sec 155	Exhumation takes place. *Note that it is an offence to exhume or remove human remains from a place of interment other than with an exhumation licence or for an approved lift and reposition procedure. This offence is punishable by a maximum penalty of 600 penalty units (approx $60,000) or 5 years imprisonment or both.*

Lift and Reposition

Part 6, Div 4	To allow the place of interment to be reused where there is insufficient space to accommodate any further interments.
Sec 88	The holder of the right of interment makes an application to the cemetery trust for approval to carry out a lift and reposition procedure. *Note that an application must be in writing and accompanied by the relevant cemetery trust fee.*
Sec 89	Cemetery trust considers application. A trust should not approve an application if it considers it would be inappropriate for any of the following reasons - • The nature of the soil would prevent or hinder the process; • It would be impractical because the place of interment can't be sufficiently deepened; • The physical state of the human remains; • In the case of a mausoleum, the chamber is not able to accommodate additional human remains; • Religious, cultural, health or safety considerations. *Note a trust must not approve an application if it relates to bodily remains that have been interred for less than 10 years.*
Sec 15(2) Sec 89(4)	Cemetery trust grants approval to carry out lift and reposition procedure. *Note that this procedure can only be approved by delegated trust members or persons approved by the Secretary to the department. Approvals must be in writing.*
Sec 90	Lift and reposition takes place. *Note that an exhumation licence is not required to carry out this procedure. Details about what may be done as apart of the procedure are provided in section 90 of the Act.*

Please note the regulations referred to in this document are the draft regulations contained in the Regulatory Impact Statement—Cemeteries and Crematoria Regulations 2005 document