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Department:
Cooperative Governance and Traditional Affairs
PROVINCE OF KWAZULU-NATAL



Cemeteries, Crematoria and Pauper Burials

A response to an investigation by the Public Protector into the backlog of pauper bodies in mortuaries and burial space in KZN

**SPLUMA Forum
Mr. D. Jugmohan
29 November 2019**



Legislation

- In terms of Part B of Schedule 5 of the Constitution of SA 1996
- KZN Cemetery and Crematoria Act No. 12 of 1994
- Regulation 363 of DOH 2013 – Management of Human Remains
- National Environmental Management Act No. 107 of 1998



Pauper Burials

- There are currently 597 pauper bodies in mortuaries across KZN.
- There are various reasons for these bodies remaining in the mortuaries, including administrative delays, lack of forensic testing kits and, in certain areas, a **shortage of burial space**.
- The Public Protector has cited the DCOGTA to facilitate between the SAPS, Department of Health (DOH) and Local Government institutions to clear this backlog and make provisions to prevent this situation from recurring.



Memorandum of Understanding

- A key element in resolving the pauper burial backlog has been identified as a provincial memorandum of understanding between the SAPS, Department of Health and Local Government.
- There is an existing National MOU between the SAPS and Department of Health in respect of unidentified bodies which speaks predominantly to the forensic investigations to be followed.
- COGTA Legal services has identified that the National MOU does not address the roles and responsibilities of Local Municipalities in the **pauper burial process**.
- A Provincial MOU between SALGA, DOH and SAPS, aimed at bridging the gaps in the National MOU, has now been drafted and circulated for comment to the relevant signatories.
- Once this MOU is assented to, it is anticipated that the pauper burial process would achieve uniformity and become more efficient and systematic.



Cemetery Space, Budget and Policy

- A recent survey was done throughout KZN regarding cemetery space, budget and pauper burials and related policies in which Municipalities indicated their challenges. These challenges include:
 - Lack of adequate sites for cemetery use.
 - Contract management regarding service providers appointed to conduct pauper burials.
 - Insufficient municipal land for designation as Cemetery
 - Lack of funding to conduct the relevant studies and obtain required approvals for new cemetery sites.
 - Poor communication/working relationship between mortuaries and municipalities.
 - Lack of collaborative protocol between SAPS, DHO and Local Government institutions.



Cemeteries and Crematoria

- It is essential for municipalities to closely monitor the use of cemeteries and crematoria and ensure that sufficient burial space is available.
- Designating a site for Cemetery use is a lengthy and costly process and proper planning and budgeting must be done.
- Sites designated for Cemetery use must be suitable and appropriately registered to avoid disturbances in its use.
- Due to municipal land being scarce, priority is given to other uses such as Residential and Commercial, and identifying suitable land for Cemetery use can be challenging.
- There is also a call for innovation in terms of alternative burial/interment options



Way Forward

- Alignment of pauper burial/indigent policies with the Provincial MOU and cemetery and crematoria by-laws.
- Close monitoring of cemetery capacity as well as records of burials.
- Clear lines of communication and co-ordinated working relationships between relevant stakeholders.
- Adequate budgetary provisions and resources.
- Cross boundary burials and sharing of burial space facilities may also be considered between municipalities.
- Provision of Crematoria facilities and the option of cremation for interment of pauper remains.



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Thank You