

The Saskatchewan Embalmers Act

Repealed

by Chapter F-23.3 of the *Statutes of Saskatchewan, 1999*
(effective November 1, 2001).

Formerly

Chapter S-15 of the *Revised Statutes of Saskatchewan, 1978*
(effective February 26, 1979) as amended by the *Statutes of
Saskatchewan, 1979-80, c.70; 1980-81, c.21; 1984-85-86, c.16;
1989-90, c.54; and 1990-91, c.27.*

NOTE:

This consolidation is not official. Amendments have been incorporated for convenience of reference and the original statutes and regulations should be consulted for all purposes of interpretation and application of the law. In order to preserve the integrity of the original statutes and regulations, errors that may have appeared are reproduced in this consolidation.

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CHAPTER S-15

An Act respecting The Saskatchewan Embalmers Association

SHORT TITLE

Short title

- 1 This Act may be cited as *The Saskatchewan Embalmers Act*.

INTERPRETATION

Interpretation

- 2 In this Act:

- (a) “**articled student**” means a person over eighteen years of age who has been duly registered by the council as a student;
- (b) “**association**” means the Saskatchewan Funeral Service Association;
- (c) “**council**” means the council of the association;
- (d) “**embalmer**” means a person to whom a certificate of qualification has been issued by the council and to whom a licence has been granted for the current year;
- (e) “**embalming**” means preservation of the dead human body, entire or in part, by the use of chemical substances, fluids or gases, ordinarily used, prepared or intended for that purpose, either by the outward application of the chemical substances, fluids or gases on the body, or by the introduction thereof into the body by vascular or hypodermic injection, or by direct application into the organs or cavities;
- (f) “**member**” means any registered and duly licensed member of the association;
- (g) “**minister**” means the Minister of Health;
- (h) “**secretary**” means the secretary treasurer of the association.

R.S.S. 1978, c.S-15, s.2; 1979-80, c.70, s.3.

SASKATCHEWAN FUNERAL SERVICE ASSOCIATION

Association continued

- 3 The Saskatchewan Embalmers Association is continued as a body corporate under the name of the Saskatchewan Funeral Service Association.

1979-80, c.70, s.4.

c. S-15

SASKATCHEWAN EMBALMERS

Acquisition of property

4 The association may acquire real and personal property for its corporate purposes, and may alienate, exchange, lease, mortgage or otherwise charge or dispose of the same or any part thereof.

R.S.S. 1978, c.S-15, s.4.

Membership

5 The association shall consist of:

- (a) the present members;
- (b) all persons registered under this Act.

R.S.S. 1978, c.S-15, s.5.

COUNCIL

Composition

6 The association shall be managed and governed by a council of five members in good standing, resident in Saskatchewan at the time of their election.

R.S.S. 1978, c.S-15, s.6.

Resignation

7 A member of the council may by notice in writing, addressed to the council, resign his position at any time.

R.S.S. 1978, c.S-15, s.7.

Vacancies

8 Upon the death or resignation of a member, the council may appoint some other member of the association to fill the vacancy temporarily, and the member so appointed shall hold office until the next annual or other general meeting of the association, and at that meeting the association shall elect a member of the association to fill the vacancy, and the member so elected shall in all respects as regards his duration of office represent the member whose death or resignation created the vacancy and in whose stead he has been elected.

R.S.S. 1978, c.S-15, s.8.

ELECTION OF COUNCIL

Election

9 The election of the members of the council shall take place at the annual general meeting of the association or at a special meeting of the association called for that purpose.

R.S.S. 1978, c.S-15, s.9.

Term of office

10(1) At each election two members, or three members, as the case may require, shall be elected to hold office for a term of two years.

(2) Members of the council shall continue in office until their successors are elected.

R.S.S. 1978, c.S-15, s.10.

Eligibility of retiring members

11 Retiring members of the council, if otherwise qualified, shall be eligible for re-election.

R.S.S. 1978, c.S-15, s.11.

Voters' qualifications

12 The persons qualified to vote at elections of members of the council shall be members of the association in good standing, who are resident in Saskatchewan.

R.S.S. 1978, c.S-15, s.12.

Manner of voting

13 Every person voting shall vote for the number of persons to be elected, and a ballot that contains the names of more or less than the number of persons to be elected shall be void.

R.S.S. 1978, c.S-15, s.13.

Equality of votes

14 If two or more candidates at an election receive an equal number of votes, the chairman of the meeting shall determine which of the candidates shall be elected.

R.S.S. 1978, c.S-15, s.14.

Disputed election

15(1) If there is any doubt or dispute as to who has been elected a member of the council or as to the legality of the election of any member, the other duly elected members shall be a committee to hold an inquiry and decide the question at issue; and the person, if any, whom they decide to have been elected shall be deemed to be a member legally elected; and if the election is found to have been illegal, the committee may order a new election.

(2) If the committee fails to make a decision within seven days after the date of the election, the question shall be decided by a committee consisting of the members of the first mentioned committee and another person nominated by them; and failing such nomination and decision within fourteen days after the date of the election the matter may be referred by any member of the association to a judge of the Court of Queen's Bench whose decision shall be final and not subject to question or review.

R.S.S. 1978, c.S-15, s.15.

Removal of member of council

16 The association may at any annual meeting, or at any general meeting of the association called for that purpose, by resolution passed by a majority of not less than two-thirds of the members present and entitled to vote at the meeting, remove any member of the council before the expiration of his term of office, and may by an ordinary resolution elect another member in his stead, and the person so elected shall in all respects represent the member of the council in whose stead he has been so elected.

R.S.S. 1978, c.S-15, s.16.

POWERS AND DUTIES OF THE COUNCIL

Election of officers

17(1) The officers of the council shall be a president and vice-president, who shall be members of the council, and a secretary treasurer, who need not be a member of the council or of the association.

(2) The president and vice-president shall be elected by members of the council from among their own number at the first meeting thereof held after the annual election, and they shall hold office for one year, or until their successors are elected.

(3) The secretary treasurer shall be appointed by the council and shall hold office during the pleasure of the council.

R.S.S. 1978, c.S-15, s.17.

Meetings

18(1) The council shall hold at least two meetings in each year, at such time and place as the members of the council shall determine.

(2) A majority of the members of the council shall constitute a quorum.

R.S.S. 1978, c.S-15, s.18.

Bylaws and rules

19(1) The council may make bylaws and rules:

- (a) providing for the establishment of new or the approval of existing schools of embalming and governing special courses of instruction in embalming and the preparation of the remains of deceased persons for interment;
- (b) providing for the registration of students and fees payable thereon;
- (c) prescribing the course of training and instruction of students;
- (d) prescribing the conditions as to notice, place of hearing, representation of parties by counsel, manner of taking evidence and the effect of any order made on a hearing following a refusal to register any person or the suspension or revocation of a licence or permit;
- (e) governing the issue of certificates of qualification, licences and permits and the renewal of licences and permits, and prescribing the fees payable thereon;

- (f) specifying the circumstances and conditions under which certificates of qualification and licences to carry on business as an embalmer may be cancelled, and prescribing the procedure for the cancellation thereof;
 - (g) governing the inspection and regulation of the premises, accommodation and equipment of embalmers;
 - (h) prescribing the duties of the secretary or any other employee of the association;
 - (i) specifying what shall be deemed to be unprofessional, infamous or disgraceful conduct on the part of an embalmer;
 - (j) providing for engaging and paying for any services deemed necessary by the council;
 - (j.1) regulating advertising;
 - (k) providing generally for the direction and management of the association and for the better carrying out of the provisions of this Act.
- (2) Such bylaws and rules, unless in the meantime confirmed at a general meeting of the association, duly called for the purpose, shall respectively have force only until the next annual meeting following their approval, and in default of confirmation at that annual meeting shall be null and void.

R.S.S. 1978, c.S-15, s.19; 1984-85-86, c.16, s.32;
1989-90, c.54, s.4; 1990-91, c.27, s.3.

Continuation of prior bylaws and rules

20(1) All bylaws and rules made by the Board of Examiners in Embalming under any *Embalmers Act* and in force when this Act comes into force shall, in so far as they are not inconsistent with any of the provisions of this Act, be and remain in full force and effect until they are rescinded, varied or amended by the council.

(2) In construing the bylaws and rules, the expression “council” shall be substituted for the expression “board” wherever the last mentioned expression appears therein.

R.S.S. 1978, c.S-15, s.20; 1989-90, c.54, s.4.

Emergency powers

21(1) Where, owing to the urgent nature of any matter or situation requiring the consideration of the council, it is impossible to convene a meeting as quickly as may be necessary or expedient, the president shall act as and for the council, and shall report the circumstances of the case and the action taken thereon at the next meeting of the council.

(2) The decision or action of the president in such circumstances shall be final and binding unless and until reversed or altered by the council.

R.S.S. 1978, c.S-15, s.21.

MEETINGS

Annual meetings

22 Annual general meetings of the association shall be held at such place as may be determined by the association in general meeting and on such date in each year as may be determined by the council.

R.S.S. 1978, c.S-15, s.22.

Special meetings

23(1) Special general meetings of the association may be held at such times and places as the council may determine, and shall be held upon request in writing made to the secretary by at least ten members of the association, who are in good standing, specifying the purpose for which the meeting is to be called.

(2) A special meeting, so requested, shall be called by the council and shall be held within one month from the receipt of the request by the secretary.

R.S.S. 1978, c.S-15, s.23.

Notice of meeting

24(1) Notice of every meeting of the association shall be given at such times and in such form as shall be determined by the bylaws of the association.

(2) No business shall be transacted at a special general meeting, except that set forth in the notice calling it.

R.S.S. 1978, c.S-15, s.24.

Procedure

25(1) Subject to section 16, at all general meetings of the association the vote of the majority of the members present and having the right to vote thereat respectively shall be conclusive upon all matters brought before the meeting.

(2) Only members in good standing shall have a right to vote at a general meeting of the association.

(3) The person presiding at a general meeting of the association shall not vote, except in case of an equality of votes, when he shall have a casting vote.

(4) No business shall be transacted at a general meeting of the association unless at least twelve members in good standing are personally present at the meeting.

R.S.S. 1978, c.S-15, s.25.

EXAMINATIONS

University controls

26(1) The examination of candidates for admission to practise as embalmers shall be under the control of The University of Saskatchewan.

(2) The Senate may from time to time, after consultation with the council, make rules prescribing the subjects of examination and fees payable by applicants for examination and governing the conduct of examinations.

(3) Examinations shall be held at such time and places as may be fixed by the Senate.

R.S.S. 1978, c.S-15, s.26; 1989-90, c.54, s.4.

REGISTRATION

Register

27 The council shall provide a register, which shall be kept by the secretary, and in which shall be entered the name and address of every person to whom and the date upon which a certificate of qualification is granted.

R.S.S. 1978, c.S-15, s.27.

Who may be registered

28 Every person who is admitted by the council to membership in the association and pays the proper fees prescribed by the council shall be registered as a qualified embalmer.

R.S.S. 1978, c.S-15, s.28.

Issue of licences

29 The council shall, upon payment of the prescribed fee, issue to every person registered under this Act a licence to practise as an embalmer.

R.S.S. 1978, c.S-15, s.29.

Renewal of licences

30 All licences shall expire on the thirty-first day of December of the year in which they are issued but shall be renewable for one year upon payment of the prescribed fee.

R.S.S. 1978, c.S-15, s.30.

Refusal and revocation of licences

31(1) The council may refuse to register any person or to renew a licence held by any person who:

- (a) by false and fraudulent misrepresentation has obtained or sought to obtain a licence to practice as an embalmer;
- (b) by false and fraudulent representation of his profession has obtained or sought to obtain money or anything of value; or
- (c) is guilty of any other unprofessional or dishonourable conduct, or of incompetency in the practice of his profession.

(2) A licence may be revoked for any of the reasons mentioned in subsection (1), or any like cause. Before a licence is revoked the holder shall be given reasonable notice of the charge against him and an opportunity to be heard fully before the council.

R.S.S. 1978, c.S-15, s.31.

Attendance of witnesses before council

32 For the purpose of procuring the additional evidence of witnesses before the council, any local registrar of the Court of Queen's Bench shall, upon the application of the complainant or the member complained against or a member of the council, and upon payment of the prescribed fees, issue a writ of *subpoena ad testificandum* or *duces tecum* or both, and the rules of evidence and the procedure and penalties in case of disobedience to such writ shall be the same as obtain in civil cases in the court of Queen's Bench.

R.S.S. 1978, c.S-15, s.32.

Appeal

33(1) A person who has passed the required examination and to whom the council refuses to grant a certificate of qualification and a person whose name has been erased from the register or whose certificate of qualification has been revoked, or whose licence to do business as an embalmer has been cancelled or suspended, by order of the council, may appeal from such decision or order to a judge of the Court of Queen's Bench within sixty days after the date of receipt by that person of written notice of the decision or order, and the judge may upon hearing the appeal make such order confirming or varying the decision or order, or for further inquiries by the council into the facts of the case, and as to costs, as he deems just and reasonable.

(2) The appeal shall be by motion, notice of which shall be served upon the secretary, and the secretary shall, upon the request of any person so appealing, furnish to him a certified copy of all proceedings, reports, orders and papers upon which the council acted in making the order or arriving at its decision, upon payment therefor at the rate of fifteen cents per folio.

(3) The appeal shall be in the nature of a trial *de novo*, and either of the parties to the appeal may call witnesses and adduce evidence, whether such witnesses were called or evidence adduced at any hearing before the council or not.

R.S.S. 1978, c.S-15, s.33.

Periodical instruction

34 Every embalmer licensed by the council shall at least once in every five years attend a course of instruction in embalming prescribed by the council.

R.S.S. 1978, c.S-15, s.34.

PERMITS

Issue of permits in sparsely settled areas

35 For the purpose of serving the public in sparsely settled areas, the council may, in its discretion grant to any person, who does not hold a certificate of qualification as an embalmer, a permit to embalm to the best of his ability the remains of deceased persons, and may cancel such permit for cause.

R.S.S. 1978, c.S-15, s.35.

Renewal of permits

36 Permits shall expire on the thirty-first day of December of the year in which they are issued, but shall be renewable for one year on payment of the prescribed fee.

R.S.S. 1978, c.S-15, s.36.

Exemptions from Act

37 Nothing in this Act shall be deemed to prevent or prohibit any person from preparing or assisting in preparing the remains of deceased persons for interment where embalming is not a part of the preparation.

R.S.S. 1978, c.S-15, s.37.

38 Repealed. 1990-91, c.27, s.4.

39 Repealed. 1990-91, c.27, s.4.

MISCELLANEOUS**Vesting of money and property**

40 All moneys, records and property now held or controlled by the association shall continue to be vested in the association, and shall be under the control and direction of the council.

R.S.S. 1978, c.S-15, s.40.

Funds

41(1) All fees and fines receivable or recoverable under this Act shall become and be the property of the association.

(2) The funds of the association shall be deposited in a chartered bank to the credit of the association, and the expenses of the association shall be paid therefrom under the direction of the council.

R.S.S. 1978, c.S-15, s.41.

Remuneration

42 Members of the council shall be paid such fees or other remuneration as may be determined by the association in general meeting.

R.S.S. 1978, c.S-15, s.42.

Display of licences, etc.

43 Every holder of a certificate, licence or permit shall display it in his place of business or the place of business in which he is employed.

R.S.S. 1978, c.S-15, s.43.

Limitation of action

44 No licensed embalmer shall be liable to an action for negligence or malpractice in respect of professional services requested or rendered, unless the action is commenced within six months from the date when, in the matter complained of, the professional services terminated.

R.S.S. 1978, c.S-15, s.44.

R.S.S. 1978, c.P-40

45 *The Public Officers' Protection Act* applies to the members and officers of the council.

R.S.S. 1978, c.S-15, s.45.

Audit

46 The receipts and expenditures of the council shall be audited by a chartered accountant.

R.S.S. 1978, c.S-15, s.46.

Return to be made to minister

47 The secretary shall transmit to the minister a certified return, under the seal of the association, setting forth all such information and particulars relating to the association as may be required by the Lieutenant Governor in Council.

R.S.S. 1978, c.S-15, s.47.

PROHIBITIONS AND PENALTIES

Unlicensed persons

48 Except as in this Act otherwise provided no person shall carry on business or attempt to carry on business in Saskatchewan as an embalmer unless he holds a licence issued under this Act.

R.S.S. 1978, c.S-15, s.48.

Penalty

49(1) Every person, including an assistant or attendant, who, not being the holder of a licence or permit issued by the council for the current year, practises or attempts to practise embalming, or holds himself out as an embalmer, or uses any sign, letters, words or abbreviations implying that he is an embalmer, is guilty of an offence and liable on summary conviction for the first offence to a fine of not less than \$25 nor more than \$100, and for each subsequent offence to a fine of not less than \$50 nor more than \$200.

(2) Subsection (1) does not apply to any registered or articulated student working under the direct and personal supervision of a licensed embalmer, nor to a university.

R.S.S. 1978, c.S-15, s.49.

Onus of proof

50(1) In a prosecution instituted under this Act for any of the offences set out in section 49, the onus of proof that the person against whom the charge is laid is entitled to practise as an embalmer and is duly registered and licensed under this Act shall be upon the person against whom the charge is made.

(2) The production of a licence for the then current year, purporting to be signed by the secretary and under the seal of the association, shall be *prima facie* evidence that the person named therein is entitled to practise as a qualified embalmer.

R.S.S. 1965, c.S-15, s.50.

SUPPLEMENTAL

Bylaws and rules to be filed

51(1) The association shall file in the Department of Consumer and Commercial Affairs two copies, certified by the secretary to be true copies, of:

- (a) all bylaws and rules hereafter made under this Act;
- (b) all amendments made to such bylaws and rules;
- (c) all amendments hereafter made to bylaws and rules and to amendments thereto made before the twenty-fifth day of March, 1948;

within thirty days after they are made.

(2) Where the association adopts a code of ethics governing its members, and subscription thereto or observance thereof is a condition of membership, the code of ethics shall for the purposes of this section and sections 52, 53, 54 and 55 be deemed to be a bylaw of the association.

(3) Where a bylaw or rule is hereafter amended, two copies thereof shall be filed with the amendment.

R.S.S. 1978, c.S-15, s.51; 1980-81, c.21, s.47;
1989-90, c.54, s.4.

Effective date of bylaws, etc.

52 All bylaws, rules and amendments thereto hereafter made shall take effect upon the making thereof or on a date stated therein for the purpose.

R.S.S. 1978, c.S-15, s.52; 1989-90, c.54, s.6.

Effect of failure to file bylaw, etc.

53 Failure to file any bylaw, rule or amendment as required by section 51 shall render the bylaw, rule or amendment ineffective as from the expiration of the time allowed for filing it and it shall be deemed to have been revoked.

R.S.S. 1978, c.S-15, s.53; 1989-90, c.54, s.6.

Review by Legislative Assembly

54(1) One copy of all bylaws and amendments thereto filed with the Department of Consumer and Commercial Affairs pursuant to section 51 shall, in accordance with *The Tabling of Documents Act*, be laid before the Legislative Assembly.

(2) Where any bylaw, rule or any amendment thereto laid before the Legislative Assembly is found by the Assembly to be beyond the powers delegated by the Legislature or in any way prejudicial to the public interest, such bylaw, rule or amendment shall thereupon cease to have any effect and be deemed to have been revoked.

R.S.S. 1978, c.S-15, s.54; 1980-81, c.21, s.47;
1989-90, c.54, s.6.

Record of revocation and notification to association

55(1) Where it appears from any Votes and Proceedings of the Legislative Assembly that any bylaw, rule or amendment thereto has ceased to have effect, the Clerk of the Assembly shall forthwith forward two copies of such Votes and Proceedings to the Deputy Minister of Consumer and Commercial Affairs and at the same time advise him that the copies are forwarded pursuant to this subsection.

(2) Upon receipt of such copies the Deputy Minister of Consumer and Commercial Affairs shall file one of the copies with the bylaw, rule or amendment to which it relates and forthwith forward the other copy to the association and at the same time advise the association that the copy is forwarded pursuant to this subsection.

R.S.S. 1978, c.S-15, s.55; 1980-81, c.21, s.47;
1989-90, c.54, s.6.

Lists of members, etc., to be filed

56 The association shall, before the first day of February in each year, file in the Department of Consumer and Commercial Affairs lists, certified by the secretary of the association to be true lists, showing:

- (a) the names of all embalmers in good standing as of the thirty-first day of December in the preceding year, their addresses as shown by the records of the association and the respective dates of their admission to membership in the association;
- (b) the names of all persons whose names were erased from the register or who otherwise ceased to be in good standing during the preceding year;
- (c) the names of all persons whose names were restored to the register during that year.

R.S.S. 1978, c.S-15, s.56; 1980-81, c.21, s.47.

Report to Minister of Health where application for admission refused

57 Where an application for reinstatement or for admission to membership in the association is made in compliance with this Act and the bylaws and rules and is refused, the association shall within seven days thereafter forward by registered mail to the Minister of Health a report setting forth the circumstances and stating the reasons for the refusal.

R.S.S. 1978, c.S-15, s.57; 1989-90, c.54, s.4.

Discipline

58(1) Where the council orders that the certificate of qualification or the licence of a member be cancelled, the association shall within fourteen days thereafter forward by registered mail to the Minister of Health a copy, certified by the secretary to be a true copy, of the complaint, any report upon the conduct of the member and the order of the council, and shall furnish the minister with such relative information as he may require.

(2) If the minister is of opinion that the action of the council is unjust or contrary to the public interest, he may:

- (a) request the council to reconsider the case and its findings thereon;
- (b) if the council and the person whose conduct is under inquiry agree, appoint a board of arbitration consisting of one member nominated by the council, one nominated by the person whose conduct is under inquiry and one appointed by the Lieutenant Governor in Council to review or rehear the case and render decision thereon; or
- (c) institute an appeal to a judge of the Court of Queen's Bench.

(3) Nothing in this section shall prejudice any right of appeal conferred by this Act.

