The Funeral and Cremation Services Regulations

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Chapter F-23.3 Reg 1 (effective November 1, 2001).

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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SCHEDULE
BUYER'S RIGHT TO CANCEL OR TRANSFER

CHAPTER F-23.3 REG 1

The Funeral and Cremation Services Act

PART I
Introductory Matters

Title

1 These regulations may be cited as *The Funeral and Cremation Services Regulations.*

Interpretation

2 In these regulations:

(a) **"Act"** means *The Funeral and Cremation Services Act;*

(b) **"member"** means a member of the council.

13 Jly 2001 cF-23.3 Reg 1 s2.

Brokers

3 For the purposes of clause 2(v) of the Act, **"owner"** includes a person who, for a fee or other remuneration, arranges or coordinates but does not provide funeral services, cremation services or a transfer service on behalf of another person.

13 Jly 2001 cF-23.3 Reg 1 s3.

PART II
Prepaid Contracts

Funds not placed in trust

4 For the purposes of subsection 74(4) of the Act, where an owner must make up a deficiency for failure to deposit funds in trust, the interest rate is the highest Bank of Canada interest rate during the period that the funds were not deposited in accordance with section 74 of the Act plus 2% compounded annually.

13 Jly 2001 cF-23.3 Reg 1 s4.

Prepaid contract records

5 For the purposes of section 75 of the Act, records to be maintained by an owner with respect to prepaid contracts shall be in writing and shall include:

(a) the names of the buyer and contract beneficiary for each prepaid contract:

(i) sold by the owner;

(ii) fulfilled by the owner; or

(iii) cancelled or transferred in accordance with the Act;

(b) the date of the contract;

(c) the original amount deposited in the trust account and each additional amount deposited;

(d) the method of payment on cancellation and to whom the payment was made;

(e) the total amount not placed in trust as permitted pursuant to clause 74(2)(b) of the Act;

(f) an itemized listing of any goods deducted pursuant to clause 74 (2)(a) of the Act;

(g) the location of the funeral home or branch office where the contract was sold; and

(h) the closing balance of the trust account on the contract being fulfilled or cancelled.

13 Jly 2001 cF-23.3 Reg 1 s5.

Transfer of prepaid contract

6(1) A buyer or contract beneficiary who requests a transfer of a prepaid contract pursuant to subsection 76(2) of the Act shall do so in writing.

(2) Where an owner receives a request pursuant to subsection (1), the owner:

(a) shall instruct the financial institution holding the trust funds to transfer the funds in the trust account to the financial institution designated by the owner to whom the contract is being transferred;

(b) shall pay to the owner to whom the contract is being transferred the amount, if any, that was not placed in the trust account, as permitted pursuant to clause 74(2)(b) of the Act; and

(c) may withhold the administration fee calculated in accordance with section 10.

(3) Where a prepaid contract is transferred, the owner may deduct the itemized cost of goods from the amount to be transferred pursuant to subsection (2) where:

(a) the goods have been specially ordered under a prepaid contract and because of some unique characteristic, personalization or extraordinary cost the goods cannot be used in the owner's ordinary course of business; and

(b) the fact that the goods are being ordered and are not subject to being transferred pursuant to this section is disclosed in writing in the prepaid contract.

(4) The owner shall deliver any goods described in clause (3)(a) to the buyer within 15 business days of receiving written notice to transfer the prepaid contract.

13 Jly 2001 cF-23.3 Reg 1 s6.

When immediate delivery required

7 Where a contract is transferred pursuant to subsection 76(2) of the Act or cancelled pursuant to section 81 of the Act and goods mentioned in clause 81(4)(a) of the Act or clause 6(3)(a) exist, those goods shall, where the goods are required due to the death of the person who was the contract beneficiary, be delivered immediately, at the buyer's or authorized decision-maker's expense, to the location requested by the buyer or authorized decision-maker.

13 Jly 2001 cF-23.3 Reg 1 s7.

Statement of cancellation rights

8(1) For the purposes of clause 77(e) of the Act, a statement of cancellation rights is to:

(a) contain the "Buyer's Right to Cancel or Transfer" set out in the Appendix;

(b) show the heading "Buyer's Right to Cancel or Transfer" in not less than 12-point bold type;

(c) show the statement of 10-day cancellation rights, or any longer period of cancellation rights that an owner may offer, in not less than 12-point type; and

(d) show the remainder of the information in not less than 10-point type.

(2) Where a statement of cancellation rights mentioned in subsection (1) is not located on the first page of the contract, the contract must contain a notice on the first page in not less than 12-point bold type directing the buyer to the location of the statement of cancellation rights.

13 Jly 2001 cF-23.3 Reg 1 s8.

Income on funds

9 For the purposes of Part VI of the Act, **"income accrued or earned on those moneys"** means income accrued or earned on funds held in trust.

13 Jly 2001 cF-23.3 Reg 1 s9.

Administration fee

10 For the purposes of clause 6(2)(c) of these regulations and subsection 81(3) of the Act, the amount of the administration fee that an owner may charge is:

(a) in the first year after a contract is entered into, the lesser of:

(i) 10% of the funds paid pursuant to the prepaid contract, including any income on those funds; and

(ii) $250; and

(b) after the first year from the date the contract was entered into, the lesser of:

(i) 10% of the funds paid pursuant to the prepaid contract, including any income on those funds; and

(ii) $500.

13 Jly 2001 cF-23.3 Reg 1 s10.

Funds not claimed

11(1) Subject to subsection (2), an owner shall pay money held pursuant to a prepaid contract to the assurance fund where:

(a) the contract beneficiary would be 120 years old;

(b) goods or services that are the subject of the contract have not been provided; and

(c) the owner has been unable to locate the buyer and has been unable to determine whether the contract beneficiary is deceased.

(2) An owner may deduct from the amount to be paid into the assurance fund the administration fee calculated in accordance with section 10.

(3) Where a person establishes that he or she is entitled to any funds paid to the assurance fund pursuant to subsection (1), the council shall pay that person out of the assurance fund an amount equal to the amount paid into the assurance fund.

(4) A dispute with respect to a person's entitlement to money mentioned in this section may be determined on application to the Court of Queen's Bench.

(5) In the case of a prepaid contract to which this section applies that was entered into prior to the coming into force of the Act, the owner may deduct the administration fee calculated in accordance with section 10 prior to paying the money to the assurance fund.

13 Jly 2001 cF-23.3 Reg 1 s11.

Withdrawal of trust funds

12 An owner may withdraw funds from the trust fund only where:

(a) the prepaid contract is fulfilled;

(b) the prepaid contract has been cancelled;

(c) the prepaid contract is transferred to another owner; or

(d) the funds are not claimed and the owner is required to pay the money to the assurance fund pursuant to section 11.

13 Jly 2001 cF-23.3 Reg 1 s12.

Reporting on trust funds

13 An owner shall, on or before March 31 each year, deliver to the council an annual report with respect to all trust accounts in the form and containing the information set out in the bylaws.

13 Jly 2001 cF-23.3 Reg 1 s13.

Record retention

14 Records respecting prepaid contracts and trust funds must be retained by the owner for at least two years after a prepaid contract is fulfilled, cancelled or transferred.

13 Jly 2001 cF-23.3 Reg 1 s14.

PART III
Assurance Fund

Claims on the assurance fund

15(1) The council shall pay compensation to a person who:

(a) makes a claim in accordance with this section;

(b) satisfies the council that the person has suffered a financial loss for a reason set out in subsection (2); and

(c) has not otherwise been fully compensated.

(2) A person is entitled to compensation from the council where:

(a) a prepaid contract was cancelled and all the funds and accrued income owing to the person were not paid in accordance with section 80 of the Act;

(b) a prepaid contract was not fulfilled and as a result it was necessary for the person to obtain funeral services, cremation services or a transfer service other than under the prepaid contract;

(c) a payment was not made to the person in accordance with section 81 of the Act; or

(d) a refund was not made to the person in accordance with section 82 of the Act.

(3) A claimant may make a claim by giving written notice of the claim to the council.

(4) The council may, before paying a claim or any part of a claim, require the claimant to provide any information or document that the council considers necessary, including any document to transfer to the council the interest of the claimant in the claim to subrogate the council to the position of the claimant.

13 Jly 2001 cF-23.3 Reg 1 s15.

Administration fee

16 Pursuant to clause 85(3)(b) of the Act, the fee for the annual administration of the fund is 30% of the income earned on the fund in the preceding year.

13 Jly 2001 cF-23.3 Reg 1 s16.

Use of fund

17 The council may use the income from the fund in excess of the percentage mentioned in section 16 for educational or related purposes where:

(a) the fund exceeds $500,000;

(b) the council has submitted to the superintendent a plan for the use of the income; and

(c) the superintendent has approved the council's plan.

13 Jly 2001 cF-23.3 Reg 1 s17.

PART IV
Price Lists

Funeral services price list

18(1) An itemized price list required pursuant to section 104 of the Act for funeral services must include the cost of the following:

(a) professional and staff services for each type of funeral service offered and a listing of what those services are;

(b) embalming, including the use of facilities for embalming;

(c) other preparation of human remains;

(d) the use of facilities for visitation;

(e) payment of staff for visitation;

(f) the use of facilities for the sheltering of human remains;

(g) the initial transfer of human remains;

(h) the use of a funeral coach;

(i) the use of each additional vehicle;

(j) funeral services offered as a package, with each item in a package identified;

(k) completing or obtaining any documents required by law;

(l) rental fees for all goods available for rent;

(m) receiving human remains from another funeral home;

(n) transferring human remains to another funeral home or other location;

(o) kilometre fee;

(p) overtime services;

(q) any other services the owner generally offers.

(2) The owner of a funeral home shall maintain a current itemized price list of the caskets, containers, outer burial containers, urns and other merchandise that the owner generally offers for sale.

(3) The price list mentioned in subsection (2) must include the model name and a brief description of each casket, container, outer burial container and urn, including the manufacturer's name, if available, and any model number.

13 Jly 2001 cF-23.3 Reg 1 s18.

Transfer service price list

19(1) An itemized price list required pursuant to section 104 of the Act for a transfer service must include the cost of any of the following that the owner offers directly to the public:

(a) professional and staff services and a listing of what the services are;

(b) transfer of human remains;

(c) the use of facilities for sheltering human remains;

(d) the use of each additional vehicle;

(e) transfer services and goods offered as a package, indicating each item included in the package;

(f) completing or obtaining any documents required by law;

(g) kilometre fee;

(h) any other services the owner generally offers.

(2) The owner of a transfer service shall maintain a current itemized price list of the caskets, containers, outer burial containers, urns and other merchandise that the owner generally offers for sale.

(3) The price list mentioned in subsection (2) must include the model name and a brief description of each casket, container, outer burial container and urn, including the manufacturer's name, if available, and any model number.

13 Jly 2001 cF-23.3 Reg 1 s19.

Cremation services price list

20(1) An itemized price list required pursuant to section 104 of the Act for cremation services that the owner offers directly to the public must include the cost of any of the following:

(a) professional and staff services and a listing of what the services are;

(b) cremation;

(c) payment of staff for visitation;

(d) the use of facilities for visitation;

(e) the use of other facilities;

(f) temporary shelter of human remains;

(g) completing or obtaining any documents required by law;

(h) storing cremated human remains;

(i) inspection of the human remains for the presence of a pacemaker or radioactive implant;

(j) arranging for the removal of a pacemaker or radioactive implant;

(k) kilometre fee;

(l) overtime services;

(m) any other services the owner generally offers.

(2) The owner of a crematorium shall maintain a current itemized price list of the caskets, containers, outer burial containers, urns and other merchandise that the owner generally offers for sale.

(3) The price list mentioned in subsection (2) must include the model name and a brief description of each casket, container, outer burial container and urn, including the manufacturer's name, if available, and any model number.

13 Jly 2001 cF-23.3 Reg 1 s20.

Availability of price lists

21(1) All price lists must clearly state:

(a) the effective date of the price list; and

(b) the name, address and phone number of the funeral home, crematorium or transfer service.

(2) Before a potential buyer selects funeral services, cremation services or a transfer service at the owner's premises, an owner or the owner's employee or representative must offer to that person without charge a copy of the price lists.

(3) Prices on the price list shall be expressed as a fixed charge, an hourly rate, a rate per kilometre or a rate per other unit of compensation.

13 Jly 2001 cF-23.3 Reg 1 s21.

Telephone requests

22 An owner or an owner's representative shall, on receiving a telephone inquiry respecting the supply of funeral services, cremation services or a transfer service give accurate information respecting the nature and price of the supplies and services offered and advise the caller of the availability of the price lists.

13 Jly 2001 cF-23.3 Reg 1 s22.

PART V
General Provisions

Memorial societies

23 The Funeral Advisory and Memorial Society of Saskatchewan is designated as a memorial society for purposes of section 5 of the Act.

13 Jly 2001 cF-23.3 Reg 1 s23.

Notice of changes

24 Where a corporation wishes to change the designation of an officer or director who was designated pursuant to clause 7(1)(a) of the Act as the person responsible for directly communicating with the council, the corporation may make the designation and shall notify the council of the change within 10 business days.

13 Jly 2001 cF-23.3 Reg 1 s24.

Membership on council

25(1) An elected member must be a licensee in good standing.

(2) An individual is not eligible to be a member or to remain a member if:

(a) in the case of a licensee appointed by the Lieutenant Governor in Council, the individual's licence is suspended;

(b) the individual is convicted of an offence pursuant to the Act or these regulations; or

(c) the individual is an undischarged bankrupt.

(3) Notwithstanding the manner of appointment, where a member becomes ineligible to be a member, he or she ceases to be a member on that day.

13 Jly 2001 cF-23.3 Reg 1 s25.

Delegation of powers

26 A delegation of any powers or duties of the council is to be made in writing.

13 Jly 2001 cF-23.3 Reg 1 s26.

Circumstances where burial permit not required

27(1) A burial permit is not required for the cremation of foetal remains if, pursuant to *The Vital Statistics Act, 1995*, a burial permit is not issued.

(2) A burial permit is not required for the cremation of disinterred human remains.

(3) An owner shall require proof of permission to disinter human remains pursuant to *The Public Health Act, 1994* or *The Coroners Act, 1999* in order to cremate disinterred human remains.

13 Jly 2001 cF-23.3 Reg 1 s27.

Hazardous products

28 For purposes of section 94 of the Act, no person shall provide human remains to a crematorium for cremation if the person knows or ought reasonably to know that:

(a) a radioactive implant is in the human remains; or

(b) non-combustible objects or hazardous materials that may pose a danger to any person during or after the cremation process are in the container or casket.

13 Jly 2001 cF-23.3 Reg 1 s28.

Cremation practices

29(1) An owner of a crematorium shall not, without the written consent of the authorized decision-maker:

(a) cremate the human remains of more than one person within one cremation chamber at the same time;

(b) subject to section 98 of the Act, retain or dispose of cremated human remains in any manner other than as directed by the authorized decision-maker; or

(c) commingle cremated human remains that have been recovered from a cremation chamber.

(2) The owner of a crematorium shall operate a cremation chamber only for the purpose of cremating human remains.

13 Jly 2001 cF-23.3 Reg 1 s29.

Disposition of unclaimed cremated human remains

30(1) Prior to permanently disposing of unclaimed cremated human remains pursuant to section 98 of the Act, an owner shall make reasonable efforts to have the authorized decision-maker claim the cremated human remains or to obtain direction from the authorized decision-maker as to the disposition of the cremated human remains.

(2) For the purposes of clause 98(c), an owner may dispose of cremated human remains in an area established for the purpose of scattering cremated human remains.

13 Jly 2001 cF-23.3 Reg 1 s30.

Records

31 In addition to the records required pursuant to section 99 of the Act, the owner of a crematorium shall keep a permanent record of the following information with respect to each deceased person cremated in the crematorium:

(a) the date of death;

(b) if known, the deceased person's:

(i) date of birth;

(ii) gender; and

(iii) location of death;

(c) the name of the crematorium technician; and

(d) the cremation identification number.

13 Jly 2001 cF-23.3 Reg 1 s31.

Funeral goods display

32(1) If an owner has a room or area for the display of caskets for examination by the public, the owner shall include in that room or area one of the lowest priced caskets that is commonly available.

(2) An owner must have available for examination by the public a book, brochure or other advertisement or literature illustrative of the product line of caskets and containers the owner generally offers for sale.

13 Jly 2001 cF-23.3 Reg 1 s32.

Telephone solicitation

33 An owner who engages in telephone solicitation must maintain a "do not call" list and place on that list the name of any person who has asked not to be called.

13 Jly 2001 cF-23.3 Reg 1 s33.

Service of documents

34(1) In addition to the methods of service set out in section 117 of the Act, a document required by the Act or the regulations to be served may be served in any manner that permits the person serving the document to produce proof of service, including fax or courier, to the last known address of the person to be served.

(2) Service of a document by fax may be established using the transmission record or journal generated by the fax machine that indicates the date of transmission and that the transmission was successful.

13 Jly 2001 cF-23.3 Reg 1 s34.

Transitional

35(1) For purposes of subsection 120(5) of the Act, the following are prescribed as funeral services:

(a) making arrangements with the family of a deceased person from initial planning through to final disposition of the human remains;

(b) making arrangements with a cemetery or crematorium for final disposition of the human remains;

(c) coordinating the transfer and receipt of human remains;

(d) coordinating the services of clergy and other persons involved in rites and ceremonies with respect to human remains;

(e) completing documentation required by law for interment or cremation.

(2) An owner shall, within 90 days of the coming into force of the Act, comply with the requirements of the Act and these regulations respecting:

(a) prepaid contract provisions pursuant to clause 77(e) of the Act;

(b) records pursuant to sections 99 to 101 of the Act; and

(c) price lists pursuant to section 104 of the Act.

13 Jly 2001 cF-23.3 Reg 1 s35.

R.R.S. c.P-22.3 Reg 1 repealed

36 *The Prepaid Funeral Services Regulations* are repealed.

13 Jly 2001 cF-23.3 Reg 1 s36.

Coming into force

37(1) Subject to subsection (2), these regulations come into force on the day on which section 1 of *The Funeral and Cremation Services Act* comes into force.

(2) If section 1 of *The Funeral and Cremation Services Act* comes into force before the day on which these regulations are filed with the Registrar of Regulations, these regulations come into force on the day on which they are filed with the Registrar of Regulations.

13 Jly 2001 cF-23.3 Reg 1 s37.

SCHEDULE

BUYER'S RIGHT TO CANCEL OR TRANSFER

[*Section 8*]

You may cancel this contract and receive a full refund if you cancel during the period beginning on the day you enter into the contract and ending 10 business days after the day you receive a copy of the contract.

You may also cancel this contract at any time after the period mentioned above.

If you cancel the contract after that period, you may not receive a refund for any goods that have been specially ordered or cannot be sold to anyone else (e.g., if the goods have been engraved), as long as the fact that those goods were not subject to refund is stated in the contract. The owner will, however, provide you with those goods on cancellation.

Also, if you cancel the contract after that period, you may be charged an administration fee of:

- within the first year of the contract, 10% of the contract or $250, whichever is the lesser amount;
- after the first year of the contract, 10% of the contract or $500, whichever is the lesser amount.

To cancel, you must give notice of cancellation in writing to the owner at the owner's address.

This contract may also be transferred to another owner. To transfer, you must give notice in writing to the first owner at the owner's address.

13 Jly 2001 cF-23.3 Reg 1 Schedule.

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