

# Funeral, Burial and Cremation Services Act, 2002

## ONTARIO REGULATION 30/11

### GENERAL

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## PART I OPERATION OF BUSINESS

### DIVISION A DEFINITIONS

#### Definitions

1. (1) In this Part,

“business day” means a day that is not,

- (a) Saturday, or
- (b) a holiday within the meaning of section 87 of the *Legislation Act, 2006*; (“jour ouvrable”)

“care and maintenance trust money” means money that section 53 of the Act requires be held in a care and maintenance fund or in a care and maintenance account; (“sommés en fiducie destinées à l’entretien”)

“commercial cemetery” means a cemetery operated for the purpose of making a profit for the owner; (“cimetière commercial”)

“eligible depositary” means,

- (a) a bank or authorized foreign bank as both those terms are defined in section 2 of the *Bank Act* (Canada),
- (b) a corporation registered under the *Loan and Trust Corporations Act*, or
- (c) a credit union within the meaning of the *Credit Unions and Caisses Populaires Act, 1994*; (“dépositaire admissible”)

“embalming room” means a room designated for arterially embalming or restoring dead human bodies; (“salle d’embaumement”)

“funeral director” means an individual licensed to provide or direct the provision of funeral services or to hold oneself out as available to do so; (“directeur de funérailles”)

“funeral preplanner” means an individual who, in respect of contracts made before the death of the intended recipient of supplies and services, is licensed to act under subsection 6 (1) on behalf of a person licensed as a Funeral Establishment Operator – Class 1 or Funeral Establishment Operator – Class 2 or who is licensed to hold oneself out as available to do so; (“conseiller en planification funéraire”)

“group insurance” means group insurance as defined in subsection 171 (1) of the *Insurance Act*; (“assurance collective”)

“holding room” means a room designated for holding dead human bodies, preparing them and placing them in caskets, but not for arterially embalming or restoring them; (“salle de conservation”)

“licence” means a licence issued under section 14 of the Act or deemed to be held under the Act by virtue of section 13 of the Act; (“permis”)

“operator licence” means a licence authorizing the licensee to operate a cemetery, crematorium, funeral establishment or transfer service; (“permis d’exploitant”)

“personal licence” means a licence authorizing a licensee who is an individual to act as a sales representative of an operator or as a funeral director or a funeral preplanner; (“permis personnel”)

“personal representative” means a personal representative as defined in the *Succession Law Reform Act*; (“représentant successoral”)

“person in charge of the day-to-day operations”, with respect to the business of an operator, means an individual managing the business of the operator at a particular location; (“responsable des activités courantes”)

“prepaid trust money” means,

- (a) money that is required under section 52 of the Act to be held in trust and paid out in accordance with the regulations that apply for the purposes of that section, and
- (b) unless the context indicates otherwise, income earned on the investment and reinvestment of the money described in clause (a) while it is held in trust in accordance with the regulations that apply for the purposes of section 52 of the Act,

but does not include money paid for the purchase of interment or scattering rights; (“sommés en fiducie versées d’avance”)

“sales representative” means an individual, other than a funeral preplanner, who is licensed to act under subsection 5 (1) on behalf of an operator other than a funeral establishment operator; (“représentant commercial”)

“temporarily held care and maintenance trust money” means money that is required to be held in trust under section 55 of the Act; (“sommés en fiducie destinées à l’entretien détenues temporairement”)

“trust money” means prepaid trust money; (“sommés en fiducie”)

“unclaimed trust money” means prepaid trust money,

- (a) that is held in trust with respect to the provision by an operator of licensed supplies or services, and
  - (b) that is payable or repayable to a purchaser whom the payer is unable to identify or locate. (“sommés en fiducie non réclamées”) O. Reg. 30/11, s. 1 (1).
- (2) In the French version of this Part,

“crématorium” has the same meaning as “crématoire” in the Act. O. Reg. 30/11, s. 1 (2).

(3) The other prescribed services mentioned in the definition of “funeral services” in subsection 1 (1) of the Act include the co-ordination and provision of rites and ceremonies with respect to cremated human remains if the services are provided in close proximity to the time of death of the person whose remains they are and the remains are to be present, other than rites or ceremonies taking place at the time of interment or scattering. O. Reg. 30/11, s. 1 (3).

## **DIVISION B ADDITIONAL PROHIBITED ACTIVITIES**

### **Scattering of cremated remains**

2. (1) No person, other than an operator, a person described in clause 6 (1) (c) or a funeral director, sales representative or funeral preplanner acting on behalf of an operator, shall offer to sell or sell the service of scattering of cremated human remains for consideration, whether the consideration is received directly or indirectly. O. Reg. 30/11, s. 2 (1).

(2) No person, other than an operator, shall provide the service of scattering of cremated human remains for consideration, whether the consideration is received directly or indirectly. O. Reg. 30/11, s. 2 (2).

### **Sales, etc., of insurance products**

3. (1) Subject to the *Insurance Act*, no person, other than a licensee, shall sell or offer to sell, or enrol or offer to enrol anyone in, an annuity or insurance contract, including group insurance, that,

- (a) is used to fund, directly or indirectly, in whole or in part, the purchase of licensed supplies or services; and
- (b) names an operator as the beneficiary of the proceeds, assigns the beneficiary’s rights to proceeds to an operator or assigns to an operator the right to designate the beneficiary of the proceeds. O. Reg. 30/11, s. 3 (1).

(2) Subsection (1) does not apply to a person acting under the authority of a licence issued under the *Insurance Act*. O. Reg. 30/11, s. 3 (2).

## **DIVISION C LICENSING**

### **REQUIREMENT FOR LICENCES**

#### **Embalming services**

4. (1) Except as permitted by subsection 36 (4), no person shall embalm dead human bodies or hold oneself out as available to embalm dead human bodies, unless,

- (a) the person is licensed as a funeral director and is acting on behalf of a funeral establishment operator;
- (b) the person is enrolled in an approved education program and is working,
  - (i) under the supervision and in the presence of the course instructor, or
  - (ii) under the supervision of a person licensed as a Funeral Director – Class 1; or
- (c) the person is employed in a faculty of medicine or a school of anatomy designated under the *Anatomy Act*. O. Reg. 30/11, s. 4 (1).

(2) A person licensed as a Transfer Service Operator – Class 1 is prescribed for the purposes of subsection 8 (2) of the Act as a person who is authorized to sell or offer to sell to the public or hold oneself out as available to sell to the public services described in subsection 36 (4). O. Reg. 30/11, s. 4 (2).

#### **Sales representative**

5. (1) No person shall act as a sales representative on behalf of an operator, or hold oneself out as a sales representative of an operator, unless the person is licensed as a sales representative. O. Reg. 30/11, s. 5 (1).

(2) The licence of a sales representative is a prescribed licence for the purposes of clauses 4 (2) (a), 6 (2) (a) and 12 (2) (b) of the Act. O. Reg. 30/11, s. 5 (2).

(3) A sales representative of a person licensed as a Transfer Service Operator – Class 1 is prescribed for the purposes of clause 8 (2) (c) of the Act as a person who is authorized to sell or offer to sell to the public, or hold oneself out as available to sell to the public, funeral services that the operator on whose behalf the representative acts, is authorized to sell or offer to sell. O. Reg. 30/11, s. 5 (3).

#### **Funeral director or preplanner**

6. (1) No person shall sell or offer to sell to the public funeral supplies and services on behalf of a funeral establishment operator, or hold oneself out as available to do so, unless,

- (a) the person holds a licence as a Funeral Director – Class 1 or Funeral Director – Class 2 licence;
- (b) the person is licensed as a funeral preplanner; or
- (c) the person is enrolled in a funeral director or funeral preplanner education program approved by the registrar and is,
  - (i) employed by and acting on the behalf of a person licensed as a Funeral Establishment Operator – Class 1 or a Funeral Establishment Operator – Class 2, and
  - (ii) working under the supervision of a person licensed as a Funeral Director – Class 1 or a Funeral Director – Class 2. O. Reg. 30/11, s. 6 (1).

(2) The licence of a funeral director or a funeral preplanner is a prescribed licence for the purposes of clauses 8 (2) (a) and 12 (2) (b) of the Act. O. Reg. 30/11, s. 6 (2).

(3) The class of persons described in clause (1) (c) is a prescribed class for purposes of clause 8 (2) (c) of the Act. O. Reg. 30/11, s. 6 (3).

(4) The licence of a funeral director is a prescribed licence for the purposes of clause 6 (2) (a) of the Act if the funeral director has received written authorization to act as a sales representative on behalf of a crematorium operator. O. Reg. 30/11, s. 6 (4).

#### **Exemptions from licences**

7. (1) A person is exempt from clause 4 (2) (a) of the Act if,
- (a) the person is acting on behalf of the operator of a cemetery other than a commercial cemetery;
  - (b) selling licensed supplies or services is not the person's primary occupation; and
  - (c) the person is not selling, or holding oneself out as available to sell, licensed supplies or services in circumstances in which,
    - (i) money is required to be held in trust under section 52 of the Act, or
    - (ii) payment is to be made by way of proceeds of an annuity or insurance contract, including group insurance. O. Reg. 30/11, s. 7 (1).

(2) A family member of a deceased individual is exempt from subsection 8 (2) of the Act when the family member is, for no consideration, providing funeral services in respect of the deceased individual, other than arterial embalming. O. Reg. 30/11, s. 7 (2).



## GENERAL

### Prescribed requirements for licence

8. (1) The following requirements are prescribed for the purposes of subsection 14 (1) of the Act in the case of an applicant who is an individual:

1. The applicant shall be at least 18 years old.
2. The applicant shall be legally entitled to work in Canada. O. Reg. 30/11, s. 8 (1).

(2) In the case of an applicant for an operator licence, or a renewal of that licence, it is a prescribed requirement for the purposes of subsection 14 (1) of the Act that, if the applicant intends to carry on business from a dwelling, the applicant shall have made arrangements satisfactory to the registrar to give the registrar access to the operator's business records. O. Reg. 30/11, s. 8 (2).

### Application for licence

9. An application for a licence shall meet the following requirements:

1. The application shall be in a form and manner approved by the registrar.
2. The application shall include information for which a notice of change would be required under section 103 or 104.
3. The application shall contain the additional information that the registrar requires.
4. The application shall be accompanied by the fee established under section 108 of the Act.
5. In the case of a licence to operate a cemetery, crematorium, funeral establishment or transfer service, the application shall be accompanied by confirmation from the local municipality that the proposed use is a permitted use and is in accordance with applicable municipal by-laws and that the plans have been approved by the local municipality.
6. In the case of a licence to operate a cemetery, the application shall be accompanied by evidence that the deposit, if any, that was required to be paid into a care and maintenance fund under clause 86 (1) (c) of the Act has been paid.
7. In the case of a licence to operate a crematorium, the application shall be accompanied by,
  - i. a copy of the environmental compliance approval required under section 9 of the *Environmental Protection Act*, and
  - ii. plans or drawings of the site, building, location of retorts, processing area, and body storage areas.
8. In the case of a licence to operate a funeral establishment, the application shall be accompanied by,
  - i. plans or drawings of all holding rooms and all embalming rooms that the operator proposes to use, containing sufficient detail to permit the registrar to assess whether the rooms comply with section 47 or 48, as applicable, and
  - ii. a certificate of inspection, in a form approved by the registrar, issued by a medical officer of health, a public health inspector or a person designated by the registrar, stating that all holding rooms and all embalming rooms the operator proposes to use have been inspected within 180 days before the date of the application and are suitable for the purpose for which they will be used.
9. In the case of a licence to operate a transfer service, the application shall be accompanied by,
  - i. plans or drawings of all holding rooms that the operator proposes to use, containing sufficient detail to permit the registrar to assess whether the rooms comply with section 47, and
  - ii. a certificate of inspection, in a form approved by the registrar, issued by a medical officer of health, a public health inspector or a person designated by the registrar, stating that a holding room that the operator proposes to use has been inspected within 180 days before the date of the application and is suitable for the purpose for which it will be used. O. Reg. 30/11, s. 9; O. Reg. 239/11, s. 1.

### Expiry of licences

10. Subject to section 22 of the Act, a licence expires on the expiry date shown on the licence. O. Reg. 30/11, s. 10.

### Application for renewal of licence

11. An application for renewal of a licence shall,

- (a) meet the requirements set out in paragraphs 1, 2, 3 and 4 of section 9, unless the registrar directs otherwise; and
- (b) meet the requirements set out in paragraphs 5, 7, 8 and 9 of section 9, if the registrar so requires. O. Reg. 30/11, s. 11.

### Separate licences

12. Under subsection 16 (2) of the Act, the registrar may, as a condition of a licence, limit the number of different locations to which the licence applies. O. Reg. 30/11, s. 12.

**Application after expiry**

13. If a licensee applies to renew a licence after the licence has expired, the application shall be treated as an application for a new licence. O. Reg. 30/11, s. 13.

**Content of licence form**

14. (1) If the registrar issues or renews a licence, the registrar shall provide the applicant with a form of licence that sets out the class of licence and the expiry date, if any, of the licence. O. Reg. 30/11, s. 14 (1).

(2) The registrar may set out on the form of licence,

(a) the conditions to which the licence is subject under section 16 of the Act and that the registrar considers appropriate for inclusion on the licence; and

(b) the additional information that the registrar considers appropriate. O. Reg. 30/11, s. 14 (2).

(3) If a person holds more than one licence, the registrar may combine the licences. O. Reg. 30/11, s. 14 (3).

**Name on operator licence**

15. (1) An operator licence shall set out the name of the operator. O. Reg. 30/11, s. 15 (1).

(2) If an operator, where permitted by law, carries on the business authorized by the licence under a name other than the name mentioned in subsection (1), the licence shall also set out the other name. O. Reg. 30/11, s. 15 (2).

(3) An operator shall ensure that the registrar has current information about the operator's names described in subsections (1) and (2). O. Reg. 30/11, s. 15 (3).

(4) An operator shall not carry on the business authorized by the licence under a name other than a name set out in the licence. O. Reg. 30/11, s. 15 (4).

**Time for reapplication**

16. For the purposes of section 24 of the Act, a person who is refused a licence or a renewal of a licence or whose licence is revoked shall not reapply for a licence before the expiry of one year from the day of the refusal or revocation. O. Reg. 30/11, s. 16.

**Continuation of operator's duties**

17. If an operator licence expires without the operator having applied for renewal of the licence, if the registrar cancels an operator licence upon the request in writing of the operator under section 21 of the Act or if the licence is suspended, surrendered or revoked, the person who was licensed as the operator shall continue to be subject to the duties and obligations of an operator under the Act until all of the duties and obligations have been fulfilled. O. Reg. 30/11, s. 17.

CLASSES OF LICENCE

**Classes of licence**

18. The following classes of licence are prescribed:

1. Cemetery Operator.
2. Crematorium Operator.
3. Funeral Establishment Operator – Class 1.
4. Funeral Establishment Operator – Class 2.
5. Transfer Service Operator – Class 1.
6. Transfer Service Operator – Class 2.
7. Funeral Director – Class 1.
8. Funeral Director – Class 2.
9. Sales Representative.
10. Funeral Preplanner. O. Reg. 30/11, s. 18.

GENERAL CONDITIONS OF LICENCE

**Conditions of every operator licence**

19. Sections 20 to 29 prescribe the conditions of every licence of an operator. O. Reg. 30/11, s. 19.

**Address for service**

**20.** An operator shall maintain an address for service in Ontario and shall inform the registrar of that address. O. Reg. 30/11, s. 20.

**Business location**

**21.** (1) An operator shall not operate from a location other than a location identified on the licence. O. Reg. 30/11, s. 21 (1).

(2) An operator shall not invite the public to enter into contracts at a location other than the business location identified on the licence. O. Reg. 30/11, s. 21 (2).

(3) Subsection (2) does not prohibit an operator from entering into a contract with a purchaser at a location requested by the purchaser. O. Reg. 30/11, s. 21 (3).

**Person in charge**

**22.** (1) An operator shall ensure that there is a person in charge of the day-to-day operations of each business location identified on the operator's licence and that the person has completed the education required as a result of section 42. O. Reg. 30/11, s. 22 (1).

(2) In the case of a cemetery that is not a commercial cemetery, the person mentioned in subsection (1) is not required to complete the education required as a result of section 42 unless,

(a) the cemetery operator holds or is required to hold money in trust under section 52 of the Act in respect of the cemetery; or

(b) the operator employs a sales representative to work in respect of the cemetery. O. Reg. 30/11, s. 22 (2).

(3) An operator who holds a licence as a Funeral Establishment Operator – Class 1, Funeral Establishment Operator – Class 2, Transfer Service Operator – Class 1 or Transfer Service Operator – Class 2 shall ensure that, unless the operator has obtained the consent of the registrar,

(a) one person is not in charge of the day-to-day operations of more than one business, whether those businesses are operated by the same operator or different operators; and

(b) one person is not in charge of the day-to-day operations at more than one business location, even if those locations pertain to the same business of the same operator. O. Reg. 30/11, s. 22 (3).

(4) In deciding whether or not to consent for the purposes of subsection (3), the registrar may take into consideration,

(a) the geographic separation of locations;

(b) the volume of business at each location or of each business;

(c) the knowledge and experience of the person who would have charge of the day-to-day operations;

(d) the compliance history of the operators involved; and

(e) the number of persons employed by the operators involved. O. Reg. 30/11, s. 22 (4).

**Permits and approvals**

**23.** An operator shall ensure that all permits and approvals required by law have been obtained with respect to each location of each of the operator's businesses and shall keep the permits and evidence of the approvals available. O. Reg. 30/11, s. 23.

**Charging fees**

**24.** (1) No operator shall charge a fee in relation to a licensed supply or service not purchased from the operator. O. Reg. 30/11, s. 24 (1).

(2) No operator shall require a person, including a person delivering supplies, to pay for access to the operator's premises. O. Reg. 30/11, s. 24 (2).

(3) No operator shall include in a charge for professional and staff services an amount for providing a supply or service that is required by this Part to be priced separately on the operator's price list. O. Reg. 30/11, s. 24 (3).

(4) No operator shall charge for providing advice with respect to, or for arranging or negotiating, a contract for the purchase of licensed supplies or services by a purchaser from the operator or from another operator. O. Reg. 30/11, s. 24 (4).

(5) Subsection (4) does not apply to charges for the time spent providing, at the purchaser's request, design services for a customized supply or private structure. O. Reg. 30/11, s. 24 (5).

(6) In subsection (5),

“customized supply” has the same meaning as in subsection 134 (1). O. Reg. 30/11, s. 24 (6).

**Merging or splitting trust accounts and funds**

25. As a condition of a licence, the registrar may direct the operator to merge or split one or more trust accounts or to merge or split one or more trust funds. O. Reg. 30/11, s. 25.

**Amounts owing to compensation fund**

26. (1) The operator shall not owe any amount to a compensation fund or shall have made arrangements satisfactory to the registrar for the payment of the amount owing to a compensation fund. O. Reg. 30/11, s. 26 (1).

(2) In subsection (1),

“compensation fund” means a compensation fund mentioned in section 61 of the Act. O. Reg. 30/11, s. 26 (2); O. Reg. 288/15, s. 1.

**Pacemakers, etc.**

27. No licensee shall present a dead human body for cremation that could not be cremated by reason of clause 31 (2) (b). O. Reg. 30/11, s. 27.

**Scattering cremated human remains**

28. (1) An operator that scatters cremated human remains for consideration shall fulfil the following requirements:

1. If cremated human remains are to be stored before they are scattered, the operator shall store them, or arrange for them to be stored by another person, in a respectful and dignified manner free from exposure to the elements.
2. The operator shall ensure that cremated human remains are not co-mingled with other cremated remains when in storage or when being scattered, unless the operator’s contract with the purchaser authorizes it.
3. Whenever cremated human remains are received by the operator, the operator shall prepare a record setting out,
  - i. the name of the deceased person whose cremated remains were received,
  - ii. the date the operator received the cremated remains,
  - iii. the name and address of the person who authorized the scattering of the cremated remains, and
  - iv. the date, manner and place of scattering of the cremated remains.
4. If the purchaser, personal representative or a family member of a deceased person requests disclosure of the record prepared under paragraph 3 with respect to the deceased person, the operator shall disclose the record free of charge to the person making the request.
5. The operator shall ensure that cremated human remains are scattered only in areas to which no prohibition against the scattering of cremated human remains applies and shall comply with all rights and obligations of the scattering rights holder if the scattering is to take place in a cemetery.
6. The operator shall maintain a record setting out the following current information:
  - i. The locations where the operator is storing cremated human remains if the operator is doing it directly.
  - ii. The name of each person storing cremated human remains under an arrangement with the operator under paragraph 1, the address of the storage facility and the address of the person storing the cremated human remains, if it is different from the address of the storage facility.
  - iii. For each storage facility listed under subparagraph i or ii, the position and telephone number of an individual at the storage facility who may be contacted for information about the stored cremated human remains. O. Reg. 30/11, s. 28 (1); O. Reg. 48/15, s. 1 (1).

(2) Subsection (1) does not apply to a cemetery operator in respect of cremated human remains that the operator receives for scattering in the cemetery and who scatters the remains in the cemetery. O. Reg. 30/11, s. 28 (2); O. Reg. 48/15, s. 1 (2).

(3) An operator who stores cremated human remains with another person shall enter into a contract with the other person that requires the other person to,

- (a) comply with the operator’s duties under subsection (1); and
- (b) make the facility at which the cremated human remains are stored available during regular business hours for inspection by the registrar or another person designated in writing by the registrar. O. Reg. 30/11, s. 28 (3).

**Maintaining a cemetery**

29. An operator that has an interest in a cemetery shall maintain the cemetery if the registrar is of the opinion that,

- (a) the cemetery appears to be abandoned or neglected; and

- (b) the interest of the operator is significant enough to warrant requiring the operator to maintain the cemetery. O. Reg. 30/11, s. 29.

#### CONDITIONS OF SPECIFIC LICENCES

##### **Cemetery Operator licence**

- 30.** (1) This section sets out conditions of a Cemetery Operator licence. O. Reg. 30/11, s. 30 (1).
- (2) The cemetery operator shall ensure that the cemetery has an entrance that is accessible to the public directly from a public thoroughfare or from another publicly accessible area. O. Reg. 30/11, s. 30 (2).
- (3) Subsection (2) does not apply to,
- (a) a cemetery that did not have the access described in subsection (2) on the day immediately before the day on which paragraph 6 of subsection 113 (1) of the Act came into force; or
- (b) a cemetery established as a result of a burial site declaration under section 98 of the Act. O. Reg. 30/11, s. 30 (3).
- (4) When an interment or a scattering rights holder resells the rights to a third party purchaser under section 47 of the Act or transfers the rights to a transferee, the cemetery operator shall issue a new certificate of interment rights or certificate of scattering rights to the third party purchaser or transferee, as the case may be, if,
- (a) the operator has been paid in full for the rights;
- (b) the fee, if any, that the operator charges for issuing the new certificate has been paid; and
- (c) the third party purchaser or transferee, as the case may be, has given the operator, as required by section 115 or 116, as the case may be, the endorsed interment or scattering rights certificate that the rights holder provided to the third party purchaser or transferee under the applicable section and all other information that the cemetery operator requires in order to issue a new certificate. O. Reg. 30/11, s. 30 (4).

##### **Crematorium Operator licence**

- 31.** (1) This section sets out conditions of a Crematorium Operator licence. O. Reg. 30/11, s. 31 (1).
- (2) The crematorium operator shall not permit the cremation of a dead human body if,
- (a) the operator has not received a certificate issued by the coroner authorizing the cremation; or
- (b) the body has a pacemaker or radioactive implant, is in a casket that consists of or has on or in it material made of or containing non-flammable or hazardous material or chlorinated or fibre-reinforced plastic, other than incidental metal used in the construction of the casket or accompanying material. O. Reg. 30/11, s. 31 (2).
- (2.1) The condition in clause (2) (b) that a crematorium operator shall not permit the cremation of a dead human body if the body has a radioactive implant does not apply if,
- (a) it is at least two years after the day the body received the implant; or
- (b) a lesser time has passed since the body received the implant, and it is safe to cremate the body. O. Reg. 412/19, s. 1.
- (3) The crematorium operator may contract out or arrange for the removal of a pacemaker or radioactive implant from a dead human body if the person carrying out the removal is a person described in section 52. O. Reg. 30/11, s. 31 (3).

##### **All Funeral Establishment Operator licences**

- 32.** (1) This section sets out the conditions of every Funeral Establishment Operator licence. O. Reg. 30/11, s. 32 (1).
- (2) A burial permit under the *Vital Statistics Act* is not required for the provision of funeral services with respect to products of conception that do not constitute a still-birth under that Act and for which no burial permit under that Act is therefore required to be issued. O. Reg. 30/11, s. 32 (2).
- (3) The funeral establishment operator shall ensure that, if a contract is negotiated by someone who is enrolled in a funeral director or funeral preplanner education program and who is not a licensed funeral director or licensed funeral preplanner, the contract is reviewed and signed by a licensed funeral director. O. Reg. 30/11, s. 32 (3).

##### **Funeral Establishment Operator – Class 1 licence**

- 33.** (1) This section sets out conditions of every Funeral Establishment Operator – Class 1 licence. O. Reg. 30/11, s. 33 (1).
- (2) The funeral establishment operator shall ensure that there is a holding room on the funeral establishment premises that meets the requirements of section 47. O. Reg. 30/11, s. 33 (2).
- (3) Subject to subsection (4), the funeral establishment operator shall ensure that the day-to-day operations of the funeral establishment are managed by a person licensed as a Funeral Director – Class 1 or a Funeral Director – Class 2. O. Reg. 30/11, s. 33 (3).

(4) If the funeral establishment provides the services of arterially embalming or restoring dead human bodies, the funeral establishment operator,

(a) shall ensure that the day-to-day operations of the funeral establishment are managed by a person licensed as a Funeral Director – Class 1; and

(b) shall have immediate access to an embalming room that the registrar has approved and that meets the requirements of section 48. O. Reg. 30/11, s. 33 (4).

(5) The funeral establishment operator shall have immediate access to a vehicle for transporting dead human bodies that meets the requirements of section 51. O. Reg. 30/11, s. 33 (5).

(6) The funeral establishment operator shall make available an inexpensive transfer service. O. Reg. 30/11, s. 33 (6).

(7) The funeral establishment operator may contract out or arrange for the removal of a pacemaker or radioactive implant from a dead human body if the person carrying out the removal is a person described in section 52. O. Reg. 30/11, s. 33 (7).

#### **Funeral Establishment Operator – Class 2 licence**

**34.** (1) This section sets out conditions of every Funeral Establishment Operator – Class 2 licence. O. Reg. 30/11, s. 34 (1).

(2) The funeral establishment operator shall ensure that the day-to-day operations of the funeral establishment are managed by a person licensed as a Funeral Director – Class 1 or a Funeral Director – Class 2. O. Reg. 30/11, s. 34 (2).

(3) The funeral establishment operator shall not offer to sell, sell or provide a transfer service or any funeral services other than maintaining premises to be used for the purpose of temporarily placing human remains so that persons may attend and pay their respects. O. Reg. 30/11, s. 34 (3).

(4) The premises mentioned in subsection (3) do not include,

(a) premises whose primary functions do not include being used for the purpose of temporarily placing human remains so that persons may attend and pay their respects, but which are occasionally used for that purpose; or

(b) premises that are identified as premises of a person licensed as a Funeral Establishment Operator – Class 1. O. Reg. 30/11, s. 34 (4).

(5) The following is prescribed as a service included in the definition of “funeral services” in subsection 1 (1) of the Act: maintaining premises to be used for the purpose of temporarily placing human remains so that persons may attend and pay their respects. O. Reg. 30/11, s. 34 (5).

#### **Transfer Service Operator licences**

**35.** (1) This section sets out conditions of every Transfer Service Operator licence. O. Reg. 30/11, s. 35 (1).

(2) The transfer service operator shall have immediate access to a vehicle for transporting dead human bodies that meets the requirements of section 51 and immediate access to a holding room that the registrar has approved and that meets the requirements of section 47. O. Reg. 30/11, s. 35 (2).

(3) The transfer service operator may contract out or arrange for the removal of a pacemaker or radioactive implant from a dead human body if the person carrying out the removal is a person described in section 52. O. Reg. 30/11, s. 35 (3).

(4) The transfer service operator shall not transport a dead human body that has not been arterially embalmed, later than 72 hours after the death or the removal of the body from refrigeration. O. Reg. 30/11, s. 35 (4).

(5) A burial permit under the *Vital Statistics Act* is not required for the provision of transfer services with respect to products of conception that do not constitute a still-birth under that Act and for which no burial permit under that Act is therefore required to be issued. O. Reg. 30/11, s. 35 (5).

#### **Transfer Service Operator – Class 1 licence**

**36.** (1) This section sets out conditions of every Transfer Service Operator – Class 1 licence. O. Reg. 30/11, s. 36 (1).

(2) The transfer service operator shall ensure that the day-to-day operations of the transfer service are managed by a person licensed as a Funeral Director – Class 1. O. Reg. 30/11, s. 36 (2).

(3) The transfer service operator shall make available an inexpensive transfer service. O. Reg. 30/11, s. 36 (3).

(4) The transfer service operator shall not offer to sell, sell or provide the services of arterially embalming or restoring dead human bodies except to offer to sell, sell and provide the services of placing dead human bodies in caskets or caring for or preparing them, including by,

(a) washing them, including by applying a disinfectant externally to them; and

(b) setting the features. O. Reg. 30/11, s. 36 (4).

(5) If the transfer service operator provides services permitted under subsection (4), the transfer service operator shall ensure that a funeral director provides the services. O. Reg. 30/11, s. 36 (5).

(6) The transfer service operator shall not arrange, co-ordinate, conduct or participate in a visitation, funeral or other rite or ceremony at which human remains are present, except to transport the remains to or from a holding room or the location of a visitation, cremation, funeral or other rite or ceremony or except for the purpose of scattering human remains as authorized under section 2. O. Reg. 30/11, s. 36 (6).

#### **Transfer Service Operator – Class 2 licence**

**37.** (1) This section sets out conditions of every Transfer Service Operator – Class 2 licence. O. Reg. 30/11, s. 37 (1).

(2) The transfer service operator shall ensure that no employee has contact with the dead human body except to remove personal effects, place the body in a casket and transport the body. O. Reg. 30/11, s. 37 (2).

(3) The transfer service operator shall not arrange, co-ordinate, conduct, participate in or be present at a visitation, funeral, or other rite or ceremony at which human remains are present except for the purpose of scattering human remains as authorized under section 2. O. Reg. 30/11, s. 37 (3).

(4) The transfer service operator shall not transport the dead human body except from the place from which removal was first requested directly to a cemetery or crematorium or to a holding room that meets the requirements of section 47 and then to a cemetery or crematorium. O. Reg. 30/11, s. 37 (4).

#### **Personal licences**

**38.** (1) This section sets out conditions of every personal licence. O. Reg. 30/11, s. 38 (1).

(2) The licensee shall ensure that the registrar is given a current address for the licensee's place of residence and the name and address of the primary operator that employs the licensee. O. Reg. 30/11, s. 38 (2).

(3) The licensee shall successfully complete the continuing education required as a result of section 42. O. Reg. 30/11, s. 38 (3).

(4) The licensee shall not offer to sell, sell or provide any licensed supplies or services that the operator by whom the licensee is employed is not authorized to offer to sell, sell and provide. O. Reg. 30/11, s. 38 (4).

#### **Funeral Director – Class 1 licence**

**39.** It is a condition of every Funeral Director – Class 1 licence that the funeral director shall not offer to sell, sell or provide the services of arterially embalming or restoring dead human bodies except when acting on behalf of an operator holding a Funeral Establishment Operator – Class 1 licence. O. Reg. 30/11, s. 39.

#### **Funeral Director – Class 2 licence**

**40.** It is a condition of every Funeral Director – Class 2 licence that the funeral director shall not,

- (a) offer to sell or sell the services of arterially embalming or restoring dead human bodies except when acting on behalf of an operator holding a Funeral Establishment Operator – Class 1 licence; or
- (b) provide the services of arterially embalming or restoring dead human bodies. O. Reg. 30/11, s. 40.

### EDUCATION

#### **Prescribed persons**

**41.** (1) Each person who is in charge of the day-to-day operations of an operator's business is prescribed for the purposes of clause 14 (1) (g) of the Act. O. Reg. 30/11, s. 41 (1).

(2) Every sole proprietor operator and every partner of an operator that is a partnership who intends to sell or offer to sell licensed supplies or services to the public is prescribed for the purposes of clause 14 (1) (g) of the Act. O. Reg. 30/11, s. 41 (2).

#### **Educational requirements**

**42.** (1) For the purposes of clause 14 (1) (g) of the Act, the prescribed educational requirements for applicants for a licence, licensees and prescribed persons under clause 14 (1) (g) of the Act are, subject to subsection (6), the educational requirements that the registrar sets or imposes under this section. O. Reg. 30/11, s. 42 (1).

(2) The registrar may set educational requirements for applicants for a licence, licensees and prescribed persons under clause 14 (1) (g) of the Act. O. Reg. 30/11, s. 42 (2).

(3) The educational requirements may be different for different classes of persons and, within those classes, for persons employed by different classes of operators. O. Reg. 30/11, s. 42 (3).

(4) In setting the educational requirements, the registrar may require particular programs of study, training programs, internship programs, apprenticeship programs, courses, seminars, lectures, tutorials or other educational resources, may

require that persons take them from particular providers and may require that persons take particular examinations or tests. O. Reg. 30/11, s. 42 (4).

(5) The registrar shall make a description of the educational requirements and the providers of them available to members of the public free of charge on request. O. Reg. 30/11, s. 42 (5).

(6) If an applicant for a licence or a licensee holds or held an equivalent licence, registration or certification in a jurisdiction outside Ontario, the registrar may exempt the applicant or licensee from any of the educational requirements set by the registrar and may impose conditions on the exemption. O. Reg. 30/11, s. 42 (6).

(7) The registrar may require an applicant for a licence or a licensee to complete again any of the educational requirements set by the registrar or to complete the other educational requirements that the registrar specifies, if the applicant completed the original requirements for the purposes of a licence under this Act or a predecessor Act and subsequently there has been a period during which the applicant did not carry on the activities authorized by the licence. O. Reg. 30/11, s. 42 (7).

(8) The registrar may require a prescribed person under clause 14 (1) (g) of the Act to complete again any of the educational requirements set by the registrar or to complete the other educational requirements that the registrar specifies if, since the time at which the person completed the original requirements, there has been a period during which the person did not carry on the activities for which the education was required. O. Reg. 30/11, s. 42 (8).

## **DIVISION D STANDARDS OF OPERATION**

### **SALE AND DISPLAY OF CASKETS AND MARKERS**

#### **Duty to offer less expensive caskets**

**43.** At any location at which an operator offers to sell or sells ornamented caskets or caskets with fixed interior linings, the operator shall offer for sale,

- (a) from among the least expensive available on the market, at least two types of caskets with either or both of fixed interior linings and ornamentation; and
- (b) at least one type of inexpensive casket that is neither ornamented nor with a fixed interior lining, other than a lining to prevent leakage. O. Reg. 30/11, s. 43.

#### **Casket information**

**44.** (1) At any location at which an operator sells or offers to sell caskets, the operator shall provide information about each casket generally sold or offered for sale by the operator, including the caskets that section 43 requires the operator to offer for sale. O. Reg. 30/11, s. 44 (1).

(2) The information provided under subsection (1) shall, at a minimum,

- (a) include the price of the casket;
- (b) include a colour image of the casket; and
- (c) be sufficient to allow a purchaser to identify,
  - (i) the size of the casket,
  - (ii) the material and colour of the casket interior,
  - (iii) the material, colour, finish and thickness of the casket exterior, and
  - (iv) the brand name and model name and number, if any, of the casket. O. Reg. 30/11, s. 44 (2).

(3) If the information provided under subsection (1) about any casket includes a display model, full-size or otherwise, the operator shall include a similar display model for each type of casket that section 43 requires the operator to offer for sale. O. Reg. 30/11, s. 44 (3).

#### **Marker information**

**45.** (1) At any location at which an operator sells or offers to sell markers, the operator shall provide information about each marker generally sold or offered for sale by the operator. O. Reg. 30/11, s. 45 (1).

(2) The information provided under subsection (1) shall, at a minimum,

- (a) include the price of the marker;
- (b) include a colour image of the marker; and
- (c) be sufficient to allow a purchaser to identify the size, colour, material and finish of the marker, the geographic origin of the material used for the marker if it is natural stone and the brand name and model name and number, if any, of the marker. O. Reg. 30/11, s. 45 (2).



## PREMISES AND VEHICLES

### Private area

46. If an operator maintains premises in which a member of the public may enter into a contract with the operator for the purchase of licensed supplies or services, the operator shall have available an area that affords privacy for discussing, making arrangements for, and entering into contracts for, the purchase of licensed supplies and services. O. Reg. 30/11, s. 46.

### Holding room

47. A Funeral Establishment Operator – Class 1, a Transfer Service Operator – Class 1 or a Transfer Service Operator – Class 2 who makes use of, or offers for use, a holding room for dead human bodies shall ensure that the holding room meets the following requirements:

1. The interior of the holding room shall not be visible from a public area when the doors to the room are closed.
2. The holding room, including all of its surfaces, and the equipment used in the room shall be capable of being easily cleaned, sanitized and disinfected.
3. The holding room shall be equipped with the following:
  - i. The materials and equipment necessary to clean, sanitize and disinfect the room and the equipment used in the room.
  - ii. The materials and equipment necessary to prepare dead human bodies, including cleaning, sanitizing and disinfecting them, but not including arterially embalming or restoring them.
  - iii. A supply of running water with a device to prevent back-flow of water.
  - iv. A sufficient supply of personal protective equipment and clothing for each person in the room handling a dead human body.
  - v. Mechanical ventilation directly to the outside of the building.
4. The holding room shall be used only as a holding room unless it is also an embalming room, in which case it shall be used only as a holding room and an embalming room. O. Reg. 30/11, s. 47.

### Embalming room

48. A Funeral Establishment Operator – Class 1 who makes use of, or offers for use, an embalming room for dead human bodies shall ensure that the embalming room meets the following requirements:

1. The embalming room shall be located in premises that a Funeral Establishment Operator – Class 1 licence indicates are business premises of the funeral establishment.
2. The interior of the embalming room shall not be visible from a public area when the doors to the room are closed.
3. The embalming room, including all of its surfaces, and the equipment used in the room shall be capable of being easily cleaned, sanitized and disinfected.
4. The embalming room shall be equipped with the following:
  - i. The materials and equipment necessary to clean, sanitize and disinfect the room and the equipment used in the room.
  - ii. The materials and equipment necessary to prepare dead human bodies, including cleaning, sanitizing and disinfecting them, arterially embalming or restoring them.
  - iii. A supply of running water with a device to prevent back-flow of water.
  - iv. A sufficient supply of personal protective equipment and clothing for each person in the room handling a dead human body.
  - v. Facilities to dispose of bodily fluids and waste appropriately.
  - vi. Mechanical ventilation directly to the outside of the building.
5. The embalming room shall be used only as an embalming room unless it is also a holding room, in which case it shall be used only as an embalming room and a holding room. O. Reg. 30/11, s. 48.

### Preconditions for use of rooms

49. No Funeral Establishment Operator – Class 1, Transfer Service Operator – Class 1 or Transfer Service Operator – Class 2 shall make use of a holding room and no Funeral Establishment Operator – Class 1 shall make use of an embalming room if the holding or embalming room is altered or constructed after the day this Division comes into force unless,

- (a) the operator has first given the registrar plans or drawings, together with other information as necessary, so that the registrar has sufficient detail to assess whether the room would comply with section 47 or 48, as applicable;
- (b) the operator has obtained a certificate of inspection, in a form approved by the registrar, issued by a medical officer of health, a public health inspector or a person designated by the registrar, stating that the room as altered or constructed has been inspected within 180 days before the room is used and that it is suitable for the purpose for which it will be used; and
- (c) the operator has provided the certificate mentioned in clause (b) to the registrar. O. Reg. 30/11, s. 49.

**Condition of rooms**

**50.** A Funeral Establishment Operator – Class 1, a Transfer Service Operator – Class 1 or a Transfer Service Operator – Class 2 shall ensure that each holding room and each embalming room used by the operator, including all of the surfaces in the room and the equipment used in the room, is kept in a clean, sanitary and disinfected condition. O. Reg. 30/11, s. 50.

**Vehicles**

**51.** A Funeral Establishment Operator – Class 1, a Transfer Service Operator – Class 1 or a Transfer Service Operator – Class 2 who makes use of, or offers for use, a vehicle for transporting a dead human body shall ensure that the vehicle meets the following requirements:

- 1. The vehicle shall be capable of transporting the body in a respectful and dignified manner and of keeping the body from public view.
- 2. The vehicle shall contain a sufficient supply of personal protective equipment and clothing for each person in the vehicle handling the body.
- 3. The vehicle shall be in a clean and sanitary condition. O. Reg. 30/11, s. 51.

**PERSONAL SERVICES**

**Removal of pacemaker, etc.**

**52.** An operator shall not engage a person to remove a pacemaker or a radioactive implant from a dead human body unless,

- (a) the person holds a Funeral Director – Class 1 licence and is acting on behalf of an operator that holds a Funeral Establishment Operator – Class 1 licence or a Transfer Service Operator – Class 1 licence; or
- (b) the person is a legally qualified medical practitioner. O. Reg. 30/11, s. 52; O. Reg. 48/15, s. 2.

**Unclaimed cremated human remains**

**53.** (1) An operator having possession of unclaimed cremated human remains that were not in the possession of the operator for the purposes of interring or scattering shall retain them until they are claimed or interred in a cemetery, whichever is earlier. O. Reg. 30/11, s. 53 (1).

(2) If cremated human remains are not claimed within one year from the date of cremation and if the operator has made reasonable efforts to contact the purchaser of the cremation service or the personal representative or family member of the deceased, as applicable, the operator may have the remains interred in a cemetery, including in a common lot in a cemetery. O. Reg. 30/11, s. 53 (2).

(3) If cremated human remains are claimed before they are interred under subsection (2), the operator shall refund any refundable deposit charged for the interment. O. Reg. 30/11, s. 53 (3).

**DIVISION E  
PRICE LISTS AND PRICING**

**GENERAL FORM AND CONTENT REQUIREMENTS FOR PRICE LIST**

**Form**

**54.** The price list shall be written in plain language and legibly printed in 10 point or larger type. O. Reg. 30/11, s. 54.

**Content**

**55.** (1) The price list shall include every licensed supply and service that the operator generally provides. O. Reg. 30/11, s. 55 (1).

(2) For each licensed supply or service on the price list, the price list shall include,

- (a) a description of the supply or service sufficient to identify it with certainty, including, in the case of a supply, its size, colour, material, brand name and any model name and number;
- (b) the price of the supply or service; and

- (c) a statement that the price includes the applicable taxes or that the applicable taxes are in addition to the price. O. Reg. 30/11, s. 55 (2).
- (3) The price list shall indicate whether a particular supply is available for rent. O. Reg. 30/11, s. 55 (3).
- (4) The prices on the price list shall be expressed as a fixed charge or, if the price is based on a per unit charge, as a per unit charge. O. Reg. 30/11, s. 55 (4).
- (5) The price list shall indicate whether there are any minimum prices for a particular supply or service. O. Reg. 30/11, s. 55 (5).
- (6) The price list shall always be up-to-date and shall indicate its effective date. O. Reg. 30/11, s. 55 (6).

**Tied selling**

**56.** The price list shall indicate whenever an operator requires that a licensed supply or service be purchased from the operator or a person specified by the operator, in circumstances when an operator is permitted to impose such a requirement under section 70. O. Reg. 30/11, s. 56.

**At cost prices**

**57.** If a cemetery operator provides a licensed supply or service that section 71 requires the operator to provide at a price that does not exceed the operator's direct cost of providing it, the price list shall include the price for the supply or service. O. Reg. 30/11, s. 57.

**Refundable deposit, cremated remains**

**58.** The price list shall indicate the amount charged by the operator as a refundable deposit for the purposes of subsection 53 (3), in the event that cremated human remains in the possession of the operator are unclaimed. O. Reg. 30/11, s. 58.

**SPECIFIC INFORMATION TO BE INCLUDED ON PRICE LIST**

**Identification of operator**

**59.** The price list shall include the following information at the beginning of the list:

1. The operator's name.
2. The operator's business name, if different from the operator's name.
3. The address and telephone number of the business location to which the price list relates.
4. The position, business address and telephone number of the person in charge of the day-to-day operations of the business location to which the price list relates. O. Reg. 30/11, s. 59.

**Packages**

**60.** The price list shall include the following information:

1. The details of any packages of licensed supplies or services that the operator offers for sale, whether or not the package is offered for sale at a discount.
2. The price of the package.
3. The price at which each supply and service would be sold if it were sold separately and not as part of a package. O. Reg. 30/11, s. 60.

**Funeral and transfer services**

**61.** The price list shall include the following information:

1. The prices for,
  - i. professional and staff services for,
    - A. co-ordinating rites and ceremonies, and
    - B. securing and completing any necessary permits, forms, certificates, notices or other documents, and
  - ii. any other professional and staff services related to funeral and transfer services.
2. The prices for the following, expressed as separate prices for each of those four categories:
  - i. Staff services for visitations, ceremonies and receptions.
  - ii. The use of facilities for visitations, ceremonies and receptions.
  - iii. Catering services for visitations, ceremonies and receptions.
  - iv. Any other licensed supplies and services related to visitations, ceremonies and receptions.

3. The prices for,
  - i. preparing the remains of a deceased person, other than embalming,
  - ii. embalming the remains of a deceased person, including arterial embalming and embalming by the external application of chemicals, fluids or gases intended for the purpose of preserving dead human bodies,
  - iii. using the facility for embalming, preparing and sheltering, including refrigerating, the remains of a deceased person,
  - iv. the removal of pacemakers and radioactive implants, and
  - v. any other licensed supplies and services related to embalming or other types of preparation, including restoring the remains of a deceased person.
4. The prices for,
  - i. transporting the remains of a deceased person from a requested location to a requested destination,
  - ii. the use of any type of vehicle, and
  - iii. additional staff for transportation or removal.
5. The prices for any other licensed supplies and services related to funeral services, transfer services and scattering services. O. Reg. 30/11, s. 61; O. Reg. 48/15, s. 3.

**Caskets, urns and vaults**

- 62.** (1) The price list shall include the prices for,
- (a) caskets;
  - (b) urns;
  - (c) outer burial containers, vaults or grave liners; and
  - (d) any other licensed supplies and services related to caskets, urns and vaults. O. Reg. 30/11, s. 62 (1).
- (2) The price list shall clearly indicate which caskets are not suitable for cremation. O. Reg. 30/11, s. 62 (2).

**Other cemetery supplies and services**

- 63.** (1) The price list shall include the following information:
1. For in-ground burial interment rights, the prices for interment rights for,
    - i. one adult grave,
    - ii. one child grave,
    - iii. one grave in the veterans section,
    - iv. one cremation grave, and
    - v. any other in-ground burial interment right.
  2. The prices for,
    - i. interment rights of cremated human remains in all types of niches and compartments in columbariums,
    - ii. interment rights in all types of tombs, crypts and compartments in mausoleums,
    - iii. interring human remains, including the prices for opening and closing each of the grave, the niche or compartment in a columbarium, and the tomb, crypt or compartment in a mausoleum,
    - iv. vault installation,
    - v. scattering rights,
    - vi. scattering services,
    - vii. interment or scattering services where prices vary as a result of winter season, late hours, weekends or holidays, and the specified dates and times during which the price applies,
    - viii. the disinterment of human remains from the ground, a columbarium or a mausoleum,
    - ix. staff services that are necessarily incidental to the interment or scattering of human remains,
    - x. the winter storage of remains, and the specified dates during which the price applies,
    - xi. the transfer of interment and scattering rights,

- xii. the use of a lowering or elevating device, and
- xiii. any other licensed supplies and services related to burials, interments, scattering and cemetery services.

3. The price list shall indicate,

- i. whether an interment right includes the right to erect a marker and, if so, whether there are any limitations on the marker including whether it must be an upright or a flat marker,
- ii. whether the location to which an interment right relates is suitable for one or more dead human bodies, cremated remains of one or more dead human bodies, or a combination of both, and
- iii. whether an interment right includes the right to burials at multiple depths. O. Reg. 30/11, s. 63 (1).

(2) If a cemetery operator charges more than three different prices for a type of interment or scattering right listed in paragraph 1 of subsection (1) or subparagraph i, ii or v of paragraph 2 of subsection (1), the price list need not include all of them, but shall include,

- (a) the lowest and highest prices for that type of interment or scattering right; and
- (b) a statement that a complete list of all prices for that type of interment or scattering right is available on request. O. Reg. 30/11, s. 63 (2); O. Reg. 48/15, s. 4.

(3) The price list shall indicate the amount of the contribution that a cemetery operator is required to make to the care and maintenance fund for the purposes of subsection 53 (14) of the Act for each type of interment and scattering rights. O. Reg. 30/11, s. 63 (3).

**Cremation services**

64. The price list shall include the prices for,

- (a) cremation;
- (b) staff services that are necessarily incidental to a cremation;
- (c) the removal of pacemakers and radioactive implants; and
- (d) any other licensed supplies and services related to cremation services and scattering services. O. Reg. 30/11, s. 64.

**Monuments, markers and installation**

65. (1) The price list shall include the prices for,

- (a) a representative sample of the upright and flat markers available, including a range of sizes, materials and prices;
- (b) constructing a foundation;
- (c) installing an upright marker;
- (d) setting a flat marker;
- (e) inspecting the installation of a marker or foundation;
- (f) marking the location where a marker is to be installed; and
- (g) any other licensed supplies and services related to markers and their installation. O. Reg. 30/11, s. 65 (1).

(2) The price list shall indicate the amount of the payment that a person is required to make for the purposes of subsection 53 (9) of the Act and the amount of the contribution an operator is required to make for purposes of subsection 53 (10) of the Act. O. Reg. 30/11, s. 65 (2).

**Funding, payment and financing options**

66. The price list shall include the following information:

- 1. The funding, payment and financing options provided by the operator, if any.
- 2. A statement that additional information is available on request. O. Reg. 30/11, s. 66.

**Affiliated locations**

67. (1) The price list shall include the following information:

- 1. The names and addresses of all other businesses licensed under the Act that are located within 100 kilometres or 62 miles of the business location to which the price list relates and that are owned or operated by the operator of the business location to which the price list relates.

2. If any person exercises direct or indirect control over the operator, the names and addresses of all other businesses licensed under the Act that are located within 100 kilometres or 62 miles of the business location to which the price list relates and over which the same person exercises direct or indirect control. O. Reg. 30/11, s. 67 (1).
- (2) Subsection (1) does not apply to a price list of an operator that is a municipality or religious organization. O. Reg. 30/11, s. 67 (2).

#### AVAILABILITY OF PRICE LIST AND PRICING INFORMATION

##### Availability of price list

- 68.** (1) Every operator shall provide, without charge, a copy of the price list to every person who requests it. O. Reg. 30/11, s. 68 (1).
- (2) Every operator shall ensure that,
- (a) either,
- (i) copies of the price list are displayed in a place that is near the main entrance to the operator’s premises and that is clearly visible to a person attending at the premises and made available for the taking by any person, without charge, at every office, building or dedicated business space that the operator maintains where a person may enter into a contract with the operator for the sale or provision of a licensed supply or service on the price list, or
- (ii) a notice that the price list is available upon request and without charge is posted in a place that is near the main entrance to the operator’s premises and that is clearly visible to a person attending at the premises; and
- (b) information respecting prices for licensed supplies and services is provided to persons making inquiries of the operator whether in person, by telephone or in writing. O. Reg. 30/11, s. 68 (2).
- (3) If an operator maintains or makes use of a website where a person may enter into a contract with the operator for the sale of a licensed supply or service, the operator shall provide access to an electronic version of the price list in printable form on the website, without charge. O. Reg. 30/11, s. 68 (3).

##### Excerpts of price list

- 69.** (1) If a cemetery operator’s price list includes prices related to the installation or maintenance of markers or foundations to which section 71 applies, the operator shall provide a copy of the part of the price list containing those prices and a copy of the part of the price list containing the information required by section 59, to persons that have delivered markers to the cemetery within the previous 12 months. O. Reg. 30/11, s. 69 (1).
- (2) The cemetery operator shall provide the copies required by subsection (1) at least 30 days before the effective date of any changed price. O. Reg. 30/11, s. 69 (2).

#### PRICING

##### Permitted tied sales

- 70.** (1) For the purposes of section 38.1 of the Act, if a purchaser is purchasing supplies and services set out in Column 1 of the Table to this subsection from an operator, the operator may require the purchaser to purchase the supplies and services set out opposite them in Column 2 of the Table,
- (a) as a condition of the purchase, if the purchase is not by way of a package; or
- (b) as a condition of paying the package price for the purchase, if the purchase is by way of a package.

TABLE

Column 1	Column 2
Use of vehicle	Drivers
Use of equipment	Staff services
Use of facilities where the purchaser wants food served	Catering services
Funeral and transfer services	Professional and staff services
Use of facilities	Staff services
Embalming or other preparation of the deceased	Use of facilities necessary to embalm or otherwise prepare the deceased

O. Reg. 30/11, s. 70 (1).

- (2) For the purposes of section 38.1 of the Act, a cemetery operator may require purchasers to purchase from the operator or a person specified by the operator the supplies and services identified in the cemetery’s by-laws. O. Reg. 30/11, s. 70 (2).

##### At cost supplies and services for cemetery operators

**71.** (1) If a cemetery's by-laws require a purchaser to purchase the following supplies or services from the cemetery operator or other person specified by the operator, the operator shall ensure the supplies or services are offered for sale at a price that does not exceed the direct cost of the operator or the other person in providing them:

1. Supplies and services related to inspecting the installation of a marker or foundation or marking a lot or scattering ground for the installation of a marker or foundation.
2. Supplies and services related to constructing a foundation.
3. Supplies and services related to installing or setting a marker. O. Reg. 30/11, s. 71 (1).

(2) At the request of the registrar, a cemetery operator shall provide the registrar with evidence of the cost for the supplies and services listed in subsection (1). O. Reg. 30/11, s. 71 (2).

#### PRICE DISALLOWANCES

##### **Registrar's review of price lists**

**72.** An operator shall submit the operator's current price list and any previous price list to the registrar on request. O. Reg. 30/11, s. 72.

##### **Disallowance of prices for supply or service**

**73.** Subject to section 74, the registrar may disallow a price for a supply or service if,

- (a) the operator requires purchasers to purchase the supply or service from the operator or other person and, in the opinion of the registrar, the price is excessive or significantly higher than the current market price for the supply or service; or
- (b) section 71 requires a cemetery operator to ensure that the supply or service be provided at a price that does not exceed the direct cost of the operator or other person who provides it and the price exceeds that direct cost. O. Reg. 30/11, s. 73.

##### **Procedure for disallowance**

**74.** (1) If the registrar proposes to disallow a price, the registrar shall serve on the operator a written notice that,

- (a) sets out the proposed disallowance;
- (b) sets out the reason for the proposed disallowance; and
- (c) states that the operator is entitled to a hearing by the Tribunal if the operator serves a written request for a hearing on the registrar and the Tribunal within 15 days after the day the notice is served on the operator. O. Reg. 30/11, s. 74 (1).

(2) An operator may request a hearing in respect of a proposed price disallowance by serving a written request for a hearing on the registrar and the Tribunal within 15 days after the day the operator is served with the notice of the proposed disallowance. O. Reg. 30/11, s. 74 (2).

(3) If an operator requests a hearing, the Tribunal shall hold the hearing and may by order direct the registrar to disallow the price or to not disallow the price or may fix the price. O. Reg. 30/11, s. 74 (3).

(4) The registrar, the operator and any other person that the Tribunal specifies are parties to the hearing. O. Reg. 30/11, s. 74 (4).

(5) If an operator does not request a hearing in accordance with subsection (2), the registrar may carry out the proposal and disallow the price. O. Reg. 30/11, s. 74 (5).

(6) The registrar shall serve written notice on the operator of a price disallowance under subsection (5) or pursuant to an order made under subsection (3). O. Reg. 30/11, s. 74 (6).

(7) The notice shall state that the price disallowance is effective on the day the price was to have taken effect, whether that day is before or after the date of the notice. O. Reg. 30/11, s. 74 (7).

(8) A price disallowance takes effect on the day set out in the notice pursuant to subsection (7). O. Reg. 30/11, s. 74 (8).

(9) Subsection (8) applies even if the operator, under section 11 of the *Licence Appeal Tribunal Act, 1999*, appeals the order made under subsection (3), but the Tribunal may grant a stay until the disposition of the appeal. O. Reg. 30/11, s. 74 (9).

##### **Reimbursement if price disallowed**

**75.** (1) An operator shall reimburse a purchaser who purchases a supply or service from the operator if, under section 74, the price for the supply or service has been disallowed and a revised price has been fixed. O. Reg. 30/11, s. 75 (1).

(2) The amount of the reimbursement shall be equal to the difference between the original disallowed price and the revised price. O. Reg. 30/11, s. 75 (2).

(3) The operator shall make the reimbursement within 30 days after the day that the operator is served with the notice of the disallowance under section 74. O. Reg. 30/11, s. 75 (3).

## **DIVISION F TRUST ACCOUNTS AND TRUST FUNDS**

### **GENERAL TRUST RULES**

#### **Trust money**

**76.** (1) Every operator shall,

- (a) except as otherwise permitted in this Division, hold all trust money separate and apart from all money other than trust money; and
- (b) deal with trust money in accordance with this Division. O. Reg. 30/11, s. 76 (1).

(2) If prepaid trust money is temporarily deposited into an account, other than in an individual trust account or a pooled trust fund or account, the operator,

- (a) shall deposit it only with an eligible depository;
- (b) shall deposit it only in an account in the name of the operator as it appears on the operator's licence;
- (c) shall not use the money and shall preserve it for the beneficiary; and
- (d) shall maintain adequate account controls to limit the exposure of the money to unilateral withdrawal for purposes that would be in breach of the obligation to hold it in trust. O. Reg. 30/11, s. 76 (2).

### **PREPAID TRUST MONEY**

#### **Application of sections**

**77.** Sections 78 to 81 apply for the purposes of section 52 of the Act. O. Reg. 30/11, s. 77.

#### **Deposit into trust account or fund**

**78.** (1) An operator who receives money in respect of the sale of licensed supplies or services, in advance of the provision of those supplies or services, shall hold the money in trust as prepaid trust money except that the operator may, on or after the 30th day after the day on which the contract for the sale was made, elect to retain, as not being prepaid trust money, an amount not exceeding the amount to which the operator would be entitled under section 140 if the purchaser cancelled the contract under subsection 44 (1) of the Act. O. Reg. 30/11, s. 78 (1).

(2) An operator shall ensure that prepaid trust money is deposited, not later than the 35th day after the day the operator receives the money, into,

- (a) an individual trust account established by the operator that complies with subsection 79 (1); or
- (b) a pooled trust fund established by the operator that complies with subsection 80 (2). O. Reg. 30/11, s. 78 (2).

(3) An operator shall retain prepaid trust money in trust in the account or fund into which the operator is required to deposit it under subsection (2) until this Division permits or requires the operator to transfer it or pay it out. O. Reg. 30/11, s. 78 (3).

(4) Despite subsection (2), if a contract is for the provision of licensed supplies or services within 30 days after the day the contract is made,

- (a) the operator shall deposit, into an account or fund described in subsection (2), the money paid under the contract in respect of the supplies or services if the supplies or services are not provided within 30 days after the day the contract is made; and
- (b) the operator shall make the deposit described in clause (a) no later than the 35th day after the day the contract is made. O. Reg. 30/11, s. 78 (4); O. Reg. 48/15, s. 5.

#### **Individual trust account**

**79.** (1) An individual trust account maintained by an operator shall comply with the following rules:

1. The individual trust account shall be established in the name of the operator as it appears on its licence under the Act as the trustee for the purchaser.
2. The individual trust account shall be used only as a trust account to hold in accordance with this Division trust money received in respect of contracts with the same purchaser for the same recipient.
3. The operator shall be the trustee for the trust money held in the individual trust account.



4. Trust money in the individual trust account shall be invested in and kept invested in one or more of the following types of investments:
    - i. An interest-bearing account with an eligible depository.
    - ii. A guaranteed investment certificate, deposit receipt, deposit note, certificate of deposit, term deposit or other similar instrument that is issued by an eligible depository.
  5. Trust money in the individual trust account may be invested in an investment described in paragraph 4,
    - i. directly by the trustee, or
    - ii. through a fraternal society licensed under the *Insurance Act*. O. Reg. 30/11, s. 79 (1).
- (2) If a purchaser so requests, every operator shall, in respect of each individual trust account that the operator maintains for the purchaser, provide the purchaser, once a year, with a statement that sets out,
- (a) the current value of the account as of the end of the month before the request;
  - (b) the types of investments held as of the day described in clause (a); and
  - (c) the name of the eligible depository of any account in which the prepaid trust money is deposited. O. Reg. 30/11, s. 79 (2); O. Reg. 48/15, s. 6.

**Pooled trust fund**

- 80.** (1) An operator may hold prepaid trust money in a pooled trust fund only if the records maintained for the fund permit the tracking and reporting on funds in the fund on an individual contract basis. O. Reg. 30/11, s. 80 (1).
- (2) Every pooled trust fund established by an operator and maintained for the purposes of holding prepaid trust money in trust in accordance with this Division shall comply with the following rules:
1. Subject to subsections (3) and (4), every trustee of the pooled trust fund shall be either a corporation registered under the *Loan and Trust Corporations Act* or a credit union or league as defined in the *Credit Unions and Caisses Populaires Act, 1994*.
  2. The name of the pooled trust fund shall include the name of the operator as it appears on the licence and the words “pooled trust fund” if the fund is operated in English and the words “fonds commun en fiducie” if the fund is operated in French.
  3. Trustee fees may be paid only out of the income earned on the pooled trust fund. O. Reg. 30/11, s. 80 (2); O. Reg. 48/15, s. 7.
- (3) An operator that is a municipality may act as trustee of its pooled trust fund. O. Reg. 30/11, s. 80 (3).
- (4) The Public Guardian and Trustee shall act as trustee of the pooled trust fund of an operator that is a religious organization, a municipality or another non-profit entity, if the operator has no practical alternative and requests the Public Guardian and Trustee to so act. O. Reg. 30/11, s. 80 (4).
- (5) If a purchaser so requests, every operator shall, in respect of a pooled trust fund that the operator maintains, provide the purchaser, once a year, with a statement that sets out the current value of the purchaser’s money as of the end of the month before the request. O. Reg. 30/11, s. 80 (5).

**Payout of prepaid trust money**

- 81.** (1) Prepaid trust money shall be paid out only in accordance with the following rules:
1. Prepaid trust money may be paid to the operator in consideration for the licensed supplies or services purchased under the contract as the supplies and services are provided in accordance with the contract.
  2. Subject to paragraph 3, any prepaid trust money that remains after the supplies or services to which the money relates have been provided and after all amounts payable to the operator and any other suppliers in respect of the supplies and services have been paid shall be paid by the operator to the purchaser or to the person whom the contract designates as being entitled to receive the payment.
  3. If the operator is unable to identify or locate the purchaser or the person whom the contract designates as being entitled to receive the payment, the money mentioned in paragraph 2 shall be paid out in accordance with section 82.
  4. If a contract is cancelled in whole or in part, the prepaid trust money relating to the part of the contract that is cancelled shall be paid out to the operator and the operator shall,
    - i. determine, in accordance with the Act and the regulations, the amount to be refunded to the purchaser or the person whom the contract designates as being entitled to receive the payment, and
    - ii. refund the amount determined under subparagraph i to the purchaser or the person whom the contract designates as being entitled to receive the payment.

5. If prepaid trust money is held in a pooled trust fund, trustee fees may be paid out to the trustee of the pooled trust fund in accordance with paragraph 3 of subsection 80 (2) and the trust agreement governing the management of the fund.
  6. If an operator receives a deposit with respect to cremated human remains under subsection 125 (2), the operator shall pay out the deposit in accordance with that subsection. O. Reg. 30/11, s. 81 (1); O. Reg. 48/15, s. 8 (1).
- (2) Despite any provision in a contract for the provision of licensed supplies and services, the maximum amount an operator may retain under the contract in consideration for the provision of the supplies and services is the lesser of,
- (a) the amount of prepaid trust money in respect of the supplies and services and the amount of proceeds from an annuity or insurance contract, including group insurance, in respect of the supplies and services; and
  - (b) the current selling price for the supplies and services at the time they are provided, as set out in the price list maintained by the operator under section 33 of the Act. O. Reg. 30/11, s. 81 (2).
- (3) For the purposes of clause (2) (b), if the current selling price for a supply or service is not set out in the price list maintained by the operator, the current selling price shall be the price charged by the operator for a similar supply or service. O. Reg. 30/11, s. 81 (3); O. Reg. 48/15, s. 8 (2).
- (4) Any amount payable by an operator to a purchaser may be paid to another person if the person who is entitled to receive the money has provided a written direction to the operator to make the payment to the other person. O. Reg. 30/11, s. 81 (4).

#### UNCLAIMED TRUST MONEY

##### Payment of unclaimed trust money

- 82.** (1) If an operator is unable to identify or locate the purchaser or the person whom the contract designates as being entitled to receive unclaimed trust money by the end of the year after the completion or cancellation of the contract to which the money relates, the operator shall pay out the unclaimed trust money to,
- (a) a compensation fund established under subsection 61 (1) of the Act that has as one of its purposes the holding and investment of unclaimed trust money; or
  - (b) the Minister of Finance, if the compensation fund mentioned in clause (a) has not been established. O. Reg. 30/11, s. 82 (1).
- (2) An operator shall make a payment to the Minister of Finance under subsection (1) by forwarding the money to a director appointed under section 2 of the Act. O. Reg. 30/11, s. 82 (2).
- (3) An operator who makes a payment under subsection (1) shall provide the compensation fund or the director, as the case may be, with as much information as the operator has in order to assist in the determination of the identity or location of the person entitled to the unclaimed trust money. O. Reg. 30/11, s. 82 (3).
- (4) Upon receipt of information that proves on a balance of probabilities that a person is entitled to unclaimed trust money paid to the compensation fund under this section, the compensation fund shall pay the money to the person. O. Reg. 30/11, s. 82 (4).
- (5) An operator is exempt from subsection (1) if the amount of unclaimed trust money is less than \$50. O. Reg. 30/11, s. 82 (5).

#### DIVISION G CARE AND MAINTENANCE FUNDS AND ACCOUNTS

##### Establishment of fund

- 83.** (1) For the purposes of subsection 53 (3) of the Act, a care and maintenance fund shall be established in a corporation registered under the *Loan and Trust Corporations Act* or a credit union or league as defined in the *Credit Unions and Caisses Populaires Act, 1994*. O. Reg. 30/11, s. 83 (1).
- (2) Subject to section 85, for the purposes of clause 53 (5) (a) of the Act, the trustee of the fund shall be the corporation, credit union or league in which the fund has been established. O. Reg. 30/11, s. 83 (2).
- (3) The name under which a care and maintenance fund is established and maintained shall include the words “care and maintenance fund” in English or “fonds d’entretien” in French. O. Reg. 30/11, s. 83 (3).

##### Establishment of account

- 84.** (1) A cemetery operator may establish a care and maintenance account for the purposes of care and maintenance trust money if,
- (a) the account is in relation to a cemetery that is not a commercial cemetery;
  - (b) the cemetery operator holds in trust or will hold in trust less than \$50,000 in total for care and maintenance in respect of all cemeteries that the cemetery operator operates;

- (c) the cemetery operator has requested that the municipality act as trustee as permitted under section 85 and the municipality has declined to do so; and
- (d) the registrar has not determined that the use of a care and maintenance account by the operator would be contrary to the public interest. O. Reg. 30/11, s. 84 (1).

(2) A care and maintenance account established under subsection (1) shall comply with the following requirements:

- 1. It shall be maintained in an eligible depository.
- 2. It shall be designated as the care and maintenance account.
- 3. It shall be established in the names of the cemetery operator as they appear on the licence, as trustee, for each cemetery to which the trust money in the account will relate.
- 4. It shall be used only as a care and maintenance account to hold care and maintenance trust money.
- 5. Money in the account shall be invested in and kept invested in one or more of the following types of investments:
  - i. An interest-bearing account.
  - ii. A guaranteed investment certificate, deposit receipt, deposit note, certificate of deposit, term deposit or other similar instrument that is issued by an eligible depository. O. Reg. 30/11, s. 84 (2).

(3) A cemetery operator who is permitted under subsection (1) to establish a care and maintenance account shall notify the registrar in writing before beginning to use the account. O. Reg. 30/11, s. 84 (3).

(4) The cemetery operator shall be the trustee if care and maintenance trust money is held in a care and maintenance account. O. Reg. 30/11, s. 84 (4).

**Municipality as trustee of fund or account**

**85.** For the purposes of subsection 53 (5) of the Act, a municipality may act as the trustee of a care and maintenance fund or account,

- (a) for a cemetery of which the municipality is the owner; or
- (b) for a cemetery of which the municipality is not the owner, if the cemetery operator requests the municipality to act as trustee. O. Reg. 30/11, s. 85.

**Payment before establishment of cemetery**

**86.** (1) When an owner of land applies to the registrar for consent to the establishment of a cemetery on the land, the deposit that the owner is required to pay into a care and maintenance fund or account under clause 86 (1) (c) of the Act is \$100,000. O. Reg. 30/11, s. 86 (1).

(2) An owner of land who applies to the registrar for consent to the establishment of a cemetery on the land is exempt from the requirement in clause 86 (1) (c) of the Act and subsection (1) if,

- (a) the owner is a municipality;
- (b) the land is a burial site; or
- (c) the cemetery is being established for the purpose of interring human remains to be moved from a burial site. O. Reg. 30/11, s. 86 (2).

(3) At the request of the owner of the land on which the cemetery is to be established, the registrar may issue a declaration that it would not be contrary to the public interest for the owner to pay an amount set out in the declaration that is less than \$100,000, or to pay nothing, into a care and maintenance fund or account, if,

- (a) the owner provides evidence satisfactory to the registrar that the cemetery will be maintained in accordance with the Act and the regulations despite the payment of the lesser amount or the non-payment, as the case may be;
- (b) the owner provides evidence satisfactory to the registrar that the municipality has consented to the request; and
- (c) the cemetery to be established is not a commercial cemetery. O. Reg. 30/11, s. 86 (3).

**Payment in relation to interment or scattering rights, etc.**

**87.** (1) In this section,

“price” means the price payable by the purchaser, excluding taxes. O. Reg. 30/11, s. 87 (1).

(2) For the purposes of subsection 53 (14) of the Act, a cemetery operator shall pay the amounts specified in section 168 into a care and maintenance fund or account for the cemetery within 60 days after the earlier of the day the operator sells or transfers interment rights or scattering rights and the day the interment or scattering is carried out. O. Reg. 30/11, s. 87 (2).

(3) If a price, on which an amount payable under subsection (2) is based, is payable in instalment payments, the operator, instead of complying with subsection (2), may pay into a care and maintenance fund or account for the cemetery, within 60 days after receiving each instalment payment, the pro rata portion of the payment required under section 168. O. Reg. 30/11, s. 87 (3).

(4) For the purposes of subsection (3), the amount of an instalment payment shall not include any financing charges, penalties or taxes that would otherwise form part of the instalment payment. O. Reg. 30/11, s. 87 (4).

(5) If, after a cemetery operator pays an amount into a care and maintenance fund in respect of a sale or transfer of interment rights for an in-ground grave, the interment rights holder requires the installation of a private mausoleum or private columbarium on the same lot, the amount that the operator paid into the fund in respect of the sale or transfer of the interment rights for the in-ground grave shall be deducted from the amount otherwise payable under subsection (2) and from the amounts otherwise payable under subsection (3). O. Reg. 30/11, s. 87 (5).

(6) If the sum of the amounts paid into a care and maintenance fund or account under subsection (3) in respect of all of the instalment payments is less than the amount that would have been required to be paid into the fund under subsection (2), the cemetery operator shall pay the difference into the fund within 60 days after receiving the last instalment payment. O. Reg. 30/11, s. 87 (6).

(7) A cemetery operator is exempt from this section,

(a) to the extent of the amount that was paid into a care and maintenance fund under clause 86 (1) (c) of the Act; and

(b) for interment or scatterings conducted in relation to human remains from an irregular burial site. O. Reg. 30/11, s. 87 (7).

#### **Payment upon installation of marker**

**88.** (1) For the purposes of subsection 53 (10) of the Act, the prescribed period is within 60 days after the marker is installed in the cemetery. O. Reg. 30/11, s. 88 (1).

(2) If a marker is to be installed in a cemetery to replace a marker that has been damaged and cannot be repaired, or if a marker that was sold before April 1, 1992 is to be installed in a cemetery, the person on behalf of whom the marker is to be installed and the cemetery operator are exempt from subsections 53 (9) and (10) of the Act. O. Reg. 30/11, s. 88 (2).

#### **Services requested by delivery agent**

**89.** (1) A cemetery operator who provides licensed services at the request of a delivery agent as defined in the *Ontario Works Act, 1997*, as required by the regulations, shall not make a payment into a care and maintenance fund or account in respect of the services in accordance with section 87, but shall do so in accordance with subsection (2). O. Reg. 30/11, s. 89 (1).

(2) If the total amount received by the operator for providing the licensed services is the same as the price that the operator would normally charge for providing the services,

(a) the operator shall pay into a care and maintenance fund or account for the cemetery, within 60 days after the total amount is received, the amount required by section 87; and

(b) the calculation required by section 87 shall be carried out on the basis that the price is the total amount received by the operator for the services, excluding taxes. O. Reg. 30/11, s. 89 (2).

#### **Payment upon installation of private structure**

**90.** For the purposes of subsection 53 (13) of the Act, the prescribed period is within 60 days after the mausoleum or columbarium is ready for interment purposes. O. Reg. 30/11, s. 90.

#### **Deduction from contribution on resale of rights**

**91.** (1) This section applies if,

(a) an interment rights holder or a scattering rights holder cancels the contract for the purchase of the interment rights or scattering rights under subsection 47 (5) of the Act; and

(b) on making the payment required under subsection 47 (6) of the Act to the rights holder, the operator does not deduct the amount that the operator paid into the cemetery's care and maintenance funds in connection with the contract being cancelled, as permitted under subsection 47 (6) of the Act and subsection 142 (1) of this Regulation. O. Reg. 30/11, s. 91 (1).

(2) Upon reselling the interment rights or scattering rights mentioned in subsection (1), the operator may deduct, from the amount that the operator would otherwise be required under the Act to pay into a care and maintenance fund, all or part of the amount mentioned in clause (1) (b) that the operator did not deduct as permitted. O. Reg. 30/11, s. 91 (2).

#### **Payment in lieu of property tax**

92. (1) If a cemetery is exempt from property tax imposed under the *Municipal Act, 2001*, the *City of Toronto Act, 2006* or the *Provincial Land Tax Act, 2006* by reason of paragraph 2.1 or subparagraph 2.2 ii of subsection 3 (1) of the *Assessment Act* in relation to a crematorium and if the Registrar under the *Cemeteries Act (Revised)* or the registrar consented after January 1, 2002 to the establishment of the crematorium, the operator of the cemetery shall make a payment into the care and maintenance fund or account for the cemetery, as the case may be, in an amount set out in subsection (2) and within the time set out in subsection (3). O. Reg. 30/11, s. 92 (1).

(2) The amount payable under subsection (1) is the amount of tax that would otherwise be payable for the preceding calendar year, but for the exemption under the *Assessment Act*. O. Reg. 30/11, s. 92 (2).

(3) The payment under subsection (1) shall be made by June 1 of the year following the year on which the calculation is based. O. Reg. 30/11, s. 92 (3).

(4) The cemetery operator shall, within 30 days of making the payment under subsection (1), provide the registrar with confirmation of,

- (a) the assessed value for the portion of the property used for the bereavement related activity;
- (b) the tax rates and other adjustments, if any, under Part VIII, IX or X of the *Municipal Act, 2001*, Part XI, XII or XIII of the *City of Toronto Act, 2006*, or the *Provincial Land Tax Act, 2006* that would have applied to the property for the preceding calendar year, but for the exemption under the *Assessment Act*;
- (c) the exemption under the *Assessment Act*; and
- (d) the fact that the required payment has been made into the care and maintenance fund or account for the cemetery. O. Reg. 30/11, s. 92 (4).

**Use of income from fund or account**

93. (1) For the purposes of subsection 53 (17) of the Act, a cemetery operator shall use the income earned by a care and maintenance fund or account only for the following purposes and in accordance with the following rules:

1. Income earned from the investment and reinvestment of money paid into the fund or account under subsection 53 (10) of the Act in respect of markers installed in the cemetery shall be used only,
  - i. to stabilize, maintain, secure and preserve markers in the cemetery, and
  - ii. if the work described in subparagraph i has been completed, to stabilize, maintain, secure and preserve markers in other cemeteries operated by the same operator.
2. Income from the investment and reinvestment of money paid into the fund or account for the cemetery, other than money paid into the fund under subsection 53 (10) of the Act in respect of markers, shall be used only,
  - i. to maintain, secure and preserve the cemetery, including its grounds, buildings, structures and markers, and the equipment used to maintain, secure and preserve the cemetery,
  - ii. if the work described in subparagraph i has been completed, to maintain, secure and preserve other cemeteries operated by the same operator, including their grounds, buildings, structures and markers, and the equipment used to maintain, secure and preserve the other cemeteries, and
  - iii. to pay the expenses incurred in establishing and maintaining any of the cemetery's care and maintenance funds or accounts or to purchase equipment to be used strictly for the care and maintenance of the cemetery, if,
    - A. the operator is no longer selling interment rights, and is no longer selling scattering rights, for the cemetery, and
    - B. the cemetery does not generate any revenue from the operation of a funeral establishment, crematorium or transfer service or from the sale of caskets or markers. O. Reg. 30/11, s. 93 (1).

(2) For greater certainty, subject to subparagraph 2 iii of subsection (1), that subsection does not permit the operator to use income from the fund or account to purchase equipment or to apply to any other purpose other than the care and maintenance of the cemetery. O. Reg. 30/11, s. 93 (2).

(3) For greater certainty, paragraph 1 of subsection (1) permits the operator to use income from the fund or account to pay a worker wages and benefits for engaging in, or supervising, the stabilization, maintenance, securing or preservation of markers. O. Reg. 30/11, s. 93 (3).

(4) For greater certainty, paragraph 2 of subsection (1) permits the operator to use income described in that paragraph to pay a worker wages and benefits for engaging in, or supervising, the maintenance, securing or preservation of,

- (a) the cemetery or any of its grounds, buildings, structures or markers; or
- (b) the equipment used to maintain, secure or preserve the cemetery. O. Reg. 30/11, s. 93 (4).

(5) For greater certainty, subsection (1) does not permit the operator to use income from the fund or account to pay a worker wages or benefits for office work, sales work or engaging in, or supervising, the opening or closing of lots. O. Reg. 30/11, s. 93 (5).

(6) Despite subsection (1), a cemetery operator shall not use income from a care and maintenance fund or account for that portion of a cemetery that is subject to property tax imposed under the *Municipal Act, 2001*, the *City of Toronto Act, 2006* or the *Provincial Land Tax Act, 2006* or for a payment that is required to be made under section 92. O. Reg. 30/11, s. 93 (6).

#### **Payment out for purchase of adjoining land**

**94.** (1) For the purposes of subsection 53 (18) of the Act, the trustee of a care and maintenance fund or account for a cemetery that is not a commercial cemetery shall, at the request of the cemetery operator, pay to the operator, from the capital of the fund or account, an amount to be used to purchase land adjoining the cemetery in order to enlarge the cemetery, if the registrar authorizes the payment to be made. O. Reg. 30/11, s. 94 (1).

(2) The registrar shall authorize a payment to be made under subsection (1) only if, in the opinion of the registrar,

- (a) the cemetery operator does not have enough money to purchase the adjoining land;
- (b) payment of the amount from the capital of the fund or account will enable the operator to purchase the adjoining land;
- (c) the operator will continue to provide adequate care and maintenance for the enlarged cemetery; and
- (d) the enlargement of the cemetery will promote its economic viability and strengthen the fund. O. Reg. 30/11, s. 94 (2).

(3) A cemetery operator shall use a payment received under subsection (1) only to purchase the adjoining land in order to enlarge the cemetery. O. Reg. 30/11, s. 94 (3).

(4) Subject to subsections (5) and (6), a cemetery operator shall pay the amount received under subsection (1) back to the fund or account,

- (a) out of the money received by the operator from the sale of interment rights and scattering rights with respect to the purchased land, after paying into a care and maintenance fund or account the payments required to be made in respect of those rights; and
- (b) in accordance with the registrar's directions regarding the circumstances in which repayment must be made and the portion that must be repaid in each of such circumstances. O. Reg. 30/11, s. 94 (4).

(5) If a cemetery operator uses any part of a payment received under subsection (1) for a purpose other than that mentioned in subsection (3), the operator shall pay the amount used for the other purpose back to the fund or account within the period specified by the registrar. O. Reg. 30/11, s. 94 (5).

(6) If a cemetery operator does not use the whole payment received under subsection (1) within a period that the registrar determines is reasonable in the circumstances, the operator shall pay the amount that was not used back to the fund or account within the period specified by the registrar. O. Reg. 30/11, s. 94 (6).

#### **Prohibition against charging maintenance costs**

**95.** (1) No cemetery operator shall charge an interment rights holder or a scattering rights holder for the costs associated with the operator's obligations under clause 5 (3) (b) of the Act, except as permitted under subsections (2) and (4). O. Reg. 30/11, s. 95 (1).

(2) If interment rights were sold or transferred, or a marker was installed, before 1955 in a cemetery that is not a commercial cemetery, and if no money was collected to be held in trust for the purpose of maintaining the cemetery or for the purpose of maintaining its markers, as the case may be, the cemetery operator may charge the interment rights holder an amount no greater than the amount that the operator would be required under the Act to pay into a care and maintenance fund or account for the cemetery if equivalent interment rights were sold or transferred, or an equivalent marker was installed, at market price on the day the holder is charged. O. Reg. 30/11, s. 95 (2).

(3) Within 60 days after receiving payment of an amount charged under subsection (2), a cemetery operator shall pay the amount into a care and maintenance fund or account for the cemetery. O. Reg. 30/11, s. 95 (3).

(4) In a contract under which a person purchases a licensed supply or a licensed service from a cemetery operator, the operator may build into the price charged for the supply or service an amount to cover the amount that the operator is required to pay into a care and maintenance fund or account for the cemetery in respect of the supply or service. O. Reg. 30/11, s. 95 (4).

## **DIVISION H RECORD KEEPING**

#### **Definition**

**96.** In this Division,

“record” means any record, document or information, in any media type, that relates to a business the operator is licensed to operate and that is required to be kept by the operator under the Act or this Part. O. Reg. 30/11, s. 96.

**Manner of keeping records**

97. (1) An operator shall keep all records in a manner that permits information for each licensed business or location of the licensed businesses to be readily identified and compiled separately. O. Reg. 30/11, s. 97 (1).

(2) An operator that does not keep records in hard copy shall ensure that a hard copy of the records can be readily produced in an easily understandable form. O. Reg. 30/11, s. 97 (2).

**Location of records**

98. (1) Subject to subsection (2), an operator shall keep all records at the operator’s principal place of business in Ontario. O. Reg. 30/11, s. 98 (1); O. Reg. 48/15, s. 9.

(2) An operator may keep records at a location in Ontario other than the operator’s principal place of business in Ontario, if the operator gives the registrar written notice of the location at which the records are being kept. O. Reg. 30/11, s. 98 (2).

**Required records, all operators**

99. In addition to any records that the Act requires an operator to keep, an operator shall keep the following records, as applicable, in connection with each business the operator is licensed to operate:

1. Records of all money received or disbursed, including details of each account with a depository.
2. Records of all deposits and withdrawals of money required to be held in trust under section 52 of the Act, including for each deposit or withdrawal, the unique identification number or code for the contract to which it relates.
3. Records of all deposits and withdrawals of money required to be held in trust under section 53 or 55 of the Act.
4. All trust agreements that the operator has entered into with a trustee relating to prepaid trust money or a care and maintenance fund.
5. Copies of all statements, all receipts, all contracts including voided contracts, all invoices and all similar documents issued by the operator.
6. Financial records that readily identify and that may be used to verify individual transactions for each account or fund that the operator maintains, including but not limited to statements from depositories and third party trustees, deposit records, pass books and cancelled cheques, as applicable.
7. For each contract in respect of which money is required to be held in trust under section 52 of the Act, and for each contract funded by an annuity or insurance contract, including group insurance, a record, as applicable, containing the following information:
  - i. The date of the contract.
  - ii. The unique identification number or code for the contract.
  - iii. The name and address of the purchaser.
  - iv. The total price of the contract.
  - v. The payments received under the contract.
  - vi. The amount of money deposited in a trust account or trust fund and the date on which the deposit is made.
  - vii. The name of the depository, the number of the trust account or trust fund into which the money is deposited and details of any investment of the money.
  - viii. The date on which the contract is fully performed or is cancelled.
  - ix. If the contract is fully performed, the total price for which the contract was performed.
  - x. The amount of any refund of money paid under the contract.
  - xi. The amount of money withdrawn from a trust account or trust fund and the date on which the withdrawal is made.
  - xii. The details of any annuity or insurance contract, including group insurance, relating to the contract, including,
    - A. the unique identification number or code for the annuity or insurance contract, including group insurance,
    - B. the name and address of the insurer or the issuer of the annuity or insurance contract, including group insurance,
    - C. the beneficiary under the annuity or insurance contract, including group insurance, and

D. the value of the annuity or insurance contract, including group insurance.

- xiii. If the provision of any licensed supplies or services under the contract is to be triggered by the death of an individual designated in the contract, the individual's name and address, the individual's date of birth or approximate age, the individual's date of death when known and, if known, the place of death and the place where the body was interred, cremated or otherwise disposed of. O. Reg. 30/11, s. 99.

#### **Record re cremated remains**

**100.** (1) An operator that has possession of cremated human remains other than for the purposes of interring or scattering shall keep a record containing the following information:

1. If the remains are claimed, the name and address of the person claiming the remains and the date on which they are claimed.
2. If unclaimed remains are interred in a common lot in a cemetery under section 53, the date and place of interment. O. Reg. 30/11, s. 100 (1).

(2) If the purchaser, personal representative or family member of a deceased person requests disclosure of the record prepared under subsection (1) with respect to the deceased person, the operator shall disclose the record without charge to the person making the request. O. Reg. 30/11, s. 100 (2).

#### **Retention of records**

**101.** (1) An operator shall retain records relating to a contract for a period of six years from the date the contract is fully performed or is cancelled. O. Reg. 30/11, s. 101 (1).

(2) An operator shall retain a price list for a period of six years from the date the price list was last in effect. O. Reg. 30/11, s. 101 (2).

(3) An operator that is required to keep a record under section 100 shall retain the record for a period of six years from the date the remains are claimed or interred. O. Reg. 30/11, s. 101 (3).

(4) Subject to section 102, an operator that is required to make records available to the public under the Act shall retain the records as long as the operator continues to be licensed to operate the business to which the records relate. O. Reg. 30/11, s. 101 (4).

(5) A crematorium operator shall retain a certificate from the coroner authorizing the cremation for a period of six years from the date of the cremation of the dead human body to which the certificate relates. O. Reg. 30/11, s. 101 (5).

(6) An operator that is required to keep every other record under the Act or this Part shall retain the record for a period of six years from the date it is created. O. Reg. 30/11, s. 101 (6).

#### **Cessation of business**

**102.** (1) Subject to subsection (3), an operator that ceases to operate a business that the operator was licensed to operate other than a cemetery that is ceasing to operate by reason of closure of the cemetery, shall ensure that arrangements are made,

- (a) to have all records that the operator was required to make available to the public under the Act or this Part delivered to,
  - (i) the nearest municipal archive, archive of a religious organization or other public archive, or
  - (ii) the Archives of Ontario, if the records are not accepted by an archive mentioned in subclause (i);
- (b) to have all other records relating to the business stored securely and made available for the purposes of inspections or investigations under the Act for the period of time specified in section 101. O. Reg. 30/11, s. 102 (1).

(2) As soon as an operator makes or changes arrangements under subsection (1), the operator shall notify the registrar of the details of the arrangements, including the address of the location of the records. O. Reg. 30/11, s. 102 (2).

(3) An operator that ceases to operate a business is exempt from the obligations in subsections (1) and (2) if,

- (a) the operator is selling or transferring the business to another person who has become licensed to operate the business; or
- (b) the business is a cemetery that is being transferred to a municipality because of abandonment. O. Reg. 30/11, s. 102 (3).

## **DIVISION I REPORTING TO THE REGISTRAR**

#### **Notice of change, operator**

**103.** (1) An operator shall give the registrar a notice of change in writing if a change occurs with respect to any of the following:

1. The operator's address for service.



2. For each location identified in section 21 where the operator carries on business, the person in charge of the day-to-day operations of the operator's business at the location or the funeral director, in the case of a funeral establishment, who manages the operator's business at the location.
3. The officers or directors of an operator that is a corporation.
4. The name and address of a business, other than the operator's business, that has a holding room or an embalming room used by the operator and the address of the holding room or embalming room if it is different from the address of the business.
5. The name and address of a depository at which the operator has one or more accounts into which trust money may be deposited and the number of each of the accounts.
6. The name and address of a depository at which the operator has one or more individual trust accounts for prepaid trust money and the number of each of the accounts.
7. The name and address of a trustee holding prepaid trust money or care and maintenance trust money on behalf of the operator and the number of the trust fund in which the money is held.
8. The name and address of a depository at which the operator has one or more care and maintenance accounts for care and maintenance trust money and the number of each of the accounts. O. Reg. 30/11, s. 103 (1).

(2) The operator shall give the notice of change to the registrar within 15 days after the change occurs in a form and manner specified by the registrar. O. Reg. 30/11, s. 103 (2).

**Notice of change, personal licensee**

**104.** (1) An individual holding a personal licence shall give the registrar a notice of change in writing if a change occurs with respect to the individual's employment with the primary operator. O. Reg. 30/11, s. 104 (1).

(2) The notice of change shall set out all of the details of the change, including the date on which the individual begins to be employed by an operator, the date on which the individual ceases to be employed by an operator and, in the case of termination of employment by the operator mentioned in subsection (1), the reason for the termination. O. Reg. 30/11, s. 104 (2).

(3) The individual shall give the notice of change to the registrar within 15 days after the change occurs in a form and manner specified by the registrar. O. Reg. 30/11, s. 104 (3).

**No notice of transfer of shares**

**105.** For the purposes of clause 26 (1) (b) of the Act, a licensee that is a corporation is not required to give the registrar the notice mentioned in subsection 26 (1) of the Act unless,

- (a) the issue or transfer of any equity shares of the corporation increases the holding of any one person or any associated persons who already beneficially own or control 10 per cent or more of the total number of all issued and outstanding equity shares of the corporation before the issue or transfer; and
- (b) the increase results in the person or associated persons gaining a direct or indirect controlling interest in the corporation. O. Reg. 30/11, s. 105.

**Copies of trust agreements**

**106.** An operator shall ensure that the registrar has a current copy of all trust agreements that the operator has entered into with a trustee relating to prepaid trust money or care and maintenance trust money. O. Reg. 30/11, s. 106.

**Notice of cemetery operator as trustee**

**107.** A cemetery operator that is a municipality shall give the registrar written notice before acting as trustee for its own prepaid trust money or care and maintenance trust money. O. Reg. 30/11, s. 107.

**Document requirements**

**108.** (1) This section applies to the documents mentioned in section 109. O. Reg. 30/11, s. 108 (1).

(2) A statement of account relating to prepaid trust money or care and maintenance trust money shall set out the following information:

1. The name, address and licence number of the operator.
2. The name and address of the depository or the trustee, as the case may be.
3. The number of the account or fund, as the case may be.
4. The balance at the beginning of the reporting period and the balance at the end of the reporting period.
5. All other information that the registrar specifies. O. Reg. 30/11, s. 108 (2).

- (3) A statement of account mentioned in subsection (2) shall be certified to be complete and accurate by,
- (a) the operator, if the operator is a sole proprietor;
  - (b) all of the partners of the operator, if the operator is a partnership, other than a limited partnership;
  - (c) all of the general partners of the operator, if the operator is a limited partnership;
  - (d) the general manager or person authorized to bind the extra-provincial limited liability company, if the operator is an extra-provincial limited liability company;
  - (e) two officers or directors of the operator, if the operator is a corporation and has two or more officers or directors;
  - (f) one officer or director of the operator, if the operator is a corporation and does not have two or more officers or directors;
  - (g) the persons authorized to bind the operator, if the operator is a board of trustees or an organization or group of persons established or organized for the purpose of operating or managing a cemetery. O. Reg. 30/11, s. 108 (3).
- (4) A trust fund statement for money in a pooled trust fund that is prepaid trust money or care and maintenance trust money shall be certified by the trustee of the fund to be complete and accurate and shall set out the following information:
1. The name and address of the operator.
  2. The name and address of the trustee.
  3. The balance at the beginning of the reporting period and the balance at the end of the reporting period.
  4. The book value and market value of each investment held by the fund at the end of the reporting period.
  5. All other information that the registrar specifies. O. Reg. 30/11, s. 108 (4).
- (5) A review engagement report shall,
- (a) be prepared by a public accountant licensed under the *Public Accounting Act, 2004* who is independent of the operator;
  - (b) contain the name, address and licence number of the public accountant who prepared it;
  - (c) address all prepaid trust money and all contracts with the operator that are funded by an annuity or insurance contract, including group insurance; and
  - (d) be accompanied by the public accountant's written statement as to whether or not the prepaid trust money has been held and dealt with in accordance with the Act and this Part. O. Reg. 30/11, s. 108 (5).
- (6) An audit report with respect to prepaid trust money and care and maintenance trust money shall,
- (a) be prepared by a public accountant licensed under the *Public Accounting Act, 2004* who is independent of the operator;
  - (b) contain the name, address and licence number of the public accountant who prepared it;
  - (c) be accompanied by the public accountant's written statement as to whether or not the trust money has been held and dealt with in accordance with the Act and this Part; and
  - (d) address the matters described in clause (5) (c), if the audit report is being filed with the registrar in place of a review engagement report. O. Reg. 30/11, s. 108 (6); O. Reg. 48/15, s. 10.
- (7) A statement from a depositary for a care and maintenance account shall set out the following information:
1. The name and address of the operator.
  2. The name and address of the depositary.
  3. The number of the account.
  4. The balance at the beginning of the reporting period and the balance at the end of the reporting period.
  5. All other information that the registrar specifies. O. Reg. 30/11, s. 108 (7).
- (8) A licensure report shall set out the following information for the reporting period with respect to the cemetery:
1. The name, address and licence number of the operator.
  2. The number of burial permits received.
  3. The number of interments of cremated remains.
  4. The number of interments of human remains other than cremated remains.
  5. The number of interment and scatterings rights sold.

6. The number of cremated human remains scattered.
  7. An indication of whether the operator offers to sell, sells or intends to sell markers or caskets at the cemetery.
  8. An indication of whether the operator is also licensed to operate a crematorium, funeral establishment or transfer service and, if so, the licence number and class of each of those licences, as applicable.
  9. An indication of whether another operator sells, offers to sell or intends to sell markers, caskets, funeral services, transfer services or crematorium services at the cemetery and, if so, the name of the operator, the licence number and class of each licence of the other operator.
  10. If the operator responds in the affirmative to the questions set out in any of paragraphs 7, 8 and 9, an indication of whether the amount of physical space devoted to the activities in question has changed since the last licensure report that the operator filed with the registrar.
  11. The property roll number for the cemetery.
  12. All other information that the registrar specifies. O. Reg. 30/11, s. 108 (8).
- (9) A licensure report mentioned in subsection (8) shall be certified to be complete and accurate by,
- (a) the operator, if the operator is a sole proprietor;
  - (b) all of the partners of the operator, if the operator is a partnership, other than a limited partnership;
  - (c) all of the general partners of the operator, if the operator is a limited partnership;
  - (d) the general manager or person authorized to bind the extra-provincial limited liability company, if the operator is an extra-provincial limited liability company;
  - (e) two officers or directors of the operator, if the operator is a corporation and has two or more officers or directors;
  - (f) one officer or director of the operator, if the operator is a corporation and does not have two or more officers or directors; or
  - (g) the persons authorized to bind the operator, if the operator is a board of trustees or an organization or group of persons established or organized for the purpose of operating or managing a cemetery. O. Reg. 30/11, s. 108 (9).

#### Reporting requirements

**109.** (1) An operator that has established an individual trust account or a pooled trust fund for prepaid trust money shall file with the registrar annually, in respect of the trust money,

- (a) a statement of account;
- (b) a trust fund statement, in the case of a pooled trust fund; and
- (c) a review engagement report or an audit report. O. Reg. 30/11, s. 109 (1).

(2) Clause (1) (c) does not apply to a pooled trust fund where the amount held in trust did not exceed \$100,000 at any time during the reporting year. O. Reg. 30/11, s. 109 (2).

(3) A cemetery operator shall file a licensure report with the registrar annually or at such other time as is directed by the registrar, and shall pay the required fee for filing the report. O. Reg. 30/11, s. 109 (3).

(4) A cemetery operator that has established a care and maintenance account for care and maintenance money shall file with the registrar, in respect of the account, a statement of account and a statement from the depositary annually or at such other time as is directed by the registrar. O. Reg. 30/11, s. 109 (4).

(5) A cemetery operator shall file with the registrar annually or at such other time as is directed by the registrar, in respect of each care and maintenance fund of the operator,

- (a) a statement of account;
- (b) a trust fund statement; and
- (c) an audit report, if,
  - (i) the operator has a cumulative total of \$500,000 or more of care and maintenance money in all of the operator's care and maintenance funds, or
  - (ii) there is a funeral establishment on one or more of the cemeteries operated by the operator. O. Reg. 30/11, s. 109 (5).

(6) An operator that is required to file a document under this section shall ensure that,

- (a) the document meets the requirements of section 108; and

(b) the document is filed by the time and in the form and manner that the registrar specifies. O. Reg. 30/11, s. 109 (6).

(7) If an operator fails to comply with this section, the registrar may order the operator to cease selling, offering for sale or holding the operator out as available to sell the licensed supplies and services specified by the registrar in the order. O. Reg. 30/11, s. 109 (7).

## DIVISION J PUBLIC INFORMATION

### Cemetery and crematorium registers

**110.** (1) A cemetery operator shall maintain a register in which the operator shall enter,

- (a) the name and address of each interment rights holder or scattering rights holder and the location of the lot or scattering ground to which the rights pertain;
- (b) the name and address of each original purchaser of interment or scattering rights that have been sold or transferred to another person and the date on which the rights were sold or transferred;
- (c) the name of each person whose remains are interred or scattered in the cemetery, the location where the remains were interred or scattered and the date on which the human remains were interred or scattered; and
- (d) the particulars of each disinterment of human remains, including the name of the person who requested the disinterment, the date on which the human remains were disinterred and the location in which the human remains were reinterred or scattered or the name of the person taking possession of the human remains. O. Reg. 30/11, s. 110 (1).

(2) A crematorium operator shall maintain a register in which the operator shall enter,

- (a) the name of each person who was cremated in the crematorium;
- (b) the date of each cremation; and
- (c) the information on the metal identification tag that is required under subsection 186 (4). O. Reg. 30/11, s. 110 (2).

(3) A cemetery or crematorium operator, as the case may be, shall enter the information required for a register mentioned in subsection (1) or (2) within five days of the later of,

- (a) becoming aware of the information; or
- (b) the occurrence of the event to which the information relates. O. Reg. 30/11, s. 110 (3).

(4) A cemetery or crematorium operator, as the case may be, shall make a register mentioned in subsection (1) or (2) available for inspection by the public without charge. O. Reg. 30/11, s. 110 (4).

(5) If a person was required to make information in a register available to the public under the *Cemeteries Act (Revised)* immediately before the day on which this section comes into force, the register is continued as a cemetery or crematorium register described in subsection (1) or (2), as the case may be. O. Reg. 30/11, s. 110 (5).

### Public information available from the registrar

**111.** (1) The registrar shall make available to the public, without charge and by electronic or other means, the following information with respect to a licence:

1. The class, expiry date and status of a licensee's licence, including all conditions of the licence mentioned in subsection 16 (1) of the Act, except for the conditions prescribed by regulation.
2. If the licensee is an operator, the name, business address, business telephone number and licence number of the licensee.
3. If the licensee is an operator, the names of the officers, directors and partners of the operator.
4. If the licensee is an operator, the business name of the operator if it is different from the name of the operator.
5. If the licensee is an operator, the address for each location of the operator's business where the operator regularly offers to sell, sells or provides licensed supplies or services.
6. If the licensee is an operator, the name, business address and telephone number of the individuals responsible for the day-to-day operations of each location of the operator's business.
7. If the licensee is an operator, the name and address of all businesses to which a licence relates and,
  - i. that are owned or operated by the operator, or
  - ii. over which the same person who exercises direct or indirect control over the operator also exercises direct or indirect control.

8. For holders of personal licences, the licensee's name and licence number, and the name, business address, business telephone number and licence number of the primary operator that employs the licensee.
  9. If the licence was cancelled at the request of the licensee under section 21 of the Act, a statement that the licence was so cancelled and the date of the cancellation.
  10. With respect to each action under the Act or a predecessor of it that the director, the registrar, the Tribunal, a discipline committee or an appeal committee has taken against the licensee or an applicant for the licence,
    - i. a description of the action taken,
    - ii. the grounds for taking the action,
    - iii. the date on which the action was taken, and
    - iv. the final result of the action.
  11. Information whether a discipline committee or an appeals committee is scheduled to hear a matter with respect to the licensee under section 64 of the Act and, if so, the date and location of the hearing. O. Reg. 30/11, s. 111 (1).
- (2) The registrar may make available to the public, without charge and by electronic or other means, the information specified in subsection (3) if,
- (a) there have been or are charges under the Act, the *Consumer Protection Act, 2002* or the *Criminal Code* (Canada) arising out of activities governed by the Act; and
  - (b) the charges have not been withdrawn or dismissed and an acquittal has not been entered for the charges. O. Reg. 30/11, s. 111 (2).
- (3) For purposes of subsection (2), the information made available may include, for each charge mentioned in clause (2) (a),
- (a) the Act under which the offence on which the charge is based arises;
  - (b) a description of the charge;
  - (c) the date of the charge;
  - (d) if a conviction has been entered, a description of the sentence, including any compensation or restitution ordered; and
  - (e) the name of the person charged if the person is not a licensee. O. Reg. 30/11, s. 111 (3).
- (4) If the registrar becomes aware of information with respect to a licensee or a person who was carrying on activities that require licensing under the Act and if the registrar is of the opinion that the information would assist in protecting the public if the public knew of it, the registrar may disclose the information to the public by electronic or other means. O. Reg. 30/11, s. 111 (4).
- (5) The registrar shall make available to the public, without charge and by electronic or other means, the following information for each cemetery:
1. The names of the cemetery.
  2. The location of the cemetery.
  3. The name, business address, telephone number and licence number of the cemetery operator.
  4. The name, business address and telephone number of the individuals responsible for the day-to-day operations of the cemetery.
  5. The municipality within which the cemetery is located. O. Reg. 30/11, s. 111 (5).
- (6) The registrar shall make available to the public, without charge and by electronic or other means, the information that, immediately before the day on which this section comes into force, the Registrar or Director was required to make available to the public under the *Cemeteries Act (Revised)* or the Registrar was required to make available to the public under the *Funeral Directors and Establishments Act*, as it read immediately before the day on which this section comes into force. O. Reg. 30/11, s. 111 (6).
- (7) The registrar shall ensure that if information is made available under this section electronically, the electronic copy shall permit a hard copy to be readily produced. O. Reg. 30/11, s. 111 (7).
- (8) The registrar may charge a reasonable fee to recover the cost of providing a hard copy of any information under this section. O. Reg. 30/11, s. 111 (8).
- (9) As part of the obligation under this section to make information available to the public, the registrar may,
- (a) post the information on the website used by the registrar for purposes of communicating information to the public;

- (b) disclose the information orally to telephone callers requesting it; and
- (c) make the information available for review at the registrar's office. O. Reg. 30/11, s. 111 (9).

**PART II  
CONSUMER PROTECTION**

**DIVISION A  
DISCLOSURE REQUIREMENTS**

DEFINITIONS

**Definitions**

**112.** (1) In this Division,

“consumer information guide” means the guide that the registrar prepares and that sets out a consumer's rights and obligations under the Act; (“guide de renseignements destinés aux consommateurs”)

“transfer” means a gift, a bequest or any other transfer made without consideration. (“transfert”) O. Reg. 30/11, s. 112 (1); O. Reg. 81/19, s. 1.

(2) In the French version of this Division,

“crématorium” has the same meaning as “crématoire” in the Act. O. Reg. 30/11, s. 112 (2).

DISCLOSURE TO PROSPECTIVE PURCHASERS

**Disclosure to public by registrar**

**112.1** Upon preparing the consumer information guide, the registrar shall make it available to the public by posting it in a printable form on the website used by the registrar for purposes of communicating information to the public. O. Reg. 81/19, s. 2.

**Disclosure by operator before contract made**

**113.** (1) Every operator shall ensure that, before a contract for the sale of licensed supplies or services is entered into, a prospective purchaser has received,

- (a) a copy of the consumer information guide if the registrar has prepared the guide;
- (b) a copy of the operator's price list;
- (c) an explanation of cancellation rights and refund entitlements that the operator proposes to include in the contract and an explanation of the cancellation rights and refund entitlements under the Act;
- (d) an offer to provide to the prospective purchaser an explanation of the funding, financing and payment options available to the purchaser, including,
  - (i) an explanation of any penalties or fees that apply in respect of a particular funding, financing or payment option, and
  - (ii) an explanation of how the purchaser's choice of funding, financing or payment option may affect rights and refunds available upon cancellation;
- (e) an offer to provide to the prospective purchaser a copy of the cemetery or crematorium by-laws, as the case may be;
- (f) a statement that the cemetery is governed by by-laws and that a copy of the by-laws is available from the operator for review;
- (g) information on any restrictions contained in the cemetery by-laws with respect to markers, lot decorations and private structures;
- (h) information as to the resale or transfer of interment or scattering rights by a rights holder, including,
  - (i) any restrictions on the resale or transfer of interment or scattering rights, including any prohibition under the cemetery by-laws and any applicable fee,
  - (ii) obligations imposed under the Act or the cemetery by-laws on the parties to a resale or transfer of interment or scattering rights, and
  - (iii) if the resale of interment or scattering rights is prohibited under the cemetery by-laws, an explanation of a rights holder's cancellation rights and refund entitlement under section 47 of the Act;
- (i) information on any restrictions or requirements in the cemetery by-laws as to the purchase of supplies or services from the operator or a person specified by the operator;

- (j) if consideration and benefits are due to the operator or another person if the purchaser chooses a particular funding, financing or payment option, a statement to that effect; and
- (k) if consideration and benefits are due to the operator or another person by reason of recommendations made to the purchaser with respect to particular supplies or services that the purchaser will contract for with a third party other than the operator, a statement to that effect. O. Reg. 30/11, s. 113 (1); O. Reg. 81/19, s. 3 (1).

(2) If an operator maintains or makes use of a website and enters into electronic contracts for the sale of licensed supplies and services through the website, the operator shall, subject to subsection (2.1), provide the items that subsection (1) requires the operator to ensure the prospective purchaser receives by,

- (a) posting the items on the website in a printable form; or
- (b) posting a link to the website where the registrar has posted the consumer information guide in accordance with section 112.1, in the case of the copy of the guide. O. Reg. 81/19, s. 3 (2).

(2.1) If the prospective purchaser consents to receiving the copy of the consumer information guide in electronic form under clause (1) (a) and provides the operator with an electronic address for that purpose, the operator shall, for the purpose of that clause, send to that address an electronic copy of the guide or a link to the website where the registrar has posted the guide in accordance with section 112.1. O. Reg. 81/19, s. 3 (2).

(2.2) If the prospective purchaser consents to receiving the link described in subsection (2.1) but does not provide the operator with an electronic address for that purpose, the operator shall, for the purpose of clause (1) (a), provide the prospective purchaser with a document in non-electronic form containing the link. O. Reg. 81/19, s. 3 (2).

(2.3) If an operator posts items on a website in accordance with subsection (2), the prospective purchaser is deemed to have received the items at the time of posting. O. Reg. 81/19, s. 3 (2).

(2.4) If an operator, in accordance with subsection (2.1), sends an item that subsection requires the operator to send, the prospective purchaser is deemed to have received the copy of the consumer information guide at the time the operator sends the item. O. Reg. 81/19, s. 3 (2).

(3) Subsections (1) and (2) do not apply to contracts which are exempt from subsections 40 (1) and (2) of the Act. O. Reg. 30/11, s. 113 (3).

#### DISCLOSURE TO PURCHASERS

##### **Disclosure if circumstances change**

**114.** (1) If an operator has entered into a contract for the sale of licensed supplies and services, the operator shall notify the purchaser of any of the following changes in circumstances that occur before the contract is fully performed and that result in the operator not being able to provide the supplies and services specified in the contract at the location specified in the contract:

1. A sale of the assets of the operator's business.
2. The expiry, surrender, revocation or termination of the operator's licence. O. Reg. 30/11, s. 114 (1).

(2) An operator shall give a purchaser written notice of a change mentioned in subsection (1) within 30 days of the change occurring. O. Reg. 30/11, s. 114 (2).

(3) The notice shall set out the purchaser's cancellation rights under the Act and under the contract. O. Reg. 30/11, s. 114 (3).

#### DISCLOSURE ON RESALE OR TRANSFER OF INTERMENT OR SCATTERING RIGHTS

##### **Disclosure on resale of rights**

**115.** (1) For the purposes of clause 47 (2) (a) of the Act, an interment rights holder or scattering rights holder who sells the rights shall provide the following information to the third party purchaser upon selling the rights:

1. The interment or scattering rights certificate endorsed in accordance with subsection (2) by the rights holder selling the rights and by the cemetery operator.
2. A copy of the current cemetery by-laws.
3. In the case of the sale of interment rights, a written statement of the number of lots that have been used in the plot to which the rights relate and the number of lots that remain available.
4. In the case of the sale of scattering rights, a written statement of the number of scatterings that have occurred on the scattering grounds to which the rights relate and of the number of scatterings that remain available.
5. Any other documentation in the rights holder's possession relating to the rights. O. Reg. 30/11, s. 115 (1).

(2) The endorsement on the certificate provided to a third party purchaser under paragraph 1 of subsection (1) shall include,

- (a) a statement, signed by the rights holder selling the rights, acknowledging the sale to the third party purchaser;
- (b) the signature of the cemetery operator confirming that the person selling the rights is shown as the rights holder on the records of the cemetery;
- (c) the date on which the rights were sold;
- (d) the name and address of the third party purchaser; and
- (e) a statement of any money owing to the operator in respect of the rights. O. Reg. 30/11, s. 115 (2).

(3) After an interment rights holder or scattering rights holder sells the rights to a third party purchaser but before the purchaser exercises those rights, the purchaser shall provide the cemetery operator with,

- (a) the endorsed certificate mentioned in subsection (1); and
- (b) all other information that the cemetery operator specifies and that is necessary in order to issue a new certificate in relation to the rights. O. Reg. 30/11, s. 115 (3).

(4) Upon request, a cemetery operator shall provide additional copies of the cemetery by-laws to a third party purchaser, any other person who has an interest in the rights that were subject to the resale or a representative of such a person. O. Reg. 30/11, s. 115 (4).

(5) A cemetery operator who provides copies of the by-laws may charge the person who is provided with the copies a fee to recover the cost of providing the copies. O. Reg. 30/11, s. 115 (5); O. Reg. 48/15, s. 11.

**Disclosure on transfer of rights other than by resale**

**116.** If a rights holder transfers interment rights or scattering rights to another person by any means other than by sale,

- (a) the rights holder who transfers the rights shall disclose to the person acquiring the rights the same information, with necessary modifications, as an interment rights holder or scattering rights holder is required to disclose under subsections 115 (1) and (2) upon selling the rights; and
- (b) the person who acquires the rights shall provide the cemetery operator with the same documentation and information as a third party purchaser is required to disclose upon a sale of the rights under subsection 115 (3). O. Reg. 30/11, s. 116.

**GENERAL**

**Proof of licence**

**117.** (1) Every operator shall display the operator's licence or a copy of the licence in a place that is,

- (a) near the main entrance to any office, building or other dedicated space maintained by the operator in which a member of the public may enter into a contract for the purchase of licensed supplies or services with the operator; and
- (b) clearly visible to a person attending at the premises described in clause (a). O. Reg. 30/11, s. 117 (1); O. Reg. 48/15, s. 12.

(2) If an operator maintains or makes use of a website and enters into contracts for the sale of licensed supplies or services through the website, the operator shall ensure that the operator's licence number and a description of the type of licence are available in a conspicuous place on the website. O. Reg. 30/11, s. 117 (2).

(3) Individuals licensed under the Act shall carry their licence on their person whenever conducting business relating to the sale of licensed supplies or services and shall produce it upon request. O. Reg. 30/11, s. 117 (3).

**Disclosure of cemetery and crematorium by-laws**

**118.** (1) Every operator of a cemetery or crematorium shall provide a copy of the cemetery by-laws or crematorium by-laws, as the case may be, to every person who requests it. O. Reg. 30/11, s. 118 (1).

(2) The operator shall provide, without charge, the copy requested under subsection (1) but if a prospective purchaser requests more than one copy of the cemetery by-laws or crematorium by-laws, the operator shall provide the additional copies, subject to a fee to recover the cost of providing the additional copies. O. Reg. 30/11, s. 118 (2); O. Reg. 48/15, s. 13.

(3) The operator of a cemetery or crematorium shall make a copy of the by-laws and proposed by-law amendments available for the public to inspect during normal office hours without charge. O. Reg. 30/11, s. 118 (3).

**Promotional material, etc.**

**119.** (1) Every operator shall ensure that the following information appears in any sign or written advertisement, brochure, price list, contract, letterhead, pamphlet, circular, or other written material, other than business cards, used by the operator to promote the sale of licensed supplies and services:



1. The operator's name.
2. The operator's business name, if different from the operator's name.
3. The name of any person who directly or indirectly controls the operator's business and who directly or indirectly controls another business that sells licensed supplies or services and that has a business premises within 100 kilometres of the operator's business location, except if the business is a cemetery owned by a municipality or a religious organization. O. Reg. 30/11, s. 119 (1).

(2) Despite subsection (1), if more than one sign is posted at an operator's business premises, the information mentioned in that subsection need only appear on one of the signs so long as the sign in question is close to the main entrance of the operator's business premises and is, by its size and placement, the sign with the most prominence at the premises. O. Reg. 30/11, s. 119 (2).

(3) The information included on a sign under subsection (1) shall be placed on the sign in a manner that ensures the information is clearly visible to the public. O. Reg. 30/11, s. 119 (3).

(4) Every operator shall ensure that the information mentioned in subsection (1) is included in any audio or video material that the operator uses to promote the sale of licensed supplies or services if the material is at least one minute in duration. O. Reg. 30/11, s. 119 (4).

(5) An operator who maintains or makes use of a website to promote the sale of licensed supplies or services shall ensure that the information mentioned in subsection (1) is available in a clearly visible place on the website. O. Reg. 30/11, s. 119 (5).

(6) When advertising a price, an operator shall include an explanation of all of the conditions of sale that relate to the advertised price and a full description of the supplies and services that are included in the advertised price. O. Reg. 30/11, s. 119 (6).

## DIVISION B CONTRACT REQUIREMENTS

### GENERAL

#### Definitions

**120.** In this Division,

“group insurance” means group insurance as defined in subsection 171 (1) of the *Insurance Act*; (“assurance collective”)

“recipient” means a person who is designated in a contract for the provision of a licensed supply or service as the person for whom the service or supply is to be provided. (“destinataire”) O. Reg. 30/11, s. 120.

#### General requirements

**121.** (1) This section applies to every contract for the provision of licensed supplies or services. O. Reg. 30/11, s. 121 (1).

(2) The contract shall be written in plain language and legibly printed in 10 point or larger type. O. Reg. 30/11, s. 121 (2).

(3) The contract shall contain the following:

1. A unique identification number or code which is sequential.
2. The date of the contract.
3. The name, address and telephone number of each party to the contract, the operator's business name, if different, and the operator's licence number.
4. The name and address of each recipient if different from the purchaser for whom licensed supplies or services are to be provided under the contract and the date of birth or age of each recipient, if known.
5. The name of the individual who negotiated the contract on behalf of the operator and, if the individual is licensed under the Act, his or her licence number.
6. A description of all supplies and services to be provided under the contract and the corresponding price, which description is sufficiently detailed to permit identification of the supplies and services, including details of any customization, model and other identification that refer to any specific licensed supplies.
7. A description of when, under what circumstances and in what manner the supplies or services will be provided.
8. If applicable, the address or location of where the supplies or services are to be provided.
9. A statement setting out,

- i. the consideration and benefits, if any, that are due to the operator or another person by reason of recommendations made to the purchaser with respect to particular supplies or services for which the purchaser will contract with a third party, and
    - ii. the name of every person from whom the operator or another person is entitled to receive the consideration and benefits mentioned in subparagraph i.
  10. The total price payable under the contract, including all taxes and any payments to be made by the operator in connection with or under the contract for which the purchaser is required under the contract to reimburse the operator and less any discount allowed to the purchaser.
  11. The amount, if any, paid on signing the contract and, if payments under the contract are to be made over time or in instalments, a payment schedule setting out when payments are due, the amount or method of calculating the amount of each payment and the amount or method of calculating the amount of any financing charges and discounts.
  12. A statement of the rate of interest or method of calculating the rate of interest and any other amounts and the method of calculating the other amounts charged by the operator on late or deficient payments under the contract and a description of the rights and duties of the purchaser and the operator relating to the cancellation of the contract for non-payment.
  13. The terms of any warranties applicable to the supplies or services offered by the operator and information on whether the warranties survive completion of the contract.
  14. The undertaking of the operator that if, after making reasonable efforts to obtain a licensed supply or service agreed to under the contract, the operator needs to substitute a different supply or service for the one agreed to in the contract, the operator,
    - i. shall inform the purchaser of the proposed substitution, and whether the substitution is of equal or greater value than the original supply or service,
    - ii. shall inform the purchaser of the purchaser's cancellation rights and determine if the purchaser wishes to cancel the contract, and
    - iii. shall not increase the purchase price as a result of the substitution, if the purchaser does not cancel the contract.
  15. The name of any person other than the purchaser who may cancel the contract and the circumstances under which the person may do so.
  16. The name of every person other than the purchaser who is entitled to receive a refund or payment under the contract that would otherwise be payable to the purchaser and the circumstances under which the refund or payment is to be made to that person.
  17. The manner in which the amount of any refund or payment to the purchaser is to be determined and the reason for and amount of any deduction that may be made in calculating the amount of a refund or payment.
  18. All cancellation, refund and return policies of the operator that are in addition to the rights of purchasers under the Act. O. Reg. 30/11, s. 121 (3).
- (4) If the parties to a contract agree that certain supplies or services that the operator has not contracted to provide will be provided by another supplier, the contract between the parties shall contain,
- (a) a description of the supplies and services the operator will arrange to obtain from other suppliers;
  - (b) the acknowledgement of the parties that the operator is acting on behalf of and only as agent for the purchaser in obtaining supplies or services from another supplier;
  - (c) an estimate of the anticipated price for the supplies or services;
  - (d) the purchaser's acknowledgement and agreement that the purchaser is liable to pay and will pay the supplier directly for the supplies or services at the price in effect at the time the supplies or services are provided; and
  - (e) the undertaking of the purchaser to save the operator harmless from any claims by the other supplier for payment for the supplies or services. O. Reg. 30/11, s. 121 (4).
- (5) The contract shall disclose which, if any, licensed supply to be provided under the contract was previously used. O. Reg. 30/11, s. 121 (5).
- (6) If the licensed supplies or services are to be provided under the contract as a package, the contract shall set out,
- (a) the package price;
  - (b) the price at which each supply and service would be sold if it were sold separately and not as part of the package;
  - (c) the total price that would have been payable under the contract using the prices mentioned in clause (b); and

- (d) the amount, if any, saved by the purchaser by purchasing the supplies and services as a package. O. Reg. 30/11, s. 121 (6).
- (7) If any licensed supplies to be provided under the contract are to be placed in storage so that the supply is being treated as delivered at the time of storage, the contract shall include,
  - (a) the purchaser's agreement to the operator's storing or arranging the storage of the supply;
  - (b) the purchaser's agreement to treat the supply, for the purposes of section 44 of the Act and section 81 of this Regulation, as being provided at the time the supply is placed in storage; and
  - (c) a statement that the purchaser's agreement to place the supply in storage affects the cancellation rights and refund entitlements of the purchaser, including how the rights are affected. O. Reg. 30/11, s. 121 (7).

#### SPECIFIC CONTRACTS

##### **Exemption**

**122.** (1) For the purposes of subsection 40 (3) of the Act, a contract that meets the following requirements with respect to the supplies and services under the contract is exempt from subsections 40 (1) and (2) and sections 41, 42, 43 and 44 of the Act and sections 121, 123 and 128 of this Regulation:

1. A licence issued under the Act is not required in order to sell the supplies and services.
2. The supplies and services are purchased separately from licensed supplies or services.
3. The total purchase price does not exceed \$250.
4. The purchaser is taking immediate delivery of the supply or receiving the service immediately.
5. If the purchase is a supply, the supply will not be stored by the operator. O. Reg. 30/11, s. 122 (1).

(2) No operator contracting for the provision of a supply or service shall enter into separate contracts, rather than a single contract, if the purpose of entering into separate contracts is to keep the value of any contract at less than \$250 so this section applies to the contract. O. Reg. 30/11, s. 122 (2).

##### **If payment precedes provision and is held in trust**

**123.** (1) This section applies to every contract for the provision of licensed supplies or services if money is paid under the contract before the licensed supplies or services are provided and the money is required to be held in trust. O. Reg. 30/11, s. 123 (1).

(2) The contract shall contain the following:

1. Details concerning the holding, investment and payment out of the money in accordance with the regulations, including the manner in which the funds will be held in trust.
2. A statement setting out,
  - i. whether the operator or another person will receive, directly or indirectly, any consideration or benefit related to arrangements for holding money paid under the contract in trust as required under section 52 of the Act, and
  - ii. the name of every person, if any, from whom the operator or another person may be entitled to receive the consideration or benefit mentioned in subparagraph i.
3. If the money is held in an individual trust account under the regulations, a description of the purchaser's right to request a statement once in each 12-month period from the operator that sets out,
  - i. the current value of the individual trust account as of the end of the prior month,
  - ii. the types of investments held as of that day, and
  - iii. the name of the eligible depository of any account in which trust money in the individual trust account is deposited.
4. If the money is held in a pooled trust fund or account under the regulations, a description of the purchaser's right to request a statement from the operator, once in each 12-month period, setting out,
  - i. the current value of the purchaser's money as of the end of the month before the request, and
  - ii. the name of the trustee.
5. Information concerning the manner in which the operator will determine the prices for the licensed supplies and services applicable at the time they are provided.
6. A description of the purchaser's right to receive on completion of the contract any amount held in trust in excess of all amounts paid or payable to the operator and any other suppliers and a description of the manner in which the operator

will calculate the amount to be paid to the purchaser or other person entitled under the contract to receive the payment. O. Reg. 30/11, s. 123 (2).

**Contract for future provision funded by insurance or annuity**

**124.** (1) If the price payable under a contract for the provision of licensed supplies or services is to be funded in whole or in part out of the proceeds of an insurance or annuity contract including group insurance, the contract for the licensed supplies or services shall contain,

- (a) the name, address and telephone number, if any, of the insurer or the issuer of the annuity contract and the number of the insurance or annuity contract if known;
  - (b) a statement disclosing any formal or informal arrangements the operator or another person affiliated or associated with the operator has with any agent, insurer or issuer of annuity contracts relating to the recommendation of the agent, insurer or issuer to purchasers and potential purchasers of licensed supplies or services;
  - (c) a statement disclosing whether the operator or another person affiliated or associated with the operator will receive, directly or indirectly, any consideration or benefit from any person as a result of the purchaser applying for or purchasing insurance or an annuity in connection with the purchaser's contract with the operator;
  - (d) the name of the beneficiary under the insurance or annuity contract, if named, and, if applicable, details of any assignment to the operator of the proceeds under the insurance or annuity contract;
  - (e) a description of the licensed supplies and services to be paid for out of the proceeds if not all of the supplies and services under the contract are to be paid for out of the proceeds;
  - (f) the acknowledgement by the operator and the purchaser that once the operator is named as a beneficiary or assigned the right to designate the beneficiary under the insurance or annuity contract or the beneficiary's rights to proceeds are assigned to the operator, money is considered, for the purposes of section 38 of the Act, to be paid under the contract for the provision of the licensed supplies or services in an amount equal to the amount of the proceeds under the insurance or annuity contract that will be paid directly or indirectly to the operator;
  - (g) a statement of,
    - (i) what will occur if the insurance or annuity contract application is denied,
    - (ii) what will occur if the insurance or annuity contract is not paid for in full at the time the contract for licensed supplies and services is to be fulfilled,
    - (iii) what will occur if the contract for licensed supplies and services is cancelled and the effect the cancellation will have on the insurance or annuity contract,
    - (iv) what will occur if the insurance or annuity contract is cancelled and the effect the cancellation will have on the contract for licensed supplies and services that the insurance or annuity proceeds were intended to fund, and
    - (v) what will occur if the operator was to be the beneficiary or was to have been assigned the right to designate a beneficiary under the insurance or annuity contract and at the time the contract for licensed supplies and services is to be fulfilled, the beneficiary who was named or designated at the time the contract was made has changed;
  - (h) information concerning the manner in which the operator will determine the prices for the licensed supplies and services applicable at the time they are provided; and
  - (i) a description of the purchaser's right to receive, on completion of the contract, any amount held by the operator in excess of all amounts paid or payable to the operator and a description of the manner in which the operator will calculate the amount to be paid to the purchaser or other person entitled under the contract to receive the payment. O. Reg. 30/11, s. 124 (1); O. Reg. 48/15, s. 14.
- (2) The operator shall attach the following to the contract if available:
1. The insurance policy and insurance or annuity contract.
  2. The enrolment or other documents that confirm the purchase of the insurance or annuity.
  3. The document designating the operator as the beneficiary of the insurance or annuity or assigning the proceeds of the insurance or annuity to the operator. O. Reg. 30/11, s. 124 (2).

**Contract for cremation or related services**

**125.** (1) If a contract for the provision of licensed supplies or services provides for a cremation, the contract shall include,

- (a) a statement that a dead human body shall not be cremated if,
  - (i) the body has a pacemaker,
  - (ii) the body has a radioactive implant, except that a body that has a radioactive implant can be cremated if,

- (A) it is at least two years after the day the body received the implant, or
- (B) a lesser time has passed since the body received the implant, and it is safe to cremate the body, or
- (iii) the body is in a casket that consists of or has on or in it material made of or containing non-flammable or hazardous material or chlorinated or fibre-reinforced plastic, other than incidental metal used in the construction of the casket or accompanying material; and
- (b) a statement that a dead human body shall not be cremated unless a certificate issued by the coroner authorizing the cremation has been received by the operator. O. Reg. 30/11, s. 125 (1); O. Reg. 412/19, s. 2.
- (2) If a contract for the provision of licensed supplies or services provides for a cremation or otherwise provides for the operator to come into possession of cremated human remains, the contract shall include,
  - (a) the requirement that, if the operator so requests, the purchaser shall pay a refundable deposit that does not exceed the amount specified in the Minister's order on fees and other charges made under the Act;
  - (b) a statement that if cremated remains are not claimed on or before the first anniversary of the cremation, the operator may inter the cremated remains in a cemetery, including in a common lot for which the cemetery is the interment rights holder, and is entitled to retain the amount of any deposit described in clause (a) that was paid; and
  - (c) a statement that if the cremated remains are claimed before they are interred, the operator shall promptly return any deposit described in clause (a) that was paid. O. Reg. 30/11, s. 125 (2).

**Contract for interment or scattering rights**

**126.** A contract for the provision of licensed supplies or services that includes the sale of interment or scattering rights shall include,

- (a) the name and address of the holder or intended holder of the rights;
- (b) the price for and a description of the interment rights or scattering rights that the purchaser has indicated being interested in purchasing, including,
  - (i) the location and dimension of each lot or scattering ground,
  - (ii) the number and type of interments or scatterings permitted in each lot or scattering ground with respect to the particular interment or scattering rights being purchased,
  - (iii) in the case of interment rights relating to a private mausoleum or columbarium, the number of niches, crypts or compartments, and
  - (iv) any limitations or restrictions on exercising the interment or scattering rights;
- (c) information relating to when and under what circumstances the rights certificate can be expected to be provided to the purchaser, if the certificate is not provided at the time the contract is made;
- (d) a requirement that payment under the contract shall be applied first to the purchase of the rights before being applied to the purchase of any other supplies or services under the contract;
- (e) the amount of the care and maintenance contribution for the lot or scattering ground;
- (f) information on any restrictions contained in the cemetery by-laws with respect to markers, lot decorations and private structures;
- (g) information as to the resale or transfer of interment or scattering rights by a rights holder, including,
  - (i) any restrictions on the resale or transfer of interment or scattering rights, including any prohibition under the cemetery by-laws and any applicable fee, and
  - (ii) obligations imposed under the Act or the cemetery by-laws on the parties to a resale or transfer of interment or scattering rights; and
- (h) information on any restrictions or requirements in the cemetery by-laws as to the purchase of supplies or services from the operator or a person specified by the operator. O. Reg. 30/11, s. 126.

**Delivery of contract**

**127.** (1) The operator under a contract for the provision of licensed supplies or services shall ensure that the purchaser receives a copy of the contract as signed by the purchaser at the time the purchaser signs it. O. Reg. 30/11, s. 127 (1).

(2) For the purposes of clause 40 (1) (d) of the Act, the prescribed manner of delivering a copy of a contract for the provision of licensed supplies or services to a purchaser after it is signed by all parties is, as soon as possible,

- (a) to deliver it personally to the purchaser;
- (b) to send it to the purchaser by registered mail; or

- (c) to send it to the purchaser by another manner if the operator can prove receipt of it by the purchaser. O. Reg. 30/11, s. 127 (2).

**Additional requirements for enforceability of contracts**

**128.** For the purposes of clause 40 (1) (h) of the Act, a contract for the provision of licensed supplies or services is not enforceable by an operator if any of the following requirements are not satisfied:

1. The contract was signed by the individual who negotiated the contract on behalf of the operator.
2. If the operator entered into the contract with the purchaser over the internet, the contract was formed by text-based communications.
3. If the operator no longer provides a supply or service that the operator agreed to provide under the contract, the operator has made reasonable efforts to provide the supply or service and, if unable to do so, has arranged to provide an appropriate refund of the sum of the initial amount paid for the supply or service and any income earned on the initial amount.
4. If the operator substitutes a different supply or service for the licensed supply or service agreed to under the contract, the operator,
  - i. has informed the purchaser, or the person entitled under the contract to cancel the contract, of the substitution and whether or not the substitution is of equal or greater value than the original supply,
  - ii. has provided or arranged for the provision of a substituted supply or service of comparable quality and value, and
  - iii. has not charged any increase in price as a result of the substitution. O. Reg. 30/11, s. 128.

**PROHIBITED PRACTICES**

**On default**

**129.** (1) No operator shall take any action to repossess a licensed supply or interest or scattering rights on a default in payment for the supply or rights if at least two-thirds of the purchase price for the supply or rights has been paid to the operator, unless a judge of the Superior Court of Justice grants leave to do so. O. Reg. 30/11, s. 129 (1).

(2) Upon an application for leave under subsection (1), the court may, in its discretion, grant leave to the operator, refuse leave or grant leave upon the terms and conditions that the court considers advisable. O. Reg. 30/11, s. 129 (2).

(3) Any provision in any agreement for payment to precede provision of supplies or services or in any security agreement incidental to such an agreement under which the operator may acquire title to, possession of or any rights in any goods of the purchaser, other than the goods passing under the agreement, is not enforceable. O. Reg. 30/11, s. 129 (3).

**Content of contract**

**130.** No operator shall include in any contract for the provision of any licensed supply or service a provision that,

- (a) conflicts with the Act or the regulations;
- (b) entitles the operator to unilaterally amend the contract, except with respect to the provision of substituted supplies or services in accordance with paragraph 4 of section 128; or
- (c) permits the contract to be amended in a manner other than by text-based communications. O. Reg. 30/11, s. 130.

**Operator's policies**

**131.** No operator shall have a cancellation, refund or return policy that would deprive a person of any of the person's rights under the Act or the regulations relating to the purchase of licensed supplies or services or that would effectively penalize the person for exercising any of those rights. O. Reg. 30/11, s. 131.

**INSURANCE OR ANNUITY CONTRACTS RELATING TO THE SALE OF LICENSED SUPPLIES OR SERVICES**

**Prohibited practices**

**132.** (1) No licensee shall sell, lend or permit the use of an operator's business name, logo, letterhead or other identifier to a person who is soliciting the making of or negotiating the terms of an annuity or insurance contract with a vulnerable person mentioned in subsection 29 (2) of the Act or the terms of enrolling a vulnerable person mentioned in that subsection in group insurance. O. Reg. 30/11, s. 132 (1).

(2) Section 29 of the Act applies with necessary modifications to a person, other than a person who is subject to section 17.1 of Ontario Regulation 347/04 (Agents) made under the *Insurance Act*, in respect of the solicitation and negotiation of an agreement for the sale of an annuity or insurance contract or enrolment in group insurance if,

- (a) the proceeds of the annuity, insurance contract or group insurance, as the case may be, are intended to be used to fund, directly or indirectly, in whole or in part the purchase of licensed supplies or services; and

(b) the annuity, insurance contract or group insurance, as the case may be, names an operator as beneficiary of the proceeds or assigns to an operator the right to designate the beneficiary of the proceeds. O. Reg. 30/11, s. 132 (2).

(3) No licensee shall accept any payment for an annuity, insurance contract or group insurance that is in cash or made payable to the licensee. O. Reg. 30/11, s. 132 (3).

(4) Subsection (3) does not apply if the licensee receives the payment in the licensee's capacity as a person who is subject to section 17.1 of Ontario Regulation 347/04 (Agents) made under the *Insurance Act*. O. Reg. 30/11, s. 132 (4).

(5) No operator shall agree to be named as a beneficiary or to have the right to designate the beneficiary assigned under an annuity, insurance contract or group insurance or to have the beneficiary's rights to proceeds under an annuity, insurance contract or group insurance assigned to the operator if the proceeds are to be used to fund the purchase of licensed supplies or services, unless the operator and the person who names the operator as the beneficiary or assignee have entered into a contract for the provision of the supplies or services. O. Reg. 30/11, s. 132 (5).

#### **Excess insurance or annuity proceeds**

**133.** An operator shall make a refund in accordance with the Act and the regulations if the operator receives insurance or annuity proceeds to fund the purchase of licensed supplies or services and,

(a) the amount received exceeds the amount payable to the operator and any other suppliers for the provision of the supplies or services to be funded out of the proceeds; or

(b) the operator provides no licensed supplies or services in consideration for the proceeds. O. Reg. 30/11, s. 133.

### **DIVISION C MISCELLANEOUS CONSUMER PROTECTION MATTERS**

#### **Interpretation**

**134.** (1) In this Division,

“customized supply” means a licensed supply that is customized to the purchaser's specifications within the meaning of subsection (2); (“fourniture personnalisée”)

“recipient” has the same meaning as in Division B. (“destinataire”) O. Reg. 30/11, s. 134 (1).

(2) For the purposes of subsection 44 (6) of the Act and the definition of “customized supply” in subsection (1), a supply is customized to the purchaser's specifications if,

(a) the supply is produced on the basis of instructions or specifications provided by or on behalf of the purchaser;

(b) the supply is personalized or has another unique characteristic, with the result that the operator is prevented from readily reselling or reusing it in the ordinary course of business; and

(c) removing or undoing the personalization or unique characteristic would affect the structural integrity or aesthetic characteristics of the supply or would involve extraordinary expense. O. Reg. 30/11, s. 134 (2).

#### **Prohibitions against soliciting**

**135.** A long-term care home, as defined in the *Long-Term Care Homes Act, 2007*, is prescribed for the purposes of subsection 29 (2) of the Act. O. Reg. 30/11, s. 231.

#### **Storage of supplies in advance of use**

**136.** (1) For the purposes of section 39 of the Act, an operator who sells a licensed supply in advance of the use of the supply may agree to store the supply, or arrange for the supply to be stored by another person, if the supply is one that is listed in subsection (2) and all of the conditions set out in subsection (3) have been met. O. Reg. 30/11, s. 136 (1).

(2) Subsection (1) applies to the following licensed supplies:

1. A casket.

2. An urn.

3. A marker.

4. An outer burial container, including a vault.

5. A grave liner. O. Reg. 30/11, s. 136 (2).

(3) The following are the conditions mentioned in subsection (1):

1. The supply is in a substantially completed condition.

2. The purchaser has made full payment for the supply.

3. The operator knows or ought to know that the supply is made of materials designed to withstand prolonged storage without any adverse effect on the structural integrity or aesthetic characteristics of the supply.
4. The supply is to be stored in a way that does not give rise to a lien on the supply.
5. In the contract for the provision of the supply, the purchaser has agreed,
  - i. to the operator storing or arranging the storage of the supply, and
  - ii. to treat the supply, for the purposes of section 44 of the Act and section 81 of this Regulation, as being provided at the time the supply is placed in storage.
6. The contract does not require that the purchaser be responsible for the costs relating to the storage or insuring of the supply. O. Reg. 30/11, s. 136 (3).

(4) An operator who, under section 39 of the Act, agrees to store a supply, or arrange for a supply to be stored by another person, shall not store the supply, or have it stored by another person, within the 30 days after the day the contract for the provision of the supply is made. O. Reg. 30/11, s. 136 (4).

(5) An operator who, under section 39 of the Act, agrees to store a supply, or arrange for a supply to be stored by another person, shall ensure that,

- (a) the supply is and continues to be stored in a manner that will not adversely affect the structural integrity or aesthetic characteristics of the supply; and
- (b) adequate insurance is purchased and maintained against loss of or damage to the supply while in storage.

(6) An operator's duties under subsection (5) end at the earlier of,

- (a) the time the supply is removed from storage and provided pursuant to a request under the contract for provision of the supply; and
- (b) the time specified in the contract. O. Reg. 30/11, s. 136 (5).

**Cancellation of unenforceable contract, operator's obligations**

**137.** (1) Within 30 days after the day an operator receives a notice of cancellation under subsection 41 (1) of the Act for a contract that is not enforceable by the operator under subsection 40 (1) of the Act, the operator shall, in addition to refunding to the purchaser all money received by the operator under the contract as required by subsection 41 (2) of the Act, pay to the purchaser the greater of the following amounts:

1. The income earned on the money.
2. The income that would have been earned on the money had it been deposited as required under the Act and the regulations. O. Reg. 30/11, s. 137 (1).

(2) An operator who has delivered or performed some or all of the licensed supplies and services provided for under a contract before the purchaser cancels the contract under subsection 41 (1) of the Act is exempt from subsections 41 (2) and (3) of the Act and this section in respect of the licensed supplies and services that have been delivered or performed, if,

- (a) the purchaser does not comply with subsections 41 (4) and (5) of the Act, read with section 138 of this Regulation;
- (b) the grounds on which the contract is not enforceable by the operator under subsection 40 (1) of the Act have not caused any disadvantage to the purchaser; or
- (c) it would otherwise be inequitable for the operator to be subject to subsections 41 (2) and (3) of the Act in respect of the licensed supplies and services that have been delivered or performed. O. Reg. 30/11, s. 137 (2).

(3) If an operator receives written notice of cancellation from a purchaser under subsection 41 (1) of the Act after having provided to the purchaser some or all of the licensed supplies under the contract, the operator shall give the purchaser forthwith a written notice setting out,

- (a) the purchaser's obligation under subsection 41 (5) of the Act and subsection 138 (3) of this Regulation to take reasonable care of the supplies; and
- (b) the effect, set out in subsection (2), that the purchaser's failure to comply with the obligation mentioned in clause (a) will have on the purchaser's right to a refund under subsection 41 (2) of the Act. O. Reg. 30/11, s. 137 (3).

**Cancellation of unenforceable contract, purchaser's obligations**

**138.** (1) For the purposes of subsection 41 (4) of the Act, if a purchaser cancels a contract under subsection 41 (1) of the Act after licensed supplies have been delivered to the purchaser under the contract,

- (a) subject to clause (b), the purchaser shall permit the supplies to be repossessed by the operator or return the supplies to the operator, unless,



- (i) the operator fails to pay the costs of the repossession or return,
  - (ii) the supplies contain human remains, whether interred or not, or
  - (iii) the supplies are perishable, consumable, have been distributed or cannot be reused;
- (b) if, under the contract, the purchaser took possession of the supplies from the operator instead of the operator sending the supplies to the purchaser, the purchaser shall return the supplies to the operator at the purchaser's expense and the operator shall not be required to repossess them. O. Reg. 30/11, s. 138 (1).
- (2) The purchaser shall perform the purchaser's obligations under subsection 41 (4) of the Act, read subject to subsection (1) of this section,
- (a) within 30 days after the day the purchaser gives the operator written notice of cancellation of the contract; and
  - (b) during the operator's normal business hours. O. Reg. 30/11, s. 138 (2).
- (3) For the purposes of subsection 41 (5) of the Act, if a purchaser cancels a contract under subsection 41 (1) of the Act after licensed supplies have been delivered to the purchaser under the contract, the purchaser shall take reasonable care of the supplies, other than supplies mentioned in subclause (1) (a) (ii) or (iii), for the period that begins at the time the purchaser gives the operator written notice of cancellation of the contract and ends at the earlier of,
- (a) the time the supplies are returned to the operator; and
  - (b) in the case of licensed supplies other than supplies mentioned in clause (1) (b),
    - (i) the time the supplies are repossessed by the operator, or
    - (ii) the end of the 30th day after the day the purchaser gives the operator written notice of cancellation of the contract, if the purchaser has provided the operator with a reasonable opportunity to repossess the supplies and the supplies have not been repossessed. O. Reg. 30/11, s. 138 (3).

**Delivery within 30 days**

**139.** (1) For the purposes of subsection 43 (1) of the Act, a purchaser under a contract for the provision of licensed supplies or services may request that the operator provide, within 30 days after the day the contract is made, any of the supplies or services if,

- (a) they are required for the disposition of human remains within the 30-day period;
- (b) they are required for the co-ordination and provision of rites or ceremonies in relation to human remains within the 30-day period; or
- (c) the contract is a contract to which subsection 122 (1) applies. O. Reg. 30/11, s. 139 (1).

(2) If, under section 42 of the Act, a purchaser cancels a contract for the provision of a customized supply before the provision of the supply but after requesting, for the purposes of subsection 43 (1) of the Act, the operator to provide the supply within 30 days after the day the contract is made, the activities of the operator in relation to the supply before the cancellation of the contract are deemed to be services that the operator has provided to the purchaser and the operator may deduct the expenses incurred for them from the refund to the purchaser paid under subsection 43 (4) of the Act. O. Reg. 30/11, s. 139 (2).

(3) When making the refund mentioned in subsection (2), the operator shall give the purchaser orally or, if requested, in writing, an itemized list of all expenses deducted under that subsection, including amounts deducted for work done by the operator and amounts deducted for payments made or debts incurred by the operator to third parties, and the list shall set out, for each expense, its purpose, and its amount. O. Reg. 30/11, s. 139 (3).

(4) A purchaser may withdraw a request described in subsection (1) by giving the operator a written notice of the withdrawal that meets the following requirements:

1. It shall be signed and dated by the purchaser.
2. It shall set out,
  - i. the date of the contract,
  - ii. the unique identification number or code of the contract, and
  - iii. a description of the licensed supplies and services for which the purchaser is withdrawing the request, unless the purchaser is withdrawing the request for all of the licensed supplies and services that the purchaser requested the operator to provide. O. Reg. 30/11, s. 139 (4).

(5) An operator who is a party to a contract for the provision of interment rights or scattering rights is exempt from section 43 of the Act with respect to the provision of those rights. O. Reg. 30/11, s. 139 (5).

**Cancellation after cooling-off period**

**140.** (1) If a purchaser cancels a contract under subsection 44 (1) of the Act, the amount that the operator shall refund to the purchaser under subsection 44 (4) of the Act, in addition to all money received by the operator under the contract, is the greater of the following amounts:

1. The income earned on the money.
2. The income that would have been earned on the money had it been deposited as required under the Act and the regulations. O. Reg. 30/11, s. 140 (1).

(2) If a purchaser cancels a contract under subsection 44 (1) of the Act, in calculating the refund to be made to the purchaser, the operator may, in addition to deducting under clause 44 (4) (b) of the Act the value of any supplies and services that have been provided, deduct under clause 44 (4) (a) of the Act the lesser of the following amounts less the amount that the operator has retained under subsection 78 (1) as not being prepaid trust money, if the balance is positive:

1. 10 per cent of the sum of the money received by the operator under the contract and the additional amounts that the operator is required to refund to the purchaser as determined under subsection (1).
2. \$350. O. Reg. 30/11, s. 140 (2).

(3) If a purchaser cancels a contract under subsection 44 (1) of the Act for the provision of a customized supply, the amount of the refund to which the purchaser is entitled with respect to that supply under subsection 44 (6) of the Act is,

- (a) nil, if the customization of the supply has been completed at the time the contract is cancelled; or
- (b) if the customization of the supply has not been completed at the time the contract is cancelled, the amount of the refund as determined under subsection 44 (4) of the Act less the amount of the expenses incurred by the operator in relation to the supply before the cancellation of the contract. O. Reg. 30/11, s. 140 (3).

(4) When making the refund mentioned in clause (3) (b), the operator shall give the purchaser orally or, if requested, in writing, an itemized list of all expenses deducted under that clause, including amounts deducted for work done by the operator and amounts deducted for payments made or debts incurred by the operator to third parties, and the list shall set out, for each expense, its purpose, and its amount. O. Reg. 30/11, s. 140 (4).

#### **Deemed cancellation under s. 44 of the Act**

**141.** (1) A purchaser under a contract for the provision of licensed supplies or services, other than interment rights or scattering rights, shall be deemed to have cancelled the contract under section 44 of the Act if,

- (a) the operator has reasonable grounds to believe that the recipient under the contract is or, if he or she were alive, would be at least 120 years old;
- (b) none, or only part, of the licensed supplies and services under the contract have been provided, and no request has been made to the operator to provide the licensed supplies or services that have not yet been provided; and
- (c) the operator is unable to locate the recipient or the purchaser after making reasonable efforts to do so. O. Reg. 30/11, s. 141 (1).

(2) Subsection (1) does not apply in the circumstances in which section 49 of the Act applies. O. Reg. 30/11, s. 141 (2).

#### **Cancellation where cemetery prohibits resale**

**142.** (1) If an interment rights holder or a scattering rights holder cancels a contract under subsection 47 (5) of the Act, the amount that the operator may deduct under subsection 47 (6) of the Act in calculating the payment to be made to the rights holder under that subsection is the amount of the operator's contribution to the cemetery's care and maintenance fund under section 87 of this Regulation in connection with the sale of such rights under the contract being cancelled. O. Reg. 30/11, s. 142 (1).

(2) For the purposes of clause 47 (7) (b) of the Act, if the price for the interment rights or scattering rights is not set out on the operator's price list, their market value mentioned in paragraph 2 of subsection 47 (6) of the Act shall be deemed to be equal to the market value of interment rights or scattering rights, as the case may be, with respect to a lot that,

- (a) is equivalent to or better than the lot in respect of which the rights holder purchased the rights under the contract; and
- (b) is located in the cemetery to which the cancelled contract relates or, if there is no equivalent or better lot in the cemetery to which the cancelled contract relates, is located in another cemetery that,
  - (i) is in the same geographic location as the cemetery to which the cancelled contract relates, and
  - (ii) is similar to the cemetery to which the cancelled contract relates in terms of its size, its religious or ethnic affiliation and whether it is for profit or not for profit. O. Reg. 30/11, s. 142 (2).

#### **Reimbursement order after resale of abandoned rights**

**143.** For the purposes of subclause 50 (2) (a) (iii) of the Act, the prescribed amount is the purchase price charged by the operator on the resale of the interment rights or scattering rights, less the amount of the operator's contribution to the

cemetery's care and maintenance fund under section 87 of this Regulation in connection with the resale of the interment rights or scattering rights. O. Reg. 30/11, s. 143.

**Transfer of rights to cancel and receive refund**

**144.** (1) A purchaser under a contract for the provision of a licensed supply or service may, in the contract, transfer the purchaser's rights to cancel the contract and receive a refund under sections 41, 42, 43 and 44 of the Act to,

- (a) one person designated in the contract; or
- (b) more than one person designated in the contract, as long as not more than one person is designated for any set of circumstances or any point in time. O. Reg. 30/11, s. 144 (1).

(2) Subject to subsection (1), the following rules apply to contracts to which section 123 applies:

- 1. Before the death of the recipient, the purchaser or a person designated in the contract by the purchaser may cancel the contract at any time and receive the refund under sections 41, 42, 43 and 44 of the Act.
- 2. Before the death of the recipient but after the death of the purchaser, the recipient or the recipient's personal representative may cancel the contract at any time, and the recipient is entitled to receive the refund under sections 41, 42, 43 and 44 of the Act.
- 3. After the death of the recipient, the recipient's personal representative may cancel the contract at any time, and the recipient is entitled to receive the refund under sections 41, 42, 43 and 44 of the Act. O. Reg. 30/11, s. 144 (2).

**PART III  
CEMETERIES, BURIAL SITES AND CREMATORIALS**

**DIVISION A  
GENERAL**

**Definitions**

**145.** (1) In this Part,

"First Nations Government" means the government of a band, as "band" is defined in the *Indian Act* (Canada); ("gouvernement d'une Première Nation")

"representative", when used in connection with a person whose remains are interred, means,

- (a) in the case of a burial ground,
  - (i) a descendant of the interred person, or
  - (ii) if there is no known surviving descendant, a representative of the religious denomination with which the interred person was affiliated as evidenced by the place of interment, or
- (b) in the case of an aboriginal peoples burial ground,
  - (i) the nearest First Nations Government, or
  - (ii) another community of aboriginal peoples that is willing to act as a representative and whose members have a close cultural affinity to the interred person; ("représentant")

"small scale columbarium" means a columbarium having a total volume of less than 15 cubic metres or 530 cubic feet, not including markers affixed to the structure; ("petit columbarium")

"small scale mausoleum" means a mausoleum having a total volume of less than 15 cubic metres or 530 cubic feet, not including markers affixed to the structure. ("petit mausolée") O. Reg. 30/11, s. 145 (1).

(2) In the Act and this Part,

"cemetery" includes land that,

- (a) is known to contain human remains,
- (b) was set aside to be used for the interment of human remains,
- (c) was and continues to be set aside for the interment of human remains, and
- (d) was and remains readily identifiable as land containing human remains.

(3) In the French version of this Part,

"crématorium" has the same meaning as "crématoire" in the Act. O. Reg. 30/11, s. 145 (2).

## DIVISION B CEMETERIES

### ESTABLISHING, ALTERING OR INCREASING CAPACITY OF A CEMETERY

#### Registrar's consent

**146.** (1) Subject to this section, for the purposes of subsection 83 (1) of the Act, a person shall not establish, alter or increase the capacity of a cemetery without the consent of the registrar. O. Reg. 30/11, s. 146 (1).

- (2) A person is not required to obtain the consent of the registrar if the person complies with subsection (3) and,
- (a) alters a cemetery in a way that does not increase the total physical space of the land of the cemetery and that does not involve the establishment of a columbarium or mausoleum;
  - (b) subject to clause (d), alters a columbarium or mausoleum on land already established as a cemetery in a way that does not increase the total volume of the building;
  - (c) establishes a small scale columbarium or a small scale mausoleum on land already established as a cemetery; or
  - (d) increases the volume of a small scale columbarium or a small scale mausoleum on land already established as a cemetery if the total volume of the columbarium or mausoleum after the increase does not exceed the total volume set out in the definitions of a small scale columbarium or a small scale mausoleum. O. Reg. 30/11, s. 146 (2).

(3) Subject to subsection (4), a person who is not required to obtain the registrar's consent under subsection (2) shall file, with the registrar, a detailed plan of the proposed alteration or increase in capacity at least 30 days before commencing the alteration or increase in capacity. O. Reg. 30/11, s. 146 (3).

(4) The registrar may authorize a person mentioned in subsection (3) not to file the detailed plan described in that subsection if the registrar is of the opinion that the proposed alteration or increase in capacity does not materially affect the operation of the cemetery involved. O. Reg. 30/11, s. 146 (4).

#### Application for registrar's consent

**147.** (1) An application for the registrar's consent to the establishment, alteration or increase in the capacity of a cemetery under subsection 86 (1) of the Act shall include the following documents:

- 1. A general plan of the cemetery drawn to scale and showing compass bearings, lot numbers and the location and dimensions of every lot, scattering ground, walk, fence, road, watercourse, building and adjoining road in the portion of the cemetery to be available for interments or scatterings.
- 2. A copy of any site plan agreement under the *Planning Act*, that is relevant to the cemetery.
- 3. If the application for consent is for the establishment of a cemetery or an increase in the capacity of a cemetery by means of an increase in the total physical space of its land and if the cemetery will include in-ground burial of human remains, a certificate of a medical officer of health stating that the land is suitable for use as a cemetery.
- 4. If the cemetery or any part of it is designated under the *Ontario Heritage Act*, a copy of the designation by-law. O. Reg. 30/11, s. 147 (1).

(2) The general plan of the cemetery shall be,

- (a) prepared by an Ontario Land Surveyor or prepared from a deposited reference plan of survey of the cemetery land; and
- (b) certified by the applicable local municipality or by the Minister of Natural Resources and Forestry as having been approved by the local municipality or the Minister, as the case may be. O. Reg. 30/11, s. 147 (2); O. Reg. 48/15, s. 15.

(3) The operator of the cemetery shall keep a copy of the general plan available for public inspection during regular business hours. O. Reg. 30/11, s. 147 (3).

#### Notice of application

**148.** (1) A person who requires the registrar's consent under subsection 83 (1) of the Act to establish, alter or increase the capacity of a cemetery shall, before applying for the consent,

- (a) give written notice of the person's intention to apply for consent to each interment and scattering rights holder if the lot or scattering ground to which the rights relate is within 9.14 metres or 30 feet of the area in which the proposed establishment, alteration or increase is to take place, by mailing it to the last address known to the person, unless the registrar directs another means of giving the notice;
- (b) ensure that notice of the intention to apply for consent is published once a week for two consecutive weeks in a newspaper with general circulation in the locality in which the cemetery is to be established or is located; and
- (c) post notice of the intention to apply for consent in a conspicuous place at the entrance to the cemetery or the area of land that is the subject of the application for four consecutive weeks. O. Reg. 30/11, s. 148 (1).

- (2) A person who is required to give notice under subsection (1) shall do so no later than,
  - (a) the time of requesting the approval of the local municipality or the Minister of Natural Resources and Forestry under subsection 83 (2) of the Act, if that subsection applies; or
  - (b) the time of applying for the registrar's consent under subsection 83 (1) of the Act is made if the cemetery is situated in territory without municipal organization, but not on Crown land. O. Reg. 30/11, s. 148 (2); O. Reg. 48/15, s. 15.

**Municipal approval**

**149.** For the purposes of clause 83 (1) (a) of the Act, a building permit issued by a local municipality for a columbarium or mausoleum is evidence of the approval of the municipality to the alteration or increase in the capacity of a cemetery. O. Reg. 30/11, s. 149.

**CEMETERY BY-LAWS**

**Cemetery by-laws**

**150.** (1) A cemetery operator may make by-laws governing the operation of the cemetery and, in particular, governing rights, entitlements and restrictions with respect to interment and scattering rights. O. Reg. 30/11, s. 150 (1).

(2) A cemetery by-law shall not prohibit an interment or scattering rights holder from making required arrangements with the cemetery operator by telephone or otherwise if the arrangements are necessary to exercise the rights. O. Reg. 30/11, s. 150 (2).

(3) No cemetery operator shall operate a cemetery except in accordance with the by-laws of the cemetery. O. Reg. 30/11, s. 150 (3).

(4) A cemetery's by-laws shall specify the documentation required in order to carry out an interment, scatterings or the installation of a marker. O. Reg. 30/11, s. 150 (4).

(5) A provision of a cemetery by-law made before the day the Act comes into force that is inconsistent with the Act or regulations is invalid and of no effect and the approval of the registrar of it shall be deemed to be revoked without any further notice. O. Reg. 30/11, s. 150 (5).

**Approval of by-laws**

**151.** (1) No cemetery by-law or by-law amendment is effective until,

- (a) the cemetery operator has filed it with the registrar in a form and manner approved by the registrar and has complied with subsection (3); and
- (b) the registrar has approved it, except if subsection (2) does not require it to have the registrar's approval. O. Reg. 30/11, s. 151 (1).

(2) A by-law or by-law amendment filed by a cemetery operator is not required to have the registrar's approval if,

- (a) it is a standardized by-law previously filed with and approved by the registrar; and
- (b) the cemetery operator filing the by-law or by-law amendment has provided the registrar with details of the standardized by-law. O. Reg. 30/11, s. 151 (2).

(3) The cemetery operator shall ensure that notice of the filing of the by-law or by-law amendment is,

- (a) published once in a newspaper with general circulation in the locality in which the cemetery is located;
- (b) conspicuously posted on a sign at the entrance of the cemetery; and
- (c) delivered to each supplier of markers who has delivered a marker to the cemetery during the previous year, if the by-law or by-law amendment pertains to markers or their installation. O. Reg. 30/11, s. 151 (3).

(4) The notice mentioned in subsection (3) shall,

- (a) state the location at which interested persons may review the by-law or by-law amendment and make a copy of it;
- (b) indicate that the by-law or by-law amendment is not effective until the registrar approves it, except if subsection (2) does not require it to have the registrar's approval; and
- (c) provide contact information for the registrar and the cemetery operator for purposes of making submissions relating to the by-law or by-law amendment. O. Reg. 30/11, s. 151 (4).

(5) The cemetery operator shall make reasonable efforts to ensure that the notice posted under clause (3) (b) remains posted until,

- (a) the time under subsection 152 (4) for appeal from the registrar's refusal to approve has expired, if the by-law or by-law amendment is required to have the registrar's approval and no appeal is brought;

- (b) the Tribunal makes a decision, if the by-law or by-law amendment is required to have the registrar's approval and an appeal is brought under subsection 152 (4); and
- (c) four weeks have expired, if subsection (2) does not require the by-law or by-law amendment to have the registrar's approval. O. Reg. 30/11, s. 151 (5).

**Refusal of approval**

**152.** (1) The registrar shall approve a by-law or by-law amendment filed under subsection 151 (1) unless,

- (a) approval of the by-law or by-law amendment is not in the public interest; or
  - (b) the effect of the by-law or by-law amendment is to give the cemetery operator or other supplier an unreasonable or unfair competitive advantage over another supplier. O. Reg. 30/11, s. 152 (1).
- (2) If the registrar refuses to approve a by-law or by-law amendment, the registrar shall give the cemetery operator written notice of the refusal. O. Reg. 30/11, s. 152 (2).
- (3) The notice of refusal shall include reasons and a statement that the cemetery operator may appeal the refusal. O. Reg. 30/11, s. 152 (3).
- (4) A cemetery operator may appeal the registrar's refusal to approve a by-law or by-law amendment to the Tribunal, by mailing or delivering, within 15 days after service of the notice of refusal, a written request for a hearing to the registrar and to the Tribunal. O. Reg. 30/11, s. 152 (4).

**Revocation of approval**

**153.** (1) The registrar may revoke the approval of a cemetery by-law or by-law amendment if the registrar is satisfied that,

- (a) the by-law or by-law amendment is not or is no longer in the public interest; or
  - (b) the effect of the by-law or by-law amendment is to give the cemetery operator or other supplier an unreasonable or unfair competitive advantage over another supplier. O. Reg. 30/11, s. 153 (1).
- (2) The registrar shall not revoke the approval until the registrar has given the cemetery operator written notice of a proposal to revoke the approval. O. Reg. 30/11, s. 153 (2).
- (3) The notice of proposal shall include reasons and a statement that the cemetery operator may appeal the proposal to revoke the approval. O. Reg. 30/11, s. 153 (3).
- (4) A cemetery operator may appeal the registrar's proposal to revoke the approval to the Tribunal, by mailing or delivering, within 15 days after service of the notice of proposal, a written request for a hearing to the registrar and to the Tribunal. O. Reg. 30/11, s. 153 (4).
- (5) If the cemetery operator appeals the proposal to revoke the approval, the approval remains in effect until the Tribunal makes a decision. O. Reg. 30/11, s. 153 (5).
- (6) If the cemetery operator does not appeal the proposal to revoke the approval, the approval is revoked on the day following the expiry of the time for appeal. O. Reg. 30/11, s. 153 (6).

**PHYSICAL STANDARDS FOR CEMETERIES**

**In-ground graves**

- 154.** (1) A cemetery operator shall ensure that an in-ground grave, in which the remains of a deceased person who was at least 16 years of age are to be buried, is at least 2.44 metres or eight feet long and 0.91 metres or three feet wide, excluding space for a marker. O. Reg. 30/11, s. 154 (1).
- (2) If the remains of a deceased person are buried in an in-ground grave, the cemetery operator shall ensure that the remains are buried at least 0.61 metres or two feet beneath the natural level of the ground surface. O. Reg. 30/11, s. 154 (2).
- (3) Subsections (1) and (2) do not apply to cremated human remains. O. Reg. 30/11, s. 154 (3).

**Buildings**

**155.** A cemetery operator shall ensure that,

- (a) any building other than a small scale columbarium or a small scale mausoleum to be installed in the cemetery is at least 4.57 metres or 15 feet away from any in-ground grave or scattering ground; and
- (b) any new in-ground graves or scattering grounds are placed at least 4.57 metres or 15 feet away from any building other than a small scale columbarium or small scale mausoleum. O. Reg. 30/11, s. 155.

**Access to lots and scattering grounds**

**156.** A cemetery operator shall ensure that all lots and scattering grounds are placed in a part of the cemetery that is reasonably accessible by members of the public. O. Reg. 30/11, s. 156.

#### **Drainage**

**157.** A cemetery operator shall ensure that the cemetery contains the sewers and drains that are necessary to provide proper drainage. O. Reg. 30/11, s. 157.

#### **Markers**

**158.** (1) No cemetery operator shall require an interment or scattering rights holder to provide a marker for a lot or scattering ground to which the rights relate. O. Reg. 30/11, s. 158 (1).

(2) Despite subsection (1), a cemetery by-law may require an interment or scattering rights holder to provide a marker if,

(a) the marker is required for religious reasons or is a cornerstone;

(b) the cemetery by-laws require that the marker be provided;

(c) the interment or scattering rights were purchased after the day on which this Part comes into force; and

(d) the cemetery by-law requiring the marker had been approved and was in force at the time of the purchase of the interment or scattering rights. O. Reg. 30/11, s. 158 (2).

(3) An interment rights holder or a person authorized to act on the holder's behalf may install a marker on a lot if the installation of the marker does not contravene the cemetery by-laws. O. Reg. 30/11, s. 158 (3).

(4) A scattering rights holder or a person authorized to act on the holder's behalf may install a marker on a scattering ground if the cemetery by-laws specifically permit the installation of the marker and the installation is done in accordance with the by-laws. O. Reg. 30/11, s. 158 (4).

#### **Repair of markers**

**159.** (1) If a cemetery marker presents a risk to public safety because it is unstable, the cemetery operator shall do whatever is necessary to remove the risk, including repairing, resetting or laying down the marker. O. Reg. 30/11, s. 159 (1).

(2) A cemetery operator shall only use reversible processes to preserve and stabilize a marker. O. Reg. 30/11, s. 159 (2).

#### **Installation of cemetery supplies**

**160.** (1) A cemetery operator shall not refuse to install or to permit installation of cemetery supplies if the supplies and their installation comply with the cemetery by-laws. O. Reg. 30/11, s. 160 (1).

(2) In subsection (1),

“cemetery supplies” includes interment vaults, markers, flowers, liners, urns, shrubs and artificial wreaths and other articles intended to be placed in a cemetery. O. Reg. 30/11, s. 160 (2).

### **INTERMENT AND SCATTERING**

#### **Interment and scattering**

**161.** (1) No cemetery operator shall inter human remains in a lot, other than the remains of the interment rights holder, without the written consent of the interment rights holder. O. Reg. 30/11, s. 161 (1).

(2) No cemetery operator shall scatter cremated human remains in a scattering ground, other than the remains of the scattering rights holder, without the written consent of the scattering rights holder. O. Reg. 30/11, s. 161 (2).

(3) No cemetery operator shall,

(a) sell or provide interment or scattering rights for a limited term, or offer to do so;

(b) inter or permit the interment of human remains for a limited term, or offer to do so; or

(c) scatter or permit the scattering of cremated human remains for a limited term, or offer to do so. O. Reg. 30/11, s. 161 (3).

(4) A burial permit under the *Vital Statistics Act* is not required for the interment of products of conception that do not constitute a still-birth under that Act and for which no burial permit under that Act is therefore required to be issued. O. Reg. 30/11, s. 161 (4).

#### **Disinterment and removal of human remains**

**162.** (1) No person shall disinter human remains except in accordance with the Act and one of the following: this section, section 178 or 179 or a site disposition agreement mentioned in section 184. O. Reg. 30/11, s. 162 (1).

(2) No person shall remove scattered cremated remains from a scattering ground except in accordance with this section. O. Reg. 30/11, s. 162 (2).

(3) No person shall disinter any human remains unless,

(a) the prior consent of the interment rights holder has been obtained; and

- (b) except if the remains are cremated human remains, prior notification has been given to the medical officer of health. O. Reg. 30/11, s. 162 (3).
- (4) No person shall remove scattered remains without the prior consent of the scattering rights holder. O. Reg. 30/11, s. 162 (4).
- (5) Subsections (3) and (4) do not apply to a disinterment or removal that is,
  - (a) made pursuant to a direction under section 102.1 of the Act; or
  - (b) ordered by the registrar under subsection 88 (7) of the Act pursuant to a cemetery closure. O. Reg. 30/11, s. 162 (5).
- (6) The registrar may consent under subsection (3) or (4) in the place of the interment or scattering rights holder if,
  - (a) the whereabouts of an interment or scattering rights holder are not known;
  - (b) the interment or scattering rights holder is not readily ascertainable; or
  - (c) the interment or scattering rights holder is not able to consent. O. Reg. 30/11, s. 162 (6).
- (7) Before consenting under subsection (6), the registrar shall consider whether any known person may have an interest in the disposition of the remains, and if there is such an interested person, shall order that the person proposing to do the disinterment or removal give notice of it to the interested person in the form and manner that the registrar specifies. O. Reg. 30/11, s. 162 (7).
- (8) If a person requests the consent of the registrar under subsection (6), a person who objects to the disinterment or removal may file a written objection, with reasons, with the registrar, at any time before the registrar consents to the disinterment or removal. O. Reg. 30/11, s. 162 (8).
- (9) If a person files an objection with the registrar under subsection (8), the registrar shall determine whether the person has an interest in the remains. O. Reg. 30/11, s. 162 (9).
- (10) Before consenting to a disinterment or removal, the registrar shall take into account the reasons for objecting that a person with an interest in the remains has. O. Reg. 30/11, s. 162 (10).
- (11) The registrar's consent to a disinterment or removal may be subject to the terms and conditions that the registrar considers appropriate. O. Reg. 30/11, s. 162 (11).
- (12) The registrar shall give notice of the registrar's decision to,
  - (a) the person requesting the registrar's consent,
  - (b) any interested person who was given notice under subsection (7);
  - (c) any person filing an objection under subsection (8); and
  - (d) the cemetery operator. O. Reg. 30/11, s. 162 (12).
- (13) A person receiving notice of the registrar's decision under subsection (12) may appeal the decision to the Tribunal by mailing or delivering, within 15 days after being served with the decision, a written request for a hearing to the registrar and to the Tribunal. O. Reg. 30/11, s. 162 (13).
- (14) If a person appeals the registrar's decision, the Tribunal shall hold a hearing and may uphold the registrar's decision or substitute its decision for that of the registrar. O. Reg. 30/11, s. 162 (14).
- (15) The registrar's decision to consent to disinterment or removal shall not take effect until,
  - (a) the time for appealing the decision has expired; or
  - (b) if an appeal is brought, the Tribunal has made an order upholding the registrar's decision to consent to the disinterment or removal. O. Reg. 30/11, s. 162 (15).
- (16) A medical officer of health may attend at, supervise or direct a disinterment or removal. O. Reg. 30/11, s. 162 (16).
- (17) If a medical officer of health determines that remains are those of a person who died of a communicable disease within the meaning of the *Health Protection and Promotion Act*, the remains shall be dealt with in accordance with that Act. O. Reg. 30/11, s. 162 (17).
- (18) No person shall remove a dead human body from a cemetery unless a certificate of a medical officer of health or the cemetery operator has been obtained and affixed to the container holding the body, confirming that the Act and the regulations have been complied with. O. Reg. 30/11, s. 162 (18).
- (19) A burial permit under the *Vital Statistics Act* is not required for the reinterment of a dead human body that has been disinterred in accordance with the Act and the regulations. O. Reg. 30/11, s. 162 (19).



(20) Nothing in this section shall prohibit a cemetery operator from removing human remains placed in a cemetery without permission of the cemetery operator if the removal is authorized by the cemetery by-laws and if the removal is done in accordance with the cemetery by-laws. O. Reg. 30/11, s. 162 (20).

#### **Interment and scattering rights certificates**

**163.** (1) A certificate of interment or scattering rights shall include,

- (a) the name and location of the cemetery in which the interment or scattering is to take place;
- (b) the name of the interment or scattering rights holder;
- (c) the location and dimensions of the lot or scattering ground to which the interment or scattering rights relate;
- (d) the date on which the interment or scattering rights are purchased or transferred, as the case may be;
- (e) the amount paid by the purchaser for the interment or scattering rights;
- (f) the amount deposited into the care and maintenance fund or account for the interment or scattering rights;
- (g) a statement that, if the interment or scattering rights holder resells or transfers the interment or scattering rights, the endorsed certificate must be returned to the operator before the operator is required to issue a new certificate;
- (h) in a conspicuous manner on the certificate, a statement whether any restrictions or obligations exist with respect to the installation of markers and if so, a statement of what they are or a reference to the by-laws containing them;
- (i) if the interment rights are in a private structure, the total number of niches, crypts or compartments in the structure; and
- (j) if the scattering rights are in a private scattering ground, the total number of scatterings permitted in the scattering ground, including whether the number is unlimited. O. Reg. 30/11, s. 163 (1).

(2) A cemetery operator shall issue a new certificate of interment or scattering rights to a new holder of the rights after the cemetery operator has received the endorsed certificate under subsection 115 (3). O. Reg. 30/11, s. 163 (2).

(3) A cemetery operator may charge a reasonable fee to recover the cost of issuing the new certificate. O. Reg. 30/11, s. 163 (3).

#### **Assisted burials**

**164.** (1) Upon receiving a written direction from a delivery agent, as defined in the *Ontario Works Act, 1997*, a cemetery operator who has an available lot shall,

- (a) provide a lot for the interment of the remains of any person mentioned in the direction;
- (b) provide opening and closing services in conjunction with the interment; and
- (c) install a marker if,
  - (i) one is provided to the operator,
  - (ii) the operator installs markers for other persons at the cemetery, and
  - (iii) the cemetery by-laws permit the installation. O. Reg. 30/11, s. 164 (1).

(2) Upon receiving a written direction from a delivery agent, as defined in the *Ontario Works Act, 1997*, a cemetery operator who offers scatterings in the cemetery and who has a common scattering ground available for a scattering shall,

- (a) scatter, or permit the scattering of, the cremated remains of any person mentioned in the direction; and
- (b) install a marker if,
  - (i) one is provided to the operator,
  - (ii) the operator installs markers for other persons at the cemetery, and
  - (iii) the cemetery by-laws permit the installation. O. Reg. 30/11, s. 164 (2).

(3) Despite subsections (1) and (2), if a cemetery restricts interment and scattering of human remains to members of a defined religious organization, the cemetery operator is not required to inter or scatter the remains of a deceased person who is not a member of that religious organization or to permit the interment or scattering. O. Reg. 30/11, s. 164 (3).

#### **CARE AND MAINTENANCE FUND OR ACCOUNT**

##### **Disposition of fund or account on cemetery closing**

**165.** (1) When a certificate of closing issued by the registrar under section 90 of the Act is registered in the appropriate land registry office, the trustee of a care and maintenance fund or account for the cemetery shall pay out the amount on deposit in the fund or account, as the case may be, in accordance with subsection (2). O. Reg. 30/11, s. 165 (1).

(2) The trustee shall repay to the cemetery operator all or part of the original deposit made under section 86 that the cemetery operator has not already recovered under subsection 87 (7) and shall deal with any trust money remaining in accordance with section 91 of the Act. O. Reg. 30/11, s. 165 (2).

**Payment upon installation of marker**

**166.** (1) For the purposes of subsections 53 (9) and (10) of the Act, the prescribed amount is as follows:

1. \$0, in the case of a flat marker measuring less than 1,116.13 square centimetres (173 square inches).
2. \$50, in the case of a flat marker measuring at least 1,116.13 square centimetres (173 square inches).
3. \$100, in the case of an upright marker measuring 1.22 metres (four feet) or less in height and 1.22 metres (four feet) or less in length, including the base.
4. \$200, in the case of an upright marker measuring more than 1.22 metres (four feet) in either height or length, including the base. O. Reg. 30/11, s. 166 (1).

(2) A person on behalf of whom a marker is installed in a cemetery to replace a marker that has been damaged and cannot be repaired and the cemetery operator are exempt from subsections 53 (9) and (10) of the Act. O. Reg. 30/11, s. 166 (2).

**Payment upon installation of private structure**

**167.** (1) In this section,

“price”,

- (a) with respect to a mausoleum or columbarium or land associated with either of them, means the price payable for it, excluding taxes, and
- (b) with respect to the purchase of interment rights, means the price payable for the purchase, excluding taxes, regardless of whether the price is payable by the purchaser of the interment rights or by the person on behalf of whom the mausoleum or columbarium is to be installed. O. Reg. 30/11, s. 167 (1).

(2) Subject to subsection (3), the prescribed amount for the purposes of subsections 53 (11) and (12) of the Act is as follows:

1. In the case of a private mausoleum, the greater of,
  - i. 20 per cent of the sum of,
    - A. the total price of the mausoleum, including the prices associated with each stage of the process, from the obtaining of approvals, through design and construction, to and including installation and readiness for interment purposes,
    - B. the price of the land associated with the mausoleum, and
    - C. the price of all of the interment rights associated with the mausoleum, and
  - ii. \$500 multiplied by the number of tombs, crypts and compartments in the mausoleum.
2. In the case of a private columbarium, the greater of,
  - i. 15 per cent of the sum of,
    - A. the total price of the columbarium, including the prices associated with each stage of the process, from the obtaining of approvals, through design and construction, to and including installation and readiness for interment purposes,
    - B. the price of the land associated with the columbarium, and
    - C. the price of all of the interment rights associated with the columbarium, and
  - ii. \$100 multiplied by the number of niches and compartments in the columbarium. O. Reg. 30/11, s. 167 (2).

(3) If, after a cemetery operator pays an amount into a care and maintenance fund or account in respect of a sale or transfer of interment rights for an in-ground grave, the interment rights holder requests the installation of a private mausoleum or private columbarium on the same lot where permitted under the by-laws for the cemetery, the prescribed amount for the purposes of subsections 53 (11) and (12) of the Act is the amount determined under subsection (2) less the amount that the operator paid into the fund in respect of the sale or transfer of the interment rights for the in-ground grave. O. Reg. 30/11, s. 167 (3).

**Other payments**

**168.** The following amounts are prescribed as the amounts that a cemetery operator is required to pay into a care and maintenance fund or account for the purposes of subsection 53 (14) of the Act:

1. In the case of an in-ground grave that is 2.23 square metres or 24 square feet or larger, the greater of 40 per cent of the price of the interment rights as set out on the price list and \$250.
2. In the case of an in-ground grave that is smaller than 2.23 square metres or 24 square feet, the greater of 40 per cent of the price of the interment rights as set out in the price list and \$150.
3. In the case of a tomb, crypt or compartment in a public mausoleum, the greater of 20 per cent of the price of the interment rights as set out on the price list and \$500.
4. In the case of a niche or compartment in a public columbarium, the greater of 15 per cent of the price of the interment rights as set out on the price list and \$100.
5. In the case of a scattering ground for which there will be only one scattering rights holder, the greater of 40 per cent of the price of the scattering rights as set out on the price list and \$100.
6. In the case of a scattering ground for which there will be more than one scattering rights holder, the greater of 15 per cent of the price of the scattering rights as set out on the price list and \$25.
7. In the case of a scattering ground for which there will be no scattering rights holders, \$25. O. Reg. 30/11, s. 168.

#### CAPITAL GAINS

##### Release of capital gains

**169.** (1) In this section,

“capital gains”, in relation to a contract, means the net realized capital gains earned on the money that the cemetery owner received under the contract and held in trust in relation to the contract, after subtracting total realized capital losses from total realized capital gains; (“capital gains”)

“contract” means a contract for pre-need supplies or services entered into with a cemetery owner under the *Cemeteries Act (Revised)* or a predecessor of it. (“contrat”) O. Reg. 30/11, s. 169 (1).

(2) A cemetery operator on whose behalf a trustee holds capital gains in trust may apply to the registrar for approval to have the trustee release the capital gains from trust in accordance with subsection (3) or may have the trustee pay out the capital gains in accordance with subsection (4). O. Reg. 30/11, s. 169 (2).

(3) If, on the day immediately before the day this section comes into force, the supplies or services have been delivered or performed under a contract or a contract has been cancelled, the registrar shall approve the release of capital gains on the contract if, upon release, the operator,

- (a) pays the full amount of the capital gains into the care and maintenance fund or account for the cemetery; or
- (b) disburses the capital gains in accordance with the directions of the registrar. O. Reg. 30/11, s. 169 (3).

(4) If, on the day immediately before the day this section comes into force, the supplies or services have not been delivered or performed under a contract or a contract has not been cancelled, the capital gains on the contract shall constitute income and if the operator requests the trustee to pay them out under subsection (2), the trustee shall pay them out,

- (a) in the same manner as income, in accordance with the rules in place under the *Cemeteries Act (Revised)*, if the capital gains relate to a contract entered into before April 1, 1992; or
- (b) in accordance with the applicable rules under the Act and this Regulation, if the capital gains relate to a contract entered into on or after April 1, 1992. O. Reg. 30/11, s. 169 (4).

#### NEGLECTED AND ABANDONED CEMETERIES

##### Neglected cemeteries

**170.** (1) A local municipality may order a cemetery operator who does not keep the cemetery in good order and repair to restore it to good order and repair within a reasonable time specified in the order. O. Reg. 30/11, s. 170 (1).

(2) If the cemetery operator does not restore the cemetery as specified in the order, the local municipality may have the required work done and may recover the costs from the cemetery operator. O. Reg. 30/11, s. 170 (2).

(3) The cemetery operator may appeal the order to the registrar within 15 days of being served with it, by sending a written request to the registrar and providing a copy of the request to the local municipality. O. Reg. 30/11, s. 170 (3).

(4) On receiving the request, the registrar shall invite submissions from the cemetery operator and the local municipality and shall make all other inquiries that are appropriate in the circumstances. O. Reg. 30/11, s. 170 (4).

- (5) On the appeal, the registrar may,
  - (a) confirm the local municipality’s order;
  - (b) reverse the local municipality’s order; or

- (c) substitute his or her order for that of the local municipality. O. Reg. 30/11, s. 170 (5).
  - (6) The *Statutory Powers Procedures Act* does not apply to an appeal under this section. O. Reg. 30/11, s. 170 (6).
- 171.** REVOKED: O. Reg. 21/14, s. 1.

## CEMETERY CLOSING

### Notice of cemetery closing

**172.** (1) For the purposes of subsection 88 (2) of the Act, a cemetery owner or operator shall give the notice of intention to close a cemetery in accordance with this section. O. Reg. 30/11, s. 172 (1).

(2) The notice shall be published,

(a) once in *The Ontario Gazette*; and

(b) once a week for two consecutive weeks in a newspaper with general circulation in the locality in which the cemetery is located. O. Reg. 30/11, s. 172 (2).

(3) The notice shall be given to,

(a) each interment and scattering rights holder if the lot or scattering ground to which the rights relate is situated in the part of the cemetery subject to the application for closure;

(b) the local municipality in which the cemetery is located;

(c) the municipal heritage committee, if any, established under the *Ontario Heritage Act* for the locality in which the cemetery is located;

(d) the Archives of Ontario, the Ontario Historical Society, the Ontario Archaeological Society and the Ontario Genealogical Society; and

(e) the Minister responsible for the administration of the *Ontario Heritage Act*. O. Reg. 30/11, s. 172 (3).

(4) If given by mail to a person mentioned in clause (3) (a), the notice is sufficiently given if it is mailed to the last address of the rights holder known to the cemetery owner or operator. O. Reg. 30/11, s. 172 (4).

(5) Before publication of the notice under subsection (2), the notice shall be conspicuously posted on a sign at the entrance to the cemetery and, if the closure application relates only to a part of the cemetery, on a sign at the entrance to that part or at the entrance that is nearest to that part. O. Reg. 30/11, s. 172 (5).

(6) The cemetery owner or operator shall make reasonable efforts to ensure that the notice posted under subsection (5) remains posted until,

(a) the effective date of the registrar's order to close the cemetery, if the registrar makes the order for which the cemetery owner has applied; or

(b) the registrar gives notice to the cemetery owner that the registrar refuses to grant the owner's application for an order to close the cemetery. O. Reg. 30/11, s. 172 (6).

(7) For the purposes of subsection 88 (5) of the Act, a person may make submissions to the registrar during the 45-day period that follows the latest of,

(a) the last day on which the notice was published under subsection (2);

(b) the last day on which the notice was given to the person under subsection (3), if the notice was given to the person under that subsection; and

(c) the first day on which the notice was posted under subsection (5). O. Reg. 30/11, s. 172 (7); O. Reg. 48/15, s. 16.

### Records of closed cemetery

**173.** (1) If, in an order for the closing of a cemetery, the registrar orders the disinterment or removal of human remains and reinterment or placement of them in a cemetery owned or operated by another person under subclause 88 (7) (b) (i) of the Act, the owner or operator of the cemetery to be closed shall deliver copies of the records relating to the deceased to the other owner or operator. O. Reg. 30/11, s. 173 (1).

(2) If the owner or operator of the cemetery to be closed is the owner or operator of another cemetery and continues to maintain the original records, the owner or operator shall deliver copies of the records to,

(a) the nearest municipal, church, religious or other public archive; or

(b) the Archives of Ontario, if an archive described in clause (a) refuses to accept the records. O. Reg. 30/11, s. 173 (2).

(3) If the owner or operator of the cemetery to be closed is not the owner or operator of another cemetery, the owner or operator shall deliver the original records to,

- (a) the nearest municipal, church, religious or other public archive; or
- (b) the Archives of Ontario, if an archive described in clause (a) refuses to accept the records. O. Reg. 30/11, s. 173 (3).

## **DIVISION C BURIAL SITES**

### **GENERAL**

#### **Burial site investigation**

**174.** (1) If the registrar orders under section 96 of the Act that an investigation be made to determine the origin of a burial site, an archaeologist who holds a professional licence issued under Part VI of the *Ontario Heritage Act* shall conduct the investigation. O. Reg. 30/11, s. 174 (1).

(2) A person who conducts an investigation of a burial site shall report to the registrar in writing on the origin of the site, and include the following information:

1. A determination of the probable cultural origin or religious affiliation of the persons whose remains are interred and the basis upon which it is made.
2. A description of the boundaries of the burial site.
3. Details of the style and manner in which the human remains are interred.
4. A description of any artifacts that, in the opinion of the investigator, form part of the burial site.
5. An opinion as to whether the burial site was set aside with the apparent intention of interring human remains in accordance with cultural affinities and the basis upon which the opinion is made.
6. Information relevant to the preparation of a site disposition agreement. O. Reg. 30/11, s. 174 (2).

(3) The person conducting the investigation shall, within five days after beginning the investigation, advise the registrar of the possible cultural origins of the human remains. O. Reg. 30/11, s. 174 (3).

(4) Upon being advised of the possible cultural origins of the human remains, the registrar shall advise those persons who the registrar has reason to believe may be representatives of the person whose remains are interred of the existence of the burial site and the possible cultural origins of the human remains. O. Reg. 30/11, s. 174 (4).

#### **Preservation of burial sites**

**175.** (1) If a burial site is discovered and a coroner declares that foul play is not suspected in relation to the human remains at the site,

- (a) the coroner shall ensure that the registrar is notified; and
- (b) the owner of the land shall take whatever steps are necessary to preserve the site, the human remains and any artifacts until a final disposition is made in accordance with the Act and the regulations. O. Reg. 30/11, s. 175 (1).

(2) If the coroner declares that foul play is suspected in relation to the discovered human remains, the land ceases to be a burial site. O. Reg. 30/11, s. 175 (2).

#### **Burial ground notice**

**176.** (1) At least 30 days before declaring a burial site to be a burial ground under clause 98 (b) of the Act, the registrar shall publish notice of the intended declaration in a newspaper with general circulation in the locality where the burial site is located. O. Reg. 30/11, s. 176 (1).

(2) The notice shall be published once a week for two consecutive weeks. O. Reg. 30/11, s. 176 (2).

(3) The notice shall invite any representative of the persons whose remains are interred in the burial site to contact the registrar within two weeks after the date of the second published notice. O. Reg. 30/11, s. 176 (3).

(4) In addition to the notice mentioned in subsection (1), the registrar shall provide notice of the intended declaration to persons who the registrar believes may be representatives and the notice shall invite the persons to contact the registrar within two weeks of the notice being given. O. Reg. 30/11, s. 176 (4).

#### **Notice of registrar's declaration**

**177.** On making a declaration under section 98 of the Act, the registrar shall serve notice of the declaration on,

- (a) the owner of the land on which the burial site is located;
- (b) if the declaration is that the site is an aboriginal peoples burial ground, the representative of each person whose remains are interred at the site;

- (c) if the declaration is that the site is a burial ground, the representative of each person whose remains are interred at the site who has agreed to be identified as a representative; and
- (d) if the declaration is that the site is an irregular burial site, the persons, if known to the registrar, who would be representatives of each person whose remains are interred at the site if it were an aboriginal peoples burial ground or a burial ground. O. Reg. 30/11, s. 177.

**Dealing with irregular burial site**

**178.** (1) If the registrar declares a burial site to be an irregular burial site, the owner of the land shall,

- (a) ensure that the human remains from the site are interred in a cemetery located in the same local municipality as the site or in an adjoining local municipality; or
- (b) establish the land, or land in close proximity to the site, as a cemetery. O. Reg. 30/11, s. 178 (1).

(2) If no person has agreed to be identified as a representative for the purposes of clause 177 (c) of this Regulation, the owner of the land on which the burial ground is located shall deal with the human remains as if the burial ground were an irregular burial site, and subsections 99 (2), (3) and (4) of the Act and clause 179 (a) of this Regulation do not apply to the burial ground. O. Reg. 30/11, s. 178 (2).

**Dealing with burial grounds**

**179.** Unless a representative of a person whose remains are interred in a burial ground or an aboriginal peoples burial ground consents, no person shall,

- (a) remove the remains or associated artifacts from the site; or
- (b) conduct scientific analysis of the remains or associated artifacts. O. Reg. 30/11, s. 179.

**Establishment of cemetery**

**180.** If the owner of land on which a burial site is discovered establishes the site or a site in close proximity as a cemetery,

- (a) the owner is exempt from subsections 83 (1) and (2) and clauses 86 (1) (a), (c) and (e) of the Act; and
- (b) the owner shall ensure that no interment or scattering rights for the cemetery are sold. O. Reg. 30/11, s. 180.

**SITE DISPOSITION AGREEMENT**

**Referral to arbitration**

**181.** (1) The prescribed time for the purpose of subsection 99 (3) of the Act is 30 days from the date on which the registrar gives notice of the declaration under section 177 of this Regulation. O. Reg. 30/11, s. 181 (1).

(2) The parties to an arbitration under subsection 99 (3) of the Act include,

- (a) the owner of the land on which the burial site is located; and
- (b) the representatives of the persons whose remains are interred on the burial site and who have been served with the notice of the registrar's declaration under section 177. O. Reg. 30/11, s. 181 (2).

(3) A matter that the registrar refers to arbitration under subsection 99 (3) of the Act shall go to an arbitration board or, upon the request of the parties, to a single arbitrator appointed by the director and selected from the list of arbitrators chosen by the parties. O. Reg. 30/11, s. 181 (3).

(4) The arbitration board shall be composed of the following members:

- 1. A member appointed by the owner of the land within five days of the registrar's referral of the matter to arbitration.
- 2. A member appointed by the representatives described in clause (2) (b) within five days of the registrar's referral of the matter to arbitration.
- 3. A member whom the members appointed under paragraphs 1 and 2 shall appoint as the chair of the board within five days of their own appointment. O. Reg. 30/11, s. 181 (4).

(5) Upon written agreement, the parties to the arbitration may extend a period of time mentioned in subsection (4). O. Reg. 30/11, s. 181 (5).

(6) Within five days of being appointed, the members of the arbitration board shall provide their names to the registrar. O. Reg. 30/11, s. 181 (6).

(7) If a member is not appointed within the prescribed time, the director shall make the appointment from a list of arbitrators chosen by the parties and, if no list of arbitrators is provided, the director shall select the arbitrator. O. Reg. 30/11, s. 181 (7).

(8) A party to the arbitration is not entitled to challenge the member appointed to the arbitration board by another party or the director. O. Reg. 30/11, s. 181 (8).

#### **Arbitration hearing**

**182.** (1) The hearing in the arbitration shall begin within two weeks after the day the chair of the arbitration board or the arbitrator is appointed. O. Reg. 30/11, s. 182 (1).

(2) Upon written agreement, the parties to the arbitration may extend a period of time mentioned in subsection (1). O. Reg. 30/11, s. 182 (2).

#### **Powers**

**183.** (1) The arbitrator or arbitration board may,

- (a) inspect the burial site;
- (b) appoint an expert to inspect the human remains and any artifacts found on the site and to report to the arbitrator or arbitration board; and
- (c) award costs of the arbitration as between the parties. O. Reg. 30/11, s. 183 (1).

(2) The arbitrator or arbitration board shall not order the removal of human remains and associated artifacts from the burial site for scientific study. O. Reg. 30/11, s. 183 (2).

(3) The arbitration award shall deal with matters that may be the subject of a site disposition agreement to the extent not already dealt with by the parties, and the award and any other provisions agreed to by the parties shall constitute a site disposition agreement for the purposes of section 94 of the Act. O. Reg. 30/11, s. 183 (3).

#### **Contents of site disposition agreement**

**184.** A site disposition agreement respecting an aboriginal peoples burial ground or a burial ground shall contain,

- (a) a legal description of the location of the burial site in which the human remains are interred and, if applicable, a statement that the remains will be left where they are interred and the site established as a cemetery;
- (b) the style and manner in which the human remains are to be disinterred and reinterred, if applicable;
- (c) the time within which the disinterment and reinterment are to take place, if applicable;
- (d) the provisions being made for the future maintenance of the cemetery in which the human remains are to be located;
- (e) the allocation of the costs of carrying out the agreement;
- (f) all other matters that the parties to the agreement agree upon; and
- (g) in the case of an arbitration, all other matters that the arbitration board or arbitrator considers necessary. O. Reg. 30/11, s. 184.

## **DIVISION D CREMATORIUMS**

### **GENERAL**

#### **Municipal approval**

**185.** For the purposes of clause 83 (3) (a) of the Act, a building permit issued by a local municipality for a crematorium is evidence of the approval of the municipality to the establishment of the crematorium. O. Reg. 30/11, s. 185.

#### **Operation of crematoriums**

**186.** (1) Subject to section 188, a crematorium operator may refuse to cremate a dead human body. O. Reg. 30/11, s. 186 (1).

(2) A crematorium operator shall not, without the written and signed consent of the purchaser of the cremation services,

- (a) cremate the remains of more than one person at once;
- (b) cremate human remains together with animal remains; or
- (c) co-mingle cremated remains. O. Reg. 30/11, s. 186 (2).

(3) A crematorium operator shall ensure that a metal identification tag accompanies a dead human body and is placed in the container that contains the resulting cremated remains until the remains are released to the purchaser or the purchaser's representative. O. Reg. 30/11, s. 186 (3).

(4) The metal identification tag shall contain a personal identifier for the body and the name of the crematorium operator. O. Reg. 30/11, s. 186 (4).

#### **No burial permit required**

**187.** A burial permit under the *Vital Statistics Act* is not required for the cremation of,

- (a) human remains that have been disinterred in accordance with the Act and the regulations; or
- (b) products of conception that do not constitute a still-birth under that Act and for which no burial permit under that Act is therefore required to be issued. O. Reg. 30/11, s. 187.

**Assisted cremation**

**188.** (1) Upon receiving a written direction from a delivery agent, as defined in the *Ontario Works Act, 1997*, a crematorium operator shall provide a cremation for the remains of a person. O. Reg. 30/11, s. 188 (1).

(2) Despite subsection (1), if a crematorium restricts cremating to human remains of members of a defined religious organization, the operator is not required to cremate the remains of a deceased person who is not a member of that religious organization. O. Reg. 30/11, s. 188 (2).

**CREMATORIUM BY-LAWS**

**Crematorium by-laws**

**189.** (1) A crematorium operator may make by-laws governing the operation of the crematorium, including any rights or entitlements of purchasers of crematorium services or restrictions on the rights or entitlements of such purchasers. O. Reg. 30/11, s. 189 (1).

(2) No crematorium operator shall operate a crematorium except in accordance with the by-laws of the crematorium. O. Reg. 30/11, s. 189 (2).

(3) No crematorium operator shall cremate animal remains unless the by-laws of the crematorium authorize it. O. Reg. 30/11, s. 189 (3).

**Content of by-laws**

**190.** (1) The by-laws of a crematorium shall specify the documentation required by the operator in order for a cremation to be carried out. O. Reg. 30/11, s. 190 (1).

(2) The by-laws of a crematorium shall provide that, without the written and signed consent of the purchaser of the cremation services, the operator is prohibited from,

- (a) cremating the remains of more than one person at once;
- (b) cremating human remains together with animal remains; and
- (c) co-mingling cremated remains. O. Reg. 30/11, s. 190 (2).

**Approval or revocation of approval of by-laws**

**191.** Subsections 151 (1) and (2) and sections 152 and 153 apply to a crematorium by-law or by-law amendment, except that references to a cemetery by-law or a cemetery operator in those sections shall be read as references to the crematorium by-law or the crematorium operator respectively. O. Reg. 30/11, s. 191.

**PART IV  
COMPENSATION FUND**

**DEFINITIONS**

**Definitions**

**192.** In this Part,

“approved securities” means investments authorized under sections 26 and 27 of the *Trustee Act*; (“valeurs mobilières autorisées”)

“Authority” means the administrative authority designated under the *Safety and Consumer Statutes Administration Act, 1996* for the purpose of administering this section; (“Office”)

“Committee” means the Compensation Fund Committee established by the Authority; (“comité”)

“Fund” means the compensation fund mentioned in section 193; (“Fonds”)

“participant” means an operator of a funeral establishment or an operator of a transfer service; (“participant”)

“Trustee” includes any successor Trustee appointed under subsection 207 (4). (“fiduciaire”) O. Reg. 30/11, s. 192; O. Reg. 288/15, s. 2.

**COMPENSATION FUND**

**Compensation fund**



**193.** The compensation fund known as the Funeral Services Compensation Fund in English and Fonds d'indemnisation des services funéraires in French is the compensation fund for the purposes of subsection 61 (1) of the Act. O. Reg. 288/15, s. 3.

## COMMITTEE

### Management of Fund

**194.** Except for the duties of the Trustee and the Authority under this Part, the Committee shall manage the affairs of the Fund. O. Reg. 30/11, s. 194; O. Reg. 288/15, s. 4.

### Disqualification of Committee members

**195.** A member of the Committee is disqualified from participating and shall not participate in any deliberation or decision of the Committee with respect to any claim against a participant if the member is the participant or an officer or director of the participant or has a financial interest in the participant. O. Reg. 30/11, s. 195.

### Employees and contractors

**196.** (1) The Committee may employ or retain or authorize the employment or retention of the counsel, accountants, appraisers or other experts or advisors that it reasonably requires to assist in administering the Fund. O. Reg. 30/11, s. 196 (1).

(2) The Committee may act and shall be protected if it acts in good faith on the opinion or advice of or information from any of the persons employed or retained under subsection (1) and shall not be responsible for any misconduct on the part of any of them. O. Reg. 30/11, s. 196 (2).

(3) The Committee may employ or authorize the employment of those persons that it reasonably requires to assist in the efficient consideration and resolution of claims and operation of the Fund. O. Reg. 30/11, s. 196 (3).

(4) All fees, costs and expenses incurred by the Committee in employing or retaining persons under this section shall be paid by the Trustee and shall be deducted first from the income of the Fund and, if there is any deficiency, from the capital of the Fund. O. Reg. 30/11, s. 196 (4).

## FUND

### Location of Fund

**197.** The Fund shall be located in Ontario at all times and the Trustee shall hold the capital and income comprising the Fund at all times in Ontario. O. Reg. 30/11, s. 197.

### Capital of Fund

**198.** (1) The capital of the Fund shall be composed of the payments that the participants are required to contribute under this section and all money received from others. O. Reg. 30/11, s. 198 (1).

(2) Every operator of a funeral establishment and every transfer service operator shall participate in the Fund. O. Reg. 30/11, s. 198 (2).

(3) Each participant shall make an initial payment of \$250 into the Fund at the time the participant applies for a licence. O. Reg. 30/11, s. 198 (3).

(4) If the book value of the Fund is less or is anticipated to be less than \$1,000,000 by reason of any proposed payments by the Fund to one or more claimants, the Committee may require each participant to pay the amount that the Committee determines is necessary to bring the level of the Fund up to at least \$1,000,000, to be paid within the time period and in relation to the time period that the Committee determines. O. Reg. 30/11, s. 198 (4).

### Administration of Fund

**199.** (1) All money received from participants or others and held in the Fund and all income on the money, including any rights or benefits accruing from the investment of the money, shall constitute the Fund to be dealt with and distributed in accordance with this Part. O. Reg. 30/11, s. 199 (1).

(2) The Trustee shall hold the Fund in trust for the benefit of the holders of claims that the Committee approves under section 202. O. Reg. 30/11, s. 199 (2).

(3) No payment shall be made out of the Fund to satisfy or settle any claim or judgment or other court order resulting from the fraud, negligence or wilful misconduct of the Trustee. O. Reg. 30/11, s. 199 (3).

(4) The Committee shall maintain a record of payments or other amounts received from, on behalf of or in respect of each participant and shall credit the payments and amounts to one or more participants. O. Reg. 30/11, s. 199 (4).

(5) The Committee's decision in respect of crediting under subsection (4) is final. O. Reg. 30/11, s. 199 (5).

(6) No credit of a payment or amount to the Fund with respect to a participant gives the participant any right to that payment or amount or any part of it. O. Reg. 30/11, s. 199 (6).

- (7) The Trustee shall keep the Fund invested in approved securities. O. Reg. 30/11, s. 199 (7).
- (8) The Trustee shall collect and receive all income from the Fund. O. Reg. 30/11, s. 199 (8).
- (9) The Trustee shall maintain books and records that clearly identify all approved securities and property howsoever held by it that are part of the Fund. O. Reg. 30/11, s. 199 (9).
- (10) Records of all transactions mentioned in this section with respect to the administration of the Fund shall be based on a fiscal year ending March 31. O. Reg. 30/11, s. 199 (10); O. Reg. 122/16, s. 1.

#### **Financial statements**

**200.** (1) The Committee shall deliver a copy of the financial statements of the Fund certified by the Committee to each member of the Authority and to the registrar within 30 days after the end of each fiscal year or as soon after that as is reasonably practicable. O. Reg. 30/11, s. 200 (1); O. Reg. 288/15, s. 4.

(2) The financial statements of the Fund shall include, where applicable, at least the following information:

1. The amount owing under section 198 by any participant to the Fund that has not been paid when due.
2. The amount of all receipts and the sources of them.
3. The amount of all payments on behalf of participants.
4. A statement of all receipts and disbursements for claims in respect of each participant who failed to meet any of the participant's obligations or liabilities under section 198 during the fiscal period to which the statements relate.
5. A statement of all credits and debits to the capital of the Fund.
6. A statement of all fees, costs, charges and expenses paid from the income or capital of the Fund or owing by the Fund for expenses incurred during the fiscal period to which the statements relate.
7. All other information with respect to the Fund, in addition to that described in paragraphs 1 to 6, that the Authority or the registrar requires. O. Reg. 30/11, s. 200 (2); O. Reg. 288/15, s. 4.

(3) The Trustee shall provide a quarterly statement to the Committee of the assets of the Fund at book value and fair market value and a statement of any acquisitions and dispositions of investments during the quarter to which the statement relates. O. Reg. 30/11, s. 200 (3).

(4) The Authority shall ensure that the financial statements of the Fund are available to any participant for inspection upon request during the normal office hours of the Authority. O. Reg. 30/11, s. 200 (4); O. Reg. 288/15, s. 4.

#### **Reporting**

**201.** (1) The Committee shall, when required by the Minister, provide to the Minister the information, books, records or documents respecting the affairs of the Fund that the Minister specifies. O. Reg. 30/11, s. 201 (1).

(2) If the Authority considers it advisable, it may direct that the affairs of the Fund be audited. O. Reg. 30/11, s. 201 (2); O. Reg. 288/15, s. 4.

(3) The Committee shall assist the Authority in performing an audit mentioned in subsection (2) and shall provide all books and records and other information that are required in that connection. O. Reg. 30/11, s. 201 (3); O. Reg. 288/15, s. 4.

### **CLAIMS AGAINST FUND**

#### **Claims against Fund**

**202.** (1) Subject to subsection (8), a person is entitled to payment of compensation from the Fund if the person makes a claim in accordance with this section and satisfies the Committee that the person has suffered a financial loss and has not otherwise been fully compensated because,

- (a) a prepaid contract the person had with a participant, who was an operator licensed under the *Funeral Directors and Establishments Act*, was cancelled and all the funds and accrued income that were owing to the person were not paid in accordance with section 34 of that Act;
- (b) a prepaid contract the person had with a participant, who was an operator licensed under the *Funeral Directors and Establishments Act*, was not fulfilled and as a result it was necessary for the person to obtain funeral services, funeral supplies or transfer services other than under the prepaid contract;
- (c) a payment was not made to the person by a participant, who was an operator licensed under the *Funeral Directors and Establishments Act*, in accordance with section 35 of that Act;
- (d) a refund was not made to the person by a participant, who was an operator licensed under the *Funeral Directors and Establishments Act*, in accordance with section 36 of that Act;

- (e) a contract with a participant was cancelled and all the funds and accrued income that were owing to the person were not paid in accordance with Part V of the *Funeral, Burial and Cremation Services Act, 2002*;
  - (f) a contract with a participant was not fulfilled and as a result it was necessary for the person to obtain supplies or services other than under the contract; or
  - (g) a refund was not made to the person by a participant in accordance with Part V of the *Funeral, Burial and Cremation Services Act, 2002*. O. Reg. 30/11, s. 202 (1).
- (2) References in subsection (1) to the *Funeral Directors and Establishments Act* are references to that Act as it read on the day before this Part comes into force. O. Reg. 30/11, s. 202 (2).
- (3) A claimant may make a claim under this section within six months of the date that the person could have reasonably been expected to have known that payment was due. O. Reg. 30/11, s. 202 (3).
- (4) A claimant may make a claim by giving written notice of the claim to the registrar who shall give a copy of the claim to the Committee. O. Reg. 30/11, s. 202 (4).
- (5) As a condition precedent to making payment of a claim or any part of it, the Committee may require the delivery and execution of those documents that the Committee, in its discretion, considers necessary, including documents that are necessary for transferring to the Committee the interest of the claimant in the claim so as to subrogate the Committee to the position of the claimant against the participant. O. Reg. 30/11, s. 202 (5).
- (6) Despite subsection (3), if circumstances warrant it, the Committee may grant an extension of time for making a claim against the Fund and the decision of the Committee as to any extension is final and not subject to review. O. Reg. 30/11, s. 202 (6).
- (7) The Committee shall determine the eligibility and the amount of any claim made by a claimant and shall direct the Trustee to pay any claim or any part of it that meets the requirements of this section and, subject to section 203, the decision of the Committee is final. O. Reg. 30/11, s. 202 (7).
- (8) No amount shall be paid out of the Fund until the claimant assigns to the Fund any judgment or other right of any kind that the claimant has against the participant or any other person in respect of the claimant's claim. O. Reg. 30/11, s. 202 (8).
- (9) Despite subsection (7) and subsection 203 (6), the Trustee shall not pay out of the Fund more than \$40,000, exclusive of costs, to each claimant in respect of each transaction for one or more claims against any one participant. O. Reg. 30/11, s. 202 (9).
- (10) For the purposes of subsection (8), a partnership and the members of it are deemed to be one participant and a corporation and the officers of it are deemed to be one participant. O. Reg. 30/11, s. 202 (10).
- (11) If an amount is recovered from any source in partial satisfaction of the total claim against a participant, the maximum amount authorized by subsection (8) is reduced by the amount so recovered. O. Reg. 30/11, s. 202 (11).
- (12) If it appears to the Authority or the Committee that a person will be entitled to claim against the Fund, and that the person has been placed in circumstances where immediate funds or service are necessary to alleviate undue inconvenience of the person, the Committee, with the concurrence of the Authority, may direct the Trustee to pay out of the Fund an amount sufficient to alleviate the immediate inconvenience. O. Reg. 30/11, s. 202 (12); O. Reg. 288/15, s. 4.
- (13) If the Committee approves a claim, the Trustee shall pay the claim out of the Fund to the persons entitled. O. Reg. 30/11, s. 202 (13).
- (14) If the Trustee makes a payment out of the Fund, the Committee is subrogated, for the amount of the payment, to all rights and remedies to which the person receiving the payment is entitled in respect of the claim for which the payment was made, including rights and remedies that the person has,
- (a) as judgment creditor or execution creditor in respect of any judgment that has been assigned under subsection (8) against the participant or any other person; or
  - (b) in the event of the death, insolvency, bankruptcy or other disability of the participant or other person, against the personal representative or other person administering the estate of the participant. O. Reg. 30/11, s. 202 (14).

**Hearing by Tribunal and decision**

- 203.** (1) If the Committee determines that a claim or any part of it made under section 202 is not a proper claim, it shall serve notice of its decision, together with written reasons, on the claimant. O. Reg. 30/11, s. 203 (1).
- (2) The notice of the Committee's decision shall inform the claimant that the claimant is entitled to a hearing by the Tribunal if the claimant mails or delivers to the registrar and the Tribunal within 15 days after the notice is served on the claimant, notice in writing requiring a hearing. O. Reg. 30/11, s. 203 (2).
- (3) If a claimant who is served with a notice of the Committee's decision does not request a hearing, the decision of the Committee is final. O. Reg. 30/11, s. 203 (3).

(4) If a claimant requests a hearing before the Tribunal with respect to a determination of the Committee, the Tribunal shall appoint a time for and hold the hearing. O. Reg. 30/11, s. 203 (4).

(5) The claimant who requests the hearing and such other persons as the Tribunal may specify are parties to the hearing. O. Reg. 30/11, s. 203 (5).

(6) After holding the hearing, the Tribunal may confirm the determination of the Committee or may set aside the determination of the Committee with respect to all or any part of a claim and direct the Trustee to pay the amount determined by the Tribunal. O. Reg. 30/11, s. 203 (6).

(7) The Committee shall report to the registrar with respect to the determination of each claim. O. Reg. 30/11, s. 203 (7).

#### TERMINATION OF PARTICIPATION IN THE FUND

##### **Voluntary cancellation of licence**

**204.** A participant whose licence the registrar cancels under section 21 of the Act shall be deemed to be no longer participating in the Fund on the day that the registrar cancels the licence. O. Reg. 30/11, s. 204.

##### **Default of participant**

**205.** (1) If a participant fails to meet an obligation or liability under section 198, the Committee shall forward notice in writing of the failure to the participant and the registrar. O. Reg. 30/11, s. 205 (1).

(2) A participant who receives a notice under subsection (1) shall satisfy the failure or make arrangements satisfactory to the registrar within 10 days from the date of the notice. O. Reg. 30/11, s. 205 (2).

(3) This section does not apply where the failure is due to insolvency, bankruptcy or a voluntary or compulsory winding up of a participant. O. Reg. 30/11, s. 205 (3).

##### **Documents to file**

**206.** A participant who ceases to participate in the Fund shall file with the Committee and the registrar the financial statements and other evidence that the Committee in its discretion requires to establish that,

- (a) the affairs of the participant are settled;
- (b) there are no claims against the Fund; and
- (c) the participant has made arrangements satisfactory to the Committee to ensure that all liabilities and obligations of the participant that could give rise to claims against the Fund have been met and discharged. O. Reg. 30/11, s. 206.

#### TRUSTEE

##### **Appointment**

**207.** (1) With the approval of the Authority, the Committee shall appoint a trust corporation registered under the *Loan and Trust Corporations Act* as the Trustee. O. Reg. 30/11, s. 207 (1); O. Reg. 288/15, s. 4.

(2) The Trustee may resign as Trustee by giving 90 days notice in writing to the Authority. O. Reg. 30/11, s. 207 (2); O. Reg. 288/15, s. 4.

(3) The Committee or the Authority may require the removal of the Trustee on giving 90 days notice in writing to the Trustee. O. Reg. 30/11, s. 207 (3); O. Reg. 288/15, s. 4.

(4) If the Trustee resigns, is removed or is unable to act, the Committee, with the approval of the Authority, shall appoint another trust corporation registered under the *Loan and Trust Corporations Act* as a successor Trustee. O. Reg. 30/11, s. 207 (4); O. Reg. 288/15, s. 4.

(5) Upon accepting the appointment as successor Trustee, the successor shall, subject to subsection (6), have vested in it without further act or formality, all rights and powers given under this Part to the Trustee who resigned, was removed or was unable to act. O. Reg. 30/11, s. 207 (5).

(6) Upon the written request of the Committee, the Trustee ceasing to act shall execute and deliver an instrument in writing transferring to the successor Trustee all the rights, powers and Fund assets reposing in or with the Trustee ceasing to act and shall do all other acts or things necessary or desirable for the vesting of the Fund assets in the successor Trustee. O. Reg. 30/11, s. 207 (6).

(7) A Trustee ceasing to act shall render to the Authority and to the Committee an account of its administration. O. Reg. 30/11, s. 207 (7); O. Reg. 288/15, s. 4.

(8) The trustee of the compensation fund under the *Funeral Directors and Establishments Act* on the day before the day this Part comes into force shall be deemed to be the Trustee until a new trustee is appointed under this section. O. Reg. 30/11, s. 207 (8).

##### **General powers**

**208.** (1) The Trustee may act upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, letter, telegram, cablegram or other paper or document believed by it on reasonable grounds to be genuine and to have been signed, sent or delivered by or on behalf of the proper parties. O. Reg. 30/11, s. 208 (1).

(2) The Trustee may employ or retain the counsel, accountants, appraisers or other experts or advisors that it may reasonably require for the purpose of discharging its duties under this Part and may act on the opinion or advice of or information obtained from any of them and shall not be responsible for any misconduct on the part of any of them. O. Reg. 30/11, s. 208 (2).

#### **Investments**

**209.** (1) In administering the Fund, the Trustee shall deal with the property of the Fund in accordance with the *Trustee Act*. O. Reg. 30/11, s. 209 (1).

(2) The Trustee shall not be required to give any bond or other security for the performance of its duties. O. Reg. 30/11, s. 209 (2).

(3) Except if the loss results from its own fraud, negligence or wilful misconduct, the Trustee shall not be responsible for any loss in the property of the Fund of whatever character, including a loss resulting from,

- (a) the making of any investments;
- (b) the retention in good faith for any length of time of securities or other property of whatsoever character purchased or acquired by it, even if the securities or property are not income producing; or
- (c) any mistake in judgment made in good faith. O. Reg. 30/11, s. 209 (3).

#### **Fees and expenses**

**210.** (1) The Trustee's fee for performing its duties under this Part shall be the fee that is mutually agreed upon between the Authority and the Trustee. O. Reg. 30/11, s. 210 (1); O. Reg. 288/15, s. 4.

(2) In addition to the fee mentioned in subsection (1), the Trustee is entitled to be reimbursed for all expenses that the Trustee reasonably incurs in the performance of its duties under this Part. O. Reg. 30/11, s. 210 (2).

(3) All fees and expenses of the Trustee and the expenses that the Committee directs be paid from the Fund shall be deducted first from the income of the Fund and, if there is any deficiency, from the capital of the Fund. O. Reg. 30/11, s. 210 (3).

#### **Reports to Committee**

**211.** The Trustee shall furnish the Committee with all information, records and documents in its possession in connection with this Part and its administration of the Fund that the Committee reasonably requests. O. Reg. 30/11, s. 211.

## **PART V**

### **DELEGATION OF REGULATION-MAKING AUTHORITY TO THE MINISTER AND DISCIPLINE**

#### **Delegation of regulation-making authority**

**212.** The authority to make regulations relating to the matters described in the following provisions of the Act is delegated to the Minister:

1. Paragraph 22 of subsection 113 (1) with respect to governing the maximum amount that an operator may specify on a price list,
  - i. as a refundable deposit to inter unclaimed cremated human remains,
  - ii. for providing one or more services under subsection 164 (1) or (2) of this Regulation,
  - iii. for receiving human remains from an irregular burial site, and
  - iv. for providing a service under subsection 188 (1) of this Regulation.
- 1.1 Paragraphs 42 and 43 of subsection 113 (1).
2. Paragraph 54 of subsection 113 (1) with respect to exempting any person, class of person or class of licensee from section 54 of the Act.
3. Paragraph 17.2 of subsection 113 (2).
4. Paragraph 20 of subsection 113 (2) with respect to payments for providing one or more services under subsection 164 (1) or (2) of this Regulation.
5. Paragraph 29 of subsection 113 (2).
6. Paragraph 6 of subsection 113 (3).

7. Paragraph 8 of subsection 113 (3) with respect to payments for providing a service under subsection 188 (1) of this Regulation. O. Reg. 30/11, s. 212; O. Reg. 122/16, s. 2.

**Order of discipline committee**

**212.1** The Bereavement Authority of Ontario is prescribed for the purposes of paragraph 5 of subsection 64 (2) of the Act. O. Reg. 288/15, s. 6.

**Transition**

**212.2** Part VIII of the Act and any regulation made under it applies to licensees who were subject to disciplinary proceedings under sections 16, 17 and 18 of the *Board of Funeral Services Act* immediately before the repeal of that Act. O. Reg. 288/15, s. 6.

**PART VI  
TRANSITIONAL MATTERS**

DEFINITION

**Definition**

**213.** In this Part,

“former Act” means,

- (a) the *Cemeteries Act (Revised)*, including a predecessor Act to it and a private Act relating to a cemetery, or
- (b) the *Funeral Directors and Establishments Act*, as it read on the day immediately before Part IV of the *Funeral, Burial and Cremation Services Act, 2002* comes into force, including a predecessor Act to that *Funeral Directors and Establishments Act*. O. Reg. 30/11, s. 213.

LICENCES

**Funeral Establishment Operator**

**214.** (1) A person who, on the day immediately before section 8 of the Act comes into force, operates premises that are established for the purpose of temporarily placing human remains so that persons may attend and pay their respects is deemed to be licensed under the Act as a Funeral Establishment Operator – Class 2 with respect to those premises. O. Reg. 30/11, s. 214 (1).

(2) The premises mentioned in subsection (1) do not include,

- (a) premises whose primary functions do not include being used for the purpose of temporarily placing human remains so that persons may attend and pay their respects but that are occasionally used for that purpose; or
- (b) premises that are identified as the premises of a person licensed as a Funeral Establishment Operator – Class 1. O. Reg. 30/11, s. 214 (2).

(3) A deemed licence mentioned in subsection (1) expires on the December 31 that is at least three months after the day section 14 of the Act comes into force. O. Reg. 30/11, s. 214 (3).

**Transfer Service Operator**

**215.** For the purposes of subsection 13 (3) of the Act, a person licensed to operate a transfer service under the *Funeral Directors and Establishments Act* on the day immediately before the day section 12 of the Act comes into force is deemed to be licensed under the Act as a Transfer Service Operator – Class 2. O. Reg. 30/11, s. 215.

**Funeral Director**

**216.** (1) A person licensed as a funeral director under the *Funeral Directors and Establishments Act* on the day immediately before section 9 of the Act comes into force is deemed to be licensed as,

- (a) a Funeral Director – Class 1, if the person is licensed under that Act in the class authorizing the performing of embalming; and
- (b) a Funeral Director – Class 2, if the person is licensed under that Act in the class not authorizing the performing of embalming. O. Reg. 30/11, s. 216 (1).

(2) A deemed licence mentioned in subsection (1) expires on the December 31 that is at least three months after the day section 14 of the Act comes into force. O. Reg. 30/11, s. 216 (2).

**Sales Representative**

**217.** (1) A person is deemed to be licensed as a sales representative for a cemetery operator, crematorium operator or transfer service operator, as the case may be, if the person is employed as a sales representative for the operator on the day immediately before section 14 of the Act comes into force. O. Reg. 30/11, s. 217 (1).

(2) Subsection (1) does not apply to a person employed as a sales representative for an operator who is exempt from clause 4 (2) (a) of the Act by reason of subsection 7 (1) of this Regulation. O. Reg. 30/11, s. 217 (2).

(3) A deemed licence mentioned in subsection (1) expires on the December 31 that is at least three months after the day section 14 of the Act comes into force. O. Reg. 30/11, s. 217 (3).

#### **Funeral preplanner**

**218.** (1) A person who, on the day immediately before section 9 of the Act comes into force, is employed in the sale of funeral supplies or services on behalf of a funeral establishment licensed under the *Funeral Directors and Establishments Act*, other than a funeral director licensed under that Act, is deemed to be registered as a funeral preplanner intern for that funeral establishment. O. Reg. 30/11, s. 218 (1).

(2) A deemed registration mentioned in subsection (1) expires on the day that is 12 months after the day section 14 of the Act comes into force. O. Reg. 30/11, s. 218 (2).

#### **Outstanding applications for licences**

**219.** An application for a licence or a renewal of a licence under a former Act that has not been finally determined on the day section 14 of the Act comes into force is deemed to be an application for a licence or renewal of licence under the Act, as the case may be, and shall be determined as if it were an application for licence or renewal of licence, as the case may be, under the Act. O. Reg. 30/11, s. 219.

#### **Educational requirements for a licence**

**220.** An education program and examination set or approved by the Board under section 3 or 11 of Regulation 470 of the Revised Regulations of Ontario, 1990 (Licensing and Business Practices) made under the *Funeral Directors and Establishments Act* on the day immediately before the day section 14 of the Act comes into force is deemed to be an educational program set by the registrar under section 42 of this Regulation for the purposes of licensing funeral directors or transfer service operators until the registrar directs otherwise. O. Reg. 30/11, s. 220.

### REPORTING AND FILING OBLIGATIONS

#### **Notification to registrar of employees**

**221.** An operator who, under this Part or section 13 of the Act, is deemed to be licensed shall notify the registrar in writing, within 30 days of the day section 13 of the Act comes into force, of the names of all persons employed by the operator and engaged in activity that results in the person being deemed to be licensed as a sales representative or registered as a funeral preplanner intern under section 217 or 218, as applicable. O. Reg. 30/11, s. 221.

#### **Obligations under a former Act**

**222.** Despite the repeal of a former Act, an obligation to provide or file documents with the Registrar appointed under the former Act shall continue as an obligation to provide or file the documents with the registrar under the Act. O. Reg. 30/11, s. 222.

### CONSUMER PROTECTION

#### **Contracts**

**223.** (1) Subject to subsection (2), Part V of the Act does not invalidate a contract entered into under a former Act before the day Part V of the Act comes into force. O. Reg. 30/11, s. 223 (1).

(2) If a contract entered into under a former Act before the day Part V of the Act comes into force is renewed or amended after that day, it shall comply with the Act. O. Reg. 30/11, s. 223 (2).

#### **Trust money**

**224.** An operator who holds a licence under the Act or who, under this Part or section 13 of the Act, is deemed to hold a licence under the Act may hold trust money obtained under a former Act in a trust account or a pooled trust fund or account established under the Act only if,

- (a) the records maintained for the account or fund permit the separate tracking and reporting on funds in the account or fund as funds under a former Act or funds under the Act;
- (b) the account or fund is for licensed supplies or services the operator is licensed to provide; and
- (c) if it is a pooled trust fund or account, the requirements of section 80 of this Regulation are met. O. Reg. 30/11, s. 224.

### ENFORCEMENT

#### **Inspections**

**225.** (1) A person authorized to conduct an inspection under section 67 of the Act may conduct an inspection for the purposes of determining whether a person,

- (a) has contravened or failed to comply with a former Act or a regulation made under a former Act if no final determination has been made in respect of the contravention or failure to comply;
  - (b) has contravened or failed to comply with a term or condition of a licence issued under a former Act if no final determination has been made in respect of the contravention or failure to comply; or
  - (c) is complying with an order made under a former Act. O. Reg. 30/11, s. 225 (1).
- (2) During an inspection under subsection (1), an inspector may exercise any of the powers of inspection available under section 67 of the Act. O. Reg. 30/11, s. 225 (2).

#### **Investigators**

**226.** An investigator may conduct an investigation with respect to matters described in clause 225 (1) (a), (b) or (c) of this Regulation and for that purpose may exercise any of the powers of investigation available under section 70, 70.1 or 71 of the Act. O. Reg. 30/11, s. 226.

#### **Receivers, managers and trustees**

**227.** (1) A manager or a receiver and manager appointed under a former Act no later than the day before the day on which section 77 of the Act comes into force is deemed to be a receiver and manager appointed under that section. O. Reg. 30/11, s. 227 (1).

(2) A trustee of a care and maintenance fund or account appointed under a former Act no later than the day before the day on which section 53 of the Act comes into force is deemed to be a trustee appointed under that section. O. Reg. 30/11, s. 227 (2).

### MISCELLANEOUS

#### **Outstanding proceedings**

**228.** (1) A complaint, hearing or appeal that was commenced under a former Act and that has not been finally determined on the day the Act comes into force shall be continued under the former Act. O. Reg. 30/11, s. 228 (1).

(2) An abandonment or closure application that was initiated under the *Cemeteries Act (Revised)* and that has not been finally determined on the day section 114 of the Act comes into force shall be dealt with in accordance with that Act. O. Reg. 30/11, s. 228 (2).

#### **Application to other burial sites**

**229.** The Act and the regulations apply to,

- (a) a burial site under the *Cemeteries Act (Revised)* that is not an irregular burial site under that Act and for which a site disposition agreement has not been concluded; and
- (b) an irregular burial site under the *Cemeteries Act (Revised)* that has been identified to the registrar before the day the Act comes into force and that has not been dealt with. O. Reg. 30/11, s. 229.

#### **Fees**

**230.** A fee paid for a matter under a former Act shall be deemed to have been paid in relation to a fee owing for the matter under section 108 of the Act if the fee paid is in relation to a period of time that includes time following the day that section comes into force. O. Reg. 30/11, s. 230.

**231.** REVOKED: O. Reg. 288/15, s. 8.

Français

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