



Province of Alberta

## FUNERAL SERVICES ACT

# GENERAL REGULATION

### **Alberta Regulation 226/1998**

With amendments up to and including Alberta Regulation 14/2019

Current as of January 25, 2019

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(Consolidated up to 14/2019)

**ALBERTA REGULATION 226/98**

**Funeral Services Act**

**GENERAL REGULATION**

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#### **Interpretation**

##### **1** In this Regulation,

- (a) “Act” means the *Funeral Services Act*;
- (a.1) “Board” means the Alberta Funeral Services Regulatory Board;
- (a.2) “business day” means the days of the week other than Saturdays and holidays as defined in the *Interpretation Act*;
- (a.3) “business manager” means a business manager appointed in accordance with section 18;

- (b) “embalmer” means a person who holds an embalmer licence issued under section 20;
- (c) “embalmer trainee” means a person who is registered in an appropriate training program referred to in section 27 or is completing a period of practical experience referred to in section 27.1;
- (d) “funeral director” means a person who holds a funeral director licence issued under section 19;
- (e) “funeral director trainee” means a person who is registered in an appropriate training program referred to in section 27 or is completing a period of practical experience referred to in section 27.1;
- (f) “funeral services business” means a sole proprietorship, partnership or corporation that holds a licence issued under section 2;
- (f.1) “industry member” means a member of the Board under section 37.3(1)(b);
- (g) “pre-need salesperson” means a person who holds a pre-need salesperson licence issued under section 21;
- (h) “pre-need salesperson trainee” means a person who is registered in an appropriate training program referred to in section 27 or is completing a period of practical experience referred to in section 27.1;
- (i) “professional service charge” means the costs associated with the provision of services by a funeral services business;
- (j) “public interest member” means a member of the Board under section 37.3(1)(a).

AR 226/98 s1;345/2003

### **Funeral Services Businesses**

#### **Funeral services business licence**

**2(1)** Subject to subsection (2), a funeral services business licence authorizes the licensee to enter into funeral services contracts with members of the public.

**(2)** A funeral services business licence authorizes the licensee to enter into pre-need funeral services contracts with members of the public only if the licence specifically states such authorization.

(3) A funeral services business shall hold a separate funeral services business licence for each of its business locations.

**Application for funeral services business licence**

**3(1)** A person applying for a funeral services business licence shall make application to the Director on the form set by the Director and the application shall be accompanied with

- (a) proof that the applicant has obtained any approvals that are required under the *Municipal Government Act* or under any other legislation,
- (b) the name of the person who will be appointed as the business manager for the proposed funeral services business,
- (c) any additional information required by the Director, and
- (d) the fee set out in section 37.

**(2)** If the proposed funeral services business will be entering into pre-need funeral services contracts, the application shall also be accompanied with a copy of

- (a) any agreement made between the applicant and an authorized trustee for the establishment of a special fund as referred to in section 8 of the Act,
- (b) a standard form of the pre-need funeral services contract that the funeral services business proposes to use, and
- (c) any agreement made between the applicant and an insurance company for which the applicant acts as an agent in soliciting the sale of or selling a contract of life insurance to a purchaser of a pre-need funeral services contract for the purpose of funding the purchase price under that contract.

AR 226/98 s3;251/2001

**Director's approval**

**4(1)** The Director shall not issue a funeral services business licence that authorizes the licensee to enter into pre-need funeral services contracts unless the Director

- (a) approves the form and contents of the documents referred to in section 3(2)(a) and (b), and

- (b) is satisfied that the provisions of an agreement referred to in section 3(2)(c) are not misleading and are consistent with the Act and its regulations.

**(2)** A funeral services business licensee shall not cancel, amend or vary the provisions of any document referred to in section 3(2) unless the licensee

- (a) obtains the prior written approval of the Director, and
- (b) pays a fee of \$25 to the Director.

#### **Expiry**

**5** A funeral services business licence and any renewal of a funeral services business licence expire on the March 31 following their issue.

#### **Renewal of funeral services business licence**

**6(1)** A person applying for a renewal of a funeral services business licence shall make application to the Director on the form set by the Director and the application shall be accompanied with

- (a) the name of the business manager for the funeral services business,
- (b) the number of funeral services contracts under which the applicant provided funeral services in the year preceding the application,
- (c) any additional information required by the Director, and
- (d) the fee set out in section 37.

**(2)** The Director may refuse to renew a funeral services business licence if

- (a) an inspection under section 26 has revealed deficiencies that have not been corrected, or
- (b) in the Director's opinion, it is not in the public interest to grant the renewal.

#### **Name of business**

**7** If a funeral services business carries on business under a name or style other than its corporate name, the business's corporate name must be clearly disclosed to the public

- (a) on the business's letterhead,

- (b) in the business's contracts,
- (c) in advertising, and
- (d) on the business's price list.

AR 226/98 s7;152/2011

**Requirements of funeral services contract****8(1)** A funeral services contract shall

- (a) be in writing,
- (b) be signed by the purchaser and by
  - (i) a funeral director of the funeral services business, or
  - (ii) a pre-need salesperson of the funeral services business, if it is a pre-need funeral services contract,
- (c) contain a detailed listing of the goods and services to be provided by the funeral services business and the cost to be charged to the purchaser for each of those goods and services including, without limitation, where applicable:
  - (i) the professional service charge;
  - (ii) the facility charges;
  - (iii) the transportation costs;
  - (iv) the cost of the casket;
  - (v) the cost of the outer receptacle;
  - (vi) the cost of cremation;
  - (vii) the cost of the cremation container;
  - (viii) the cost of the urn;
  - (ix) the amount or amounts, if any, set aside for the payment of taxes;
  - (x) the itemized cost of other disbursements not included in subclauses (i) to (ix);
  - (xi) the total cost of all items referred to in subclauses (i) to (x);
- (c.1) contain a list of the current locations where embalming, and cremation services are to be performed and contain a

statement that the final location of these services may be subject to change and, if changed, a list of the then current locations will be provided at the time these services are required;

- (d) contain a statement of cancellation rights in accordance with section 9, if it is a pre-need funeral services contract;
- (e) contain a statement, to be initialled by the purchaser, that cremated remains not claimed within 5 years after the date of cremation will be disposed of in accordance with section 36.3.

**(2)** At the time a funeral services contract is entered into, the funeral services business must disclose to the purchaser, in writing, whether or not refrigeration is available at the location where the funeral services will be provided.

**(3)** Where a funeral services business does not have refrigeration facilities available at the location where the funeral services will be provided, and

- (a) the funeral services contract does not provide for embalming services, and
- (b) final disposition will not occur within 72 hours from the time the funeral services business takes possession of the deceased's remains,

the funeral services business must disclose in writing, at the time the funeral services business takes possession of the deceased's remains, the location of any refrigeration facilities to which the funeral services business has been provided access.

AR 266/98 s8;345/2003;152/2011

#### **Copy of funeral services contract**

**8.1** A funeral services business must provide a copy of the signed funeral services contract to the purchaser immediately after the contract is signed.

AR 152/2011 s4

#### **Statement of cancellation rights**

**9(1)** A statement of cancellation rights shall

- (a) be in the form in Schedule 1,
- (b) show the heading in not less than 12-point bold type,
- (c) show paragraph 1 in 12-point type, and

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

(2) Where the statement of cancellation rights is not printed on the front of the pre-need funeral services contract there shall be a notice printed on the front of the contract, in not less than 12-point bold type, indicating where on the contract the statement of cancellation rights is printed.

AR 226/98 s9;345/2003

#### **Cancellation without penalty**

**10** For the purposes of section 5(2) of the Act, the period within which a pre-need funeral services contract may be cancelled without charge or penalty is 30 days from the date on which the purchaser receives a copy of the contract.

AR 226/98 s10;251/2001

#### **Maximum administration fee**

**11** For the purposes of section 6(1) of the Act, the maximum administration fee that may be charged is

- (a) in a case where the licensee elects to charge the fee under section 6(1)(a) of the Act, 15% of the total cost of the pre-need funeral services contract disclosed in the contract as required under section 8(c), or
- (b) in a case where the licensee elects to charge the fee under section 6(1)(b) of the Act, 15% of the amount held in trust on the date of the cancellation or assignment, including income on that amount.

AR 226/98 s11;251/2001;345/2003;152/2011

#### **Election as to administration fee**

**11.1(1)** A funeral services business licensee shall file with the Director an election in a form acceptable to and containing the information required by the Director that sets out the election required for the purposes of section 6(2) of the Act.

(2) A funeral services business licensee may not make an election under section 6(2) of the Act more frequently than once in every 12-month period.

(3) An election filed under this section applies only in respect of pre-need funeral services contracts that are entered into after the date on which the election is filed with the Director.

AR 345/2003 s6

**Funds not claimed**

**11.2(1)** Money held by a funeral services business pursuant to a pre-need funeral services contract becomes unclaimed trust money where

- (a) the funeral services business has been unable to determine whether the contract beneficiary is deceased and has reasonable grounds to believe that the contract beneficiary would be 120 years old, or
- (b) the funeral services business has reasonable grounds to believe that another funeral services business has provided the funeral services,

and it is also the case that

- (c) goods or services that are the subject of the contract have not been provided, and
- (d) the funeral services business has been unable to locate the purchaser or personal representative.

**(2)** Once money held by a funeral services business pursuant to a pre-need funeral services contract becomes unclaimed trust money, the funeral services business shall

- (a) notify the authorized trustee in writing and direct the trustee to transfer the money and income to the Minister within 15 days,
- (b) notify the Minister in writing of the transfer, and
- (c) provide the Minister with any other information requested by the Minister.

**(3)** Money paid to the Minister under subsection (2) shall be held in trust by the Minister for 2 years.

**(4)** Investment income on money paid to the Minister under subsection (2) accrues to the Crown.

**(5)** A person who makes an application to claim money paid under subsection (2) shall

- (a) make the application in a form approved by the Minister, and
- (b) provide the Minister with any information requested by the Minister.

**(6)** The Minister shall, within 120 days after an application is received under subsection (5), consider the application and may

- (a) allow the claim, if the Minister is satisfied that the applicant has a valid entitlement to the money, or
- (b) deny the claim, if the Minister is not satisfied that the applicant has a valid entitlement to the money.

(7) If the Minister does not receive a valid application for money paid under subsection (2) by a person entitled to it within 2 years from the time that the money is paid to the Minister,

- (a) the money shall be paid to the Board, and
- (b) all claims to the money by the person entitled to it are extinguished.

AR 152/2011 s6

#### **Consumer assistance fund**

**11.3(1)** No money shall be paid to the Board until a consumer assistance fund has been established.

(2) All money paid to the Board under section 11.2 shall be paid into the consumer assistance fund and that money shall be used for the purposes of advancing funeral services, including, without limitation, providing funeral services to low income persons, consumer education and grief counselling, as directed by the Minister.

(3) No money shall be paid from the consumer assistance fund before January 1, 2015.

AR 152/2011 s6

#### **Investments**

**11.4(1)** The Board may invest money in the consumer assistance fund only in investments in which trustees are permitted to invest trust funds as provided for under Schedule 3.

(2) Investment income earned on deposits of the consumer assistance fund accrues to and forms part of the consumer assistance fund.

AR 152/2011 s6

#### **Annual statement**

**11.5(1)** The Board must ensure that an audited financial statement on the consumer assistance fund containing the information required by the Minister is prepared for each fiscal year of the Board.

(2) The Board must submit an audited financial statement prepared in accordance with subsection (1) to the Minister by July 31 following the fiscal year for which it is prepared.

AR 152/2011 s6

#### **Winding-up of fund**

**11.6(1)** The consumer assistance fund may not be wound up without an order of the Minister.

(2) If the consumer assistance fund is wound up, the consumer assistance fund must

- (a) first, be used to pay all costs incurred in the winding-up of the consumer assistance fund, and
- (b) second, be disposed of in accordance with an order of the Minister.

AR 152/2011 s6

#### **Transfer of money to authorized trustee**

**12(1)** For the purposes of section 8(1) of the Act, the period within which a licensee shall transfer money in trust to an authorized trustee is 5 business days from the date on which the cancellation period under section 10 expires.

(2) Notwithstanding subsection (1), where the cost of a pre-need funeral services contract is paid by instalments and the licensee charges an administration fee in accordance with section 6(1)(a) of the Act, the licensee

- (a) may collect that administration fee from the initial instalment payments until the full amount of the fee is satisfied, and
- (b) shall transfer each instalment payment received after the full amount of the administration fee has been satisfied to an authorized trustee within 5 business days of the date on which the payment is received.

AR 226/98 s12;251/2001;345/2003;152/2011

#### **Assignment of pre-need contract by licensee**

**12.1(1)** A funeral services business licensee may not assign a pre-need funeral services contract to another licensee under section 11(1)(a) of the Act unless

- (a) the assigning licensee gives the Director notice in the form and manner and containing the information required

by the Director at least 45 days prior to the proposed assignment,

- (b) the Director approves the proposed assignment, and
- (c) the purchaser of the contract agrees to the proposed assignment.

**(2)** After the Director has approved a proposed assignment under subsection (1), the assigning licensee shall give to the purchaser of the contract a notice in writing in a form acceptable to the Director setting out the purchaser's option to, within a period of 30 days, either

- (a) agree to the assignment and to the transfer to the other licensee of
  - (i) the contract, and
  - (ii) all money paid under the contract and income on it that is held by the authorized trustee, subject to any agreement between the assigning licensee and the other licensee as to the disposition of any administration fee to which the assigning licensee is entitled,
- (b) cancel the contract and recover the amounts referred to in clause (a)(ii) and any administration fees paid under the contract, or
- (c) direct the assigning licensee to assign the contract and amounts referred to in clause (a)(ii) and any administration fees paid under the contract to another licensee specified by the purchaser.

**(3)** Where a purchaser agrees to an assignment under subsection (2)(a) or makes a direction under subsection (2)(c), the purchaser shall notify the assigning licensee to that effect in writing.

**(4)** On receiving a notice under subsection (3), the assigning licensee shall

- (a) assign the contract to the other licensee, in a case where the purchaser agrees to the assignment under subsection (2)(a), or
- (b) in a case where the purchaser makes a direction under subsection (2)(c), comply with the direction within 15 days after receiving the notice.

**(5)** A funeral services business licensee to whom a contract is assigned under subsection (4) shall,

- (a) within 15 days after receipt of the assignment, give to the purchaser of the contract written notice of the assignment, and
  - (b) within 30 days after receipt of the assignment, file with the Director an acceptance report in a form acceptable to the Director and containing the information required by the Director.
- (6) Where the purchaser cancels the contract under subsection (2)(b), the purchaser shall do so in the manner provided in the form in Schedule 1.
- (7) The assigning licensee shall return the amounts referred to in subsection (2)(a)(ii) and the administration fees paid under the contract to the purchaser within 15 days after receipt of the notice of cancellation under subsection (6).

AR 345/2003 s8;152/2011

**Assignment of pre-need contract by purchaser, etc.**

**12.2** The following applies where a person assigns a pre-need funeral services contract under section 11(1)(b), (c) or (d) of the Act:

- (a) the person shall give written notice to the assigning licensee of his or her wish to have the contract assigned, and the notice must indicate the name and address of the licensee to whom the contract is to be assigned;
- (b) the assigning licensee shall
  - (i) transfer the contract within 7 days of receiving written notice under clause (a) to the other licensee,
  - (i.1) provide written notification to the authorized trustee within 5 business days of receiving written notice under clause (a) stating the money held in trust is to be transferred as provided for under the Act and this Regulation, and
  - (ii) ensure that money held in trust is transferred as required under the Act and the regulations, subject to the assigning licensee's right, if any, to charge an administration fee under section 6 of the Act;

- (c) subject to any changes to the contract that are agreed on by the person and the new licensee, the new licensee becomes the licensee under the contract with the person and assumes all of the rights and obligations of the assigning licensee.

AR 345/2003 s8;152/2011

#### **Change in location of trust account**

**12.3** A funeral services business shall inform the Director in writing prior to any changes respecting the location where a trust account is held.

AR 152/2011 s10

#### **Embalming**

**13(1)** A funeral services business that offers embalming at one or more of its business locations shall have in place a code of practice for embalming that is established specifically for each location.

**(2)** A code of practice referred to in subsection (1) shall be prepared in accordance with section 33(2) of the *Occupational Health and Safety Act* and the regulations under that Act.

**(3)** A funeral services business that offers embalming shall have at least one room that is used exclusively for keeping, embalming and preparing dead human bodies for disposition.

AR 226/98 s13;251/2001;152/2011

#### **Authorization to embalm or cremate**

**13.1** A funeral services business licensee shall not

- (a) embalm a dead human body without express authorization, or
- (b) cremate a dead human body without express authorization in writing

from a person who the representative of the funeral services business believes on reasonable grounds has authority to control the disposition of the dead human body.

AR 345/2003 s9;113/2004

#### **Code of conduct**

**13.2** A licensee shall comply with the Code of Conduct in Schedule 2.

AR 345/2003 s9

**Fixed business location**

**13.3** A funeral services business must have a fixed business location.

AR 345/2003 s9;152/2011

**Notice to Director of changes**

**14** Every funeral services business licensee shall within 10 days give written notice to the Director of

- (a) any change of address for service,
- (b) any change in the officers of the company or corporation or partners of a partnership, and
- (c) the date on which the funeral services business or any of its locations goes out of business or otherwise stops operating.

AR 226/98 s14;152/2011

**Records**

**15(1)** Every funeral services business licensee shall

- (a) maintain full and adequate records of the business operation,
  - (a.1) retain a copy of all funeral services contracts entered into and trust account information obtained for a minimum period of 7 years after the trust money has been transferred to the Minister in accordance with section 11.2,
- (b) retain those records for a minimum period of 7 years following provision of the services to which they relate or cancellation of the contract to which they relate, and
- (c) permit an authorized representative of the Director to inspect at all reasonable times the licensee's business records.

**(2)** Without limiting the generality of subsection (1)(a), the records must contain the following:

- (a) a register showing the names of all funeral director trainees, embalmer trainees and pre-need salesperson trainees employed by the funeral services business;
- (b) a register of pre-need funeral services contracts showing, with respect to each contract,

- (i) the date of the contract,
  - (ii) the name and address of the purchaser,
  - (iii) the name, address and date of birth of the person for whose benefit the contract was entered into,
  - (iv) particulars of money
    - (A) transferred to a trustee under section 8 of the Act, or
    - (B) paid or to be paid to an insurance company pursuant to an agreement referred to in section 3(2)(c),
  - (v) the amount charged as an administration fee,
  - (vi) the place and date of death of the person for whose benefit the contract was entered into,
  - (vii) the date on which the contract was fully performed or cancelled, and
  - (viii) the amount held in trust under section 7 of the Act, broken down as to principal and income;
- (c) a register in a form acceptable to the Director showing the following with respect to each funeral service provided:
- (i) the name of the deceased;
  - (ii) the date and place of death;
  - (iii) the date on which the funeral services were provided;
  - (iv) the name and address of the person who made the funeral arrangements;
  - (v) the name of the person who authorized embalming or cremation or both;
  - (vi) the date of burial, if applicable, and the name and location of the cemetery in which the body was buried;
  - (vii) the name and address of the person to whom the deceased's body or the cremated remains were released, if applicable;
  - (viii) the date on which the deceased's body or the cremated remains were released, if applicable.

(3) Repealed AR 152/2011 s14.

AR 226/98 s15;345/2003;152/2011

#### **Annual pre-need trust report**

**16(1)** The licensee of a funeral services business that enters into pre-need funeral services contracts or holds money in trust pursuant to sections 7 and 8 of the Act shall annually provide to the Director a report of its financial affairs for the preceding year

- (a) within 120 days of its fiscal year end,
- (b) in the form set by the Director, and
- (c) completed by a professional accounting firm registered under the *Chartered Professional Accountants Act*.

**(2)** The Director may require the report under subsection (1) to be audited by an independent auditor within the time specified by the Director.

AR 226/98 s16;251/2001;345/2003;152/2011;152/2015

#### **Permission from seniors residence or hospital**

**17** No licensee shall display or distribute information about pre-need funeral services contracts

- (a) in any home or residence maintained for elderly persons or in any hospital, or
- (b) on the grounds forming part of the home, residence or hospital,

unless the licensee obtains prior written permission from the management of the home, residence or hospital.

**17.1** Repealed AR 152/2011 s16.

#### **Business manager**

**18(1)** Each funeral services business shall appoint a person who holds a business manager licence to act as the business manager for the business.

**(1.1)** A funeral services business that has more than one business location may appoint one business manager for all business locations.

**(2)** The business manager

- (a) shall represent the funeral services business in all matters relating to its licensed activities,

- (b) is responsible for the operation of the funeral services business and the conduct of the funeral directors, funeral director trainees, embalmers, embalmer trainees, pre-need salespersons and pre-need salesperson trainees employed by the business, and
  - (c) shall ensure that the funeral services business maintains records in accordance with the Act and the regulations under the Act.
- (3)** The business manager shall ensure that it is a licensed funeral director or a funeral director trainee acting under the supervision of a licensed funeral director who
  - (a) enters into funeral services contracts on behalf of the funeral services business with members of the public, and
  - (b) arranges or directs funeral or memorial services.
- (4)** The business manager for a funeral services business that is licensed to sell pre-need funeral services contracts shall ensure that it is a licensed funeral director or licensed pre-need salesperson who enters into pre-need funeral services contracts on behalf of the business with members of the public.
- (5)** The business manager for a funeral services business that offers embalming shall ensure that the embalming is performed by a licensed embalmer or by an embalmer trainee under the supervision of a licensed embalmer.
- (6)** The business manager may permit a funeral director who is under the business manager's authority to work for other funeral services businesses in an emergency and, in that situation, the business manager continues to be responsible for the actions of that funeral director.
- (7)** The business manager shall within 7 days give to the Director
  - (a) written notice of the date of commencement and termination of the employment of every salesperson at the funeral services business, and
  - (b) written notice of the date of commencement and termination of employment of any funeral director, embalmer or pre-need salespersons hired by the funeral services business.

(8) A funeral services business shall provide written notification to the Director within 7 days if there is a change in the appointment of its business manager and provide the Director with the name of the replacement business manager.

AR 226/98 s18;345/2003;152/2011

### **Funeral Director, Business Manager, Embalmer and Pre-need Salesperson Licences**

#### **Funeral director licence**

**19** A funeral director licence authorizes the licensee to

- (a) solicit to enter into or enter into on behalf of the funeral services business any funeral services contracts, including pre-need funeral services contracts, that the business is authorized to enter into by the terms of its funeral services business licence, and
- (b) arrange or direct funeral or memorial services

at all the business locations of the funeral services businesses that employ the licensee.

AR 226/98 s19;152/2011

#### **Business manager licence**

**19.1** A business manager licence authorizes the licensee to act as business manager for the funeral services business in respect of which he or she is appointed as business manager.

AR 345/2003 s16

#### **Embalmer licence**

**20** An embalmer licence authorizes the licensee to perform embalming pursuant to a funeral services contract at all the business locations of the funeral services businesses that employ the licensee.

AR 345/2003 s16

#### **Pre-need salesperson licence**

**21** A pre-need salesperson licence authorizes the licensee to solicit to enter into or enter into pre-need funeral services contracts

- (a) on behalf of a funeral services business that is authorized to enter into pre-need funeral services contracts by the terms of its funeral services business licence, and
- (b) at all the business locations of the funeral services businesses that employ the licensee.

AR 226/98 s21;152/2011

**Application for business manager licence**

**21.1** A person applying for a business manager licence shall make application to the Director on the form set by the Director, and the application must be accompanied with

- (a) a form signed by the owner of the funeral services business appointing the applicant to act as business manager for that funeral services business,
- (b) a report from a criminal record check in a form satisfactory to the Director,
- (c) if required by the Director, proof that the applicant has successfully passed an exam under section 27.2(a),
- (d) any additional information required by the Director, and
- (e) the fee set out in section 37.

AR 345/2003 s17

**Expiry of licence**

**21.2** A business manager licence expires automatically when

- (a) the owner of the funeral services business for whom the business manager acts advises the Director by notice in writing that the business manager has ceased to act for the business, or
- (b) the business manager advises the Director by notice in writing that he or she has ceased to act as business manager.

AR 345/2003 s17

**Application for funeral director, embalmer or pre-need salesperson licence**

**22(1)** A person applying for a funeral director licence, an embalmer licence or a pre-need salesperson licence shall make application to the Director on the form set by the Director and the application shall be accompanied with

- (a) the name of the business manager who has agreed to employ the applicant either as an employee or contractor,
- (b) a list of all the business locations of each funeral services business at which the applicant will be actively engaged in the operation of the funeral services business as a funeral director, an embalmer or a pre-need salesperson, as the case may be,

- (b.1) if required by the Director, proof that the applicant has successfully passed an exam under section 27.2(a),
- (b.2) a report from a criminal record check in a form satisfactory to the Director,
- (c) proof that the applicant has successfully completed an appropriate training program provided or approved under section 27 and, where required, a period of practical experience referred to in section 27.1,
- (d) any additional information required by the Director, and
- (e) the fee set out in section 37.

(2) Repealed AR 152/2011 s20.

(3) Where a person applying for a funeral director licence or an embalmer licence is a non-resident of Alberta, the application

- (a) shall be accompanied with proof that the applicant is authorized to work in another jurisdiction as a funeral director or an embalmer, as the case may be, and
- (b) is exempt from subsection (1)(a).

AR 226/98 s22;345/2003;152/2011

### **Expiry**

**23** A funeral director licence, a business manager licence, an embalmer licence, a pre-need salesperson licence and any renewal of any of those licences expire on the March 31 following their issue.

AR 226/98 s23;345/2003

### **Renewal of funeral director, embalmer or pre-need salesperson licence**

**24(1)** A person applying for a renewal of a funeral director licence, a business manager licence, an embalmer licence or a pre-need salesperson licence shall make application to the Director on the form set by the Director and the application shall be accompanied with

- (a) proof that the applicant has completed any continuing education requirements under section 29,
- (a.1) if required by the Director, proof that the applicant has successfully passed an exam under section 27.2(b),
- (b) in the case of an application for renewal of a funeral director licence, an embalmer licence or a pre-need

salesperson licence, the name of the business manager who has agreed to sponsor the applicant,

- (c) a list of all the business locations of each funeral services business at which the applicant intends to work as a funeral director, business manager, an embalmer or a pre-need salesperson, as the case may be,
- (d) any additional information required by the Director, and
- (e) the fee set out in section 37.

**(2)** Where a person applying for a renewal of a funeral director licence or an embalmer licence is a non-resident of Alberta, the application

- (a) shall be accompanied with proof that the applicant is authorized to work in another jurisdiction as a funeral director or an embalmer, as the case may be, and
- (b) is exempt from subsection (1)(b).

**(3)** A person whose funeral director licence, business manager licence, embalmer licence or pre-need salesperson licence has expired shall apply under section 22 for a new licence.

**(4)** Notwithstanding subsection (3), where a funeral services business goes out of business or otherwise stops operating or its licence is suspended or cancelled or is not renewed by the Director, any funeral director, business manager, embalmer or pre-need salesperson who was employed on that date by that business may within 2 years of that date renew an expired licence under this section.

AR 226/98 s24/345/2003

#### **Change in employment**

**25** A funeral director, an embalmer or a pre-need salesperson who changes employers shall notify the Director in writing of the change in employment within 7 days of commencing the new employment.

AR 226/98 s25;152/2011

### **Duties and Powers of the Director**

#### **Inspections and investigations**

**26(1)** On the completion of an inspection or investigation in respect of a funeral services business by an inspector, the inspector shall provide a summary of the inspector's findings to the Director.

(2) The Director shall provide a copy of the summary of the inspector's findings to the funeral services business and shall indicate whether any deficiencies were found during the inspection or investigation.

(3) If any deficiencies were found during the course of the inspection or investigation, the Director may direct the funeral services business to take such steps as are necessary in the Director's opinion to correct them.

AR 226/98 s26;345/2003;152/2011

### **Training programs**

**27(1)** The Director may provide or approve training programs for funeral director trainees, embalmer trainees and pre-need salesperson trainees and may charge fees for registration in any program that is provided by the Director.

(2) The Director shall make available on request of any person a list of the training programs that have been approved by the Director.

(3) The Director may assess programs and courses that are offered in jurisdictions outside Alberta to determine whether an applicant for a funeral director licence, an embalmer licence or a pre-need salesperson licence who received training in a jurisdiction outside Alberta has complied with section 22(1)(c).

### **Practical experience**

**27.1** The Director may require funeral director trainees, embalmer trainees and pre-need salesperson trainees to complete a period of practical experience approved by the Director.

AR 345/2003 s22

### **Examination**

**27.2** The Director may require

- (a) an applicant for an initial licence, and
- (b) an applicant who is applying under section 24(3) and whose licence has been expired for more than 2 years

to write an exam prescribed by the Director.

AR 345/2003 s22

**Conditions of work for trainees**

**28** The Director shall establish the conditions under which funeral director trainees, embalmer trainees and pre-need salesperson trainees may carry out duties for a funeral services business.

**Continuing education**

**29** The Director may require funeral directors, business managers, embalmers and pre-need salespersons to complete continuing education programs and courses.

AR 226/98 s29;345/2003

**Educational standards**

**30** The Director shall consult with funeral services businesses when developing

- (a) educational standards to be met by applicants for a funeral director licence, a business manager licence, an embalmer licence or a pre-need salesperson licence, and
- (b) continuing education standards that may be required for renewal of a funeral director licence, a business manager licence, an embalmer licence or a pre-need salesperson licence.

AR 226/98 s30;345/2003

**Providing information**

**31** The Director shall provide the following information on request of any person:

- (a) the status of a funeral services business licence;
- (b) the name of a funeral services business;
- (c) the mailing address and location of a funeral services business;
- (d) the name of the business manager for a funeral services business;
- (e) the status of a funeral director licence, a business manager licence, an embalmer licence or a pre-need salesperson licence;
- (f) the name of the business manager who is responsible for a funeral director, an embalmer or a pre-need salesperson;

- (g) an explanation of the responsibilities that funeral services businesses have to members of the public.

AR 226/98 s31;345/2003

### Annual report

**32** Not later than July 31 each year, the Director shall prepare and file with the Minister an annual report that includes

- (a) an audited financial statement relating to the activities carried out under this Regulation in the previous fiscal year,
- (b) the number of licences issued or renewed and the number of applications refused in the previous year, and
- (c) a summary of the activities carried out under this Regulation by the Director in the previous year.

### Registers

**33** The Director shall maintain registers showing the name of

- (a) each funeral director,
- (b) each embalmer,
- (c) each pre-need salesperson,
- (d) each funeral services business,
- (e) each funeral services business that is licensed to enter into pre-need funeral services contracts,
- (f) each funeral services business that offers embalming, and
- (g) the business manager for each funeral services business.

AR 226/98 s33;345/2003;152/2011

## Complaints Resolution

### Complaints

**34(1)** The Director may accept complaints.

**(2)** The complainant shall provide the particulars of the complaint in a written or oral statement to the Director.

**(3)** Repealed AR 152/2011 s24.

AR 226/98 s34;152/2011

**35** Repealed AR 152/2011 s25.

## Disposition of Remains

### Who may control disposition

**36(1)** In this section,

- (a) “living with the deceased” includes a situation where
  - (i) the deceased resided before death in a care facility for health reasons and the spouse or adult interdependent partner continued to provide the usual support customarily associated with couples intending to continue a relationship, or
  - (ii) the deceased and the spouse or adult interdependent partner were living apart at the time of death due only to circumstances other than a breakdown of their relationship;
- (b) “parent” means, if the deceased is a minor, the parent who had legal custody of the deceased at the time of death.

**(2)** Subject to an order of the Court, the right to control the disposition of human remains or cremated remains vests in and devolves on persons in the following order of priority:

- (a) the personal representative designated in the will of the deceased;
- (b) the spouse or adult interdependent partner of the deceased if the spouse or adult interdependent partner was living with the deceased at the time of death;
- (c) an adult child of the deceased;
- (d) a parent of the deceased;
- (e) a guardian of the deceased under the *Adult Guardianship and Trusteeship Act* or, if the deceased is a minor, under the *Child, Youth and Family Enhancement Act* or the *Family Law Act*;
- (f) an adult grandchild of the deceased;
- (g) an adult brother or sister of the deceased;
- (h) an adult nephew or niece of the deceased;
- (i) an adult next of kin of the deceased determined on the basis provided by sections 67 and 68 of the *Wills and Succession Act*;
- (j) the Public Trustee;

- (k) an adult person having some relationship with the deceased not based on blood ties or affinity;
- (l) the Minister of Human Services.

**(3)** If, under subsection (2)(c) to (h), the right to control the disposition of human remains or cremated remains passes to persons of equal rank, in the absence of agreement between or among them, the order of priority begins with the eldest person in that rank and descends in order of age.

**(4)** If the person who, under this section, has the right to control the disposition of human remains or cremated remains is not available or is unwilling to give instructions, that right passes to the next available qualified person.

AR 226/98 s36;206/2001;145/2003;8/2005;212/2005;  
35/2007;68/2008;168/2010;152/2011;31/2012

#### **Possession of cremated remains by Director**

##### **36.1(1)** Where the Director

- (a) reasonably believes that there are cremated remains or related records in the possession of a funeral services business that has ceased to operate, or
- (b) is of the opinion that it is in the public interest to take possession of cremated remains or related records in the possession of a funeral services business

the Director may take whatever steps the Director considers necessary

- (c) for the collection of those cremated remains for the disposition of the cremated remains in accordance with the code of practice referred to in subsection (3), and
- (d) for the collection of the related records.

**(2)** The funeral services business shall, if requested by the Director in carrying out subsection (1), deliver the cremated remains or related records to the Director in accordance with the request.

**(3)** The Director shall implement a code of practice respecting the disposition of cremated remains that meets the requirements of section 36.2(1).

(4) If cremated remains in the possession of the Director under this section are not claimed within 5 years by a person with the right to control the disposition of the cremated remains under section 36, the Director may dispose of the cremated remains in such a manner as not to be offensive or to create a nuisance.

AR 345/2003 s27;152/2011

#### **Code of practice**

**36.2(1)** A funeral services business shall have in place a code of practice respecting the disposition of cremated remains that contains provisions for at least the following:

- (a) the means of identification of cremated remains;
- (b) storage procedures for cremated remains;
- (c) the keeping of records showing the name and address of the persons taking possession of cremated remains.

(2) The code of practice must be approved by the Director.

AR 345/2003 s27

#### **Disposition of remains**

**36.3(1)** Any cremated remains that are not claimed within 5 years from the date of the cremation must be disposed of by the funeral services business in a manner that is not offensive and that does not create a nuisance as specified in the funeral services contract.

(2) If the funeral services business possesses cremated remains at the time this section comes into force, and the cremated remains are not claimed within 5 years from the date this section comes into force, the funeral services business must dispose of the cremated remains in a manner that is not offensive and that does not create a nuisance.

(3) Prior to disposing any cremated remains under this section, the funeral services business must make reasonable attempts to contact the person with the right to control the disposition of cremated remains under section 36 by registered mail to the last known address of the person, by advertisement in a newspaper of local circulation or by any other traceable method available to the funeral services business.

AR 345/2003 s27;152/2011

### **Fees**

#### **Fees**

**37(1)** The fee for

- (a) a funeral services business licence that is payable by an applicant who has not previously been issued that licence under this Regulation is \$500;
- (b) a funeral services business licence authorizing the entering into of pre-need funeral services contracts that is payable by an applicant who has not previously been issued that kind of funeral services business licence under this Regulation is
  - (i) the fee specified in clause (a), if applicable, and
  - (ii) an additional \$200, if the funeral services business will employ one or more pre-need salespersons during the licensing period,

or

- (iii) an additional \$75, if the funeral services business will employ no pre-need salespersons during the licensing period.

**(2)** The fee for a renewal of a funeral services business licence is the sum of the following amounts:

- (a) \$150 plus \$10 for each funeral services contract under which the applicant provided funeral services in the year preceding the application;
- (b) if the licence authorizes the entering into of pre-need funeral services contracts,
  - (i) \$200, if the funeral services business will employ one or more pre-need salespersons during the licensing period, or
  - (ii) \$75, if the funeral services business will employ no pre-need salespersons during the licensing period;
- (c) \$50 in the case of an application made after the applicant's licence has expired.

**(3)** A person who acquires a funeral services business is required to obtain a funeral services business licence with respect to the business, notwithstanding that the business was the subject of a funeral services business licence at the time the business was acquired.

**(4)** Subsection (2) applies to the calculation of the fee for a licence required under subsection (3).

**(5)** The fee for a funeral director licence or for the renewal of a funeral director licence is

- (a) \$100, and
- (b) an additional \$25 in the case of an application made after the applicant's licence has expired.

**(5.1)** The fee for a business manager licence or for the renewal of a business manager licence is

- (a) \$100, and
- (b) an additional \$25 in the case of an application made after the applicant's licence has expired.

**(5.2)** No fee is payable under subsection (5.1) where the applicant is also a licensed funeral director.

**(6)** The fee for an embalmer licence or for the renewal of an embalmer licence is

- (a) \$100, and
- (b) an additional \$25 in the case of an application made after the applicant's licence has expired.

**(7)** Notwithstanding subsections (5) and (6), if an applicant applies for both a funeral director licence and an embalmer licence, or for the renewal of both a funeral director licence and an embalmer licence, the total fee payable for the combined licence or for the renewal of the combined licence is

- (a) \$175, and
- (b) an additional \$25 in the case of an application made after the applicant's combined licence has expired.

**(8)** The fee for a pre-need salesperson licence or for the renewal of a pre-need salesperson licence is

- (a) \$100, and
- (b) an additional \$25 in the case of an application made after the applicant's licence has expired.

**(9)** Notwithstanding subsections (6) and (8), if an applicant applies for both an embalmer licence and a pre-need salesperson licence, or for the renewal of both an embalmer licence and a pre-need salesperson licence, the total fee payable for the combined licence or for the renewal of the combined licence is

- (a) \$175, and
- (b) an additional \$25 in the case of an application made after the applicant's combined licence has expired.

**(10)** An applicant who applies on or after October 1 for any licence shall pay half the applicable fee for that licence specified in this section.

**(11)** Subsection (10) does not apply to any additional fee payable in the case of an application made after the applicant's licence has expired.

**(12)** The fee for an appeal made pursuant to section 16 or 34.2 of the Act is \$1000.

**(13)** If an appeal is successful, the appeal fee shall be returned to the applicant.

AR 226/98 s37;345/2003;316/2006;152/2011

### **Alberta Funeral Services Regulatory Board**

#### **Board continued**

**37.1** The Alberta Funeral Services Regulatory Board is continued.

AR 345/2003 s29

#### **Function of Board**

**37.2** The Board is empowered to accept and exercise any powers and perform any duties and functions

- (a) delegated to it under section 23 of the Act by the Director, or
- (b) delegated to or imposed on it under any other Act of the Legislature.

AR 345/2003 s29

#### **Powers of Board**

**37.21(1)** The Board has the capacity and, subject to the Act and this Regulation, the rights, powers and privileges of a natural person.

**(2)** The Board has the capacity to exercise a natural person's rights, powers and privileges in any jurisdiction outside Alberta to the extent that the laws of that jurisdiction permit.

AR 152/2011 s30

**Board membership**

**37.3(1)** The Board consists of

- (a) 3 persons who represent the interests of the public, and
- (b) 3 persons who represent funeral services businesses.

**(2)** A person is eligible to be or to remain a public interest member only if that person

- (a) is a resident of Alberta,
- (b) is not the holder of a licence under the Act and the regulations, and
- (c) does not have any interest in a funeral services business.

**(3)** A person is eligible to be or to remain an industry member only if that person

- (a) is a resident of Alberta, and
- (b) is or was actively engaged in the day-to-day operation of a funeral services business or a crematory licensed under the *Cemeteries Act* as an owner, a part owner, a business manager, a funeral director, an embalmer or a shareholder.

**(4)** A member automatically ceases to hold office if that member ceases to meet any qualification under this section that is necessary for that office.

AR 345/2003 s29;152/2011

**Appointment**

**37.4** The Minister shall appoint the public interest members.

AR 345/2003 s29

**Election**

**37.5(1)** The Director shall establish an Industry Election Committee consisting of at least 3 and not more than 5 persons who represent funeral services businesses.

**(2)** The Industry Election Committee shall request nominations from funeral services businesses and conduct a mail-in election in order to elect the industry members.

**(3)** Each funeral services business has one vote in an election under subsection (2), regardless of the number of its business locations.

- (4) The candidates who receive the largest number of votes at the election become industry members in accordance with the number of positions to be filled.
- (5) The Industry Election Committee shall communicate the results of the election to the successful candidates, the Minister and any other person the Committee considers appropriate.
- (6) Notwithstanding this section, if the Industry Election Committee receives fewer nominations under subsection (2) than there are positions to be filled, the Committee
- (a) shall declare the nominees, if any, to be elected by acclamation, and
  - (b) shall appoint any remaining industry members.

AR 345/2003 s29

**Term of office**

**37.6(1)** The term of office of a member is the term set by the Minister.

(2) The Minister may extend the term of office for any member, including a person who is a member on the coming into force of this section.

AR 345/2003 s29;14/2006

**Chair**

**37.7(1)** The Board shall choose from among its members a person to act as the chair of the Board.

(2) If there is a tied vote on any matter on which a vote is held by the Board, the chair may vote a second time to break the tie.

AR 345/2003 s29

**Prohibitions**

**37.8** No person while a member shall do any of the following:

- (a) engage directly or indirectly in any business transaction or private arrangement for pecuniary benefit, knowledge of which arises out of the person's being a member;
- (b) act in a manner, whether or not prohibited by the Act, the regulations or the bylaws of the Board, that may result in, or create the appearance of,
  - (i) using the member's position for private gain,
  - (ii) giving preferential treatment to any person,

- (iii) impeding the Board from carrying out its purposes,
- (iv) foregoing independence or impartiality, or
- (v) adversely affecting the integrity of the Board;
- (c) act in an official capacity or represent the Board, explicitly or implicitly, on any matter in which the member has a real or potential personal interest, direct or indirect, in a manner that is incompatible with the member's duties under the Act, the regulations or the bylaws of the Board;
- (d) contract with or otherwise accept the services of a licensee or an applicant to become a licensee on terms that are more favourable than those generally available to the public;
- (e) unless previously approved by the Board, accept a fee or a benefit that is not a token benefit from another person on account of an occasion at which the member appears or provides a speech, lecture or publication, if the occasion is part of the official duties of the member for which compensation is being paid by the Board;
- (f) contravene the Act, the regulations or the bylaws of the Board;
- (g) be absent without Board authorization from 3 consecutive regular Board meetings.

AR 345/2003 s29

**Resignation and removal**

**37.9(1)** Subject to subsection (2), a member who contravenes section 37.8 shall resign from the Board immediately on becoming aware of the contravention.

**(2)** Instead of accepting a resignation under subsection (1), the Board may suspend the member from all or any Board activities for any period of time and subject to any terms and conditions that the Board considers appropriate.

**(3)** If a member contravenes subsection (1) or any terms and conditions under subsection (2), the Board may, within one year of the date on which the contravention occurred,

- (a) request that the Minister revoke the appointment, if the member is a public interest member, or

- (b) apply to a judge of the Court of Queen's Bench, if the member is an industry member, for
  - (i) an order determining whether the member is eligible to remain a member, and
  - (ii) if the person is determined to be ineligible, an order declaring the person to be disqualified from membership on the Board.

AR 345/2003 s29;152/2011

### **Vacancies**

**37.91** If there is a vacancy in the membership of the Board, a person may be appointed to fill that vacancy for the balance of the term of office

- (a) by the Minister, if the vacancy relates to a public interest member, or
- (b) by the Director, if the vacancy relates to an industry member.

AR 345/2003 s29

### **Compensation fund**

**37.92(1)** The Board may create a compensation fund for the purpose of the payment of claims to a claimant in respect of a funeral services business.

**(2)** When a compensation fund has been established under subsection (1), a purchaser or a personal representative of a purchaser who has entered into a pre-need sales contract with a funeral services business is eligible for compensation from the compensation fund in accordance with subsection (3).

**(3)** A purchaser or a personal representative of a purchaser has a claim against the compensation fund if the purchaser suffers a loss because of any one or more of the following:

- (a) a funeral services business's failure to comply with the provisions of the Act or regulations that apply to the business;
- (b) a funeral services business's failure to comply with a pre-need funeral services contract between the purchaser and the funeral services business;
- (c) a funeral services business's fraud, breach of trust, misrepresentation, theft, conversion, negligence or default with respect to goods or services sold or any money

collected in relation to a pre-need funeral services contract;

- (d) a funeral services business's failure to comply with a condition of the funeral services business licence;
- (e) the funeral services business's bankruptcy or insolvency and the services provided for in the pre-need funeral services contract have not been performed.

AR 152/2011 s33

#### **Investments**

**37.93(1)** The Board may invest money in the compensation fund only in investments in which trustees are permitted to invest trust funds as provided for under Schedule 3.

**(2)** Investment income earned on deposits of the compensation fund accrues to and forms part of the compensation fund.

AR 152/2011 s33

#### **Additional purposes of compensation fund**

**37.94** When the compensation fund exceeds \$2 000 000, the portion of the fund exceeding \$2 000 000 may be used by the Board for the purpose of

- (a) providing information relating to the funeral services business to consumers and persons engaged in the funeral services business, and
- (b) paying the costs of investigations for which the Director is responsible.

AR 152/2011 s33

#### **Claims against compensation fund**

**37.95(1)** Subject to subsection (2), a purchaser or the personal representative of a purchaser of a pre-need funeral services contract may make a claim against the compensation fund if

- (a) the funeral services business was licensed at the time that the purchaser paid for a part or all of the services in accordance with the terms of the pre-need funeral services contract, and
- (b) the purchaser has made a demand to be reimbursed for the money paid under the pre-need funeral services contract or for goods or services that were not provided for in accordance with the pre-need funeral services contract.

- (2) A purchaser is not entitled to claim for any amount that exceeds
- (a) the amount due in accordance with the Act, if the purchaser has requested a cancellation or assignment of the pre-need funeral services contract,
  - (b) the amount paid plus income due in accordance with the Act, if the purchaser has not requested a cancellation or assignment of the pre-need funeral services contract, or
  - (c) in all other instances the amount paid plus interest, calculated in accordance with the rate set in the *Judgment Interest Act*.
- (3) For the purposes of calculating interest in subsection (2)(c), the Board may use the rates set out in the *Judgment Interest Act*.
- (4) A purchaser is not entitled to compensation
- (a) for funeral services that were provided or made available, or for alternate and equivalent funeral services that were provided or made available,
  - (b) based on the cost, value or quality of alternate and equivalent funeral services provided,
  - (c) for any consequential or indirect damages arising from the alternate funeral services provided, or
  - (d) for amounts the purchaser has otherwise been compensated for.

AR 152/2011 s33

**Time limit for claim against compensation fund****37.96** A claim against the compensation fund may be made

- (a) within 6 months from the date the purchaser or the purchaser's personal representative receives notice of the bankruptcy or insolvency of the funeral services business, or
- (b) where the purchaser has made a demand to be reimbursed for the money paid under the contract or for goods or services that were not provided for in accordance with the contract, within 6 months from the date a demand for payment or a demand for the services was made,

whichever occurs first.

AR 152/2011 s33

**Application**

**37.97(1)** A purchaser may make an application for a claim from the compensation fund

- (a) in a form and manner acceptable to the Board, and
- (b) by providing any other documents the Board may require within 30 days from the date the Board makes its request or any longer period of time specified by the Board.

**(2)** If a claimant does not comply with a request under subsection **(1)(b)** within the specified period of time, the Board may dismiss the claim.

AR 152/2011 s33

**Maximum amount payable from compensation fund**

**37.98(1)** In this section, “compensation event” means

- (a) the bankruptcy or insolvency of a funeral services business, regardless of the number of funeral services locations that business has, or
- (b) as determined by the Board, the transaction or series of transactions, including all related transactions, for or in respect of a funeral services business and its licensees.

**(2)** The maximum amount payable from the compensation fund is the lower of

- (a) \$2000 per person who made the payments under the contract or the person for whose benefit the contract was entered into or that person’s personal representative, or
- (b) the claimant’s portion of \$40 000 per compensation event regardless of the total number of claimants.

**(3)** If subsection **(2)(b)** operates to limit the amount that would otherwise be paid to a claimant under subsection **(2)(a)**, each claimant shall receive a proportionate share of the amount that would be paid but for the operation of subsection **(2)(b)**.

**(4)** The Board shall not make a payment from the compensation fund that exceeds the amount of money in the compensation fund.

**(5)** If a claim exceeds the amount of money in the compensation fund, each claimant shall receive a proportionate share of the amount in the compensation fund.

AR 152/2011 s33

**Notice of claim**

**37.99(1)** The Board shall give the licensee involved notice of the application for a claim made against the compensation fund within 15 days of receiving the application.

**(2)** If the licensee involved chooses to respond to the application for a claim made against the compensation fund, the licensee must do so within 15 days of receiving notice of the application.

AR 152/2011 s33

**Hearings**

**37.991** On receipt of an application for a claim against the compensation fund, the Board may make its decision based on written submissions or an oral hearing.

AR 152/2011 s33

**Reimbursement to compensation fund**

**37.992** If the Board pays an amount to a claimant from the compensation fund in respect of a funeral services business or any other licensee, the business or other licensee is liable to the Board for the amount of the payment and the Board may collect the amount by civil action for debt in a court of competent jurisdiction.

AR 152/2011 s33

**Decision of Board**

**37.993(1)** Subject to subsection (2), the Board shall provide the applicant and the licensee with a written copy of its decision within 90 days from the receipt of an application under section 37.97.

**(2)** The Board may extend the time period referred to under subsection (1) and shall notify the applicant and the licensee in writing that the time period is being extended, with reasons why the time period is being extended.

**(3)** A decision of the Board to pay or not to pay an amount to a claimant from the compensation fund in respect of a funeral services business is final.

AR 152/2011 s33

**Annual statement**

**37.994(1)** The Board must ensure that an audited financial statement on the compensation fund containing the information required by the Minister is prepared for each fiscal year of the Board.

(2) The Board must submit an audited financial statement prepared in accordance with subsection (1) to the Minister by July 31 following the fiscal year for which it is prepared.

AR 152/2011 s33

#### **Winding-up of compensation fund**

**37.995(1)** The compensation fund may not be wound up without an order of the Minister.

(2) If the compensation fund is wound up, the compensation fund must

- (a) first, be used to pay all costs incurred in the winding-up of the compensation fund,
- (b) second, be used to discharge all liabilities of the compensation fund, and
- (c) third, be disposed of in accordance with an order of the Minister.

AR 152/2011 s33

**38 to 41** Repealed AR 345/2003 s30.

#### **Repeal, Expiry and Coming into Force**

##### **Repeal**

**42** The *Prearranged Funeral Services Regulation* (AR 103/92) is repealed.

##### **Expiry**

**43** For the purpose of ensuring that this Regulation is reviewed for ongoing relevancy and necessity, with the option that it may be repassed in its present or an amended form following a review, this Regulation expires on November 30, 2024.

AR 226/98 s43;345/2003;152/2011;14/2019

##### **Coming into force**

**44** This Regulation comes into force on December 1, 1998.

#### **Schedule 1**

The following shall appear in the statement of cancellation rights in each pre-need funeral services contract:

### **Purchaser's Right to Cancel**

**1** You may cancel this contract at any time for any reason. You may cancel without charge or penalty at any time during the period from the day you enter into the contract until 30 days after you receive a copy of the contract.

*[Note to funeral services business: insert the version of paragraph 2 that corresponds to your election of when to charge the administration fee.]*

“You have additional rights, including the right to cancel, if the funeral services business wants to assign this contract to another funeral services business and you do not agree.”

**2** After the penalty-free 30-day cancellation period is over, the seller will charge an administration fee of \_\_\_\_\_% of the total cost of the goods and services to be provided under this contract. This administration fee is non-refundable if you cancel.

**2** After the penalty-free 30-day cancellation period is over, the seller will place all of your payment in trust but if you cancel, the seller will charge a non-refundable administration fee of \_\_\_% of the total cost of the goods and services to be provided under this contract and income on funds held by the authorized trustee.

**3** If you cancel this contract, the seller has 15 days to refund any money you are owed. To cancel, you shall give a notice of cancellation to the seller at the address in this contract. You should give notice of cancellation by a method that will allow you to prove that you gave notice, such as registered mail, fax, courier or by personal delivery.

**4** Money for your pre-need funeral plan will be placed in a trust account with (name of trustee, branch and address). You may request a statement regarding your plan from this trustee at any time.

AR 266/98 Sched.1;345/2003;152/2011

## **Schedule 2**

### **Alberta Funeral Services Code of Conduct**

All persons licensed under the Funeral Services Act, referred to collectively as “funeral professionals”, have responsibilities to their

profession, their colleagues, the families they serve and to the public at large.

To carry out these responsibilities funeral professionals must recognize that businesses operate within a framework of competition and cooperation. All efforts must be made to ensure each funeral business is conducted honestly and in a professional manner, demonstrating respect for colleagues. This professional respect will maintain and enhance public confidence and understanding of the funeral profession and funeral professionals.

Funeral professionals must recognize the need to compete on merit and not by attempts at discrediting or disparaging colleagues. In accordance with this responsibility, funeral professionals will act at all times in accordance with the standards set out below.

- A** In matters of professional conduct and co-operation funeral professionals will
- 1 Adhere to Municipal, Provincial and Federal laws and regulations.
  - 2 Respect the faiths, beliefs and customs of both the families they serve and the public at large.
  - 3 Respect the role of the clergy and adhere to the policies, rules and regulations of the church in which the funeral service is to take place.
  - 4 Conduct all business in a professional manner with all personnel, families served, colleagues, service providers, suppliers and the public at large.
  - 5 Ensure that all personnel are properly trained for their duties and encourage an environment of life-long learning.
  - 6 Encourage and foster an open line of communication with all agencies to better serve families in a professional and timely manner.
- B** In matters of accountability to the families funeral professionals will
- 1 Uphold in the strictest confidence matters and aspects pertaining to the family of the deceased.
  - 2 Provide a range of options to the family regarding types of funeral services offered and selection of merchandise.

- 3 Advise families of all aspects of the funeral service both verbally and in written form to ensure they have complete understanding of the expenses being incurred.
  - 4 Ensure that all verbal or written requests from the family are fulfilled whenever professionally acceptable.
  - 5 Inform the family of death benefits that may be available through various government and private agencies.
  - 6 Demonstrate professional conduct when family members are indecisive about choosing one funeral home over another.
  - 7 Demonstrate professional co-operation when one funeral business has been called to transfer human remains from a place of death and the family has requested another funeral business to handle the funeral arrangements. Business transactions resulting from this situation should be expedited between the 2 funeral businesses in a mutually equitable and professional manner. This transaction should not cause undue hardship to the family being served.
- C** To show their respect for the deceased all funeral professionals will
- 1 Demonstrate care and respect for the deceased entrusted to their care.
  - 2 Ensure that during the embalming of the deceased, only employees of the funeral home, authorized licensed personnel or registered trainees are in attendance.
- D** To ensure a high standard of operation and maintenance of each funeral services business all funeral professionals must recognize that
- 1 The business manager is accountable for maintaining a high professional standard in the operation, management and maintenance of the funeral services business.
  - 2 All funeral services professionals have a responsibility to ensure that all personnel of the

funeral services business are aware of and act in accordance with this Code of Conduct at all times.

AR 345/2003 Sched.2

### Schedule 3

#### Definitions

1 In this Schedule,

- (a) “debentures” includes debenture stock;
- (b) “improved real estate” means an estate in fee simple in land
  - (i) on which there exists a building, structure or other improvement used or capable of being used for residential, commercial or industrial purposes,
  - (ii) on which there is being erected such a building, structure or other improvement,
  - (iii) which is serviced with the utilities necessary for such a building, structure or other improvement, but only when the land is being mortgaged for the purpose of erecting the building, structure or other improvement, or
  - (iv) which is being used for agricultural purposes,but does not include an estate in fee simple in mines or minerals held separately from the surface;
- (c) “loan corporation” means a loan corporation registered under the *Loan and Trust Corporations Act*;
- (d) “municipal corporation ” means
  - (i) a municipal authority as defined in the *Municipal Government Act*, and
  - (ii) a municipality or municipal authority created by legislation similar to the *Municipal Government Act* in another province or territory;
- (e) “securities” includes stocks, debentures, bonds, shares and guaranteed investment certificates or receipts;
- (f) “trust corporation” means a trust corporation registered under the *Loan and Trust Corporations Act*.

**Application**

**2** This Schedule applies for the purpose of investment of money by an authorized trustee pursuant to section 8(3)(b) of the Act.

**Authorized trustee investments**

**3** An authorized trustee may invest any trust money in the authorized trustee's hands, if the investment is in all other respects reasonable and proper, in any of the following:

- (a) securities of the Government of Canada, the government of any province or territory of Canada, any municipal corporation in any province or territory of Canada, the Government of the United Kingdom or the Government of the United States of America;
- (b) securities the payment of the principal and interest of which is guaranteed by the Government of Canada, the government of a province or territory of Canada, a municipal corporation in any province or territory of Canada, the Government of the United Kingdom or the Government of the United States of America;
- (c) debentures issued by a school division, school district, drainage district, hospital district or health region under the *Regional Health Authorities Act* in Alberta that are secured by or payable out of rates or taxes;
- (d) bonds, debentures or other evidences of indebtedness of a corporation that are secured by the assignment to a trustee of payments that the Government of Canada or the government of a province or territory of Canada has agreed to make, if the payments are sufficient
  - (i) to meet the interest on all the bonds, debentures or other evidences of indebtedness outstanding as it falls due, and
  - (ii) to meet the principal amount of all the bonds, debentures or other evidences of indebtedness on maturity;
- (e) bonds, debentures or other evidences of indebtedness
  - (i) of a corporation incorporated under the laws of Canada or of a province or territory of Canada that has earned and paid
    - (A) a dividend in each of the 5 years immediately preceding the date of investment at least equal to the specified annual rate on all of its preferred shares, or

- (B) a dividend in each year of a period of 5 years ended less than one year before the date of investment on its common shares of at least 4% of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid,

and

- (ii) that are fully secured by a first mortgage, charge or hypothec to a trustee on any, or on any combination, of the following assets:
  - (A) improved real estate;
  - (B) the plant or equipment of a corporation that is used in the transaction of its business;
  - (C) bonds, debentures or other evidence of indebtedness or shares of a class or classes authorized by this section;
- (f) bonds, debentures or other evidences of indebtedness issued by a corporation incorporated in Canada if at the date of the investment or loan the preferred shares or common shares of that corporation are authorized investments under clause (i) or (j);
- (g) guaranteed investment certificates or receipts of a trust corporation;
- (h) bonds, debentures, notes or deposit receipts of a loan corporation, trust corporation or credit union;
- (i) preferred shares of any corporation incorporated under the laws of Canada or of a province or territory of Canada that has earned and paid
  - (i) a dividend in each of the 5 years immediately preceding the date of investment at least equal to the specified annual rate on all of its preferred shares, or
  - (ii) a dividend in each year of a period of 5 years ended less than one year before the date of investment on its common shares of at least 4% of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid;

- (j) fully paid common shares of a corporation incorporated in Canada or the United States of America that during a period of 5 years that ended less than one year before the date of investment has either
  - (i) paid a dividend in each of those years on its common shares, or
  - (ii) had earnings in each of those years available for the payment of a dividend on its common shares,  
  
of at least 4% of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid or in which the corporation had earnings available for the payment of dividends, as the case may be;
- (k) notes or deposit receipts of banks;
- (l) securities issued or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development, approved by the *Bretton Woods and Related Agreements Act* (Canada), but only if the bonds, debentures or other securities are payable in the currency of Canada, the United Kingdom, any member of the British Commonwealth or the United States of America;
- (m) securities issued or guaranteed by Inter-American Development Bank or by Asian Development Bank, but only if the bonds, debentures or other securities are payable in the currency of Canada or the United States of America;
- (n) first mortgages, charges or hypothecs on improved real estate in Canada, but only if
  - (i) the loan does not exceed 75% of the value of the property at the time of the loan as established by a report as to the value of the property made by a person whom the trustee reasonably believed to be a competent valuator, instructed and employed independently of any owner of the property, or
  - (ii) the loan is an insured loan under the *National Housing Act, 1954* (Canada) SC 1953-54 c23.

**Restrictions on investments**

**4(1)** In determining market values of securities, an authorized trustee may rely on published market quotations of a recognized stock exchange in Canada or the United States of America.

(2) No corporation that is an authorized trustee shall invest trust money in its own securities or lend money on the security of its own securities.

(3) In the case of an investment under section 3(e), the inclusion, as additional security under the mortgages, charges or hypothecs, of any other assets not of a class authorized by this Schedule as investments does not render the bonds, debentures or other evidences of indebtedness ineligible as an investment.

(4) No investment may be made under section 3(e), (h) or (i) that would at the time of making the investment cause the aggregate market value of the investments made under those clauses to exceed 35% of the market value at that time of the whole trust estate.

(5) Repealed AR 152/2011 s36.

(6) No sale or other liquidation of any investment made under section 3(e), (h) or (i) is required solely because of any change in the ratio between the market value of those investments and the market value of the whole trust estate.

(7) In case of an investment under section 3(i) or (j), not more than 30% of the total issue of shares of any corporation may be purchased for any trust.

(8) No investment shall be made under section 3(j) that, at the time of making the investment, would cause the aggregate market value of the common shares held for any particular trust fund to exceed 15% of the market value of that trust fund at that time.

(9) No sale or other liquidation of common shares is required under this section solely because of any change in the ratio between the market value of those shares and the market value of the whole trust fund.

5 Repealed AR 152/2011 s36.

#### **Deposit of trust funds**

6 An authorized trustee may, pending the investment of any trust money, deposit it for a time that is reasonable in the circumstances

- (a) in any bank or treasury branch,
- (b) in any trust corporation,
- (c) in any credit union, or
- (d) in any loan corporation.

**Registration of securities**

**7(1)** Except in the case of a security that cannot be registered, an authorized trustee who invests in securities shall require the securities to be registered in the authorized trustee's name as the trustee for the particular trust for which the securities are held, and the securities may be transferred only on the books of the corporation in the authorized trustee's name as trustee for that trust estate.

**(2)** This section does not apply when the authorized trustee is a trust corporation.

**8** Repealed AR 152/2011 s36.

**Variation of investments**

**9(1)** An authorized trustee in the trustee's discretion may

- (a) call in any trust funds invested in securities other than those authorized by this Schedule and invest the funds in securities authorized by this Schedule, and
- (b) vary any investments authorized by this Schedule.

**(2)** No authorized trustee is liable for a breach of trust by reason only of the authorized trustee's continuing to hold an investment that since its acquisition by the authorized trustee has ceased to be one authorized by this Schedule.

**(3)** When an authorized trustee has improperly advanced trust money on a mortgage that would at the time of the investment have been a proper investment in all respects for a lesser sum than was actually advanced, the security is deemed to be an authorized investment for that lesser sum and the authorized trustee is liable to make good only the amount advanced in excess of the lesser amount with interest.

**Concurrence by authorized trustee in corporate schemes**

**10(1)** When an authorized trustee holds securities of a corporation in which the authorized trustee has properly invested money under this Schedule, the authorized trustee may concur in any compromise, scheme or arrangement

- (a) for the reconstruction of the corporation or for the winding-up or sale or distribution of its assets,
- (b) for the sale of all or any part of the property and undertaking of the corporation to another corporation,
- (c) for the amalgamation of the corporation with another corporation,

- (d) for the release, modification or variation of any rights, privileges or liabilities attached to the securities or any of them, or
- (e) whereby
  - (i) all or a majority of the shares, stock, bonds, debentures and other securities of the corporation, or of any class of them, are to be exchanged for shares, stock, bonds, debentures or other securities of another corporation, and
  - (ii) the authorized trustee is to accept the shares, stock, bonds, debentures or other securities of the other corporation allotted to the trustee pursuant to the compromise, scheme or arrangement,

in like manner as if the authorized trustee were entitled to the securities beneficially and may, if the securities are in all other respects reasonable and proper investments, accept any securities of any denomination or description of the reconstructed or purchasing or new corporation instead of or in exchange for all or any of the original securities.

(2) An authorized trustee is not responsible for any loss occasioned by any act or thing done in good faith under subsection (1) and the authorized trustee may, if the securities accepted under subsection (1) are in all other respects reasonable and proper investments, retain them for any period for which the authorized trustee could have properly retained the original securities.

11 Repealed AR 152/2011 s36.

AR 158/2006 s2;152/2011

## Schedule 4

### Administrative Penalties

The following administrative penalties are payable in respect of a contravention of the following sections of the *Funeral Services Act*:

<i>Funeral Services Act</i> (section)	Penalty for 1st contravention (\$)	Penalty for 2nd contravention (\$)
10(1)	1000	2500
3(1.1), (2), (3), (4) and (5), 5(3), 12(1) and 13(1)	1500	5000
3(1) and 8(1)	5000	20 000

The following administrative penalties are payable in respect of a

contravention of the following sections of this Regulation:

<i>General Regulation</i> (section)	Penalty for 1st contravention (\$)	Penalty for 2nd contravention (\$)
8.1, 9, 12.2(b), 13(1), 14, 15(1), 17, 18(7) and (8), 25, 36.1(2) and 36.2(1)	500	1000
7, 12.1(1), (2), (4), (5) and (7) and 16(1)	1000	2500
8	1500	5000
12(1)	5000	20 000

AR 152/2011 s37





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