



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

## **PREARRANGED FUNERAL SERVICES ACT**

## PLEASE NOTE

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For more information concerning the history of this Act, please see the ***Table of Public Acts*** on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## PREARRANGED FUNERAL SERVICES ACT

### CHAPTER P-17

#### 1. Definitions

In this Act

- (a) **“Board”** means the Prince Edward Island Funeral Services and Professions Board as established under subsection 5(1) of the *Funeral Services and Professions Act* R.S.P.E.I. 1988, Cap. F-17;
- (a.1) **“court”** means the Supreme Court;
- (a.2) **“funeral home operator”** means a funeral home operator as defined under the *Funeral Services and Professions Act* R.S.P.E.I., 1988, Cap. F-17;
- (b) **“funeral services”** means any services and commodities usual in the preparation for burial and the burial of the dead other than the supplying of lots, burial vaults, grave markers, vases and services rendered or to be rendered at the cemetery;
- (c) **“institution”** means
  - (i) a trust company authorized by law to receive money on trust in Prince Edward Island,
  - (ii) a bank governed by the *Bank Act* (Canada), or
  - (iii) a credit union governed by the *Credit Unions Act* R.S.P.E.I. 1988, Cap. C-29.1 which maintains a permanent place of business in the province;
- (d) **“Minister”** means the Minister of Justice and Public Safety and Attorney General;
- (e) **“prearranged funeral plan”** means an agreement whereby in consideration of payment in advance, by lump sum or instalments, a vendor contracts to provide funeral services for a person alive at the time the agreement is entered into;
- (e.1) **“Registrar”** means the Registrar appointed pursuant to the *Funeral Services and Professions Act*;
- (f) **“vendor”** means a person who contracts with a buyer for the provision of funeral services. 1984,c.31,s.1; 1985,c.3,s.1; 1993,c.29,s.4; 1997,c.20,s.3; 2000,c.5,s.3; 2001,c.13,s.1; 2010,c.14,s.3; 2012(2nd),c.10,s.69(a); 2012,c.17,s.2; 2015,c.28,s.3; 2025,c.13,s.1.

#### 2. Sale of prearranged funeral plans - prohibition

- (1) No person shall solicit, sell or offer for sale a prearranged funeral plan unless
  - (a) the person is a funeral home operator or the agent or representative of a funeral home operator; and
  - (b) the funeral home operator is capable of providing the funeral services purchased under the plan.



**Requirement for bond or surety**

(2) No vendor shall solicit, sell or offer for sale a prearranged funeral plan unless the vendor has provided security in the form and amount, and subject to the terms, prescribed by the regulations for the purpose of securing the fulfilment by the vendor of

- (a) the prearranged funeral services agreements entered into by the vendor; and
- (b) the obligations of the vendor under this Act and the regulations. *1984,c.31,s.2; 2012(2nd),c.10,s.69(b); 2025,c.13,s.2.*

**2.1 Purchase of prearranged funeral services**

(1) The purchase of prearranged funeral services shall be by agreement in writing, signed by the vendor and the purchaser, and the vendor shall give a copy of the agreement to the purchaser at the time of signing or within 10 days from that date.

**Form and content of agreement**

(2) The form and content of the agreement used for the purpose of subsection (1) shall be that approved by the Board.

**Prohibition**

(3) No person shall accept money for the future delivery of prearranged funeral services for a person unless the vendor and the purchaser have entered into a written agreement for the purchase of a prearranged funeral plan that complies with the requirements of this section. *2025,c.13,s.2.*

**3. Money held on trust under prearranged funeral plan**

(1) A vendor who enters into a prearranged funeral plan shall hold in trust all money paid under the plan, other than the sum, if any, retained pursuant to subsection (2), and deposit the money in an institution to be held on trust, together with the interest thereon for the purposes for which it has been paid until

- (a) the funeral services purchased under the plan have been provided in accordance with the plan; or
- (b) the money or any unused balance thereof has been refunded to the person who made the payment, or paid to his personal representative.

**Retention of certain money as deposit**

(2) Subject to subsection 5(2), a vendor may, if the plan so provides, retain not more than twelve per cent of the money payable under the plan.

**Cancellation, etc. of plan**

(3) Where, at the request of the person making the payments under the plan, a prearranged funeral plan is terminated, cancelled or discontinued within three years of the date on which it was entered into, the amount, if any, retained pursuant to subsection (2) is forfeited to the vendor as a penalty. *1984,c.31,s.3.*

**4. Deposit of money held in trust**

(1) Money held in trust by a vendor under a prearranged funeral plan shall, within thirty days of entering into the plan, be paid into an institution to be deposited in a trust account in the institution by agreement with the vendor.



**Investment**

(2) Money in any trust account for the purposes of this Act may be invested in any investments authorized for trustee investments under section 30 of the *Trustee Act* R.S.P.E.I. 1988, Cap. T-8.1.

**Interest**

(3) Interest or income on money deposited pursuant to subsection (1) shall be credited to the trust account annually.

**Proof of deposit**

(4) Within 15 business days after having paid money to an institution under subsection (1) for deposit in a trust account with the institution, a vendor shall obtain from the institution proof that the deposit was made and provide a copy of the proof of deposit to the person who made the payment to the vendor. *1984,c.31,s.4; 2025,c.18,s.106; 2025,c.13,s.3.*

**5. Payments out of trust money**

(1) Subject to section 3, money paid to an institution pursuant to section 4 shall, within ten days of receipt of notice in writing to the institution, be paid out, together with the interest on the money,

- (a) to the person who made the payment or the person's personal representative, upon the joint authorization of the vendor and the person who made the payment or the person's personal representative, or if the vendor is not available or refuses to authorize repayment, upon the direction of the Minister; or
- (b) to the vendor, upon production of proof of the death of the person on whose behalf the payment was made and proof that the funeral services have been provided.

**Repayment of deposit**

(2) Where, after a plan has been in operation for at least three years, a repayment is made pursuant to clause (1)(a), the vendor shall pay to the person entitled to such repayment, an amount equal to the sum, if any, retained by the vendor pursuant to subsection 3(2).

**Plan to include provision for withdrawal**

(3) Every prearranged funeral plan shall contain a provision that the money paid thereunder may be withdrawn in the manner specified in subsections (1) and (2) without payment of a penalty or charge, other than as permitted under subsection 3(3). *1984,c.31,s.5; 2025,c.13,s.4.*

**6. Report**

(1) A vendor who enters into a prearranged funeral plan shall report to the Board and provide information, at the times and in the form and manner required by the Board, concerning any prearranged funeral plan undertaken by the vendor.

**Financial statement**

(2) In accordance with the direction of the Board, a vendor shall provide the Board with a financial statement prepared by a person approved by the Board or a chartered professional accountant with respect to the prearranged funeral service agreements undertaken by the vendor.

**Audit**

(3) The Board may require that the financial statement referred to in subsection (2) be audited by a qualified auditor appointed by the vendor.



**Records**

(4) A vendor shall establish and maintain records of the vendor's activities with respect to prearranged funeral plans in accordance with the regulations and shall make the records available to the Board and to an inspector appointed by the Board. *1984,c.31,s.6; 2025,c.13,s.5.*

**6.1 Statement**

(1) Every institution shall prepare as of January 1 of each year, and at any other time required by the Board, a statement showing

- (a) the number of trust accounts maintained by the institution pursuant to this Act;
- (b) the amount standing at that date to the credit of each trust account and the name of the vendor for whom the account is maintained;
- (c) in respect of each account, the persons who are paying money under a prearranged funeral plan with the vendor for whom the account is maintained, and the amount paid and to be paid on behalf of each person;
- (d) the sums charged by the institution as a service charge for maintaining the account and how those sums are derived; and
- (e) other matters respecting the accounts specified by the regulations.

**Annual statement**

(2) The institution shall send, by ordinary mail or electronically to the Board and the vendor for whom the account is maintained,

- (a) not later than January 10 of each year, a copy of the annual statement prepared under subsection (1); and
- (b) at any time, within 10 days of receipt of a written request from the vendor, an interim statement providing the information set out in subsection (1). *2025,c.13,s.5.*

**6.2 Appointment of inspectors**

(1) The Board may appoint persons as inspectors for the purposes of this Act.

**Entry and inspection**

(2) For the purpose of ensuring compliance with this Act, an inspector may, without notice during business hours and on the production of a copy of the inspector's appointment, enter any premises or part of any premises used or intended to be used for the purpose of soliciting, selling or offering for sale a prearranged funeral plan and carry out an inspection.

**Powers of inspector**

(3) For the purposes of an inspection, an inspector may

- (a) examine, extract information from and make copies of all records, documents and other relevant information required to carry out the inspection; and
- (b) interview or request information from a vendor, an employee or other person involved in soliciting, selling or offering for sale a prearranged funeral plan.

**Cooperation and information**

(4) The vendor and any employee or other person involved in soliciting, selling or offering for sale a prearranged funeral plan shall cooperate with an inspector and provide all records, documents or information requested by the inspector in connection with the inspection.



**Failure to comply**

(5) Where a person fails to comply with the requirements of subsection (4), without reasonable cause, the inspector

- may apply to the court, without notice, for a warrant authorizing the inspector to enter the premises and carry out an inspection in accordance with subsection (3); and
- shall report the failure to comply to the Board.

**Combined inspections**

(6) For greater certainty, an inspection under this section may be combined with an inspection under section 31 of the *Funeral Services and Professions Act. 2025,c.13,s.5*.

**6.3 Report**

(1) An inspector shall, on completion of an inspection under section 6.2, report in writing to the vendor and to the Board the inspector's findings and any recommendations for remedying a contravention of this Act.

**Written submission**

(2) The vendor may, within 10 days after receipt of the inspector's report, make a written submission to the Board regarding the findings and any recommendations of the inspector.

**Order of Board**

(3) Where, after considering the findings and any recommendations of the inspector reported under subsection (1), and any submissions of the vendor made under subsection (2), the Board finds that the funeral home operator has contravened this Act, the Board may make one or more of the following orders:

- an order that the vendor take any steps necessary to comply with this Act;
- an order prohibiting the vendor from soliciting, selling or offering for sale a prearranged funeral plan for a specified period of time or until the occurrence of a specified future event.

**Notice**

(4) Where the Board makes an order under subsection (3), the Board shall serve the order on the vendor who is the subject of the order, together with a written notice of

- the reasons for the order; and
- the vendor's right to appeal the order under section 6.5.

**Order in effect when served**

(5) An order of the Board made under subsection (3)

- is in effect when it is served on the vendor who is the subject of the order; and
- remains in effect pending the outcome of an appeal unless the court, on application, stays the order pending the appeal. *2025,c.13,s.5*.

**6.4 Interim order**

(1) Notwithstanding any other provision of this Act, where the Board has reasonable grounds to believe that the conduct of a vendor poses a demonstrable risk of harm to the vendor's clients, the Board may make an order

- (a) imposing terms and conditions on the vendor's authority to solicit, sell or offer for sale a prearranged funeral plan; or
- (b) suspending the vendor's authority to solicit, sell or offer for sale a prearranged funeral plan.

#### **Service of order and inspection**

- (2) Where the Board makes an order under subsection (1), the Board shall
  - (a) serve on the vendor who is the subject of the order
    - (i) a copy of the order,
    - (ii) written reasons for the order, and
    - (iii) written notice of the right to appeal under section 6.5;
  - (b) serve a copy of the order on the Registrar; and
  - (c) direct an inspector to inspect the premises operated by the vendor in accordance with section 6.2, if an inspection has not been carried out in respect of the matter.

#### **Order in effect when served**

- (3) An order of the Board made under subsection (1)
  - (a) is in effect when it is served on the vendor who is the subject of the order; and
  - (b) is valid for the period, not exceeding 90 days, that is specified in the order. *2025,c.13,s.5.*

#### **6.5 Appeal**

- (1) A person who is aggrieved by an order of the Board made under subsection 6.3(3) or 6.4(1) may appeal the order to the court within 30 days after being served with the order.

#### **Powers of court**

- (2) On hearing the appeal, the court may
  - (a) confirm, revoke or vary the order appealed from;
  - (b) refer the matter, or any issue, back to the Board for further consideration; or
  - (c) provide any direction that it considers appropriate. *2025,c.13,s.5.*

#### **7. Assignment of prearranged funeral plan**

- (1) A vendor may, with the consent of the person who is making or has completed the payments thereunder, assign a prearranged funeral plan to another person with notice in writing thereof to the institution.

#### ***Idem***

- (2) Where an assignment of a prearranged funeral plan is made to another person, the institution maintaining the trust account on behalf of the vendor shall make all necessary changes in the records and accounts in order to make the assignment complete, and if the trust account of the assignee is maintained elsewhere than with that institution, money held under the assigned prearranged funeral plan may be transferred to the trust account maintained on behalf of the assignee, upon the payment by the assignee of the charges and fees of the institution. *1984,c.31,s.7.*

**8. Offence and penalty**

(1) Every person who violates or fails to comply with any provision of this Act or the regulations or a direction given under this Act or the regulations and every director of a corporation who knowingly concurs in a violation or failure to comply with any provision of this Act or the regulations or direction given under this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not more than \$25,000 or to imprisonment for a term of not more than one year, or both.

**Corporations**

(2) Where a corporation is convicted of an offence under subsection (1) it is liable to a penalty of not more than \$200,000.

**Time for laying information**

(3) Notwithstanding any other Act, any information for an offence under this Act may be laid at any time within three years from the time when the offence or act was committed. *1984,c.31,s.8.;* *2025,c.13,s.6.*

**9. Money on trust not liable to attachment or legal process**

Any money standing to the credit of a prearranged funeral plan is not, while in the hands of the institution or while in course of transmission from or to the person who is to provide the funeral services under the prearranged funeral plan, liable to demand, seizure or detention under legal process against the person depositing the same under the plan or his personal representative or against the person to whom the money is to be paid under the prearranged funeral plan for the provision of funeral services. *1984,c.31,s.9.*

**10. Authority of Board – forms and records**

The Board shall

- (a) approve forms of agreement, assignment and other documents to be used by vendors for the purposes of this Act, and provide direction as to their use; and
- (b) establish requirements for vendors respecting the creation and retention of records and information pertaining to prearranged funeral plans. *1984,c.31,s.10;* *2025,c.13,s.7.*

**11. Regulations**

The Lieutenant Governor in Council may make regulations

- (a) respecting the audit and inspections of the books and records of vendors;
- (b) respecting fees or penalties that may be charged by a vendor with respect to the transfer or cancellation of a prearranged funeral service agreement;
- (c) respecting the form, terms and amount of a bond or surety for the purposes of subsection 2(2), and the forfeiture of the bond or surety. *2025,c.13,s.7.*

