



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

PREARRANGED FUNERAL SERVICES ACT

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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).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office

Tel: (902) 368-4292

Email: legislation@gov.pe.ca



PREARRANGED FUNERAL SERVICES ACT

CHAPTER P-17

1. Definitions

In this Act

- (a) “**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-29.1which 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 therefor 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;
- (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.*

2. Sale of prearranged funeral plans

No person shall solicit, sell or offer for sale a prearranged funeral plan unless

- (a) he is a funeral home operator or his agent or representative; and
- (b) he is capable of providing the funeral services purchased under the plan. *1984, c.31, s.2; 2012(2nd), c.10, s.69(b).*

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 the *Trustee Act R.S.P.E.I. 1988, Cap. T-8.*

Interest

- (3) Interest or income on money deposited pursuant to subsection (1) shall be credited to the trust account annually. *1984, c.31, s.4.*

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 thereon,
- (a) to the person who made the payment or his personal representative, upon the joint authorization of the vendor and the person who made the payment or his 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.*

6. Statements

- (1) Every institution shall prepare as of January 1 of each year 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 thereunder 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) such other matters as may be required by the regulations.

Copy to vendor

- (2) The institution shall
 - (a) not later than January 10 of each year send by ordinary mail a copy of the annual statement prepared under subsection (1); and
 - (b) at any time, within ten days of receipt of a written request from the vendor, send by ordinary mail an interim statement providing the information set out in subsection (1) to the vendor for whom the account is maintained. *1984,c.31,s.6.*

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 \$2,000 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 \$25,000.

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.*

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. Regulations

The Lieutenant Governor in Council may make regulations

- (a) prescribing forms and providing for their use;
- (b) providing for licensing of vendors;
- (c) providing for approval of forms of agreement, assignments and other documents to be used by vendors;
- (d) providing for the audit and inspection of the books and records of vendors and institutions;
- (e) exempting any class of persons from this Act. *1984,c.31,s.10.*