



# **BILL NO. 57**

*Government Bill*

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*1st Session, 62nd General Assembly  
Nova Scotia  
63 Elizabeth II, 2014*

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**An Act to Amend Chapter 62  
of the Revised Statutes, 1989,  
the Cemetery and Funeral Services Act,  
and Chapter 144 of the Revised Statutes, 1989,  
the Embalmers and Funeral Directors Act**

CHAPTER 10  
ACTS OF 2014

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR  
MAY 1, 2014**

The Honourable Mark Furey  
*Minister of Service Nova Scotia*

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*Halifax, Nova Scotia  
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 62  
of the Revised Statutes, 1989,  
the Cemetery and Funeral Services Act,  
and Chapter 144 of the Revised Statutes, 1989,  
the Embalmers and Funeral Directors Act**

Be it enacted by the Governor and Assembly as follows:

**1 Section 2 of Chapter 62 of the Revised Statutes, 1989, the *Cemeteries and Funeral Services Act*, is amended by**

**(a) adding immediately after clause (e) the following clause:**

(ea) “funeral home licence” means a licence to operate a funeral home issued pursuant to the *Embalmers and Funeral Directors Act*;

**(b) adding immediately after clause (h) the following clause:**

(ha) “insurance-funded plan” means a pre-arranged funeral plan or pre-need cemetery plan that provides that the price payable for the merchandise, goods or services provided for under the plan is to be funded directly or indirectly out of the proceeds of an insurance policy;

**(c) adding “, including an association incorporated pursuant to the *Co-operative Associations Act*” immediately after “corporation” in the fourth line of clause (m);**

**(d) striking out clause (n) and substituting the following clause:**

(n) “pre-arranged funeral plan” means an agreement under which, in consideration of

(i) payment in advance by lump sum or instalments, or

(ii) the price payable being funded out of the proceeds of an insurance policy to be paid directly or indirectly to a person who holds a funeral home licence,

a person who holds a funeral home licence contracts to provide funeral merchandise or services when required for one or more individuals alive at the time the agreement is entered into;

**(e) striking out clause (o) and substituting the following clause:**

(o) “pre-need cemetery plan” means an agreement under which, in consideration of

(i) payment in advance by lump sum or instalments, or

(ii) the price payable being funded out of the proceeds of an insurance policy to be paid directly or indirectly to an operator of a cemetery or crematorium,

an operator of a cemetery or crematorium contracts to provide cemetery goods or services when required for one or more individuals alive at the time the agreement is entered into;

**and**

**(f) adding immediately after clause (s) the following clause:**

(sa) “trust-funded plan” means a pre-arranged funeral plan or pre-need cemetery plan under which payment is made in advance by lump sum or instalments;

**2 (1) Subsection 7(1) of Chapter 62 is amended by adding “as a seller or as a salesperson of a licensed seller” immediately after “licensed” in the second last line.**

**(2) Section 7 of Chapter 62 is further amended by adding immediately after subsection (2) the following subsections:**

(3) Every person who as a seller

(a) has entered into a pre-arranged funeral plan; and

(b) continues to be required to hold funds with respect to the plan in trust pursuant to this Act or the regulations,

must continue to hold a licence issued by the Registrar pursuant to Section 8 regardless of whether the person continues to be required to be licensed pursuant to clause (1)(a).

(4) Every person who as a seller

(a) has entered into a pre-need cemetery plan; and

(b) continues to be required to hold funds with respect to the plan in trust pursuant to this Act or the regulations,

must continue to hold a licence issued by the Registrar pursuant to Section 8 regardless of whether the person continues to be required to hold a licence pursuant to clause (1)(b).

**3 (1) Subsection 8(1) of Chapter 62 is amended by adding “this Act or” immediately after “by” in the second last line.**

**(2) Section 8 of Chapter 62 is further amended by adding immediately after subsection (1) the following subsection:**

(1A) In order to be issued a licence to sell pre-arranged funeral plans pursuant to subsection (1), an applicant must hold a funeral home licence.

**(3) Subsection 8(3) of Chapter 62 is amended by adding “and any restrictions imposed by the Registrar pursuant to subsection (4)” immediately after “regulations” in the last line.**

**(4) Section 8 of Chapter 62 is further amended by adding immediately after subsection (3) the following subsection:**

(4) The Registrar may issue a licence subject to such restrictions as the Registrar may impose.

**4 Chapter 62 is further amended by adding immediately after Section 8 the following Sections:**

8A (1) Every person who holds a licence to sell pre-arranged funeral plans shall display the licence in public view at all times at the funeral home operated by the person.

(2) Every person who holds a licence to sell pre-need cemetery plans shall display the licence in public view at all times at the person's business premises.

8B Every person who is selling insurance for insurance-funded plans shall comply with the *Insurance Act*.

**5 Section 9 of Chapter 62 is amended by**

**(a) striking out “, or with the approval of the Minister,” in the first and second lines; and**

**(b) adding immediately after clause (b) the following clause:**

(ba) failed to comply with an undertaking provided by the licensee pursuant to Section 9A;

**6 Chapter 62 is further amended by adding immediately after Section 9 the following Sections:**

9A Where the Registrar has reason to believe that a person has contravened this Act or the regulations, the Registrar may accept from the person a written undertaking in the form and containing the terms or conditions the Registrar determines are appropriate in the circumstances, including, without limiting the generality of the foregoing, one or more of the following:

- (a) an undertaking to comply with this Act and the regulations;
- (b) an undertaking to refrain from engaging in an act or practice;
- (c) an undertaking with respect to the form, content and maintenance of trust accounts, records, purchase agreements or other documents.

9B (1) The Registrar may publish

- (a) a list of licensees, including their names and business addresses;
- (b) any terms, conditions or restrictions to which a particular licence is subject;
- (c) information relating to the status of a particular licence, including whether the licence has been cancelled or suspended; and
- (d) any other information prescribed by the regulations.

(2) The Registrar may publish the information referred to in subsection (1) in whatever form and manner the Registrar considers appropriate.

**7 Section 10 of Chapter 62 is amended by adding “(1)” immediately after the Section number and adding the following subsections:**

(2) The form and content of purchase agreements used by a seller of pre-arranged funeral plans or pre-need cemetery plans must

- (a) be approved by the Registrar; and
- (b) comply with the requirements, if any, set out by the regulations.

(3) No seller shall accept money for the future delivery of funeral merchandise or services for an individual who is alive at the time the money is accepted unless the seller and the purchaser have entered into a written purchase agreement for a pre-arranged funeral plan.

(4) No seller shall accept money for the future delivery of cemetery goods or services for an individual who is alive at the time the money is accepted unless the seller and the purchaser have entered into a written purchase agreement for a pre-need cemetery plan.

**8 Chapter 62 is further amended by adding immediately after Section 10 the following Section:**

10A The seller of an insurance-funded plan shall attach to the purchase agreement

- (a) the insurance policy or the enrolment or other documents that confirm the purchase of the insurance; and
- (b) the document designating the holder of the funeral home licence or the operator of the cemetery or crematorium as the beneficiary of the insurance or assigning the proceeds of the insurance to the holder of the funeral home licence or the operator of the cemetery or crematorium.

**9 (1) Subsection 11(1) of Chapter 62 is amended by striking out “entered into in a place other than a funeral home or a place other than the seller’s business premises” in the first, second and third lines.**

**(2) Subsection 11(3) of Chapter 62 is amended by striking out “If this agreement is entered into in a place other than a funeral home or a seller’s business premises, you” in the fourth, fifth and sixth lines and substituting “You”.**

**(3) Subsection 11(5) of Chapter 62 is amended by adding “for a trust-funded plan” immediately after “agreement” in the fourth line.**

**10 (1) Subsection 12(1) of Chapter 62 is amended by striking out “pre-arranged funeral plan or pre-need cemetery” in the first and second lines and substituting “trust-funded”.**

**(2) Subsection 12(2) of Chapter 62 is amended by striking out “pre-arranged funeral plan or pre-need cemetery” in the first and second and in the fifth and sixth lines and substituting in each case “trust-funded”.**

**11 (1) Subsection 13(2) of Chapter 62 is amended by adding “trust-funded” immediately before “plan” in the first line.**

**(2) Section 13 of Chapter 62 is further amended by adding immediately after subsection (3) the following subsection:**

(4) Every purchase agreement for an insurance-funded plan must include a statement that cancellation of the pre-arranged funeral plan or the pre-need cemetery plan does not cancel the insurance contract, but that cancellation of the insurance contract does cancel the pre-arranged funeral plan or the pre-need cemetery plan.

**12 Chapter 62 is further amended by adding immediately after Section 13 the following Sections:**

13A (1) Where a purchaser fails to make a payment under a trust-funded plan within thirty days after the payment is due, the seller may demand payment and give written notice that the plan may be cancelled if payment is not received within thirty days from the date the demand and notice were sent to the purchaser.

(2) Where payment is not received within the thirty-day period referred to in subsection (1), the seller may cancel the plan by giving written notice of cancellation to the purchaser and refunding to the purchaser all money paid under the plan, minus all income earned and minus the percentage retained by the seller on account of administrative expenses pursuant to subsections (2) and (3) of Section 15.

(3) The notices required by subsections (1) and (2) must comply with the requirements, if any, set out by the regulations.

(4) The plan is not cancelled and the seller shall honour the prices and the funeral merchandise or services, or the cemetery goods or services, contracted for under the purchase agreement if

(a) the purchaser pays any unpaid balances that are due within the thirty days from the date of the demand and notice sent pursuant to subsection (1); or

(b) the seller does not provide the written notices as required by subsections (1) and (2) and refund the money as provided for in subsection (2).

13B (1) A pre-arranged funeral plan may be assigned to another licensed seller of pre-arranged funeral plans in accordance with the regulations by

(a) the seller who entered into the plan, with the written consent of the purchaser;

(b) the purchaser on the purchaser's own behalf or on behalf of any other person for whom the plan was purchased;

(c) the person for whom the plan was purchased; or

(d) the personal representative of the deceased person for whom the plan was purchased.

(2) Where an assignment of a pre-arranged funeral plan is made to another licensed seller, the seller who entered into the plan shall transfer all money held in trust to the other licensed seller, and the other licensed seller shall continue to hold the money in trust in accordance with this Act and the regulations.

(3) Neither the seller of a pre-arranged funeral plan who assigns it nor the seller to whom it is assigned shall charge the purchaser

(a) any penalty or other fee relating to the assignment; or

(b) any percentage on account of administrative expenses, if a percentage has been retained by any person pursuant to subsections (2) and (3) of Section 15.

13C (1) The seller of a pre-arranged funeral plan shall give written notice to the purchaser at least thirty days in advance of an intended cessation of operations of a funeral home from which the funeral merchandise or services contracted for under the plan were to be provided.

(2) A licensee shall give written notice to the purchaser within thirty days after a sale or change in location of a funeral home from which the funeral merchandise or services contracted for under the plan were to be provided.

(3) The notices required by subsections (1) and (2) must comply with the requirements, if any, set out by the regulations.

(4) The seller of pre-arranged funeral plans shall file with the Registrar, at least thirty days in advance of an intended sale or cessation of operations of a funeral home operated by the seller,

(a) an interim report that meets the requirements, if any, in the regulations, respecting the pre-arranged funeral plans and trust accounts held by the seller;

(b) a report that sets out how the pre-arranged funeral plans and trust accounts will be dealt with as part of the intended sale or cessation of operations; and

(c) in the case of an intended sale, the name of the proposed purchaser.

(5) The Registrar may require the seller to provide additional information and particulars with respect to any report filed with the Registrar pursuant to subsection (4).

13D Where a pre-arranged funeral plan that is a trust-funded plan is cancelled because the funeral home from which the funeral merchandise or services contracted for under the plan were to be provided is ceasing to carry on business, the seller of the plan

(a) shall not retain the income that has accrued on the principal;

(b) shall refund to the purchaser the principal and all income earned, minus any amount expended in accordance with the plan and minus the percentage retained by the seller on account of administrative expenses pursuant to subsections (2) and (3) of Section 15; and

(c) shall deliver to the purchaser any funeral merchandise or other things acquired by the seller on behalf of the purchaser.



**13 (1) Subsection 15(2) of Chapter 62 is amended by striking out “pre-arranged funeral plan or pre-need cemetery” in the first and second lines and substituting “trust-funded”.**

**(2) Section 15 of Chapter 62 is further amended by adding immediately after subsection (2) the following subsections:**

(3) The seller of a trust-funded plan may retain the percentage on account of administrative expenses referred to in subsection (2) only at one of the following times:

(a) where payment is by lump sum, when the seller deposits the lump sum payment in trust;

(b) where payment is by instalments, when the seller deposits the first instalment payment in trust;

(c) where the pre-arranged funeral plan or pre-need cemetery plan is cancelled, when cancelled.

(4) The seller of an insurance-funded plan shall not charge any fee or amount on account of administrative expenses.

**14 Chapter 62 is further amended by adding immediately after Section 15 the following Sections:**

15A The seller of a pre-arranged funeral plan or a pre-need cemetery plan shall not cancel a trust-funded plan and replace it with an insurance-funded plan unless the seller

(a) obtains prior written consent from the purchaser to cancel the trust-funded plan and replace it with an insurance-funded plan;

(b) contracts in the insurance-funded plan to provide the same funeral merchandise or services or the same cemetery goods or services, at the same prices, as were contracted for in the trust-funded plan; and

(c) does not charge the purchaser any additional fee or amount for the insurance-funded plan.

15B (1) Money held in trust by a seller for a pre-arranged funeral plan or a pre-need cemetery plan becomes unclaimed trust money if the seller

(a) has been unable to determine whether the person for whom the plan was purchased is deceased and has reasonable grounds to believe that the person for whom the plan was purchased would be one hundred and twenty years old or older; or

(b) has reasonable grounds to believe that another person has provided the funeral merchandise or services or the cemetery goods or services,

and the funeral merchandise or services or the cemetery goods or services that are mentioned in the plan have not been provided and the seller has been unable to locate the purchaser or a personal representative of the purchaser.

(2) Once money held in trust by a seller becomes unclaimed trust money pursuant to this Section, the seller shall transfer the money and income to the Minister within fifteen days.

(3) Money paid to the Minister pursuant to subsection (2) must be held in trust by the Minister for two years.

(4) All interest earned on money paid to the Minister pursuant to subsection (2) accrues to Her Majesty in right of the Province.

(5) Every person who makes an application to claim money paid pursuant to subsection (2) shall

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

(6) Within one hundred and twenty days after an application and any information required by the Registrar is received pursuant to subsection (5), the Registrar shall consider the application and may either

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

(7) Where the Registrar does not receive an application for money paid pursuant to subsection (2) by a person who the Registrar is satisfied is validly entitled to it within two years from the time that the money is paid to the Minister,

- (a) the money defaults to Her Majesty in right of the Province and must be paid into the General Revenue Fund of the Province; and
- (b) all claims to the money by any person entitled to it are extinguished.

**15 Section 20 of Chapter 62 is repealed.**

**16 Chapter 62 is further amended by adding after Section 25 the following Section:**

25A The operator of a crematorium shall not cremate human remains unless the remains are enclosed in a container that

- (a) is of sufficient strength to hold and conveniently transfer the remains;
- (b) prevents the remains from posing a health hazard; and
- (c) meets the requirements, if any, set out by the regulations.

**17 Subsection 28(1) of Chapter 62, as amended by Chapter 1 of the Acts of 2004, is further amended by**

- (a) adding immediately after clause (c) the following clauses:

(ca) requiring a salesperson of a licensed seller to be licensed, and respecting the licensing of such salespersons;

(cb) prescribing an amount, or a formula for calculating the amount, of the bond referred to in subsection (2) of Section 8;

(cc) providing for the forfeiture of bonds and for the distribution of the proceeds of bonds;

(cd) respecting advertising in relation to funeral merchandise or services or cemetery goods or services, including prohibiting practices with respect to advertising;

(ce) for the purpose of subsection (1) of Section 9B, prescribing information that may be published by the Registrar;

(cf) respecting the requirements for purchase agreements and the terms and conditions of purchase agreements, or any class of purchase agreements;

(cg) requiring reports or other information respecting insurance-funded plans or insurance policies to be filed with the Registrar by sellers of insurance-funded plans;

(ch) requiring records to be kept by sellers of insurance-funded plans respecting insurance-funded plans or insurance policies;

**(b) adding immediately after clause (f) the following clauses:**

(fa) governing the payment of money into trust funds or trust accounts, including the time within which and the circumstances under which payments are to be made;

(fb) prescribing records or other information with respect to trust funds or trust accounts that must be provided to purchasers of trust-funded plans;

(fc) for the purpose of subsection (3) of Section 13A, respecting the requirements for the notices to a purchaser required pursuant to subsections (1) and (2) of Section 13A, including, without limiting the generality of the foregoing, the manner in which the seller must provide the notices to the purchaser and the form and content of the notices;

(fd) respecting the assignment of pre-arranged funeral plans pursuant to Section 13B, including, without limiting the generality of the foregoing, respecting the transfer of the money held in trust;

(fe) for the purpose of subsection (3) of Section 13C, respecting the requirements for the notices to the purchaser of a pre-arranged funeral plan, including, without limiting the generality of the foregoing, the manner in which the notices must be provided and the form and content of the notices;

(ff) for the purpose of clause (a) of subsection (4) of Section 13C, respecting the requirements for the interim report to be filed with the Registrar with respect to pre-arranged funeral plans and trust accounts held by a seller;

**(c) adding immediately after clause (k) the following clause:**

(ka) respecting the requirements for containers used in the cremation process;

(d) adding “or other information” immediately after “reports” in the first line of clause (p);

(e) adding “or other information” immediately after “reports” in the second line of clause (q); and

(f) adding “, or requiring forms to be in the form prescribed by the Registrar,” immediately after “forms” in the first line of clause (x).

**18 (1) Subsection 7(4) of Chapter 144 of the Revised Statutes, 1989, the *Embalmers and Funeral Directors Act*, is amended by striking out “in the Royal Gazette before the first of April in each and every year” in the first and second lines and substituting “annually”.**

**(2) Subsection 7(5) of Chapter 144 is amended by striking out “publish in the Royal Gazette” in the first and second lines and substituting “provide to the Minister”.**

**19 Chapter 144 is further amended by adding immediately after Section 11 the following Section:**

11A (1) The Board shall prepare and publish a code of ethics for funeral directors and embalmers that includes standards of conduct pertaining to the business of being a funeral director and the practice of embalming.

(2) Every person who holds a funeral director’s licence, an embalmer’s licence or a licence issued to an apprentice embalmer shall comply with the code of ethics.

**20 Section 19 of Chapter 144 is amended by**

**(a) adding “(1)” immediately after the Section number;**

**(b) striking out “licenses” in the third line and substituting “licences”; and**

**(c) adding the following subsection:**

(2) The Registrar or the Board may publish any of the following information with respect to licences issued by the Board in whatever form and manner the Registrar or the Board considers appropriate:

(a) a list of persons who hold licences issued by the Board, including their names and the communities where they reside;

(b) the type of licence issued to a licensee;

(c) information relating to the status of a particular licence, including whether a licence has been cancelled or suspended;

(d) where a licensee works at a funeral home, the name and address of the funeral home.

**21 (1) Subsection 27(1) of Chapter 144 is amended by striking out “Minister” in the first line and substituting “Registrar”.**

**(2) Subsection 27(2) of Chapter 144 is amended by striking out “Minister” in the first line and substituting “Registrar”.**

**(3) Section 27 of Chapter 144 is further amended by adding immediately after subsection (3) the following subsection:**

(4) For greater certainty, the Registrar may issue a licence to operate a funeral home to an association incorporated pursuant to the *Co-operative Associations Act*.

**22 Chapter 144 is further amended by adding immediately after Section 28 the following Sections:**

28A No person shall, at a funeral home, sell insurance other than insurance to fund pre-arranged funeral plans as defined in the *Cemetery and Funeral Services Act*, as permitted by that Act.

28B Where the Registrar has reason to believe that a person who holds a funeral home licence has contravened this Act or the regulations, the Registrar may accept from the person a written undertaking in the form and containing the terms or conditions that the Registrar considers appropriate in the circumstances, including, without limiting the generality of the foregoing, one or both of the following:

- (a) an undertaking to comply with this Act and the regulations;
- (b) an undertaking to refrain from engaging in an act or practice.

28C (1) The Registrar may publish any of the following information with respect to funeral home licences:

- (a) a list of persons who hold funeral home licences, including their names and business addresses;
- (b) any terms, conditions or restrictions to which a particular funeral home licence is subject;
- (c) information relating to the status of a particular funeral home licence, including whether a licence has been cancelled or suspended;
- (d) any other information prescribed by the regulations.

(2) The Registrar may publish the information referred to in subsection (1) in whatever form and manner the Registrar considers appropriate.

**23 Section 29 of Chapter 144 is amended by**

- (a) striking out “Minister” in the first line and substituting “Registrar”; and**
- (b) adding immediately after clause (c) the following clause:**

(ca) the licensee has failed to comply with an undertaking provided by the licensee pursuant to Section 28B;

**24 Chapter 144 is further amended by adding immediately after Section 30 the following Section:**

30A Every person who holds a funeral home licence shall give written notice to the Registrar at least thirty days before an intended sale, change in location or cessation of operations of the funeral home.

**25 Chapter 144 is further amended by adding immediately after Section 32 the following Sections:**

32A (1) Every person who holds a funeral home licence shall maintain at the funeral home

(a) a display of full or partial replicas of caskets and urns on offer, including full or partial replicas of the least expensive options on offer; or

(b) an up-to-date catalogue with pictures and descriptions of the caskets and urns on offer, including pictures and descriptions of the least expensive options on offer.

(2) Descriptions referred to in clause (1)(b) must meet the requirements, if any, prescribed by the regulations.

32B No person who holds a licence shall charge a handling fee for the use of a casket, urn or other container that is provided by the customer unless the person who holds the licence charges the same handling fee for the caskets, urns or other containers, as the case may be, that are sold by the person.

**26 Subsection 33(1) of Chapter 144 is amended by**

**(a) adding immediately after clause (b) the following clauses:**

(ba) authorizing the Board to provide, prescribe, establish or approve education programs or courses of instruction for embalmers, apprentice embalmers or funeral directors;

(bb) prescribing the form and content of applications for funeral home licences, or requiring the form and content of applications for funeral home licences to be as required by the Registrar;

(bc) requiring applicants for funeral home licences to provide such information as the Registrar may require;

**(b) adding “other than funeral home licences, or requiring the form and content of applications for licences issued by the Board to be as required by the Board” immediately after “licences” in the second line of clause (c);**

**(c) adding immediately after clause (c) the following clause:**

(ca) requiring applicants for licences issued by the Board to provide such information as the Board may require;

**(d) adding immediately after clause (j) the following clause:**

(ja) respecting standards for the premises, facilities and equipment of a funeral home;

**and**

**(e) adding immediately after clause (p) the following clauses:**

(pa) prescribing information that may be published by the Registrar for the purpose of subsection 28C(1);

(pb) respecting the requirements for the catalogue descriptions of caskets and urns for the purpose of Section 32A;

**27** This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

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