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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 83

## **Funeral Operations Act**

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**Introduction**

**Introduced by**  
**Mr. Yves Bolduc**  
**Minister of Health and Social Services**

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## **EXPLANATORY NOTES**

*This bill establishes a new legal framework for funeral operations in order to protect public health and ensure that the dignity of deceased persons is respected. It specifies the funeral operations concerned and sets up a system for the licensing of funeral services businesses and another for the licensing of embalmers.*

*To protect public health, the Government may make regulations prescribing standards governing the arrangement, equipment and hygiene of embalming premises, viewing premises and crematoriums, as well as standards of hygiene and protection applicable to funeral operations.*

*Special provisions are made with regard to cemeteries, columbariums, mausoleums, interments, disinterments, cremations, and any other method of disposing of bodies. Also included are provisions concerning the disposal of human ashes, the transport of bodies and the disposal of bodies that remain unclaimed or are donated to an educational institution.*

*An inspection framework is established for verifying compliance with the Act and the regulations, and penal and regulatory provisions are introduced.*

*Lastly, consequential amendments are introduced in light of the new legal framework governing funeral operations, and certain obsolete provisions in the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies are removed.*

## **LEGISLATION AMENDED BY THIS BILL:**

- Civil Code of Québec;
- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Act respecting clinical and research activities relating to assisted procreation (R.S.Q., chapter A-5.01);

- Act respecting prearranged funeral services and sepultures (R.S.Q., chapter A-23.001);
- Health Insurance Act (R.S.Q., chapter A-29);
- Act respecting the Communauté métropolitaine de Montréal (R.S.Q., chapter C-37.01);
- Act respecting the Communauté métropolitaine de Québec (R.S.Q., chapter C-37.02);
- Act respecting Roman Catholic cemetery companies (R.S.Q., chapter C-40.1);
- Religious Corporations Act (R.S.Q., chapter C-71);
- Public Curator Act (R.S.Q., chapter C-81);
- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (R.S.Q., chapter L-0.2);
- Mining Act (R.S.Q., chapter M-13.1);
- Act respecting Forillon Park and its surroundings (R.S.Q., chapter P-8);
- Podiatry Act (R.S.Q., chapter P-12);
- Animal Health Protection Act (R.S.Q., chapter P-42);
- Environment Quality Act (R.S.Q., chapter Q-2);
- Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2);
- Public Health Act (R.S.Q., chapter S-2.2);
- Act respecting health services and social services (R.S.Q., chapter S-4.2);
- Act respecting pre-hospital emergency services (R.S.Q., chapter S-6.2);

- Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1).

**LEGISLATION REPEALED BY THIS BILL:**

- Non-Catholic Cemeteries Act (R.S.Q., chapter C-17);
- Burial Act (R.S.Q., chapter I-11).

**REGULATIONS AMENDED BY THIS BILL:**

- Individual and Family Assistance Regulation (R.R.Q., chapter A-13.1.1, r. 1);
- Regulation respecting biomedical waste (R.R.Q., chapter Q-2, r. 12).

# **Bill 83**

## **FUNERAL OPERATIONS ACT**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### **CHAPTER I**

#### **SCOPE AND INTERPRETATION**

**1.** This Act applies to the following funeral operations:

- (1) the provision of funeral services;
- (2) operations carried out in the embalming process;
- (3) the interment, disinterment, reinterment, cremation and transport of bodies;
- (4) the opening and closing of coffins; and
- (5) the operation of funeral facilities.

**2.** For the purposes of this Act,

(1) “funeral facilities” means a cemetery, a columbarium, a mausoleum, premises permanently or temporarily set up for the viewing of bodies or human ashes, embalming premises, a crematorium, a public vault, a place where bodies are preserved, or any other place where funeral operations are carried on, including the lease of such facilities with a view to their operation;

(2) “embalming process” means the preparation, disinfection and embalming of a body, whether a dead human body, human remains other than ashes, a still-born infant, or the non-living products of conception if they are claimed by the family; and

(3) “funeral services” means the operation of embalming premises, permanent premises for the viewing of bodies or human ashes, a crematorium, or a facility for the disposal of bodies by any chemical or physical process.

The washing of a body in the context of a funeral rite or practice does not constitute an operation carried out in the embalming process.

**3.** This Act does not apply to funeral operations carried out by

(1) coroners in the exercise of their functions under the Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2) or transportation service providers acting under a coroner's authority;

(2) members in good standing of a professional order governed by the Professional Code (R.S.Q., chapter C-20), in the practice of their profession;

(3) persons responsible for a post-secondary funeral science program that is recognized for the purpose of obtaining an embalmer's licence when such persons are acting in their educational capacity, or their students when they are acting for the purposes of their studies and are supervised by those persons or by a licensed embalmer;

(4) persons proceeding with the make-up, dressing or hairstyling of a body when they are acting under the supervision of a licensed embalmer; or

(5) any other person or category of persons exempted by government regulation.

This Act does not apply to ambulance service licence holders.

**4.** This Act does not apply to the transfer of a body by a health and social services institution within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-4.2) or the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5), if the transfer is from one facility of an institution to another.

This Act does not apply to the measures prescribed by judicial authorities or court officers for interments and disinterments carried out in the interests of justice, or to the opening of coffins that have been placed in a public vault if such an opening is required in the interests of justice.

**5.** A body or human ashes must be handled and disposed of in accordance with the provisions of this Act and in a manner that respects the dignity of the deceased person.

## **CHAPTER II**

### **FUNERAL SERVICES BUSINESS LICENCE AND EMBALMER'S LICENCE**

#### **DIVISION I**

##### **LICENCE ISSUE AND OBLIGATIONS**

###### *§1. — General provisions*

**6.** A person must hold a funeral services business licence in order to offer or claim to offer funeral services.

A funeral services business licence may be issued to any person or partnership who provides at least one funeral service.

**7.** Any person who carries out activities in the context of the embalming process must hold an embalmer's licence.

Only a natural person may hold an embalmer's licence.

**8.** Applications for an embalmer's licence or its renewal must be submitted to the Minister in the form determined by a government regulation, together with the prescribed documents and information and the fees set out in the regulation.

The Minister issues or renews licences for applicants who fulfill the qualifications and conditions prescribed by this Act or a government regulation for that purpose.

Furthermore, the issue, modification or renewal of a licence may be subjected to any condition, restriction or prohibition the Minister determines.

**9.** Licensees must notify the Minister without delay of any change that may affect the validity of their licence.

A licensee who intends to cease operations must notify the Minister in writing; the Minister revokes the licence on the date specified in the notice.

**10.** A funeral services business licence is issued or renewed for a maximum of three years.

An embalmer's licence is issued or renewed for a maximum of one year.

Renewal applications must be received not later than three months before the licence expires.

**11.** The prescribed documents and information and the fees set for the issue or renewal of a licence may vary according to the category of licence, the funeral services provided and the number and type of facilities.

The government regulation that sets the fees may prescribe additional costs and specify the cases and circumstances in which they are payable.

**12.** Licensees must preserve the documents determined by a government regulation, present them for inspection and give them to the Minister on request.

Each year, for statistical purposes, licensees must also provide the Minister with any information about their operations determined in such a regulation.

§2.—*Provisions applicable to funeral services business licensees*

**13.** A funeral services business licence specifies the services that the licensee is authorized to offer and the equipment that may be used; it also describes the funeral facilities and any conditions, restrictions or prohibitions attached to the licence.

**14.** Funeral services business licensees may provide only the services and engage only in the operations specified in their licence.

**15.** A funeral services business licence may not be sold or assigned without the written authorization of the Minister.

**16.** The Minister issues an extract of the funeral services business licence for each place where the licensee carries on operations.

The extract must be prominently displayed by the licensee in each place where the licensee carries on operations.

**17.** Funeral services business licensees must keep and maintain a register of funeral operations.

The register's form, content, access and conservation are prescribed by government regulation.

**18.** A funeral services business licensee may announce to the public that the business offers funeral services not specified in the licence, provided that the licensee maintain at all times, with another funeral services business licensee, the contracts necessary for the provision of those services.

In such a case, the licensee must provide the names of the licensees providing the funeral services not specified in the licence.

**19.** Funeral services business licensees must have premises where clients are greeted and given information; these premises must not be in a private residence.

**20.** Funeral services business licensees must appoint a general manager unless the licensee is a natural person who occupies that position, in which case the Minister must be informed of the fact.

The general manager is responsible for the administration and operation of the funeral services business and for the day-to-day management of operations and resources. The general manager also represents the licensee in dealings with the Minister.

**21.** A funeral services business licensee is accountable for all decisions made by the general manager in all matters governed by this Act.

**22.** The general manager of a funeral services business must have the qualifications and meet the conditions prescribed by government regulation.

§3.—*Provision applicable to holders of an embalmer's licence*

**23.** Licensed embalmers must keep and maintain an embalmer's register.

The register's form, content, access and conservation are prescribed by government regulation.

## **DIVISION II**

### **UNFAVOURABLE DECISIONS OF THE MINISTER**

**24.** The Minister may suspend, revoke or refuse to renew a licence if the licensee

(1) has failed to comply with this Act or the regulations;

(2) has been convicted, in any place, of an indictable or criminal offence relating to the operations for which the licence was issued, or, in the case of a licensee who is a legal person or a partnership, if a director or officer, or a partner or shareholder with a major interest in the business, has been so convicted, unless a pardon has been obtained;

(3) is unable, in the Minister's opinion, to provide adequate services;

(4) no longer meets the prescribed regulatory conditions for a licence or does not respect a condition, restriction or prohibition attached to the licence; or

(5) did not take the corrective measures required by the Minister under section 26 within the time determined by the Minister.

The Minister may also suspend, revoke or refuse to renew a licence for any other reason, out of concern for public health and safety.

For the purposes of this section, a partner holding at least 20% of the interest or a shareholder directly or indirectly holding at least 20% of the voting shares is considered to have a major interest in the business.

**25.** The Minister may also suspend, revoke or refuse to renew a funeral services business licence if the licensee is insolvent or about to become insolvent.

The Minister may also take such action, on the recommendation of the president of the Office de la protection du consommateur, if the licensee has been convicted of an offence under section 277 of the Consumer Protection Act (R.S.Q., chapter P-40.1) that was committed while the licensee was acting

as a seller within the meaning of section 1 of the Act respecting prearranged funeral services and sepultures (R.S.Q., chapter A-23.001), or of an offence under the Act respecting prearranged funeral services and sepultures.

**26.** Before suspending, revoking or refusing to renew a licence, the Minister may require the licensee to take the necessary corrective action within a specified period of time.

**27.** To protect public health and safety, the Minister may order a licensee to cease to provide a funeral service or operate a funeral facility or a particular piece of equipment, and may modify the licence accordingly.

**28.** Before suspending, revoking or refusing to issue or renew a licence, and before issuing an order under section 27, the Minister must notify the licensee in writing as prescribed by section 5 of the Act respecting administrative justice (R.S.Q., chapter J-3) and grant the licensee at least 10 days to submit observations. The decision of the Minister must include reasons and be notified in writing to the applicant or licensee.

However, the Minister may make a decision without being bound by that prior obligation if urgent action is required or to prevent irreparable harm. In such a case, the person affected by the decision may, within the time specified in the decision, submit observations to the Minister for a review of the decision.

**29.** If the Minister considers that public health and safety are at stake, the Minister may take any means necessary to notify the public and any other licensees under this Act of the suspension or revocation of a licence, or the refusal to renew it.

If an embalmer's licence has been suspended or revoked, or has not been renewed, the Minister must so inform all funeral services business licensees who use the services of that embalmer.

**30.** A licensee whose licence has been suspended may obtain its reinstatement if the necessary corrective measures are taken within the time specified by the Minister.

If the licensee fails to take the necessary corrective measures within the time specified, the Minister must revoke or refuse to renew the licence.

**31.** A licensee whose licence has been revoked or has not been renewed must surrender it to the Minister within 15 days after the decision is made.

The Minister may also require that a licensee whose licence has been suspended surrender it.

**32.** An applicant who has been denied a licence or a licensee whose licence has been suspended, revoked or amended, or has not been renewed, may contest

the Minister's decision before the Administrative Tribunal of Québec within 60 days of notification.

### **CHAPTER III**

#### **SPECIAL PROVISIONS APPLICABLE TO CERTAIN FUNERAL OPERATIONS**

##### **DIVISION I**

###### **EMBALMING**

**33.** An operation carried out in the embalming process must take place on embalming premises operated by a funeral services business.

**34.** To protect public health, the Government may, by regulation, prescribe hygiene and protection standards governing the embalming process and determine the conditions and time in which that process must be carried out.

It may also prescribe standards governing the arrangement, equipment and hygiene of embalming premises.

##### **DIVISION II**

###### **VIEWING OF BODIES**

**35.** The viewing of bodies must take place on premises arranged for the viewing of bodies or human ashes and operated by a funeral services business, unless the business presents the body to the immediate family for viewing in the moments immediately preceding its cremation or interment.

**36.** Only a funeral services business licensee who operates permanent premises for the viewing of bodies may operate temporary premises for the same purpose.

For the purposes of the first paragraph, any viewing of a body in a private location or in the context of a lying-in-state must be under the supervision of a funeral services business licensee.

**37.** To protect public health, the Government may, by regulation, prescribe hygiene and protection standards governing the viewing of bodies and determine the conditions and time in which such viewing must take place.

The Government may also prescribe standards governing the arrangement, equipment and hygiene of premises used for the viewing of bodies or human ashes, as well as manufacturing and hygiene standards applicable to rental caskets, and determine the conditions for the use of rental caskets.

### **DIVISION III**

#### **PRESERVATION AND STORAGE OF BODIES AND HUMAN ASHES**

**38.** To protect public health, the Government may, by regulation, prescribe hygiene and protection standards governing the preservation of bodies and determine the conditions and time in which such preservation must take place.

**39.** The Government may, by regulation, prescribe hygiene standards and conditions of use applicable to places reserved for the preservation of bodies.

**40.** A public vault may be constructed only in a cemetery and must be used exclusively for the temporary storage of bodies or human ashes.

**41.** A body may not be placed in a public vault unless it has first been embalmed or placed in a sealed casket designed to retain any liquids that could otherwise leak out.

**42.** No body may be placed in a public vault before 1 November of each year and all bodies must be removed not later than 15 May of each year.

Interment or cremation of the body must then be carried out directly and without delay.

**43.** No person may open a coffin after it has been placed in a public vault except when this is necessary in order to proceed with the cremation of the body.

### **DIVISION IV**

#### **CEMETERIES, COLUMBARIUMS AND MAUSOLEUMS**

**44.** No person may establish, enlarge, alienate for another use, close or change the use of a cemetery without prior authorization from the Minister.

Cemetery operators must make an annual declaration to the Minister of all the funeral facilities they operate. They must also inform the Minister without delay of any change affecting the declaration's validity.

**45.** The Minister may, out of concern for public health and safety, prohibit access to all or part of a columbarium, mausoleum or cemetery, or prohibit the use of all or part of such structures or immovables for interment purposes, until the situation endangering public health and safety is over.

The Minister may also order that work be carried out to remedy the problematic situation and may set the time within which the cemetery operator or funeral services business must carry out the work.

**46.** In the cases provided for in section 45, or where a cemetery is alienated for another use, undergoes a change of use or is closed, the Minister may require that the bodies be disinterred and reinterred under the conditions and in the places determined by the Minister.

**47.** A columbarium may only be operated by a funeral services business licensee or by a cemetery operator.

**48.** A columbarium operator must at all times be the concessionary of at least one cemetery lot sufficiently large to inter all the human ashes held by the operator.

Such a lot is excluded from property subject to bankruptcy.

**49.** A mausoleum may be built only in a cemetery.

The Government may, by regulation, prescribe standards governing the arrangement and hygiene of mausoleums and determine the conditions for their use.

**50.** Operators of a cemetery or columbarium must keep and maintain a burial register.

The register's content, form, access and conservation are prescribed by government regulation.

Each year, for statistical purposes, such operators must also provide the Minister with any information about their operations determined by such a regulation.

## **DIVISION V**

### **INTERMENT AND DISINTERMENT**

**51.** Bodies may not be interred or reinterred except in a cemetery or a place prescribed by government regulation.

**52.** The Government may, by regulation, prescribe standards and conditions governing interment, disinterment and reinterment.

These may vary according to the place of interment or reinterment.

**53.** A person wishing to disinter a body must file an application to that effect with a judge of the Superior Court.

The application must include reasons for the request and give the following information: the name of the person who will effect the disinterment, the means that will be taken to ensure that the body is respected and how the body will be disposed of.

Before a disinterment is authorized, the applicant must demonstrate that the operator of the cemetery or mausoleum where the body is interred has been informed of the intention to disinter it.

The applicant must also demonstrate that the national public health director has authorized the disinterment.

**54.** A judge, when authorizing the disinterment of a body, must take into account the measures to protect public health prescribed by the national public health director.

To make the verifications needed to determine whether to grant the disinterment of a body, the national public health director may require that any information which facilitates identification of the body or sheds light on the cause of death or the intoxications, infections or diseases from which the deceased person suffered be handed over.

**55.** A disinterment authorization must be served on the Chief Coroner.

**56.** A disinterment must be carried out in such a way as to protect public health.

## **DIVISION VI**

### **CREMATION AND OTHER DISPOSAL METHODS**

**57.** The cremation of a body must be carried out in a crematorium operated by a funeral services business in accordance with the standards of hygiene and protection determined by government regulation, by the persons and under the conditions prescribed in the regulation.

The Government may also prescribe standards governing the arrangement, equipment and hygiene of crematoriums.

**58.** The Government may regulate, in the same way as in section 57, any other physical or chemical process used by a funeral services business for the disposal of bodies, and any place where such processes are used.

## **CHAPTER IV**

### **BODIES PRESENTING A PUBLIC HEALTH HAZARD**

**59.** The Minister may determine by regulation the intoxications, infections and diseases carried by a body which constitute a hazard to public health, and define the categories of public health hazard.

**60.** A regulation made under Chapter III may prescribe rules that vary according to the category of public health hazard a body represents.

## **CHAPTER V**

### **HUMAN ASHES**

**61.** A funeral services business licensee must hand human ashes over to a single person, in a rigid container holding all the ashes.

A licensee who hands human ashes over to someone must enter in the funeral operations register the information prescribed by government regulation.

**62.** No one may scatter ashes in a place where they may constitute a nuisance, or in a manner that fails to respect the dignity of the deceased person.

A person who disposes of a container of human ashes or scatters human ashes must specify where the ashes were interred or scattered to the funeral services business that took charge of the body, so that the information may be entered in the business's funeral operations register.

**63.** In the event of a cessation of operations or a bankruptcy, a columbarium operator who holds human ashes or, if applicable, the syndic, must take reasonable measures to hand the ashes over to the spouse, a relative within the meaning of section 69 or any other family member or close friend of the deceased person who makes a written request to that effect.

If such measures fail, the ashes must be buried in the cemetery lot referred to in section 48.

**64.** Columbarium operators who wish to cease holding abandoned human ashes that have not been claimed one year after the expiry date of a contract, and funeral services business licensees who wish to cease holding abandoned human ashes that have not been claimed one year after cremation, must inter them in a cemetery lot or transfer them to another columbarium operator.

Ashes are considered to have been abandoned after the columbarium operator or the funeral services business licensee has taken all reasonable measures to transfer the ashes to the persons mentioned in the first paragraph of section 63.

**65.** Sections 63 and 64 must not be interpreted as depriving the columbarium operator or funeral services business licensee of any contractual remedies they may be entitled to exercise with regard to the cases referred to in those sections.

## **CHAPTER VI**

### **TRANSPORTATION OF A BODY**

**66.** Bodies may be transported only by a funeral services business or a transportation services provider under contract with a funeral services business.

**67.** Bodies must be transported in accordance with the conditions and the standards governing equipment, hygiene and protection prescribed by government regulation.

The Minister may inform a funeral services business that has a contract with a transportation services provider of any failure of the latter to comply with regulatory standards.

A regulation made under this section may prescribe rules that vary according to the category of public health hazard a body represents.

**68.** With the exception of a non-living product of conception that has been claimed, a body may not be transported without the following:

- (1) a copy of the attestation of death;
- (2) a document specifying the category of hazard the body represents and authorizing its transportation; and
- (3) any other information prescribed by a ministerial regulation.

The information provided for in the first paragraph must be entered in a document and given to the transportation services provider by a physician, a nurse or the coroner, as applicable, or by any other person determined by ministerial regulation, and must be kept by the funeral services business that takes charge of the body in accordance with the conditions prescribed by the regulation.

## **CHAPTER VII**

### **UNCLAIMED BODIES AND BODIES DONATED TO AN EDUCATIONAL INSTITUTION**

**69.** For the purposes of this chapter, “relative” means the next of kin to the degree of first cousin inclusively, and “institution” means a health and social services institution within the meaning of the Act respecting health services and social services or the Act respecting health services and social services for Cree Native persons.

**70.** The Minister appoints one or more administrators charged with the application of this chapter for the territory determined by the Minister.

The administrators are responsible for the disposal of unclaimed bodies and bodies donated to an educational institution for teaching purposes or for medical or scientific research.

**71.** The administrator advises institutions, police forces and the coroner of the steps they must take with regard to unclaimed bodies and bodies about to be declared unclaimed referred to in this Act.

The administrator also advises educational institutions of the steps they must take with regard to bodies they no longer require.

**72.** An institution is responsible for holding and preserving the body of a person who dies in a facility maintained by the institution until it is claimed or deemed unclaimed under this Act.

An institution designated by the Minister for such purpose for a given territory, after consulting with the health and social services agency concerned, assumes this responsibility with regard to persons whose death is not attested in a facility maintained by an institution.

**73.** A body is deemed to have been unclaimed if the spouse or, in the absence of a spouse, relatives

(1) declare in writing that they do not intend to claim it;

(2) are manifestly uninterested for a period of at least 24 hours after having been officially informed of the death; or

(3) cannot be found within 24 hours after a police investigation report has been filed.

**74.** An institution that has custody of an unclaimed body or a body donated to an educational institution, or a coroner who has custody of such a body that is not or is no longer required for the purposes of the Act respecting the determination of the causes and circumstances of death and that the coroner decides to entrust to the administrator, must so inform the administrator as soon as possible and forward to the administrator a copy of the documents required under section 68 together with any other document or information requested by the administrator.

**75.** An administrator may authorize the transfer of an unclaimed body to a person, other than the spouse or a relative, who shows a special interest in the deceased person and makes a written request, with reasons, to that effect.

The person to whom the body is transferred is responsible for paying the costs of disposing of the body.

**76.** The administrator may offer unclaimed bodies to an educational institution or transfer them to a funeral services business for disposal in accordance with this Act.

**77.** An educational institution that receives a body must pay the transportation, preservation and disposal costs unless, in the latter case, the spouse, a relative or a person described in section 75 has informed the institution in writing that they intend to claim the body and see to its disposal once it is no longer needed by the institution.

An educational institution that disposes of a body must inform the administrator beforehand of the mode and place of disposal.

**78.** A body that is not accepted by an educational institution or that must, according to the administrator's instructions, be interred or cremated, must be interred or cremated within the time determined by the administrator.

Such interment or cremation is carried out at the expense of the succession or, lacking a succession, at the expense of the Government but, in the latter case, only to the extent that the property left by the deceased person is insufficient to cover those expenses and the expenses are not covered by a prearranged funeral services contract or sepulture contract.

**79.** A funeral services business may not refuse to take charge of an unclaimed body if the administrator requires it to do so and pays the fees determined by government regulation.

**80.** The administrator must keep and maintain an unclaimed bodies register.

The register's form, content, access and conservation are prescribed by government regulation.

**81.** The administrator must prepare a detailed activity report for the period ending on 31 March of each year.

The report must be sent to the Minister not later than 30 June of each year.

## **CHAPTER VIII**

### **INSPECTIONS**

**82.** The Minister may authorize any person to act as an inspector for the purpose of verifying compliance with this Act and the regulations.

An inspector may be accompanied by an expert in a particular matter or request that a funeral services business licensee have an expertise carried out and send the resulting report to the inspector, if the inspector deems such an expertise necessary.

The cost of an expertise is assumed by the licensee or the person undergoing the inspection.

**83.** An inspector carrying out the functions of office may

(1) at any reasonable time enter any premises where funeral operations are available or carried on or where the inspector has reasonable grounds to believe that such operations are sold or carried on;

(2) take photographs of the premises and equipment;

(3) require the persons present to provide any information about the operations available or carried on in those premises that is necessary for the inspection, and to produce any document or extract of a document containing such information for examination or the making of copies; and

(4) inspect any vehicle used to transport bodies.

**84.** On request, an inspector must introduce himself or herself and produce a certificate of authority.

**85.** An inspector may not be sued for any act performed in good faith in the exercise of the functions of office.

## **CHAPTER IX**

### **REGULATORY POWERS**

**86.** In addition to the powers conferred on it by this Act, the Government may, by regulation,

(1) determine continuing education requirements for licensed embalmers or the general manager of a funeral services business;

(2) determine any other measure or standard for funeral operations it judges necessary to protect public health;

(3) determine standards governing equipment, hygiene and protection applicable in the context of funeral rites and practices, in particular with regard to the washing of a body; and

(4) determine the regulatory provisions made under this Act whose violation constitutes an offence and the minimum and maximum fines to which an offender is liable, not exceeding the amounts provided in section 90.

## **CHAPTER X**

### **PENAL PROVISIONS**

**87.** The following persons are guilty of an offence and liable to a fine of \$250 to \$750 in the case of a natural person and \$750 to \$2,250 in other cases:

(1) a licensee or cemetery operator who fails to conserve a document whose conservation is required or to provide information, reports or other documents that must be provided under this Act or the regulations;

(2) a licensee or cemetery operator who fails to keep a register required under this Act;

(3) a licensee who contravenes the second paragraph of section 16 or section 31;

(4) anyone who contravenes the second paragraph of section 62.

**88.** The following persons are guilty of an offence and liable to a fine of \$500 to \$1,500 in the case of a natural person and \$1,500 to \$4,500 in other cases:

(1) a licensee who contravenes section 15, 18 or 19, the first paragraph of section 20, the first paragraph of section 61, or section 79;

(2) anyone who contravenes section 33 or 35, any of sections 40 to 43, the first paragraph of section 48 or 49, section 51 or 56, the first paragraph of section 57 or 62, section 63 or 64, or the first paragraph of section 67.

**89.** The following persons are guilty of an offence and liable to a fine of \$1,000 to \$5,000 in the case of a natural person and \$3,000 to \$15,000 in other cases:

(1) a funeral services business licensee who employs a person who carries out operations in the embalming process without the embalmer's licence required under section 7;

(2) a funeral services business licensee who contravenes section 14;

(3) anyone who contravenes the first paragraph of section 6 or 7, section 36, the first paragraph of section 44, or section 47 or 66;

(4) anyone who hinders an inspector in the exercise of the functions of office, refuses to provide information or documents the inspector is entitled to require or examine, or conceals or destroys a document or other object relevant to an inspection;

(5) anyone who provides the Minister or an inspector in the exercise of the functions of office with information, reports or other documents that must be provided under this Act and that the person knows to be false or misleading.

**90.** The following persons are guilty of an offence and liable to a fine of \$2,500 to \$12,500 in the case of a natural person and \$7,500 to \$37,500 in other cases:

(1) anyone who contravenes section 5;

(2) a funeral services business licensee or a cemetery operator who provides access to all or part of a columbarium, mausoleum or cemetery, or allows them to be used for interment purposes, when the Minister has prohibited such access or use under the first paragraph of section 45;

(3) a funeral services business licensee or a cemetery operator who neglects or refuses to carry out in the time provided work ordered by the Minister under the second paragraph of section 45.

**91.** Anyone who, by an act or omission, aids, abets, counsels, allows, authorizes or orders another person to commit an offence under this Act is guilty of that offence.

**92.** If an offence is committed by the general manager of a funeral services business or by a director of a legal person, a partnership or an association without a legal personality, the minimum and maximum fines that may be imposed are double those prescribed for a natural person.

**93.** In any penal proceedings relating to an offence under this Act or the regulations, proof that the offence was committed by a director, agent or employee of a person is sufficient to establish that it was committed by that person, unless the person establishes that due diligence was exercised and all necessary precautions taken to prevent the commission of the offence.

**94.** In the case of a subsequent offence, the minimum and maximum fines prescribed in this Act and the regulations are doubled.

## **CHAPTER XI**

### **MISCELLANEOUS PROVISIONS**

**95.** The Government may exempt from all or part of this Act all or part of the territory of a municipality situated more than 200 km from premises operated by a funeral services business licensee, or any other territory determined by the Government.

It may also, by regulation, prescribe specific conditions as well as standards governing equipment, hygiene and protection applicable to carrying on funeral operations in those territories.

**96.** The Minister may, by agreement, entrust all or part of the management of the licences provided for under this Act to a health and social services agency governed by the Act respecting health services and social services, in its region or any other region determined by the Minister, or entrust that management to another public body.

The agency or public body may then exercise all the powers and responsibilities granted by the Minister in the agreement.

**97.** In order to distribute the examination of applications for the renewal of funeral services business licences over time, the Minister may, when issuing licences in the year (*insert the year that follows the date of coming into force of this section*), provide for a term equal to or less than three years but greater than or equal to one year.

**98.** Persons operating a columbarium on (*insert the date of coming into force of this section*) have until (*insert the date that is nine months after the date of coming into force of this section*) to comply with the obligations set out in section 48.

**99.** A person who, on (*insert the date of introduction of this Act*), holds a funeral director's permit for the sole purpose of operating a columbarium and does not operate a cemetery may continue to operate the columbarium. Sections 45, 46, 48 and 50 then apply to such a person, subject to section 98.

The person may dispose of the columbarium only in favour of a funeral services business licensee or a cemetery operator.

**100.** A person who, on (*insert the date of introduction of this Act*), operates a mausoleum situated outside a cemetery may continue to operate the mausoleum. Sections 45 and 46, the second paragraph of section 49 and section 50 then apply to such a person.

**101.** The Minister of Health and Social Services is responsible for the administration of this Act.

#### CIVIL CODE OF QUÉBEC

**102.** Article 122 of the Civil Code of Québec is amended by replacing “the funeral director” in the second paragraph by “the operator of a funeral services business”.

**103.** Article 125 of the Code is amended by replacing “a funeral director has taken charge of the body, he” by “a funeral services business has taken charge of the body, it”.

**104.** Article 2441.1 of the Code, enacted by section 48 of chapter 25 of the statutes of 2009, is amended by replacing “to a funeral director holding a permit under the Act respecting medical laboratories, organ, tissue, gamete and embryo conservation and the disposal of human bodies” in the first paragraph by “to a funeral services business holding a licence under the Funeral Operations Act (*insert the year and chapter number of this Act*)”.

#### ACT RESPECTING PREARRANGED FUNERAL SERVICES AND SEPULTURES

**105.** Section 3 of the Act respecting prearranged funeral services and sepultures (R.S.Q., chapter A-23.001) is amended by replacing “except under the funeral director's permit required by the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (chapter L-0.2), unless he is the holder of such a permit” by “without a funeral services business licence issued under the Funeral Operations Act (*insert the year and chapter number of this Act*), unless the person holds that licence”.

**106.** Section 40 of the Act is amended by replacing “a funeral director’s permit or where his permit” in subparagraph 1 of the first paragraph by “a funeral services business licence or where the licence”.

**107.** Section 73 of the Act is amended by replacing “a funeral director’s permit” in paragraph 1 by “a funeral services business licence”.

#### NON-CATHOLIC CEMETERIES ACT

**108.** The Non-Catholic Cemeteries Act (R.S.Q., chapter C-17) is repealed.

#### ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE MONTRÉAL

**109.** Section 232 of the Act respecting the Communauté métropolitaine de Montréal (R.S.Q., chapter C-37.01) is amended by striking out “, the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (chapter L-0.2)”.

#### ACT RESPECTING THE COMMUNAUTÉ MÉTROPOLITAINE DE QUÉBEC

**110.** Section 219 of the Act respecting the Communauté métropolitaine de Québec (R.S.Q., chapter C-37.02) is amended by replacing “, the Act respecting the Ministère des Affaires municipales, des Régions et de l’Occupation du territoire (chapter M-22.1) and the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (chapter L-0.2)” by “and the Act respecting the Ministère des Affaires municipales, des Régions et de l’Occupation du territoire (chapter M-22.1)”.

#### ACT RESPECTING ROMAN CATHOLIC CEMETERY COMPANIES

**111.** Section 37 of the Act respecting Roman Catholic cemetery companies (R.S.Q., chapter C-40.1) is repealed.

**112.** Section 38 of the Act is amended by striking out “Subject to the right of the Minister of Health and Social Services as mentioned in section 37,”.

**113.** Section 42 of the Act is amended by replacing “the Burial Act (chapter I-11)” by “the Funeral Operations Act (*insert the year and chapter number of this Act*)”.

#### RELIGIOUS CORPORATIONS ACT

**114.** Section 8 of the Religious Corporations Act (R.S.Q., chapter C-71) is amended by replacing “the Burial Act (chapter I-11)” in subparagraph *e* of the second paragraph by “the Funeral Operations Act (*insert the year and chapter number of this Act*)”.

## PUBLIC CURATOR ACT

**115.** Section 42 of the Public Curator Act (R.S.Q., chapter C-81) is amended by replacing “l’incinération” in the second paragraph of the French text by “la crémation”.

## BURIAL ACT

**116.** The Burial Act (R.S.Q., chapter I-11) is repealed.

## ACT RESPECTING ADMINISTRATIVE JUSTICE

**117.** Section 25 of the Act respecting administrative justice (R.S.Q., chapter J-3), amended by section 99 of chapter 34 of the statutes of 2010, is again amended by inserting “0.2,” after “paragraphs” in the second paragraph.

**118.** Section 3 of Schedule I to the Act, amended by section 101 of chapter 34 of the statutes of 2010, is again amended

(1) by inserting the following paragraph after paragraph 0.1:

“(0.2) proceedings under section 32 of the Funeral Operations Act (*insert the year and chapter number of this Act*)”;

(2) by replacing “the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies” in paragraph 6 by “the Act respecting medical laboratories and organ and tissue conservation”.

## ACT RESPECTING MEDICAL LABORATORIES, ORGAN AND TISSUE CONSERVATION AND THE DISPOSAL OF HUMAN BODIES

**119.** The title of the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (R.S.Q., chapter L-0.2) is amended by replacing “, organ and tissue conservation and the disposal of human bodies” by “and organ and tissue conservation”.

**120.** Section 1 of the Act is amended by striking out subparagraphs *d, j* and *p* of the first paragraph.

**121.** The heading of Division II of the Act is replaced by the following heading:

“FUNCTIONS OF THE MINISTER”.

**122.** Sections 32 and 33 of the Act are repealed.

**123.** Section 38 of the Act is amended by striking out the third paragraph.

**124.** Section 40.4 of the Act is repealed.

**125.** Section 43 of the Act is repealed.

**126.** Division VIII of the Act, comprising sections 51 to 53, is repealed.

**127.** Division IX of the Act, comprising sections 54 to 64, is repealed.

**128.** Section 69 of the Act is amended

(1) by replacing “, vacation camp, cremation, embalmer’s or funeral director’s” in subparagraph *b* of the first paragraph by “or vacation camp”;

(2) by striking out subparagraphs *h*, *l*, *m*, *n* and *s* of the first paragraph;

(3) by striking out the second paragraph.

**129.** Section 70 of the Act is repealed.

#### MINING ACT

**130.** Section 144 of the Mining Act (R.S.Q., chapter M-13.1) is amended by replacing “used as a cemetery within the meaning of the Act respecting Roman Catholic cemetery companies (chapter C-40.1) or cemeteries established in accordance with the Non-Catholic Cemeteries Act (chapter C-17)” in the second paragraph by “established as a cemetery in accordance with the Funeral Operations Act (*insert the year and chapter number of this Act*)”.

**131.** Section 235 of the Act is amended by replacing “within the meaning of the Act respecting Roman Catholic cemetery companies (chapter C-40.1) or cemeteries established in accordance with the Non-Catholic Cemeteries Act (chapter C-17)” in the first paragraph by “established as cemeteries in accordance with the Funeral Operations Act (*insert the year and chapter number of this Act*)”.

**132.** Section 236 of the Act is amended by replacing “within the meaning of the Act respecting Roman Catholic cemetery companies (chapter C-40.1) or established as a cemetery in accordance with the Non-Catholic Cemeteries Act (chapter C-17)” in the first paragraph by “established as a cemetery in accordance with the Funeral Operations Act (*insert the year and chapter number of this Act*)”.

#### ACT RESPECTING FORILLON PARK AND ITS SURROUNDINGS

**133.** Section 5 of the Act respecting Forillon Park and its surroundings (R.S.Q., chapter P-8) is amended

(1) by striking out the last sentence of the first paragraph;

(2) by replacing “, the Non-Catholic Cemeteries Act (chapter C-17) and the Burial Act shall not apply” in the second paragraph by “does not apply”.

## ANIMAL HEALTH PROTECTION ACT

**134.** Section 11.12 of the Animal Health Protection Act (R.S.Q., chapter P-42) is amended by striking out “Division IV.1 of the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (chapter L-0.2),” in the second paragraph.

## ACT RESPECTING THE DETERMINATION OF THE CAUSES AND CIRCUMSTANCES OF DEATH

**135.** Section 1 of the Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2) is amended by replacing “incinération” in the second paragraph of the French text by “crémation”.

**136.** The heading of Division III of Chapter III of the Act is amended by replacing “INCINÉRATION” in the French text by “CRÉMATION”.

**137.** Section 78 of the Act is amended by replacing “Division IX of the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (chapter L-0.2)” by “Chapter VII of the Funeral Operations Act (*insert the year and chapter number of this Act*)”.

**138.** Section 80 of the Act is amended by replacing “Division IX of the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (chapter L-0.2)” by “Chapter VII of the Funeral Operations Act (*insert the year and chapter number of this Act*)”.

## PUBLIC HEALTH ACT

**139.** Section 46 of the Public Health Act (R.S.Q., chapter S-2.2) is amended by replacing “the funeral director” in the last paragraph by “the funeral services business licensee”.

## ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

**140.** Section 371 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended by adding the following paragraph at the end:

“When an agency enters into an agreement with the Minister under section 96 of the Funeral Operations Act (*insert the year and chapter number of this Act*), it must also, to the extent determined in the agreement, manage the licences required under that Act.”

## ACT RESPECTING NORTHERN VILLAGES AND THE KATIVIK REGIONAL GOVERNMENT

**141.** Section 408 of the Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1) is amended by striking out “the

Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (chapter L-0.2),”.

#### OTHER AMENDMENTS

**142.** In the following provisions, a reference to the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies becomes a reference to the Act respecting medical laboratories and organ and tissue conservation:

(1) paragraph 2 of section 112, the first paragraph of section 113 and paragraph 4 of section 189 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);

(2) paragraph 2 of section 2 of the Act respecting clinical and research activities relating to assisted procreation (R.S.Q., chapter A-5.01);

(3) subparagraph *p* of the first paragraph of section 1 of the Health Insurance Act (R.S.Q., chapter A-29);

(4) the third paragraph of section 13 of the Podiatry Act (R.S.Q., chapter P-12);

(5) section 93 of the Environment Quality Act (R.S.Q., chapter Q-2);

(6) subparagraph 2 of the first paragraph of section 349.1 and subparagraph 2 of the first paragraph of section 520.3.8 of the Act respecting health services and social services (R.S.Q., chapter S-4.2); and

(7) section 172 of the Act respecting pre-hospital emergency services (R.S.Q., chapter S-6.2).

**143.** In any other Act and any regulation, order in council or other statutory instrument, unless the context indicates otherwise and subject to the necessary modifications, a reference to the Burial Act (R.S.Q., chapter I-11) is a reference to this Act.

**144.** Section 110 of the Individual and Family Assistance Regulation (R.R.Q., chapter A-13.1.1, r. 1) is amended by replacing “section 57 of the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (R.S.Q., chapter L-0.2)” in the third paragraph by “section 73 of the Funeral Operations Act (*insert the year and chapter number of this Act*)”.

**145.** Section 2 of the Regulation respecting biomedical waste (R.R.Q., chapter Q-2, r. 12) is amended by replacing paragraph 1 by the following paragraph:

“(1) the cremation of a body by a funeral services business licensed under the Funeral Operations Act (*insert the year and chapter number of this Act*);”.

**146.** The provisions of this Act come into force on the date or dates to be set by the Government.