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# NATIONAL ASSEMBLY

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FIRST SESSION

FORTY-FIRST LEGISLATURE

**Bill 66**

(2016, chapter 1)

## **Funeral Operations Act**

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**Introduced 22 October 2015**

**Passed in principle 2 December 2015**

**Passed 17 February 2016**

**Assented to 17 February 2016**

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## EXPLANATORY NOTES

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

*To protect public health, the Government may make regulations prescribing layout, equipment and hygiene standards for embalming rooms, rooms set up for the viewing of bodies or human ashes and crematoriums as well as hygiene and protection standards for funeral operations.*

*The Act includes provisions on the preservation and storage of bodies, on cemeteries, columbariums and mausoleums, and on the interment, disinterment and cremation of bodies as well as provisions on the transportation of bodies and the disposal of human ashes and unclaimed bodies.*

*An inspection and investigation framework is established for the purpose of verifying compliance with the Act and the regulations. Regulatory and penal provisions are also introduced.*

*Lastly, various transitional provisions and consequential amendments are made in light of the new legal framework applicable to funeral operations.*

## LEGISLATION AMENDED BY THIS ACT:

- Civil Code of Québec;
- Act respecting industrial accidents and occupational diseases (chapter A-3.001);
- Act respecting clinical and research activities relating to assisted procreation (chapter A-5.01);
- Act respecting prearranged funeral services and sepultures (chapter A-23.001);

- Health Insurance Act (chapter A-29);
- Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01);
- Act respecting the Communauté métropolitaine de Québec (chapter C-37.02);
- Act respecting Roman Catholic cemetery companies (chapter C-40.1);
- Religious Corporations Act (chapter C-71);
- Public Curator Act (chapter C-81);
- Act respecting administrative justice (chapter J-3);
- Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (chapter L-0.2);
- Mining Act (chapter M-13.1);
- Act respecting Forillon Park and its surroundings (chapter P-8);
- Act respecting the sharing of certain health information (chapter P-9.0001);
- Act respecting liquor permits (chapter P-9.1);
- Podiatry Act (chapter P-12);
- Animal Health Protection Act (chapter P-42);
- Environment Quality Act (chapter Q-2);
- Act respecting the determination of the causes and circumstances of death (chapter R-0.2);
- Public Health Act (chapter S-2.2);
- Act respecting health services and social services (chapter S-4.2);
- Act respecting pre-hospital emergency services (chapter S-6.2);
- Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1);

- Act to amend the Mining Act (2013, chapter 32).

**LEGISLATION REPEALED BY THIS ACT:**

- Non-Catholic Cemeteries Act (chapter C-17);
- Burial Act (chapter I-11).

**REGULATIONS AMENDED BY THIS ACT:**

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

## **Bill 66**

### **FUNERAL OPERATIONS ACT**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### **CHAPTER I**

##### **GENERAL PROVISIONS**

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

- (1) the provision of funeral services;
- (2) embalming;
- (3) the interment, disinterment and transportation of bodies;
- (4) the operation of funeral facilities; and
- (5) the disposal of human ashes.

It also applies to the disposal of unclaimed bodies.

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

(1) “body” means, in addition to the body of a deceased person, the remains of such a body other than ashes, a still-born infant or a non-living product of conception when claimed by the mother or father;

(2) “institution” means a health and social services institution within the meaning of the Act respecting health services and social services (chapter S-4.2) or the Act respecting health services and social services for Cree Native persons (chapter S-5);

(3) “relative” means the married, civil union or de facto spouse or the child, mother, father, sister or brother of a deceased person;

(4) “cremation services” means services consisting in disposing of a body by fire or any other physical or chemical process;

(5) “funeral services” means embalming services, viewing services with the body or human ashes present or cremation services; and

(6) “embalming” means the preparation, disinfection or embalming of a body.

The washing of a body in the context of a funeral rite or practice does not constitute embalming.

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

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

(2) members in good standing of a professional order governed by the Professional Code (chapter C-26) in the practice of their profession;

(3) educational institutions, persons who teach in a post-secondary funeral science program that is recognized for the purpose of obtaining an embalmer’s licence, 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 who apply makeup to, style the hair of or dress 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.

Nor does this Act apply to

(1) institutions, subject to the provisions regarding unclaimed bodies;

(2) ambulance service permit holders; or

(3) measures prescribed, in the interests of justice, by judicial authorities or the persons that execute such measures.

**4.** In all circumstances, a body or human ashes must be handled and disposed of 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 GENERAL LICENCE OBLIGATIONS

###### §1. — *General provisions*

**5.** No one may offer or purport to offer funeral services unless they hold a funeral services business licence.

**6.** A person who practises embalming must hold an embalmer's licence.

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

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

The Minister issues a licence or renews it if the applicant has the qualifications and meets the conditions prescribed by this Act and the regulations.

**8.** The Minister may issue, modify or renew a licence subject to any condition, restriction or prohibition the Minister determines. Any condition, restriction or prohibition determined by the Minister must be specified in the licence.

**9.** A funeral services business licence is issued or renewed for a three-year term.

An embalmer's licence is issued or renewed for a one-year term.

A renewal application must be received not later than three months before the licence expires.

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

In addition, a licensee who intends to cease operations must ensure a professional transition of the human ashes and the prearranged funeral services under the licensee's responsibility. The licensee must also inform the Minister in writing, and the Minister revokes the licence on the date specified in the notice of cessation of activities.

**11.** Licensees must preserve the documents specified by government regulation, allow them to be examined and provide them to the Minister on request.

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

**12.** A funeral services business licence specifies the funeral services the licensee is authorized to provide and the funeral facilities the licensee is authorized to operate.

For the purposes of this subdivision, “funeral facility” means a room permanently set up for the viewing of bodies or human ashes, an embalming room or a crematorium.

**13.** Funeral services business licensees must carry out their operations in accordance with their licence.

**14.** A funeral services business licence may not be transferred without written authorization from the Minister.

**15.** The Minister issues an extract of the funeral services business licence for each funeral facility where the licensee is authorized to provide funeral services.

The licence extract must be conspicuously displayed in public view in each facility where the licensee provides funeral services so that it is clearly legible.

**16.** Funeral services business licensees must keep an up-to-date funeral operations register.

The form and content of, and the terms governing access to and preservation of, the register are prescribed by government regulation.

**17.** A funeral services business licensee may advertise the business to the public as offering funeral services not specified in the licence, provided the services are offered through another funeral services business licensee. The licensees must enter into and maintain in force the contracts necessary for the provision of those services.

The licensee must inform the Minister, in the manner determined by the Minister, as soon as a contract has been entered into with such a provider.

**18.** Funeral services business licensees must have a room that is private and set up for meeting with and providing information to clients in strict confidentiality.

**19.** A funeral services business licensee must appoint a funeral services director unless the licensee is a natural person who occupies that position. In both cases, the Minister must be informed of the fact.

The funeral services director is responsible for the administration and operation of the funeral services business and must see to the day-to-day



management of operations and resources. The funeral services director also represents the licensee in dealings with the Minister.

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

**21.** The funeral services director of a funeral services business must have the qualifications and meet the conditions prescribed by government regulation.

§3. — *Provision applicable to licensed embalmers*

**22.** The funeral operations register kept by the funeral services business licensee must include a portion on embalming which must be completed and signed by the licensed embalmer who performs each embalming.

## DIVISION II

### UNFAVOURABLE DECISIONS OF THE MINISTER

**23.** The Minister may suspend, revoke or refuse to renew the licence of any licensee who

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

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

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

(4) no longer has the qualifications or meets the conditions prescribed by regulation for a licence or does not comply with a condition, restriction or prohibition specified in the licence.

The Minister may also suspend, revoke or refuse to renew a licence if the Minister considers that public health or safety is endangered by the licensee's operations.

For the purposes of this section, a partner holding 20% or more of the interest in a partnership, a general partner of a limited partnership or a shareholder who, directly or indirectly, can exercise 20% or more of the voting rights attached to a legal person's issued shares, is considered to have a major interest in the business.

**24.** In addition to what is provided for in section 23, the Minister may suspend, revoke or refuse to renew a funeral services business licence, after consultation with the president of the Office de la protection du consommateur

or on the president's recommendation, if the licensee was found guilty of an offence under the Consumer Protection Act (chapter P-40.1) or an offence under the Act respecting prearranged funeral services and sepultures (chapter A-23.001).

The Minister may also suspend, revoke or refuse to renew the funeral services business licence of a licensee who is insolvent.

**25.** Instead of suspending, revoking or refusing to renew a licence, the Minister may order the licensee to take the necessary corrective measures within a specified time.

If the licensee does not comply with the Minister's order within the specified time, the Minister may then suspend, revoke or refuse to renew the licensee's licence.

**26.** To protect public health or safety, the Minister may order a funeral services business licensee to cease to provide funeral services or operate a funeral facility. The Minister then modifies the licence accordingly.

**27.** Before suspending, revoking or refusing to issue or renew a licence or issuing an order under section 26, the Minister must notify the licensee in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and grant the licensee at least 10 days to submit observations. The Minister's decision 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 injury. 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.

**28.** 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 then revoke or refuse to renew the licence.

**29.** A licensee whose licence has been revoked or has not been renewed must surrender it and the licence extracts to the Minister within 15 days after notification of the Minister's decision.

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

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

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

**31.** The Minister may take any means necessary to inform the public and any other licensees under this Act of the suspension or revocation of or the refusal to renew a licence.

### CHAPTER III

#### SPECIAL PROVISIONS APPLICABLE TO CERTAIN FUNERAL OPERATIONS

##### DIVISION I

###### EMBALMING

**32.** Embalming must be performed in an embalming room operated by a funeral services business.

**33.** To protect public health, the Government may, by regulation, prescribe hygiene and protection standards for embalming and determine the conditions, including the time limits, in which embalming must be performed.

The Government may, by regulation, also prescribe layout, equipment and hygiene standards for embalming rooms.

##### DIVISION II

###### PRESENTATION AND VIEWING OF BODIES

**34.** The presentation or viewing of a body must be held by a funeral services business

(1) in a room permanently set up for the viewing of bodies or human ashes and appearing on the business's licence;

(2) in a room temporarily set up for the viewing of bodies or human ashes provided the business's licence authorizes the operation of a room permanently set up for such purposes; or

(3) in a room operated by the business, before the body's embalming or cremation and solely for identification purposes.

The washing of a body in the context of a funeral rite or practice in the presence of relatives or close relations of the deceased person must not be considered a presentation or viewing of the body.

**35.** When a body is presented or a viewing is held, the body must be laid out in a casket, whether open or closed. However, in the moments immediately preceding its cremation, a body may be presented on a stretcher or table.

**36.** To protect public health, the Government may, by regulation, prescribe hygiene and protection standards for the presentation or viewing of bodies and determine the conditions, including the time limits, in which such presentation or viewing must take place.

The Government may also prescribe, by regulation, layout, equipment and hygiene standards for rooms set up for the presentation or viewing of bodies or human ashes as well as manufacturing and hygiene standards for rental caskets, and determine the conditions for the use of rental caskets.

### DIVISION III

#### PRESERVATION OF BODIES

**37.** Rooms or equipment used for the preservation of bodies may be operated only by a funeral services business or a cemetery operator.

**38.** To protect public health, the Government may, by regulation, prescribe hygiene and protection standards for the preservation of bodies.

The Government may also prescribe layout and hygiene standards for rooms or equipment used for the preservation of bodies and determine the conditions for the use of such rooms or equipment.

**39.** Cemetery operators must, every five years, declare to the Minister the rooms and equipment they operate for the preservation of bodies.

When renewing their licence, funeral services businesses must declare to the Minister the rooms and equipment they operate for the preservation of bodies.

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

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

**42.** Exceptionally and to ensure compliance with the law and the protection of public health, the Minister may require that a body held by a funeral services business or cemetery operator be transferred to another funeral services business or cemetery operator.

The business or operator transferring the body must provide all the documents pertaining to the body to the business or operator identified by the Minister. The business or operator transferring the body may not claim the costs related to its preservation from anyone and must pay the costs related to its transportation.

#### **DIVISION IV**

##### **OPERATION OF A CEMETERY, COLUMBARIUM OR MAUSOLEUM**

**43.** No one may establish or close a cemetery or change its size or use without prior authorization from the Minister.

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

**45.** A mausoleum may be operated only by a cemetery operator.

A mausoleum may not be built elsewhere than in a cemetery.

**46.** The Government may, by regulation, prescribe layout and hygiene standards for cemeteries, columbariums and mausoleums and determine the conditions for their use.

**47.** Cemetery operators must, every five years, declare to the Minister the columbariums and mausoleums they operate. They must also inform the Minister of any change within three months.

When renewing their licence, funeral services businesses must declare to the Minister all the columbariums they operate. They must also inform the Minister of any change within three months.

**48.** Cemetery and columbarium operators must keep an up-to-date burial register.

The form and content of, and the terms governing access to and preservation of, the register are prescribed by government regulation.

**49.** If the Minister considers it necessary for the protection of public health or safety, the Minister may prohibit access to all or part of a cemetery, columbarium or mausoleum, or prohibit the operation of all or part of such funeral facilities, until the situation endangering public health or safety is over.

The Minister may also order that work be done to remedy the problematic situation and specify the time within which the cemetery operator or funeral services business must do the work.

**50.** In the cases provided for in section 49, or when a cemetery is being closed or its size or use changed, the Minister may require that the bodies be disinterred and reinterred under the conditions and in the places determined by the Minister.

**51.** In the event of a cessation of operations or a bankruptcy, a columbarium operator, a funeral services business that holds human ashes or, if applicable, the syndic, must take reasonable measures to hand the ashes over to a relative. The operator, business or syndic may also hand the ashes over to any other person who shows an interest in the deceased person.

If such measures fail, the ashes must be placed in a cemetery or handed over to another columbarium operator at the expense of the columbarium operator who ceased operations.

The columbarium operator, funeral services business or syndic, as the case may be, must inform the Minister of the steps taken and the place where the ashes have been placed.

The Minister may inform the public of the cessation of activities or the bankruptcy of a columbarium operator and indicate to which operator the ashes were handed over.

**52.** A columbarium operator or funeral services business may keep abandoned human ashes in a safe place.

A columbarium operator who wishes to dispose of abandoned human ashes that have not been claimed one year after the expiry of a contract or a funeral services business that wishes to dispose of abandoned human ashes that have not been claimed one year after cremation must place them in a cemetery or hand them over to another columbarium operator.

Ashes are considered to have been abandoned after the columbarium operator or funeral services business has taken reasonable measures to hand the ashes over to a relative or to any other person who shows an interest in the deceased person.

**53.** Exceptionally and to ensure compliance with the law, the Minister may require that human ashes placed in a columbarium be handed over to another columbarium operator.

The operator handing over the ashes must provide all the documents pertaining to the body to the operator identified by the Minister. The operator handing over the ashes may not claim the costs related to their preservation from anyone and must pay the costs related to their transportation.

**54.** To enable the Minister to validate the information held by the Minister, the Minister may require the Minister of Municipal Affairs, Regions and Land Occupancy or a municipality to provide information on the presence of cemetery operators in a particular territory.

## **DIVISION V**

### **INTERMENT AND DISINTERMENT OF BODIES**

**55.** The interment of a body must be carried out in a lot or mausoleum situated in a cemetery or be carried out, after the Minister's authorization has been obtained, in another place.

**56.** A disinterment must be authorized by the Court.

A person wishing to disinter a body must file an application to that end with a judge of the Superior Court, together with an authorization from the national public health director. The application must be notified to the operator of the place where the body is interred.

The application must include reasons and specify the name of the person who will disinter the body, the means that will be taken to ensure that the body is respected and how the body will be disposed of.

**57.** The information allowing identification of the person whose body is to be disinterred as well as any available information on the cause of death or the intoxications, infections or diseases from which the person suffered must be submitted to the national public health director with the application for authorization.

The national public health director grants a disinterment authorization if, in the director's opinion, the disinterment does not present a public health hazard. The authorization may be subject to conditions.

**58.** A judge, when authorizing the disinterment of a body, must take into account the conditions prescribed by the national public health director.

**59.** A disinterment authorization must be notified to the Chief Coroner.

**60.** The disinterment of a body must be carried out in such a way as to protect public health.

**61.** The Government may, by regulation, prescribe standards and conditions for interment and disinterment.

## DIVISION VI

### CREMATION OF BODIES

**62.** The cremation of a body must be carried out in a crematorium operated by a funeral services business.

**63.** To protect public health, the Government may, by regulation, prescribe hygiene and protection standards for cremations and determine the persons who are authorized to perform cremations.

The Government may also, by regulation, prescribe layout, equipment and hygiene standards for crematoriums.

## DIVISION VII

### TRANSPORTATION OF BODIES

**64.** A body may be transported only by a funeral services business or another transportation services provider that is acting under a contract entered into with a funeral services business.

**65.** A body must be transported in accordance with the conditions and the equipment, hygiene and protection standards prescribed by government regulation.

The Minister may inform a funeral services business that has entered into a contract with a transportation services provider of any failure of the latter to comply with the law and the regulations.

**66.** A body may not be transported without the following:

(1) a copy of the attestation of death, except in the case of a non-living product of conception;

(2) a document specifying, if applicable, that the body presents a public health hazard; and

(3) any other information prescribed by ministerial regulation.

The copy of the attestation of death must be given to the funeral services business or the transportation services provider acting for the business by a person authorized by law to draw up attestations of death and the documents and information required under subparagraphs 2 and 3 of the first paragraph, by a person determined by ministerial regulation.



The funeral services business must keep the documents and information described in the first paragraph in accordance with the conditions prescribed by regulation.

**67.** The funeral services business that takes charge of the body must communicate the documents and information required under section 66 to the funeral services provider acting for the business.

**68.** If the Minister considers it necessary for the protection of public health or safety, the Minister may order a funeral services business to cease using a transportation services provider until the situation endangering public health or safety has ended.

### DIVISION VIII

#### BODIES PRESENTING A PUBLIC HEALTH HAZARD

**69.** A regulation made under this chapter may prescribe rules that vary according to the diseases which may constitute a public health hazard when carried by a body.

### CHAPTER IV

#### DISPOSAL OF HUMAN ASHES

**70.** A funeral services business must hand human ashes over to a single person in one or more containers, which must hold all the ashes.

The funeral services business must enter the information prescribed by government regulation in the funeral operations register.

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

### CHAPTER V

#### UNCLAIMED BODIES

**72.** An institution is responsible for the custody and preservation of the bodies of persons whose death is attested in a facility maintained by the institution until the bodies are claimed or deemed unclaimed.

**73.** The Minister may designate one or more public institutions responsible for the custody and preservation of the bodies of persons whose death is attested outside a facility maintained by an institution until the bodies are claimed or deemed unclaimed.

**74.** The institution responsible for a body must ask a police force to conduct a search to find a relative of the deceased person.

When the search is concluded, the police force must as soon as possible inform the institution, in writing, of its outcome and inform a relative, if one has been found, of the person's death.

**75.** A body is deemed unclaimed if no relative can be found or if a relative

(1) declares in writing that he or she does not intend to claim it; or

(2) has not claimed the body within 72 hours after being officially informed of the death or after indicating that he or she intends to claim it.

**76.** An institution that has custody of an unclaimed body must inform the Minister as soon as possible and forward any document or information specified by the Minister. The same applies to 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 Minister.

**77.** The Minister may authorize the transfer of an unclaimed body to a person, other than a relative, who shows an interest in the deceased person and makes a written request, with reasons, to that end.

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

**78.** The Minister may offer an unclaimed body to an educational institution or transfer it to a funeral services business for disposal in accordance with this Act.

The Minister then advises the institution or the coroner concerned of the steps they must take with regard to the body.

**79.** An educational institution that receives an unclaimed body must pay the transportation, preservation and disposal costs.

An educational institution that disposes of an unclaimed body must enter how and where it disposed of the body in a register that it maintains for that purpose.

The form and content of, and the terms governing access to and preservation of, the register are prescribed by government regulation.

**80.** A body transferred by the Minister to a funeral services business must be interred or cremated as soon as possible.

The interment or cremation is carried out at the expense of the succession or, if the property left by the deceased person is insufficient to cover the interment or cremation expenses and they are not covered by a prearranged funeral services contract or sepulture contract, at the Government's expense.

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

**82.** The Minister must keep an up-to-date register of unclaimed bodies.

The form and content of, and the terms governing access to and preservation of, the register are prescribed by government regulation.

## CHAPTER VI

### INSPECTION AND INVESTIGATION

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

**84.** An inspector may, in the exercise of the functions of office,

(1) at any reasonable time enter any premises where funeral operations are carried out and any premises where the inspector has reasonable grounds to believe that such operations are carried out;

(2) take photographs of the premises and equipment;

(3) require the persons present to provide any information about the operations carried out in those premises that is necessary for the discharge of the inspector's functions, and to produce any document or extract of a document containing such information for examination or the making of copies;

(4) inspect any vehicle used to transport bodies;

(5) conduct any test or analysis or take any measurements; and

(6) open a container or any equipment used as part of funeral operations, including a casket, or ask that it be opened for examination.

An inspector may be accompanied by an expert in a particular matter or request that the funeral services business or cemetery operator under inspection seek an expert opinion and provide the inspector with the resulting report, if such an opinion is considered necessary. The cost of the expert opinion is assumed by the funeral services business or cemetery operator.

**85.** The Minister may designate any person to investigate any matter relating to the application of this Act or the regulations.

**86.** On request, an inspector or investigator must identify himself or herself and produce a certificate of authority.

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

## CHAPTER VII

### REGULATORY POWERS

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

(1) determine the additional fees that may be charged to a licensee;

(2) determine continuing education requirements for licensed embalmers or the staff of funeral services businesses or of transportation services providers acting for such businesses;

(3) determine any other measure or standard for funeral operations, including any funeral operations not governed by this Act, that it considers necessary to protect public health;

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

(5) determine the regulatory provisions made under this Act whose violation constitutes an offence and prescribe, for each offence, the minimum and maximum fines to which an offender is liable, which may not exceed the amounts specified in section 92.

## CHAPTER VIII

### PENAL PROVISIONS

**89.** 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 preserve a document whose preservation 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; and

(3) a licensee who contravenes the second paragraph of section 15 or section 29.

**90.** 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 funeral services business licensee who contravenes section 14, 17 or 18, the first paragraph of section 19, the first paragraph of section 70 or section 81;

(2) a columbarium operator, syndic or funeral services business licensee, as the case may be, who contravenes section 51 or 52; and

(3) anyone who contravenes section 32, 40, 41, 45, 55, 60 or 62, the first paragraph of section 66 or section 71.

**91.** 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 practises embalming without the embalmer's licence required under section 6;

(2) a funeral services business licensee who contravenes section 13;

(3) anyone who contravenes the first paragraph of section 5 or 6, section 34, 35, 37, 43 or 44, the first paragraph of section 56 or section 64;

(4) anyone who hinders an inspector or investigator in the exercise of the functions of office;

(5) anyone who refuses to provide an inspector with information or documents the inspector is entitled to require or examine, or conceals or destroys a document or other object relevant to an inspection; and

(6) 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 or should have known to be false or misleading.

**92.** 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 refuses to comply with anything that the Minister requires to be done under the first paragraph of section 42, section 50 or the first paragraph of section 53;

(2) anyone who enters a cemetery, columbarium or mausoleum or any part of a cemetery, columbarium or mausoleum when the Minister has prohibited access under the first paragraph of section 49;

(3) a funeral services business licensee or cemetery operator who provides access to all or part of a cemetery, columbarium or mausoleum, or continues to operate it, when the Minister has prohibited such access or operation under the first paragraph of section 49;

(4) a funeral services business licensee or cemetery operator who neglects or refuses to do work ordered by the Minister under the second paragraph of section 49 within the time specified; and

(5) a funeral services business that continues to use a transportation services provider when the Minister has prohibited its doing so under section 68.

**93.** Anyone who aids, abets, counsels, allows, authorizes or orders another person to commit an offence under this Act or the regulations is guilty of that offence.

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

**95.** 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 any party is sufficient to establish that it was committed by that party, unless the party establishes that due diligence was exercised and all necessary precautions were taken to prevent the commission of the offence.

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

## CHAPTER IX

### MISCELLANEOUS PROVISIONS

**97.** The Government may exempt from all or part of this Act and the regulations all or part of the territory of a municipality situated more than 200 km from a funeral facility specified in the licence of a funeral services business, or any other territory the Government determines.

The Government may also, by regulation, prescribe specific conditions and equipment, hygiene and protection standards for funeral operations in those territories.

**98.** The Minister may, by agreement, entrust all or part of the management of the licences provided for in this Act to a public body.

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

**99.** In order to distribute the examination of applications for the renewal of funeral services business licences over time, the Minister may, when issuing a funeral services business licence for the year (*insert the year that follows the date of coming into force of section 5*) and, later, when issuing new licences, provide that they be valid for a term equal to or less than three years but greater than or equal to one year.

**100.** Cemetery operators have until (*insert the date that is six months after the date of coming into force of section 39*) to declare to the Minister the rooms and equipment they operate for the preservation of bodies.

**101.** A person or partnership who, on 22 October 2015, 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 46 and 48 to 53 then apply to such a person or partnership.

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

**102.** A person or partnership who, on 22 October 2015, operates a mausoleum situated outside a cemetery may continue to operate the mausoleum and to develop it. Sections 46 and 48 to 50 then apply to such a person or partnership.

**103.** Cemetery operators have until (*insert the date that is six months after the date of coming into force of section 47*) to declare to the Minister the columbariums and mausoleums they operate.

**104.** Despite section 55, a body that, on (*insert the date of coming into force of section 55*), is interred elsewhere than in a lot or mausoleum situated in a cemetery may remain interred there.

**105.** The Minister may require of licensees or cemetery operators that they provide, in the manner and within the time specified, the statistical data, reports and other information, including financial statements, necessary for the discharge of the functions vested in the Minister under this Act, provided it is not possible to link that information to a deceased person.

## CHAPTER X

### AMENDING PROVISIONS

#### CIVIL CODE OF QUÉBEC

**106.** Article 122 of the Civil Code of Québec is amended by replacing “the funeral director who” in the second paragraph by “the funeral services business that”.

**107.** 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”.

**108.** 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 required under the Funeral Operations Act (2016, chapter 1)”.

#### ACT RESPECTING PREARRANGED FUNERAL SERVICES AND SEPULTURES

**109.** Section 3 of the Act respecting prearranged funeral services and sepultures (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 (2016, chapter 1), unless the person holds such a licence”.

**110.** 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”.

**111.** 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

**112.** The Non-Catholic Cemeteries Act (chapter C-17) is repealed.

#### ACT RESPECTING ROMAN CATHOLIC CEMETERY COMPANIES

**113.** Section 37 of the Act respecting Roman Catholic cemetery companies (chapter C-40.1) is repealed.

**114.** 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,”.

**115.** Section 42 of the Act is amended by replacing “the Burial Act (chapter I-11)” by “the Funeral Operations Act (2016, chapter 1)”.

#### RELIGIOUS CORPORATIONS ACT

**116.** Section 8 of the Religious Corporations Act (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 (2016, chapter 1)”.



## PUBLIC CURATOR ACT

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

## BURIAL ACT

**118.** The Burial Act (chapter I-11) is repealed.

## ACT RESPECTING ADMINISTRATIVE JUSTICE

**119.** Section 25 of the Act respecting administrative justice (chapter J-3) is amended by inserting “0.2,” after “paragraphs” in the second paragraph.

**120.** Section 3 of Schedule I to the Act is amended

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

“(0.2) proceedings under section 30 of the Funeral Operations Act (2016, chapter 1);”;

(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

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

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

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

“FUNCTIONS OF THE MINISTER”.

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

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

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

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

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

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

**130.** 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.

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

#### MINING ACT

**132.** Section 144 of the Mining Act (chapter M-13.1) 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 second paragraph by “governed by the Funeral Operations Act (2016, chapter 1)”.

**133.** Section 235 of the Act is amended by replacing “within the meaning of the Act respecting Roman Catholic cemetery companies (chapter C-40.1), cemeteries established under the Non-Catholic Cemeteries Act (chapter C-17)” in the third paragraph by “governed by the Funeral Operations Act (2016, chapter 1)”.

#### ACT RESPECTING FORILLON PARK AND ITS SURROUNDINGS

**134.** Section 5 of the Act respecting Forillon Park and its surroundings (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” in the second paragraph by “and the Funeral Operations Act (2016, chapter 1)”.

#### ANIMAL HEALTH PROTECTION ACT

**135.** Section 11.12 of the Animal Health Protection Act (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

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

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

**138.** 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 V of the Funeral Operations Act (2016, chapter 1)”.

**139.** 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 V of the Funeral Operations Act (2016, chapter 1)”.

## PUBLIC HEALTH ACT

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

## ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

**141.** The Act respecting health services and social services (chapter S-4.2) is amended by inserting the following sections after section 114:

“**114.1.** A public institution may exercise the responsibilities conferred on it by the Minister under section 73 of the Funeral Operations Act (2016, chapter 1) with respect to the bodies of persons whose death is attested outside a facility maintained by an institution.

“**114.2.** Subject to Chapter V of the Funeral Operations Act (2016, chapter 1), an institution must, if it is responsible for a body donated to an educational institution, take the measures required to deliver the body to that institution.”

**142.** Section 349.1 of the Act is amended by replacing “, organ and tissue conservation and the disposal of human bodies” in subparagraph 2 of the first paragraph by “and organ and tissue conservation”.

## ACT TO AMEND THE MINING ACT

**143.** Section 67 of the Act to amend the Mining Act (2013, chapter 32) 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 subparagraph 5 of the first paragraph of section 144, as replaced, by “governed by the Funeral Operations Act (2016, chapter 1)”.

#### OTHER AMENDING PROVISIONS

**144.** In the following provisions, a reference to the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (chapter L-0.2) is replaced by a reference to the Funeral Operations Act (2016, chapter 1):

(1) the first paragraph of section 232 of the Act respecting the Communauté métropolitaine de Montréal (chapter C-37.01);

(2) the first paragraph of section 219 of the Act respecting the Communauté métropolitaine de Québec (chapter C-37.02); and

(3) section 408 of the Act respecting Northern villages and the Kativik Regional Government (chapter V-6.1).

**145.** In the following provisions, a reference to the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies is replaced by 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 (chapter A-3.001);

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

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

(4) paragraph 10 of section 4 of the Act respecting the sharing of certain health information (chapter P-9.0001);

(5) subparagraph 1 of the first paragraph of section 42 and subparagraph 9 of the first paragraph of section 86 of the Act respecting liquor permits (chapter P-9.1);

(6) the third paragraph of section 13 of the Podiatry Act (chapter P-12);

(7) section 93 of the Environment Quality Act (chapter Q-2); and

(8) section 172 of the Act respecting pre-hospital emergency services (chapter S-6.2).

**146.** Unless the context indicates otherwise, in any text, a reference to the Non-Catholic Cemeteries Act (chapter C-17) or the Burial Act (chapter I-11) is a reference to this Act.

**147.** Section 110 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1) is amended by replacing “57 of the Act respecting medical laboratories, organ and tissue conservation and the disposal of human bodies (chapter L-0.2)” in the third paragraph by “75 of the Funeral Operations Act (2016, chapter 1)” and “the second paragraph of section 58 of that Act” by “the first paragraph of section 77 of that Act”.

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

“(1) a body governed by the Funeral Operations Act (2016, chapter 1);”.

## CHAPTER XI

### FINAL PROVISIONS

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

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