

The whole as it appears on the plan accompanying the description.

Ministère de l'Énergie et des Ressources naturelles
Office of the Surveyor-General of Québec
Service de l'arpentage et des limites territoriales

Prepared in Québec, on 19 July 2018

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104241

M.O., 2020

Order 2020-4211 of the Minister of Justice dated 20 January 2020

An Act respecting prearranged funeral services
and sepultures
(chapter A-23.001)

Regulation respecting the register of prearranged
funeral services contracts and prepurchased sepulture
contracts

THE MINISTER OF JUSTICE,

CONSIDERING the first paragraph of section 81.1 of the Act respecting prearranged funeral services and sepultures (chapter A-23.001), which provides that the Minister of Justice must, by regulation and within 24 months after the coming into force of the provision, establish a register of prearranged funeral services contracts and prepurchased sepulture contracts;

CONSIDERING subparagraphs 1 to 7 of the first paragraph of section 81.1 of the Act, which provides that the regulation may prescribe

— the contracts and the information they contain that must be entered in the register;

— the conditions, terms and periods for making or cancelling entries in the register;

— the persons authorized to consult or modify the register and the terms for consulting or modifying it;

— the seller's obligation, prior to entering into a contract, to consult the register and inform the buyer of any contract already entered into concerning the person for whom the goods or services stipulated in the proposed contract are intended;

— the fees for making, modifying and cancelling entries in the register and for consulting the register;

— any other measure for the efficient use and operation of the register;

— the provisions of the regulation whose violation constitutes an offence and, for each offence, the minimum and maximum amounts of the fine to which the offender is liable, without exceeding \$10,000;

CONSIDERING the second paragraph of section 81.1 of the Act, which provides that, despite section 2 of the Act, the regulation may apply to contracts entered into between a buyer and the operator of a religious cemetery and contracts for which partial or total payment need not be made before death;

CONSIDERING the publication in Part 2 of the *Gazette officielle du Québec* of 9 October 2019, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), of a draft Regulation respecting the register of prearranged funeral services contracts and prepurchased sepulture contracts with a notice that it could be made by the Minister on the expiry of 45 days following that publication;

CONSIDERING that it is expedient to make the Regulation with amendments;

ORDERS AS FOLLOWS:

The Regulation respecting the register of prearranged funeral services contracts and prepurchased sepulture contracts, attached to this Order, is hereby made.

Québec, 20 January 2020

SONIA LEBEL,
Minister of Justice

Regulation respecting the register of prearranged funeral services contracts and prepurchased sepulture contracts

An Act respecting prearranged funeral services
and sepultures
(chapter A-23.001, s. 81.1, 1st and 2nd pars.)

CHAPTER I DEFINITIONS

1. In this Regulation, unless the context indicates otherwise,

(1) “buyer” means the party to a contract referred to in section 2 who undertakes to pay for the property, goods or services stipulated in the contract;

(2) “seller” means the party to a contract referred to in section 2 who undertakes to provide the property, goods or services stipulated in the contract.

CHAPTER II

ESTABLISHMENT AND USE OF THE REGISTER

2. The register of prearranged funeral services contracts and prepurchased sepulture contracts, concerning the following contracts, is hereby established:

(1) prearranged funeral services contracts, regardless of whether total or partial payment must be made before or after death;

(2) prepurchased sepulture contracts, regardless of whether total or partial payment must be made before or after death;

(3) contracts entered into before death without intermediary by a buyer and the operator of a religious cemetery for the provision of property, an item of goods or a service in the cemetery.

3. The register is computerized.

4. No person may use the register or the information contained therein except in accordance with this Regulation.

CHAPTER III

CONSULTATION OF THE REGISTER AND INFORMATION

5. Only the following persons, after proving a legitimate interest, may be informed of the existence of a contract by the seller:

(1) potential buyers, that is the person who intends to be a party to a contract referred to in section 2 or to a funeral services or sepulture contract entered into after death;

(2) persons for whom the goods or services stipulated in a contract may be intended, as well as their mandataries, liquidators, successors, tutors or curators.

6. At the request of a person referred to in section 5, the seller consults the register if the person provides

(1) his or her name and capacity;

(2) the information allowing identification of the buyer or the person for whom the goods or services stipulated in a contract may be intended.

The seller informs that person of the existence of a contract and gives the person proof in writing of the computerized consultation of the register.

7. The seller may not enter into a contract referred to in section 2 or a funeral services or sepulture contract entered into after death without having first consulted the register and informed the potential buyer of the existence of a contract concerning the person for whom the goods or services stipulated in the proposed contract are intended. To that effect, the seller gives the buyer proof in writing of the computerized consultation of the register.

In view of the consultation of the register by the seller, potential buyers must provide the information referred to in subparagraphs 1 and 2 of the first paragraph of section 6.

8. The Public Curator may, in the discharge of duties, consult the register to be informed of the existence of a contract.

The same applies to the Chief Coroner’s office and the Minister of Health and Social Services regarding the existence of a contract in respect of a deceased person whose body has not been claimed.

9. The consultation of the register is free of charge.

CHAPTER IV

ENTRY AND MODIFICATION IN THE REGISTER

10. The seller must enter the following information in the register not later than 45 days after entering into the contract:

(1) the number of the contract;

(2) the date on which the contract was made;

(3) the nature of the contract;

(4) the seller’s name and address and, if applicable, the number of the seller’s funeral services business licence and Québec business number (QBN) assigned by the enterprise registrar;

(5) the name, address and date of birth of the buyer or, in the case of a prearranged funeral services contract referred to in paragraph 1 of section 2 and where the goods or services are not intended for the buyer, the name, address and date of birth of the person.

Where a contract concerns more than one person, the information referred to in subparagraph 5 of the first paragraph must be entered in the register for each person.

11. The fees for entering all of the information referred to in section 10 are \$10 for contracts the total payment of which is less than \$1,000.

The fees are \$30 for contracts the total payment of which is \$1,000 or more.

The seller must pay those fees.

12. The fees for making entries paid by the seller are refunded if the buyer cancels the contract within 45 days after it is entered into.

13. The seller is required to update the information in the register not later than 45 days after any modification to a contract.

14. The seller must enter the date of cancellation of a contract in the register not later than 45 days after that date.

The seller must also enter the date on which all the goods and services covered in the contract have been provided.

15. Any modification to the register made in accordance with section 13 or 14 is free of charge.

CHAPTER V OFFENCES

16. Every person who contravenes sections 4 and 6 and the first paragraph of section 7 is guilty of an offence and is liable to a fine of \$1,500 to \$10,000.

17. Every person who contravenes sections 10, 11, 13, 14 and 18 is guilty of an offence and is liable to a fine of \$500 to \$10,000.

CHAPTER VI TRANSITIONAL AND FINAL

18. The seller must, not later than 6 December 2021, enter in the register any information referred to in section 10 the seller has with regard to all contracts in force entered into before 6 June 2020.

Despite the foregoing, in the case of a contract in force referred to in paragraph 3 of section 2 entered into before 6 June 2020, a seller who operates a religious cemetery and who does not hold a permit issued under the Funeral Operations Act (chapter A-5.02) on that date must, not later than 6 December 2022, enter in the register any information referred to in section 10 the seller has with regard to the contract.

Despite section 11, any entry in the register made in accordance with this section is free of charge.

19. This Regulation comes into force on 6 June 2020.

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