

**Cemetery and Funeral Services Regulations
made under Section 28 of the
*Cemetery and Funeral Services Act***

R.S.N.S. 1989, c. 62

O.I.C. 84-156 (February 7, 1984), N.S. Reg. 16/84

as amended up to O.I.C. 2011-110 (March 25, 2011, effective June 1, 2011), N.S. Reg. 52/2011

Cemeteries

17 (1) The plan of a cemetery required to be filed by Section 21 of the Act shall be drawn to scale and shall show the location and dimensions of every lot, walk, fence, road, watercourse and building in the cemetery and the adjoining roads and compass bearings.

(2) Every plan of

(a) a cemetery that contains three or more acres of land or of an extension to an existing cemetery that contains three or more acres of land; and

(b) a cemetery operated for gain or profit or an extension thereof,

shall be prepared by and the land shall be surveyed and subdivided by a Nova Scotia land surveyor or a professional engineer.

(3) No lot in a cemetery, nor the right to use a lot in a cemetery shall be sold unless the lot being sold is shown on the plan and the plan has been accepted for filing by the Registrar.

(4) Subsection (3) shall not come into effect until June 1, 1984.

18 No operator shall charge an excessive amount for a disinterment.

19 An operator shall not refuse to install or refuse to permit the installation of any cemetery supplies if the material and erection comply with the regulations of the cemetery.

20 Every operator shall file with the Minister a list of all by-laws, rules and regulations made by him and any amendments thereof, and no by-law, rule or regulation shall have any force or effect unless approved by the Minister.

21 The Minister may revoke any approval given by him under Section 20.

22 Every operator shall keep a register in which shall be entered

(a) the name and address of every owner of a lot; and

(b) every transfer of the ownership of a lot.

23 Every operator shall keep a separate register for public inspection in which shall be entered

- (a) the name of every deceased person whose body is interred in the cemetery;
- (b) the location of every body interred in the cemetery, mausoleum or columbarium;
- (c) the date of the burial of every such body; and
- (d) the particulars of every disinterment or removal of a body.

24 (1) Every transfer of the ownership of a lot after the original sale shall be made by the registered owner or his legal representative giving to the operator of the cemetery a written notice containing a description of the lot, the date of the sale and the name and address of the transferee.

(2) Upon receipt of the notice and payment of a fee not exceeding \$2, the operator shall forthwith enter in the register kept in accordance with Section 22, the date of the transfer and the name and address of the transferee.

25 No change in the ownership of a cemetery shall become effective until written notice thereof has been given to the Registrar and the change has been approved by the Minister.

26 Every operator shall at the request of the Registrar furnish such information as the Minister requires in respect of the cemetery and the care and management thereof.

27 (1) Whenever it is desirable to discontinue the operation of a cemetery, in which human bodies or human remains have been buried, the operator shall take adequate steps to ensure that the cemetery will be maintained in a decent manner which will not create an offence or public health nuisance.

(2) In the case of a cemetery which was operated by an organization other than a municipality, the organization which operated the cemetery may enter into a contract or agreement with the municipality in which the cemetery is located or with a municipality served by the cemetery, such that the municipality contracts or agrees to provide adequate maintenance for the cemetery. In such case, the responsibility of the municipality will be the same as though the cemetery were municipally operated.

27A If the circumstances described in subsection 27C(4) of the Act exist, requiring further arrangement for carrying on the operation of a cemetery, the Minister may re-appoint an administrator, or appoint a different administrator, for subsequent terms of up to 1 year.

Section 27A added: O.I.C. 2007-197, N.S. Reg. 206/2007.

Care fund

28 Every operator shall deduct from the money received from the sale of a cemetery lot or the right to use a lot in a cemetery, and set aside in the care fund at least fifteen percent of the money received, or fifty dollars, whichever is the larger amount.

29 (1) The care fund shall be held and administered by a trustee approved by the Registrar in accordance with an irrevocable trust agreement approved by the Registrar.

(2) An operator shall submit to the Registrar for approval a copy of the trust agreement which the operator intends to use and the Registrar shall advise the operator within 30 days whether the trust agreement has been approved or not approved.

30 Every trustee shall

(a) receive money deposited by the operator and invest funds in the trust in securities as directed by the terms of the trust agreement or, in default of a direction, in securities in which it may by law as a trustee invest trust money;

(b) maintain a record of money received for deposit to the care fund, securities bought and sold, and income earned on the investments;

(c) after deducting the amount allowed under Section 32 or 33, advise the operator of the net income for the year available for the care and maintenance of the cemetery; and

(d) except as otherwise provided in Section 31, from the net income available pay the operator up to the amount he has spent for care and maintenance during that year, as evidenced by a certificate from the operator.

31 (1) Where the operator in any year

(a) does not withdraw any or all of the income to which he is entitled; or

(b) the income available is in excess of the amount covered by the certificate for the particular year,

the trustee shall hold and reinvest the balance which, together with the income it earns, shall be available to the operator under the same conditions as in ~~subsection~~ [clause] (d) of Section 30 for care and maintenance in future years when required.

(2) Nothing shall prevent the operator from depositing all or part of the balance and the income earned to the principal of the care fund.

(3) The trustee shall not be held liable for any payments to the operator from the income of the care fund in compliance with a certificate for care and maintenance performed.

(4) Any amendment to the trust agreement, including a change in the trustee of the care fund, shall not take effect until the amendment is filed with and approved by the Registrar.

32 Subject to Section 33, an authorized trustee may, as remuneration for his services, in each year deduct and retain, from the income received, other than capital income, in that year on behalf of an owner, a portion thereof not exceeding an amount equal to five percent of that income of the fund.

33 Notwithstanding Section 32, in any year that the remuneration to which an authorized trustee is entitled under a contract with an owner in force on the coming into force of ~~this~~ [these] regulation[s], is

less than the remuneration that that authorized trustee may deduct under Section 32, the authorized trustee shall deduct only the amount to which he is entitled under the contract.