



CHAPTER 23

An Act to amend the Cultural Property Act

[Assented to 23 June 1978]

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

1972, c. 19,
ss. 3-7,
replaced.

1. Sections 3 to 7 of the Cultural Property Act (1972, chapter 19) are replaced by the following sections:

Sittings.

“3. The Commission may hold its sittings anywhere in Québec.

Composition.

“4. The Commission is composed of twelve members, including a chairman and two vice-chairmen, appointed by the Lieutenant-Governor in Council, who shall fix the salary, additional salary, fees or allowances, as the case may be, of each of them.

Term of office of members.

“5. The term of office of the members of the Commission shall not be over three years, except that of the chairman, which shall not be over five years.

Renewal.

The term of office of the chairman and vice-chairmen may be renewed for periods of not over three years.

Idem.

The term of office of the other members of the Commission shall not be renewed more than once unless one of them is appointed chairman or vice-chairman.

Continuance in office.

“6. Notwithstanding the expiry of their terms, the members of the Commission remain in office until they are re-appointed or replaced.

Vacancy.

Any vacancy occurring among the members of the Commission is filled in accordance with the mode of appointment prescribed for their appointment, but only for the unexpired period of the term of office of the member to be replaced.

Full-time offices. **"7.** The chairman and vice-chairmen hold office on a full-time basis.

Chairman unable to act. **"7a.** If the chairman is unable to act, he is replaced by one of the vice-chairmen designated for that purpose by the Commission, for as long as the chairman is unable to act.

Chairman. **"7b.** The chairman presides the meetings of the Commission and directs the work thereof; he represents it in its relations with the Minister and third parties.

Vice-chairmen. The vice-chairmen assist the chairman and carry out the functions entrusted to them by the chairman.

Deliberation on personal interest. **"7c.** No member of the Commission shall, under pain of forfeiture of office, take part in any deliberation on a question in which he has a personal interest.

Quorum. **"7d.** A majority of the members of the Commission including the chairman or one of the vice-chairmen shall be a quorum. In case of a tie-vote, the chairman has a casting vote.

Committees. **"7e.** The Commission may form committees presided by the chairman or a member designated by him for that purpose to study matters determined by the said Commission.

Functions exercised by committee. The functions conferred on the Commission under sections 31, 32, 35 and 48 and under the first paragraph of section 50 are exercised on its behalf by a committee composed of three persons designated by the Commission. Two of such persons are chosen from among the chairman and one of the vice-chairmen of the Commission.

Composition. Such committees may include persons referred to in section 7g.

Advice to Minister. **"7f.** The Commission must give its advice to the Minister on any question he refers to it. It may also make recommendations to the Minister on any matter relating to the conservation of cultural property.

Motions and suggestions. It may receive and hear motions and suggestions from individuals and groups about any matter contemplated by this act.

Specialists. **"7g.** The Commission may, with the authorization of the Minister, retain the services of specialists to study matters within its competence.

Fees, etc. Such persons are entitled to such fees and allowances as are determined by regulation of the Lieutenant-Governor in Council.

Sittings.

“7h. The Commission shall sit at least once every month.

By-laws
of the Com-
mission.

“7i. The Commission may, by by-law:

(a) provide for its internal management; such by-law must be submitted to the Lieutenant-Governor in Council for approval, and comes into force upon such approval;

(b) delegate the exercise of functions conferred on it by this act to committees established pursuant to the first paragraph of section 7e; such by-law must be submitted to the Lieutenant-Governor in Council for approval, and comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

Minutes.

“7j. The minutes of the sittings of the Commission and of its committees duly approved and certified by the chairman or either of the vice-chairmen are authentic. The same rule applies to documents or copies emanating from the Commission or forming part of its records if they are signed by the chairman, either of the vice-chairmen or any member of the staff designated by the Commission.

Annual
report.

“7k. The Commission shall, not later than 1 July each year, send an annual report of its activities for the preceding fiscal year to the Minister, who shall communicate it to the Assemblée nationale; such report must also contain all such information as may be required by the Minister.

Tabling.

The Minister shall table the report of the Commission before the Assemblée nationale if he receives it during a session; if he receives it between sessions or after an adjournment, he shall table it within thirty days of the opening of the next session or of resumption.”

1972, c. 19,
s. 14,
replaced.

2. Section 14 of the said act is replaced by the following section:

List of rec-
ognized or
classified
property.

“14. The Minister shall cause to be published in the *Gazette officielle du Québec*, once every year, a list of the cultural property recognized and classified since the last publication, and table a copy thereof in the Assemblée nationale.”

1972, c. 19,
s. 16,
replaced.

3. Section 16 of the said act is replaced by the following section:

Recogni-
tion pro-
cedure.

“16. The recognition of cultural property is made by an entry in the register contemplated in section 11. Notice of such entry must be sent to the custodian of the cultural property in the case of a moveable, and, in the case of an immoveable, to the person indicated as owner in the register in the registry office of the

division where it is situated and to the clerk or the secretary-treasurer of the municipality where it is situated. The recognition shall take effect from the date of entry in the register contemplated in section 11 in the case of a moveable and, in the case of an immovable, from the deposit of the notice of entry in the registry office of the division where it is situated."

1972, c. 19,
s. 18,
replaced. **4.** Section 18 of the said act is replaced by the following section:

Notice of
intention
to destroy
or alter. **"18.** No person, even in the exercise of a power granted him by the Legislature, shall destroy, alter, restore, repair or change in any manner recognized cultural property and, in the case of an immovable, use it as a backing for a construction, without giving the Minister at least sixty days' previous notice of his intention and, in the case of an immovable, transmitting a copy thereof to the clerk or the secretary-treasurer of the municipality where the cultural property is situated."

1972, c. 19,
s. 20, am. **5.** Section 20 of the said act is amended by replacing the first paragraph by the following section:

Notice of
alienation. **"20.** No person shall alienate recognized cultural property without giving the Minister at least sixty days' previous written notice and, in the case of an immovable, without having given copy of such notice to the clerk or the secretary-treasurer of the municipality where the cultural property is situated."

1972, c. 19,
s. 21,
replaced. **6.** Section 21 of the said act is replaced by the following section:

Notice of
seisin. **"21.** Every person who becomes the owner of recognized cultural property by legal or testamentary succession must, within sixty days of his being put in possession, give notice of it to the Minister who, in the case of a building, shall send a copy of it to the clerk or secretary-treasurer of the municipality where it is situated."

1972, c. 19,
s. 22,
replaced. **7.** Section 22 of the said act, amended by section 99 of chapter 14 of the statutes of 1975, is replaced by the following section:

Minister's
right of
preemption.
 "22. If the recognized cultural property which one wishes to alienate has existed for more than fifty years at the time it is offered for sale, the Minister may acquire it by preference over any other purchaser at the price it is offered for sale. To exercise this right of preemption, the Minister must within the delay of sixty days provided for in section 20 signify in writing his intention to acquire the cultural property on the person who offers it for sale.

Preferential right to acquire document.

In the case of a photographic, cinematographic, audiovisual, radio or television document which, at the time it is offered for sale, has existed for more than ten years, the Minister may acquire it by preference over any other purchaser at the price it is offered for sale. To exercise this right of preemption, the Minister must within the delay of sixty days provided for in section 20 signify in writing his intention to acquire such document to the person who offers it for sale."

1972, c. 19,
s. 23,
replaced.

8. Section 23 of the said act is replaced by the following section:

Alienation when preemption not exercised.

"23. At the expiry of the delay provided for in section 20, the recognized cultural property may be alienated to any person if the Minister has not signified the intention to exercise the right of preemption contemplated in section 22. Notice in writing of the alienation must however be given to the Minister within thirty days of its occurrence."

1972, c. 19,
s. 25,
replaced.

9. Section 25 of the said act is replaced by the following section:

Notice of classification.

"25. The Minister shall, before obtaining the advice of the Commission, send a notice of his intention to proceed with classification, in the case of a moveable, to the owner of the cultural property or to the custodian of the cultural property that he wishes to classify and, in the case of an immoveable, to the person indicated as the owner in the register in the registry office of the division where the property he wishes to classify is situated, and to the clerk or the secretary-treasurer of the municipality where the cultural property is situated.

Content.

Such notice must contain the description of the cultural property affected, a statement of the reasons for classification and a notice that such person may, within thirty days from the sending of the notice, make representations to the Commission.

Publication.

The notice contemplated in the second paragraph must also be published at least once in a newspaper of the place or area concerned."

1972, c. 19,
s. 26, am.

10. Section 26 of the said act is amended by adding, at the end, the following paragraph:

Notice null.

"The notice given by the Minister pursuant to section 25 becomes null and void if the entry referred to in the first paragraph is not made within a delay of one year from the date of the sending of the notice."

1972, c. 19,
s. 27,
replaced.

11. Section 27 of the said act is replaced by the following section:

Notice of
entry.

"27. The owner or custodian of the classified cultural property must be notified without delay of such entry and, in the case of an immovable, the entry must also be notified to the clerk or the secretary-treasurer of the municipality where it is situated."

1972, c. 19,
s. 28, am.

12. Section 28 of the said act is amended by replacing the second paragraph by the following paragraph:

Notice of
entry.

"The Minister must also, in such case, send a notice of entry to any owner of a building located in whole or in part in the protected area of the classified building and file a copy of each of such notices in the registry office of the registration division where such buildings are situated."

1972, c. 19,
s. 29,
replaced.
Effect.

13. Section 29 of the said act is replaced by the following section:

"29. The classification of a cultural property comes into effect from the sending of the notice provided for in section 25.

Notice.

A notice of classification is published in the *Gazette officielle du Québec*.

Tabling.

Any notice from the Commission concerning the classification of a cultural property is tabled in the Assemblée nationale by the Minister within thirty days of its decision."

1972, c. 19,
s. 31,
replaced.

14. Section 31 of the said act is replaced by the following section:

Preserva-
tion of
classified
property.

"31. Notwithstanding any authorization granted by legislative act, no classified cultural property, with the exception of a historic site that is subject to Division IV of this act, may be destroyed, altered, deteriorated, restored, repaired, changed, or, in the case of an immovable, used as a backing for a construction, without the authorization of the Minister, who shall obtain the advice of the Commission."

1972, c. 19,
s. 35,
replaced.

15. Section 35 of the said act is replaced by the following section:

Archaeo-
logical
research
permit.

"35. No person may make on an immovable owned by him or others excavations or surveys to find archaeological property or sites without having previously obtained an archaeological research permit from the Minister, who shall obtain the advice of the Commission."

1972, c. 19,
s. 38,
replaced.

16. Section 38 of the said act is replaced by the following section:

Consent of
the owner.

"38. Where the excavations must be made on land not belonging to the person who makes the application for an archaeological research permit, he must attach to his application the written consent of the owner of the land or other interested person, if any.

Acts applicable. Where the surveys must be made on public land, the existing acts governing them apply thereto."

1972, c. 19, s. 40, replaced. **17.** Section 40 of the said act is replaced by the following section:

Discovery notified. **"40.** Whoever discovers an archaeological property or site must inform the Minister of it without delay."

1972, c. 19, s. 41, am. **18.** Section 41 of the said act is amended by replacing the first paragraph by the following paragraph:

Accidental discovery notified, work suspended. **"41.** Whoever, during excavation or construction work undertaken for other than archaeological purposes, discovers an archaeological property or site must inform the Minister of it without delay. The latter may, to permit the examination of the place by experts, order the suspension, for a period not exceeding fifteen days, of any excavation or construction that might compromise the integrity of the property or site discovered."

1972, c. 19, s. 42, replaced. **19.** Section 42 of the said act is replaced by the following section:

Powers of Lt-G. in C. regarding discovered property. **"42.** When the discovery contemplated in section 41 reveals property which would have been classified if discovered before the beginning of the work, the Lieutenant-Governor in Council may, on the recommendation of the Minister, who shall obtain the advice of the Commission:

(a) order continuance of the suspension of work until the expiry of thirty days from the date of its suspension;

(b) allow the making of excavations necessary to recover the discovered property or site;

(c) order any change that he considers necessary to the plans for excavation or construction to ensure the integrity or the value of the property or site discovered."

1972, c. 19, title replaced. **20.** The said act is amended by replacing the title of Division IV by the following:

"HISTORIC DISTRICTS, NATURAL DISTRICTS,
CLASSIFIED HISTORIC SITES AND PROTECTED AREAS".

1972, c. 19, ss. 48-50, replaced. **21.** Sections 48, 49 and 50 of the said act are replaced by the following sections:

Authoriza-
tion for
division,
etc. **"48.** Notwithstanding any general law or special act, no person shall, in any historic or natural district, on any classified historic site or in any protected area, divide or subdivide, redivide

or parcel out any lot or change the arrangement, ground plan, destination or utilization of an immovable or make any construction, repairs, alteration or demolition involving, in particular, the dimensions, the architecture, the materials or the exterior appearance of an immovable without previous authorization of the Minister, who shall obtain the advice of the Commission.

Regulations.

If, in the whole or in any part of a historic or natural district, classified historic site or protected area, any of the operations referred to in the first paragraph is the subject of a regulation of the Lieutenant-Governor in Council, the Minister shall authorize such operation in accordance with the standards and conditions provided for by regulation, and the advice of the Commission is not required.

Regulatory provisions approved by Minister.

"49. If, in regard to the whole or any part of a historic or natural district, classified historic site or protected area, a municipal corporation, a county corporation or an urban or regional community makes or amends regulatory provisions in relation to an operation referred to in the first paragraph of section 48, such corporation may, before or after their coming into force, submit such regulatory provisions for approval to the Minister, who shall obtain the advice of the Commission.

Approval notified.

Where the Minister considers that the regulatory provisions submitted provide for the minimum standards and conditions required for the attainment of the objectives of this act, he may notify his approval of such regulatory provisions to the clerk, the secretary-treasurer or the secretary of the corporation concerned.

Terms and conditions to be respected.

From the date provided in such notice, an operation subject to any of the regulatory provisions approved by the Minister shall not be undertaken in the whole or the part of the historic or natural district, classified historic site or protected area in question except in accordance with the terms and conditions provided for therein. Such an operation, in such a case, does not require the authorization of the Minister; no permit shall, however, be issued by a municipal corporation, a county corporation or an urban or regional community, if such operation is not conformable to the regulatory provisions approved by the Minister.

Carrying out of regulatory provisions.

Every municipal corporation, county corporation or urban or regional community which avails itself of this section shall see to the carrying out of the regulatory provisions approved by the Minister in accordance with the second paragraph, or cause them to be carried out, on its territory.

Authorization for posting.

"50. Notwithstanding any general law or special act, no posting or alteration or demolition of any sign or billboard shall be made in any historic or natural district, on any classified historic

site or in any protected area without the authorization of the Minister, who shall obtain the advice of the Commission.

Provisions
to apply.

The second paragraph of section 48 and section 49 apply *mutatis mutandis* to the operations referred to in the first paragraph."

1972, c. 19,
s. 51,
replaced.

22. Section 51 of the said act is replaced by the following section:

Powers of
Minister.

"51. The Minister may, after obtaining the advice of the Commission,

(a) acquire by agreement or by expropriation any recognized or classified cultural property or any property necessary to isolate, clear, improve or otherwise enhance a historic monument, or a classified historic or archaeological site, or any property situated in a historic or natural district or in a protected area;

(b) in the case of historic monuments or historic or archaeological sites, lease, hypothecate, restore, alter, demolish or transport them or reconstruct them elsewhere;

(c) administer personally or entrust to other persons, on conditions he considers expedient, the custody and administration of cultural property he has acquired;

(d) contribute to the maintenance, restoration, alteration or transport of classified cultural property or property situated in a historic or natural district, on a classified historic or archaeological site or in a protected area, and the reconstruction of a building on a classified immoveable, and retain on the property being the subject of a contribution, any charge, real right or hypothecary right he deems appropriate;

(e) grant subsidies to conserve and enhance cultural property or property situated in a historic or natural district, on a classified historic site or in a protected area;

(f) make, in accordance with the act, agreements with any government respecting cultural property;

(g) enter into agreements with municipal corporations or any other person for the purposes of the application of this act."

1972, c. 19,
s. 53,
replaced.

23. Section 53 of the said act is replaced by the following section:

Regula-
tions.

"53. The Lieutenant-Governor in Council may, upon the recommendation of the Minister, who shall obtain the advice of the Commission, make regulations to

(a) determine the form of the register contemplated in section 11 and the costs exigible for the issue of certified extracts;

(b) prescribe the forms to be used in the application of this act;

(c) determine the conditions under which archaeological research permits are issued;

(d) regulate or prohibit permanently or temporarily the posting, alteration and demolition of signs and billboards in an historic or natural district, on a classified historic site or in a protected area;

(e) regulate or prohibit, permanently or temporarily, division, subdivision, redivision or any other form of parcelling out of land, land use, arrangement, ground plan, destination, utilization, construction, repair, alteration and demolition, involving, in particular, the dimensions, architecture, materials or exterior appearance of immoveables, and the density of occupation, in or on a historic or natural district, classified historic site or protected area; for such purposes, divide a historic or natural district, classified historic site or protected area into zones;

(f) determine, for all or part of a historic or natural district, of a classified historic site or a protected area, the operations contemplated in subparagraph *e* which do not require the authorization of the Minister;

(g) establish, for each historic or natural district, a plan of protection and enhancement;

(h) determine the conditions on and the extent to which a classified cultural immovable property may be exempt from real estate tax under section 33;

(i) determine the conditions of conservation and restoration of recognized or classified immoveables.

Publication
of the draft.

The Minister shall publish a draft of every regulation prepared under subparagraphs *c* to *i* of this section in the *Gazette officielle du Québec* with a notice that on the expiry of thirty days from that publication it will be submitted to the Lieutenant-Governor in Council for adoption.

Coming
into force
of the reg-
ulations.

The regulations made by the Lieutenant-Governor in Council under this act shall come into force on the date of their publication in the *Gazette officielle du Québec* and any inconsistent provision of a regulation made under any other general law or special act of the Legislature shall be inoperative in or on a historic or natural district, classified historic site or protected area."

1972, c. 19,
s. 54,
replaced.

24. Section 54 of the said act is replaced by the following section:

Right of
access.

"54. To apply this act and the regulations, the Minister may authorize a functionary or an expert to enter at any reasonable

hour a place where cultural property is situated, or an immoveable situated in a historic or natural district, or a protected area, and there to carry out excavations and works required for expertise, subject to indemnity for any damage caused."

1972, c. 19,
s. 57,
replaced.

25. Section 57 of the said act is replaced by the following section:

Restora-
tion at
owner's
expense.

"57. Where a classified cultural property or a property situated in a historic or natural district or in a protected area is altered, changed, deteriorated, developed, set in place, built, repaired, transformed or demolished without the authorization required by virtue of this act or in a manner inconsistent with the prescriptions of an authorization given by the Minister by virtue of section 31, 48 or 50, or by a municipal corporation, a county corporation or an urban or regional community under section 49 or 50, the Superior Court may, on a motion by the Minister, order any work designed to return the property to its former condition or make it conformable to the prescriptions of the authorization given, at the expense of the owner or the person having custody of it if it is moveable property or at the expense of the person indicated as owner in the register in the registry office of the registration division where it is situated, in the case of an immoveable.

Motion to
cease
uncon-
formable
uses.

The Superior Court may, in addition, on a motion of the Minister, order the cessation of a form of land use, the destination or utilization of an immoveable made in or on a historic or natural district, classified historic site or protected area without the authorization required under this act or in a manner inconsistent with the prescription of such authorization and declare null any juridical act effected in contravention to section 48, 49, 50 or 53.

Motions
heard by
preference.

The motions of the Minister referred to in this section are heard by preference by the Superior Court and by the Court of Appeal."

1972, c. 19,
ss. 57a,
57b,
added.

Registra-
tion of plan
validly
made.

26. The said act is amended by inserting, after section 57, the following sections:

"57a. No registration of a division or subdivision plan or any other form of parcelling out of land may be validly made in historic or natural districts, classified historic sites or in protected areas, unless it is conformable to the prescriptions of an authorization given under this act, nor in the absence of such an authorization.

Author-
ization
revoked.

"57b. Every authorization of the Minister required under this act may be revoked or amended by the Minister if it has been obtained on the basis of inaccurate or incomplete information.

Hearing
and
decision.

The Minister shall substantiate his decision and notify it in writing to the interested person after giving him the opportunity to be heard."

1972, c. 19,
s. 58, am. **27.** Section 58 of the said act is amended by replacing the first paragraph by the following paragraph:

Offence
and
penalty. **“58.** Every contravention of the provisions of this act and the regulations make the offender liable to a fine not exceeding \$25,000, with or without costs, without prejudice to the other recourses available to the Minister.”

1972, c. 19,
s. 62,
replaced. **28.** Section 62 of the said act is replaced by the following section:

Application
of reg-
ulation. **“62.** The Lieutenant-Governor in Council may make applicable any regulation made under subparagraph *d* of the first paragraph of section 53 to billboards or signs that have been in place in a historic or natural district for more than ten years.”

Effect. **29.** Sections 21, 25, 26 and 27 of this act become effective as from 22 March 1978.

Coming
into force. **30.** This act comes into force on the day of its sanction.