

1985, chapter 24
**AN ACT TO AMEND
THE CULTURAL PROPERTY ACT
AND OTHER LEGISLATION**

Bill 43

Introduced by Mr Clément Richard, Minister of Cultural Affairs

Introduced 8 May 1985

Passage in principle 5 June 1985

Passage 19 June 1985

Assented to 20 June 1985

Coming into force: by proclamation of the Government

— 2 April 1986: ss. 1 to 46
G.O., 1985, Part 2, p. 4001

Acts amended:

Cultural Property Act (R.S.Q., chapter B-4)

Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2)

Act to preserve agricultural land (R.S.Q., chapter P-41.1)





CHAPTER 24

An Act to amend the Cultural Property Act and other legislation

[Assented to 20 June 1985]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. B-4,
headings,
replaced

1. The Cultural Property Act (R.S.Q., chapter B-4) is amended by replacing the headings “DIVISION I” and “DEFINITIONS” after the title of the Act by the following headings:

“CHAPTER I

“DEFINITIONS AND APPLICATION”.

c. B-4,
s. 1, am.

2. Section 1 of the said Act is amended by replacing paragraph *j* by the following paragraph:

“protected
area”

“(j) “protected area”: an area surrounding a classified historic monument whose perimeter is determined by the Minister;”.

c. B-4,
ss. 1.1, 1.2,
added

3. The said Act is amended by inserting, after section 1, the following sections:

Applicability to
Government

“**1.1** Chapters I, II, III and VII of this Act bind the Government, its departments and agencies that are its mandataries.

Application

“**1.2** Subject to sections 158 to 165 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1), sections 18, 31, 48, 49 and 50 of this Act apply notwithstanding any inconsistent provision of a general law or special Act or of letters patent of a municipality.”

c. B-4,
heading,
replaced

4. The said Act is amended by replacing the heading "DIVISION II" after section 1, by the heading "CHAPTER II".

c. B-4,
s. 4, am.

5. Section 4 of the said Act is amended by replacing the words "two vice-chairmen" in the second line by the words "a vice-chairman".

c. B-4,
s. 5, am.

6. Section 5 of the said Act is amended by replacing the word "vice-chairmen" in the first line of the second paragraph by the words "the vice-chairman".

c. B-4,
s. 7, am.

7. Section 7 of the said Act is amended by replacing the word "vice-chairmen" by the words "the vice-chairman".

c. B-4,
s. 7.1,
replaced
Replacement
of
chairman

8. Section 7.1 of the said Act is replaced by the following section:

"7.1 Where the chairman is prevented from acting, the vice-chairman shall replace him."

c. B-4,
s. 7.2, am.

9. Section 7.2 of the said Act is amended by replacing the second paragraph by the following paragraph:

Vice-
chairman

"The vice-chairman shall assist the chairman and carry out the functions entrusted to him by the chairman."

c. B-4,
s. 7.4, am.

10. Section 7.4 of the said Act is amended by replacing the words "one of the vice-chairmen" in the second line by the words "the vice-chairman".

c. B-4,
s. 7.5, am.

11. Section 7.5 of the said Act is amended by replacing the second paragraph by the following paragraph:

Exercise of
functions

"The functions conferred on the Commission under sections 31, 32, 35, 48, 49 and 50 are exercised on its behalf by a committee composed of the chairman or the vice-chairman and two other persons designated by the Commission."

c. B-4,
s. 7.10, am.

12. Section 7.10 of the said Act is amended

(1) by replacing the words "either of the vice-chairmen" in the second and third lines by the words "the vice-chairman";

(2) by replacing the words "either of the vice-chairmen" in the fifth and sixth lines by the words "the vice-chairman".

c. B-4,
headings,
replaced

13. The said Act is amended by replacing the headings "DIVISION III" and "PROTECTION OF CULTURAL PROPERTY" after section 7.11 by the following headings:

"CHAPTER III

"PROTECTION OF CULTURAL PROPERTY BY THE MINISTER
AND THE GOVERNMENT

"DIVISION I

"RECOGNITION AND CLASSIFICATION OF CULTURAL PROPERTY".

c. B-4,
s. 8, am. **14.** Section 8 of the said Act is amended by striking out the words “, including any property in the public domain,” in the first and second lines.

c. B-4,
s. 10, am. **15.** Section 10 of the said Act is amended by adding the following paragraph:

Classifica-
tion “In addition, recognition of cultural property is cancelled by its classification.”

c. B-4,
s. 13
(French
text), am. **16.** The French text of section 13 of the said Act is amended by replacing the word “honoraires” in the second line of the first paragraph by the word “frais”.

c. B-4,
s. 16, am. **17.** Section 16 of the said Act is amended by replacing the word “deposit” in the tenth line by the words “registration by deposit”.

c. B-4,
s. 18,
replaced **18.** Section 18 of the said Act is replaced by the following section:

Notice of
intention to
alter or
demolish “**18.** No person may alter, restore, repair, change in any manner or demolish all or part of any recognized cultural property and, in the case of an immovable, move it or use it as a backing for a construction, without giving the Minister at least sixty days’ previous notice of his intention. In the case of an immovable, a copy of the notice must be sent, within the same time, to the clerk or the secretary-treasurer of the municipality where the cultural property is situated.”

c. B-4,
heading,
struck out **19.** The said Act is amended by striking out the heading “I.—*Classification procedure*” after section 24.

c. B-4,
s. 25, am. **20.** Section 25 of the said Act is amended by adding, at the end of the first paragraph, the following sentence:

“In addition, in the case of an immovable, the Minister shall immediately register by deposit a copy of the notice in the registry office of the registration division where the immovable is situated.”

c. B-4,
s. 28, am. **21.** Section 28 of the said Act is amended by striking out the second paragraph.

c. B-4,
s. 29, am. **22.** Section 29 of the said Act is amended by replacing the words “thirty days of its decision” in the last line of the third paragraph by the words “sixty days of its decision if the Assembly is in session or, if it is not sitting, within thirty days of the opening of the next session or of resumption.”

c. B-4,
heading,
struck out **23.** The said Act is amended by striking out the heading “II.—*Effects of classification*” after section 29.

c. B-4,
ss. 31, 32,
replaced **24.** Sections 31 and 32 of the said Act are replaced by the following sections:

Authoriza-
tion to alter
or demolish **“31.** No person may, without the authorization of the Minister, alter, restore, repair, change in any manner or demolish all or part of any classified cultural property and, in the case of an immovable, move it or use it as a backing for a construction.

Advice of
Commission Before deciding an application for authorization, the Minister shall obtain the advice of the Commission.

Application The first paragraph does not apply to any classified historic site.

Conditions **“31.1** Every person who performs any of the acts described in section 31 shall comply with the conditions that may be determined by the Minister in his authorization.

Notice of
refusal **“31.2** At the request of any person who is refused an authorization described in section 31 the Minister shall send him a substantiated notice of his refusal and a copy of the notice of the Commission.

Authoriza-
tion to
alienate **“32.** No person may alienate classified cultural property, without the authorization of the Minister, in favour

(1) of any government, including departments and agencies thereof, other than that of Québec;

(2) of any natural person who is not a Canadian citizen or a permanent resident within the meaning of the Immigration Act (R.S.C., 1976-77, chapter 52);

(3) of any legal person whose principal establishment is not situated in Québec.

Advice of
Commission Before deciding an application for authorization, the Minister shall obtain the advice of the Commission.

Deed of
alienation

In each case, the authorization must be attached to the deed of alienation.

Registration

In addition, in the case of an immovable, the authorization must be attached to the deed of alienation registered in the registry office of the registration division where it is situated.

Application
of s. 32

“**32.1** Section 32 does not apply to hypothecs.

Application
of s. 32

Nor does it apply where the person or agency contemplated in the first paragraph thereof becomes the owner of a classified immovable cultural property by a giving in payment, if all the following conditions are met:

(1) the principal undertaking thereof consists of lending money on real security;

(2) the property is taken pursuant to a clause of the deed constituting the security;

(3) the property is not taken as a result of one or several transactions made mainly for the purpose of evading this Act.”

c. B-4,
s. 33, am.

25. Section 33 of the said Act is amended by adding the following paragraph:

Payment by
Government

“For any cultural property exempted from real estate tax under the first paragraph, the Minister shall pay the municipality in which the cultural property is entered on the assessment roll an amount equal to the amount of the reduction granted, at the times and on the conditions determined by regulation of the Government.”

c. B-4,
s. 34,
replaced
Applicable
provisions

26. Section 34 of the said Act is replaced by the following section:

“**34.** Sections 17 and 19 to 23 apply, adapted as required, to classified cultural property.”

c. B-4,
heading,
replaced

27. The said Act is amended by replacing the heading “§ 3.—*Archaeological excavations and discoveries*” after section 34 by the following headings:

“DIVISION II

“ARCHAEOLOGICAL EXCAVATIONS AND DISCOVERIES”.

c. B-4,
s. 35, am.

28. Section 35 of the said Act is amended

(1) by striking out the words “, who shall obtain the advice of the Commission” in the fourth and fifth lines of the first paragraph;

(2) by adding, at the end, the following paragraph:

Advice of Commission “Before deciding any application for a permit, the Minister shall obtain the advice of the Commission.”

c. B-4, s. 40.1, added **29.** The said Act is amended by inserting, after section 40, the following section:

Lost or stolen property **“40.1** Any archaeological property that has been lost or stolen may be claimed by the Minister on behalf of its owner.”

c. B-4, s. 41, am. **30.** Section 41 of the said Act is amended by striking out the second paragraph.

c. B-4, heading, replaced **31.** The said Act is amended by replacing the heading “DIVISION IV” after section 44 by the heading “DIVISION III”.

c. B-4, ss. 46-50, replaced **32.** Sections 46 to 50 of the said Act are replaced by the following sections:

Transmission of recommendation **“46.** A copy of the recommendation of the Minister must be sent as information to the clerk or the secretary treasurer of the municipality and to the registry office of the registration division where the territory contemplated in the recommendation is situated.

Publication of notice Notice of the recommendation must be published in the *Gazette officielle du Québec* and in a newspaper circulated in the territory contemplated or, in the absence of any newspaper circulated in the territory, in a newspaper circulated in the nearest region, with the statement that at the expiry of at least thirty days from this publication, the recommendation will be submitted to the Government and that if an order to that effect is made, the order will take effect on the date of publication of the notice in the *Gazette officielle du Québec*.

Representations During the period referred to in the second paragraph, interested persons may make representations to the Commission.

Publication of order **“47.** Every order made under section 45 must be published in the *Gazette officielle du Québec*.

Transmission of order A copy of the order must be sent as information to the clerk or the secretary treasurer of the municipality and to the registry office of the registration division where all or part of the territory contemplated

is situated. A copy of the order must also be sent to the Minister of Energy and Resources for the purposes of the cadastre.

Effect The order takes effect from the date of publication of the notice provided for in the second paragraph of section 46 in the *Gazette officielle du Québec*.

Notice In addition, the Minister shall publish a notice of the making of the order in a newspaper circulated in the territory contemplated in the order or, in the absence of any newspaper circulated in the territory, in a newspaper circulated in the nearest region.

Protected area of historic monument “**47.1** The Minister may, by order and after obtaining the advice of the Commission, determine for each classified historic monument the perimeter of its protected area.

Perimeter Notwithstanding the first paragraph, the perimeter shall not be farther than one hundred and fifty-two metres from the classified historic monument.

Publication of order “**47.2** Every order made under section 47.1 must be published in the *Gazette officielle du Québec*.

Transmission A copy of the order must be sent as information to the clerk or the secretary treasurer of the municipality and to the registry office of the registration division where all or part of the area contemplated is situated. A copy of the order must also be sent to the Minister of Energy and Resources for the purposes of the cadastre.

Authorization to divide “**48.** No person may, in any historic or natural district or on any classified historic site divide or subdivide, redivide or parcel out any lot, change the arrangement, ground plan, destination or utilization of an immovable, make any construction, repairs, alteration relating to the exterior appearance of an immovable, or demolish all or part of the immovable or erect a new construction without authorization of the Minister.

Alteration to interior In addition, no person may make any construction, repairs or alteration relating to the interior appearance of an immovable situated on a historic site classified before 22 March 1978, without the authorization of the Minister.

Advice of Commission Before deciding any application for authorization, the Minister shall obtain the advice of the Commission.

Sign or billboard “**49.** No person may post up a new sign or billboard or alter, replace or demolish any sign or billboard in any historic or natural district or on any classified historic site without the authorization of the Minister.

Advice of
Commis-
sion

Before deciding any application for authorization, the Minister shall obtain the advice of the Commission.

Application
of ss. 48,
49

“50. The first and third paragraphs of section 48 and section 49 apply also in relation to all immovables or parts of immovables situated in a protected area upon each owner’s being sent a notice from the Minister informing him that the whole or part of his immovable is situated in the protected area of a classified historic monument and that a copy of the notice has been registered by deposit in the registry office of the registration division where the immovable is situated.

Conditions

“50.1 Every person who performs any of the acts described in section 48, 49 or 50 shall comply with the conditions that may be determined by the Minister in his authorization.

Notice of
refusal

“50.2 At the request of any person who is refused an authorization described in section 48, 49 or 50, the Minister shall send him a substantiated notice of his refusal and a copy of the notice of the Commission.”

c. B-4,
heading,
replaced

33. The said Act is amended by replacing the heading “DIVISION V” after section 50 by the heading “DIVISION IV”.

c. B-4,
s. 51, am.

34. Section 51 of the said Act is amended

(1) by inserting, after the word “classified” in the second line of paragraph *d*, the words “, recognized or designated”;

(2) by inserting, after the word “site” in the fourth line of paragraph *d*, the words “on a heritage site”;

(3) by adding the words “, on a heritage site” after the word “site” in the third line of paragraph *e*;

(4) by replacing paragraph *g* by the following paragraph:

“(g) enter into agreements for the purposes of the administration of this Act with any person, including a municipality, a regional county municipality or an urban or regional community.”

c. B-4,
s. 53, am.

35. Section 53 of the said Act is amended

(1) by striking out subparagraphs *d* to *g* of the first paragraph;

(2) by adding, after subparagraph *i* of the first paragraph, the following subparagraphs:

“(j) determine times and conditions of payment by the Minister of the amount contemplated in the second paragraph of section 33;

“(k) determine which prescriptions of any regulation made under subparagraph *c* or *i* it is an offence to contravene.”;

(3) by replacing the word and letter “to *i*” in the second line of the second paragraph by the following: “, *h, i* and *k*”;

(4) by replacing the words “of the Legislature shall be inoperative in or on a historic or natural district, classified historic site or protected area” in the fourth, fifth and sixth lines of the third paragraph by the words “shall be inoperative”.

c. B-4,
s. 55,
replaced

36. Section 55 of the said Act is replaced by the following section:

Authoriza-
tion to
alienate

“**55.** Recognized or classified cultural property in the public domain shall not be alienated without the authorization of the Minister.

Advice of
Commission

Before ruling on an application for authorization, the Minister shall obtain the advice of the Commission.”

c. B-4,
heading,
replaced

37. The said Act is amended by replacing the heading “DIVISION VI”, after section 55, by the heading “DIVISION V”.

c. B-4,
s. 57,
replaced
Court order
for cessa-
tion of act

38. Section 57 of the said Act is replaced by the following section:

“**57.** The Minister may obtain an order of the Superior Court for the cessation of any act or operation undertaken or continued without the authorization required under section 31, 48, 49 or 50 or done contrary to the conditions contemplated in section 31.1 or 50.1.

Court order
for perfor-
mance of
work

Moreover, in the case of any act or operation undertaken or continued without the authorization required under section 31, 48, 49 or 50 or done contrary to the conditions contemplated in sections 31.1 and 50.1, the Minister may obtain an order of the Superior Court for the performance of the work required to bring the property or premises into conformity with the conditions of an authorization, to return the property or premises to their former condition or to demolish a construction. The work shall be at the expense of the owner or, in the case of movable property, at the expense of the person having custody thereof.

Preference

Every motion presented by the Minister under this section shall be heard and decided by preference.”

c. B-4, s. 57.1, am. **39.** Section 57.1 of the said Act is amended by replacing the word “prescriptions” in the fourth line by the word “conditions”.

c. B-4, s. 58, replaced. Offences **40.** Section 58 of the said Act is replaced by the following sections:
“58. Every person is guilty of an offence who

(1) transports recognized or classified cultural property outside Québec without the permission of the Minister;

(2) alienates recognized or classified cultural property without complying with the conditions provided in section 23;

(3) fails to keep classified cultural property in good condition.

Penalty **“58.1** Every person who contravenes any provision of section 20 or 21, whether in respect of classified or recognized cultural property, any provision of the first paragraph of section 31, 32, 35, 48 or 49, any provision of section 31.1, 39, 40, 41, 50, 50.1 or 58 or any regulatory provision the contravention of which is an offence under paragraph *k* of section 53 is liable, in addition to costs, to a fine of not less than \$500 nor more than \$50 000.

Assistance in committing offence **“58.2** Every person who, by performing or failing to perform an act, assists another person in committing an offence is guilty of the offence as if he had himself committed it, if he knew or should have known that his act or failure to act would probably result in assisting in the commission of the offence.

Encouragement to commit offence **“58.3** Every person who, by his encouragement, advice or order, causes another person to commit an offence is guilty of that offence and of any other offence that the other person commits as a result of his encouragement, advice or order, if he knew or should have known that his encouragement, advice or order would probably result in the commission of the offence.

Summary Convictions Act **“58.4** Proceedings under section 58.1 are instituted in accordance with the Summary Convictions Act (R.S.Q., chapter P-15) by the Attorney-General, by a person generally or specially authorized by him, or by the Minister.”

c. B-4, Division VII, replaced. **41.** Division VII of the said Act is replaced by the following:

"CHAPTER IV

"PROTECTION OF CULTURAL PROPERTY BY MUNICIPALITIES

"DIVISION I

"DEFINITION AND APPLICATION

"advisory committee" **"59.** In this chapter, unless the context indicates a different meaning, "advisory committee" means the planning advisory committee established under section 146 of the Act respecting land use planning and development or, if no such committee is established, the committee contemplated in section 63 of this Act.

Application **"60.** This chapter applies to every municipality, and to a regional county municipality where it acts under the Act respecting municipal organization of certain territories (R.S.Q., chapter O-8) or in respect of a territory contemplated in article 36 of the Municipal Code (R.S.Q., chapter C-27.1).

"DIVISION II

"ADVISORY COMMITTEE

Function **"61.** The function of the advisory committee is to give its advice to the council of the municipality, at the request of the council, on any matter relating to the administration of this chapter.

Representations **"62.** The advisory committee shall receive and hear the representations made by interested persons following the notices given under sections 72, 74, 86 and 88.

Applications and suggestions The advisory committee may also receive and hear the applications and suggestions of persons or groups on any matter within its competence.

Establishment by municipality **"63.** A municipality may, by by-law of the council, establish a committee to perform the duties entrusted to the advisory committee by this Act.

Composition **"64.** The committee shall consist of not less than three members appointed by the council of the municipality.

Member of council One of the members of the committee shall be chosen from among the members of the council.

Term of office "65. The member chosen from among the members of the council shall be appointed for the duration of his term of office and for not more than two years.

Term of office The other members shall be appointed for not more than two years. At the end of their term of office, they shall remain in office until they are replaced or reappointed.

Internal management "66. A municipality may, by by-law of its council, authorize the committee to establish rules to provide for its internal management.

Vacancy "67. Any vacancy occurring during the term of office of a member shall be filled according to the mode of appointment provided in section 64.

Sittings "68. The committee shall hold its sittings in the territory of the municipality or at the place determined by the council of the municipality.

Quorum The majority of the members constitutes a quorum at sittings of the committee.

Personnel "69. The council may vote and put at the disposal of the committee the personnel and the sums of money it needs to discharge its duties.

"DIVISION III

"DESIGNATION OF HISTORIC MONUMENTS

Designation by-law "70. A municipality may, by by-law of the council and after obtaining the advice of the advisory committee, designate all or part of a historic monument situated in its territory the conservation of which is in the public interest.

Notice of motion "71. The notice of motion of a by-law designating a historic monument shall contain

- (1) the description of the historic monument;
(2) the reasons for the designation;
(3) the date on which the by-law is to take effect in accordance with section 77;
(4) a statement that interested persons may make representations to the advisory committee in accordance with the notices which will be given to that effect.

Special notice to owner

“72. The clerk or secretary-treasurer or any person he designates for such purpose shall, at the request of the council, send to the owner of the historic monument a special written notice, accompanied with a true copy of the notice of motion and indicating the following:

- (1) the effects of the designation provided for in sections 79 to 82;
- (2) the fact that the owner may make representations to the advisory committee;
- (3) the place, date and time of the sitting of the advisory committee at which all other interested persons may make representations.

Applicable provisions

The special notice is governed by the provisions applicable to special notices contained in sections 335 to 343 and 348 of the Cities and Towns Act (R.S.Q., chapter C-19) or in articles 418, 419 and 422 to 430 of the Municipal Code (R.S.Q., chapter C-27.1), as the case may be.

Oath

Moreover, the truth of the facts set forth in the certificate of service shall be attested under the oath of office of the person giving it, if such person has taken an oath of office, and, if not, by his special oath or solemn affirmation to that effect.

Copy to Minister

“73. The clerk or secretary-treasurer shall also send a copy of the notice of motion to the Minister.

Public notice of sittings

“74. The clerk or secretary-treasurer shall give public notice, not later than thirty days before the passing of the designation by-law, of the place, date and time of the sitting of the advisory committee at which all persons having an interest in the designation of the historic monument contemplated in the notice of motion may make representations.

Applicable provisions

The public notice is governed by the rules applicable to public notices contained in sections 335 to 337 and 345 to 348 of the Cities and Towns Act or in articles 418, 419, 422, 423 and 431 to 436 of the Municipal Code, as the case may be.

By-law

“75. Upon the expiration of a period of sixty days from the date of the notice of motion and after obtaining the advice of the advisory committee, the council may pass the by-law designating a historic monument.

Time limit

A notice of motion becomes null and void upon the expiration of a period of 120 days from the date thereof if the council has not passed the by-law and brought it into force within that period.

Transmission of by-law	<p>“76. Upon the coming into force of the designation by-law, the clerk or secretary-treasurer shall send a true copy thereof, accompanied with the certificate setting forth the date of coming into force, to the owner of the historic monument and, where such is the case, to the person having custody thereof, as well as to the Minister.</p>
Effect	<p>“77. The by-law designating a historic monument has effect from the date of service of the special notice on the owner of the historic monument.</p>
Duration of effects	<p>“78. The effects of the designation persist in respect of the historic monument until the designation by-law is repealed.</p>
Repeal	<p>The council may repeal a designation by-law by using the same procedure as that used for its passage.</p>
Conservation	<p>“79. Every designated historic monument shall be kept in good condition.</p>
Conditions	<p>“80. Every person who in any way alters, restores, repairs or changes the exterior appearance of a designated historic monument shall comply with the conditions relating to the conservation of the characteristics of the monument to which the council may subject him, in addition to the municipal by-laws.</p>
Notice to municipality	<p>Moreover, no person may perform an act contemplated in the first paragraph without giving at least 45 days' notice to the municipality. Where a municipal permit is required, the application for the permit stands in lieu of the notice.</p>
Advice of committee	<p>Before imposing conditions, the council shall obtain the advice of the advisory committee.</p>
Municipal permit	<p>A copy of the resolution fixing the conditions shall accompany, where such is the case, the municipal permit otherwise issued that authorizes the act involved.</p>
Authorization to demolish	<p>“81. No person may demolish all or part of a designated historic monument, move it or use it as a backing for a construction without the authorization of the council.</p>
Advice of committee	<p>Before deciding an application for authorization, the council shall obtain the advice of the advisory committee.</p>
Conditions	<p>Every person performing an act provided for in the first paragraph shall comply with the conditions the council may determine in its authorization.</p>

Notice of refusal

“82. Upon the request of any person who is refused an authorization provided for in section 81, the council shall send him a substantiated notice of the refusal and a copy of the advice of the advisory committee.

Acquisition by municipality

“83. After obtaining the advice of the advisory committee, a municipality may acquire, by agreement or expropriation, any property or real right required to isolate, clear, clean or otherwise enhance the immediate vicinity of a designated historic monument situated in its territory.

Acquisition by municipality

A municipality may similarly acquire, by agreement or by expropriation, a designated historic monument situated in its territory.

Transfer or sale

The municipality may, after obtaining the advice of the advisory committee, transfer or sell the property or rights without further authorization.

“DIVISION IV

“HERITAGE SITE

Establishment of site

“84. A municipality may, by by-law of the council and after obtaining the advice of the advisory committee, establish as a heritage site all or part of its territory where immovable cultural property is situated and where the architectural landscape has aesthetic or historic interest.

Identified zone

The heritage site shall be included in a zone identified in the planning programme as a zone to be protected.

Notice of motion

“85. The notice of motion of a by-law establishing a heritage site shall contain

(1) the perimeter and limits of the heritage site and the identification of the streets or roads therein, if any;

(2) the reasons for the establishment of the heritage site;

(3) the date on which the by-law is to take effect in accordance with section 92;

(4) a statement that interested persons may make representations to the advisory committee in accordance with the notices which will be given to that effect.

Special notice to owners

“86. The clerk or secretary-treasurer or any person he designates for such purpose shall, at the request of the council, send a special written

notice to each owner of an immovable situated within the perimeter of the heritage site accompanied with a true copy of the notice of motion and indicating the following:

(1) the effects of the establishment of the site which are provided in sections 94 to 96;

(2) the fact that each owner may make representations to the advisory committee;

(3) the place, date and time of the sitting of the advisory committee at which all other interested persons may make representations.

Applicable provisions

The special notice is governed by the provisions applicable to special notices contained in sections 335 to 343 and 348 of the Cities and Towns Act or in articles 418, 419 and 422 to 430 of the Municipal Code, as the case may be.

Oath

Moreover, the truth of the facts set forth in the certificate of service shall be attested under the oath of office of the person giving it, if such person has taken an oath of office, and if not, by his special oath or solemn affirmation to that effect.

Copy to Minister

“37. The clerk or secretary-treasurer shall also send a copy of the notice of motion to the Minister.

Public notice of sittings

“38. The clerk or secretary-treasurer shall give public notice, not later than thirty days before the passing of the by-law, of the place, date and time of the sitting of the advisory committee at which all persons having an interest in the establishment of the heritage site contemplated in the notice of motion may make representations.

Applicable provisions

The public notice is governed by the provisions applicable to public notices contained in sections 335 to 337 and 345 to 348 of the Cities and Towns Act or in articles 418, 419, 422, 423 and 431 to 436 of the Municipal Code, as the case may be.

By-law

“39. Upon the expiration of a period of sixty days from the date of the notice of motion and after obtaining the advice of the advisory committee, the council may pass the by-law establishing a heritage site.

Plan

The by-law establishing a heritage site shall include a plan depicting the perimeter of the site.

Time limit

A notice of motion becomes null and void upon the expiration of a period of 120 days from the date thereof if the council has not passed the by-law and brought it into force within that period.

Amend- ment to planning programme	<p>“90. The period of 120 days contemplated in section 89 shall be extended by sixty days where the territory contemplated in the notice of motion is not included in a zone identified in the planning programme as a zone to be protected and provided that at the sitting at which the notice of motion was given, the council passed a resolution stating its intention to amend its planning programme to that effect.</p>
Time limit	<p>Notwithstanding the foregoing, the notice of motion becomes null and void as soon as it becomes clear that it will be impossible for the amendment to come into effect before the expiration of the additional period of sixty days.</p>
Transmis- sion of by-law	<p>“91. Upon the coming into effect of the by-law establishing a heritage site, the clerk or secretary-treasurer shall send to each owner of an immovable situated within the perimeter of the heritage site and, where such is the case, the person having custody of it, as well as to the Minister a true copy thereof accompanied with the certificate setting forth the date of coming into force.</p>
Effect	<p>“92. The by-law establishing a heritage site has effect from the date of service of the special notice on the owners of immovables situated within the perimeter of the site.</p>
Repeal	<p>“93. The council may repeal a by-law establishing a heritage site by using the same procedure as that used for its passage.</p>
Conditions	<p>“94. Every person shall comply with the conditions relating to the conservation of the characteristics of the architectural landscape of the heritage site to which the council may subject him, in addition to the municipal by-laws, where on a heritage site that person</p> <ol style="list-style-type: none"> (1) divides, subdivides, redivides or parcels out land; (2) makes a new construction; (3) alters, restores or repairs an immovable or in any way changes its exterior appearance; (4) posts up new signs or billboards or alters, replaces or demolishes a sign or billboard.
Notice to municipality	<p>Moreover, no person may perform an act contemplated in the first paragraph without giving at least 45 days' notice to the municipality. Where a municipal permit is required, the application for the permit stands in lieu of the notice.</p>
Advice of committee	<p>Before imposing conditions, the council shall obtain the advice of the advisory committee.</p>

Municipal permit	A copy of the resolution fixing the conditions shall accompany, where such is the case, the municipal permit otherwise issued that authorizes the act involved.
Authorization to demolish	“95. No person may demolish all or part of an immovable situated on a heritage site without the authorization of the council.
Advice of committee	Before deciding an application for authorization, the council shall obtain the advice of the advisory committee.
Conditions	Every person performing the act provided for in the first paragraph shall comply with the conditions the council may determine in its authorization.
Notice of refusal	“96. Upon the request of any person who is refused an authorization provided for in section 95, the council shall send him a substantiated notice of the refusal and a copy of the advice of the advisory committee.

“DIVISION V

“FINANCIAL OR TECHNICAL ASSISTANCE

Financial or technical assistance	“97. Notwithstanding the Municipal Aid Prohibition Act (R.S.Q., chapter I-15), a municipality may, by by-law of its council and after consulting the advisory committee, grant on the conditions it determines any form of financial or technical assistance to ensure the conservation, maintenance, restoration or enhancement of a designated historic monument situated in its territory and of any immovable situated on a heritage site situated in its territory.
Financial or technical assistance	A municipality may also grant financial or technical assistance in respect of a recognized or classified cultural immovable property, or in respect of an immovable situated in a historic or natural district, on a classified historic site or in a protected area situated in its territory.
Other forms of assistance	This section does not affect the powers to grant any form of assistance in respect of immovables that a municipality may hold otherwise.

“DIVISION VI

“SPECIAL PROCEDURE

Sections declared in-applicable	“98. Where a municipality, by by-law of its council, submits an application to that effect, the Minister may, notwithstanding sections 118 to 126, declare all or part of sections 48, 49 and 50 inapplicable
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to all or part of a historic or natural district, a classified historic site or a protected area forming part of its territory and declare sections 94 and 95 applicable to that district, site or area to the extent he determines.

Advice of Commission Before reaching a decision on the application submitted to him, the Minister shall take into account the by-laws of the municipality in respect of the objectives of this Act and obtain the advice of the Commission.

Effect “**99.** A declaration of the Minister under section 98 takes effect from the date of publication of a notice to that effect in the *Gazette officielle du Québec* or from any later date indicated in the notice.

Notification of Minister “**100.** The municipality shall notify the Minister of amendments it plans to make to its zoning, subdivision and construction by-laws that apply in the district, site or area contemplated in the declaration made under section 98.

Contents The notice shall give a summary statement of the draft by-law.

Amendment or revocation “**101.** After obtaining the advice of the Commission, the Minister may, to the extent he determines, amend or revoke any declaration made under section 98.

Effect The amendment or revocation takes effect on the date on which the clerk or secretary-treasurer of the municipality receives it.

Publication A notice of the amendment or revocation shall be published in the *Gazette officielle du Québec* and indicate the date on which the amendment or revocation has taken effect.

Registry of office “**102.** If a declaration made by the Minister under section 98 or 101 relates to the power to authorize the division, subdivision or redivision of land, the Minister shall inform the registry office of the registration division in which the district, site or area contemplated in the declaration is situated by sending a copy of the declaration to it.

Minister of Energy and Resources The Minister shall also send a copy of the declaration to the Minister of Energy and Resources for the purposes of the cadastre.

“DIVISION VII

“ACTIONS AND PENALTIES

Court order for cessation of act “**103.** Every interested person, including a municipality, may obtain an order of the Superior Court for the cessation of any act or

operation undertaken or continued without the authorization required under section 81 or 95 or without the notice required under section 80 or 94 or done contrary to the conditions contemplated in section 80, 81, 94 or 95.

Court order for performance of work

Every interested person, including a municipality, may also obtain an order of the Superior Court for the performance, at the expense of the owner, of the work required to bring the property or the premises into conformity with the conditions contemplated in section 80, 81, 94 or 95, to return the property or the premises to their former condition or to demolish a construction.

Declaration of nullity

“**104.** The division, subdivision, redivision or parcelling out of land done contrary to section 94 may be annulled. Any interested party, including the municipality in the territory in which the land is situated, may apply to the Superior Court to have the nullity declared.

Preference

“**105.** A motion made under section 103 or 104 shall be heard and decided by preference.

Penalty

“**106.** Every person who contravenes any provision of the first paragraph of section 80 or 94 or the first or third paragraph of section 81 or 95 is liable, in addition to costs, to a fine of not less than \$500 nor more than \$50 000.

Penalty

“**107.** Every person who contravenes any provision of the second paragraph of section 80 or 94 is liable, in addition to costs, to a fine of not less than \$50 nor more than \$500.

Assistance in committing offence

“**108.** Every person who, by performing or failing to perform an act, assists a person in committing an offence is guilty of the offence as if he had committed the offence himself, if he knew or should have known that his act or omission would probably result in assisting in the commission of the offence.

Encouragement to commit offence

“**109.** Every person who, by encouragement, advice or order, causes a person to commit an offence is guilty of the offence and of any other offence that the other person commits as a result of his encouragement, advice or order, if he knew or should have known that his encouragement, advice or order would probably result in the commission of the offence.

Summary Convictions Act

“**110.** Proceedings under section 106 are instituted in accordance with the Summary Convictions Act by the Attorney General, a municipality, a person generally or specially authorized by either or by any other interested person.

"DIVISION VIII

"SPECIAL PROVISIONS

Heritage site **"111.** Notwithstanding the second paragraph of section 84, a municipality may, before the coming into force of its planning programme, establish all or part of its territory as a heritage site.

Inapplicable provisions **"112.** From the date of coming into force of the planning programme of a municipality, sections 94, 95 and 97 cease to apply in respect of all or part of the site that is not situated in a zone included in the planning programme as a zone to be protected.

By-law under s. 111 A municipality shall, within 90 days following the date of coming into force of its planning programme, amend or repeal a by-law made under section 111 and establishing a heritage site, if the territory of that site is not entirely situated in a zone included in its planning programme as a zone to be protected.

Applicable provisions Section 85, except paragraph 4, the first and second paragraphs of section 89 and section 91 apply, adapted as required, in this case.

Effect The amending or repealing by-law has effect upon passage.

City of Laval **"113.** This chapter applies to the city of Laval, but the references to the planning programme in sections 84, 90, 111 and 112 are references to the development plan and to a territory identified in the plan as presenting a historic or cultural interest.

City of Montréal **"114.** This chapter, except the second paragraph of sections 64, 72, 74, 84, 86 and 88 and sections 90, 111 and 112, applies to the city of Montréal, adapted as follows:

(1) the advisory committee is the committee which may be established under section 63;

(2) a resolution of the executive committee shall replace the notice of motion prescribed in sections 71 to 75 and 85 to 89;

(3) the special notice provided for in the first paragraph of section 72 and in the first paragraph of section 86 is governed by articles 1170 and 1171 of its charter;

(4) the public notice provided for in the first paragraph of section 74 and in the first paragraph of section 88 is governed by articles 1169 and 1171*a* of its charter;

(5) the periods mentioned in the first paragraph of sections 75 and 89 shall be computed from the date on which the council takes note of the resolution of the executive committee;

(6) the periods mentioned in the second paragraph of section 75 and in the third paragraph of section 89 are 190 days.

City of
Québec

“**115.** This chapter, except the second paragraph of sections 72, 74, 84, 86 and 88 and sections 90, 111 and 112, applies to the city of Québec, adapted as follows:

(1) the Comité consultatif du Vieux-Québec et du patrimoine or the committee which replaces it and which is established under section 186 of its charter shall perform the duties of the advisory committee;

(2) a resolution of the executive committee shall replace the notice of motion prescribed in sections 71 to 75 and 85 to 89;

(3) the special notice provided for in the first paragraph of section 72 and in the first paragraph of section 86

(a) shall be served on the owner of the historic monument or of the immovable at his residence or place of business in the city;

(b) if the owner has neither residence nor place of business in the city, the notice may be validly sent to him at his last known address;

(4) the public notice provided for in the first paragraph of section 74 and in the first paragraph of section 88 shall be published twice in a French language newspaper;

(5) the periods mentioned in the first paragraph of sections 75 and 89 shall be computed from the date on which the council takes note of the resolution of the executive committee;

(6) the periods mentioned in the second paragraph of section 75 and in the third paragraph of section 89 are 190 days;

(7) for the purposes of application of sections 80 and 94, the reference to the conditions determined by the council and to municipal by-laws is a reference to the corresponding provisions of its charter.

"DIVISION IX

"MISCELLANEOUS PROVISIONS

Delegation of power "**116.** The council of the municipality may, by by-law and to the extent it determines, delegate to its executive committee its power to determine conditions under section 80 or 94.

Powers of municipality "**117.** A municipality may, by by-law of its council,
 (1) prescribe the release, by any person, of information or documents to allow the application of sections 80, 81, 94 and 95;
 (2) prescribe the payment of costs for the delivery of the authorization provided for in sections 81 and 95.

"CHAPTER V

"RULES ON THE APPLICATION OF CERTAIN PROVISIONS

Object of chapter "**118.** The object of this chapter is to determine the provisions that apply in respect of any cultural property or any property situated in a historic or natural district, in a protected area or on a heritage site and that may be protected by the Minister, the Government or a municipality with a view to regulating or preventing the duplication of protection by them.

Application "**119.** This chapter applies to all or part of a cultural property or an immovable, as the case may be.

Classification "**120.** A cultural property may be classified at any time. Where a cultural property is classified, the only provisions that apply in respect of that property are those which are applicable to classified cultural property.

Recognition "**121.** A cultural property may be recognized at any time unless it is already classified.

Application of s. 18 "**122.** Section 18 does not apply in respect of an immovable that is both a recognized property and a property that is designated or situated on a heritage site.

Designation "**123.** A historic monument may be designated unless it is already classified or situated in a historic or natural district.

Monument belonging to municipality However, if the monument is situated in a historic or natural district, it may be designated if it belongs to the municipality; in that case, sections 80 and 81 do not apply in respect of the monument.

Ap-
plication
of s. 48

“**124.** Section 48 does not apply in respect of a designated historic monument situated in a protected area where section 50 applies in respect of immovables situated in the area.

Application
of ss. 80,
81

“**125.** Sections 80 and 81 cease to apply in respect of a designated historic monument upon its being situated in a historic or natural district.

Applica-
tion of ss.
94, 95

“**126.** Sections 94 and 95 do not apply in respect of a property situated both on a heritage site and in a historic or natural district or, where section 50 applies to the property, in a protected area.

“CHAPTER VI

“NATIONAL HISTORIC SITE

National
historic site

“**127.** The group of buildings consisting of the Parliament Building, the Pamphile-Le May building and the Honoré-Mercier building, together with the land described in Schedule I, is hereby declared a national historic site.

“CHAPTER VII

“FINAL PROVISIONS

Transmis-
sion to
supramunic-
ipal bodies

“**128.** The Minister shall send to the regional county municipality or to the urban or regional community of which a municipality forms part a copy of every document he is required to send to the municipality or to its clerk or secretary treasurer under section 16, 18, 20, 21, 25, 27, 46, 47, 101 or 102, as well as a copy of every declaration made under section 98 upon the application of the municipality.

Transmis-
sion to
supramunic-
ipal bodies

“**129.** A municipality shall send to the regional county municipality or to the urban or regional community of which it forms part a copy of every document that the municipality itself, its council, its clerk or its secretary treasurer is required to send to a person or to the Minister under section 73, 76, 82, 87, 91, 96 or 100 and a copy of every application made by the municipality under section 98.

Protected
area

“**130.** For every historic monument classified before 2 April 1986, the protected area is the area within a perimeter of one hundred and fifty-two metres from the monument, subject to any order made by the Minister pursuant to section 47.1.

Consulta-
tion

The Minister shall, before making an order, consult the municipality in whose territory all or part of the area contemplated is situated.

Presump-
tion

“**131.** The formalities carried out pursuant to the second paragraph of section 28 before 2 April 1986 shall be considered to be carried out pursuant to section 50.

Presump-
tion

“**132.** Every alienation of classified cultural property made between 10 July 1963 and 2 April 1986 to persons other than those mentioned in section 32, including every hypothec on the property, is considered to have been authorized in accordance with this Act.

Presump-
tion

“**133.** An approval given under section 49 of the Cultural Property Act as it existed before 2 April 1986 is considered to have been given under Division VI of Chapter IV of this Act and is valid for the entire district, site or area and for every act or operation contemplated in sections 94 and 95 of this Act.

Exception

“**134.** This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).”

c. B-4,
schedule,
added

42. The said Act is amended by adding, at the end, the following schedule:

“SCHEDULE I

“LAND OF THE NATIONAL HISTORIC SITE

“That part of the territory bounded as follows by the following avenue, boulevards and streets, situated in the city of Québec: on the northwest by the southeast side of Saint-Cyrille boulevard, east, on the northeast by the southwest side of Dufferin avenue, on the southeast by the northwest side of Grande-Allée Est and on the southwest by the northeast side of Saint-Augustin street and its extension to Saint-Cyrille boulevard, east.”

c. C-37.2, s.
158.2, am.

43. Section 158.2 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2) is amended

(1) by striking out, in the eighth and ninth lines of the first paragraph, the words “or compliance with a regulatory provision mentioned in section 49 of the said Act”;

(2) by inserting, after the first paragraph, the following paragraph:

Applicability of ss. 94, 95

“Furthermore, the agreement may provide, where the Minister of Cultural Affairs has assented to an application made under section 98 of the Cultural Property Act by a municipality that is part of the Community, that sections 94 and 95 of the said Act do not apply where the Community carries out an operation contemplated in one of these sections, if it adheres to the development plan contained in the agreement.”

c. P-41.1, s. 97, am.

44. Section 97 of the Act to preserve agricultural land (R.S.Q., chapter P-41.1) is amended by replacing the words “Divisions III and IV” in the second and third lines by the words “Chapter III”.

Exception

45. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

Coming into force

46. This Act comes into force on the date fixed by proclamation of the Government, except the provisions excluded by the proclamation, which will come into force on any later date fixed by proclamation of the Government.