

NATIONAL ASSEMBLY
Thirty-second Legislature, fourth session

1983, chapter 52
NATIONAL MUSEUMS ACT

Bill 35

Introduced by Mr Clément Richard, Minister of Cultural Affairs

First reading: 15 June 1983

Second reading: 13 December 1983

Third reading: 21 December 1983

Assented to: 22 December 1983

Coming into force: *by proclamation of the Government*

Act amended:

Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12)

Act replaced:

Act respecting museums (R.S.Q., chapter M-43)



CHAPTER 52

National Museums Act

[Assented to 22 December 1983]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

INTERPRETATION

Interpre-
tion **1.** In this Act, unless the context indicates a contrary meaning, the word “museum” means a national museum established under this Act.

CHAPTER II

ESTABLISHMENT

“Musée du
Québec” **2.** A national museum is hereby established under the name of the “Musée du Québec”.

“Musée
d’Art con-
temporain
de Montréal” **3.** A national museum is hereby established under the name of the “Musée d’Art contemporain de Montréal”.

CHAPTER III

CONSTITUTION AND ORGANIZATION

Corporation **4.** A museum is a corporation; it has all the powers of a corporation in addition to those conferred on it by this Act.

Mandatory
of the
Government **5.** A museum is a mandatory of the Government.

Public
domain The property of a museum forms part of the public domain but the performance of its obligations may be levied against its property

other than the works of man or the products of nature included in its collections.

Head office **6.** The head office of a museum shall be at the place determined by the Government; notice of the address or change of address of the head office is published in the *Gazette officielle du Québec*.

Board of directors **7.** The affairs of a museum are administered by a board of directors consisting of nine members, including a chairman, appointed by the Government.

Appointment One of the members is appointed on the recommendation of the urban or regional community or, if none, the municipal council having jurisdiction at the place of the head office of the museum.

Appointment A second member is appointed after consultation with educational circles.

Appointment The remaining members are appointed after consultation with the board of directors of the museum and persons or organizations or associations interested in museology.

Other members The by-laws of a museum may provide for other categories of members; these are non-voting members.

Salaries and allowances **8.** The Government shall fix the salary, fees or allowances of the members and any indemnities they are entitled to.

Terms **9.** The chairman is appointed for a term of not over five years; the other members are appointed for a term of not over three years.

Consecutive terms No members may be appointed for more than two consecutive terms nor, in the case of the chairman, may the second term exceed three years.

Chairman **10.** The chairman shall preside at meetings of the board of directors, supervise its operations and assume all the other duties assigned to him by by-law of the museum.

Continuance in office **11.** A member remains in office at the expiry of his term until he is replaced or reappointed.

Vacancy Any vacancy among the members is filled according to the mode prescribed for the appointment of the member to be replaced.

Quorum **12.** Five members are a quorum at sittings of a board of directors.

Tie-vote **13.** In case of a tie-vote, the chairman has a casting vote.

- 14.** If a member is absent or temporarily unable to act, the Government may, on the conditions it determines, appoint a person as interim member, according to the mode of appointment provided in section 7.
- 15.** A museum shall appoint a director general; his salary, allowances, indemnities and other conditions of employment are established by contract binding him to the museum.
- 16.** The director general is responsible for the management of the museum within the scope of its by-laws.
- 17.** The director general shall devote his full time to his official duties; however, he may simultaneously carry out the duties of secretary.
- 18.** A museum may appoint a secretary and any other employee necessary for its functions.
- 19.** The secretary and the other employees are appointed and remunerated in accordance with the standards, scales and staffing plan established by the by-laws of the museum.
- The by-laws come into force from the date of their approval by the Government.
- 20.** Subject to section 39, a museum may adopt by-laws concerning the exercise of its powers and its internal management.
- The by-laws come into force from the date of their approval by the Government.
- 21.** No member may, under pain of forfeiture of office, have a direct or indirect interest in an undertaking causing his personal interest to conflict with his official duties.
- However, forfeiture is not incurred if the interest devolves to him by succession or gift, provided he renounces or disposes of it with dispatch.
- 22.** The minutes of the meetings of the board of directors, approved by the board and certified true by the chairman or the secretary, are authentic.
- Similarly, documents or copies emanating from a museum or forming part of its records are authentic if so certified.

CHAPTER IV

FUNCTIONS AND POWERS

Functions of the Musée du Québec **23.** The functions of the Musée du Québec are to make known, promote and preserve Québec art of all periods, from ancient art to contemporary art, and to ensure a place for international art through acquisitions, exhibitions and other cultural activities.

Functions of the Musée d'Art contemporain de Montréal **24.** The functions of the Musée d'Art contemporain de Montréal are to make known, promote and preserve contemporary Québec art and to ensure a place for international contemporary art through acquisitions, exhibitions and other cultural activities.

Powers **25.** A museum may, in particular, in the exercise of its functions,

- (1) acquire, alienate, lease, lend, borrow, exchange, preserve or restore objects which are the works of man or the products of nature according to the conditions it stipulates by by-law;
- (2) solicit and receive gifts, legacies, subsidies or other contributions and dispose thereof;
- (3) promote the works of man or the products of nature in Québec and abroad through exhibitions or by any other appropriate means;
- (4) ensure coordination and establish methods of collaboration with other persons or associations in the field of museology.

Gifts In the exercise of its functions under subparagraph 2 of the first paragraph, a museum shall accept no gifts, legacies, subsidies or other contributions to which charges or conditions are attached, except in cases and on conditions determined by regulation of the Government.

Every regulation made under the second paragraph comes into force ten days after its publication in the *Gazette officielle du Québec* or on any later date indicated in it.

Authorizations **26.** A museum shall not, without obtaining the prior authorization of the Government,

- (1) acquire, alienate, hypothecate or lease an immovable;
- (2) enter into a contract for more than three years, except a contract for services in connection with an exhibit or other cultural activity;
- (3) contract a loan that increases the aggregate of sums borrowed by the museum and outstanding above the amount determined by the Government.

Public tenders

27. A museum shall proceed by way of public tenders in all cases where a department must do so according to the rules adopted under the Financial Administration Act (R.S.Q., chapter A-6).

CHAPTER V

GOVERNMENT GUARANTEES

Subsidies

28. The Government may determine the conditions of any subsidy it grants to a museum to cover the whole or part of the payment in capital and interest of any loan or other obligation of the museum.

Guarantee

29. The Government may guarantee, on such conditions as it may fix, the payment in capital and interest of any loan or other obligation of a museum.

Sums required

The sums required for the administration of this section are taken out of the consolidated revenue fund.

CHAPTER VI

ACCOUNTS AND REPORTS

Fiscal period

30. The fiscal period of a museum ends on 31 March each year.

Development plan

31. A museum shall prepare a development plan in accordance with the form, tenor and time-table fixed by the Government.

Approval

The plan is subject to the approval of the Government.

Consultation

32. The Government may, after consultation with a museum, establish

(1) criteria to be used for determining the salary, allowances, indemnities and other conditions of employment of the director general of the museum;

(2) the amount beyond which financial commitments by the museum require the authorization of the Government;

(3) the conditions on which the museum may exercise a mandate related to the negotiation of a collective agreement with its employees;

(4) the conditions on which a museum may sign a collective agreement with its employees;

(5) the museum's obligation to submit to the Government, for approval, its budget for the ensuing year, and the time and form in which it must be submitted.

Financial statement	33. A museum shall, within four months from the end of its fiscal period, file its financial statements and a report of its activities for the preceding fiscal period with the Minister.
Content	The financial statements and the report of activities must contain all the information required by the Minister.
Tabling	34. The Minister shall table the report of activities and the financial statements of a museum before the National Assembly within 30 days of receiving them, if the Assembly is in session or, if it is not sitting, within 30 days of the next session or of resumption.
Information	35. A museum shall also furnish to the Minister any information he requires on its activities.
Audit	36. The books and accounts of a museum must be audited every year by the Auditor General and whenever the Government so orders.
Auditor's report	37. The auditor's report must accompany the report of activities and the financial statements of a museum.
Payment of obligations	38. The sums received by a museum must be allocated to the payment of its obligations.

CHAPTER VII

BY-LAWS

By-laws	<p>39. A museum may, by by-law,</p> <ol style="list-style-type: none"> (1) establish standards on the internal management of the establishment, and surveillance and security measures for the objects found therein; (2) establish committees of persons to advise it on the acquisition of objects, or on any other matter connected with its functions as well as standards on the operation of the committees; (3) determine conditions for acquiring, alienating, leasing, lending, borrowing, donating, exchanging, preserving or restoring objects that are the works of man or the products of nature; (4) establish classes of non-voting members and determine their duties, powers and obligations.
Approval	40. Where a museum adopts a by-law pursuant to section 39, it shall submit it for approval to the Government, which may amend it.

Coming into force The by-law comes into force after its approval, with or without amendment, by the Government, ten days after its publication in the *Gazette officielle du Québec* or on any later date indicated therein.

CHAPTER VIII

SPECIAL, TRANSITIONAL AND FINAL PROVISIONS

Use of names **41.** No person may use the name “Musée du Québec” or “Musée d’Art contemporain de Montréal” in Québec to designate any immovable, undertaking or body without the written authorization of the museum concerned.

Ownership of collections **42.** The Musée du Québec and the Musée d’Art contemporain de Montréal established under this Act, become, from (*insert here the date of coming into force of this section*), owners of the works of man and the products of nature included in their collections, located in the Musée du Québec and the Musée d’Art contemporain de Montréal, respectively and which are part of the public domain.

Substitution **43.** Unless otherwise required by the context, the Musée du Québec and the Musée d’Art contemporain de Montréal are substituted of right for the Musée du Québec division and the Musée d’Art contemporain de Montréal division, respectively, at the Ministère des Affaires culturelles, in any regulation, by-law, order in council, order, directive, contract or other document where those divisions are mentioned.

Transfer or promotion **44.** Any person in the employ of the Musée du Québec may apply for a transfer to a position in the civil service or enter a competition for promotion in accordance with the Civil Service Act (R.S.Q., chapter F-3.1) if, on (*insert here the date of coming into force of section 2*), he was a civil servant with permanent tenure of the Ministère des Affaires culturelles and if his appointment to the Musée du Québec occurred within six months after that date.

Applicability This section also applies to a civil servant with permanent tenure of the Ministère des Finances, the Ministère de la Justice or the Ministère des Travaux publics who was in service at the Ministère des Affaires culturelles on (*insert here the date of coming into force of section 2*) and is in the employ of the Musée du Québec.

Transfer or promotion **45.** Any person in the employ of the Musée d’Art contemporain de Montréal may apply for a transfer to a position in the civil service or enter a competition for promotion in accordance with the Civil Service Act if, on (*insert here the date of coming into force of section 3*), he was a civil servant with permanent tenure of the Ministère des Affaires culturelles and if his appointment to the Musée d’Art contemporain de Montréal occurred within six months after that date.

- Applicability** This section also applies to a civil servant with permanent tenure of the Ministère des Finances, the Ministère de la Justice or the Ministère des Travaux publics who was in service at the Ministère des Affaires culturelles on (*insert here the date of coming into force of section 3*) and is in the employ of the Musée d'Art contemporain de Montréal.
- Competition for promotion** **46.** Section 77 of the Civil Service Act applies to an employee contemplated in section 44 or in section 45 who enters a competition for promotion to a position in the civil service.
- Opinion on classification** **47.** Where an employee contemplated in section 44 or 45, as the case may be, applies for a transfer or a competition for promotion, he may require the Office du recrutement et de la sélection du personnel de la fonction publique to give him an opinion on the classification he would have in the public service. The opinion must take into account the classification that the employee had in the public service on the date of his termination of employment and the experience and years of formal training he has acquired since he has been in the employ of the Musée du Québec or the Musée d'Art contemporain de Montréal.
- Classification** Where an employee is transferred pursuant to the first paragraph, the deputy minister or the chief executive officer shall establish his classification in accordance with the opinion contemplated in the first paragraph.
- Classification** Where an employee is promoted pursuant to section 44 or 45, as the case may be, his classification must take account of the criteria provided in the first paragraph.
- Placement on reserve** **48.** Where all or some of the activities of the Musée du Québec or of the Musée d'Art contemporain de Montréal cease or in case of a lack of work, the employee contemplated in section 44 or 45, as the case may be, is entitled to be placed on reserve in the public service with the classification he had in the public service on the date of his termination of employment.
- Classification** In the case of this section, the Office du recrutement et de la sélection du personnel de la fonction publique shall, where applicable, assign the employee a classification that takes account of the criteria provided in the first paragraph of section 47.
- Placement on reserve** **49.** A person placed on reserve pursuant to section 48 remains in the employ of the Musée du Québec or the Musée d'Art contemporain de Montréal, as the case may be, until the Office du recrutement et de la sélection du personnel de la fonction publique is able to place him.
- Appeal** **50.** Subject to any rights of action which may exist under a collective agreement, an employee contemplated in section 44 who is

removed or dismissed may appeal therefrom in accordance with section 87 or 97, as the case may be, of the Civil Service Act.

Certified
associations

51. The associations of employees certified in accordance with Chapter VIII of the Civil Service Act (R.S.Q., chapter F-3.1) which represent groups of employees at the Ministère des Affaires culturelles on (*insert here the date of coming into force of this section*) continue to represent those employees at the Musée du Québec or at the Musée d'Art contemporain de Montréal, as the case may be, until 31 December 1985.

Future
employees

The associations of employees also represent, according to the groups contemplated, the future employees of either museum until 31 December 1985.

Applicability
of collective
agreements

The following collective agreements apply to the employees of a museum so far as they are applicable:

(1) the collective agreements filed in the office of the labour commissioner general in accordance with the Act respecting the conditions of employment in the public sector (1982, chapter 45);

(2) the collective agreement signed on 21 April 1978 between the Syndicat des agents de la paix de la fonction publique and the Gouvernement du Québec;

(3) every collective agreement between the Gouvernement du Québec and the Syndicat des constables spéciaux du gouvernement du Québec signed after the date of assent to this Act for which the expiration date is 31 December 1985.

Restriction

Notwithstanding the foregoing, in no case may the provisions of the described collective agreements that regard security of employment apply to employees contemplated in the second paragraph.

Applicability
of
regulations

The regulations mentioned in Schedule I apply to the employees of either museum who were contemplated by those regulations before they were transferred, so far as the provisions of the collective agreements to which they refer are applicable.

c. R-12, s.
55, am.

52. Section 55 of the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12) is amended by adding the following paragraph after paragraph 19:

“(20) the director general and employees of a museum established under the National Museums Act (1983, chapter 52).”

c. M-43,
replaced

53. This Act replaces the Act respecting museums (R.S.Q., chapter M-43).

Regulations
in force **54.** Every provision of a regulation, by-law, order in council or order made under the Act respecting museums remains in force.

Minister
responsible **55.** The Minister of Cultural Affairs is responsible for the administration of this Act.

Exception **56.** 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 **57.** This Act comes into force on the date fixed by proclamation of the Government, except the provisions excluded by that proclamation, which will come into force on any later date fixed by proclamation of the Government.

SCHEDULE I

1. The “Regulation respecting the conditions of employment of office staff, technicians and staff of comparable rank, certain employees at the official residence of the Lieutenant-Governor, minister’s chauffeurs and workmen” made on 13 April 1982 by ministerial order 188-82 approved by C.T. 138 835 of 27 April 1982, amended on 2 December 1982 by ministerial order 263-82 approved by C.T. 142 047 of 7 December 1982, amended on 17 December 1982 by ministerial order 269-82 approved by C.T. 142 284 of 20 December 1982 and amended on 10 May 1983 by ministerial order 292-83 approved by C.T. 144 821 of 7 June 1983.

2. The “Regulation respecting the conditions of employment of professional staff” made on 12 January 1982 by ministerial order 187-82 approved by C.T. 137 510 of 16 February 1982, amended on 29 March 1982 by ministerial order 215-82 approved by C.T. 139 121 of 11 May 1982, amended on 2 December 1982 by ministerial order 261-82 approved by C.T. 142 045 of 7 December 1982, amended on 17 December 1982 by ministerial order 268-82 approved by C.T. 142 283 of 20 December 1982, and amended on 10 May 1983 by ministerial order 294-83 approved by C.T. 144 823 of 7 June 1983.

3. The “Regulation respecting the remuneration, social benefits and other conditions of employment of certain civil servants” (R.R.Q., 1981, chap. F-3.1, r. 19), amended on 2 December 1982 by ministerial order 262-82 approved by C.T. 142 046 of 7 December 1982, amended on 28 February 1983 by ministerial order 279-83 approved by C.T. 143 074 of 1 March 1983 and amended on 10 May 1983 by ministerial order 295-83 approved by C.T. 144 824 of 7 June 1983.