

chapter B-4

CULTURAL PROPERTY ACT

*Replaced, 2011, c. 21, s. 262.
2011, c. 21, s. 262.*

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CHAPTER I

DEFINITIONS AND APPLICATION

1985, c. 24, s. 1.

1. *In this Act, unless the context indicates a different meaning, the following terms and expressions mean or designate:*

(a) *“cultural property” : a work of art, a historic property, a historic monument or site, an archaeological property or site or a cinematographic, audiovisual, photographic, radio or television work;*

(b) *“work of art” : a movable or immovable property whose conservation is from an aesthetic point of view in the public interest;*

(c) *“historic property” : any manuscript, printed item, audio-visual document or man-made object whose conservation is of historic interest, excluding an immovable;*

(d) *“historic monument” : an immovable which has historic interest because of its use or architecture;*

(e) *“historic site” : a place where events have occurred marking the history of Québec or an area containing historic property or monuments;*

(f) *“archaeological property” : property indicating prehistoric or historic human occupation;*

(g) *“archeological site” : a place where archaeological property is found;*

(h) *“historic district” : a territory designated as such by the Government because of the concentration of historic monuments or sites found there;*

(i) *“natural district” : a territory designated as such by the Government because of the aesthetic, legendary or scenic interest of its natural setting;*

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

(k) *“Minister” : the Minister of Culture and Communications;*

(l) *“Commission” : the Commission des biens culturels du Québec established by section 2.*

1972, c. 19, s. 1; 1975, c. 14, s. 98; 1977, c. 5, s. 14; 1977, c. 60, s. 103; 1985, c. 24, s. 2; 1992, c. 65, s. 43; 1994, c. 14, s. 34; 1996, c. 2, s. 87; 1999, c. 40, s. 39.

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

1985, c. 24, s. 3; 1999, c. 40, s. 39.

1.2. *Subject to sections 158 to 165 of the Act respecting land use planning and development (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.*

1985, c. 24, s. 3.

CHAPTER II

COMMISSION DES BIENS CULTURELS

1985, c. 24, s. 4.

DIVISION I

CONSTITUTION AND OPERATION

1997, c. 85, s. 10.

2. *An advisory body is established under the name of “Commission des biens culturels du Québec” with its head office at Québec.*

1972, c. 19, s. 2; 1977, c. 5, s. 14.

2.1. *In addition to its advisory responsibilities, the Commission shall, where a cultural property, other than property described in subparagraph a of the third paragraph of section 232 of the Taxation Act (chapter I-3), is acquired by a museum established under the Act respecting the Montréal Museum of Fine Arts (chapter M-42) or the National Museums Act (chapter M-44) or by a certified archival centre or a recognized museum, within the meaning assigned to those expressions by section 1 of the Taxation Act,*

(a) determine, for the purposes of the second paragraph of section 232 of the Taxation Act and for the purposes of Division II, whether the property is acquired in accordance with the acquisition and conservation policy of the centre or museum, as the case may be, and with the directives of the Ministère de la Culture et des Communications; and

(b) in the circumstances described in section 7.12 and for the purposes subparagraph ii of paragraph d of section 710, sections 710.2 and 712.0.1, paragraph b of the definition of “total cultural gifts” in the first paragraph of section 752.0.10.1, paragraph b of sections 752.0.10.4 and 752.0.10.6 and section 752.0.10.7 of the Taxation Act, determine the fair market value of the cultural property.

1997, c. 85, s. 11; 1999, c. 83, s. 2; 2003, c. 9, s. 1; 2006, c. 36, s. 1.

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

1972, c. 19, s. 3; 1978, c. 23, s. 1.

4. *The Commission is composed of twelve members, including a chairman and a vice-chairman, appointed by the Government, which shall fix the salary, additional salary, fees or allowances, as the case may be, of each of them.*

1972, c. 19, s. 4; 1978, c. 23, s. 1; 1985, c. 24, s. 5.

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.*

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

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.

1972, c. 19, s. 5; 1978, c. 23, s. 1; 1985, c. 24, s. 6.

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

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.

1972, c. 19, s. 6; 1978, c. 23, s. 1.

7. *The chairman and vice-chairman hold office on a full-time basis.*

1972, c. 19, s. 7; 1978, c. 23, s. 1; 1985, c. 24, s. 7.

7.1. *Where the chairman is absent or unable to act, the vice-chairman shall replace him.*

1978, c. 23, s. 1; 1985, c. 24, s. 8; 1999, c. 40, s. 39.

7.2. *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.*

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

1978, c. 23, s. 1; 1985, c. 24, s. 9.

7.3. *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.*

1978, c. 23, s. 1.

7.4. *A majority of the members of the Commission including the chairman or the vice-chairman shall be a quorum. In case of a tie-vote, the chairman has a casting vote.*

1978, c. 23, s. 1; 1985, c. 24, s. 10.

7.5. *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.*

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.

The functions conferred on the Commission under the Archives Act (chapter A-21.1) are exercised on its behalf by a committee composed of three persons designated by the Commission.

Such committees may include persons referred to in section 7.7.

1978, c. 23, s. 1; 1983, c. 38, s. 59; 1985, c. 24, s. 11.

7.6. *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 contemplated in this Act and on any matter relating to archives contemplated in the Archives Act (chapter A-21.1).*

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

1978, c. 23, s. 1; 1983, c. 38, s. 60; 2004, c. 25, s. 60.

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

Such persons are entitled to such fees and allowances as are determined by regulation of the Government.

1978, c. 23, s. 1.

7.8. *The Commission shall sit at least once every month.*

1978, c. 23, s. 1.

7.9. *The Commission may, by by-law:*

(a) provide for its internal management; such by-law must be submitted to the Government 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 7.5; such by-law must be submitted to the Government 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.

1978, c. 23, s. 1.

7.10. *The minutes of the sittings of the Commission and of its Committees duly approved and certified by the chairman or the vice-chairman 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, the vice-chairman or any member of the staff designated by the Commission.*

1978, c. 23, s. 1; 1985, c. 24, s. 12.

7.11. *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 National Assembly; such report must also contain all such information as may be required by the Minister.*

The Minister shall table the report of the Commission before the National Assembly 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.

1978, c. 23, s. 1.

DIVISION II

DETERMINATION OF THE FAIR MARKET VALUE OF A CULTURAL PROPERTY

1997, c. 85, s. 12.

7.12. *For the purposes subparagraph ii of paragraph d of section 710, sections 710.2 and 712.0.1, paragraph b of the definition of “total cultural gifts” in the first paragraph of section 752.0.10.1, paragraph b of sections 752.0.10.4 and 752.0.10.6 and section 752.0.10.7 of the Taxation Act (chapter I-3), where a museum established under the Act respecting the Montréal Museum of Fine Arts (chapter M-42) or the National Museums Act (chapter M-44), a certified archival centre or a recognized museum acquires cultural property by gift in accordance with its acquisition and conservation policy and with the directives of the Ministère de la Culture et des Communications, other than property described in subparagraph a of the third paragraph of section 232 of the Taxation Act, the centre or museum shall make a request in writing to the Commission for a determination of the fair market value of the property where required by the donor.*

1997, c. 85, s. 12; 1999, c. 83, s. 3; 2003, c. 9, s. 2; 2006, c. 36, s. 2.

7.13. *The Commission may request any information and document that are relevant to the consideration of the request.*

1997, c. 85, s. 12.

7.14. *Unless the circumstances of a particular case require otherwise, the Commission shall make a determination and provide the donor with a certificate within four months after the request is received.*

The certificate shall set forth that the property was acquired by a museum established under the Act respecting the Montréal Museum of Fine Arts (chapter M-42) or the National Museums Act (chapter M-44), a certified archival centre or a recognized museum in accordance with its acquisition and conservation policy and with the directives of the Ministère de la Culture et des Communications, and indicate the fair market value of the property, determined by the Commission.

1997, c. 85, s. 12; 2006, c. 36, s. 3.

7.15. *The Commission shall transmit a copy of the certificate to the centre or museum that made the request and to the Minister of Revenue.*

1997, c. 85, s. 12.

DIVISION III

APPEALS TO THE COURT OF QUÉBEC

1997, c. 85, s. 12.

7.16. *The donor may, within 90 days after the day on which the certificate referred to in section 7.14 is issued, appeal to the Court of Québec sitting for the district in which the donor resides or for the district of Québec or of Montréal, according to the district in which the determination would be appealable under article 30 of the Code of Civil Procedure (chapter C-25) if it were an appeal to the Court of Appeal, to have the fair market value determined by the Commission varied.*

The time limit for appealing applies to determinations made by the Commission before 19 December 1997, account being taken of the time already elapsed since the date on which the certificate was issued by the Commission.

1997, c. 85, s. 12.

7.17. *No appeal may be instituted after the expiry of 90 days following the day on which the certificate is issued.*

However, where the donor was physically unable to act or to instruct another to act in the donor's name within the time prescribed and not more than one year has elapsed since the date of issue of the certificate, the donor may apply to a judge of the Court of Québec for an extension of the time limited by the first paragraph for appealing which may not go beyond the fifteenth day following the date of the judgment granting such extension.

1997, c. 85, s. 12.

7.18. *An appeal is brought by filing a motion at the office of the Court of Québec.*

1997, c. 85, s. 12.

7.19. *The object of the appeal, the grounds on which it is based and the conclusions sought are stated in the motion which must be supported by an affidavit attesting the truth of any alleged facts. The motion must be accompanied by a notice of not less than 10 days of its presentation.*

1997, c. 85, s. 12.

7.20. *The appellant shall prepare an original and one copy of the motion, affidavit and notice. After payment of the court costs of \$90 mentioned in section 7.21, the originals and copies are numbered by the clerk. The copies are certified true by the appellant or the appellant's attorney.*

The clerk shall forthwith transmit the copies furnished by the appellant to the Commission which shall thereupon forward to the clerk the record relating to the determination appealed from.

1997, c. 85, s. 12.

7.21. *Upon the filing of the motion, the appellant shall pay to the clerk of the Court an amount of \$90, which shall be paid into the Consolidated Revenue Fund.*

In no case may the Court compel an appellant to pay any additional costs.

1997, c. 85, s. 12.

7.22. *The appeal may be heard in camera if it is established to the satisfaction of the judge that the circumstances justify in camera proceedings.*

1997, c. 85, s. 12.

7.23. *The judge may dismiss the appeal or vary the fair market value determined by the Commission and, for the purposes of the Taxation Act (chapter I-3), the fair market value determined by the judge is deemed to be the fair market value determined by the Commission.*

1997, c. 85, s. 12.

7.24. *The clerk of the Court shall as soon as possible transmit a copy of the decision resulting from the appeal to the donor and to the Minister of Revenue.*

1997, c. 85, s. 12.

7.25. *The decision of the Court is final and without appeal.*

1997, c. 85, s. 12.

CHAPTER III

PROTECTION OF CULTURAL PROPERTY BY THE MINISTER AND THE GOVERNMENT

1985, c. 24, s. 13.

DIVISION I

RECOGNITION AND CLASSIFICATION OF CULTURAL PROPERTY

1985, c. 24, s. 13.

8. *All cultural property may be recognized or classified in whole or in part by the Minister in accordance with this division.*

1972, c. 19, s. 8; 1985, c. 24, s. 14.

9. *The effects of recognition or classification shall follow the cultural property until the recognition is cancelled or the property declassified.*

1972, c. 19, s. 9.

10. *Cancellation of recognition and declassification of cultural property shall be made in the same manner as recognition and classification.*

In addition, recognition of cultural property is cancelled by its classification.

1972, c. 19, s. 10; 1985, c. 24, s. 15.

11. *A register in which must be entered all cultural property recognized or classified in accordance with this Act shall be kept at the Ministère de la Culture et des Communications.*

1972, c. 19, s. 11; 1977, c. 5, s. 14; 1992, c. 65, s. 43; 1994, c. 14, s. 34.

12. *Such register shall sufficiently describe the recognized or classified cultural property, indicate the name of its owner or of the custodian thereof and mention the deeds of transfer made respecting it since entry thereof.*

1972, c. 19, s. 12.

13. *The Minister shall issue certified extracts from such register to any interested person on payment of the fee determined by the Government.*

No certified extract regarding movable property shall however be issued without the consent of the person having ownership or custody of it.

1972, c. 19, s. 13.

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 National Assembly.*

1972, c. 19, s. 14; 1978, c. 23, s. 2.

§ 1. — *Recognition of cultural property*

15. *The Minister may, with the advice of the Commission, recognize any cultural property whose conservation is in the public interest.*

1972, c. 19, s. 15.

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 movable, and, in the case of an immovable, to the person indicated as owner in the land register and to the clerk or the secretary-treasurer of the local municipality in whose territory 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 movable and, in the case of an immovable, from the registration of the notice in the land register.*

1972, c. 19, s. 16; 1978, c. 23, s. 3; 1985, c. 24, s. 17; 1996, c. 2, s. 100; 1999, c. 40, s. 39; 2000, c. 42, s. 102.

17. *Recognized property shall not be transported outside Québec without the permission of the Minister, who shall obtain the advice of the Commission in each case.*

1972, c. 19, s. 17.

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 60 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 local municipality in whose territory the cultural property is situated.

1972, c. 19, s. 18; 1978, c. 23, s. 4; 1985, c. 24, s. 18; 1996, c. 2, s. 100.

19. *Any recognized movable property lost or stolen may be revendicated by the Minister on behalf of its owner.*

1972, c. 19, s. 19.

20. *No person shall alienate recognized cultural property without giving the Minister at least 60 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 local municipality in whose territory the cultural property is situated.*

Such notice must contain the description of the cultural property, the name and domicile of its owner and, as the case may be, of the person interested in its acquisition, an estimate of its value and, in the case of a public sale, the date.

In the case of an immovable, the notice must also contain the description of the immovable and a certified statement from the registrar. The statement must mention the real rights registered in the land register in respect of the immovable, as required by articles 703 to 707 of the Code of Civil Procedure (chapter C-25).

1972, c. 19, s. 20; 1978, c. 23, s. 5; 1992, c. 57, s. 443; 1996, c. 2, s. 100; 1999, c. 40, s. 39; 2000, c. 42, s. 103.

21. *Every person who becomes the owner of recognized cultural property by legal or testamentary succession must, within 60 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 local municipality in whose territory it is situated.*

1972, c. 19, s. 21; 1978, c. 23, s. 6; 1996, c. 2, s. 100.

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 period 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.*

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 period 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. 22; 1975, c. 14, s. 99; 1978, c. 23, s. 7; 1999, c. 40, s. 39.

23. *At the expiry of the period 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. 23; 1978, c. 23, s. 8; 1999, c. 40, s. 39.

§ 2. — Classification of cultural property

24. *The Minister may, on the advice of the Commission, classify cultural property whose conservation is in the public interest.*

1972, c. 19, s. 24.

I. —

Repealed, 1985, c. 24, s. 19.

1985, c. 24, s. 19.

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 movable, 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 immovable, to the person indicated as the owner of the property in the land register, and to the clerk or the secretary-treasurer of the local municipality in whose territory the cultural property is situated. In addition, in the case of an immovable, the Minister shall, without delay, register the notice in the land register.*

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 30 days from the sending of the notice, make representations to the Commission.

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. 25; 1978, c. 23, s. 9; 1985, c. 24, s. 20; 1996, c. 2, s. 100; 1999, c. 40, s. 39; 2000, c. 42, s. 104.

26. *The classification may be made at the expiry of a period of sixty days from the date of the notice of intention contemplated in section 25, by an entry to that effect in the register in accordance with sections 11 and 12.*

The notice given by the Minister pursuant to section 25 is without effect if the entry referred to in the first paragraph is not made within one year from the date of the sending of the notice.

1972, c. 19, s. 26; 1978, c. 23, s. 10; 1999, c. 40, s. 39.

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 local municipality in whose territory it is situated.*

1972, c. 19, s. 27; 1978, c. 23, s. 11; 1996, c. 2, s. 100.

28. *In the case of an immovable, an application for the registration, in the land register, of the notice of entry in the register of cultural property is made at the diligence of the Minister.*

1972, c. 19, s. 28; 1978, c. 23, s. 12; 1985, c. 24, s. 21; 1999, c. 40, s. 39; 2000, c. 42, s. 105.

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

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

Any notice from the Commission concerning the classification of a cultural property is tabled in the National Assembly by the Minister within 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.

1972, c. 19, s. 29; 1978, c. 23, s. 13; 1985, c. 24, s. 22.

II. —

Repealed, 1985, c. 24, s. 23.

1985, c. 34, s. 23.

30. *Every classified cultural property must be kept in good condition.*

1972, c. 19, s. 30.

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.*

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

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

1972, c. 19, s. 31; 1978, c. 23, s. 14; 1985, c. 24, s. 24.

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.*

1985, c. 24, s. 24.

31.2. *(Repealed).*

1985, c. 24, s. 24; 1997, c. 43, s. 98.

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 (Revised Statutes of Canada, 1985, chapter I-2);

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

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

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

In addition, in the case of an immovable, the authorization must be attached to the deed of alienation registered in the land register.

1972, c. 19, s. 32; 1985, c. 24, s. 24; 1999, c. 40, s. 39; 2000, c. 42, s. 106.

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

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 the exercise of a right to take in payment, if all the following conditions are met:

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

(2) (subparagraph repealed);

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

1985, c. 24, s. 24; 1992, c. 57, s. 444.

33. *Any classified cultural immovable property not used for commercial purposes may be exempted from property tax to the extent and under the conditions provided by regulation of the Government up to one-half of the value entered on the valuation roll of the local municipality in whose territory it is situated.*

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

1972, c. 19, s. 33; 1985, c. 24, s. 25; 1996, c. 2, s. 88; 1999, c. 40, s. 39.

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

1972, c. 19, s. 34; 1985, c. 24, s. 26.

DIVISION II

ARCHAEOLOGICAL EXCAVATIONS AND DISCOVERIES

1985, c. 24, s. 27.

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:*

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

1972, c. 19, s. 35; 1978, c. 23, s. 15; 1985, c. 24, s. 28.

36. *An archaeological research permit authorizes its holder to make excavations or surveys at the places specified therein in accordance with the conditions determined by regulation of the Government.*

1972, c. 19, s. 36.

37. *An archaeological research permit is valid for one year from the date of its issue. It may be revoked at any time by the Minister if its holder does not comply with the conditions prescribed by the law and the regulations.*

1972, c. 19, s. 37.

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.*

Where the surveys must be made on land in the domain of the State, the existing Acts governing them apply thereto.

1972, c. 19, s. 38; 1978, c. 23, s. 16; 1987, c. 23, s. 76; 1999, c. 40, s. 39.

39. *The holder of an archaeological research permit must make an annual report of his activities to the Minister in accordance with the terms and conditions determined by the Government.*

1972, c. 19, s. 39.

39.1. *Notwithstanding section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), no person has a right of access to the information contained in the report before the expiry of a period of five years following the date on which it was given to the Minister, unless the release of the information is authorized by the permit holder.*

1987, c. 68, s. 24.

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

1972, c. 19, s. 40; 1978, c. 23, s. 17.

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

1985, c. 24, s. 29.

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. 41; 1977, c. 5, s. 14; 1978, c. 23, s. 18; 1985, c. 24, s. 30.

42. *When the discovery contemplated in section 41 reveals property which would have been classified if discovered before the beginning of the work, the Government 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, s. 42; 1978, c. 23, s. 19.

43. *Any person may obtain an indemnity from the Minister for any injury arising from the application of sections 41 and 42.*

Failing agreement between the parties, the indemnity provided for in this section shall be determined by the Administrative Tribunal of Québec at the request of the Minister or of the interested person in accordance with sections 58 to 68 of the Expropriation Act (chapter E-24).

No indemnity shall be paid however to a legal person of which more than half of the operating expenses are defrayed out of public moneys.

1972, c. 19, s. 43; 1973, c. 38, s. 146, s. 147; 1973, c. 39, s. 5; 1986, c. 61, s. 66; 1988, c. 21, s. 66; 1997, c. 43, s. 99; 1999, c. 40, s. 39.

44. *Every alienation of lands in the domain of the State shall be subject to a reserve in full ownership in favour of the domain of the State, of archaeological property and sites found therein excepting treasures which are governed by article 938 of the Civil Code.*

1972, c. 19, s. 44; 1987, c. 23, s. 76; 1999, c. 40, s. 39.

DIVISION III

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

1978, c. 23, s. 20; 1985, c. 24, s. 31.

45. *The Government may, on the recommendation of the Minister, who shall obtain the advice of the Commission, declare a territory to be a historic district because of the concentration of monuments or historic sites found there. It may also, in the same manner, declare a territory to be a natural district because of the aesthetic, legendary or scenic interest of its natural setting.*

1972, c. 19, s. 45; 1996, c. 2, s. 89.

45.1. *If the territory of a historic or natural district is situated, in whole or in part, in a reserved area or in an agricultural zone established in accordance with the Act respecting the preservation of agricultural land and agricultural activities (chapter P-41.1), the Government, before making the declaration provided in section 45, shall obtain the advice of the Commission de protection du territoire agricole du Québec.*

1978, c. 10, s. 110; 1996, c. 26, s. 85.

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.*

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.

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

1972, c. 19, s. 46; 1985, c. 24, s. 32.

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

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 Natural Resources and Wildlife for the purposes of the cadastre.

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.

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.

1972, c. 19, s. 47; 1985, c. 24, s. 32; 1994, c. 13, s. 15; 2003, c. 8, s. 6; 2006, c. 3, s. 35.

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.*

Notwithstanding the first paragraph, the perimeter shall not be farther than 152 metres from the classified historic monument.

1985, c. 24, s. 32.

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

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 Natural Resources and Wildlife for the purposes of the cadastre.

1985, c. 24, s. 32; 1994, c. 13, s. 15; 2003, c. 8, s. 6; 2006, c. 3, s. 35.

47.3. *Sections 46, 47 and 47.2 apply to any local municipality whose territory comprises all or part of the territory referred to in section 46 or 47 and the area referred to in section 47.1.*

1996, c. 2, s. 90.

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:*

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.

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

1972, c. 19, s. 48; 1978, c. 23, s. 21; 1985, c. 24, s. 32.

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. For that purpose, the Minister has authority over the appearance of, materials used for and support structures of signs and billboards and their effect on the premises.*

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

1972, c. 19, s. 49; 1978, c. 23, s. 21; 1985, c. 24, s. 32; 1986, c. 95, s. 35.

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 the notice has been registered in the land register:*

1972, c. 19, s. 50; 1978, c. 23, s. 21; 1985, c. 24, s. 32; 1999, c. 40, s. 39; 2000, c. 42, s. 107.

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.*

1985, c. 24, s. 32.

50.2. *(Repealed).*

1985, c. 24, s. 32; 1997, c. 43, s. 100.

DIVISION IV

GENERAL PROVISIONS

1985, c. 24, s. 33.

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, recognized or designated historic or archaeological site on a heritage site or in a protected area, and the reconstruction of a building on a classified immovable, 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, on a heritage site or in a protected area;

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

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

1972, c. 19, s. 51; 1978, c. 23, s. 22; 1985, c. 24, s. 34; 1990, c. 85, s. 122; 1996, c. 2, s. 91; 2000, c. 56, s. 218.

52. *The Minister shall make an inventory of cultural property that might be recognized or classified.*

1972, c. 19, s. 52.

53. *The Government 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) (subparagraph repealed);

(e) (subparagraph repealed);

(f) (subparagraph repealed);

(g) (subparagraph repealed);

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

(i) *determine the conditions of conservation and restoration of recognized or classified immovables;*

(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.*

The Minister shall publish a draft of every regulation prepared under subparagraphs c, h, i and k, 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 Government for adoption.

The regulations made by the Government 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 shall be inoperative.

1972, c. 19, s. 53; 1978, c. 23, s. 23; 1985, c. 24, s. 35; 1999, c. 40, s. 39.

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 immovable 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. 54; 1978, c. 23, s. 24.

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

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

1972, c. 19, s. 55; 1985, c. 24, s. 36; 1999, c. 40, s. 39.

DIVISION V

SANCTIONS

1985, c. 24, s. 37.

56. *Every alienation of cultural property made contrary to this Act is absolutely null. The right of action to have such nullity recognized is not subject to prescription.*

1972, c. 19, s. 56; 1999, c. 40, s. 39.

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.*

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.

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

1972, c. 19, s. 57; 1978, c. 23, s. 25; 1985, c. 24, s. 38.

57.1. *No division or subdivision plan or any other form of parcelling out of land situated in historic or natural districts, classified historic sites or protected areas may be registered in the land register if the conditions of an authorization given under this Act have not been met or if such an authorization has not been given.*

1978, c. 23, s. 26; 1985, c. 24, s. 39; 1999, c. 40, s. 39.

57.2. *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. Before revoking or amending an authorization, the Minister shall notify the interested person in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the interested person at least 10 days to present observations.*

The Minister shall substantiate his decision and notify it in writing to the interested person.

1978, c. 23, s. 26; 1997, c. 43, s. 101.

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.

1972, c. 19, s. 58; 1978, c. 23, s. 27; 1985, c. 24, s. 40.

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 to a fine of not less than \$625 nor more than \$60,700.*

1985, c. 24, s. 40; 1990, c. 4, s. 106; 1991, c. 33, s. 15.

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.*

1985, c. 24, s. 40.

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.*

1985, c. 24, s. 40.

58.4. *(Repealed).*

1985, c. 24, s. 40; 1990, c. 4, s. 107; 1992, c. 61, s. 84.

CHAPTER IV

PROTECTION OF CULTURAL PROPERTY BY MUNICIPALITIES

1985, c. 24, s. 41.

DIVISION I

DEFINITION AND APPLICATION

1985, c. 24, s. 41.

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 (chapter A-19.1) or, if no such committee is established, the committee contemplated in section 63 of this Act.*

1972, c. 19, s. 62; 1978, c. 23, s. 28; 1985, c. 24, s. 41.

60. *Subject to section 96.1, this chapter applies to every local municipality.*

1982, c. 21, s. 1; 1985, c. 24, s. 41; 1988, c. 19, s. 229; 2005, c. 6, s. 136.

DIVISION II

ADVISORY COMMITTEE

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

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.*

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

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

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

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

1985, c. 24, s. 41.

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.*

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.

1985, c. 24, s. 41.

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

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

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

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

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

DIVISION III

DESIGNATION OF HISTORIC MONUMENTS

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

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.

1985, c. 24, s. 41.

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.*

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 (chapter C-19) or in articles 418, 419 and 422 to 430 of the Municipal Code (chapter C-27.1), as the case may be.

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 a special oath to that effect.

1985, c. 24, s. 41; 1999, c. 40, s. 39.

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

1985, c. 24, s. 41.

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.*

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 (chapter C-19) or in articles 418, 419, 422, 423 and 431 to 436 of the Municipal Code (chapter C-27.1), as the case may be.

1985, c. 24, s. 41.

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.*

A notice of motion is without effect after 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.

1985, c. 24, s. 41; 1999, c. 40, s. 39.

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.*

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

78. *The effects of the designation persist in respect of the historic monument until the designation by-law is repealed.*

The council may repeal a designation by-law by using the same procedure as that used for its passage.

1985, c. 24, s. 41.

79. *Every designated historic monument shall be kept in good condition.*

1985, c. 24, s. 41.

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.*

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.

Before imposing conditions, the council shall obtain the advice of the advisory committee.

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.

1985, c. 24, s. 41.

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.*

Before deciding an application for authorization, the council shall obtain the advice of the advisory committee.

Every person performing an act provided for in the first paragraph shall comply with the conditions the council may determine in its authorization.

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

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.*

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

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

1985, c. 24, s. 41.

DIVISION IV

HERITAGE SITE

1985, c. 24, s. 41.

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.*

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

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

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.*

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 (chapter C-19) or in articles 418, 419 and 422 to 430 of the Municipal Code (chapter C-27.1), as the case may be.

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 a special oath to that effect.

1985, c. 24, s. 41; 1999, c. 40, s. 39.

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

1985, c. 24, s. 41.

88. *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.*

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 (chapter C-19) or in articles 418, 419, 422, 423 and 431 to 436 of the Municipal Code (chapter C-27.1), as the case may be.

1985, c. 24, s. 41.

89. *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.*

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

A notice of motion is without effect after 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.

1985, c. 24, s. 41; 1999, c. 40, s. 39.

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 program 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 program to that effect.*

Notwithstanding the foregoing, the notice of motion is without effect 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.

1985, c. 24, s. 41; 1999, c. 40, s. 39.

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.*

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

93. *The council may repeal a by-law establishing a heritage site by using the same procedure as that used for its passage.*

1985, c. 24, s. 41.

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*

- (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.*

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.

Before imposing conditions, the council shall obtain the advice of the advisory committee.

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.

1985, c. 24, s. 41.

95. *No person may demolish all or part of an immovable situated on a heritage site without the authorization of the council.*

Before deciding an application for authorization, the council shall obtain the advice of the advisory committee.

Every person performing the act provided for in the first paragraph shall comply with the conditions the council may determine in its authorization.

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

DIVISION IV.1

DEMOLITION PROHIBITED

2005, c. 6, s. 137.

96.1. *A local municipality or a regional county municipality may adopt a by-law to prohibit, for a period not exceeding 12 months, the demolition of any immovable that could be declared cultural property or that is situated in a territory that could be declared a historic or natural district.*

The prohibition shall take effect as of the notice of motion of the by-law prohibiting the demolition.

However, if the by-law is not adopted and enforced within three months of the date of the notice of motion, the prohibition ceases to apply.

Within 15 days after the adoption of such a by-law, the municipality must request the Minister of Culture and Communications to have the immovable concerned recognized or classified as cultural property, or the territory concerned declared a historic or natural district.

At the expiry of 12 months from the date of the notice of motion, if the immovable concerned has not been recognized or classified as cultural property, or the territory concerned has not been declared a historic or natural district, or if the Minister has not given a notice of intention or published a notice of recommendation, the by-law ceases to have effect.

The owner of an immovable who demolishes it or has it demolished while it is under the prohibition provided for in the first paragraph is liable to a fine not exceeding \$25,000.

2005, c. 6, s. 137.

DIVISION V

FINANCIAL OR TECHNICAL ASSISTANCE

1985, c. 24, s. 41.

97. *Notwithstanding the Municipal Aid Prohibition Act (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.*

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.

This section does not affect the powers to grant any form of assistance in respect of immovables that a municipality may hold otherwise.

1985, c. 24, s. 41.

DIVISION VI

SPECIAL PROCEDURE

1985, c. 24, s. 41.

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 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.*

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.

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

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.*

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

1985, c. 24, s. 41.

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.*

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

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.

1985, c. 24, s. 41.

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.*

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

1985, c. 24, s. 41; 1994, c. 13, s. 15; 2003, c. 8, s. 6; 2006, c. 3, s. 35.

DIVISION VII

ACTIONS AND PENALTIES

1985, c. 24, s. 41.

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.*

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.

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

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

1985, c. 24, s. 41.

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 to a fine of not less than \$625 nor more than \$60,700.*

1985, c. 24, s. 41; 1990, c. 4, s. 106; 1991, c. 33, s. 16.

107. *Every person who contravenes any provision of the second paragraph of section 80 or 94 is liable to a fine of not less than \$75 nor more than \$625.*

1985, c. 24, s. 41; 1990, c. 4, s. 106; 1991, c. 33, s. 17.

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.*

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

110. *Penal proceedings for an offence under a provision of section 106 may be instituted by a municipality when the offence is committed within its territory.*

1985, c. 24, s. 41; 1990, c. 4, s. 108; 1992, c. 61, s. 85; 1996, c. 2, s. 92.

DIVISION VIII

SPECIAL PROVISIONS

1985, c. 24, s. 41.

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

1985, c. 24, s. 41.

112. *From the date of coming into force of the planning program 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 program as a zone to be protected.*

A municipality shall, within 90 days following the date of coming into force of its planning program, 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 program as a zone to be protected.

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

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

1985, c. 24, s. 41.

113. *This chapter applies to Ville de Laval, but the references to the planning program in sections 84, 90, 111 and 112 are references to the land use planning and development plan and to a territory identified in the plan as presenting a historic or cultural interest.*

1985, c. 24, s. 41; 1996, c. 2, s. 93; 2002, c. 68, s. 52.

114. *This chapter, except the second paragraph of sections 64, 72, 74, 84, 86 and 88 and sections 90, 111 and 112, applies to Ville de 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 1171a 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.*

1985, c. 24, s. 41; 1996, c. 2, s. 94.

115. *This chapter, except the second paragraph of sections 72, 74, 84, 86 and 88 and sections 90, 111 and 112, applies to Ville de 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 establishment located within the territory of the city;*

(b) *if the owner has neither residence nor establishment 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.*

1985, c. 24, s. 41; 1996, c. 2, s. 95; 1999, c. 40, s. 39.

DIVISION IX

MISCELLANEOUS PROVISIONS

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

CHAPTER V

RULES ON THE APPLICATION OF CERTAIN PROVISIONS

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

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

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

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

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

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

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.

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

CHAPTER VI

NATIONAL HISTORIC SITE

1985, c. 24, s. 41.

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.*

1985, c. 24, s. 41.

CHAPTER VII

FINAL PROVISIONS

1985, c. 24, s. 41.

128. *The Minister shall send to the regional county municipality or to the metropolitan community whose territory comprises that of a local municipality 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.*

1985, c. 24, s. 41; 1990, c. 85, s. 122; 1996, c. 2, s. 96; 2000, c. 56, s. 218.

129. *A local municipality shall send to the regional county municipality or to the metropolitan community whose territory comprises that of the municipality 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.*

1985, c. 24, s. 41; 1990, c. 85, s. 122; 1996, c. 2, s. 97; 2000, c. 56, s. 218.

130. *For every historic monument classified before 2 April 1986, the protected area is the area within a perimeter of 152 metres from the monument, subject to any order made by the Minister pursuant to section 47.1.*

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

1985, c. 24, s. 41; 1996, c. 2, s. 98.

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

1985, c. 24, s. 41; 1999, c. 40, s. 39.

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 deemed to have been authorized in accordance with this Act.*

1985, c. 24, s. 41; 1999, c. 40, s. 39.

133. *An approval given under section 49 of the Cultural Property Act as it existed before 2 April 1986 is deemed 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.*

1985, c. 24, s. 41; 1999, c. 40, s. 39.

134. *(This section ceased to have effect on 2 April 1991).*

1985, c. 24, s. 41; U. K., 1982, c. 11, Sch. B, Part I, s. 33.

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 territory of Ville de Québec: on the northwest by the southeast side of René-Lévesque 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 René-Lévesque boulevard, east.

1985, c. 24, s. 42; 1996, c. 2, s. 99.

REPEAL SCHEDULE

In accordance with section 17 of the Act respecting the consolidation of the statutes (chapter R-3), chapter 19 of the statutes of 1972, in force on 31 December 1977, is repealed, except sections 60, 61, 63 and 64, effective from the coming into force of chapter B-4 of the Revised Statutes.

