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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 82

## **Cultural Heritage Act**

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### **Introduction**

**Introduced by  
Madam Christine St-Pierre  
Minister of Culture, Communications and  
the Status of Women**

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## **EXPLANATORY NOTES**

*This bill proposes a reform of the law applicable to the protection of cultural heritage, which is currently governed by the Cultural Property Act.*

*Its goal is to modernize the law, taking into account the evolution of the notion of cultural heritage and reinforcing or, in certain cases, simplifying or streamlining the various protection measures.*

*One of the purposes of this bill is to promote knowledge of cultural heritage and the protection, enhancement and transmission of that heritage in the public interest and in a sustainable manner.*

*The bill defines cultural heritage to include not only heritage documents, immovables, objects and sites, but also heritage cultural landscapes, intangible heritage and historic figures, events and sites.*

*It broadens the municipalities' sphere of action with regard to the identification and protection of cultural heritage and provides that the powers exercised by municipalities may also be exercised by Native communities on the lands of a reserve and on the lands to which the Cree-Naskapi (of Quebec) Act applies.*

*It introduces a general framework for the designation by the Government of heritage cultural landscapes at the request of local municipalities, regional county municipalities and metropolitan communities whose territory includes all or part of the landscape concerned, and provides that those bodies adopt a heritage cultural landscape charter.*

*New rules are introduced related to the protection of heritage property, such as those governing the establishment of conservation plans and the alienation of classified heritage property.*

*The bill amends the rules that apply to archaeology, in particular, by requiring the Minister's authorization to excavate sites classified as or declared heritage sites.*

*The establishment of a protection area for classified heritage immovables is subject to the dissemination by the Minister of a notice of intent to that effect and the monitoring of such areas are simplified and streamlined.*

*The owners of classified or recognized heritage property become responsible for taking the necessary measures to preserve the heritage value of that property.*

*Under the bill, both the Minister and local municipalities may make orders to protect a property that may have a heritage value by reducing the effects of or eliminating any threat to it.*

*The bill broadens the Superior Court's powers to make orders that apply to classified heritage property, immovables situated on a site declared a heritage site by the Government, heritage property recognized by a local municipality and immovables situated on a heritage site recognized by a local municipality.*

*In addition, cases of contempt of court are defined for transgressing or refusing to comply with an order made under the bill.*

*The bill prescribes that the fines collected are to be paid into the Québec Cultural Heritage Fund, except the fines collected by local municipalities or Native communities, which belong to those municipalities or communities.*

*A council is established under the name "Conseil du patrimoine culturel du Québec", whose role includes holding public consultations on any project to have a site declared a heritage site by the Government and, at the Minister's request, on any matter the Minister refers to the council.*

*The Commission de la capitale nationale du Québec is given responsibility for the maintenance and enhancement of the burial sites of Québec premiers, whether or not the sites are situated in the territory of the Communauté métropolitaine de Québec.*

#### **LEGISLATION AMENDED BY THIS BILL:**

- Financial Administration Act (R.S.Q., chapter A-6.001);
- Act respecting land use planning and development (R.S.Q., chapter A-19.1);
- Archives Act (R.S.Q., chapter A-21.1);
- Act respecting registry offices (R.S.Q., chapter B-9);

- Charter of Ville de Gatineau (R.S.Q., chapter C-11.1);
- Charter of Ville de Lévis (R.S.Q., chapter C-11.2);
- Charter of Ville de Longueuil (R.S.Q., chapter C-11.3);
- Charter of Ville de Montréal (R.S.Q., chapter C-11.4);
- Charter of Ville de Québec (R.S.Q., chapter C-11.5);
- Act respecting the national capital commission (R.S.Q., chapter C-33.1);
- Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);
- Election Act (R.S.Q., chapter E-3.3);
- Act respecting municipal taxation (R.S.Q., chapter F-2.1);
- Taxation Act (R.S.Q., chapter I-3);
- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act respecting the Ministère de la Culture et des Communications (R.S.Q., chapter M-17.1);
- Act respecting the preservation of agricultural land and agricultural activities (R.S.Q., chapter P-41.1);
- Environment Quality Act (R.S.Q., chapter Q-2);
- Act respecting the Régie du logement (R.S.Q., chapter R-8.1).

**LEGISLATION REPLACED BY THIS BILL:**

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

# **Bill 82**

## **CULTURAL HERITAGE ACT**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### **CHAPTER I**

#### **OBJECTS, DEFINITIONS AND SCOPE**

**1.** The object of this Act is to promote the knowledge, protection, enhancement and transmission of cultural heritage in the public interest and from a sustainable development perspective.

It is also intended to promote the designation of historic figures, events and sites.

Cultural heritage consists of historic figures, sites and events, heritage documents, immovables, objects and sites, heritage cultural landscapes, and intangible heritage.

**2.** In this Act, unless the context indicates otherwise, the following terms mean or designate:

“archaeological property” and “archaeological site”: any property or site indicating prehistoric or historic human occupation;

“heritage cultural landscape”: a land area recognized by a community for its remarkable landscape features, which are the result of the interaction of natural and human factors and are worth conserving and, if applicable, enhancing because of their historical or emblematic interest, or their value as a source of identity;

“heritage document”: a medium on which intelligible information is inscribed in the form of words, sounds or images structured and delimited in a tangible or logical manner, or the information, which has artistic, emblematic, ethnological, historical, scientific or technological value;

“heritage immovable”: an immovable property that has archaeological, architectural, artistic, emblematic, ethnological, historical, landscape, scientific or technological value, in particular, a building, a structure, vestiges or land;

“heritage object”: a movable property, other than a heritage document, that has archaeological, artistic, emblematic, ethnological, historical, scientific or technological value, in particular, a work of art, an instrument, furniture or an artefact;

“heritage property”: a heritage document, immovable, object or site;

“heritage site”: a place, a group of immovables or, in the case of a heritage site referred to in section 58, a land area that is of interest for its archaeological, architectural, artistic, emblematic, ethnological, historical, landscape, scientific, urbanistic or technological value;

“intangible heritage”: the skills, knowledge, expressions, practices and representations based on a tradition that a community or group recognizes as part of its cultural heritage, the knowledge, protection, transmission or enhancement of which is in the public interest; and

“protection area”: an area surrounding a classified heritage immovable, defined by the Minister to protect the immovable.

**3.** The provisions of this chapter, the provisions of Chapter III other than those relating to designation, the provisions of Chapter IV that apply to a site classified or declared a heritage site or to a protection area under Division I of Chapter V, and the provisions of Chapter VII, those of Divisions I and II of Chapter VIII and those of Chapter XI are binding on the Government, on government departments and on bodies that are mandataries of the State.

**4.** Subject to sections 158 to 165 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1), sections 47 to 51, 64 to 67 and 76 of this Act apply despite any inconsistent provision of a general law or special Act or of letters patent of a municipality.

## **CHAPTER II**

### **CULTURAL HERITAGE REGISTER AND INVENTORIES**

**5.** A register must be kept at the Ministère de la Culture et des Communications in which all elements designated, classified, declared, identified or recognized under this Act as cultural heritage must be entered.

The register must describe the elements of cultural heritage in sufficient detail.

The register must also give the name of the owner of classified heritage documents and objects and state the alienations of which the Minister is notified under section 27.

**6.** The registrar of cultural heritage, designated by the Minister from among the department's personnel, is responsible for

(1) keeping the cultural heritage register;

(2) registering the elements of cultural heritage referred to in section 5 and any other particulars required under this Act; and

(3) issuing certified extracts from the register to any interested person on payment of the fees set by regulation of the Government.

No certified extract regarding a heritage object or document may be issued however without the consent of the person having ownership or custody of it.

The Minister may also designate, from among the members of the department's personnel, a person who is to exercise the functions of the registrar in the event that the registrar is absent or unable to act.

**7.** The certified extracts issued by the registrar are authentic. The signature of the registrar on the copy of a document is proof that the document exists and is lawfully in the registrar's possession.

A copy signed by the registrar is equivalent to the original itself in a court of justice, and any document purporting to bear the registrar's signature is presumed to do so.

**8.** The Minister contributes to the knowledge of cultural heritage by making inventories. The Minister establishes the manner in which the inventories are made, consigned and disseminated.

### **CHAPTER III**

#### **DESIGNATION AND PROTECTION OF CULTURAL HERITAGE BY THE MINISTER AND THE GOVERNMENT**

##### **DIVISION I**

##### **GENERAL PROVISIONS**

**9.** In this chapter, unless the context indicates otherwise, "council" means the Conseil du patrimoine culturel du Québec established under section 82.

**10.** The designation or declaration of something as an element of cultural heritage under this chapter is withdrawn in the same manner as it is given, except with respect to the withdrawal of the designation as a cultural heritage landscape.

**11.** Applications for the issue of an authorization under any of sections 47 to 49, 64 or 65 must be filed using the form prescribed by the Minister.

## **DIVISION II**

### **DESIGNATION OF ELEMENTS OF INTANGIBLE HERITAGE AND HISTORIC FIGURES, EVENTS AND SITES**

**12.** The Minister is responsible for the commemoration of Québec's deceased premiers and their grave sites.

**13.** The Minister may, after obtaining the opinion of the council, give heritage designation to an element of intangible heritage, to a deceased person of historical importance, or to an historic event or site.

**14.** A designation is granted through a notice of designation signed by the Minister.

The notice must contain a description of the element of intangible heritage concerned or identify the historic figure, event or site concerned and state the reasons for the designation.

The notice must be published in the *Gazette officielle du Québec* and at least once in a newspaper in the place or region concerned.

**15.** The registrar must enter the designated element of intangible heritage or the designated historic figure, event or site in the cultural heritage register.

**16.** The designation takes effect on the date the notice of designation is published in the *Gazette officielle du Québec*.

## **DIVISION III**

### **DESIGNATION OF HERITAGE CULTURAL LANDSCAPES**

**17.** The Government may, on the recommendation of the Minister, give heritage designation to a cultural landscape.

**18.** The heritage designation of a cultural landscape must be requested by all the local municipalities, regional county municipalities and metropolitan communities whose territory includes all or part of the land area concerned. The application must be filed with the Minister along with

- (1) the boundaries of the land area;
- (2) a landscape diagnosis that includes



(a) quantitative and qualitative analyses detailing the landscape features of the land area from a physical and socio-cultural standpoint;

(b) a description of the landscape features which, in the applicants' opinion, are remarkable and result from the interaction of natural and human factors; and

(c) a demonstration that the remarkable landscape features are recognized by the community concerned; and

(3) a heritage cultural landscape charter adopted by the applicants that presents the principles embraced and the commitments made by the community to ensure the protection and enhancement of the landscape.

**19.** After obtaining the opinion of the council, the Minister establishes whether, in the Minister's opinion, the application entitles the applicants to draw up a conservation plan; the Minister notifies the clerk or the secretary-treasurer of any applicant local municipality, regional county municipality or metropolitan community of the decision.

**20.** Applicants who are notified by the Minister that their application entitles them to draw up a conservation plan may obtain the heritage designation of the cultural landscape only if they draw up and submit, to the Minister's satisfaction, the conservation plan they intend to implement and administer should the designation be granted. The plan must include the identification of the land area involved, a description of the economic, social and cultural uses authorized, and the measures introduced to protect and, if applicable, enhance the landscape.

In order to help applicants draw up their conservation plan, the Minister requests the assistance of other government departments.

**21.** After obtaining the opinion of the council with respect to the conservation plan drawn up by the applicants, the Minister may recommend that the Government give heritage designation to the cultural landscape.

**22.** An order made under section 17 must state the boundaries of the land area concerned and 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 each local municipality, regional county municipality and metropolitan community concerned.

The order takes effect on the date of its publication in the *Gazette officielle du Québec*. The registrar then enters the designated cultural landscape in the cultural heritage register.

In addition, the Minister must publish a notice of the order in a newspaper in the area referred to in the order or, if there is no newspaper in that area, in a newspaper in the nearest region.

**23.** Despite any inconsistent provision, any change made by the council of a regional county municipality or a metropolitan community to its land use planning and development plan for the sole purpose of describing the designated landscape is made by by-law adopted without formality that comes into force on the day it is adopted. As soon as possible, a certified copy of the by-law is served on the Minister of Municipal Affairs, Regions and Land Occupancy in the manner set out in the Act respecting land use planning and development.

**24.** Every five years, any local municipality concerned that applied for and obtained the heritage designation of a cultural landscape must submit a report to the Minister on the implementation of the conservation plan.

The local municipality must also inform the Minister of any change made to the conservation plan.

**25.** On the recommendation of the Minister, who obtains the opinion of the council, the Government may withdraw the heritage designation of a cultural landscape if it is of the opinion that,

(1) the conservation plan is not being applied; or

(2) the conservation plan was changed in a manner that compromises the landscape protection and, if applicable, the landscape enhancement objectives.

A copy of the order must be sent as information to the clerk or the secretary-treasurer of each local municipality, regional county municipality and metropolitan community concerned.

The order takes effect on the date of its publication in the *Gazette officielle du Québec*. The registrar then notes the withdrawal of the heritage designation of the cultural landscape and the date of the withdrawal in the register.

In addition, the Minister must publish a notice of the order in a newspaper in the area referred to in the order or, if there is no newspaper in that area, in a newspaper in the nearest region.

## **DIVISION IV**

### **CLASSIFICATION OF CULTURAL PROPERTY**

#### *§1. — General provisions*

**26.** The owner of classified heritage property must take the necessary measures to preserve the heritage value of the property.

**27.** A person who becomes the owner of a classified heritage document or object by sale, gift or legal or testamentary succession must give notice of it to the Minister within 90 days after the property is sold to or put in the possession of the person.

**28.** Restrictions to the right to dispose of a classified heritage document or object and the rights under this Act with respect to the document or object do not require publication in the register of personal and movable real rights.

§2. — *Decision to classify*

**29.** After obtaining the opinion of the council, the Minister may classify all or part of any heritage property the knowledge, protection, enhancement or transmission of which is in the public interest.

**30.** Before obtaining the opinion of the council, the Minister must send a notice of intent to proceed with the classification. In the case of a heritage document or object, the notice is sent to the owner or the custodian of the property. In the case of a heritage immovable or site, the notice is sent to the person entered as the owner 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 a heritage immovable or site, the Minister must register the notice of intent in the land register.

The notice of intent must contain a description of the property concerned, state the reasons for the notice and include a note that any interested person may make representations to the council within 60 days after the notice is sent. If applicable, the notice must state that the Minister has requested the council to hold a public consultation.

The notice of intent must also be published at least once in a newspaper in the place or region concerned.

**31.** Before the one-year period provided for in the third paragraph of section 32 expires, the Minister may extend the period by one year by sending a notice of the extension to the owner or custodian of the heritage document or object or, in the case of a heritage immovable or site, by sending a notice of the extension to the person entered as the owner 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 a heritage immovable or site, the Minister must enter the notice of extension of the notice of intent in the land register.

The notice of extension must contain a description of the property concerned and be published at least once in a newspaper in the place or region concerned.

**32.** Ninety days after the date the notice of intent required in section 30 is sent, the Minister may sign a notice of classification containing a description of the heritage property concerned and stating the reasons for the classification.

The registrar then enters the classified heritage property in the cultural heritage register.

The notice of intent given by the Minister under section 30 is without effect if the notice of classification, along with a list of the elements that characterize the heritage property, is not sent to the owner or custodian of the property within a period of one year after the date the notice of intent is sent or within two years after that date if the period was extended.

**33.** In the case of a heritage immovable or site, the notice of classification must, at the Minister's behest,

(1) be sent to the clerk or the secretary-treasurer of the local municipality in whose territory the heritage immovable or site is situated, along with a list of the elements that characterize it; and

(2) be registered in the land register.

**34.** Classification takes effect on the date the notice of intent required in section 30 is sent.

The notice of classification is published in the *Gazette officielle du Québec* and at least once in a newspaper in the place or region concerned.

**35.** The effects of classification persist under all conditions until the property is declassified.

**36.** Declassification of a heritage property is carried out in the manner set out in this section.

Ninety days after the notice of intent to declassify a heritage property is sent, the Minister may sign a notice of declassification containing a description of the heritage property concerned and stating the reasons for the declassification. The notice of declassification may be signed within a period of one year from the date the notice of intent is sent or within two years after that date if the period was extended.

Declassification takes effect on the date of the notice.

The notice is published in the *Gazette officielle du Québec* and at least once in a newspaper in the place or region concerned.

The registrar then notes the declassification in the cultural heritage register.

At the Minister's behest, the notice, along with a list of the elements that characterize the heritage property, must be sent to the owner or custodian of the property and, in the case of a heritage immovable or site, the notice must also, at the Minister's behest,

(1) be sent to the clerk or the secretary-treasurer of the local municipality in whose territory the heritage immovable or site is situated, along with a list of the elements that characterize it; and

(2) be registered in the land register.

§3. — *Establishing a conservation plan and a protection area*

**37.** The Minister must establish, with all possible dispatch, a conservation plan for each heritage immovable and site classified as of (*insert the date of coming into force of this Act*), except those referred to in section 242. The plan must include the Minister's guidelines for the preservation, rehabilitation and, if applicable, the enhancement of the immovable or site according to its heritage value and the elements that characterize it.

The Minister may establish a conservation plan for a classified heritage property referred to in section 242 and for any classified heritage document or object.

**38.** Before establishing or updating a conservation plan, the Minister must obtain the opinion of the council and ask the owner of the classified heritage property to submit observations on the plan, except in the case of a classified heritage site. In the case of a classified heritage site, the Minister must consult the local municipality in whose territory the heritage site is situated.

**39.** The Minister must send a copy of the conservation plan or its update to the owner of the classified heritage property, or in the case of a classified heritage site, to the local municipality.

**40.** The Minister may, by order and after obtaining the opinion of the council, establish the boundaries of the protection area of a classified heritage immovable.

However, the perimeter of the protection area must not exceed a distance of 152 metres from the classified heritage immovable.

**41.** Before obtaining the opinion of the council, the Minister must send a notice of intent to proceed with the establishment of a protection area, along with a plan of the proposed area, to each person entered in the land register as the owner of an immovable located in the area, and to the clerk or the secretary-treasurer of the local municipality in whose territory the area is situated. In addition, the Minister must register the notice of intent in the land register.

The notice of intent must set the perimeter of the proposed protection area and contain a description of the immovables included in the area, state the reasons for the notice and include a note that any interested person may make representations to the council within 60 days after the notice is sent.

The notice of intent must also be published at least once in a newspaper in the place or region concerned.

**42.** Ninety days after the date the notice of intent referred to in section 41 is sent, the Minister may, by order, establish the protection area of a classified heritage immovable. The order must give the boundaries of the protection area, contain a description of the immovables included in the area and state the reasons for establishing the protection area. A plan of the protection area must be attached.

The notice of intent given by the Minister under section 41 is without effect if a copy of the documents required in section 45 is not sent to the owner within a period of one year after the date the notice of intent is sent.

**43.** The order must be entered in the land register at the Minister's behest.

**44.** The provisions of subdivision 4 regarding protection areas apply to the area referred to in the notice of intent required in section 41 from the date of notification.

The order is published in the *Gazette officielle du Québec* and the order and the plan attached to it must be published at least once in a newspaper in the place or region concerned.

The registrar must enter a note in the cultural heritage register on the existence of a protection area for the classified heritage immovable concerned.

**45.** At the Minister's behest, a copy of the order and of the plan attached to it must be sent to the owner of the immovable concerned and to the clerk or the secretary-treasurer of the local municipality in whose territory the protection area is situated.

**46.** The Minister may, by order and after obtaining the opinion of the council, abolish the protection area established to protect a classified heritage immovable.

The abolition of the protection area comes into effect on the date of the order.

The registrar must then enter a note in the cultural heritage register on the abolition of the protection area for the classified heritage immovable concerned.

The order is published in the *Gazette officielle du Québec* and at least once in a newspaper in the place or region concerned.

At the Minister's behest, a copy of the order must be sent to each person entered in the land register as the owner of an immovable situated in the protection area and to the clerk or the secretary-treasurer of the local municipality in whose territory the protection area was situated.

The order must be entered in the land register at the Minister's behest.

§4. — *Authorizations with respect to classified heritage property and protection areas*

**47.** No classified heritage property may be transported out of Québec without the Minister's authorization.

**48.** No person may, without the Minister's authorization, alter, restore, repair, change in any way or demolish all or part of a classified heritage property or, in the case of an immovable, move it or use it as a backing for a construction.

The first paragraph does not apply to classified heritage sites.

**49.** No person may make a construction, as defined by regulation of the Minister, or demolish all or part of an immovable in a protection area without the Minister's authorization.

**50.** A person who applies for the Minister's authorization under section 48 or 49 must pay the fees determined by government regulation for the examination of the application.

A person who performs an act described in section 47, 48 or 49 must comply with any conditions the Minister may set in the authorization.

**51.** The authorization referred to in sections 47, 48 and 49 is withdrawn if the project which is the object of the authorization is not begun within one year after the authorization is given or if the project is interrupted for more than one year.

If a project is interrupted, the withdrawal of the authorization does not prevent the Minister from obtaining an order under section 195.

**52.** No person may sell or give a classified heritage document or object away, without the Minister's authorization,

(1) to a government or department or agency of a government, other than the Gouvernement du Québec;

(2) to a 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); or

(3) to a legal person whose principal establishment is not situated in Québec.

In each case, the authorization must be attached to the deed of sale or the deed of gift.

**53.** Classified heritage property in the domain of the State may not be sold, conveyed by emphyteusis or given away without the Minister's authorization.

In each case, the authorization must be attached to the deed of sale, the act constituting emphyteusis or the deed of gift.

§5. — *Minister's right of preemption*

**54.** For the purposes of this subdivision, public bodies include

(1) bodies all or part of whose expenditures are provided for in the budgetary estimates tabled in the National Assembly otherwise than under a transferred appropriation;

(2) bodies whose personnel is appointed in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1);

(3) bodies a majority of whose members or directors are appointed by the Government or by a minister and at least half of whose expenditures are borne directly or indirectly by the consolidated revenue fund;

(4) school boards, the Comité de gestion de la taxe scolaire de l'île de Montréal, general and vocational colleges, and university institutions referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (R.S.Q., chapter E-14.1); and

(5) health and social services agencies and public institutions referred to in the Act respecting health services and social services (R.S.Q., chapter S-4.2), legal persons and joint procurement groups referred to in section 383 of that Act, the James Bay Cree health and social services council established under the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5), health communication centres within the meaning of the Act respecting pre-hospital emergency services (R.S.Q., chapter S-6.2) and the Corporation d'hébergement du Québec.

A person appointed or designated by the Government or a minister, together with the personnel directed by the person, in the exercise of the functions assigned to the person by law, the Government or a minister, is considered to be a body.

**55.** No person may sell a classified heritage document or object without giving the Minister at least 90 days' written notice. The same applies to a classified heritage immovable or an immovable situated on a classified heritage site the owner of which is a public body within the meaning of section 54.



The notice must contain a description of the property, state the name and domicile of its owner and the name of the person interested in acquiring it. The notice must also contain the price the person interested in acquiring it is willing to pay and the owner is willing to accept. However, in the case of a public sale, the notice must include the date of the sale and the starting price; the price the person who wins the bid is willing to pay must be submitted to the Minister as soon as possible.

**56.** The Minister may acquire classified heritage property referred to in the first paragraph of section 55 by preference over any other purchaser at the price the purchaser is willing to pay. To exercise this right of preemption, the Minister must, within the period of 90 days provided for in section 55, signify in writing the intention to acquire the cultural property to the person offering to sell it.

**57.** At the expiry of the period provided for in section 55, the classified heritage property may be sold to the person interested in acquiring it at the price submitted to the Minister under that section if the Minister has not signified the intention of exercising the right of preemption referred to in section 56.

## **DIVISION V**

### **DECLARATION OF HERITAGE SITES BY THE GOVERNMENT**

§1. — *Decision to declare a land area a heritage site*

**58.** The Government may, on the recommendation of the Minister who must obtain the opinion of the council, declare as a heritage site any land area the knowledge, protection, transmission or enhancement of which is in the public interest.

The Government's decision must be made within three years after the publication of the notice of recommendation referred to in section 59 in the *Gazette officielle du Québec*.

**59.** A copy of the Minister's recommendation must be sent as information to the clerk or the secretary-treasurer of the local municipality.

The recommendation must contain the boundaries of the land area concerned and state the reasons for the recommendation.

Notice of the recommendation must be published in the *Gazette officielle du Québec* and in a newspaper in the land area concerned or, if there is no newspaper in that land area, in a newspaper in the nearest region, with a statement that

(1) the council will be holding a public consultation;

(2) at the expiry of at least 120 days after publication, the recommendation will be submitted to the Government; and

(3) if an order declaring the land area to be a heritage site is made, it will take effect on the date the notice of the recommendation is published in the *Gazette officielle du Québec*.

**60.** Orders made under section 58 must include the boundaries of the land area declared a heritage site and state the reasons for the declaration, and must be published in the *Gazette officielle du Québec*.

The registrar must enter the heritage site in the cultural heritage register.

The order takes effect on the date the notice provided for in the third paragraph of section 59 is 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 local municipality. In addition, the Minister must publish a notice of the order in a newspaper in the land area referred to in the order or, if there is no newspaper in that land area, in a newspaper in the nearest region.

§2. — *Establishing a conservation plan*

**61.** For each land area declared a heritage site, the Minister must establish, with all possible dispatch, a conservation plan that includes the guidelines for the preservation, rehabilitation and, if applicable, the enhancement of the site according to its heritage value and the elements that characterize it.

**62.** Before establishing or updating a conservation plan, the Minister must obtain the opinion of the council and consult any local municipality on whose territory the heritage site is situated.

**63.** The Minister must send the local municipality a copy of the conservation plan or its update.

§3. — *Minister's authorization with respect to declared and classified heritage sites*

**64.** No person may, in a land area declared a heritage site or on a classified heritage site, divide, subdivide, redivide or parcel out a lot, change the arrangement or ground plan of an immovable, build, repair or change anything affecting the exterior appearance of an immovable, demolish all or part of an immovable or erect a new construction without the Minister's authorization.

In addition, no person may excavate the ground even inside a building on a heritage site referred to in the first paragraph without the Minister's authorization. However, if the purpose of the excavation is a burial or disinterment and none of the acts listed in the first paragraph are carried out, the Minister's authorization is not required.

**65.** No person may post a new sign or billboard or alter, replace or demolish any sign or billboard on a land area declared a heritage site or on a classified heritage site, without the Minister's authorization. To that end, the Minister has full control over the appearance of, materials used for and support structures of signs and billboards and over their effect on the premises.

**66.** A person who applies for the Minister's authorization under section 64 or 65 must pay the fees determined by government regulation for the examination of the application.

A person who performs an act described in section 64 or 65 must comply with any conditions the Minister sets in the authorization.

**67.** The authorization referred to in sections 64 and 65 is withdrawn if the project authorized is not begun within one year after the authorization is given or if the project is interrupted for more than one year.

If a project is interrupted, the withdrawal of the authorization does not prevent the Minister from obtaining an order under section 195.

## **DIVISION VI**

### **ARCHAEOLOGICAL EXCAVATIONS AND DISCOVERIES**

**68.** No person may carry out excavations or surveys to find archaeological property or sites in or on an immovable without having previously obtained an archaeological research permit from the Minister and paid the fees determined by government regulation for the examination of the permit application.

**69.** The Minister may, if the Minister considers it advisable, issue an archaeological research permit to a person applying for it

(1) who complies with the conditions specified in this Act and in the regulation of the Minister; and

(2) whose skills, research methods and professional, material and financial resources, as well as the expected duration of the research, ensure, in the opinion of the Minister, the full and satisfactory completion of the research project.

An archaeological research permit authorizes its holder to carry out excavations or surveys at the sites the Minister specifies on the permit in accordance with the conditions determined in this Act and in the regulation of the Minister and with any other condition the Minister may add to the permit.

**70.** 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 the holder does not comply with one of the conditions specified in this Act or in the regulation of the Minister or with any of the conditions added to the permit, or does not limit the research to the sites specified on the permit.

**71.** When the excavations must be carried out on an immovable that does not belong to the person applying for the archaeological research permit, the written consent of the owner of the immovable or any other interested person must be attached to the application.

When the surveys must be carried out on land in the domain of the State, the Acts governing them apply.

**72.** The holder of an archaeological research permit must submit an annual activity report to the Minister containing the particulars and in the manner determined by regulation of the Minister.

**73.** Despite section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), the annual report is confidential

(1) for 60 days after its receipt by the Minister; and

(2) for any extension of that period the Minister may determine in order to protect the research underway, the archaeological site or the archaeological property it contains, after inviting the archaeological research permit holder to submit observations on the matter.

The total period during which the report is to remain confidential may not exceed five years from the date on which the Minister receives it.

During the period of confidentiality, the Minister may disclose all or part of the report

(1) to a public body, within the meaning given that expression by the Act respecting Access to documents held by public bodies and the Protection of personal information, in keeping with that Act; and

(2) to any other person, to protect the archaeological site or the archaeological property concerned, or to promote archaeological research.

The report, including the personal information it contains, becomes public on the expiry of the period of confidentiality.

**74.** A person who discovers an archaeological property or site must inform the Minister of it without delay.

This obligation applies whether or not the discovery occurs in a context of archaeological excavations and research.

**75.** Any alienation of lands in the domain of the State is subject to a reserve in full ownership in favour of the domain of the State of archaeological property and sites found on the lands except treasures governed by article 938 of the Civil Code.

## **DIVISION VII**

### **ORDERS**

**76.** If the Minister is of the opinion that there is a perceived or real threat of significant degradation of a property that may have heritage value, the Minister may make an order, effective for a period of not more than 30 days,

(1) directing that the site be closed, or permitting access only to certain persons or on certain conditions, and providing for the posting of a notice to that effect in public view at the entrance to or near the site;

(2) directing that work or an activity be terminated or that special security measures be taken;

(3) directing that archaeological excavations be carried out; or

(4) directing that any other measure the Minister considers necessary be taken to prevent a greater threat to the property, or to mitigate the effects of or eliminate the threat.

Before making an order against a person, the Minister must notify the person in writing as prescribed by section 5 of the Act respecting administrative justice (R.S.Q., chapter J-3) and allow the person at least 10 days to submit observations. The Minister may, however, if urgent action is required or to prevent irreparable damage, make an order without being bound by those prior obligations. In that case, the person may, within 10 days from the time the order is served, submit observations to the Minister with a view to obtaining a review of the order.

A judge of the Superior Court may cancel the order or reduce its effective period on application by an interested person.

On application by the Minister, a judge of that Court, in addition to ordering the person to comply, may also extend, renew or make permanent the order if the judge considers that the property is seriously threatened and is of the opinion that the order made by the Minister is appropriate.

The judge may also make any amendment to the order that appears to the judge to be reasonable in the circumstances.

If a person fails to carry out the measures ordered under this division within the allotted time, the Court may authorize the Minister to have the measures carried out. The cost of carrying out the measures incurred by

the Minister is a prior claim on the property, of the same nature and with the same rank as the claims listed in paragraph 4 of article 2651 of the Civil Code; the cost is secured by a legal hypothec on the property.

**77.** An application to a judge under this division must be made according to the rules applicable to ordinary procedure under the Code of Civil Procedure (R.S.Q., chapter C-25).

Applications made by the Minister must be served on the person or persons they concern, but the judge may waive that requirement if the judge considers that the delay resulting from the service could unnecessarily imperil the property.

All orders issued must be personally served on the person concerned and may be executed by a peace officer.

Applications are decided by preference and orders issued are executory despite an appeal. A judge of the Court of Appeal may, however, suspend the execution of an order if the judge considers it necessary in the interests of justice.

## **DIVISION VIII**

### **GENERAL POWERS OF THE MINISTER**

**78.** The Minister may

(1) acquire by agreement or by expropriation any classified heritage property or any property necessary to isolate, clear, clean or otherwise enhance a classified heritage immovable or site, or any property situated in an area declared a heritage site or in a protection area;

(2) in the case of property acquired under paragraph 1, lease, hypothecate, restore, alter, demolish or transport the property or reconstruct it elsewhere;

(3) administer personally or entrust to other persons, on conditions the Minister considers expedient, the custody and administration of property the Minister acquires;

(4) contribute to the maintenance, conservation, restoration, enhancement, alteration or transport of a cultural element designated, classified, identified or recognized as a heritage element, or of property situated on a site classified, declared or recognized as a heritage site, and to the reconstruction of an immovable classified or recognized as a heritage immovable or of a building situated on an immovable classified or recognized as a heritage immovable or on a site classified, declared or recognized as a heritage site, and retain on the property that is the subject of a contribution, any charge, real right or hypothecary right the Minister deems appropriate;

(5) grant subsidies to promote the knowledge, protection, transmission or enhancement of heritage cultural landscapes, heritage property and property situated on a site classified, declared or recognized as a heritage site, and to promote knowledge of elements of intangible heritage;

(6) make, in accordance with the law, agreements with any government respecting cultural heritage;

(7) enter into agreements for the purposes of the administration of this Act with any person, including a local municipality, a regional county municipality, a metropolitan community or a Native community represented by its band council, in order to develop knowledge of cultural heritage and protect, transmit or enhance that heritage; and

(8) delegate in writing, generally or specially, the powers conferred on the Minister by sections 6, 48 to 50, 64 to 66, 68, 69, 180, 182, 183 and 197 to a member of the department's personnel or to the holder of a position.

**79.** During a public consultation held at the request of the Minister under section 83 on an application for authorization required under section 48, 49 or 64, the Minister may make public any document, analysis, study or information provided by a third party that is of interest for the purposes of public information.

## **DIVISION IX**

### **REGULATORY POWERS**

**80.** The Government may make regulations

(1) to determine the fees payable for extracts from the cultural heritage register and for the examination of applications for archaeological research permits;

(2) to determine the fees payable for the examination of an application for authorization filed with the Minister under section 48, 49, 64 or 65 or the method and criteria to be used to calculate the fees, and determine how they are to be paid; and

(3) to provide for total or partial exemption from the payment of the fees referred to in subparagraph 2 for certain categories of persons, heritage property or work.

Regulatory provisions made under subparagraph 2 of the first paragraph may vary according to the nature, importance or cost of the project for which the application is filed, the category of persons applying for the Minister's authorization, the category of work covered by the application or according to other cases or conditions prescribed by government regulation.

**81.** The Minister may make regulations

(1) to define “construction” in a protection area within the meaning of section 49;

(2) to determine conditions under which archaeological research permits are issued or revoked and the content and manner of presentation of the annual activity report required under section 72; and

(3) to determine the provisions of a regulation under paragraph 2 whose violation constitutes an offence.

**DIVISION X**

**CONSEIL DU PATRIMOINE CULTUREL DU QUÉBEC**

§1. — *Constitution and operation*

**82.** An advisory council on cultural heritage is established under the name “Conseil du patrimoine culturel du Québec” with its head office in the city of Québec.

**83.** The council must give the Minister its opinion on any question the Minister refers to it. It may also make recommendations to the Minister on any matter relating to the knowledge, protection, enhancement or transmission of cultural heritage and on any matter relating to archives to which the Archives Act (R.S.Q., chapter A-21.1) applies.

The council may receive and hear requests and suggestions from individuals and groups on any matter covered by this Act.

The council holds public consultations on projects to have a site declared a heritage site by the Government and, at the Minister’s request, on any matter the Minister refers to it.

If the council and another advisory body, such as the Bureau d’audiences publiques sur l’environnement, hold public consultations on the same project, the council must do its utmost to make an agreement with the other body to hold the consultations simultaneously.

**84.** The council must submit a status report to the Minister every five years on the application by local municipalities, under section 165, of sections 138 to 140, subparagraph 2 of the first paragraph and the second, third, fourth and fifth paragraphs of section 141 and section 142 to a site classified or declared a heritage site or to a protection area, and to any agreement between the Minister and the local municipality that is related to the application of those sections.



**85.** If a heritage property other than property described in subparagraph *a* of the third paragraph of section 232 of the Taxation Act (R.S.Q., chapter I-3) is acquired by a museum established under the Act respecting the Montréal Museum of Fine Arts (R.S.Q., chapter M-42) or the National Museums Act (R.S.Q., 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, the council, in addition to its advisory responsibilities, must

(1) determine, for the purposes of the second paragraph of section 232 of the Taxation Act and subdivision 2 of this division, whether the property was acquired in accordance with the acquisition and conservation policy of the purchaser and the directives of the Ministère de la Culture et des Communications; and

(2) determine the fair market value of the heritage property when the property is acquired in the circumstances described in section 103.

**86.** The council may hold its meetings anywhere in Québec.

**87.** The council is made up of 12 members, including a chair and a vice-chair, appointed by the Government from various areas in the field of cultural heritage and various regions of Québec.

**88.** The members of the council are appointed for a term of up to three years, except the chair and vice-chair who are appointed for a term of up to five years.

The members of the council may not serve more than two terms in the same capacity.

**89.** Members of the council remain in office, despite the expiry of their term, until reappointed or replaced.

A vacancy among the members of the council is filled in accordance with the rules governing their appointment.

**90.** The Government sets the remuneration and other conditions of employment of the chair and vice-chair of the council.

The other board members receive no remuneration except in the cases, on the conditions and to the extent that may be determined by the Government. They are entitled, however, to the reimbursement of expenses incurred in the exercise of their functions on the conditions and to the extent determined by the Government.

**91.** The office of chair and the office of vice-chair are full-time positions.

**92.** The vice-chair replaces the chair if the latter is absent or unable to act.

**93.** The chair presides the meetings of the council and directs proceedings; the chair represents the council in its relations with the Minister and third parties.

The vice-chair assists the chair and performs the duties assigned by the chair.

**94.** The quorum at meetings of the council is the majority of its members, including the chair or vice-chair. In the event of a tie, the chair has a casting vote.

**95.** The council may form committees presided by the chair or a member designated by the chair to examine matters it determines.

The functions assigned to the council under the Archives Act are exercised on its behalf by a committee made up of three persons designated by the council.

Such committees may include persons referred to in section 96.

**96.** The council may call on specialists to examine matters within its competence.

Such specialists are entitled to the fees, allowances or salaries set by the Government.

**97.** The council must meet at least once every month.

**98.** The council may, by by-law,

(1) provide for its internal management; such a by-law must be submitted to the Government for approval and comes into force upon being approved; and

(2) delegate the exercise of functions assigned to it under this Act to committees established under the first paragraph of section 95; such a 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 specified in the by-law.

**99.** If all the members agree, the council may meet using equipment enabling all participants to communicate directly with one another.

**100.** The members of the council's personnel are appointed in accordance with the Public Service Act.

The chair exercises the powers conferred by that Act on a chief executive officer with regard to the personnel.

**101.** The minutes of the meetings of the council and its committees, approved and certified by the chair or vice-chair, are authentic. The same applies to documents and copies of documents emanating from the council or forming part of its records, if they are signed by the chair, the vice-chair or a member of the personnel designated by the council.

**102.** Not later than 1 July each year, the council must send an annual report of its activities for the preceding fiscal year to the Minister; the report must also contain any information the Minister may require.

The Minister must table the report of the council in the National Assembly; if the Minister receives it between sessions or after an adjournment, the Minister must table it within 30 days after the opening of the next session or resumption.

§2. — *Determination of the fair market value of a heritage property*

**103.** When a museum established under the Act respecting the Montréal Museum of Fine Arts or the National Museums Act, a certified archival centre or a recognized museum, within the meaning assigned to those expressions by section 1 of the Taxation Act, acquires heritage property by gift in accordance with its acquisition and conservation policy and 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, when required by the donor, must make a request in writing that the council determine the fair market value of the property.

**104.** The council may ask for any information or document relevant to the consideration of the request.

**105.** Except in special circumstances, the council must determine the fair market value of the property and provide the donor with a certificate within four months after the request is received.

The certificate must state that the property was acquired by a museum established under the Act respecting the Montréal Museum of Fine Arts or the National Museums Act, 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 give the fair market value of the property, determined by the council.

**106.** The council sends a copy of the certificate to the centre or museum that made the request and to the Minister of Revenue.

§3. — *Appeals to the court of Québec*

**107.** Within 90 days after the day on which the certificate described in section 105 is issued, the donor may 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 if it were an appeal to the Court of Appeal, to have the fair market value determined by the council modified.

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

However, if 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 prescribed in the first paragraph, for a period which may not go beyond the fifteenth day following the date of the judgment granting the extension.

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

**110.** 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 the alleged facts. The motion must be accompanied by prior notice of the date of its presentation of at least 10 days.

**111.** The appellant must prepare an original and one copy of the motion, affidavit and notice. After payment of the court costs of \$90 mentioned in section 112, the original and copy are numbered by the clerk. The copy is certified true by the appellant or the appellant's attorney.

The clerk must immediately send the copy furnished by the appellant to the council which must, with dispatch, provide the clerk with the record relating to the evaluation appealed from.

**112.** When filing the motion, the appellant must pay to the clerk of the Court an amount of \$90, which is to be paid into the consolidated revenue fund.

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

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

**114.** The judge may dismiss the appeal or change the fair market value determined by the council and, for the purposes of the Taxation Act, the fair market value determined by the judge is deemed to be the fair market value determined by the council.

**115.** The clerk of the Court must, as soon as possible, send a copy of the decision resulting from the appeal to the donor and to the Minister of Revenue.

**116.** The decision of the Court is without appeal.

## **CHAPTER IV**

### **IDENTIFICATION AND PROTECTION OF CULTURAL HERITAGE BY MUNICIPALITIES**

#### **DIVISION I**

##### **DEFINITION, APPLICATION AND INVENTORIES**

**117.** In this chapter, “local heritage council” means the planning advisory committee established under section 146 of the Act respecting land use planning and development or, if no such committee is established, the council mentioned in section 154 of this Act.

**118.** This chapter applies to local municipalities. The Kativik Regional Government, when acting as a local municipality for the purposes of this chapter under section 244 of the Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1), need not submit its by-laws to the Minister of Municipal Affairs, Regions and Land Occupancy for approval before they come into force.

The powers conferred by this chapter may also be exercised by a Native community on the lands of a reserve or on the lands to which the Cree-Naskapi (of Quebec) Act (Statutes of Canada, 1984, chapter 18) applies, with the necessary modifications, and for that purpose, “local municipality” includes Native communities represented by their band council within the meaning of the Indian Act (Revised Statutes of Canada, 1985, chapter I-5) or the Cree-Naskapi (of Quebec) Act.

**119.** The repeal of a by-law identifying and recognizing as cultural heritage elements to which this chapter applies is carried out in the same manner as that in which the by-laws are adopted. However, the council of the municipality must notify the cultural heritage registrar of its intention to repeal a heritage recognition by-law at least 60 days before the repealing by-law is adopted.

**120.** A municipality may contribute to knowledge of cultural heritage by carrying out inventories of the cultural heritage on its territory or connected to its territory.

## **DIVISION II**

### **IDENTIFICATION OF INTANGIBLE HERITAGE AND HISTORIC FIGURES, EVENTS AND SITES**

**121.** A municipality may, by by-law and after obtaining the opinion of the local heritage council, identify elements of intangible heritage, deceased persons of historical importance and historic events and sites as such.

**122.** The notice of motion of a heritage identification by-law describes the intangible heritage or identifies the historic figure, event or site involved and states the reasons for identifying it as cultural heritage.

The notice of motion must also contain the date on which the by-law is to come into force in accordance with section 125 and state that interested persons may make representations to the local heritage council in accordance with the notices given to that effect.

**123.** The clerk or the secretary-treasurer must give public notice, not later than 30 days before the adoption of the heritage identification by-law, of the place, date and time of the local heritage council meeting at which all persons having an interest in the heritage identification of the element of intangible heritage or the historic figure, event or site mentioned in the notice of motion may make representations.

The public notice is governed by the rules applicable to public notices set out in sections 335 to 337 and 345 to 348 of the Cities and Towns Act (R.S.Q., chapter C-19) or articles 418, 419, 422, 423 and 431 to 436 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), as the case may be.

**124.** Sixty days after the date of the notice of motion and after obtaining the opinion of the local heritage council, the council of the municipality may adopt a by-law identifying as cultural heritage the element of intangible heritage or the historic figure, event or site in question.

A notice of motion is without effect at the expiry of 120 days after the date of the notice of motion if the council of the municipality has not adopted the by-law and brought it into force by then.

**125.** The heritage identification by-law comes into force on the date the by-law is adopted by the council of the municipality.

**126.** When the heritage identification by-law comes into force, the clerk or the secretary-treasurer must send a certified copy of the by-law, along with the certificate stating the date of coming into force of the by-law, to the cultural heritage registrar who must enter in the register the element of intangible heritage or the historic figure, event or site identified.

## **DIVISION III**

### **RECOGNITION OF HERITAGE PROPERTY**

**127.** A municipality may, by by-law and after obtaining the opinion of the local heritage council, recognize all or part of a document, immovable, object or site situated in its territory as heritage property, the knowledge, protection, enhancement or transmission of which is in the public interest.

A heritage site must be included in a zone identified in the planning program as a zone to be protected.

The power under the first paragraph with respect to documents or objects is limited to those owned by the municipality.

**128.** The notice of motion of a by-law recognizing property as heritage property must provide

- (1) a description of the heritage property concerned;
- (2) the reasons for recognition;
- (3) the date on which the by-law is to come into force in accordance with section 134; and
- (4) a statement that interested persons may make representations to the local heritage council in accordance with the notices given to that effect.

If a notice of motion concerning a heritage immovable contains no particulars on the interior of a heritage immovable, only the exterior appearance of the immovable is covered by the motion, except in the case described in paragraph 3 of section 138.

**129.** The clerk or the secretary-treasurer or any person the clerk or the secretary-treasurer designates for such purpose must send to each owner of a heritage immovable or, in the case of a heritage site, each owner of an immovable situated on the heritage site, a special written notice, along with a certified copy of the notice of motion stating

- (1) the effects of recognition provided for in sections 135 to 145;
- (2) the fact that each owner may make representations to the local heritage council; and
- (3) the place, date and time of the local heritage council meeting at which all other interested persons may make representations.

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

In addition, the truth of the facts set out in the certificate of service must be attested under the oath of office of the person giving the certificate, if that person has taken an oath of office, and if not, under a special oath to that effect.

**130.** The clerk or the secretary-treasurer must give public notice, not later than 30 days before a heritage recognition by-law is adopted, of the place, date and time of the local heritage council meeting at which persons having an interest in the recognition of the heritage property mentioned in the notice of motion may make representations.

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

**131.** Sixty days after the date of the notice of motion and after obtaining the opinion of the local heritage council, the council of the municipality may adopt the by-law recognizing property as heritage property.

The heritage recognition by-law must provide a description of the property involved and state the reasons for recognition. If the notice of motion concerning a heritage immovable contains no particulars on the interior of the heritage immovable, only the exterior appearance of the immovable is covered by the motion, except in the case described in paragraph 3 of section 138.

A notice of motion is without effect at the expiry of 120 days after the date of the notice of motion if the council of the municipality has not adopted the by-law and brought it into force by then.

**132.** The period of 120 days referred to in section 131 is extended by 60 days if the heritage site described in the notice of motion is not included in a zone identified in the planning program of the municipality as a zone to be protected and provided that at the meeting during which the notice of motion was given, the council adopted a resolution stating its intention to amend its planning program to that effect.

However, the notice of motion is without effect as soon as it becomes clear that it will not be possible for the amendment to come into force before the end of the additional 60-day period.

**133.** When a heritage recognition by-law comes into force, the clerk or the secretary-treasurer must send a certified copy of the by-law, along with the certificate stating the date of coming into force of the by-law and a list of the elements that characterize the recognized heritage property

(1) to the cultural heritage registrar, who must enter the recognized heritage property in the register;



(2) to the custodian of the recognized document or object, if that person is not the owner; and

(3) to each owner of the recognized heritage immovable or each owner of an immovable situated on the recognized heritage site, as the case may be.

**134.** A heritage recognition by-law comes into force

(1) on the date it is adopted by the council of the municipality, in the case of a heritage document or object; or

(2) on the date a special notice is served on the owners, in the case of a heritage immovable or an immovable situated on a recognized heritage site.

**135.** The effects of the recognition persist under all conditions in respect of the heritage property until the heritage recognition by-law is repealed.

**136.** The owner of a recognized heritage property must take the necessary measures to preserve the heritage value of the property.

**137.** A person who in any way alters, restores, repairs or changes a recognized heritage document, object or immovable must comply with the conditions set by the council of the municipality pertaining to the conservation of the heritage value of the document, object or immovable, in addition to the municipal by-laws.

**138.** In addition to the municipal by-laws, and in particular the by-law adopted under section 150, a person must comply with the conditions set by the council of the municipality pertaining to the conservation of the heritage value of a recognized heritage site if the person

(1) builds a new construction on the site;

(2) changes the arrangement and ground plan of an immovable on the site, makes repairs to it or changes its exterior appearance in any way;

(3) carries out excavations on the site, even inside a building, unless the purpose of the excavation is a burial or disinterment and none of the acts listed in paragraphs 1 and 2 are carried out; or

(4) posts new signs or billboards on the site or alters, replaces or demolishes a sign or billboard.

**139.** In addition, no person may perform any of the acts mentioned in sections 137 and 138 without giving at least 45 days' notice to the municipality. If a municipal permit is required, the application for the permit stands in lieu of notice.

Before imposing conditions, the council of the municipality must obtain the opinion of the local heritage council.

A copy of the resolution setting out the conditions must accompany a municipal permit otherwise issued that authorizes the act involved.

**140.** A municipal permit is withdrawn if a project regarding which conditions were imposed under section 137 or 138 is not begun within one year after the permit is issued or if the project is interrupted for more than one year.

If a project is interrupted, the withdrawal of the permit does not prevent the municipality from obtaining an order under section 203.

**141.** No person may, without the authorization of the council of the municipality,

(1) destroy all or part of a recognized heritage document or object or demolish all or part of a recognized heritage immovable, move it or use it as a backing for a construction; or

(2) demolish all or part of an immovable situated on a recognized heritage site, or divide, subdivide, redivide or parcel out a lot.

Before ruling on an application for authorization, the council must obtain the opinion of the local heritage council.

A person performing an act described in the first paragraph must comply with any conditions the council of the municipality sets out in its authorization.

The authorization is withdrawn if the project described in an application submitted under this section is not begun within one year after the authorization is given or if the project is interrupted for more than one year.

If a project is interrupted, the withdrawal of the authorization does not prevent the municipality from obtaining an order under section 203.

**142.** On the request of a person whose application for an authorization under section 141 has been refused, the council of the municipality must provide a substantiated notice of the refusal and a copy of the opinion of the local heritage council.

**143.** The council of the municipality may establish a conservation plan for a recognized heritage property that includes guidelines for the preservation, the rehabilitation and, if applicable, the enhancement of the property according to its heritage value and the elements that characterize it.

**144.** Before establishing or updating a conservation plan, the council of the municipality must obtain the opinion of the local heritage council and ask the owner of the recognized heritage immovable or site to submit observations on the plan.

**145.** After obtaining the opinion of the local heritage council, a municipality may acquire by agreement or by expropriation any property or real right required to isolate, clear, clean or otherwise enhance a recognized heritage immovable situated in its territory or an immovable situated on a heritage site it has recognized as such.

A municipality may similarly acquire by agreement or by expropriation a recognized heritage immovable situated in its territory or an immovable situated on a heritage site it has recognized as such.

After obtaining the opinion of the local heritage council, a municipality may transfer or sell the property or rights without further authorization.

**146.** The council of the municipality may, by by-law and to the extent it determines, delegate its power to determine conditions under section 137 or 138 to its executive committee.

**147.** A municipality may, by by-law,

(1) prescribe the release by any person of information or documents to allow the application of sections 137 to 139 and section 141; and

(2) prescribe the payment of costs for an authorization issued under section 141.

## **DIVISION IV**

### **ORDERS**

**148.** If the council of the municipality is of the opinion that there is a perceived or real threat of significant degradation of a property that may have heritage value, it may make an order, effective for a period of not more than 30 days,

(1) directing that the site be closed, or permitting access only to certain persons or on certain conditions, and providing for the posting of a notice to that effect in public view at the entrance to or near the site;

(2) directing that work or an activity be terminated or that special security measures be taken;

(3) directing that archaeological excavations be carried out; or

(4) directing that any other measure the council considers necessary be taken to prevent a greater threat to the property, or to mitigate the effects of or eliminate the threat.

Before making an order against a person, the council of the municipality must give the person prior notice in writing of its intention and the reasons motivating it and allow the person at least 10 days to submit observations. If an order is likely to affect a Native community, the council must also give prior notice to the Minister so that the latter may carry out any consultations required in order for the council to take the community's concerns into account.

The council may, however, if urgent action is required or to prevent irreparable damage, make an order without being bound by those prior obligations. In such a case, the person may, within 10 days from service of the order, submit observations to the council with a view to obtaining a review of the order.

A judge of the Superior Court may cancel the order or reduce its effective period on application by an interested person.

On application by the council of the municipality, a judge of that Court, in addition to ordering a person to comply, may also extend, renew or make permanent the order if the judge considers that the property is seriously threatened and is of the opinion that the order made by the council of the municipality is appropriate.

The judge may also make any amendment to the order that appears to the judge to be reasonable in the circumstances.

If a person fails to carry out the measures ordered under this division within the allotted time, the Court may authorize the municipality to have the measures carried out. The cost of carrying out the measures incurred by the municipality is a prior claim on the property, of the same nature and with the same rank as the claims listed in paragraph 5 of article 2651 of the Civil Code; the cost is secured by a legal hypothec on the property.

**149.** An application to a judge under this division must be made according to the rules applicable to ordinary procedure under the Code of Civil Procedure.

Applications made by the council of the municipality must be served on the person or persons they concern, but the judge may waive that requirement if the judge considers that the delay resulting from the service could unnecessarily imperil the property.

All orders issued must be personally served on the person concerned and may be executed by a peace officer.

Applications are decided by preference and orders issued are executory despite an appeal. A judge of the Court of Appeal may, however, suspend the execution of an order if the judge considers it is necessary in the interests of justice.

## **DIVISION V**

### **ARCHAEOLOGICAL EXCAVATIONS AND SURVEYS IN A ZONE OF HERITAGE INTEREST AND FINANCIAL OR TECHNICAL ASSISTANCE**

**150.** A municipality may, by by-law, determine the cases and circumstances in which a person who must obtain a permit or authorization from the municipality is required to carry out archaeological excavations or surveys before carrying out a project in a zone of heritage interest identified in the land use planning and development plan in force in the municipality's territory.

**151.** Despite the Municipal Aid Prohibition Act (R.S.Q., chapter I-15), a municipality may, by by-law and after obtaining the opinion of the local heritage council, grant, on the conditions it determines, any form of financial or technical assistance to ensure the knowledge, protection, transmission or enhancement of an element of cultural heritage identified or recognized as such by the municipality.

A municipality may also grant financial or technical assistance in respect of a heritage cultural landscape designated as such by the Government, a classified heritage property or an immovable situated in an area that is declared a heritage site and is situated in the municipality's territory, or to promote knowledge of an element of intangible heritage or a historic figure, event or site designated as cultural heritage by the Minister.

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

## **DIVISION VI**

### **LOCAL HERITAGE COUNCIL**

**152.** The function of the local heritage council is to give its opinion, at the request of the council of the municipality, on any matter relating to the administration of this chapter.

**153.** The local heritage council must receive and hear the representations made by interested persons following the notices given under sections 123, 129 and 130.

The local heritage council may also receive and hear requests and suggestions from persons or groups on any matter within its competence.

**154.** If a planning advisory committee described in section 146 of the Act respecting land use planning and development has not been established, a municipality may, by by-law, establish a local heritage council to perform the duties entrusted to local heritage councils by this Act.

**155.** The local heritage council is composed of not less than three members appointed by the council of the municipality.

One of the members of the local heritage council must be chosen from among the members of the council of the municipality.

**156.** The member chosen from among the members of the council of the municipality is appointed for the duration of the member's term of office and for not more than two years.

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

**157.** A municipality may, by by-law, authorize the local heritage council to establish its rules of internal management.

**158.** Any vacancy occurring during the term of a member must be filled in the manner provided for in section 155.

**159.** The local heritage council must hold its meetings 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 meetings of the local heritage council.

**160.** The council of the municipality may determine and make available to the local heritage council the personnel and the sums of money the local heritage council needs to discharge its duties.

## **DIVISION VII**

### **SPECIAL PROVISIONS**

**161.** Despite the second paragraph of section 127, a municipality may recognize all or part of its territory as a heritage site before the coming into force of its planning program.

**162.** From the date of coming into force of the planning program of a municipality, sections 138 to 141 and section 151 cease to apply in respect of a heritage site or part of a heritage site that is not situated in a zone included in the planning program as a zone to be protected.

A municipality must, within 90 days following the date of coming into force of its planning program, amend or repeal the by-law adopted under section 161 to recognize the heritage site, if the site is not entirely situated in a zone included in its planning program as a zone to be protected.

In that case, section 128, except paragraph 4, the first and second paragraphs of section 131 and section 133 apply, with the necessary modifications.

The amending or repealing by-law comes into force upon adoption.

**163.** For the application of this chapter to Ville de Laval or Ville de Mirabel, the references to the planning program in sections 127, 132, 161 and 162 are references to the land use planning and development plan and to a territory identified in the plan as presenting a heritage interest within the meaning of this Act.

**164.** For the application of this chapter to Ville de Québec, the Commission d'urbanisme et de conservation de Québec, set up under section 123 of Schedule C to the Charter of Ville de Québec (R.S.Q., chapter C-11.5), exercises the functions of the local heritage council set out in this chapter.

## **CHAPTER V**

### **TRANSFER OF RESPONSIBILITY AND RULES TO REGULATE OR PREVENT THE DUPLICATION OF PROTECTION**

#### **DIVISION I**

##### **TRANSFER OF RESPONSIBILITY WITH RESPECT TO THE PROTECTION OF A PROTECTION AREA OR OF A SITE CLASSIFIED OR DECLARED A HERITAGE SITE**

**165.** If a local municipality submits by by-law an application to that effect, the Minister may declare all or part of section 49 or sections 64 to 67 inapplicable to all or part of a protection area or a site classified or declared a heritage site forming part of its territory, and declare sections 138 to 140, subparagraph 2 of the first paragraph, the second, third, fourth and fifth paragraphs of section 141 and section 142 applicable to that area or site to the extent the Minister determines.

The Minister may also adjust the applicability or inapplicability of all or part of the sections mentioned in the first paragraph according to the categories of acts or work described in those sections, and determine which provisions of Division II of this chapter apply.

Before reaching a decision on an application, the Minister must take into account the by-laws of the municipality with respect to the objectives of this Act and obtain the opinion of the Conseil du patrimoine culturel du Québec.

**166.** A declaration made by the Minister under section 165 takes effect on the date of publication of a notice to that effect in the *Gazette officielle du Québec* or on any later date given in the notice. The registrar must then make a note on the declaration in the cultural heritage register.

The conservation plan established by the Minister continues to apply and the municipality must take it into account in exercising the powers given it under sections 138 to 140, subparagraph 2 of the first paragraph and the second and third paragraphs of section 141 in respect of the site classified or declared a heritage site.

**167.** The municipality must notify the Minister of any amendments it plans to make to planning by-laws that apply to the area or site covered by the declaration made under section 165.

The notice must summarize the draft by-law.

**168.** After obtaining the opinion of the Conseil du patrimoine culturel du Québec, the Minister may amend or revoke any declaration made under section 165, to the extent the Minister determines.

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

A notice of the amendment or revocation must be published in the *Gazette officielle du Québec* and give the date on which the amendment or revocation took effect. The registrar must then make a note of the revocation of the declaration in the cultural heritage register.

## **DIVISION II**

### **RULES TO REGULATE OR PREVENT THE DUPLICATION OF PROTECTION**

**169.** The object of this division is to determine, with a view to regulating or preventing the duplication of protection, the provisions that apply in respect of heritage property or of property situated in a protection area or on a site classified, declared or recognized as a heritage site and that may be protected by the Minister, the Government or a local municipality.

**170.** This division applies to all or part of a heritage property.

**171.** A heritage property may be classified at any time. If a cultural property is classified, the only provisions that apply in respect of that property are those applicable to classified heritage property.

**172.** A heritage immovable may not be recognized as such

(1) if it is situated on a site classified or declared a heritage site; or

(2) in respect of its elements that are already classified.

However, the non-classified interior of a heritage immovable situated on a site classified or declared a heritage site may be given heritage recognition.

**173.** When an immovable is situated both in a protection area and on a site declared a heritage site, the only provisions that apply in respect of that immovable are those applicable to an immovable situated on a site declared a heritage site.



**174.** When a recognized heritage immovable is situated in a protection area, section 49 and the special provisions concerning a recognized heritage immovable apply. However, the decisions made by the Minister under section 49 prevail over those made by the local municipality with respect to the immovable.

**175.** Sections 137, 139 and 141 cease to apply in respect of a recognized heritage immovable the moment it is situated on a site declared a heritage site, except in respect of the interior of the immovable.

**176.** Sections 138, 139 and 141 to 144 do not apply in respect of an immovable situated on both a site recognized as a heritage site and a site declared a heritage site.

**177.** In case of conflict between an order made by the Minister under sections 76 and 77 and an order made by the council of the local municipality under sections 148 and 149, the order made by the Minister prevails.

## **CHAPTER VI**

### **INFORMATION SENT TO THE REGIONAL COUNTY MUNICIPALITY OR TO THE METROPOLITAN COMMUNITY**

**178.** The Minister must send to the regional county municipality or to the metropolitan community whose territory comprises that of the local municipality a copy of every document the Minister is required to send to the local municipality or to its clerk or its secretary-treasurer under section 30, 31, 33, 41, 45, 59, 60 or 168, as well as a copy of every declaration made under section 165 on the application of the local municipality.

**179.** A local municipality must send to the regional county municipality or to the metropolitan community whose territory comprises that of the local municipality a copy of every document that the municipality itself, its council, its clerk or its secretary-treasurer is required to send under section 126, 133, 142 or 167 and a copy of every application made by the municipality under section 165.

## **CHAPTER VII**

### **INSPECTIONS AND INVESTIGATIONS**

**180.** For the purposes of Chapters I, III and V and the regulations made under this Act by the Government and the Minister, the Minister may authorize a person to act as an inspector and to enter at any reasonable time the premises of a heritage property, an archaeological property or site, or a protection area, and there to carry out the excavations and expert work required including

(1) take photographs or make recordings of the premises and the property found on them, take samples free of charge and conduct analyses; and

(2) require any information pertaining to the application of this Act or the regulations, or require the release, for examination or copying purposes, of any document pertaining to their application.

The first paragraph also applies with respect to

(1) property that may have heritage value, in order to establish whether there is a real or perceived threat of significant degradation; and

(2) any immovable designated in the notice of intent to establish a protection area.

**181.** No person may be prosecuted for an act performed in good faith while acting as an inspector.

**182.** The Minister may designate a person to act as investigator in any matter relating to the application of this Act and the regulations.

For the purposes of an inquiry, the investigator has the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to impose imprisonment.

**183.** If so requested, the inspector or the investigator must produce a certificate of authority signed by the Minister.

**184.** Inspectors may, in the course of an inspection, immediately seize anything that they have reasonable grounds to believe may be used as evidence of an offence against this Act or the regulations.

The rules established in Division IV of Chapter III of the Code of Penal Procedure (R.S.Q., chapter C-25.1), with the necessary modifications, apply to the things seized.

## **CHAPTER VIII**

### **PENALTIES AND REMEDIES**

#### **DIVISION I**

##### **PROVISIONS COMMON TO ALL ELEMENTS OF PROTECTED CULTURAL HERITAGE**

**185.** A person named or designated in an order of the Superior Court described in section 195 or 203, an order of the Minister described in sections 76 and 77, an order of the municipality described in sections 148 and 149 or a decision of a judge under section 76, 77, 148 or 149 who

transgresses the order or decision or refuses to comply with it, and any person not designated who knowingly contravenes the order or decision, is guilty of contempt of court.

The person may be condemned by the competent court, in accordance with the procedure set out in articles 53 to 54 of the Code of Civil Procedure, to a fine with or without imprisonment for a period of up to one year. A natural person is liable to a fine of \$2,000 to \$100,000 and a legal person is liable to a fine of \$6,000 to \$200,000.

**186.** A person who assists another person in committing an offence under this Act or who encourages, advises, allows, authorizes or orders another person to commit an offence under this Act is guilty of an offence.

A person convicted under this section is liable to the same penalty as is prescribed for the offence committed by the other person.

**187.** A person who hinders in any way the action of a person authorized to exercise a power under this Act or a person authorized by the municipality to exercise powers of inspection for the purpose of verifying compliance with this Act, prevents that person from carrying out the excavations and expert work required, including taking samples or photographs or making recordings of the premises or property the person is entitled to take or make under this Act, makes a false statement to such a person or refuses to provide assistance, information, documents or copies of document or objects the person is entitled to require or examine under this Act, is guilty of an offence.

A natural person is liable to a fine of \$2,000 to \$30,000 and a legal person is liable to a fine of \$6,000 to \$180,000.

**188.** For a second offence, the minimum and maximum fines prescribed in this chapter are doubled, and for a subsequent offence, they are tripled.

**189.** In any proceedings relating to an offence under this chapter, proof that an offence under this Act was committed by a person's agent, mandatary or employee is sufficient to establish that it was committed by that person unless it is established that the offence was committed without the person's knowledge or consent and despite measures taken to prevent its commission.

If the person who committed an offence under this Act is a partnership or a legal person, each partner or each director of the legal person is deemed to be a party to the offence.

**190.** In the case of a partner or the director of a legal person who commits an offence under this Act, the minimum and maximum fines that would apply in the case of a natural person are doubled.

**191.** A motion filed under section 195, 196, 203 or 204 must be heard and decided by preference.

**192.** Penal proceedings for an offence under this Act are prescribed one year after the date the prosecutor is made aware of the commission of the offence. However, no proceedings may be instituted if more than five years have elapsed since the date of the offence.

**193.** The fines collected under this chapter are paid into the Québec Cultural Heritage Fund established under section 22.1 of the Act respecting the Ministère de la Culture et des Communications (R.S.Q., chapter M-17.1), except those collected under section 207, which are the property of the prosecutor.

## **DIVISION II**

### **SPECIAL PROVISIONS RESPECTING CULTURAL HERITAGE PROTECTED BY THE MINISTER OR THE GOVERNMENT**

**194.** The alienation of classified heritage property in contravention of this Act is absolutely null. The right of action to have such nullity recognized is not subject to prescription.

**195.** The Minister may obtain an order of the Superior Court for the cessation of an act or operation undertaken or continued without the authorization required under section 47 to 49, 64 or 65 or carried out in contravention of the conditions referred to in section 50 or 66. The Minister may also obtain an order of the Superior Court to have the necessary work carried out to preserve the heritage value of a classified heritage property whose owner fails to comply with section 26.

In addition, in the case of an act or operation undertaken or continued without the authorization required under section 47 to 49, 64 or 65 or carried out in contravention of the conditions referred to in section 50 or 66, the Minister may obtain an order of the Superior Court to have the necessary work carried out to bring the property into conformity with the conditions of an authorization or with the conditions the Minister could have imposed had an application for authorization been filed with the Minister under this Act, to return the property to its former condition or to demolish a construction.

The work is carried out at the expense of the owner or, in the case of a heritage document or object, at the expense of the custodian.

If the owner or custodian of the property fails to carry out the work or demolition within the time allotted by the Court, the Court may authorize the Minister to do so. The cost of the work or demolition incurred by the Minister is a prior claim on the property, of the same nature and with the same rank as the claims described in paragraph 4 of article 2651 of the Civil Code; the cost is secured by a legal hypothec on the property.

**196.** The division, subdivision, redivision or parcelling out of land in contravention of section 64 may be annulled. Any interested party, including the Minister, may apply to the Superior Court for a declaration of nullity.

**197.** An authorization of the Minister required under this Act may be revoked or amended by the Minister if it was obtained on the basis of inaccurate or incomplete information. Before revoking or amending an authorization, the Minister must notify the interested person in writing as prescribed by section 5 of the Act respecting administrative justice and allow the interested person at least 10 days to submit observations.

The Minister must substantiate the decision and notify the interested person of it in writing.

**198.** A person who sells a classified heritage property without giving the Minister the prior written notice required under section 55 or who sells or gives a classified heritage document or object away without the Minister's authorization required under section 52 is guilty of an offence and is liable, in the case of a natural person, to a fine of \$2,000 to \$190,000 and, in the case of a legal person, to a fine of \$6,000 to \$1,140,000.

**199.** A person who gives the Minister a prior written notice that does not contain the particulars required under section 55 is guilty of an offence and is liable, in the case of a natural person, to a fine of \$800 to \$10,000 and, in the case of a legal person, to a fine of \$2,400 to \$60,000.

**200.** A person who does not give the Minister the notice required under section 27 is guilty of an offence and is liable, in the case of a natural person, to a fine of \$500 to \$5,000 and, in the case of a legal person, to a fine of \$1,500 to \$30,000.

**201.** A person who contravenes section 26, 47, 49, 64 or 68, the first paragraph of section 48, the last paragraph of section 69, any of the conditions set by the Minister under section 50 or 66 in connection with the Minister's authorization under section 47, 48, 49 or 64, or a regulatory provision whose violation constitutes an offence under paragraph 3 of section 81 is guilty of an offence and is liable, in the case of a natural person, to a fine of \$2,000 to \$190,000 and, in the case of a legal person, to a fine of \$6,000 to \$1,140,000.

**202.** A person who does not immediately inform the Minister of the discovery of an archaeological property or site in accordance with section 74 or who contravenes section 65 or 72 or any of the conditions set by the Minister under section 66 in connection with the Minister's authorization under section 65 is guilty of an offence and is liable, in the case of a natural person, to a fine of \$2,000 to \$30,000 and, in the case of a legal person, to a fine of \$6,000 to \$180,000.

### **DIVISION III**

#### **SPECIAL PROVISIONS RESPECTING CULTURAL HERITAGE PROTECTED BY MUNICIPALITIES**

**203.** An interested person, including a municipality, may obtain an order of the Superior Court for the cessation of an act or operation undertaken or continued without the authorization required under section 141 or without the notice required under section 139 or carried out in contravention of the conditions referred to in section 137, 138 or 141. The interested person may also obtain an order of the Superior Court to have the necessary work carried out to preserve the heritage value of a recognized heritage property whose owner fails to comply with section 136.

In addition, in the case of an act or operation undertaken or continued without the authorization required under section 141 or without the prior notice required under section 139 or carried out in contravention of the conditions referred to in section 137, 138 or 141, an interested person, including a municipality, may obtain an order of the Superior Court to have the necessary work carried out to bring the property into conformity with the conditions referred to in section 137, 138 or 141 or with the conditions the municipality could have imposed had prior notice been given or had an application for authorization been filed with the municipality under this Act, to return the property to its former condition or to demolish a construction.

The work is carried out at the expense of the owner.

If the owner or custodian of the property fails to carry out the work or demolition within the time allotted by the Court, the Court may authorize the municipality to do so. The cost of the work or demolition incurred by the municipality is a prior claim on the property, of the same nature and with the same rank as the claims described in paragraph 5 of article 2651 of the Civil Code; the cost is secured by a legal hypothec on the property.

**204.** The division, subdivision, redivision or parcelling out of land in contravention of section 141 may be annulled. Any interested party, including the municipality in whose territory the land is situated, may apply to the Superior Court for a declaration of nullity.

**205.** A person who contravenes section 136, 139 or 141 or any of the conditions set out by the municipality under section 137, 138 or 141 is guilty of an offence and is liable, in the case of a natural person, to a fine of \$2,000 to \$190,000 and, in the case of a legal person, to a fine of \$6,000 to \$1,140,000.

**206.** A person who fails to comply with the requirement to make archaeological excavations or surveys in a zone of heritage interest, in the cases and circumstances determined by by-law under section 150, is guilty of an offence and is liable, in the case of a natural person, to a fine of \$2,000 to \$30,000 and, in the case of a legal person, to a fine of \$6,000 to \$180,000.

**207.** Penal proceedings for an offence under this division or Division I of this chapter may be instituted by a municipality if the offence concerns cultural heritage protected by the municipality and was committed within its territory.

Such proceedings may be instituted by a Native community described in section 118, represented by its band council, if the offence concerns cultural heritage protected by the community and is committed on the lands of the reserve, or on the lands to which the Cree-Naskapi (of Quebec) Act (Statutes of Canada, 1984, chapter 18) applies.

## **CHAPTER IX**

### NATIONAL HERITAGE SITE

**208.** The group of buildings consisting of the Parliament Building, the Pamphile-Le May building, the Honoré-Mercier building, the Jean-Antoine-Panet building and the André-Laurendeau building, together with the land described in Schedule I, is hereby declared a national heritage site.

## **CHAPTER X**

### AMENDING PROVISIONS

#### FINANCIAL ADMINISTRATION ACT

**209.** Schedule 1 to the Financial Administration Act (R.S.Q., chapter A-6.001) is amended by replacing “Commission des biens culturels” by “Conseil du patrimoine culturel” in alphabetical order.

#### ACT RESPECTING LAND USE PLANNING AND DEVELOPMENT

**210.** Section 5 of the Act respecting land use planning and development (R.S.Q., chapter A-19.1) is amended by replacing “historical, cultural,” in subparagraph 6 of the first paragraph by “cultural, in particular relating to heritage within the meaning of the Cultural Heritage Act (*insert the year and chapter number of this Act*)”.

#### ARCHIVES ACT

**211.** Sections 11, 16, 22 and 38 of the Archives Act (R.S.Q., chapter A-21.1) are amended by replacing “of the Commission des biens culturels” by “of the Conseil du patrimoine culturel”.

#### ACT RESPECTING REGISTRY OFFICES

**212.** Section 12 of the Act respecting registry offices (R.S.Q., chapter B-9) is amended by replacing “a notice of classification, declassification, recognition or cancellation of recognition under the Cultural Property Act

(chapter B-4);” in the first paragraph by “a notice of classification or declassification under the Cultural Heritage Act (*insert the year and chapter number of this Act*);”.

#### CHARTER OF VILLE DE GATINEAU

**213.** Section 23 of the Charter of Ville de Gatineau (R.S.Q., chapter C-11.1) is amended

(1) by striking out “, Chapter IV of the Cultural Property Act (chapter B-4)” in subparagraph 1 of the second paragraph;

(2) by inserting the following subparagraph after subparagraph 1 of the second paragraph:

“(1.1) the power to pass a heritage identification or recognition by-law referred to in Chapter IV of the Cultural Heritage Act (*insert the year and chapter number of this Act*);”.

#### CHARTER OF VILLE DE LÉVIS

**214.** Section 32 of the Charter of Ville de Lévis (R.S.Q., chapter C-11.2) is amended

(1) by striking out “, Chapter IV of the Cultural Property Act (chapter B-4)” in subparagraph 1 of the second paragraph;

(2) by inserting the following subparagraph after subparagraph 1 of the second paragraph:

“(1.1) the power to pass a heritage identification or recognition by-law referred to in Chapter IV of the Cultural Heritage Act (*insert the year and chapter number of this Act*);”.

#### CHARTER OF VILLE DE LONGUEUIL

**215.** Section 34 of the Charter of Ville de Longueuil (R.S.Q., chapter C-11.3) is amended

(1) by striking out “, Chapter IV of the Cultural Property Act (chapter B-4)” in subparagraph 1 of the second paragraph;

(2) by inserting the following subparagraph after subparagraph 1 of the second paragraph:

“(1.1) the power to pass a heritage identification or recognition by-law referred to in Chapter IV of the Cultural Heritage Act (*insert the year and chapter number of this Act*);”.



**216.** Section 58.2 of the Act is amended by replacing subparagraph 5 of the first paragraph by the following subparagraph:

“(5) a heritage immovable classified or recognized under the Cultural Heritage Act (*insert the year and chapter number of this Act*) or the planned site of which is situated on a heritage site classified, declared or recognized as such within the meaning of that Act.”

#### CHARTER OF VILLE DE MONTRÉAL

**217.** Section 34 of the Charter of Ville de Montréal (R.S.Q., chapter C-11.4) is amended

(1) by striking out “, Chapter IV of the Cultural Property Act (chapter B-4)” in subparagraph 1 of the second paragraph;

(2) by inserting the following subparagraph after subparagraph 1 of the second paragraph:

“(1.1) the power to pass a heritage identification or recognition by-law referred to in Chapter IV of the Cultural Heritage Act (*insert the year and chapter number of this Act*);”.

**218.** Section 89 of the Act is amended by replacing subparagraph 5 of the first paragraph by the following subparagraph:

“(5) a heritage immovable classified or recognized under the Cultural Heritage Act (*insert the year and chapter number of this Act*) or the planned site of which is situated on a heritage site classified, declared or recognized as such within the meaning of that Act.”

**219.** Section 89.1 of the Act is amended by replacing “historic district of Old Montréal” in the fourth paragraph by “declared heritage site of Vieux-Montréal”.

**220.** Section 220 of Schedule C to the Act is amended by replacing “historic district” in the first paragraph by “declared heritage site”.

#### CHARTER OF VILLE DE QUÉBEC

**221.** Section 32 of the Charter of Ville de Québec (R.S.Q., chapter C-11.5) is amended

(1) by striking out “, Chapter IV of the Cultural Property Act (chapter B-4)” in subparagraph 1 of the third paragraph;

(2) by inserting the following subparagraph after subparagraph 1 of the third paragraph:

“(1.1) the power to pass a heritage identification or recognition by-law referred to in Chapter IV of the Cultural Heritage Act (*insert the year and chapter number of this Act*);”.

**222.** Section 74.4 of the Act is amended by replacing subparagraph 5 of the first paragraph by the following subparagraph:

“(5) a heritage immovable classified or recognized under the Cultural Heritage Act (*insert the year and chapter number of this Act*) or the planned site of which is situated on a heritage site declared, classified or recognized as such within the meaning of that Act.”

**223.** Section 72 of Schedule C to the Act is amended by replacing “classified as a historic district” in the second paragraph by “declared a heritage site”.

**224.** Section 124 of Schedule C to the Act is amended by replacing “in a historic district within the meaning of the Cultural Property Act (chapter B-4)” in the second paragraph by “on a heritage site declared as such within the meaning of the Cultural Heritage Act (*insert the year and chapter number of this Act*)”.

**225.** Section 125 of Schedule C to the Act is amended by replacing subparagraph 1 of the first paragraph by the following subparagraph:

“(1) heritage sites, protection areas and archaeological sites as defined in the Cultural Heritage Act (*insert the year and chapter number of this Act*);”.

#### ACT RESPECTING THE NATIONAL CAPITAL COMMISSION

**226.** Section 14 of the Act respecting the national capital commission (R.S.Q., chapter C-33.1) is amended by inserting the following paragraph after the second paragraph:

“The Commission shall also see to the maintenance and enhancement of the burial sites of Québec Prime Ministers, whether or not the sites are situated in the territory of the Communauté métropolitaine de Québec.”

#### ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

**227.** Section 285.4 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by replacing “classified historic monument or in a classified historic site within the meaning of the Cultural Property Act (chapter B-4) or in a site declared a national historical site under that Act” by “classified heritage immovable or on a classified heritage site within the meaning of the Cultural Heritage Act (*insert the year and chapter number of this Act*) or in an area declared a national heritage site under that Act”.

## ELECTION ACT

**228.** Section 259.4 of the Election Act (R.S.Q., chapter E-3.3) is amended by replacing “classified historic monument or in a classified historic site within the meaning of the Cultural Property Act (chapter B-4) or in a site declared a national historical site under that Act” by “classified heritage immovable, on a classified heritage site within the meaning of the Cultural Heritage Act (*insert the year and chapter number of this Act*) or in an area declared a national heritage site under that Act”.

## ACT RESPECTING MUNICIPAL TAXATION

**229.** Sections 253.33, 253.48 and 253.60 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) are amended by striking out “or section 33 of the Cultural Property Act (chapter B-4)” in the first paragraph.

**230.** Section 261.1 of the Act is amended by striking out paragraph 6.

## TAXATION ACT

**231.** Section 232 of the Taxation Act (R.S.Q., chapter I-3) is amended

(1) by replacing subparagraph *b* of the third paragraph by the following subparagraph:

“(b) a property that is classified, at the time of disposition, in accordance with the Cultural Heritage Act (*insert the year and chapter number of this Act*) and that has been disposed of to an institution or a public authority referred to in subparagraph *a*; and”;

(2) by replacing “Commission des biens culturels” in subparagraph *c* of the third paragraph by “Conseil du patrimoine culturel”.

**232.** Sections 710.2, 710.2.1, 712.0.1, 752.0.10.4, 752.0.10.4.0.1, 752.0.10.7 and 1129.17 of the Act are amended by replacing “Commission des biens culturels” by “Conseil du patrimoine culturel”.

**233.** Sections 710.3 and 752.0.10.4.1 of the Act are amended by replacing “7.14 of the Cultural Property Act (chapter B-4) or to a decision of a court resulting from an appeal under section 7.16 of that Act” in paragraph *a* by “105 of the Cultural Heritage Act (*insert the year and chapter number of this Act*) or to a decision of a court resulting from an appeal under section 107 of that Act”.

**234.** Section 1129.21 of the Act is amended by replacing “a property recognized in accordance with section 16 of the Cultural Property Act (chapter B-4) or classified in accordance with sections 24 to 29 of the latter Act” by “a property classified in accordance with the Cultural Heritage Act (*insert the year and chapter number of this Act*)”.

## ACT RESPECTING ADMINISTRATIVE JUSTICE

**235.** Schedule II to the Act respecting administrative justice (R.S.Q., chapter J-3) is amended by striking out paragraph 3.

## ACT RESPECTING THE MINISTÈRE DE LA CULTURE ET DES COMMUNICATIONS

**236.** Section 22.1 of the Act respecting the Ministère de la Culture et des Communications (R.S.Q., chapter M-17.1) is amended by replacing the second paragraph by the following paragraph:

“The Fund provides financial support for measures promoting knowledge of cultural heritage and the protection, enhancement and transmission of that heritage.”

**237.** Section 22.3 of the Act is amended by inserting the following paragraph after paragraph 4:

“(4.1) the fines collected under the Cultural Heritage Act (*insert the year and chapter number of this Act*) or a regulation under that Act, except those which belong to the municipalities or the Native communities under section 193 of that Act;”.

## ACT RESPECTING THE PRESERVATION OF AGRICULTURAL LAND AND AGRICULTURAL ACTIVITIES

**238.** Section 97 of the Act respecting the preservation of agricultural land and agricultural activities (R.S.Q., chapter P-41.1) is amended by striking out “in Chapter III of the Cultural Property Act (chapter B-4),”.

## ENVIRONMENT QUALITY ACT

**239.** Section 31.9 of the Environment Quality Act (R.S.Q., chapter Q-2) is amended by replacing “archaeological and historical sites and cultural property” in subparagraph *b* of the first paragraph by “archaeological sites and heritage property”.

## ACT RESPECTING THE RÉGIE DU LOGEMENT

**240.** Section 35 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1) is amended by striking out the third paragraph.

## CHAPTER XI

### TRANSITIONAL AND FINAL PROVISIONS

**241.** Up to one-half of the value entered on the assessment roll of the local municipality in whose territory a classified heritage property not used for commercial purposes is situated may be exempted from property tax for the municipal fiscal year 2011 to the extent and under the conditions provided by regulation of the Government.

For any heritage property exempted from property tax under the first paragraph, the Minister will pay, for the municipal fiscal year 2011, an amount equal to the amount of the reduction granted, at the times and on the conditions determined by regulation of the Government, to the local municipality on whose assessment roll the heritage property is entered.

Until new regulations are made by the Government under this section, the regulations under sections 33 and 53 of the Cultural Property Act (R.S.Q., chapter B-4) continue to apply for the purposes of this section.

**242.** Cultural property classified or recognized before (*insert the date of coming into force of this Act*) becomes classified heritage property under this Act. Archaeological sites classified before that date become classified heritage sites under this Act. As for historic sites classified before that date, they become classified heritage sites under this Act, except historic sites classified before 22 March 1978, which become classified heritage immovables.

**243.** Historic monuments designated as such before (*insert the date of coming into force of this Act*) become recognized heritage immovables under this Act.

**244.** Protected areas established for a historic monument classified before (*insert the date of coming into force of this Act*) become protection areas for classified heritage immovables under this Act. For historic monuments classified before 2 April 1986, the protection area is an area with a perimeter 152 metres from the immovable, subject to any change made by the Minister.

**245.** Historic districts and natural districts declared as such before (*insert the date of coming into force of this Act*) become heritage sites declared as such under this Act.

**246.** Heritage sites established before (*insert the date of coming into force of this Act*) become heritage sites recognized under this Act.

**247.** Sections 242 to 246 have effect for as long as it is not decided otherwise under this Act.

**248.** A classification or declaration process begun under the Cultural Property Act continues under the provisions of this Act relating to the classification or declaration process.

**249.** A process for the designation of a historic monument or for the establishment of a heritage site begun under the Cultural Property Act continues under the provisions of this Act relating to the heritage recognition process.

**250.** The register referred to in section 11 of the Cultural Property Act becomes the cultural heritage register referred to in section 5 of this Act.

**251.** The processing of an application for authorization filed with the Minister or a local municipality or of a prior notice given such a municipality under the Cultural Property Act before (*insert the date of coming into force of this Act*) continues under this Act.

**252.** The alienation of classified cultural property, other than movable property, made before (*insert the date of coming into force of this Act*) is deemed to have been authorized in accordance with section 32 of the Cultural Property Act in force at the time of the alienation.

In addition, the alienation of such property, made before (*insert the date of coming into force of this Act*), by an owner who, at the time of the alienation, was not a public body within the meaning of section 54 of this Act, is deemed to have been made in accordance with sections 20 to 23 of the Cultural Property Act in force at the time of the alienation.

**253.** The chair and vice-chair of the Commission des biens culturels du Québec in office on (*insert the date of the day before the date of coming into force of this Act*) continue in office as chair and vice-chair of the Conseil du patrimoine culturel du Québec on the same terms, for the unexpired portion of their term, until they are replaced or reappointed.

The other members of the Commission des biens culturels du Québec in office on (*insert the date of the day before the date of coming into force of this Act*) continue in office as members of the Conseil du patrimoine culturel du Québec on the same terms, for the unexpired portion of their term, until they are replaced or reappointed under section 87.

**254.** The processing of a request to determine the fair market value of cultural property submitted to the Commission des biens culturels du Québec before (*insert the date of coming into force of this Act*) is continued by the Conseil du patrimoine culturel du Québec, which will rule on the request in accordance with sections 103 to 106 of this Act.

In addition, from (*insert the date of coming into force of this Act*), sections 107 to 116 of this Act govern an appeal to have the fair market value set by the Commission des biens culturels du Québec in the certificate provided for in section 7.14 of the Cultural Property Act varied. For that purpose and for the purposes of the Taxation Act, a certificate issued under section 7.14 of the Cultural Property Act is deemed to be a certificate issued under section 105 of this Act.

**255.** The files, records, other documents and movable property of the Commission des biens culturels du Québec become the files, records, other documents and movable property of the Conseil du patrimoine culturel du Québec.

**256.** The sums allocated to the Commission des biens culturels du Québec are transferred to the Conseil du patrimoine culturel du Québec, to the extent determined by the Government.

**257.** The personnel of the Commission des biens culturels du Québec become the personnel of the Conseil du patrimoine culturel du Québec.

**258.** In any statute or statutory instrument, contract, order, program or other document, a reference to a provision of the Cultural Property Act is a reference to the corresponding provision of this Act.

**259.** Wherever it appears in a document, “national historic site” is replaced by “national heritage site”.

**260.** Regulations made under the Cultural Property Act remain in force to the extent that they are consistent with this Act and with the necessary modifications, until they are replaced or repealed by a regulation under this Act.

**261.** The Minister may obtain an order of the Superior Court referred to in section 195 of this Act with regard to an act or operation undertaken or continued before (*insert the date of coming into force of this Act*) in contravention of section 31, 31.1, 48, 49, 50 or 50.1 of the Cultural Property Act.

**262.** This Act replaces the Cultural Property Act.

**263.** The Minister of Culture and Communications is responsible for the administration of this Act.

[[**264.** For the fiscal year (*insert the two years covered by the fiscal year during which this section comes into force*) and to the extent determined by the Government, the sums required for the purposes of this Act are taken out of the consolidated revenue fund.]]

**265.** This Act comes into force on (*insert the date that occurs one year after the date of assent to this Act*), except section 236 which comes into force on (*insert the date of assent to this Act*).

SCHEDULE I  
(*Section 208*)

LAND OF THE NATIONAL HERITAGE SITE

That part of the territory bounded as follows by the following avenue, boulevard and streets, situated in the territory of Ville de Québec: on the northwest, by the southeast side of Boulevard René-Lévesque Est, on the northeast, by the southwest side of Avenue Honoré-Mercier, on the southeast, by the northwest side of Grande Allée Est, on the southwest, by the northeast side of Rue des Parlementaires, on the southeast, by the northwest side of Rue Saint-Amable and on the southwest, by the northeast side of Rue Louis-Alexandre-Taschereau.



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