



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 81
(2021, chapter 21)

**An Act to amend the Act respecting
the Montréal Museum of Fine Arts**

**Introduced 12 May 2021
Passed in principle 1 June 2021
Passed 9 June 2021
Assented to 10 June 2021**

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EXPLANATORY NOTES

The Act amends the Act respecting the Montréal Museum of Fine Arts to make provision for new rules regarding the organization and operation of the Museum, in particular the composition of the board of trustees and the procedures governing the appointment of its members, as well as the length of their term. The Act determines the board members' duties and responsibilities, including the responsibilities that come with the offices of chair of the board and director general.

The Act defines the functions of the board of trustees of the Museum and requires the establishment of a governance and ethics committee, an audit committee and a human resources committee, as well as the responsibilities and rules applicable to them.

Lastly, the Act contains transitional and final provisions.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting the Montréal Museum of Fine Arts (chapter M-42).

Bill 81

AN ACT TO AMEND THE ACT RESPECTING THE MONTRÉAL MUSEUM OF FINE ARTS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Act respecting the Montréal Museum of Fine Arts (chapter M-42) is amended by adding the following before section 1:

“CHAPTER I

“CONSTITUTION AND MISSION”.

2. Section 4 of the Act is amended by replacing “functions of the Museum shall be” by “mission of the Museum is to”.

3. Sections 5 to 19 of the Act are replaced by the following:

“CHAPTER II

“ORGANIZATION AND OPERATION

“DIVISION I

“BOARD OF TRUSTEES

“§1.—*Composition*

“**5.** The affairs of the Museum are administered by a board of trustees composed of 15 members, as follows:

- (1) the director general;
- (2) six members appointed by the Government, after consultation with bodies the Minister considers representative of the sectors concerned;
- (3) four members elected by the general meeting of the members of the Museum from among their own number; and
- (4) four members appointed by the vote of at least two-thirds of the members of the board referred to in subparagraphs 2 and 3 from among the members of the Museum.

The chair of the board of trustees is designated by the board members from among the members appointed or elected in accordance with subparagraphs 2 to 4 of the first paragraph.

The director general of the Museum is appointed by the other members of the board.

Only persons meeting the criteria set out in the expertise and experience profiles established by the board may be appointed or elected in accordance with this section.

“6. The members of the board of trustees appointed by the Government must, in the opinion of the Government, qualify as independent directors within the meaning of section 4 of the Act respecting the governance of state-owned enterprises (chapter G-1.02).

In addition, the Minister determines which board members, from among those appointed or elected in accordance with subparagraphs 3 and 4 of the first paragraph of section 5, qualify as independent directors within the meaning of the first paragraph.

Sections 5 to 7 of the Act respecting the governance of state-owned enterprises apply to the board members who qualify as independent directors, with the necessary modifications.

“7. One board member must be a member of the professional order of accountants mentioned in the Professional Code (chapter C-26).

“8. The composition of the board of trustees must tend towards gender parity. In addition, appointments to the board must ensure the presence of at least one person who is 35 years of age or under at the time of the person’s appointment and be representative of Québec society, including by ensuring the presence of persons from a variety of communities.

“9. The director general is appointed for a term of not more than five years, and the other board members for a term of not more than four years.

“10. The term of a board member referred to in subparagraphs 2 to 4 of the first paragraph of section 5 may be renewed twice, for a consecutive or non-consecutive term.

“11. At the end of their term, board members remain in office until replaced, reappointed or re-elected.

“12. A vacancy on the board is filled in accordance with the rules governing the appointment of the member to be replaced.

“§2.—*Functions*

“**13.** The board of trustees determines the Museum’s strategic directions, sees to their implementation and inquires into any matter it considers important.

“**14.** The board of trustees must adopt a general Museum collections management policy that includes

(1) the lines of development chosen for its collections in light of its mission and exhibition space;

(2) its acquisition policy; and

(3) its reserve-space management policy.

Not later than 15 days after adopting the policy or making any amendment to it, the Museum must send a copy to the Minister and make it available on its website.

The policy must be updated at least once every five years.

“**15.** The board of trustees exercises the functions described in section 15 of the Act respecting the governance of state-owned enterprises (chapter G-1.02), except those mentioned in paragraphs 11 and 13 to 15 of that section, and in sections 17 and 18 of that Act, with the necessary modifications.

The board also exercises the following functions, in particular,

(1) fixing the contributions to be paid for certain activities;

(2) fixing the entrance fees for Museum activities; and

(3) establishing art acquisition committees and determining their functions.

“**16.** The board of trustees may adopt a by-law which may concern, in particular,

(1) the admission, suspension, expulsion and disciplining of the members of the Museum and the establishment of various classes of members;

(2) the determination of the amount of the required dues for each class of member of the Museum;

(3) the calling of meetings of Museum members and meetings of the board of trustees, the procedure to be followed at meetings and, in the case of meetings of the members, the quorum required at them;

(4) the conditions required to run for the office of an elected board member;

(5) the procedure governing the election of board members elected by the general meeting of the members of the Museum;

(6) the duties of board members;

(7) the establishment, composition and functions of committees within the Museum or board of trustees, except the establishment and functions of art acquisition committees and those established under section 20;

(8) the protection and proper use of the premises;

(9) the cases in which a member's repeated absence from board meetings constitutes a vacancy; and

(10) the determination of conditions for the acquisition, alienation, leasing, lending, borrowing, donation, exchange, preservation or restoration of property that are the works of man or the products of nature.

The by-law must be approved by the general meeting of the members of the Museum and by the Minister, and must be available on the Museum's website.

The by-law must be reviewed at the Minister's request or not later than every 10 years from the last review.

“17. The quorum at board meetings is a majority of the board members, including the chair of the board or the director general.

Board decisions are made by a majority vote of the members present. In the case of a tie vote, the chair has a casting vote.

“18. The minutes of board meetings, approved by the board and certified true by the chair of the board or by any other person authorized to do so under a Museum by-law, are authentic. This also applies to documents or copies of documents emanating from the Museum or forming part of its records, provided they are so certified true.

“§3.—Conflicts of interest

“19. The director general may not have a direct or indirect interest in a body, enterprise or association that places his or her personal interests in conflict with those of the Museum. If such an interest devolves to the director general, including by succession or gift, it must be renounced or disposed of with dispatch.

Any other board member who has a direct or indirect interest in a body, enterprise or association that places the member's personal interests in conflict with those of the Museum must disclose it in writing to the chair of the board or, in the case of a disclosure by the chair of the board, to the director general,

and abstain from participating in any discussion or decision involving that body, enterprise or association. The member must also withdraw from a meeting while the matter is discussed or voted on.

This section does not prevent a board member from expressing an opinion on general measures relating to conditions of employment within the Museum which would also apply to the board member.

“DIVISION II

“COMMITTEES

“**20.** The board of trustees must establish the following committees:

- (1) a governance and ethics committee;
- (2) an audit committee; and
- (3) a human resources committee.

The governance and ethics committee and the human resources committee must be composed, in the majority, of independent members within the meaning of section 6.

The audit committee must be composed solely of independent members.

The director general may not be a member of those committees.

“**21.** The responsibilities and rules applicable to the committees established under section 20 are those set out in sections 22 to 27 of the Act respecting the governance of state-owned enterprises (chapter G-1.02), with the necessary modifications.

“DIVISION III

“OFFICES OF THE CHAIR AND OF THE DIRECTOR GENERAL

“§1.—*Chair*

“**22.** The functions of the chair of the board of trustees are, in particular, to preside at meetings of the board and see to its proper operation.

The chair also sees to the proper operation of the board committees and may take part in any committee meeting.

The offices of chair of the board and director general may not be held concurrently.

“**23.** The chair of the board of trustees evaluates the performance of the other board members according to criteria established by the board.

The chair also assumes any other function assigned by the board.

“24. If the chair is absent or unable to act, the board of trustees designates one of the chairs of the committees referred to in section 20 to temporarily exercise the functions of the chair.

“§2.—Director general

“25. The director general is responsible for the direction and management of the Museum within the framework of its by-laws and policies.

The director general proposes strategic directions to the board of trustees, as well as a capital plan and an operating plan for the Museum.

The director general also assumes any other function assigned by the board.

“26. The director general must ensure that the board of trustees is given, at its request, adequate human, material and financial resources to enable it and its committees to perform their functions.

“27. The office of director general is a full-time position.

“28. If the director general is absent or unable to act, the board of trustees may designate a Museum personnel member to temporarily exercise the functions of the director general.

“CHAPTER III

“POWERS AND RESPONSIBILITIES

“29. The Museum may, in particular,

- (1) appear before the courts;
- (2) acquire, hold, administer, sell, lease or alienate any movable property necessary or useful for the attainment of its objects;
- (3) acquire or alienate immovables with the authorization of the Minister;
- (4) lease spaces for businesses in immovables owned by the Museum, in accordance with the utilization plan approved by the Minister in accordance with section 36;
- (5) acquire and operate businesses in the spaces reserved for that purpose in accordance with the utilization plan approved by the Minister;
- (6) make, with any person or body, any agreement it sees fit; and
- (7) contract loans, subject to the provisions of section 30.

“30. The Museum may, if authorized by the vote of at least two-thirds of the members present at a general meeting duly called for that purpose and if authorized by the Minister and by the Minister of Finance,

- (1) contract long-term loans;
- (2) issue, reissue, sell or hypothecate its debt obligations; and
- (3) hypothecate all or any of its property, owned or subsequently acquired, to secure any loan.

Only the vote of at least two-thirds of the members present at a general meeting duly called for that purpose and the authorization of the Minister are required to enable the Museum to hypothecate all or any of its property, owned or subsequently acquired, to secure any other obligation.

Only the authorization of the Minister and the authorization of the Minister of Finance are required when the sums necessary for repayment of a loan come from a subsidy granted by the Minister for that purpose or when a movable hypothec without delivery on that subsidy was granted to guarantee such a loan.

“31. The Museum must prepare a strategic plan and send it to the Minister within the time limit set by the Minister. The plan must include, in particular,

- (1) the context in which the Museum operates and the main challenges it faces;
- (2) the Museum’s objectives and strategic directions;
- (3) the results targeted for the period covered by the plan; and
- (4) the performance indicators to be used in measuring results.

“32. The fiscal period of the Museum ends on 31 March each year.

“33. The annual general meeting of the members of the Museum must be held within the six months following the end of the fiscal period of the Museum.

“34. The books and accounts of the Museum must be audited every year by an external auditor appointed by the general meeting of the members of the Museum.

The auditor’s report must accompany the annual activity report and the financial statements of the Museum.

“35. The Museum must, within six months from the end of its fiscal period, file its financial statements accompanied by the auditor’s report and an annual activity report for the preceding fiscal period with the Minister. The financial statements and the annual activity report must contain all the information required by the Minister.

In particular, the annual activity report must also include the information required under sections 36 to 38 of the Act respecting the governance of state-owned enterprises (chapter G-1.02), with the necessary modifications.

The Minister tables the reports and the financial statements in the National Assembly within 30 days of receiving them, or, if it is not sitting, within 30 days of resumption.

“36. The Museum must prepare a utilization plan for the spaces which it owns and reserves for businesses; it must submit the plan to the Minister every three years for approval.

“37. The Museum must provide the Minister with any information the Minister requires on its activities.

“38. The Minister of Culture and Communications is responsible for the administration of this Act.”

TRANSITIONAL AND FINAL PROVISIONS

4. Despite sections 5 to 12 of the Act respecting the Montréal Museum of Fine Arts (chapter M-42), enacted by section 3 of this Act, the term of office of the members of the Museum’s board of trustees, in office on 10 June 2021, as well as the term of any member appointed or elected after that date, ends on 30 June 2022. For that purpose, sections 5 to 8 of the Act respecting the Montréal Museum of Fine Arts, as they read on 9 June 2021, continue to apply.

For the purposes of sections 20 and 21 of the Act respecting the Montréal Museum of Fine Arts, enacted by section 3 of this Act, the Minister of Culture and Communications may determine which board members, from among those referred to in the first paragraph, qualify as independent directors within the meaning of section 4 of the Act respecting the governance of state-owned enterprises (chapter G-1.02).

This section does not apply to the board members referred to in the first paragraph of section 6 of this Act.

5. The Museum must take the necessary measures to hold the election of the members of the board of trustees referred to in subparagraph 3 of the first paragraph of section 5 of the Act respecting the Montréal Museum of Fine Arts, enacted by section 3 of this Act, not later than 30 June 2022.

6. The term of the members of the board of trustees appointed or elected during the first appointments made under subparagraphs 2 and 3 of the first paragraph of section 5 of the Act respecting the Montréal Museum of Fine Arts, enacted by section 3 of this Act, begins on 1 July 2022.

Those members must appoint the members of the board referred to in subparagraph 4 of the first paragraph of section 5 of the Act respecting the Montréal Museum of Fine Arts, enacted by section 3 of this Act, not later than 31 July 2022.

7. Despite subparagraph 1 of the first paragraph of section 5 of the Act respecting the Montréal Museum of Fine Arts, enacted by section 3 of this Act, the director general of the Museum shall become a member of the Museum's board of trustees only as of 1 July 2022.

8. The experience and expertise profiles referred to in the fourth paragraph of section 5 of the Act respecting the Montréal Museum of Fine Arts, enacted by section 3 of this Act, must be established by the Museum's board of trustees and sent to the Minister not later than 7 December 2021.

9. Despite section 10 of the Act respecting the Montréal Museum of Fine Arts, enacted by section 3 of this Act, a member of the board of trustees in office on 10 June 2021 who is in his or her third term may be appointed or elected for a final term.

10. The first general Museum collections management policy adopted under section 14 of the Act respecting the Montréal Museum of Fine Arts, enacted by section 3 of this Act, must be adopted not later than 10 June 2022.

11. The Museum must have a new by-law approved not later than 30 June 2022 by the general meeting of the members and by the Minister.

12. The first fiscal period to be covered by the strategic plan prepared under section 31 of the Act respecting the Montréal Museum of Fine Arts, enacted by section 3 of this Act, is the 2022–2023 fiscal period.

13. This Act comes into force on 10 June 2021.