



# Heritage Property Act

CHAPTER 199

OF THE

REVISED STATUTES, 1989

amended 1991, c. 10; 1998, c. 18, s. 561; 2010, c. 54

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## An Act to Provide for the Identification, Preservation and Protection of Heritage Property

### Short title

1 This Act may be cited as the Heritage Property Act. *R.S., c. 199, s. 1.*

### Purpose

2 The purpose of this Act is to provide for the identification, designation, preservation, conservation, protection and rehabilitation of buildings, public-building interiors, structures,

streetscapes, cultural landscapes, areas and districts of historic, architectural or cultural value, in both urban and rural areas, and to encourage their continued use. *R.S., c. 199, s. 2; 1991, c. 10, s. 1; 2010, c. 54, s. 1.*

## **Interpretation**

3 In this Act,

(a) "Advisory Council" means the Advisory Council on Heritage Property;

(b) "alter the exterior appearance" includes move in whole or in part;

(c) "building" includes the land and structures appurtenant thereto;

(ca) "certificate" means a certificate of appropriateness issued by a heritage officer certifying that a proposed development conforms with the requirements of a conservation by-law;

(caa) "character-defining elements" means the materials, forms, location, spatial configurations, uses and cultural associations or meanings that contribute to heritage value and that must be sustained in order to preserve heritage value;

(cb) "conservation by-law" means a heritage conservation district by-law adopted and approved pursuant to this Act;

(cc) "conservation plan" means a heritage conservation district plan adopted and approved pursuant to this Act;

(d) "council" means council of a municipality;

(da) "cultural landscapes" means a distinct geographical area or property uniquely representing the combined work of nature and of people.

(daa) "development" includes the demolition or removal of a building or structure;

(e) "heritage advisory committee" means a heritage advisory committee established by a municipality pursuant to this Act;

(ea) "heritage conservation district" means an urban or rural area with historic or architectural value that is established as a heritage conservation district pursuant to this Act;

(eb) "heritage value" means the aesthetic, historic, scientific, cultural, social or spiritual importance or significance for past, present or future generations and embodied in character-defining materials, forms, locations, spatial configurations, uses and cultural associations or meanings;

(f) "Minister" means the member of the Executive Council charged by the Governor in Council with the administration of this Act;

(g) "municipal heritage property" means a building, public-building interior, streetscape, cultural landscape or area registered in a municipal registry of heritage property;

(h) "municipality" means a regional municipality, incorporated town or municipality of a county or district;

(ha) "prescribed" means prescribed by the regulations;

(i) "provincial heritage property" means a building, public-building interior, streetscape, cultural landscape or area registered in the Provincial Registry of Heritage Property;

(ia) "public-building interiors" means character-defining elements of publicly accessible interiors of a building owned by the Government of the Province in the case of a provincial heritage property or owned by a municipality in the case of a municipal heritage property;

(ib) "regional municipality" means a regional municipality as defined in the Municipal Government Act;

(j) "registered owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the registry of deeds, and includes a person assessed in respect of the occupancy of the land;

(k) "streetscape" means two or more adjacent properties whose collective appearance from the streets has heritage value.[:]

(k[l]) "substantial alteration" means any action that affects or alters the character-defining elements of a property. *R.S., c. 199, s. 3; 1991, c. 10, s. 2; 2010, c. 54, ss. 1, 2.*

### **Advisory Council on Heritage Property**

4 (1) The Governor in Council may appoint not less than five nor more than twelve persons to be the Advisory Council on Heritage Property.

(1A) The Governor in Council shall consider any criteria set out in the regulations in the selection of persons to be appointed pursuant to subsection (1).

(2) The Governor in Council shall designate one of the members of the Advisory Council to be Chairman and one of the members to be Vice-chairman.

(3) A member of the Advisory Council shall hold office for such term as the Governor in Council determines.

(4) The members of the Advisory Council shall be paid such remuneration as is determined by the Governor in Council and actual and reasonable expenses incurred by them in the discharge of their duties. *R.S., c. 199, s. 4; 2010, c. 54, s. 3.*

### **Powers of Advisory Council**

5 The Advisory Council may advise the Minister respecting

- (a) the inclusion of buildings, public-building interiors, streetscapes, cultural landscapes and areas in the Provincial Registry of Heritage Property;
- (b) an application for permission to substantially alter or demolish a provincial heritage property;
- (c) building or other regulations that affect the attainment of the intent and purpose of this Act;
- (d) any other matters conducive to the effective carrying out of the intent and purpose of this Act. *R.S., c. 199, s. 5; 2010, c. 54, s. 4.*

### **Provincial Registry of Heritage Property**

6 The Minister shall establish and maintain a Provincial Registry of Heritage Property. *R.S., c. 199, s. 6.*

### **Recommendation as provincial heritage property**

7 (1) The Advisory Council may recommend to the Minister that a building, public-building interior, streetscape, cultural landscape or area be registered as a provincial heritage property in the Provincial Registry of Heritage Property.

(1A) Before making a recommendation pursuant to subsection (1), the Advisory Council shall evaluate the provincial heritage value of a property against any baseline criteria established by the regulations.

(2) The Minister shall cause notice of the recommendation to be served upon each registered owner of the building, public-building interior, streetscape, cultural landscape or area that is the subject of the recommendation at least thirty days prior to registration of the building, [public-building interior,] streetscape[, cultural landscape] or area in the Provincial Registry of Heritage Property.

(3) The notice shall contain

- (a) a statement that the building, public-building interior, streetscape, cultural landscape or area described in the notice has been recommended for registration in the Provincial Registry of Heritage Property;
- (b) a brief statement of the reasons for the recommendation;

(c) a summary of the consequences of registration;

(d) a statement that no person shall substantially alter the exterior appearance of or demolish the building, public-building interior, streetscape, cultural landscape or area for one hundred and twenty days after the notice is served unless the Minister sooner refuses to register the property; and

(e) an invitation to the registered owner to comment on the proposed registration.

(4) No person shall substantially alter the exterior appearance of or demolish a building, public-building interior, streetscape, cultural landscape or area for one hundred and twenty days after a notice respecting the building, public-building interior, streetscape, cultural landscape or area has been served pursuant to subsection (2) except in those cases where, prior to the expiration of one hundred and twenty days, the Minister refuses to register the property.

(5) A copy of the notice served pursuant to subsection (2) shall be deposited in the registry of deeds for the registration district in which the building, public-building interior, streetscape, cultural landscape or area is situate. *R.S., c. 199, s. 7; 2010, c. 54, s. 5.*

### **Registration as provincial heritage property**

8 (1) At any time not less than thirty days nor more than one hundred and twenty days after service of the notice pursuant to Section 7 and on the advice of the Advisory Council, the Minister may register the building, public-building interior, streetscape, cultural landscape or area as a provincial heritage property in the Provincial Registry of Heritage Property.

(2) Notice of the registration or the refusal to register shall be served upon each registered owner of the building, public-building interior, streetscape, cultural landscape or area and a copy thereof shall be deposited in the registry of deeds for the registration district in which the building, public-building interior, streetscape, cultural landscape or area is situate. *R.S., c. 199, s. 8; 2010, c. 54, s. 6.*

### **Deregistration of provincial heritage property**

9 (1) On the application of an owner of a provincial heritage property or on its own motion, the Advisory Council may recommend to the Minister that the provincial heritage property cease to be registered in the Provincial Registry of Heritage Property.

(2) Such a recommendation may be made where

(a) the property has been destroyed or damaged by any cause; or

(b) the continued registration of the property appears to the Advisory Council to be inappropriate as a result of the loss of the property's heritage value, as identified in the property's heritage file or notice of recommendation, unless the loss of the heritage value was caused by neglect, abandonment or other action or inaction of the owner .

(3) Where the Minister receives a recommendation for deregistration from the Advisory Council or where it appears to the Minister that the continued registration is inappropriate, the Minister may deregister a provincial heritage property not less than thirty days after a notice giving particulars of the proposed deregistration is served on the registered owner of the provincial heritage property and published in a newspaper circulating in the area where

(a) the property has been destroyed or damaged by any cause; or

(b) the continued registration of the property appears to the Minister to be inappropriate as a result of the loss of the property's heritage value, as identified in the property's heritage file or notice of recommendation, unless the loss of the heritage value was caused by neglect, abandonment or other action or inaction of the owner .

(4) Where the Minister deregisters a property, the Minister shall cause notice of the deregistration to be sent to the registered owner of the property and a copy thereof to be deposited in the registry of deeds for the registration district in which the property is situate. *R.S., c. 199, s. 9; 2010, s. 54, s. 7.*

### **Sign or plaque**

10 The Minister may cause a sign, plaque or other marker to be placed on a provincial heritage property indicating the significance of that property. *R.S., c. 199, s. 10.*

### **Approval to alter or demolish**

11 (1) Provincial heritage property shall not be substantially altered in exterior or public-building interior appearance or demolished without the approval of the Governor in Council.

(2) An application for permission to substantially alter the exterior or public-building interior appearance of or demolish provincial heritage property shall be made in writing to the Minister.

(3) Upon receipt of the application, the Minister shall refer the application to the Advisory Council for its recommendation.

(3A) The Advisory Council shall assess the application using any standards and guidelines set out in the regulations.

(4) Within thirty days after the application is referred by the Minister, the Advisory Council shall submit a written report and recommendation to the Minister respecting the provincial heritage property.

(5) The Minister shall present the recommendation of the Advisory Council to the Governor in Council for consideration.

(6) The Governor in Council may grant the application either with or without conditions or may refuse it.

(7) The Minister shall advise the applicant of the determination made by the Governor in Council. *R.S., c. 199, s. 11; 2010, c. 54, s. 8.*

### **Municipal registry of heritage property and heritage advisory committee**

12 (1) A municipality may by by-law establish a municipal registry of heritage property.

(2) A by-law made pursuant to this Section shall provide for the establishment of a heritage advisory committee.

(3) The heritage advisory committee shall consist of at least two members of the council and such persons or such number of persons as the council may determine by by-law.

(4) The by-law may provide the term for which members of the heritage advisory committee shall serve.

(5) The by-law may provide that the planning advisory committee of the municipality shall be the heritage advisory committee of the municipality.

(6) A by-law made pursuant to this Section is subject to the approval of the Minister of Municipal Affairs, and when so approved has the force of law. *R.S., c. 199, s. 12.*

### **Powers of heritage advisory committee**

13 The heritage advisory committee may advise the municipality respecting

(a) the inclusion of buildings, public-building interiors, streetscapes, cultural landscapes and areas in the municipal registry of heritage property;

(b) an application for permission to substantially alter or demolish a municipal heritage property;

(ba) the preparation, amendment, revision or repeal of a conservation plan and conservation by-law;

(bb) the administration of heritage conservation districts pursuant to the provisions of this Act;

(bc) an application for a certificate that is required by this Act or the conservation plan and conservation by-law to go to a public hearing;

(c) building or other regulations that affect the attainment of the intent and purpose of this Act;

(d) any other matters conducive to the effective carrying out of the intent and purpose of this Act. *R.S., c. 199, s. 13; 1991, c. 10, s. 3; 2010, c. 54, s. 9.*

### **Recommendation as municipal heritage property**

14 (1) A heritage advisory committee may recommend to the municipality that a building, public-building interior, streetscape, cultural landscape or area be registered as a municipal heritage property in the municipal registry of heritage property.

(2) The municipality shall cause notice of the recommendation to be served upon each registered owner of the building, public-building interior, streetscape, cultural landscape or area that is the subject of the recommendation at least thirty days prior to registration of the building, public-building interior, streetscape, cultural landscape or area in the municipal registry of heritage property.

(3) The notice shall contain

(a) a statement that the building, public-building interior, streetscape, cultural landscape or area described in the notice has been recommended for registration in the municipal registry of heritage property;

(b) a brief statement of the reasons for the recommendation;

(c) a summary of the consequences of registration;

(d) a statement that no person shall substantially alter the exterior appearance of or demolish the building, public-building interior, streetscape, cultural landscape or area for one hundred and twenty days after the notice is served unless the municipality sooner refuses to register the property; and

(e) notification of the right of the owner to be heard and of the time and place for the hearing.

(4) No person shall substantially alter the exterior appearance of or demolish a building, public-building interior, streetscape, cultural landscape or area for one hundred and twenty days after a notice respecting the building, public-building interior, streetscape, cultural landscape or area has been served pursuant to subsection (2) except in those cases where, prior to the expiration of one hundred and twenty days, the municipality refuses to register the property.

(5) A copy of the notice served pursuant to subsection (2) shall be deposited in the registry of deeds for the registration district in which the building, public-building interior, streetscape, cultural landscape or area is situate. *R.S., c. 199, s. 14; 2010, c. 54, s. 10.*

### **Registration as municipal heritage property**

15 (1) At any time not less than thirty days nor more than one hundred and twenty days after service of the notice pursuant to Section 14 and on the advice of the heritage advisory committee, the municipality may register the building, public-building interior, streetscape, cultural landscape or area as a municipal heritage property in the municipal registry of heritage property.



(2) No registration pursuant to subsection (1) shall take place until the council has given the owner of the property an opportunity to be heard and such opportunity shall be given not earlier than three weeks after service of the notice pursuant to subsection (2) of Section 14.

(3) Notice of the registration shall be sent to each registered owner of the building, public-building interior, streetscape, cultural landscape or area and a copy thereof shall be deposited in the registry of deeds for the registration district in which the building, streetscape or area is situate. *R.S., c. 199, s. 15; 2010, s. 54, s. 11.*

### **Deregistration of municipal heritage property**

16 (1) On the application of an owner of a municipal heritage property or on its own motion, the council may deregister a municipal heritage property where

(a) the property has been destroyed or damaged by any cause; or

(b) the continued registration of the property appears to the council to be inappropriate as a result of the loss of the property's heritage value, as identified in the property's heritage file or notice of recommendation, unless the loss of the heritage value was caused by neglect, abandonment or other action or inaction of the owner ,

after holding a public hearing to consider the proposed deregistration.

(2) Such a public hearing shall be held not less than thirty days after a notice of the hearing is served on the registered owner of the municipal heritage property and published in a newspaper circulating in the area.

(3) Where a municipal heritage property is deregistered, the council shall cause notice of the deregistration to be sent to the registered owner of the property and a copy thereof to be deposited in the registry of deeds for the registration district in which the property is situate. *R.S., c. 199, s. 16; 2010, c. 54, s. 12.*

### **Approval to alter or demolish municipal heritage property**

17 (1) Municipal heritage property shall not be substantially altered in exterior or public-building interior appearance or demolished without the approval of the municipality.

(2) An application for permission to substantially alter the exterior or public-building interior appearance of or demolish municipal heritage property shall be made in writing to the municipality.

(3) Upon receipt of the application, the municipality shall refer the application to the heritage advisory committee for its recommendation.

(4) Within thirty days after the application is referred by the municipality, the heritage advisory committee shall submit a written report and recommendation to the municipality respecting the municipal heritage property.

(5) The municipality may grant the application either with or without conditions or may refuse it.

(6) The municipality shall advise the applicant of its determination. *R.S., c. 199, s. 17; 2010, c. 54, s. 13.*

### **Consideration by municipality of application to alter or demolish**

18 (1) The municipality may take up to three years to consider an application under Section 17.

(2) In its consideration of the application, the municipality may require public notice of the application and information meetings respecting the application to be held.

(3) Where the municipality does not approve the application, the property owner may, notwithstanding Section 17, make the alteration or carry out the demolition at any time after three years from the date of the application but not more than four years after the date of the application.

(4) Where the property owner has made the alteration or carried out the demolition in accordance with this Section, the municipality may deregister the property if the municipality determines that the property has lost its heritage value. *2010, c. 54, s. 14.*

### **Sign or plaque**

19 The municipality may cause a sign, plaque or other marker to be placed on a municipal heritage property indicating the significance of that property. *R.S., c. 199, s. 19.*

### **Establishment of heritage conservation district**

19A (1) A municipality may establish a heritage conservation district by concurrently adopting a heritage conservation district plan and a heritage conservation district by-law for a part of the municipality and there may be different conservation plans and conservation by-laws for different parts of the municipality.

(2) A conservation by-law made pursuant to this Section shall provide for the establishment of a heritage advisory committee and subsections (3) to (5) of Section 12 apply mutatis mutandis unless a heritage advisory committee is established pursuant to Section 12.

(3) A conservation plan and conservation by-law shall be adopted by a majority vote of the whole council after a public hearing and consideration of any submissions received, but only those councillors present at the public hearing may vote upon the adoption of the conservation plan and conservation by-law.

(4) The Minister shall forward a copy of the conservation plan and conservation by-law and the prescribed background studies and information to the Minister responsible for the Municipal Government Act for that Minister's recommendation.

(5) The Minister shall approve a conservation plan and conservation by-law unless

(a) the conservation by-law does not carry out the intent of the conservation plan;

(b) the conservation plan is not implemented by the conservation by-law;

(c) the prescribed background studies or information do not support the conservation plan or conservation by-law;

(d) the conservation plan or conservation by-law conflicts with an applicable provincial land-use policy or regulation adopted pursuant to the Municipal Government Act;

(e) the conservation plan or conservation by-law conflicts with the applicable municipal planning strategy or land-use by-law;

(f) in the opinion of the Minister, there is a conflict with any other provincial interest,

and they take effect on and not before approval by the Minister.

(6) A conservation plan and conservation by-law approved by the Minister pursuant to subsection (5) may concurrently be amended, revised or repealed by the council and subsections (3) to (5) apply *mutatis mutandis*.

(7) Where a proposed heritage conservation district includes a provincial heritage property, the Minister shall refer the proposed conservation plan and conservation by-law to the Advisory Council for its recommendation and, upon consideration of the recommendation, shall determine that the conservation plan and conservation by-law

(a) apply to the provincial heritage property and that Sections 7 to 11 do not apply to the provincial heritage property;

(b) apply to the provincial heritage property to the extent determined by the Minister and subject to such conditions as the Minister determines; or

(c) do not apply to the provincial heritage property.

(8) Where a building, streetscape or area in an established heritage conservation district is to be designated as a provincial heritage property, the Minister may determine that the conservation plan and conservation by-law apply or do not apply to the provincial heritage property to the extent determined by the Minister and subject to such conditions as the Minister determines.  
*1991, c. 10, s. 4; 2010, c. 54, s. 15.*

### **Consequences of establishing district**

19B (1) Where a heritage conservation district is established,

(a) no further building, streetscape or area in the district shall be registered as a municipal heritage property;

(b) Section 18 does not apply to any municipal heritage property within the district;

(c) the conservation plan and conservation by-law shall include

(i) policies respecting demolition or removal of municipal heritage properties within the district, and

(ii) a requirement that a certificate be issued for demolition or removal of any municipal heritage property within the district; and

(d) notwithstanding clause (c) and for greater certainty, Section 17 continues to apply to a municipal heritage property within the district.

(2) Subject to subsection (1), a municipal heritage property located in a heritage conservation district continues to be a municipal heritage property. *1991, c. 10, s. 4.*

### **Design guidelines**

19C Design guidelines included in a conservation by-law shall

(a) with respect to a building or structure, address only the exterior of the building or structure;

(b) not address the use to which land, a building or a structure may be put. *1991, c. 10, s. 4.*

### **Prohibited restriction in by-law**

19D A restriction in a conservation by-law that does not permit a building of any kind on a lot is ultra vires. *1991, c. 10, s. 4.*

### **Certificate for development**

19E (1) Where a council has adopted a conservation plan and conservation by-law, a certificate is required to undertake the types of development for which a certificate is required by the conservation by-law.

(2) A certificate shall be issued for a proposed development if the development meets the requirements of the conservation by-law or is approved by the council following a public hearing where the conservation plan and conservation by-law require such a hearing.

(3) No certificate that is or may be inconsistent with the proposed amendment or revision of a conservation by-law shall be issued for a period of one hundred and twenty days from the date of publication of the first notice advertising the intention of the council to amend or revise the conservation plan and conservation by-law.

(4) Where the proposed amendment or revision of the conservation plan and conservation by-law has not come into effect after the expiry of the time specified in subsection (3), the certificate shall be issued if, in all other respects, it meets the requirements of the conservation by-law or is approved by the council, as the case may be, following a public hearing, where one is required pursuant to this Act or the conservation plan and conservation by-law.

(5) No development permit granted pursuant to the Planning Act and no permit granted pursuant to the Building Code Act and regulations that is or may be inconsistent with a proposed conservation by-law, or an amendment or revision thereof, shall be issued for a period of one hundred and twenty days from the publication of the first notice advertising the intention of the council to adopt, amend or revise the conservation plan and conservation by-law.

(6) Where the proposed conservation plan and conservation by-law, or amendment or revision thereof, has not come into effect after the expiry of the time specified in subsection (5), the permits referred to in subsection (5) shall be issued if, in all other respects, they meet the requirements of applicable by-laws of the municipality. *1991, c. 10, s. 4.*

### **Public hearing and conditions for approval of demolition or removal**

19F (1) Where the conservation plan and conservation by-law require that a certificate be issued for demolition or removal of a building or structure in a heritage conservation district, the council shall hold a public hearing.

(2) Where the council considers an application for a certificate for demolition or removal of a building or structure, the council shall not approve the application unless

(a) there is irreversible structural damage or deterioration to the building or structure; or

(b) the applicable policies of the conservation plan respecting demolition or removal of the building or structure are met. *1991, c. 10, s. 4.*

### **Heritage officer**

19G (1) A council that has adopted a conservation plan and conservation by-law shall designate a person employed by the municipality as the heritage officer and the heritage officer shall be responsible for the administration of the conservation plan and conservation by-law and the issuance of certificates.

(2) A council may, from time to time, authorize another person to act in the heritage officer's stead.

(3) Within fifteen days of receiving an application for a certificate, the heritage officer shall inform the applicant whether or not the application is complete.

(4) Where no public hearing is required pursuant to a conservation plan and conservation by-law, within thirty days of receiving a completed application, the heritage officer shall grant the certificate if it meets the requirements of the conservation by-law or inform the applicant, in writing, of the reasons for not granting the certificate.

(5) Where required to do so by a conservation plan and conservation by-law, the heritage officer shall refer the application for a certificate to the council for a public hearing and shall issue or deny the certificate in accordance with the decision of council, but no certificate shall be issued until the time for appeal has elapsed or the appeal has been disposed of, whichever is the longer. *1991, c. 10, s. 4; 1998, c. 18, s. 561.*

#### **Appeal re subsections 19G(4) and (5)**

19H (1) The denial of a certificate or the imposition of conditions on a certificate granted pursuant to subsection 19G(4) may be appealed to the Nova Scotia Utility and Review Board by the applicant for the certificate.

(1A) The approval, imposition of conditions on or denial of a certificate pursuant to subsection 19G (5) may be appealed to the Nova Scotia Utility and Review Board by

(a) the applicant for the certificate;

(b) an aggrieved person;

(c) the council of a municipality adjoining the heritage conservation district to which the certificate relates;

(d) an official in the public service designated by the Minister.

(2) In subsection (1), "aggrieved person" includes

(a) an individual who bona fide believes that the proposed certificate will adversely affect

(i) the value of or the reasonable enjoyment of that person's property, or

(ii) the reasonable enjoyment of the property occupied by that person;

(b) an incorporated organization the objects of which include promoting or protecting

(i) the quality of life of persons resident in the neighbourhood affected by the council's decision, or

(ii) features, structures or sites of the community affected by the council's decision of significant historic, architectural or cultural value; and

(c) an incorporated or unincorporated organization of which the majority of its members are persons who are aggrieved persons pursuant to clause (a).

(3) The Board shall

(a) confirm the decision of the heritage officer or the council, as the case may be;

(b) make any decision the heritage officer or the council, as the case may be, could have made; or

(c) refer the matter back to the heritage officer or council, as the case may be, for reconsideration.

(4) The Board shall not interfere with the decision of the heritage officer or the council, as the case may be, unless the decision cannot reasonably be said to be consistent with the conservation by-law or clause (a) of subsection (2) of Section 19F. *1991, c. 10, s. 4; 1998, c. 18, s. 561.*

### **Conflict with Building Code Act**

19I Where there is a conflict between this Act or the regulations and the Building Code Act or regulations, the Building Code Act and regulations prevail. *1991, c. 10, s. 4.*

### **Severability of by-law**

19J The provisions of a conservation by-law are severable and the illegality of any part does not affect the validity of the rest of the conservation by-law. *1991, c. 10, s. 4.*

### **Agreement between Minister and owner**

20 (1) The Minister may enter into an agreement with the owner of a provincial heritage property, and the council may enter into an agreement with the owner of municipal heritage property or property located in a heritage conservation district, whereby the owner grants to the Minister or the council a right or incurs an obligation respecting the use, preservation or protection of the heritage property or property located in a heritage conservation district.

(2) An agreement entered into pursuant to subsection (1) shall be deposited in the registry of deeds for the registration district within which the heritage property or property located in a heritage conservation district is situate.

(3) Where an agreement is deposited in the registry of deeds, the right or obligation given by the owner becomes an encumbrance upon and runs with the property, and the Minister, in respect of provincial heritage property, and the municipality, in respect of municipal heritage property or property located in a heritage conservation district, may enforce the right or obligation against the property and against the owner or any subsequent owners of the property.

(4) A right or obligation created by an agreement made pursuant to subsection (1) may be waived or discharged by the Governor in Council in respect of provincial heritage property and by the municipality in respect of municipal heritage property or property located in a heritage conservation district. *R.S., c. 199, s. 20; 1991, c. 10, s. 5.*

### **Appeal re agreement**

20A (1) The entering into an agreement or waiving or discharging of a right or condition in an agreement by a council pursuant to Section 20 may be appealed to the Nova Scotia Utility and Review Board by

(a) an aggrieved person;

(b) the council of a municipality adjoining the heritage conservation district to which the agreement relates;

(c) an official in the public service designated by the Minister.

(2) In subsection (1), "aggrieved person" includes

(a) an individual who bona fide believes that the proposed agreement or waiver or discharge of a right or condition in the agreement will adversely affect

(i) the value of or the reasonable enjoyment of that person's property, or

(ii) the reasonable enjoyment of the property occupied by that person;

(b) an incorporated organization the objects of which include promoting or protecting

(i) the quality of life of persons resident in the neighbourhood affected by the council's decision, or

(ii) features, structures or sites of the community affected by the council's decision of significant historic, architectural or cultural value; and

(c) an incorporated or unincorporated organization of which the majority of its members are persons who are aggrieved persons pursuant to clause (a).

(3) The Board shall

(a) confirm the decision of the council;

(b) make any decision the council could have made; or

(c) refer the matter back to the council for reconsideration.



(4) The Board shall not interfere with the decision of the council unless the decision cannot reasonably be said to be consistent with the conservation by-law. *1991, c. 10, s. 6; 2010, c. 54, s. 16.*

### **Acquisition by municipality**

21 (1) The municipality may acquire municipal heritage property or property located in a heritage conservation district or any right therein.

(2) Municipal heritage property or property located in a heritage conservation district or any right therein acquired by a municipality shall be and shall be deemed to be property acquired for a city, town or municipal purpose within the meaning of the Municipal Act, the Municipal Affairs Act, the Towns Act, the Dartmouth City Charter, the Halifax City Charter and Chapter 174 of the Acts of 1903, An Act to Incorporate the City of Sydney. *R.S., c. 199, s. 21; 1991, c. 10, s. 7.*

### **Financial assistance**

22 (1) The Minister, subject to the approval of the Governor in Council, may provide financial assistance in respect of provincial heritage property and the council may provide financial assistance in respect of municipal heritage property or property located in a heritage conservation district to any person to assist in the restoration or renovation of such property upon such terms and conditions as the Minister or the council, as the case may be, deems fit.

(2) The Minister of Municipal Affairs may provide financial assistance to a municipality to assist it in exercising its authority pursuant to this Act.

(3) Any money required by the Minister of Municipal Affairs to exercise his authority pursuant to this Act may be paid out of money voted for that purpose by the Legislature or out of the Consolidated Fund upon the recommendation of the Governor in Council.

(4) Any money required by a municipality in the exercise of its authority pursuant to this Act may be raised, levied or collected as part of the general rates or taxes of the municipality. *R.S., c. 199, s. 22; 1991, c. 10, s. 8.*

### **Service of notice**

23 (1) Service of any notice required to be made by this Act shall be sufficient if served upon the person by registered mail at his last known address.

(2) Where a person upon whom service should be made cannot be identified or his address is not known, service shall be sufficient if notice is affixed in a conspicuous place on the building, streetscape or area and a copy is delivered to any occupant of the property. *R.S., c. 199, s. 23.*

### **Manner of entry of notice in registry**

24 A notice deposited in a registry of deeds pursuant to this Act shall be indexed as if it were a conveyance by or to, as the case may be, the registered owner of the building, streetscape or area. *R.S., c. 199, s. 24.*

### **Contravention of Act**

25 (1) A person who contravenes the provisions of this Act is guilty of an offence and is liable on summary conviction to a penalty of not more than ten thousand dollars and in default of payment thereof to imprisonment for a term not exceeding six months.

(2) Where a corporation is convicted of an offence against this Act, the maximum penalty that may be imposed upon the corporation is two hundred and fifty thousand dollars and not as provided in subsection (1).

(3) Where there is a contravention or failure to comply with the terms of this Act or any agreement made pursuant to this Act, the Minister, with respect to a provincial heritage property, and a municipality, with respect to a municipal heritage property or property located in a heritage conservation district, may bring an action in the Trial Division of the Supreme Court and the Court may, in addition to any other remedy or relief,

(a) make an order restraining the continuance or repetition of any such contravention or failure;

(b) make an order directing the restoration of the property as nearly as may be to its condition prior to the contravention or failure to comply, and directing that upon failure to comply with the order the Minister or the council, as the case may be, may restore the property or may cause it to be restored at the expense of the owner thereof;

(c) make such other order as is required to enforce the provisions of this Act and as to costs and as to the recovery of the expense of any such restoration as the Court deems just. *R.S., c. 199, s. 25; 1991, c. 10, s. 9; 2010, c. 54, s. 17.*

### **Regulations**

26 (1) The Governor in Council may make regulations

(a) determining the form of the Provincial Registry of Heritage Property;

(aa) respecting heritage conservation districts, conservation plans and conservation by-laws and, without restricting the generality of the foregoing,

(i) respecting the adoption and approval of a conservation plan and conservation by-law, including background studies and information, public participation programs and public hearings,

(ii) respecting the purpose of a conservation plan and conservation by-law,

(iii) respecting the content of a conservation plan and conservation by-law,

(iv) respecting certificates required to undertake development in a heritage conservation district, including public hearings, the imposition of conditions to which the certificates are subject and requirements for the issuance of certificates on or before the issuance of permits pursuant to the Planning Act and the Building Code Act,

(v) respecting appeals;

(ab) determining the criteria to be used to select appointments of persons to the Advisory Council;

(ac) determining the baseline criteria to be used by the Advisory Council to evaluate the heritage value of a property under consideration for provincial heritage registration;

(ad) determining the standards and guidelines to be used for the conservation of registered provincial heritage property;

(ae) respecting cultural landscapes;

(b) respecting forms to be used for the purpose of this Act;

(c) defining any expression used in this Act and not defined herein;

(d) determining whether or not compensation for anything done pursuant to this Act is payable and, if payable, the circumstances in which, the extent to which, by whom and to whom such compensation is payable and the manner in which and the person by whom the amount of such compensation is to be determined;

(e) respecting any matter or thing, whether of the foregoing kind or not, that is necessary to effectively carry out the purpose of this Act.

(2) The exercise by the Governor in Council of the authority conferred by this Section shall be regulations within the meaning of the Regulations Act. *R.S., c. 199, s. 26; 1991, c. 10, s. 10; 2010, c. 54, s. 18.*

### **Act binds Crown**

27 This Act binds Her Majesty in right of the Province. *R.S., c. 199, s. 27.*

### **Deemed municipal heritage property and deemed agreement**

28 (1) A building, streetscape or area which is a heritage resource pursuant to subsection (5) of Section 27 of Chapter 8 of the Acts of 1980 is and is deemed to be registered in the City of Halifax municipal registry of heritage property.

(2) An agreement, easement or covenant entered into by the City of Halifax and another person pursuant to subsection (10) of Section 27 of said Chapter 8 is and is deemed to be an agreement entered into by the City and such person pursuant to subsection (1) of Section 20 of this Act.  
*R.S., c. 199, s. 28; revision corrected 1999.*



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