

**BILL C-42: AN ACT TO AMEND THE MUSEUMS ACT
AND TO MAKE CONSEQUENTIAL AMENDMENTS
TO OTHER ACTS**

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LEGISLATIVE HISTORY OF BILL C-42

HOUSE OF COMMONS

Bill Stage	Date
First Reading:	11 February 2008
Second Reading:	13 February 2008
Committee Report:	13 February 2008 Committee of the Whole
Report Stage:	13 February 2008
Third Reading:	13 February 2008

SENATE

Bill Stage	Date
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Second Reading:	26 February 2008
Committee Report:	4 March 2008
Report Stage:	
Third Reading:	5 March 2008

Royal Assent: 13 March 2008

Statutes of Canada 2008, c. 9

N.B. Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

Legislative history by Michel Bédard

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BILL C-42: AN ACT TO AMEND THE MUSEUMS ACT
AND TO MAKE CONSEQUENTIAL AMENDMENTS
TO OTHER ACTS*

BACKGROUND

On 11 February 2008, Bill C-42, An Act to amend the Museums Act and to make consequential amendments to other Acts, was introduced in the House of Commons by the Minister of Canadian Heritage, Status of Women and Official Languages, the Honourable Josée Verner. This bill creates a new Crown corporation called the Canadian Museum for Human Rights and sets out the corporation's purpose, capacity and powers by amending the *Museums Act*.⁽¹⁾ Other Acts are also amended to provide for federal funding and to exclude museum material from the jurisdiction of the *Access to Information Act*⁽²⁾ and the *Privacy Act*.⁽³⁾ The bill also adds the Canadian Museum for Human Rights to the list of federal entities that pay property taxes to municipalities in relation to federally owned real property. Other acts related to the payment of federal employees and their pensions are also amended.

The *Museums Act* was enacted in 1990 with the purpose of creating four national museums to preserve the heritage of Canada. These four museums – the National Gallery of Canada, the Canadian Museum of Civilization, the Canadian Museum of Nature, and the National Museum of Science and Technology – operate as independent Crown corporations, each having a board of trustees and a board-appointed director who is approved by the Governor

* Notice: For clarity of exposition, the legislative proposals set out in the bill described in this Legislative Summary are stated as if they had already been adopted or were in force. It is important to note, however, that bills may be amended during their consideration by the House of Commons and Senate, and have no force or effect unless and until they are passed by both houses of Parliament, receive Royal Assent, and come into force.

(1) S.C. 1990, c. 3.

(2) R.S., 1985, c. A-1.

(3) R.S., 1985, c. P-21.

in Council. The mandate for each national museum is also detailed in the *Museums Act* and includes various activities pertaining to the collection of artefacts and museum material; education of the public; research and training; and revenue generation.

Before passage of the *Museums Act*, Canada's four national museums were controlled by a single entity, National Museums of Canada.⁽⁴⁾ In view of the politicization of the grants process governed by the National Museums of Canada, which hampered decentralization and democratization as recommended in the National Museum Policy,⁽⁵⁾ this entity was dissolved in 1990 and replaced by four independently controlled Crown corporations.⁽⁶⁾ This reversion to decentralized control is reminiscent of the original administration of museums in Canada.

For example, the *National Gallery of Canada Act* of 1913 governed the National Gallery before National Museums of Canada was established.

DESCRIPTION AND ANALYSIS

A. Creation and Purpose of the Canadian Museum for Human Rights (CMHR)

Clause 1 amends the *Museums Act* by expanding the definition of “museum material” to include documentary material of any medium or form.

Clause 2 amends the *Museums Act* by inserting new section 15.1, establishing the Canadian Museum for Human Rights (CMHR). The CMHR is defined to include any affiliated museums.

Clause 2 amends the *Museums Act* by inserting new section 15.2, setting out the purpose of the museum. The new section states that the purpose of the museum is to “explore the subject of human rights with a special but not exclusive reference to Canada, in order to enhance the public's understanding of human rights, to promote respect for others and to encourage reflection and dialogue.”

(4) National Museums of Canada was established by the *National Museums Act*, R.S.C. 1970, c. N-12. For a review of its functions and role see, Office of the Auditor General of Canada, *1981 Report*, Chapter 11, http://www.oag-bvg.gc.ca/internet/English/aud_ch_oag_1981_11_e_3292.html.

(5) The National Museum Policy, announced by the Secretary of State, Gérard Pelletier, on 28 March 1972, proposed the “increased movement of objects, collections and exhibits throughout Canada for the benefit of more people.” See National Museums of Canada, *The National Museum Policy: A Programme for Canadian Museums*, Ottawa, 1973, p. 1.

(6) See Léo A. Dorais, “Twenty Years of National Museum Policy in Canada: From Democratization and Decentralization to Special Operation Agencies,” *Muse*, 1992, Vol. 10, Summer–Fall, pp. 48–53.

B. Capacity and Powers of the CMHR

Clause 2 amends the *Museums Act* by inserting new section 15.3, which sets out the legal capacity of the CMHR and its powers. These powers are associated with three broad areas: activities directly related to the collection, display and transfer of museum material,⁽⁷⁾ activities related to research, education and training,⁽⁸⁾ and ancillary activities related to the operation of a museum and revenue generation.⁽⁹⁾

C. First Director of the CMHR and Directors of Other National Museums

Clause 3 amends the *Museums Act* by creating a new subsection 23(1.1) to grant the minister the power to recommend the first director of the CMHR to the Governor in Council. The Governor in Council is obligated to appoint the recommended director.

Clause 3 amends the *Museums Act* by adding to subsection 23(2) the requirement that all reappointed directors be approved by the Governor in Council.

D. Remuneration of the First Director of the CMHR

Clause 3 amends the *Museums Act* by creating a new subsection 23(5.1) to grant the Governor in Council the power to determine, on the recommendation of the minister, the amount of remuneration of the first director.

E. Pre-establishment Contracts of the CMHR

Clause 4 amends the *Museums Act* by creating a new section 24.1 to ensure that contracts entered into by the minister on behalf of the CMHR before its completion are still in force after the creation of the CMHR.

F. Consequential Amendments to Other Acts

Clauses 5 to 13 amend provisions in other Acts to ensure that the CMHR is treated in the same manner as other national museums that are Crown corporations. For

(7) New section 15.3(1)(a) to (e) and (l).

(8) New section 15.3(1)(f) to (k).

(9) New section 15.3(1)(m) to (p).

example, clauses 5 and 6 amend the *Access to Information Act*,⁽¹⁰⁾ and clauses 10 and 11 amend the *Privacy Act*⁽¹¹⁾ to exempt museum material in the CMHR from the jurisdiction of these acts. Clause 7 amends the *Financial Administration Act*⁽¹²⁾ to include the CMHR in the list of Crown corporations that receive federal funding. Clauses 8 and 9 amend the *Payments in Lieu of Taxes Act*⁽¹³⁾ to allow the minister to pay the property taxes on land owned by the CMHR. Clause 12 amends the *Public Sector Compensation Act*⁽¹⁴⁾ to classify staff of the CMHR as public service employees. Clause 13 amends the *Public Service Superannuation Act*⁽¹⁵⁾ to include staff of the CMHR in the Public Service pension plan.

G. Coming Into Force

Clause 14 indicates that the bill comes into force on a day to be determined by order of the Governor in Council.

COMMENTARY

The CMHR was originally conceived and established by a charitable family foundation – the Asper Foundation.⁽¹⁶⁾ On 20 April 2007, Prime Minister Harper announced the Government’s intention to provide financial support for the creation and maintenance of the CMHR after sufficient funds for its creation had been raised through the public and private sectors.⁽¹⁷⁾ To date 80% of the necessary funding has been raised.⁽¹⁸⁾ The first national museum

(10) R.S., 1985, c. A-1.

(11) R.S., 1985, c. P-21.

(12) R.S., 1985, c. F-11.

(13) R.S., 1985, c. M-13.

(14) S.C. 1991, c. 30.

(15) R.S., 1985, c. P-36.

(16) See the Asper Foundation website at: <http://www.asperfoundation.com/site/index.html>.

(17) Office of the Prime Minister, “Prime Minister Harper Announces Agreement to Create the Canadian Museum for Human Rights,” News release, Ottawa, 20 April 2007, <http://news.gc.ca/web/view/en/index.jsp?articleid=306929&keyword=sans-abri&page=114>.

(18) See the Canadian Museum for Human Rights website at: <http://www.canadianmuseumforhumanrights.com/index.cfm?pageID=1>.

to be located outside of the National Capital Region, the CMHR is to be built in Winnipeg. It will house the largest museum gallery in Canada devoted to the subject of the Holocaust.

One of the goals of Canada's museum policy is to facilitate the access of all Canadians to their cultural heritage.⁽¹⁹⁾ A further objective is to contribute to the enrichment, management and preservation of representative collections in all regions by supporting museological research and development and by providing services throughout the country.⁽²⁰⁾ The earlier National Museums Corporation was criticized for concentrating national museums in the National Capital Region. The location of the CMHR in Winnipeg addresses this concern.

Another goal of Canada's museum policy is the decentralization of control through partnerships with other levels of government and with private interest groups.⁽²¹⁾ Funding the creation of the CMHR facilities through a public-private partnership, together with the creation of an independent Crown corporation, meets this objective.

One of the few criticisms of the bill is that the first director of the CMHR will be recommended by the minister of Canadian Heritage, Status of Women and Official Languages rather than by the board of trustees. For all other national museums the director is recommended by the minister-appointed board of trustees. This change in the selection process will thus give the minister the power to appoint both the board of trustees and the director. It is not yet known what effect this change will have on the initial control of the CMHR in comparison with other museums and whether it will affect control of the project and the museum by the Asper Foundation.⁽²²⁾

(19) Communications Canada, *Canadian Museum Policy; Temples of the Human Spirit*, Ottawa, 1990.

(20) Ibid. See also speech by the Honourable Marcel Masse, then minister of Communications, *Address to the Canadian Museum Association*, 22 June 1990.

(21) Communications Canada (1990), p. 27.

(22) See Paul Samyn, "Conservatives willing to grant rights museum national status: Move would allow private institution to get federal funding," *Ottawa Citizen*, 19 December 2006.