

ARTICLE 20

ARCHAEOLOGY

PART 20.1: DEFINITIONS AND INTERPRETATION

20.1.1 In this section:

“archaeological investigation” means any archaeological research, survey, excavation, reconstruction, work or other activity within the NMR;

“archaeological site” means a site or work within the NMR of archaeological, ethnographical or historical importance, interest or significance or a place where an archaeological specimen is found, and includes explorers' cairns and burial sites;

“archaeological specimen” means an object or specimen found in an archaeological site of archaeological, ethnological or historical importance, interest or significance and includes explorers' documents, human remains or associated burial objects;

“areas administered by Parks Canada Agency” means National Parks, National Parks Reserves, National Marine Conservation Areas, National Marine Conservation Area Reserves, and National Historic Sites administered by Parks Canada Agency under the *Historic Sites and Monuments Act*, the *Canada National Parks Act* and the *Canada National Marine Conservation Areas Act*, as appropriate;

“Designated Agency” means the government agencies, and departments, or their successors, described in Schedule 20-1;

“long-term alienation” means

- (a) any sale or gift, or
- (b) loan or other transfer of possession or rights to an archaeological specimen,
 - (i) for an indefinite duration, or
 - (ii) for a period, including any extension by way of renewal, for three years or longer;

“Nunavik Inuit human remains and associated burial objects” means human remains of individuals of Nunavik Inuit ancestry and any objects associated with the burial of those individuals;

“private property” means moveable property to which a person can demonstrate ownership in law other than by discovery or through title to or interest in land;

Nunavik Inuit Land Claims Agreement

“public records” means records held by any department or agency or public office of any level of Government including records which were formerly held by any such department, agency or public office.

PART 20.2: GENERAL PRINCIPLES

- 20.2.1 The archaeological record of Nunavik Inuit in the NMR is a record of Nunavik Inuit use and occupancy of lands and resources through time. The evidence associated with Nunavik Inuit use and occupancy represents a cultural, historical and ethnographic heritage of Nunavik Inuit society and, as such, Government recognizes that Nunavik Inuit have a special relationship with such evidence which shall be expressed in terms of special rights and responsibilities.
- 20.2.2 The archaeological record of the NMR is of cultural, spiritual, religious and educational importance to Nunavik Inuit. Accordingly, the process of identification, protection and conservation of archaeological sites and specimens and the interpretation of the archaeological record is of primary importance to Nunavik Inuit and their involvement is both desirable and necessary.
- 20.2.3 Government responsibilities for the management and conservation of archaeological sites and specimens shall be balanced with Nunavik Inuit responsibilities for these same matters.
- 20.2.4 A MDO shall be invited to participate in any development of government policy and legislation on archaeology in the NMR.

PART 20.3: PERMITS

- 20.3.1 Upon receipt of any application for a permit authorizing an archaeological investigation in the NMR, the Designated Agency shall, except in cases of emergency, forward a copy of the application forthwith to the MDO.
- 20.3.2 Upon receipt of the copy, the MDO shall have a reasonable number of calendar days, as determined by the Designated Agency in consultation with the MDO, to object in writing to the application.
- 20.3.3 If the Designated Agency is in receipt of such written objections within the specified number of calendar days, it shall:
- (a) withhold the issuance of any permit;
 - (b) investigate the objections and prepare a report thereon; and
 - (c) provide the MDO with a copy of the report referred to in paragraph 20.3.3 (b).
- 20.3.4 Where the objections referred to in section 20.3.3 are reasonably founded on:

Nunavik Inuit Land Claims Agreement

- (a) inadequate efforts to secure Nunavik Inuit participation and benefits or inadequate performance of commitments to provide such participation and benefits under permits issued at an earlier date, or
- (b) disturbance of a site of Nunavik Inuit religious or spiritual significance as such significance is defined by the MDO in consultation with the Designated Agency,

the Designated Agency shall reject the application for the permit.

20.3.5 The Designated Agency shall upon reasonable request by the MDO, attach as a condition to the grant of a permit, a requirement that upon completion of each season's field work, the permit holder shall, to the extent practicable:

- (a) attend at a location identified by the MDO, in the community closest to the site, to explain and discuss the work carried out; and
- (b) provide an opportunity for residents of the community to examine any specimen removed from the site.

20.3.6 Notwithstanding section 20.3.4, where the application before the Designated Agency is associated with a proposed land use requiring a land use permit, the Designated Agency may, instead of rejecting the application, issue a permit with terms and conditions that adequately deal with the reasonably founded objections.

20.3.7 Every permit holder shall submit a report as required by the Designated Agency with a copy to the MDO. Upon reasonable request, the Designated Agency shall provide the MDO with an Inuktitut summary of the report.

20.3.8 The Designated Agency shall make available Inuktitut translations of its publications that are aimed at informing the Canadian public about archaeology in the NMR.

20.3.9 Except where a permit specifically requires a permit holder to leave archaeological specimens *in situ* for purposes of scientific, historic or cultural reasons, all archaeological specimens collected by a permit holder shall be submitted to the Designated Agency or the MDO at a place and time specified on the permit.

20.3.10 Where an application is made for a land use permit in the NMR and there are reasonable grounds to believe there could be important archaeological sites on lands affected, no land use permit shall be issued without the written consent of the Designated Agency. Such consent shall not be unreasonably withheld.

Nunavik Inuit Land Claims Agreement

20.3.11 Each land use permit referred to in section 20.3.10 shall specify the plans and methods of archaeological site protection and restoration to be followed by the permit holder, and any other conditions the Designated Agency may deem fit.

PART 20.4: TITLE IN ARCHAEOLOGICAL SPECIMENS

20.4.1 In this part, “Archaeological Specimens” does not include human remains.

20.4.2 Government and the MDO shall jointly own all archaeological specimens found within the NMR following the effective date of this Agreement and that are not:

- (a) public records;
- (b) the private property of any person; or
- (c) within areas administered by Parks Canada Agency.

20.4.3 Archaeological specimens found within areas of the NMR administered by Parks Canada Agency shall be managed in accordance with the provisions of this Agreement.

20.4.4 Any disturbance or disposition of archaeological specimens shall be managed in accordance with this Article.

20.4.5 The Designated Agency and the MDO must jointly consent, in writing, prior to any long-term alienation of any archaeological specimens found in the NMR.

20.4.6 Where the Designated Agency and the MDO cannot reach an agreement on a proposal for a long-term alienation, as outlined in section 20.4.5, the matter shall be referred for resolution by arbitration under Article 24 by the Designated Agency or the MDO. In arriving at a decision, the arbitrators shall take into account the overall intent of this Agreement, the provisions of this Article, and any other relevant consideration.

20.4.7 Subject to section 20.4.5, the MDO shall determine the disposition of all archaeological specimens found on Nunavik Inuit Lands.

20.4.8 Subject to section 20.4.5, the Designated Agency shall determine the disposition of all archaeological specimens found in the NMR other than on Nunavik Inuit Lands subject to the rights of the MDO to acquire possession as set out in this Article.

20.4.9 Public records wherever they are found shall be owned and managed by the Government by which they were created or held.

Nunavik Inuit Land Claims Agreement

PART 20.5: USE OF ARCHAEOLOGICAL SPECIMENS

- 20.5.1 The MDO may request possession of any archaeological specimen found within the NMR or from any federal or territorial government agency, including the Canadian Museum of Civilization, and any territorial archaeological agency. Such requests shall not be refused by the agency unless:
- (a) the MDO is unable to maintain the archaeological specimen without risk;
 - (b) the MDO is unable to provide access to the archaeological specimen commensurate with scientific or public interests;
 - (c) the agency is unable to give up possession because of some term or condition of its original acquisition from a non-government source;
 - (d) the Canadian Museum of Civilization, the Library and Archives Canada, Parks Canada Agency or a territorial government agency currently requires the archaeological specimen,
 - (i) for its own active display or research, or
 - (ii) on account of the unique characteristics of the archaeological specimen;
 - (e) the condition of the archaeological specimen prohibits its movement; or
 - (f) the archaeological specimen has previously been made available to, and is in the possession of, a party other than a federal or territorial government agency.
- 20.5.2 Where the agency referred to in section 20.5.1 complies with a request by the MDO, the Designated Agency may attach any terms and conditions consistent with professional and institutional practice, including terms or conditions dealing with duration or termination of possession.
- 20.5.3 If the MDO requests a loan under section 20.5.1. but the material is subject to an existing, legally binding loan commitment, the MDO shall have priority over others to obtain possession of the material once that commitment has been fulfilled.
- 20.5.4 A Designated Agency may request possession of any archaeological specimen in the possession of the MDO and the MDO may grant possession on a basis to be negotiated between the Designated Agency and the MDO.

Nunavik Inuit Land Claims Agreement

PART 20.6: NUNAVIK INUIT HUMAN REMAINS AND ASSOCIATED BURIAL OBJECTS AND BURIAL SITES

20.6.1 *Repatriation*

20.6.1.1 At the request of a the MDO, Government shall use reasonable efforts to facilitate the MDO's access to Nunavik Inuit human remains and associated burial objects that are held in public and private collections other than by Government.

20.6.2 *Protection and Rules of Access*

Notwithstanding the other provisions of this Article:

20.6.2.1 Immediately upon discovering a burial site in the NMR a person shall notify the MDO and Government.

20.6.2.2 Subject to subsection 20.6.2.4, if determined by the MDO and Government that the burial site on Nunavik Inuit Lands contains Nunavik Inuit human remains or associated burial objects the burial site shall not be surveyed or disturbed without the written consent of the MDO and subject to conditions established by the MDO.

20.6.2.3 Any person having received permission in subsection 20.6.2.2 to survey or disturb a Nunavik Inuit burial site shall take appropriate measures to respect the dignity of the site and of any human remains and associated burial objects therein.

20.6.2.4 A Nunavik Inuit burial site on Nunavik Inuit Lands may be disturbed by police, where authorized by legislation, without the consent of the MDO, if such disturbance is required in relation to a police investigation.

20.6.2.5 With respect to section 20.3.10, if there are reasonable grounds to believe that the archaeological site on Nunavik Inuit Lands contains Nunavik Inuit human remains and associated burial objects, the Designated Agency shall first consult and receive the consent of the MDO pursuant to subsection 20.6.2.2 prior to issuing a land use permit.

20.6.2.6 If the MDO and Government determine that Nunavik Inuit human remains or associated burial objects must be removed from a Nunavik Inuit burial site, the MDO shall determine the reburial or other disposition of the Nunavik Inuit human remains or associated burial objects. If the MDO wishes to bury or otherwise dispose of the Nunavik Inuit human remains in a National Park, National Park Reserve, National Marine Conservation Area or National Marine Conservation Area Reserve, Canada and the MDO must jointly agree.

Nunavik Inuit Land Claims Agreement

PART 20.7: EMPLOYMENT AND CONTRACTING

- 20.7.1 Where any agency of the Government intends to contract for carrying out of archaeological work in the NMR, the agency shall:
- (a) give preferential treatment to qualified Nunavik Inuit contractors where the agency proposes to tender such contract; and
 - (b) ensure that all contractors give preferential treatment to qualified Nunavik Inuit.
- 20.7.2 Any archaeological programs in the NMR that are administered by Government shall also conform with Article 13.

Nunavik Inuit Land Claims Agreement

SCHEDULE 20-1

DESIGNATED AGENCIES

PART 1: GOVERNMENT OF CANADA

Canadian Museum of Civilization
Library and Archives Canada
Department of Indian Affairs and Northern Development
Department of Canadian Heritage
Parks Canada Agency
Social Sciences and Humanities Research Council of Canada
Department of Fisheries and Oceans.

PART 2: GOVERNMENT OF NUNAVUT

Department of Culture, Language, Elders and Youth