

Flemish Government

**Flemish Government Decree implementing
the Flemish Parliament Act of 7 May 2004
on the organisation and funding of a cultural heritage policy
with regard to heritage covenants and advice provision**

THE FLEMISH GOVERNMENT,

Having regard to the laws on State accounting, co-ordinated on 17 July 1991, in particular Articles 55 through 58;

Having regard to the Flemish Parliament Act of 7 May 2004 on the organisation and funding of a cultural heritage policy;

Having regard to the advice of the Council for the Arts, given on 23 February 2004;

Having regard to the advice of the Council for Culture, given on 03 March 2004;

Having regard to the approval of the Flemish Minister responsible for the Budget, given on 05 May 2004;

Having regard to the advice of the Council of State, number 37.193/3, given on 25 May 04, in application of Article 84, first paragraph, 1°, of the co-ordinated laws on the Council of State;

On the proposal of the Flemish Minister for Home Affairs, Culture, Youth and the Civil Service;

After deliberation,

DECIDES:

Title I. Definitions

Article 1. For the purposes of this Decree, the following definitions shall apply:

1° Act: the Flemish Parliament Act of 7 May 2004 on the organisation and funding of a cultural heritage policy;

2° authorities: each official body at local, provincial, regional, community or federal level;

3° Minister: the Flemish Minister, responsible for culture;

4° administration: the administrative service, responsible for the tangible and intangible cultural heritage;

5° operating year: the period from 1 January up to and including 31 December;

6° covenant period: the term of the heritage covenant;

7° supporting organisation: a private or public law body which ensures the partial or full implementation of the heritage covenant, by order of the public or private law body to which the grant was awarded.

Title II. Heritage covenants

Chapter I. Application and procedure for the conclusion of a heritage covenant

Section I. A heritage covenant with a local authority or a partnership of neighbouring local authorities

Art. 2. §1. The local authority or the partnership of neighbouring local authorities shall send an application for the conclusion of a first heritage covenant as referred to in Article 18, § 1, of the Act, either by registered mail or on acknowledgement of receipt, in fifteen copies and electronically, to the administration by February 1 at the latest.

§2. The application shall contain all data that are useful and necessary to evaluate the intention to conclude a heritage covenant on the basis of the conditions and criteria laid down in Articles 17 and 18 of the Act. This information shall be incorporated in the declaration of intent for the conclusion of a heritage covenant referred to in Article 18, § 2, of the Act.

An environmental analysis as set out in Article 18, § 2, 1°, of the Act, shall contain, apart from a number of general statistical data on the local authority or partnership of neighbouring local authorities, a description of all elements that contribute to the heritage profile of the local authority or partnership of neighbouring local authorities.

In addition, the declaration of intent on the heritage covenant shall comprise the following documents:

1° a declaration of intent of the local authority or partnership of neighbouring local authorities including the commitment regarding the own financial input;

2° an extract from the cultural policy plan of the local authority or the cultural policy plans of the neighbouring local authorities involved in a

partnership of neighbouring authorities, notably the cultural heritage section;

3° a budget stating the input of the local authority or of the partnership of neighbouring local authorities;

4° if it involves a partnership of neighbouring local authorities: the articles of association of the partnership, the composition of the board of directors and all practical data on the partners.

Art. 3. §1. The local authority or the partnership of neighbouring local authorities shall send an application for the conclusion of the next heritage covenant as referred to in Article 20 of the Act, by registered mail or on acknowledgment of receipt, in fifteen copies and electronically, to the administration, by 1 February at the latest of the second year of a new local government term.

§2. The application shall contain a draft policy plan for the next covenant period including an evaluation of the current heritage covenant and all information that is useful and necessary to evaluate the intention to conclude a next heritage covenant on the basis of the conditions and criteria, as set out in Articles 17 and 18 of the Act.

This draft policy plan shall contain the following elements:

1° an environmental analysis which is based on an extract of the cultural policy plan of the local authority, supplemented with the specific cultural heritage features in the local authority or partnership of neighbouring local authorities, the current state of affairs and a critical analysis; 2° a description of the vision of preservation and improved access to cultural heritage resources in the territory of the local authority or partnership of local authorities;

3° the strategic and operational objectives of the heritage covenant;

4° expected outcomes and outcome indicators;

5° a description of the tools and work methods contributing to the achievement of the objectives;

6° the location and organisation of the heritage service in the local authority or partnership of neighbouring local authorities;

7° the available financial and logistic means mentioning the input of the local authority or of the partnership of neighbouring local authorities and the use of operating grants;

8° a pluriannual planning mentioning the priorities;

9° the way in which this policy plan and, if applicable, the policy plan of other cultural heritage actors shall be harmonised;

10° a description of the process of policy planning.

The evaluation of the implementation of the current heritage covenant shall contain at least the following elements:

1° a report in terms of content on the degree to which the heritage covenant and the policy plan were implemented during the preceding policy period;

2° an evaluation of the outcomes that were reached;

3° an evaluation of the tools and methods used;

4° an evaluation of the operation of the heritage office;

5° a description of the impact of the current heritage covenant on local historic environment.

In addition, the application shall comprise the following documents:

1° a declaration of intent of the local authority or partnership of neighbouring local authorities including the commitment regarding own financial input;

2° an extract from the cultural policy plan of the local authority or the cultural policy plans of the neighbouring local authorities involved in a

partnership of neighbouring local authorities, notably the cultural heritage section;

3° a budget stating the input of the local authority or of the partnership of neighbouring local authorities; The local authority's or partnership of neighbouring local authorities' own input shall amount to at least 30% of total staff and operating costs of the heritage office;

4° if it involves a partnership of neighbouring local authorities: the articles of association of the partnership, the composition of the board of directors and all practical data on the partners.

Art. 4. §1. The administration shall examine whether the application was submitted timely and accurately and whether it complies with the conditions set out in Article 2, if it involves an application for concluding a first covenant or with the conditions set out in Article 3, if it involves an application for concluding a next heritage covenant.

If the application was not submitted in time or was submitted in an incomplete manner or if it does not meet the conditions, the application shall not be eligible.

At the latest fifteen days from the date of receipt of the application, the administration shall inform the local authority or partnership of neighbouring local authorities by registered mail whether the application is eligible or not. If applicable, the reason why the application is not eligible shall be mentioned.

§2. The administration shall examine the application on records and in situ.

The administration shall examine the business and operational aspects of the application.

In case of an on-site visit, the administration may be supported by an external expert or a member of the evaluation committee as set out in Article 21, § 1, 4°.

The administration shall draw up a report on its findings and join the report to the application.

§3. The evaluation committee referred to in Article 21, § 1, 4° shall evaluate the applications on the basis of the conditions and criteria set forth in Articles 17 and 18 of the Act, and provide reasoned advice that is based on a fair ranking system.

The evaluation committee referred to in Article 21, § 1, 4° may take all the initiatives it deems necessary to test the conditions and criteria referred to in Articles 17 and 18 of the Act, in an appropriate way. It may hear for example the local authority or partnership of neighbouring local authorities that has submitted the application, request additional documents and data and plan an on-site visit.

§4. The administration shall draw up a draft decision on all aspects of the application, taking into account the advice based on the ranking system of the evaluation committee. The advice of the evaluation committee shall be incorporated in an integrated way in this document.

§5. The administration shall send the draft decision to the Flemish Government by 1 June at the latest.

§6. The Flemish Government shall decide on the intention to conclude a heritage covenant or formulate a rejection of the application and

communicate this to the administration. If applicable, the reason for the rejection of the application shall be mentioned.

§7. The administration shall communicate the decision of the Flemish Government, by registered mail, to the local authority or partnership of neighbouring local authorities, within a period of twenty days from the date of receipt of the decision of the Flemish Government.

Art. 5. If the application for the conclusion of a heritage covenant must be rejected as a result of budget limitations in the Flemish Community, the application shall continue to be valid for a period of three years.

Art. 6. §1. The negotiations on the content of the heritage covenant referred to in Article 18, § 5 and Article 20, §1, of the Act, shall be prepared by the administration and representatives of the local authority or the partnership of neighbouring local authorities.

§2. The heritage covenant shall contain at least the following elements:
1° the description of the partners, the scope and the definitions;
2° the strategic objectives and basic principles of the heritage policy in general and of the heritage covenant in particular, both of the Flemish Community and the local authority or the partnership of neighbouring local authorities;
3° the performance outcomes;
4° the tools and methods to be used;
5° the location of the heritage office in the local authority or the partnership of neighbouring local authorities;
6° the operation and staff of the heritage office;
7° the co-operation with neighbouring local authorities;
8° the financial and logistic input of both parties;
9° the monitoring of the progress, adjustment and evaluation methodology and procedure regarding sanctions and differences, insofar as it involves supplements to Title II, Chapter III.

If a subsequent heritage covenant is involved, the policy plan shall be attached to draft heritage covenant.

§3. The draft heritage covenant shall be discussed in one formal consultation between the Minister and the local authority or partnership of neighbouring local authorities.

§4. The Minister and the local authority or partnership of neighbouring local authorities shall sign the heritage covenant, at the latest by December 31 of the year in which the Flemish Government has taken the decision mentioned in Article 4, §6.

Art.7. §1. The policy plan, referred to in Article 19, §1, of the Act, of a local authority or a partnership of neighbouring local authorities with which a first heritage covenant was concluded, shall be sent, either by registered mail or on acknowledgement of receipt, in fifteen copies and electronically, to the administration at the latest by 1 July of the first year of the heritage covenant.

This policy plan shall contain the following elements:

1° an environmental analysis which is based on an extract of the cultural policy plan of the local authority, supplemented with the specific features of the cultural heritage resources in the local authority or partnership of neighbouring local authorities, the current state of affairs and a critical analysis;

2° a description of the vision of preservation of and improved access to cultural heritage present in the territory of the local authority or partnership of local authorities;

3° the strategic and operational objectives of the heritage covenant;

4° expected outcomes and outcome indicators;

5° a description of the tools and work methods contributing to the achievement of the objectives;

6° the location and organisation of the heritage office in the local authority area or partnership of neighbouring local authorities;

7° the available financial and logistic means mentioning the input of the local authority or the partnership of neighbouring local authorities and the use of operating grants; In the local authority budget a separate section is created for the funding of the heritage covenant;

8° the multi-annual planning mentioning the priorities;

9° the way in which this policy plan and, if applicable, the policy plan of other cultural heritage actors shall be harmonised;

10° a description of the process of policy planning.

§2. The administration shall examine whether the policy plan was submitted timely and accurately.

If the policy plan was not submitted in time or in an incomplete manner or if it does not meet the conditions, the policy plan shall not be eligible.

At the latest fifteen days after the date of receipt of the policy plan, the administration shall inform the local authority or partnership of neighbouring local authorities by registered mail whether the policy plan is eligible or not. If applicable, the reason for the rejection of the policy plan shall be mentioned.

§3. The administration shall assess the business and operational aspects of the policy plan against the heritage covenant and draw up a report on its findings and attach the latter to the policy plan.

§4. The evaluation committee referred to in Article 21, § 1, 4°, shall provide sound advice about the policy plan and shall communicate it to the administration. The policy plan shall be assessed against the heritage covenant.

§5. The administration shall forward the policy plan, the report of the administration, the advice of the evaluation committee, and its own advice including a reasoned proposal for approval or disapproval of the policy plan to the Minister.

§6. The Minister shall approve or disapprove the policy plan and communicate his decision to the administration at the latest by 31 December of the year of submission of the policy plan.

§7. The administration shall communicate the decision of the Minister, by registered mail, to the local authority or partnership of neighbouring local authorities, within a period of twenty days from the date of receipt of the decision of the Minister.

§8. If the policy plan was not approved, the local authority or partnership of local authorities shall adapt the policy plan and submit it again to the administration at the latest by April 1 of the following year.

The procedure for the approval or disapproval of that adapted policy plan shall run as provided for in §2 to §7.

§9. In case of a definitive negative decision the Minister may express the intention to impose a sanction in relation to the violations of the arrangements of the heritage covenant that were established.

Within twenty working days after receipt of the decision, the local authority or partnership of neighbouring local authorities may file, by registered mail, an argued appeal with the administration. The Minister shall decide, after examination of this appeal, whether he will reconfirm, adjust or abandon the intention expressed. If the local authority or partnership of neighbouring local authorities did not file an appeal or filed a delayed appeal, the intention expressed shall be confirmed.

Section II. Heritage covenant with the Flemish Community Commission

Art. 8. §1. The Flemish Community Commission shall send an application for the conclusion of a heritage covenant as referred to in Article 23 of the Act, either by registered mail or on acknowledgement of receipt, in fifteen copies and electronically, to the administration by 1 February at the latest of the second full calendar year of a term of office of the Flemish Parliament.

§2. The application shall contain a draft policy plan for the next covenant period including an evaluation of the implementation of the current heritage covenant and all information that is useful and necessary to evaluate the intention to conclude a next heritage covenant on the grounds of the conditions and criteria, as set out in Articles 17 and 18 of the Act.

This draft policy plan shall contain the following elements:

- 1° an environmental analysis which is based on an extract of the cultural policy plan of the Flemish Community Commission, supplemented with the specific features of the cultural heritage resources in the bilingual area of Brussels Capital, the current state of affairs and a critical analysis;
- 2° a description of the vision of preservation of and improved access to cultural heritage resources within the territory of the bilingual area of Brussels Capital;
- 3° the strategic and operational objectives of the heritage covenant;
- 4° expected outcomes and outcome indicators;
- 5° a description of the tools and work methods contributing to the achievement of the objectives;
- 6° the location and organisation of the heritage office in the Flemish Community Commission;
- 7° the available financial and logistic means stating also the input of the Flemish Community Commission and the use of operating grants;
- 8° the multi-annual planning mentioning the priorities;
- 9° the way in which this policy plan and, if applicable, the policy plan of other cultural heritage actors shall be harmonised;
- 10° a description of the process of policy planning.

The evaluation of the implementation of the current heritage covenant shall contain at least the following elements:

- 1° a report in terms of content on the degree to which the heritage covenant and the policy plan were implemented during the preceding policy period;
- 2° an evaluation of the outcomes that were reached;
- 3° an evaluation of the tools and methods used;
- 4° an evaluation of the operation of the heritage office;
- 5° a description of the impact of the current heritage covenant on the local historic environment.

In addition, the application shall comprise the following documents:

- 1° a declaration of intent of the Flemish Community Commission including the commitment regarding own financial input;
- 2° an extract from the cultural policy plan, notably the cultural heritage section;
- 3° a budget stating the input of the Flemish Community Commission. The Flemish Community Commission's own input shall amount to at least 30% of total staff and operating costs of the heritage office.

Art 9. §1. The administration shall examine whether the application was submitted timely and accurately and whether it meets the conditions laid down in Article 8.

If the application was not submitted in time or was submitted in an incomplete manner or if it does not meet the conditions, the application shall not be eligible.

At the latest fifteen days after receipt of the application, the administration shall inform the Flemish Community Commission by registered mail whether the application is eligible or not. If applicable, the reason for the rejection of the application shall be mentioned.

§2. The administration shall examine the application on records and in situ.

The administration shall examine the business and operational aspects of the application.

In case of an on-site visit, the administration may be supported by an external expert or a member of the evaluation committee as set out in Article 21, § 1, 4°.

The administration shall draw up a report on its findings and join the report to the application.

§3. The evaluation committee referred to in Article 21, § 1, 4° shall evaluate the application on the basis of the conditions and criteria set forth in Articles 17 and 18 of the Act, and provide reasoned advice that is based on a fair ranking system.

The evaluation committee referred to in Article 21, § 1, 4° may take all the initiatives it deems necessary to test the conditions and criteria referred to in Articles 17 and 18 of the Act, in an appropriate way. It may hear, among other things, the Flemish Community Commission, request additional documents and data and plan an on-site visit.

§4. The administration shall draw up a draft decision on all aspects of the application, taking into account the argued advice of the evaluation committee. The advice of the evaluation committee shall be incorporated in an integrated way in this document.

§5. The administration shall send the draft decision to the Flemish Government by June 1 at the latest.

§6. The Flemish Government shall decide on the intention to conclude a heritage covenant or formulate a rejection of the application and communicate this to the administration. If applicable, the reason for the rejection of the application shall be mentioned.

§7. The administration shall communicate the decision of the Flemish Government, by registered mail, to the Flemish Community Commission, within a period of twenty days from the date of receipt of the decision of the Flemish Government.

Art. 10. §1. The negotiations on the content of the heritage covenant referred to in Article 23, § 2, of the Act, shall be prepared by the administration and the representatives of the Flemish Community Commission.

§2. The heritage covenant shall contain at least the following elements:

- 1° the description of the partners, the scope and the definitions;
- 2° the strategic objectives and basic principles of the heritage policy in general and of the heritage covenant in particular, both of the Flemish Community and the Flemish Community Commission;
- 3° the performance outcomes;
- 4° the tools and methods to be used;
- 5° the location of the heritage office in the Flemish Community Commission;
- 6° the operation and staff of the heritage office;
- 7° the co-operation with local authorities;
- 8° the financial and logistic input of both parties;
- 9° the monitoring of the progress, adjustment and evaluation methodology and procedure regarding sanctions and differences, insofar as it involves supplements to Title II, Chapter III.

The policy plan shall be attached to the draft heritage covenant.

§3. The draft heritage covenant shall be discussed in one formal consultation between the Minister and the Flemish Community Commission.

§4. The Minister and the Flemish Community Commission shall sign the heritage covenant, at the latest by 31 December of the year in which the Flemish Government has taken the decision mentioned in Article 9, §6.

Chapter II. Operating grants of the heritage covenants

Art. 11. §1. The Minister shall give a yearly operating grant to:

- 1° a local authority or partnership of local authorities, in implementation of Article 21 of the Act, with which a heritage covenant was concluded by 31 December of the preceding year at the latest.
 - 2° the Flemish Community Commission in implementation of Article 24 of the Act, with which a heritage covenant was concluded by 31 December of the preceding year at the latest;
- to be called the public or private law body.

§2. If a public or private law body, engages, apart from the activities for which it is funded in accordance with §1, in still other similar main activities, the organisation shall make a clear and identifiable distinction between both sorts of activities in its entire accounting process.

§3. The accountancy of the private law body shall be kept in accordance with the provisions of the law of 17 July 1975 on the accountancy of companies, as modified afterwards, and shall be organised in such a way that the financial audit of the use of grants is made possible.

Art. 12. §1. The public or private law body, which is eligible for an operating grant as referred to in Article 11, § 1er, shall send annually, by registered mail or against acknowledgement of receipt, in three copies and electronically, an action plan and a budget for the following year to the administration, by 1 December of the preceding year at the latest.

In order to qualify for the operating grant of the first year of a heritage covenant, these documents shall be submitted at the latest by 1 February of the current year.

\$2. The public or private law body shall describe in the action plan the way in which it will implement the heritage covenant, as referred to in the policy plan, during the year involved of the covenant period and the personal, logistic and financial means which will be available to this end. It shall also indicate whether and in which way it will deviate from the planning fixed in the policy plan.

In the action plan of the first year of a first heritage covenant referred to in Article 2, the public or private law body shall describe the way in which it will implement the heritage covenant during the relevant year of the covenant period and the personal, logistic and financial means which will be available to this end. The way in which the policy plan defined in Article 7, \$1 and \$2 is drawn up shall also be indicated.

In addition, the action plan shall contain an extract from the budget of the public or private law body stating the legal person's own input. In the budget of the public or private law body a separate section shall be dedicated to the funding of the heritage covenant.

The administration may impose a model action plan and a model budget.

Art. 13. On the grounds of Article 48 of the Act, the annual operating grant shall be made available as follows:

- 1° three advances of each time 25% of the grant amount that is allocated for that operating year are paid at the earliest by 1 January, 1 April and 1 July respectively of the operating year;
- 2° a fourth advance of 15% of the grant amount that is allocated for the operating year, shall be paid at the earliest by 1 October of the operating year;
- 3° the balance of 10% of the grant amount that is allocated for the operating year shall be paid after evaluating compliance with grant conditions and after acceptance of substantiating documents by the administration.

Art. 14. \$1. The operating grants shall be justified on the grounds of an annual report on the past operating year.

That annual report shall contain:

- 1° a detailed report on the degree to which the action plan was implemented and the heritage covenant and the policy plan were carried out during the past operating year;
- 2° the statistical data deemed necessary by the administration;
- 3° the annual account, which consists of a balance sheet, a profit and loss account and the report by the company auditor or, if applicable, of the local, provincial treasurer or the mandatory for Finances. If it involves a local authority or the Flemish Community Commission, an extract from the annual account shall be asked that contains an overview of revenues and expenses associated with the implementation of the heritage covenant;
- 4° an amortization table for the investments;
- 5° a form with a follow-up model devised by the administration.

If applicable, the financial documents relating to the implementation of the heritage covenant of the supporting organisation shall be attached. The supporting organisation shall attach a form with a follow-up model devised by the administration.

§2. The public or private law body law shall send these documents, by registered mail or against acknowledgement of receipt, in three copies and electronically, to the administration at the latest by 1 April of the following year.

§3. The administration may turn to the funded public or private law body for additional information and documents at all times.

§4. The public or private law body receiving operating grants on a multi-annual basis in conformity with the present Act and with other Acts, shall annually submit a full annual account for all its activities as well as a profit and loss account for each of the main activities separately for which it receives an operating grant.

Art. 15. The administration shall supervise the public or private law body which receives an operating grant as referred to in Articles 21 and 24 of the Act, by means of:

1° an annual audit of the action plan and the budget, referred to in Article 12, §2, of the present Decree;

2° an annual audit of the annual report, referred to in Article 14, §1, of the present Decree.

Art. 16. §1. A reserve built up by its own revenues and grants, as specified in Article 50, §1, of the Act, shall be entered in the balance sheet of a public or private law body as part of its own capital and shall consist of a balance sheet item "reserve" and a balance sheet item "profits/losses carried forward" of the annual account.

If a local authority or the Flemish Community Commission is involved, the reserve shall be followed up by using the follow-up model of the administration as referred to in Article 14, §1, second clause, 5°.

§2. In implementation of Article 50, §2, first clause, of the Act, the following one-off exceptional revenues shall not be taken into account when calculating the transferable reserve:

1° gifts;

2° legacies;

3° prizes.

The reserve built up out of one-off exceptional revenues shall be included in the balance as a separate reserve, named "one-off exceptional revenues reserve". This reserve may be carried forward infinitely.

§3. In implementation of Article 50, §2, second clause, of the Act, the Minister may, on the grounds of a reasoned request and a spending plan drawn up by the public or private law body, approve a derogation from the percentage of 10% of the average annual staffing and operating costs as referred to in Article 50, §2, first clause, of the Act, to be applied to the establishment of the transferable reserve.

The reasoned request and the spending plan shall be sent as an attachment to the annual report as referred to in Article 14 of the last year of the covenant period.

§4. In implementation of Article 50, §3, second clause, the reserve carried forward after the covenant period, as defined in Article 50, §2, first clause, of the Act, shall be used for the realisation of a spending plan approved by the Minister, the implementation of which is limited in time to two budgetary years following the past covenant period.

This spending plan shall be sent as an attachment to the annual report as referred to in Article 14 of the last year of the covenant period.

If this spending plan is not approved, is not implemented or is not implemented in time, the public or private law body shall be obliged to pay the unspent funds of the transferable reserve back into the account of the administration.

§5. The administration shall be charged with the supervision of the implementation of the spending plan.

Chapter III. Evaluation of the heritage covenant

Art. 17. §1. The administration shall evaluate the implementation of the heritage covenant and the policy plan, referred to in Articles 18, 19, 20 and 23 of the Act, at the most twice per covenant period:

1° an interim evaluation at the latest halfway in the covenant period, if a period of at least three years is involved, with a view to the submission of the updated policy plan as referred to in Article 19, §2, Article 20, §2, and Article 23, §3, of the Act;

2° a final evaluation in the second half and at least six months before the application for a next heritage covenant.

By means of an on-site visit, the administration shall evaluate the submitted annual action plans, budgets and annual reports on the grounds of the policy plan.

§2. The administration shall communicate its findings following an interim evaluation, in conformity with §1, 1°, by registered post, within two months after the evaluation, to the public or private law body in the form of an evaluation report with recommendations.

§3. In case of a negative interim evaluation of the implementation of the heritage covenant and policy plan, the public or private law body shall show in the updated policy plan that it deals in an appropriate way with the observations of the administration.

Art. 18. §1. The public or private law body shall send an updated policy plan as contained in Article 19, §2, Article 20, §2 and Article 23, §3, of the Act, by registered mail or against acknowledgement of receipt, in three copies and electronically, to the administration by at the latest halfway through the covenant period if a period of at least three years is involved.

§2. The administration shall examine whether the updated policy plan was submitted timely and accurately.

If the updated policy plan was not submitted in time or was submitted in an incomplete manner or if it does not meet the conditions, the policy plan shall not be eligible.

At the latest fifteen days after the date of receipt of the updated policy plan, the administration shall inform the public or private law body by registered mail whether the updated policy plan is eligible or not. If applicable, the reason for the rejection of the updated policy plan shall be mentioned.

§3. The administration shall assess the business and operational aspects of the updated policy plan against the heritage covenant and draw up a report on its findings, which it shall attach to the policy plan.

§4. The evaluation committee referred to in Article 21, § 1, 4°, shall provide reasoned advice about the updated policy plan and shall communicate this to the administration. The updated policy plan shall be assessed against the heritage covenant.

§5. The administration shall forward the updated policy plan, the report of the administration, the advice of the evaluation committee, and its own advice including a reasoned proposal for approval or disapproval of the updated policy plan to the Minister.

§6. The Minister shall approve or disapprove the updated policy plan and communicate his decision to the administration at the latest four months after the submission of the policy plan.

§7. The administration shall communicate the decision of the Minister, by registered mail, to the public or private law body, within a period of twenty days from the date of receipt of the decision of the Minister.

§8. In case of a negative decision, the Minister may express the intention to impose a sanction proportionally to the established violations of the arrangements in the heritage covenant.

The public or private law body may make an argued appeal against this intention with the administration, by registered mail and within twenty days of receipt of the decision.

The Minister shall decide, after examination of this appeal, whether he will reconfirm, adjust or abandon the intention expressed. If the public or private law body does not file a complaint or files a delayed complaint, the intention expressed shall be confirmed.

Art. 19. §1. The administration shall communicate its findings following a final evaluation, in conformity with Article 17, §1, 2°, by registered post, within two months after the evaluation, to the public or private law body in the form of an evaluation report with recommendations.

§2. The findings of the administration, which are the result of Article 17, §1, 2°, shall serve as material for the preparation of the next heritage covenant as referred to in Articles 3 and 8.

TITLE III Advice provision

Art. 20. The Minister shall appoint at the least eight and at the most twelve members to the advisory committee contained in Article 43 of the Act.

The Minister shall appoint a president and a vice-president among the members of the advisory committee. The president and the vice-president shall be of different gender.

The members of the advisory committee shall be appointed for four years. No member may serve more than two terms.

Art. 21. §1. Within the policy field of cultural heritage preservation, as referred to in Article 44 of the Act, the following evaluation committees shall be established:

1° museums;

2° Flemish Community institutions;

3° archives offices, conservation libraries and documentation centres;

4° heritage covenants and projects on cultural heritage.

If necessary, other evaluation committees may also be established.

§2. For each evaluation committee, the Minister shall appoint at the least five and at the most twelve members.

The Minister shall appoint a president and a vice-president among the members of the evaluation committees. The president and the vice-president shall be of different gender.

The members of the evaluation committees shall be appointed for four years. Every four years half of the members shall be replaced. No member may serve more than two terms.

§3. For the evaluation of the Flemish Community institutions, as referred to in Articles 7 and 8 of the Act, the evaluation committees are composed of three members of the evaluation committee for museums, defined in Article §1, 1° and three foreign experts. The president of the advisory committee is also president of these evaluation committees. The experts shall have an international knowledge of the component of the policy field to be evaluated.

Art. 22. §1. Maximum two thirds of the members of the advisory committee and of the evaluation committees shall be of the same gender.

§2. When composing the advisory committee and the evaluation committees, at least one person familiar with the cultural heritage field in Brussels shall sit on these committees.

Art. 23. §1. Within three months of their appointment, the advisory committee and the evaluation committees shall present to the Minister a proposal of rules of procedure on their operation. Subsequently, the Minister shall approve the rules of procedure of the advisory committee and the evaluation committees.

The advisory committee and the evaluation committees may invite external experts.

§2. A member of an advisory committee or an evaluation committee appointed by the Minister to replace a deceased member or a member, whose mandate has been ended prematurely, shall complete the mandate.

§3. At the request of the person involved, the Minister may put an end to the mandate of:

- 1° the president, vice-president or member of the advisory committee;
- 2° the president, vice-president or member of the evaluation committee.

§4. The Minister may:

- 1° put an end to the mandate of president, vice-president or member of the advisory committee at the request of the advisory committee;
- 2° put an end to the mandate of president, vice-president or member of the evaluation committee at the request of the evaluation committee.

§5. Moreover, in the following cases the Minister may, upon the advice of respectively the advisory committee or an evaluation committee, put an official end to the mandate of president, vice-president or member of the advisory committee or an evaluation committee if the holder of the mandate:

- 1° fails to attend three consecutive meetings of the advisory committee or of an evaluation committee without prior notification;

2° performs activities or fulfils duties that are incompatible with the mandate or involve conflicting interests.

Art. 24. §1. The members of the advisory committee and the evaluation committees, as well as the experts invited by the advisory committee and the evaluation committees, shall receive a fee of 60 euro for one day part, which is indexed, with a maximum of two day parts per day. One day part shall last at least 2 hours and at the most four hours.

The fee shall be granted each time the member is present at the meeting. This amount comprises the preparation of the advice or of the meeting.

§2. The members of the advisory committee and the evaluation committees, as well as the experts invited by the advisory committee and the evaluation committees, shall receive reimbursement of their work-related travel expenses in accordance with the regulations applicable to civil servants of the Flemish Community. Reimbursement of travel expenses shall be calculated on the basis of the distance between their home and the venue of the meeting.

§3. Members who are staff member of the Flemish Community or of Flemish Community institutions shall not have a right to reimbursement if the meeting takes place during ordinary working hours.

Art. 25. The secretariat of the advisory committee and the evaluation committees shall be ensured by the administration.

TITLE IV. Final provisions

Art. 26. §1. In derogation of Article 2, §1, the local authority or the partnership of neighbouring local authorities shall send an application for the conclusion of a first heritage covenant for the period from 1 January 2005 up to and including 31 December 2008, by registered mail or against acknowledgment of receipt, in fifteen copies as well as electronically, to the administration by 30 June 2004 at the latest.

§2. In derogation of Article 3, §1, the local authorities of Antwerp, Bruges, Ghent, Ypres, Courtrai, Louvain, Malines and Tongres shall send an application for the conclusion of a next heritage covenant for the period from 1 January 2005 up to and including 31 December 2008, to the administration or shall deliver it to the administration against acknowledgment of receipt at the latest by 30 June 2004.

§3. In derogation of Article 8, §1, the Flemish Community Commission shall send an application for the conclusion of a next heritage covenant for the period from 1 January 2005 up to and including 31 December 2006, to the administration or shall deliver it to the administration against acknowledgment of receipt at the latest by 30 June 2004.

§4. In derogation of Article 3, §2 and Article 8, §2, the application for the conclusion of a next heritage covenant shall contain an evaluation of the experimental covenant period and all information that is necessary and useful to assess the intention to conclude a next heritage covenant.

§5. In derogation of Article 4, §5 and Article 9, §5, the administration shall send the draft decision on the application to the Flemish Government at the latest three months after the coming into effect of this Act.

§6. In derogation of Article 3, §2, the local authorities mentioned in §2 shall submit a policy plan for the heritage covenant for the period from 1 January 2005 to 31 December 2008 at the latest by 1 April 2005.

§7. In derogation of Article 8, §2, the Flemish Community Commission shall submit a policy plan for the heritage covenant for the period from 1 January 2005 to 31 December 2006 at the latest by 1 April 2005.

Art. 27. The Flemish Minister responsible for Culture is charged with the implementation of this Decree.

This Decree shall enter into force on the date of its signature.

Brussels, (date)

The Minister-President of the Flemish Government,

Bart SOMERS

The Flemish Minister for Home Affairs, Culture, Youth and the Civil
Service,

Paul VAN GREMBERGEN