

**Bill C-13: Essential ingredients of a successful modernization
of the *Official Languages Act* remain absent**

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The subject matter of Bill C-13,
*An Act to amend the Official Languages Act, to enact the Use of French
in Federally Regulated Private Businesses Act
and to make related amendments to other Acts*

Meeting n° 17

Monday, October 24, 2022, 4 p.m.

Standing Committee on Official Languages
Senate

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Summary table:
Some of the necessary amendments to Bill C-13
(not necessarily in order of importance; this list is not exhaustive)

| Amendments | Non-exhaustive list of stakeholders advocating for them |
|---|---|
| <p>1. <u>Only</u> the Treasury Board must be responsible for the overall development and coordination of federal policies and programs for the application of the <u>entire Act without delegation</u> authority</p> | <ul style="list-style-type: none"> • OLLO Report, <i>Modernizing the Official Languages Act: The Views of Federal Institutions and Recommendations</i>, June 2019, recommendations 1 and 2 • LANG Report, <i>Modernization of the Official Languages Act</i>, June 2019, recommendation 9 • Reform Document of the Minister of Official Languages, <i>English and French: Towards Substantive Equality of Official Languages in Canada</i>, February 2021 at pages 25 to 26 • Brief of the Fédération des communautés francophones et acadienne submitted to OLLO and LANG, <i>Proposed amendments to Bill C-13</i>, May 2022 at pages 3 to 7 • Brief of the Office of the Commissioner of Official Languages submitted to OLLO (June 2022) and LANG (October 2022), <i>Seizing a historic opportunity: for a complete modernization of the OLA</i>, at pages 5 and 6 • Letter of the French Speaking Common Law Members Section of the Canadian Bar Association to the Minister of Official Languages, the Minister of Justice and the President of the Treasury Board dated January 31, 2022 at pages 2 and 3 • Brief of Réseau de développement économique et d'employabilité du Canada submitted to LANG, <i>Bill C-13</i>, June 22, 2022 at page 7 • Brief of Hélène Asselin submitted to OLLO and LANG, <i>Bill C-13</i>, June 2022 at page 5 |

| Amendments | Non-exhaustive list of stakeholders advocating for them |
|---|--|
| <p>2. Strengthening and clarifying the obligation of third parties to provide services in both official languages and the obligation to include language clauses in federal government agreements</p> | <ul style="list-style-type: none"> • OLLO Report, <i>Modernizing the Official Languages Act: The Views of Federal Institutions and Recommendations</i>, June 2019, recommendation 3 • LANG Report, <i>Modernization of the Official Languages Act</i>, June 2019, recommendation 8 • Brief of the Fédération des communautés francophones et acadienne submitted to OLLO and LANG, <i>Proposed amendments to Bill C-13</i>, May 2022 at pages 8 to 10 • Brief of the Office of the Commissioner of Official Languages submitted to OLLO (June 2022) and LANG (October 2022), <i>Seizing a historic opportunity: for a complete modernization of the OLA</i>, June 2022 at pages 10 and 11 • Brief of the Quebec Community Groups Network submitted to OLLO and LANG, <i>Bill C-13, An Act for the Substantive Equality of Canada’s Official Languages</i>, May and June 2022 at pages 31 to 33 • Brief of Réseau de développement économique et d'employabilité du Canada submitted to LANG, <i>Bill C-13</i>, June 22, 2022 at page 7 • Bill C-202, <i>An Act to amend the Official Languages Act</i>, Pierre de Bané, 30-3 (1st reading October 31, 1977) • Bill C-374, <i>An Act to amend the Federal-Provincial Fiscal Arrangements Act (social services for the French linguistic minority of a province)</i>, Jean-Paul Marchand, 35-2 (1st reading February 20, 1997) |
| <p>3. The francophone immigration policy must <u>truly</u> ensure the restoration and growth of the demographic weight of French linguistic minority communities</p> | <ul style="list-style-type: none"> • LANG Report, <i>Modernization of the Official Languages Act</i>, June 2019, recommendation 4 • Brief of the Office of the Commissioner of Official Languages submitted to OLLO (June 2022) and LANG (October 2022), <i>Seizing a historic opportunity: for a complete modernization of the OLA</i>, June 2022 at pages 16, 17, 18 and 19 • Brief of the Fédération des communautés francophones et acadienne submitted to OLLO and LANG, <i>Proposed amendments to Bill C-13</i>, May 2022 at pages 11 and 12 • Brief of Réseau de développement économique et d'employabilité du Canada submitted to LANG, <i>Bill C-13</i>, June 22, 2022 at page 7 |

| Amendments | Non-exhaustive list of stakeholders advocating for them |
|--|--|
| <p>4. Strengthening Part VII, particularly with respect to consultation</p> | <ul style="list-style-type: none"> • OLLO Report, <i>Modernizing the Official Languages Act: The Views of Federal Institutions and Recommendations</i>, June 2019, recommendations 5, 10.3 and 10.4 • LANG Report, <i>Modernization of the Official Languages Act</i>, June 2019, recommendations 1 and 3a) • Brief of the Office of the Commissioner of Official Languages submitted to OLLO (June 2022) and LANG (October 2022), <i>Seizing a historic opportunity: for a complete modernization of the OLA</i>, June 2022 at pages 12 to 16 and 18 • Brief of the Fédération des communautés francophones et acadienne submitted to OLLO and LANG, <i>Proposed amendments to Bill C-13</i>, May 2022 at pages 13 to 19 • Brief of the Quebec Community Groups Network submitted to OLLO and LANG, <i>Bill C-13, An Act for the Substantive Equality of Canada’s Official Languages</i>, May and June 2022 at pages 27 to 30 • Bill C-11, <i>An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts</i>, 44-1, s 6 (1st reading of the Senate completed June 21, 2022) |
| <p>5. Extending the Commissioner’s order-making powers to Part VII</p> | <ul style="list-style-type: none"> • Brief of the Fédération des communautés francophones et acadienne submitted to OLLO and LANG, <i>Proposed amendments to Bill C-13</i>, May 2022 at page 20 |
| <p>6. Defining the term “French linguistic minority communities” (“minorités francophones) so that it continues to refer only to French linguistic minority communities <u>outside</u> Quebec</p> | <ul style="list-style-type: none"> • Brief of the Fédération des communautés francophones et acadienne submitted to OLLO and LANG, <i>Proposed amendments to Bill C-13</i>, May 2022 at page 21 • Brief of Réseau de développement économique et d’employabilité du Canada submitted to LANG, <i>Bill C-13</i>, June 22, 2022 at page 7 |

| Amendments | Non-exhaustive list of stakeholders advocating for them |
|---|---|
| <p>7. Before selling or leasing the real property, the federal institution consults and offers interested official language minority community organizations the opportunity to acquire or lease all or part of the property</p> | <ul style="list-style-type: none"> • Letter of the Association des conseils scolaires des écoles publiques de l'Ontario to various Ministers, Members of Parliament and Senators dated May 26, 2022 • LANG Report, <i>Modernization of the Official Languages Act</i>, June 2019, recommendation 7b) at pages 67 to 68 • Brief of the Conseil scolaire francophone de la Colombie-Britannique submitted to the Standing Committee on Official Languages of the House of Commons, November 8, 2018 at page 3 • Brief of the Division scolaire franco-manitobaine submitted to the Standing Senate Committee on Official Languages, February 15, 2017 at page 4 • Brief of the Fédération des communautés francophones et acadienne, <i>Time for Action: The FCFA Proposes a new Wording of the Official Languages Act</i>, March 5, 2019 at pages 137 and 146 |
| <p>8. Provide for a clear and specific obligation to the judiciary to ensure access to justice in French</p> | <ul style="list-style-type: none"> • Letter of the Fédération des associations de juristes d'expression française de common law to LANG, <i>Amendments to Bill C-13 to improve access to justice in French</i>, June 16, 2022 • Letter of the Association des juristes d'expression française du Nouveau-Brunswick to LANG, <i>Necessary amendments to Bill C-13 to ensure improved access to justice in French</i>, July 11, 2022 • OLLO Report, <i>Modernizing the Official Languages Act: The Views of Federal Institutions and Recommendations</i>, June 2019, recommendation 19 • Brief of the Fédération des communautés francophones et acadienne, <i>Time for Action: The FCFA Proposes a new Wording of the Official Languages Act</i>, March 5, 2019 at pages 103 to 111 • Report of the Office of the Commissioner of Official Languages, <i>Access to justice in Both Official Languages: Improving the Bilingual Capacity of the Superior Court Judiciary</i>, 2013 |

| Amendments | Non-exhaustive list of stakeholders advocating for them |
|---|--|
| <p>9. Provide for a requirement that Lieutenant Governors of New Brunswick and Governors General be able to speak and understand both official languages clearly upon appointment</p> | <ul style="list-style-type: none"> • Bill S-220, <i>An Act to amend the Language Skills Act (Governor General)</i>, Claude Carignan, 44-1 (1st reading November 24, 2021) • Bill S-229, <i>An Act to amend the Language Skills Act (Lieutenant Governor of New Brunswick)</i>, Claude Carignan, 44-1 (1st reading December 1, 2021) • Brief of the Fédération des communautés francophones et acadienne, <i>Time for Action: The FCFA Proposes a new Wording of the Official Languages Act</i>, March 5, 2019 at pages 125 to 126 and 130 |
| <p>10. Provide for a requirement that Deputy ministers be able to speak and understand both official languages clearly upon appointment</p> | <ul style="list-style-type: none"> • OLLO Report, <i>Modernizing the Official Languages Act: The Views of Federal Institutions and Recommendations</i>, June 2019, recommendation 11.1 • Brief of the Fédération des communautés francophones et acadienne, <i>Time for Action: The FCFA Proposes a new Wording of the Official Languages Act</i>, March 5, 2019 at pages 125 to 126 and 128 to 129 • Government of Quebec, <i>The Government of Quebec's Proposed Amendments to Bill C-13</i> at page 5 |
| <p>11. Require that the Minister of Justice ensure the implementation of section 55 of the Constitution Act, 1982 to ensure that the Canadian Constitution has the force of law in both official languages</p> | <ul style="list-style-type: none"> • Brief of the Canadian Bar Association submitted to OLLO, <i>Access to Justice in French and English in the Context of Modernizing the Official Languages Act</i>, October 2018 • Brief of the Fédération des communautés francophones et acadienne, <i>Time for Action: The FCFA Proposes a new Wording of the Official Languages Act</i>, March 5, 2019 at pages 142 and 154 |

CODIFICATION

Loi sur les langues officielles

S.R.C. (1985), ch. 31 (4^e suppl.)

CONSOLIDATION

Official Languages Act

R.S.C. (1985), c. 31 (4th Supp.)

NOTE

[Ceci est une version de la *Loi sur les langues officielles* si celle-ci est modifiée par le Projet de loi C-13]

NOTE

[The following is a version of the *Official Languages Act* if amended by Bill C-13]

Ceci est un document de travail et ne devrait en aucun cas être utilisé comme document officiel

This is a working document and should not be used as an official document

MISE EN PAGE

Le libellé de la *Loi sur les langues officielles* présentement en vigueur apparaît en noir et sans soulignement. Les ajouts proposés par le Projet de loi C-13 sont en vert et soulignés. Enfin, le libellé que le Projet de loi C-13 propose faire retirer de la loi est en ~~rouge et barré~~. Voici un exemple :

Obligations des institutions fédérales – mesures positives

~~(2)~~(5) Il incombe aux institutions fédérales de veiller à ce que soient prises ~~des~~les mesures positives qu'elles estiment indiquées pour mettre en œuvre ~~et~~les engagements énoncés aux paragraphe (1) à (3). ~~Il demeure entendu que cette mise en œuvre se fait dans le respect des champs de compétence et des pouvoirs des provinces.~~

LAYOUT

The wording of the *Official Languages Act* currently in force is shown in black with no underlining. The amendments proposed by the Bill C-13 are in green and underlined. Finally, wording that Bill C-13 proposes be removed from the Act is in ~~red and struck out~~. An example is shown below:

Duty of federal institutions – positive measures

~~(2)~~(5) Every federal institution has the duty to ensure that the positive measures that it considers appropriate are taken for the implementation of the commitments under subsections (1) to (3). ~~For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of the provinces.~~

TABLE ANALYTIQUE

Loi concernant le statut et l'usage des langues officielles du Canada

| | Titre abrégé |
|-----|---|
| 1 | Titre abrégé |
| | Objet |
| 2 | Objet |
| | <u>Coordination pangouvernementale</u> |
| 2.1 | <u>Ministre du Patrimoine canadien</u> |
| 2.2 | <u>Stratégie pangouvernementale sur les langues officielles</u> |
| 2.3 | <u>Processus – mise en œuvre de l'engagement énoncé au paragraphe 41(4)</u> |
| | Définitions <u>et interprétation</u> |
| 3 | Définitions |
| 3.1 | <u>Droits linguistiques</u> |
| | PARTIE I |
| | Débats et travaux parlementaires |
| 4 | Langues officielles du Parlement |

TABLE OF PROVISIONS

An Act respecting the status and use of the official languages of Canada

| | Short Title |
|-----|--|
| 1 | Short title |
| | Purpose of Act |
| 2 | Purpose |
| | <u>Government-wide Coordination</u> |
| 2.1 | <u>Minister of Canadian Heritage</u> |
| 2.2 | <u>Government-wide strategy on official languages</u> |
| 2.3 | <u>Process – implementation of commitment under subsection 41(4)</u> |
| | Interpretation |
| 3 | Definitions |
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8 Dépôt des documents

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13 Valeur des deux versions

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Administration de la justice

14 Langues officielles des tribunaux fédéraux

15 Droits des témoins

16 Obligation relative à la compréhension
des langues officielles

17 Pouvoir d'établir des règles de procédure

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Legislative and Other Instruments

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6 Acts of Parliament

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procedure

10 International treaties

11 Notices, advertisements and other
matters that are published

12 Instruments directed to the public

13 Both versions simultaneous and equally
authoritative

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Administration of Justice

14 Official languages of federal courts

15 Hearing of witnesses in official language
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16 Duty to ensure understanding without an
interpreter

17 Authority to make implementing rules

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| 18 | Cas où Sa Majesté est partie à l'affaire | 18 | Language of civil proceedings where Her Majesty is a party |
| 19 | Actes judiciaires | 19 | Bilingual forms |
| 20 | Décisions de justice importantes | 20 | Decisions, orders and judgements that must be made available simultaneously |
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| 22 | Langues des communications et services | 22 | Where communications and services must be in both official languages |
| 23 | Voyageurs | 23 | Travelling public |
| 24 | Vocation du bureau | 24 | Nature of the office |
| Services fournis par des tiers | | Services Provided on behalf of Federal Institutions | |
| 25 | Fourniture dans les deux langues | 25 | Where services provided on behalf of federal institutions |
| Pouvoir réglementaire en matière de santé ou de sécurité publiques | | Regulatory Activities of Federal Institutions | |
| 26 | Réglementation en matière de santé et de sécurité publiques | 26 | Regulatory activities relating to health, safety and security of public |
| Dispositions générales | | General | |
| 27 | Obligation : Communications et services | 27 | Obligations relating to communications and services |

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| 28 | Offre active | 28 | Active offer |
| 29 | Signalisation | 29 | Signs identifying offices |
| 30 | Mode de communication | 30 | Manner of communicating |
| 31 | Incompatibilité | 31 | Relationship to Part V |
| | Règlements | | Regulations |
| 32 | Règlements | 32 | Regulations |
| 33 | Règlements | 33 | Regulations |
| PARTIE V | | PART V | |
| Langue de travail | | Language of Work | |
| 34 | Droits en matière de langue de travail | 34 | Rights relating to language of work |
| 35 | Obligations des institutions fédérales | 35 | Duties of government |
| 36 | Obligations minimales dans les régions désignées | 36 | Minimum duties in relation to prescribed regions |
| 37 | Obligations particulières | 37 | Special duties for institutions directing or providing services to others |
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| 39 | Engagement | 39 | Commitment to equal opportunities and equitable participation |
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| 42 | Coördination <u>Engagement – bilinguisme et promotion du français à l'étranger</u> | 42 | Coördination <u>Commitment – bilingualism and promoting French abroad</u> |
| <u>42.1</u> | <u>Reconnaissance – Société Radio-Canada</u> | <u>42.1</u> | <u>Recognition – Canadian Broadcasting Corporation</u> |
| 43 | Mise en œuvre | 43 | Specific mandate of Minister of Canadian Heritage |
| 44 | Rapport annuel | 44 | Annual report to Parliament |
| <u>44.1</u> | <u>Politique en matière d'immigration francophone</u> | <u>44.1</u> | <u>Policy on francophone immigration</u> |
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**An Act respecting the status and
use of the official languages of
Canada**

telle que modifiée par le

as amended by

Projet de loi C-13

Bill C-13

**1^{re} session, 44^e législature, 2021-2022
(1^{re} lecture le 1^{er} mars 2022)**

**1st Session, 44th Parliament, 2021-2022
(1st reading March 1st, 2022)**

Préambule

Attendu :

que la Constitution dispose que le français et l'anglais sont les langues officielles du Canada et qu'ils ont un statut et des droits et privilèges égaux quant à leur usage dans les institutions du Parlement et du gouvernement du Canada;

qu'elle prévoit l'universalité d'accès dans ces deux langues en ce qui a trait au Parlement et à ses lois ainsi qu'aux tribunaux établis par celui-ci;

qu'elle prévoit en outre des garanties quant au droit du public à l'emploi de l'une ou l'autre de ces langues pour communiquer avec les institutions du Parlement et du gouvernement du Canada ou pour en recevoir les services;

qu'il convient que les ~~agents~~ employés des institutions du Parlement ou du gouvernement du Canada aient l'égale possibilité d'utiliser la langue officielle de leur choix dans la mise en œuvre commune des objectifs de celles-ci;

qu'il convient que les Canadiens d'expression française et d'expression anglaise, sans distinction d'origine ethnique ni égard à la première langue apprise, aient des chances égales d'emploi dans les

Preamble

WHEREAS the Constitution of Canada provides that English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada;

AND WHEREAS the Constitution of Canada provides for full and equal access to Parliament, to the laws of Canada and to courts established by Parliament in both official languages;

AND WHEREAS the Constitution of Canada also provides for guarantees relating to the right of any member of the public to communicate with, and to receive available services from, any institution of the Parliament or government of Canada in either official language;

AND WHEREAS ~~officers and~~ employees of institutions of the Parliament or government of Canada should have equal opportunities to use the official language of their choice while working together in pursuing the goals of those institutions;

AND WHEREAS English-speaking Canadians and French-speaking Canadians should, without regard to their ethnic origin or first language learned, have equal opportunities to obtain

institutions du Parlement ou du gouvernement du Canada;

que le gouvernement fédéral s'est engagé à réaliser, dans le strict respect du principe du mérite en matière de sélection, la pleine participation des Canadiens d'expression française et d'expression anglaise à ses institutions;

qu'il s'est engagé à favoriser l'épanouissement des minorités francophones et anglophones, au titre de leur appartenance aux deux collectivités de langue officielle, et à appuyer leur développement, compte tenu de leur caractère unique et pluriel et de leurs contributions historiques et culturelles à la société canadienne, et à promouvoir la pleine reconnaissance et l'usage du français et de l'anglais dans la société canadienne;

qu'il s'est engagé à protéger et à promouvoir le français, reconnaissant que cette langue est en situation minoritaire au Canada et en Amérique du Nord en raison de l'usage prédominant de l'anglais;

qu'il s'est engagé à collaborer avec les institutions et gouvernements provinciaux et territoriaux en vue d'appuyer le développement des minorités francophones et anglophones, d'offrir des services en français et en anglais, de respecter les garanties constitutionnelles sur les droits à l'instruction dans la langue de la minorité et de faciliter pour tous l'apprentissage du français et de l'anglais;

qu'il s'est engagé à promouvoir le caractère bilingue de la région de la capitale nationale et à encourager les entreprises, les organisations patronales et syndicales, ainsi que les organismes bénévoles canadiens à promouvoir la reconnaissance et l'usage du français et de l'anglais;

qu'il reconnaît l'importance de donner à toute personne au Canada la possibilité d'apprendre une deuxième langue officielle et la contribution de tous ceux qui, au Canada, parlent les deux langues officielles à l'appréciation mutuelle entre les deux collectivités de langue officielle;

qu'il reconnaît l'importance d'appuyer des secteurs essentiels à l'épanouissement des minorités francophones et anglophones et de protéger et

employment in the institutions of the Parliament or government of Canada;

AND WHEREAS the Government of Canada is committed to achieving, with due regard to the principle of selection of personnel according to merit, full participation of English-speaking Canadians and French-speaking Canadians in its institutions;

AND WHEREAS the Government of Canada is committed to enhancing the vitality and supporting the development of English and French linguistic minority communities; – taking into account their uniqueness, diversity and historical and cultural contributions to Canadian society – as an integral part of the two official language communities of Canada, and to fostering full recognition and use of English and French in Canadian society;

AND WHEREAS the Government of Canada is committed to protecting and promoting the French language, recognizing that French is in a minority situation in Canada and North America due to the predominant use of English;

AND WHEREAS the Government of Canada is committed to cooperating with provincial and territorial governments and their institutions to support the development of English and French linguistic minority communities, to provide services in both English and French, to respect the constitutional guarantees of minority language educational rights and to enhance opportunities for all to learn both English and French;

AND WHEREAS the Government of Canada is committed to enhancing the bilingual character of the National Capital Region and to encouraging the business community, labour organizations and voluntary organizations in Canada to foster the recognition and use of English and French;

AND WHEREAS the Government of Canada recognizes the importance of providing opportunities for everyone in Canada to learn a second official language and the contribution of everyone in Canada who speaks both official languages to a mutual appreciation between the two official language communities of Canada;

AND WHEREAS the Government of Canada recognizes the importance of supporting sectors that are essential to enhancing the vitality of English and French linguistic minority

promouvoir la présence d'institutions fortes qui desservent ces minorités;

qu'il reconnaît que la Société Radio-Canada contribue par ses activités à l'épanouissement des minorités francophones et anglophones et à la protection et la promotion des deux langues officielles;

qu'il reconnaît l'importance de la contribution de l'immigration francophone pour favoriser l'épanouissement des minorités francophones, et le fait que l'immigration est l'un des facteurs qui contribuent au maintien ou à l'accroissement du poids démographique de ces minorités;

qu'il reconnaît que des minorités francophones ou anglophones sont présentes dans chaque province et territoire;

qu'il reconnaît la diversité des régimes linguistiques provinciaux et territoriaux qui contribuent à la progression vers l'égalité de statut et d'usage du français et de l'anglais dans la société canadienne, notamment :

que la Constitution accorde à chacun le droit d'employer le français ou l'anglais dans les débats des chambres de la Législature du Québec et de celles de la Législature du Manitoba et le droit d'utiliser le français ou l'anglais dans toutes les affaires dont sont saisis les tribunaux de ces provinces et dans tous les actes de procédure qui en découlent,

que la *Charte de la langue française* du Québec dispose que le français est la langue officielle du Québec,

que la Constitution dispose que le français et l'anglais sont les langues officielles du Nouveau-Brunswick et qu'ils ont un statut et des droits et privilèges égaux quant à leur usage dans les institutions de la Législature et du gouvernement du Nouveau-Brunswick,

qu'elle dispose que la communauté linguistique française et la communauté linguistique anglaise du Nouveau-Brunswick ont un statut et des droits et privilèges égaux;

communities and protecting and promoting the presence of strong institutions serving those communities;

AND WHEREAS the Government of Canada recognizes that the Canadian Broadcasting Corporation contributes through its activities to enhancing the vitality of the English and French linguistic minority communities and to the protection and promotion of both official languages;

AND WHEREAS the Government of Canada recognizes the importance of the contribution of francophone immigration to enhancing the vitality of French linguistic minority communities and that immigration is one of the factors that contributes to maintaining or increasing the demographic weight of those communities;

AND WHEREAS the Government of Canada recognizes the presence of English or French linguistic minority communities in each province and territory;

AND WHEREAS the Government of Canada recognizes the diversity of the provincial and territorial language regimes that contribute to the advancement of the equality of status and use of English and French in Canadian society, including that

the Constitution of Canada provides every person with the right to use English or French in the debates of the Houses of the Legislature of Quebec and those of the Legislature of Manitoba and the right to use English or French in any pleading or process in or from the courts of those provinces,

Quebec's *Charter of the French language* provides that French is the official language of Quebec,

the Constitution of Canada provides that English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick, and

the Constitution of Canada provides that the English linguistic community and the French linguistic community in New Brunswick have equality of status and equal rights and privileges;

qu'il reconnaît que chaque province et territoire a adopté des lois, des politiques ou des programmes qui garantissent des services en français ou qui reconnaissent la contribution des minorités francophones ou anglophones à la société canadienne;

qu'il reconnaît l'importance, parallèlement à l'affirmation du statut des langues officielles et à l'élargissement de leur usage, ~~de maintenir et de valoriser~~ du maintien et de la valorisation de l'usage des autres langues, et de la réappropriation, de la revitalisation et du renforcement des langues autochtones;

que les obligations juridiques relatives aux langues officielles s'appliquent en tout temps, notamment lors de situations d'urgence.

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

Titre abrégé

Titre abrégé

1 *Loi sur les langues officielles.*

Objet

Objet

2 La présente loi a pour objet :

a) d'assurer le respect du français et de l'anglais à titre de langues officielles du Canada, leur égalité de statut et l'égalité de droits et privilèges quant à leur usage dans les institutions fédérales, notamment en ce qui touche les débats et travaux du Parlement, les actes législatifs et autres, l'administration de la justice, les communications avec le public et la prestation des services, ainsi que la mise en œuvre des objectifs de ces institutions ;

b) d'appuyer le développement des minorités francophones et anglophones ~~et, d'une façon générale, de favoriser, au sein de la société canadienne, la progression vers l'égalité de~~

AND WHEREAS the Government of Canada recognizes that each province and territory has adopted laws, policies or programs guaranteeing service in French or recognizing the contribution of the English or French linguistic minority community to Canadian society;

AND WHEREAS the Government of Canada recognizes the importance of ~~preserving~~ maintaining and enhancing the use of languages other than English and French and reclaiming, revitalizing and strengthening Indigenous languages while strengthening the status and use of the official languages;

AND WHEREAS all legal obligations related to the official languages apply at all times, including during emergencies;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short Title

Short title

1 This Act may be cited as the *Official Languages Act*.

Purpose of Act

Purpose

2 The purpose of this Act is to

(a) ensure respect for English and French as the official languages of Canada and ensure equality of status and equal rights and privileges as to their use in all federal institutions, in particular with respect to their use in parliamentary proceedings, in legislative and other instruments, in the administration of justice, in communicating with or providing services to the public and in carrying out the work of federal institutions;

(b) support the development of English and French linguistic minority communities ~~and generally advance the equality of status and use~~

~~statut et d'usage du français et de l'anglais en vue de les protéger;~~

b.1) de favoriser, au sein de la société canadienne, la progression vers l'égalité de statut et d'usage du français et de l'anglais, en tenant compte du fait que le français est en situation minoritaire au Canada et en Amérique du Nord en raison de l'usage prédominant de l'anglais;

c) de préciser les pouvoirs et les obligations des institutions fédérales en matière de langues officielles.

~~of the English and French languages within Canadian society in order to protect them; and~~

(b.1) advance the equality of status and use of the English and French languages within Canadian society, taking into account that French is in a minority situation in Canada and North America due to the predominant use of English; and

(c) set out the powers, duties and functions of federal institutions with respect to the official languages of Canada.

Coordination pangouvernementale

Ministre du Patrimoine canadien

2.1 (1) Le ministre du Patrimoine canadien est chargé d'assumer un rôle de premier plan au sein du gouvernement fédéral en ce qui a trait à la mise en œuvre de la présente loi.

Coordination

(2) Il suscite et encourage, en consultation avec les autres ministres fédéraux, la coordination de la mise en œuvre de la présente loi, notamment la mise en œuvre des engagements énoncés aux paragraphes 41(1) à (3).

Stratégie pangouvernementale sur les langues officielles

2.2 (1) Le ministre du Patrimoine canadien élabore et maintient, en collaboration avec les autres ministres fédéraux, une stratégie pangouvernementale qui énonce les grandes priorités en matière de langues officielles.

Dépôt au Parlement

(2) Il fait déposer la stratégie devant chaque chambre du Parlement dans les quinze premiers jours de séance de celle-ci suivant son élaboration et périodiquement par la suite.

Accessible au public

(3) Il rend la stratégie accessible au public par

Government-wide Coordination

Minister of Canadian Heritage

2.1 (1) The Minister of Canadian Heritage is responsible for exercising leadership within the Government of Canada in relation to the implementation of this Act.

Coordination

(2) That Minister shall, in consultation with the other ministers of the Crown, promote and encourage coordination in the implementation of this Act, including the implementation of the commitments set out in subsections 41(1) to (3).

Government-wide strategy on official languages

2.2 (1) The Minister of Canadian Heritage shall, in cooperation with the other ministers of the Crown, develop and maintain a government-wide strategy that sets out the overall official languages priorities.

Tabling in Parliament

(2) That Minister shall cause the strategy to be tabled in each House of Parliament within the first 15 days on which that House is sitting after the strategy has been developed, and periodically after that.

Accessible to public

(3) That Minister shall make the strategy

Internet ou par tout autre moyen qu'il estime indiqué.

accessible to the public through the Internet or by any other means that the Minister considers appropriate.

Processus – mise en œuvre de l'engagement énoncé au paragraphe 41(4)

Process – implementation of commitment under subsection 41(4)

2.3 Le ministre du Patrimoine canadien établit un processus pour que le gouvernement fédéral mette en œuvre l'engagement énoncé au paragraphe 41(4).

2.3 The Minister of Canadian Heritage shall establish a process for the Government of Canada to implement its commitment under subsection 41(4).

Définitions et interprétation

Interpretation

Définitions

3 (1) Les définitions qui suivent s'appliquent à la présente loi.

commissaire Le commissaire aux langues officielles du Canada nommé au titre de l'article 49. (*Commissioner*)

institutions fédérales Les institutions du Parlement et du gouvernement du Canada, dont le Sénat, la Chambre des communes, la bibliothèque du Parlement, le bureau du conseiller sénatorial en éthique et le bureau du commissaire aux conflits d'intérêts et à l'éthique, le Service de protection parlementaire, le bureau du directeur parlementaire du budget, les tribunaux fédéraux, tout organisme — bureau, commission, conseil, office ou autre — chargé de fonctions administratives sous le régime d'une loi fédérale ou en vertu des attributions du gouverneur en conseil, les ministères fédéraux, les sociétés d'État créées sous le régime d'une loi fédérale et tout autre organisme désigné par la loi à titre de mandataire de Sa Majesté du chef du Canada ou placé sous la tutelle du gouverneur en conseil ou d'un ministre fédéral. Ne sont pas visés les institutions de l'Assemblée législative du Yukon, de l'Assemblée législative des Territoires du Nord-Ouest ou de l'Assemblée législative du Nunavut ou celles de l'administration de chacun de ces territoires, ni les organismes — bande indienne, conseil de bande ou autres — chargés de l'administration d'une bande indienne ou d'autres groupes de peuples autochtones. (*federal institution*)

jour ouvrable Jour autre que :

Definitions

3 (1) In this Act,

business day means day other than

(a) a Saturday;

(b) a Sunday or other holiday; and

(c) a day that falls during the seasonal recess, as defined in section 2 of the Federal Courts Rules; (*jour ouvrable*)

Commissioner means the Commissioner of Official Languages for Canada appointed under section 49; (*commissaire*)

Crown corporation means

(a) a corporation that is ultimately accountable, through a Minister, to Parliament for the conduct of its affairs, and

(b) a parent Crown corporation or a wholly-owned subsidiary, within the meaning of section 83 of the *Financial Administration Act*; (*sociétés d'État*)

department means a department as defined in section 2 of the *Financial Administration Act*; (*ministère*)

federal institution includes any of the following institutions of the Parliament or government of Canada:

(a) the Senate,

(b) the House of Commons,

a) le samedi;

b) le dimanche ou autre jour férié;

c) un jour compris dans les *vacances judiciaires saisonnières*, au sens de l'article 2 des *Règles des Cours fédérales*. (*business day*)

ministère Ministère au sens de l'article 2 de la *Loi sur la gestion des finances publiques*. (*department*)

région de la capitale nationale La région de la capitale nationale au sens de l'annexe de la *Loi sur la capitale nationale*. (*National Capital Region*)

sociétés d'État Les personnes morales tenues de rendre compte au Parlement de leurs activités par l'intermédiaire d'un ministre, ainsi que les sociétés d'État mères — et leurs filiales à cent pour cent — au sens de l'article 83 de la *Loi sur la gestion des finances publiques*. (*Crown corporation*)

(c) the Library of Parliament,

(c.1) the office of the Senate Ethics Officer and the office of the Conflict of Interest and Ethics Commissioner,

(c.2) the Parliamentary Protective Service,

(c.3) the office of the Parliamentary Budget Officer,

(d) any federal court,

(e) any board, commission or council, or other body or office, established to perform a governmental function by or pursuant to an Act of Parliament or by or under the authority of the Governor in Council,

(f) a department of the Government of Canada,

(g) a Crown corporation established by or pursuant to an Act of Parliament, and

(h) any other body that is specified by an Act of Parliament to be an agent of Her Majesty in right of Canada or to be subject to the direction of the Governor in Council or a minister of the Crown,

but does not include

(i) any institution of the Legislative Assembly or government of Yukon, the Northwest Territories or Nunavut, or

(j) any Indian band, band council or other body established to perform a governmental function in relation to an Indian band or other group of aboriginal people; (*institutions fédérales*)

National Capital Region means the National Capital Region described in the schedule to the *National Capital Act*. (*région de la capitale nationale*)

Définition de *tribunal*

(2) Pour l'application du présent article et des parties II et III, est un tribunal fédéral tout organisme créé sous le régime d'une loi fédérale pour rendre la justice.

Droits linguistiques

3.1 Pour l'application de la présente loi :

a) les droits linguistiques doivent être interprétés d'une façon large et libérale en fonction de leur objet;

Definition of *federal court*

(2) In this section and in Parts II and III, **federal court** means any court, tribunal or other body that carries out adjudicative functions and is established by or pursuant to an Act of Parliament.

Language rights

3.1 For the purposes of this Act,

a) language rights are to be given a large, liberal and purposive interpretation;

b) ils doivent être interprétés en fonction de leur caractère réparateur;

c) l'égalité réelle est la norme applicable à ces droits.

(b) language rights are to be interpreted in light of their remedial character; and

(c) the norm for the interpretation of language rights is substantive equality.

PARTIE I

Débats et travaux parlementaires

Langues officielles du Parlement

4 (1) Le français et l'anglais sont les langues officielles du Parlement; chacun a le droit d'employer l'une ou l'autre dans les débats et travaux du Parlement.

Interprétation simultanée

(2) Il doit être pourvu à l'interprétation simultanée des débats et autres travaux du Parlement.

Journal des débats

(3) Les comptes rendus des débats et d'autres comptes rendus des travaux du Parlement comportent la transcription des propos tenus dans une langue officielle et leur traduction dans l'autre langue officielle.

PARTIE II

Actes législatifs et autres

Documents parlementaires

5 Les archives, comptes rendus et procès-verbaux du Parlement sont tenus, imprimés et publiés dans les deux langues officielles.

PART I

Proceedings of Parliament

Official languages of Parliament

4 (1) English and French are the official languages of Parliament, and everyone has the right to use either of those languages in any debates and other proceedings of Parliament.

Simultaneous interpretation

(2) Facilities shall be made available for the simultaneous interpretation of the debates and other proceedings of Parliament from one official language into the other.

Official reports

(3) Everything reported in official reports of debates or other proceedings of Parliament shall be reported in the official language in which it was said and a translation thereof into the other official language shall be included therewith.

PART II

Legislative and Other Instruments

Journals and the other records

5 The journals and other records of Parliament shall be made and kept, and shall be printed and published, in both official languages.

Lois fédérales

6 Les lois du Parlement sont adoptées, imprimées et publiées dans les deux langues officielles.

Textes d'application

7 (1) Sont établis dans les deux langues officielles, ~~les actes s'ils sont pris;~~ dans l'exercice d'un pouvoir législatif conféré sous le régime d'une loi fédérale, les actes pris soit par le gouverneur en conseil ou par un ou plusieurs ministres fédéraux, soit avec leur agrément, les actes astreints, sous le régime d'une loi fédérale, à l'obligation de publication dans la *Gazette du Canada*, ainsi que les actes de nature publique et générale. Leur impression et leur publication éventuelles se font dans les deux langues officielles.

Prérogative

(2) Les actes qui procèdent de la prérogative ou de tout autre pouvoir exécutif et sont de nature publique et générale sont établis dans les deux langues officielles. Leur impression et leur publication éventuelles se font dans ces deux langues.

Exceptions

(3) Le paragraphe (1) ne s'applique pas aux textes ~~suivants-ci-après~~ du seul fait qu'ils sont ~~d'intérêt général et public~~ de nature publique et générale :

- a)** les lois de la Législature du Yukon, de la Législature des Territoires du Nord-Ouest ou de la Législature du Nunavut, ainsi que les actes découlant de ces lois;
- b)** les actes pris par les organismes — bande indienne, conseil de bande ou autres — chargés de l'administration d'une bande indienne ou d'autres groupes de peuples autochtones.

Acts of Parliament

6 All Acts of Parliament shall be enacted, printed and published in both official languages.

Legislative instruments

7 (1) Any instrument shall be made in both official languages and, if printed and published, shall be printed and published in both official languages, if it is made in the execution of a legislative power conferred by or under an Act of Parliament ~~that and~~

(a) is made by, or with the approval of, the Governor in Council or one or more ministers of the Crown,

(b) is required by or ~~pursuant to~~ under an Act of Parliament to be published in the *Canada Gazette*, or

(c) is of a public and general nature;

~~shall be made in both official languages and, if printed and published, shall be printed and published in both official languages.~~

Instruments under prerogative or other executive power

(2) All instruments made in the exercise of a prerogative or other executive power that are of a public and general nature shall be made in both official languages and, if printed and published, shall be printed and published in both official languages.

Exceptions

(3) Subsection (1) does not, by reason only that the ordinance, by-law, law or other instrument is of a public and general nature, apply to

(a) a law made by the Legislature of Yukon, of the Northwest Territories or for Nunavut, or any instrument made under any such law, or

(b) a by-law, law or other instrument of an Indian band, band council or other body established to perform a governmental function in relation to an Indian band or other group of aboriginal people;

~~by reason only that the ordinance, by-law, law or other instrument is of a public and general nature.~~

Dépôt des documents

8 Les documents qui émanent d'une institution fédérale et qui sont déposés au Sénat ou à la Chambre des communes par le gouvernement fédéral le sont dans les deux langues officielles.

Textes de procédures

9 Les textes régissant la procédure et la pratique des tribunaux fédéraux sont établis, imprimés et publiés dans les deux langues officielles.

Traités

10 (1) Le gouvernement fédéral prend toutes les mesures ~~voulues possibles~~ pour veiller à ce que les traités et conventions intervenus entre le Canada et tout autre État soient authentifiés dans les deux langues officielles.

Accords fédéro-provinciaux-territoriaux

(2) Il incombe au gouvernement fédéral de veiller à ce que les textes fédéro-provinciaux-territoriaux ~~suivants ci-après~~ soient établis; dans les deux langues officielles et à ce que les deux versions ~~ayant aient~~ même valeur; ~~dans les deux langues officielles~~ :

- a) les accords dont la prise d'effet relève du Parlement ou du gouverneur en conseil;
- b) les accords conclus avec une ou plusieurs territoires ou provinces lorsque l'une d'entre ~~elles eux~~ a comme langues officielles déclarées le français et l'anglais ou demande que le texte soit établi en français et en anglais;
- c) les accords conclus avec plusieurs provinces ou territoires dont les gouvernements n'utilisent pas la même langue officielle.

Règlements

(3) Le gouverneur en conseil peut, par règlement, fixer les circonstances dans lesquelles les catégories d'accords qui y sont mentionnées — avec les provinces ou territoires ou d'autres États — sont à établir ou à rendre publics dans les deux langues officielles lors de leur signature ou de leur publication, ou, sur demande, à traduire.

Documents in Parliament

8 Any document made by or under the authority of a federal institution that is tabled in the Senate or the House of Commons by the Government of Canada shall be tabled in both official languages.

Rules, etc., governing practice and procedure

9 All rules, orders and regulations governing the practice or procedure in any proceedings before a federal court shall be made, printed and published in both official languages.

International treaties

10 (1) The Government of Canada shall take all possible measures to ensure that any treaty or convention between Canada and one or more other states is authenticated in both official languages.

Federal-provincial-territorial agreements

(2) The Government of Canada has the duty to ensure that the following classes of agreements between Canada and one or more provinces or territories are made in both official languages and that both versions are equally authoritative:

- (a) agreements that require the authorization of Parliament or the Governor in Council to be effective;
- (b) agreements entered into with one or more provinces or territories ~~where if~~ English and French are declared to be the official languages of any of those provinces or territories or ~~where if~~ any of ~~those provinces them~~ requests that the agreement be made in English and French; and
- (c) agreements entered into with two or more provinces or territories ~~where if~~ their governments ~~of those provinces~~ do not use the same official language.

Regulations

(3) The Governor in Council may make regulations prescribing the circumstances in which any class, specified in the regulations, of agreements that are made between Canada and one or more other states or between Canada and one or more provinces or territories

- (a) must be made in both official languages;
- (b) must be made available in both official languages at the time of signing or publication;
or
- (c) must, on request, be translated.

Avis et annonces

11 (1) Les textes — notamment les avis et annonces — que les institutions fédérales doivent ou peuvent, sous le régime d'une loi fédérale, publier, ou faire publier, et qui sont principalement destinés au public doivent, là où cela est possible, ~~paraître~~ figurer dans des publications qui sont largement diffusées dans chacune des régions visées, la version française dans au moins une publication d'expression principalement française et son pendant anglais dans au moins une publication d'expression principalement anglaise ou les deux versions dans au moins une publication d'expression également française et anglaise. En l'absence de telles publications, ils doivent ~~paraître~~ figurer dans les deux langues officielles dans au moins une publication qui est largement diffusée dans la région.

Publications sur support électronique

(1.1) Il est entendu que les publications visées au paragraphe (1) comprennent toute publication sur support électronique.

Importance

(2) Il est donné dans ces textes égale importance aux deux langues officielles.

Notices, advertisements and other published matters

11 (1) A notice, advertisement or other matter that is required or authorized by or ~~pursuant to~~ under an Act of Parliament to be published by or under the authority of a federal institution primarily for the information of members of the public shall,

- (a) wherever possible, ~~be printed~~ appear in ~~one of the official languages in at least one~~ publication in general circulation within each region where the matter applies ~~that appears wholly or mainly in that language and the in the other official language~~, with the English version appearing in at least one publication ~~in general circulation within each region where the matter applies that appears wholly or mainly in that other language~~ that is mainly in English and the French version appearing in at least one publication that is mainly in French or those two versions appearing in at least one publication that appears equally in English and French; and
- (b) ~~where~~ If there is no publication in general circulation within a region where the matter applies that ~~appears wholly or is~~ mainly in English or ~~no such publication that appears wholly or~~ mainly in French, ~~be printed and no publication in general circulation within that region that appears equally in English and French~~, appear in both official languages in at least one publication in general circulation within that region.

Publications in electronic form

(1.1) For greater certainty, a publication referred to in subsection (1) includes a publication in an electronic form.

Equal prominence

(2) Where a notice, advertisement or other matter is printed in one or more publications pursuant to subsection (1), it shall be given equal prominence in each official language.

Actes destinés au public

12 Les actes qui s'adressent au public et qui sont censés émaner d'une institution fédérale sont établis ou délivrés dans les deux langues officielles.

Valeur des deux versions

13 Tous les textes qui sont établis, imprimés, publiés ou déposés sous le régime de la présente partie dans les deux langues officielles le sont simultanément, les deux versions ayant également force de loi ou même valeur.

PARTIE III

Administration de la justice

Langues officielles des tribunaux fédéraux

14 Le français et l'anglais sont les langues officielles des tribunaux fédéraux; chacun a le droit d'employer l'une ou l'autre dans toutes les affaires dont ils sont saisis et dans les actes de procédure qui en découlent.

Droits des témoins

15 (1) Il incombe aux tribunaux fédéraux de veiller à ce que tout témoin qui comparait devant eux puisse être entendu dans la langue officielle de son choix sans subir de préjudice du fait qu'il ne s'exprime pas dans l'autre langue officielle.

Services d'interprétation : obligation

(2) Il leur incombe également de veiller, sur demande d'une partie, à ce que soient offerts, notamment pour l'audition des témoins, des services d'interprétation simultanée d'une langue

Instruments directed to the public

12 All instruments directed to or intended for the notice of the public, purporting to be made or issued by or under the authority of a federal institution, shall be made or issued in both official languages.

Both versions simultaneous and equally authoritative

13 Any journal, record, Act of Parliament, instrument, document, rule, order, regulation, treaty, convention, agreement, notice, advertisement or other matter referred to in this Part that is made, enacted, printed, published or tabled in both official languages shall be made, enacted, printed, published or tabled simultaneously in both languages, and both language versions are equally authoritative.

PART III

Administration of justice

Official languages of federal courts

14 English and French are the official languages of the federal courts, and either of those languages may be used by any person in, or in any pleading in or process issuing from, any federal court.

Hearing of witnesses in official language of choice

15 (1) Every federal court has, in any proceedings before it, the duty to ensure that any person giving evidence before it may be heard in the official language of his choice, and that in being so heard the person will not be placed at a disadvantage by not being heard in the other official language.

Duty to provide simultaneous interpretation

(2) Every federal court has, in any proceedings conducted before it, the duty to ensure that, at the request of any party to the proceedings, facilities are made available for the simultaneous

officielle à l'autre langue.

interpretation of the proceedings, including the evidence given and taken, from one official language into the other.

Services d'interprétation : faculté

(3) Ils peuvent faire aussi ordonner que soient offerts, notamment pour l'audition des témoins, des services d'interprétation simultanée d'une langue officielle à l'autre s'ils estiment que l'affaire présente de l'intérêt ou de l'importance pour le public ou qu'il est souhaitable de le faire pour l'auditoire.

Federal court may provide simultaneous interpretation

(3) A federal court may, in any proceedings conducted before it, cause facilities to be made available for the simultaneous interpretation of the proceedings, including evidence given and taken, from one official language into the other where it considers the proceedings to be of general public interest or importance or where it otherwise considers it desirable to do so for members of the public in attendance at the proceedings.

Obligation relative à la compréhension des langues officielles

16 (1) Il incombe aux tribunaux fédéraux ~~autres que la Cour suprême du Canada~~ de veiller à ce que celui qui entend l'affaire :

a) comprenne l'anglais sans l'aide d'un interprète lorsque les parties ont opté pour que l'affaire ait lieu en anglais;

b) comprenne le français sans l'aide d'un interprète lorsque les parties ont opté pour que l'affaire ait lieu en français;

c) comprenne l'anglais et le français sans l'aide d'un interprète lorsque les parties ont opté pour que l'affaire ait lieu dans les deux langues.

Obligation relative à la compréhension des langues officielles

16 (1) Every federal court, ~~other than the Supreme Court of Canada,~~ has the duty to ensure that

(a) if English is the language chosen by the parties for proceedings conducted before it in any particular case, every judge or other officer who hears those proceedings is able to understand English without the assistance of an interpreter;

(b) if French is the language chosen by the parties for proceedings conducted before it in any particular case, every judge or other officer who hears those proceedings is able to understand French without the assistance of an interpreter; and

(c) if both English and French are the languages chosen by the parties for proceedings conducted before it in any particular case, every judge or other officer who hears those proceedings is able to understand both languages without the assistance of an interpreter.

Fonctions judiciaires

(2) Il demeure entendu que le paragraphe (1) ne s'applique aux tribunaux fédéraux que dans le cadre de leurs fonctions judiciaires.

Adjudicative functions

(2) For greater certainty, subsection (1) applies to a federal court only in relation to its adjudicative functions.

Mise en œuvre progressive

(3) ~~[Abrogé, 2022, ch. 13, art. 11(2)] Les tribunaux fédéraux autres que la Cour d'appel fédérale, la~~

Limitation

(3) ~~[Repealed, 2022, c. 13, s. 11(2)] No federal court, other than the Federal Court of Appeal, the~~

~~Cour fédérale et la Cour canadienne de l'impôt disposent toutefois, pour se conformer au paragraphe (1), d'un délai de cinq ans après son entrée en vigueur.~~

~~Federal Court or the Tax Court of Canada, is required to comply with subsection (1) until five years after that subsection comes into force.~~

Pouvoir d'établir des règles de procédure

17 (1) Le gouverneur en conseil peut établir, sauf pour la Cour suprême du Canada, la Cour d'appel fédérale, la Cour fédérale et la Cour canadienne de l'impôt, les règles de procédure judiciaire, y compris en matière de notification, qu'il estime nécessaires pour permettre aux tribunaux fédéraux de se conformer aux articles 15 et 16.

Authority to make implementing rules

17 (1) The Governor in Council may make any rules governing the procedure in proceedings before any federal court, other than the Supreme Court of Canada, the Federal Court of Appeal, the Federal Court or the Tax Court of Canada, including rules respecting the giving of notice, that the Governor in Council deems necessary to enable that federal court to comply with sections 15 and 16 in the exercise of any of its powers or duties.

Cour suprême, Cour d'appel fédérale, Cour fédérale, Cour canadienne de l'impôt

(2) La Cour suprême du Canada, la Cour d'appel fédérale, la Cour fédérale et la Cour canadienne de l'impôt peuvent exercer, pour leur propre fonctionnement, le pouvoir visé au paragraphe (1), sous réserve de l'agrément du gouverneur en conseil.

Supreme Court, Federal Court of Appeal, Federal Court and Tax Court of Canada

(2) Subject to the approval of the Governor in Council, the Supreme Court of Canada, the Federal Court of Appeal, the Federal Court and the Tax Court of Canada may make any rules governing the procedure in their own proceedings, including rules respecting the giving of notice, that they deem necessary to enable themselves to comply with sections 15 and 16 in the exercise of any of their powers or duties.

Cas où Sa Majesté est partie à l'affaire

18 Dans une affaire civile à laquelle elle est partie devant un tribunal fédéral, Sa Majesté du chef du Canada ou une institution fédérale utilise, pour les plaidoiries ou les actes de la procédure, la langue officielle choisie par les autres parties à moins qu'elle n'établisse le caractère abusif du délai de l'avis l'informant de ce choix. Faute de choix ou d'accord entre les autres parties, elle utilise la langue officielle la plus justifiée dans les circonstances.

Language of civil proceedings where Her Majesty is a party

18 Where Her Majesty in right of Canada or a federal institution is a party to civil proceedings before a federal court,

(a) Her Majesty or the institution concerned shall use, in any oral or written pleadings in the proceedings, the official language chosen by the other parties unless it is established by Her Majesty or the institution that reasonable notice of the language chosen has not been given; and

(b) if the other parties fail to choose or agree on the official language to be used in those pleadings, Her Majesty or the institution concerned shall use such official language as is reasonable, having regard to the circumstances.

Actes judiciaires

19 (1) L'imprimé des actes judiciaires des tribunaux fédéraux que doivent signifier les institutions fédérales est établi dans les deux langues officielles.

Bilingual forms

19 (1) The pre-printed portion of any form that is used in proceedings before a federal court and is required to be served by any federal institution that is a party to the proceedings on any other party

shall be in both official languages.

Compléments d'information

(2) Ces actes peuvent être remplis dans une seule des langues officielles pourvu qu'il y soit clairement indiqué que la traduction peut être obtenue sur demande; celle-ci doit dès lors être établie sans délai par l'auteur de la signification.

Décisions de justice importantes

20 (1) Les décisions définitives — exposé des motifs compris — des tribunaux fédéraux sont simultanément mises à la disposition du public dans les deux langues officielles :

a) si le point de droit en litige présente de l'intérêt ou de l'importance pour celui-ci;

a.1) si elles ont valeur de précédent;

b) lorsque les débats se sont déroulés, en tout ou en partie, dans les deux langues officielles, ou que les actes de procédure ont été, en tout ou en partie, rédigés dans les deux langues officielles.

Autres décisions

(2) Dans les cas non visés par le paragraphe (1) ou si le tribunal estime que l'établissement au titre des ~~alinéas~~ (1)a) ou a.1) d'une version bilingue entraînerait un retard qui serait préjudiciable à l'intérêt public ou qui causerait une injustice ou un inconvénient grave à une des parties au litige, la décision — exposé des motifs compris — est rendue d'abord dans l'une des langues officielles, puis dans les meilleurs délais dans l'autre langue officielle. Elle est exécutoire à la date de prise d'effet de la première version.

Particular details

(2) The particular details that are added to a form referred to in subsection (1) may be set out in either official language but, where the details are set out in only one official language, it shall be clearly indicated on the form that a translation of the details into the other official language may be obtained, and, if a request for a translation is made, a translation shall be made available forthwith by the party that served the form.

Decisions, orders and judgments that must be made available simultaneously

20 (1) Any final decision, order or judgment, including any reasons given therefor, issued by any federal court shall be made available simultaneously in both official languages where

(a) the decision, order or judgment determines a question of law of general public interest or importance; ~~or~~

(a.1) the decision, order or judgment has precedential value; or

(b) the proceedings leading to its issuance were conducted in whole or in part in both official languages.

Other decisions, order and judgments

(2) ~~Where~~ A decision, order or judgement issued by the federal court, including any reasons given for it, shall be issued first in one of the official languages and then, at the earliest possible time, in the other official language, with each version to be effective from the time the first version is effective, if

(a) ~~any~~ it is a final decision, order or judgment ~~issued by a federal court that~~ is not required ~~by~~ under subsection (1) to be made available simultaneously in both official languages, or

(b) the decision, order or judgment is required ~~by paragraph (1)(a)~~ by paragraph (1)(a) or (a.1) to be made available simultaneously in both official languages under paragraph (1)(a) or (a.1) but the court is of the opinion that to make the decision, order or judgment, including any reasons given ~~therefor~~ for it, available simultaneously in both official

languages would occasion a delay prejudicial to the public interest or resulting in injustice or hardship to any party to the proceedings leading to its issuance⁷.

~~the decision, order or judgment, including any reasons given therefor, shall be issued in the first instance in one of the official languages and thereafter, at the earliest possible time, in the other official language, each version to be effective from the time the first version is effective.~~

Décisions orales

(3) Les paragraphes (1) et (2) n'ont pas pour effet d'interdire le prononcé, dans une seule langue officielle, d'une décision de justice ou de l'exposé des motifs.

Précision

(4) Les décisions de justice rendues dans une seule des langues officielles ne sont pas invalides pour autant.

Oral rendition of decisions not affected

(3) Nothing in subsection (1) or (2) shall be construed as prohibiting the oral rendition or delivery, in only one of the official languages, of any decision, order or judgment or any reasons given therefor.

Decisions not invalidated

(4) No decision, order or judgment issued by a federal court is invalid by reason only that it was not made or issued in both official languages.

PARTIE IV

Communications avec le public et prestation des services

Communications et services

Droits en matière de communication

21 Le public a, au Canada, le droit de communiquer avec les institutions fédérales et d'en recevoir les services conformément à la présente partie.

Langues des communications et services

22 Il incombe aux institutions fédérales de veiller à ce que le public puisse communiquer avec leur siège ou leur administration centrale, et en recevoir les services, dans l'une ou l'autre des langues

PART IV

Communications with and Services to the Public

Communications and Services

Rights relating to language of communication

21 Any member of the public in Canada has the right to communicate with and to receive available services from federal institutions in accordance with this Part.

Where communications and services must be in both official languages

22 Every federal institution has the duty to ensure that any member of the public can communicate with and obtain available services from its head or central office in either official language, and has the

officielles. Cette obligation vaut également pour leurs bureaux — auxquels sont assimilés, pour l'application de la présente partie, tous autres lieux où ces institutions offrent des services — situés soit dans la région de la capitale nationale, soit là où, au Canada comme à l'étranger, l'emploi de cette langue fait l'objet d'une demande importante.

Voyageurs

23 (1) Il est entendu qu'il incombe aux institutions fédérales offrant des services aux voyageurs de veiller à ce que ceux-ci puissent, dans l'une ou l'autre des langues officielles, communiquer avec leurs bureaux et en recevoir les services, là où, au Canada comme à l'étranger, l'emploi de cette langue fait l'objet d'une demande importante.

Services conventionnés

(2) Il incombe aux institutions fédérales de veiller à ce que, dans les bureaux visés au paragraphe (1), les services réglementaires offerts aux voyageurs par des tiers conventionnés par elles à cette fin le soient, dans les deux langues officielles, selon les modalités réglementaires.

Vocation du bureau

24 (1) Il incombe aux institutions fédérales de veiller à ce que le public puisse communiquer avec leurs bureaux, tant au Canada qu'à l'étranger, et en recevoir les services dans l'une ou l'autre des langues officielles :

a) soit dans les cas, fixés par règlement, touchant à la santé ou à la sécurité du public ainsi qu'à l'emplacement des bureaux, ou liés au caractère national ou international de leur mandat;

same duty with respect to any of its other offices or facilities

(a) within the National Capital Region; or

(b) in Canada or elsewhere, where there is significant demand for communications with and services from that office or facility in that language.

Travelling public

23 (1) For greater certainty, every federal institution that provides services or makes them available to the travelling public has the duty to ensure that any member of the travelling public can communicate with and obtain those services in either official language from any office or facility of the institution in Canada or elsewhere where there is significant demand for those services in that language.

Services provided pursuant to a contract

(2) Every federal institution has the duty to ensure that such services to the travelling public as may be prescribed by regulation of the Governor in Council that are provided or made available by another person or organization pursuant to a contract with the federal institution for the provision of those services at an office or facility referred to in subsection (1) are provided or made available, in both official languages, in the manner prescribed by regulation of the Governor in Council.

Nature of the office

24 (1) Every federal institution has the duty to ensure that any member of the public can communicate in either official language with, and obtain available services in either official language from, any of its offices or facilities in Canada or elsewhere

(a) in any circumstances prescribed by regulation of the Governor in Council that relate to any of the following:

(i) the health, safety or security of members of the public,

(ii) the location of the office or facility, or

(iii) the national or international mandate of the office; or

b) soit en toute autre circonstance déterminée par règlement, si la vocation des bureaux justifie l'emploi des deux langues officielles.

(b) soit en toute autre circonstance déterminée par règlement, si la vocation des bureaux justifie l'emploi des deux langues officielles.

Institutions relevant directement du Parlement

(2) Il incombe aux institutions fédérales tenues de rendre directement compte au Parlement de leurs activités de veiller à ce que le public puisse communiquer avec leurs bureaux, tant au Canada qu'à l'étranger, et en recevoir les services dans l'une ou l'autre des langues officielles.

Institutions reporting directly to Parliament

(2) Any federal institution that reports directly to Parliament on any of its activities has the duty to ensure that any member of the public can communicate with and obtain available services from all of its offices or facilities in Canada or elsewhere in either official language.

Précision

(3) Cette obligation vise notamment :

- a)** le commissariat aux langues officielles;
- b)** le bureau du directeur général des élections;
- b.1)** le commissariat à l'intégrité du secteur public;
- c)** le bureau du vérificateur général;
- d)** le commissariat à l'information;
- e)** le commissariat à la protection de la vie privée;
- f)** le Commissariat au lobbying.

Idem

(3) Without restricting the generality of subsection (2), the duty set out in that subsection applies in respect of

- (a)** the Office of the Commissioner of Official Languages;
- (b)** the Office of the Chief Electoral Officer;
- (b.1)** the Office of the Public Sector Integrity Commissioner;
- (c)** the Office of the Auditor General;
- (d)** the Office of the Information Commissioner;
- (e)** the Office of the Privacy Commissioner; and
- (f)** the Office of the Commissioner of Lobbying.

Services fournis par des tiers

Services Provided on behalf of Federal Institutions

Fourniture dans les deux langues

25 Il incombe aux institutions fédérales de veiller à ce que, tant au Canada qu'à l'étranger, les services offerts au public par des tiers pour leur compte le soient, et à ce qu'il puisse communiquer avec ceux-ci, dans l'une ou l'autre des langues officielles dans le cas où, offrant elles-mêmes les services, elles seraient tenues, au titre de la présente partie, à une telle obligation.

Where services provided on behalf of federal institutions

25 Every federal institution has the duty to ensure that, where services are provided or made available by another person or organization on its behalf, any member of the public in Canada or elsewhere can communicate with and obtain those services from that person or organization in either official language in any case where those services, if provided by the institution, would be required under this Part to be provided in either official language.

Pouvoir réglementaire en matière de santé ou de sécurité publiques

Réglementation en matière de santé et de sécurité publiques

26 Il incombe aux institutions fédérales qui réglementent les activités de tiers exercées en matière de santé ou de sécurité du public de veiller, si les circonstances le justifient, à ce que celui-ci puisse, grâce à cette réglementation, communiquer avec eux et en recevoir les services, en cette matière, dans les deux langues officielles.

Regulatory Activities of Federal Institutions

Regulatory activities relating to health, safety and security of public

26 Every federal institution that regulates persons or organizations with respect to any of their activities that relate to the health, safety or security of members of the public has the duty to ensure, through its regulation of those persons or organizations, wherever it is reasonable to do so in the circumstances, that members of the public can communicate with and obtain available services from those persons or organizations in relation to those activities in both official languages.

Dispositions générales

Obligation : communications et services

27 L'obligation que la présente partie impose en matière de communications et services dans les deux langues officielles à cet égard vaut également, tant sur le plan de l'écrit que de l'oral, pour tout ce qui s'y rattache.

Offre active

28 Lorsqu'elles sont tenues, sous le régime de la présente partie, de veiller à ce que le public puisse communiquer avec leurs bureaux ou recevoir les services de ceux-ci ou de tiers pour leur compte, dans l'une ou l'autre langue officielle, il incombe aux institutions fédérales de veiller également à ce que les mesures voulues soient prises pour informer le public, notamment par entrée en communication avec lui ou encore par signalisation, avis ou documentation sur les services, que ceux-ci lui sont offerts dans l'une ou l'autre langue officielle, au choix.

General

Obligations relating to communications and services

27 Wherever in this Part there is a duty in respect of communications and services in both official languages, the duty applies in respect of oral and written communications and in respect of any documents or activities that relate to those communications or services.

Active offre

28 Every federal institution that is required under this Part to ensure that any member of the public can communicate with and obtain available services from an office or facility of that institution, or of another person or organization on behalf of that institution, in either official language shall ensure that appropriate measures are taken, including the provision of signs, notices and other information on services and the initiation of communication with the public, to make it known to members of the public that those services are available in either official language at the choice of any member of the public.

Signalisation

29 Tous les panneaux et enseignes signalant les bureaux d'une institution fédérale doivent être dans les deux langues officielles, ou placés ensemble de façon que les textes de chaque langue soient également en évidence.

Mode de communication

30 Sous réserve de la partie II, les institutions fédérales qui, sous le régime de la présente partie, communiquent avec le public dans les deux langues officielles sont tenues d'utiliser les médias qui leur permettent d'assurer, en conformité avec les objectifs de la présente loi, une communication efficace avec chacun dans la langue officielle de son choix.

Incompatibilité

31 Les dispositions de la présente partie l'emportent sur les dispositions incompatibles de la partie V.

Règlements

Règlements

32 (1) Le gouverneur en conseil peut, par règlement :

- a)** déterminer, pour l'application de l'article 22 ou du paragraphe 23(1), les circonstances dans lesquelles il y a demande importante;
- b)** en cas de silence de la présente partie, déterminer les circonstances dans lesquelles il incombe aux institutions fédérales de veiller à ce que le public puisse communiquer avec leurs bureaux, ou recevoir les services de ceux-ci, dans l'une ou l'autre langue officielle;
- c)** déterminer les services visés au paragraphe 23(2) et les modalités de leur fourniture;
- d)** déterminer pour le public et les voyageurs les cas visés à l'alinéa 24(1)a) et les circonstances visées à l'alinéa 24(1)b);
- e)** définir « population de la minorité francophone ou anglophone » pour l'application de l'alinéa (2)a).

Signs identifying offices

29 Where a federal institution identifies any of its offices or facilities with signs, each sign shall include both official languages or be placed together with a similar sign of equal prominence in the other official language.

Manner of communicating

30 Subject to Part II, where a federal institution is engaged in communications with members of the public in both official languages as required in this Part, it shall communicate by using such media of communication as will reach members of the public in the official language of their choice in an effective and efficient manner that is consistent with the purposes of this Act.

Relationship to Part V

31 In the event of any inconsistency between this Part and Part V, this Part prevails to the extent of the inconsistency.

Regulations

Regulations

32 (1) The Governor in Council may make regulations

- (a)** prescribing the circumstances in which there is significant demand for the purpose of paragraph 22(b) or subsection 23(1);
- (b)** prescribing circumstances not otherwise provided for under this Part in which federal institutions have the duty to ensure that any member of the public can communicate with and obtain available services from offices of the institution in either official language;
- (c)** prescribing services, and the manner in which those services are to be provided or made available, for the purpose of subsection 23(2);
- (d)** prescribing circumstances, in relation to the public or the travelling public, for the purpose of paragraph 24(1)(a) or (b); and
- (e)** defining the expression "English or French linguistic minority population" for the purpose of paragraph (2)(a).

Critères

(2) Le gouverneur en conseil peut, pour déterminer les circonstances visées aux alinéas (1)a) ou b), tenir compte :

- a) de la population de la minorité francophone ou anglophone de la région desservie, de la spécificité de cette minorité et de la proportion que celle-ci représente par rapport à la population totale de cette région;
- b) du volume des communications ou des services assurés entre un bureau et les utilisateurs de l'une ou l'autre langue officielle;
- c) de tout autre critère qu'il juge indiqué.

Règlements

33 Le gouverneur en conseil peut, par règlement, prendre les mesures d'incitation qu'il estime nécessaires pour ~~que soient effectivement assurés dans les deux langues officielles favoriser activement~~ les communications ~~et les services que sont tenues de pourvoir dans ces deux langues, au titre de la présente partie,~~ avec les institutions fédérales — autres que le Sénat, la Chambre des communes, la bibliothèque du Parlement, le bureau du conseiller sénatorial en éthique, le bureau du commissaire aux conflits d'intérêts et à l'éthique, le Service de protection parlementaire ou le bureau du directeur parlementaire du budget — et la prestation par elles de services dans les deux langues officielles, si elles sont tenues de pourvoir ces communications et services dans ces deux langues au titre de la présente partie.

PARTIE V

Langue de travail

Droits en matière de langue de travail

34 Le français et l'anglais sont les langues de travail des institutions fédérales. Leurs ~~agents employés~~ ont donc le droit d'utiliser, conformément à la présente partie, l'une ou l'autre.

Where circumstances prescribed under paragraph (1)(a) or (b)

(2) In prescribing circumstances under paragraph (1)(a) or (b), the Governor in Council may have regard to

- (a) the number of persons composing the English or French linguistic minority population of the area served by an office or facility, the particular characteristics of that population and the proportion of that population to the total population of that area;
- (b) the volume of communications or services between an office or facility and members of the public using each official language; and
- (c) any other factors that the Governor in Council considers appropriate.

Regulations

33 The Governor in Council may make any regulations that the Governor in Council considers necessary to foster actively communications with and services from offices or facilities of federal institutions — other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service or office of the Parliamentary Budget Officer — in both official languages, if those communications and services are required under this Part to be provided in both official languages.

PART V

Language of Work

Rights relating to language of work

34 English and French are the languages of work in all federal institutions, and ~~officers and~~ employees of all federal institutions have the right to use either official language in accordance with this Part.

Obligations des institutions fédérales

35 (1) Il incombe aux institutions fédérales de veiller à ce que :

a) dans la région de la capitale nationale et dans les régions ou secteurs du Canada ou lieux à l'étranger désignés, leur milieu de travail soit propice à l'usage effectif des deux langues officielles tout en permettant à leurs ~~personnel~~ employés d'utiliser l'une ou l'autre;

b) ailleurs au Canada, la situation des deux langues officielles en milieu de travail soit comparable entre les régions ou secteurs où l'une ou l'autre prédomine.

Régions désignées du Canada

(2) Les régions du Canada énumérées dans la circulaire n° 1977-46 du Conseil du Trésor et de la Commission de la fonction publique du 30 septembre 1977, à l'annexe B de la partie intitulée « Les langues officielles dans la Fonction publique du Canada : Déclaration de politiques », sont des régions désignées aux fins de l'alinéa (1)a).

Obligations minimales dans les régions désignées

36 (1) Il incombe aux institutions fédérales, dans la région de la capitale nationale et dans les régions, secteurs ou lieux désignés au titre de l'alinéa 35(1)a) :

a) de fournir à leurs ~~personnel~~ employés, dans les deux langues officielles, tant les services qui ~~lui~~ leur sont destinés, notamment à titre individuel ou à titre de services auxiliaires centraux, que la documentation et les matériel autres instruments de travail d'usage courant et généralisé produits par elles-mêmes ou pour leur compte;

Duties of government

35 (1) Every federal institution has the duty to ensure that

(a) within the National Capital Region and in any part or region of Canada, or in any place outside Canada, that is prescribed, work environments of the institution are conducive to the effective use of both official languages and accommodate the use of either official language by its ~~officers and~~ employees; and

(b) in all parts or regions of Canada not prescribed for the purpose of paragraph (a), the treatment of both official languages in the work environments of the institution in parts or regions of Canada where one official language predominates is reasonably comparable to the treatment of both official languages in the work environments of the institution in parts or regions of Canada where the other official language predominates.

Regions of Canada prescribed

(2) The regions of Canada set out in Annex B of the part of the Treasury Board and Public Service Commission Circular No. 1977-46 of September 30, 1977 that is entitled "Official Languages in the Public Service of Canada: A Statement of Policies" are prescribed for the purpose of paragraph (1)(a).

Minimum duties in relation to prescribed regions

36 (1) Every federal institution has the duty, within the National Capital Region and in any part or region of Canada, or in any place outside Canada, that is prescribed for the purpose of paragraph 35(1)(a), to

(a) make available in both official languages to ~~officers and~~ employees of the institution

(i) services that are provided to ~~officers and~~ employees, including services that are provided to them as individuals and services that are centrally provided by the institution to support them in the performance of their duties, and

(ii) regularly and widely used documentation or other work instruments produced by or on behalf of that or any other

b) de veiller à ce que les systèmes informatiques d'usage courant et généralisé et acquis ou produits par elles à compter du 1^{er} janvier 1991 puissent être utilisés dans l'une ou l'autre des langues officielles;

c) de veiller à ce que, là où il est indiqué de le faire pour que le milieu de travail soit propice à l'usage effectif des deux langues officielles, les ~~supérieurs~~ gestionnaires et les superviseurs soient aptes à communiquer avec ~~leurs subordonnés~~ les employés dans celles-ci lorsqu'ils exercent leurs attributions à titre de gestionnaires ou de superviseurs et à ce que la haute direction soit en mesure de fonctionner dans ces deux langues.

Autres obligations

(2) Il leur incombe également de veiller à ce que soient prises, dans les régions, secteurs ou lieux visés au paragraphe (1), toutes autres mesures possibles permettant de créer et de maintenir en leur sein un milieu de travail propice à l'usage effectif des deux langues officielles et qui permette à leurs ~~personnel~~ employés d'utiliser l'une ou l'autre.

Obligations particulières

37 Il incombe aux institutions fédérales centrales de veiller à ce que l'exercice de leurs attributions respecte, dans le cadre de leurs relations avec les autres institutions fédérales sur lesquelles elles ont autorité ou qu'elles desservent, l'usage des deux langues officielles fait par les ~~personnel~~ employés de celles-ci.

Règlements

38 (1) Le gouverneur en conseil peut, par règlement visant les institutions fédérales autres que le Sénat, la Chambre des communes, la

federal institution;

(b) ensure that regularly and widely used ~~automated computer~~ systems ~~for the processing and communication of data~~ acquired or produced by the institution on or after January 1, 1991 can be used in either official language; and

(c) ensure that

(i) ~~where~~ if it is appropriate or necessary in order to create a work environment that is conducive to the effective use of both official languages, managers and supervisors are able to communicate in both official languages with ~~officers and~~ employees of the institution in carrying out their managerial or supervisory responsibilities, and

(ii) any management group that is responsible for the general direction of the institution as a whole has the capacity to function in both official languages.

Additional duties ~~in prescribed regions~~

(2) Every federal institution has the duty to ensure that, within the National Capital Region and in any part or region of Canada, or in any place outside Canada, that is prescribed for the purpose of paragraph 35(1)(a), ~~such the~~ measures that are taken in addition to those required under subsection (1) as can reasonably be taken in addition to those required under subsection (1) to establish and maintain work environments of the institution that are conducive to the effective use of both official languages and accommodate the use of either official language by its ~~officers and~~ employees.

Special duties ~~for institutions directing or providing services to others~~

37 Every federal institution that has authority to direct, or provides services to, other federal institutions has the duty to ensure that it exercises its powers and carries out its duties in relation to those other institutions in a manner that accommodates the use of either official language by ~~officers and~~ employees of those institutions.

Regulations

38 (1) The Governor in Council may make regulations in respect of federal institutions, other than the Senate, House of Commons, Library of

bibliothèque du Parlement, le bureau du conseiller sénatorial en éthique, le bureau du commissaire aux conflits d'intérêts et à l'éthique, le Service de protection parlementaire ou le bureau du directeur parlementaire du budget :

a) déterminer, pour tout secteur ou région du Canada, ou lieu à l'étranger, les services, la documentation et les ~~matériel~~ autres instruments de travail qu'elles doivent offrir à leurs ~~personnel employés~~ dans les deux langues officielles, les systèmes informatiques qui doivent pouvoir être utilisés dans ces deux langues, ainsi que les activités — de gestion ou de ~~surveillance~~ supervision — à exécuter dans ces deux langues;

b) prendre toute autre mesure visant à créer et à maintenir, dans la région de la capitale nationale et dans les régions ou secteurs du Canada, ou lieux à l'étranger, désignés pour l'application de l'alinéa 35(1)a), un milieu de travail propice à l'usage effectif des deux langues officielles et à permettre à leurs ~~personnel employés~~ d'utiliser l'une ou l'autre;

c) déterminer la ou les langues officielles à utiliser dans leurs communications avec ceux de leurs bureaux situés dans les régions ou secteurs du Canada, ou lieux à l'étranger, qui y sont mentionnés;

d) fixer les modalités d'exécution des obligations que la présente partie ou ses règlements leur imposent;

e) fixer les obligations, en matière de langues officielles, qui leur incombent à l'égard de ceux de leurs bureaux situés dans les secteurs ou régions non désignés par règlement pris au titre de l'alinéa 35(1)a), compte tenu de l'égalité de statut des deux langues officielles.

Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service or office of the Parliamentary Budget Officer,

(a) prescribing, in respect of any part or region of Canada or any place outside Canada,

(i) any services, documentation or other work instruments that ~~are to be made available by those institutions~~ are to make available to their employees in both official languages ~~to officers or employees of those institutions~~,

(ii) any ~~automated~~ computer systems ~~for the processing and communication of data~~ that must be available for use in both official languages, and

(iii) any supervisory or ~~management functions~~ managerial responsibilities that are to be carried out by those institutions in both official languages;

(b) prescribing any other measures that are to be taken, within the National Capital Region and in any part or region of Canada, or in any place outside Canada, that is prescribed for the purpose of paragraph 35(1)(a), to establish and maintain work environments of those institutions that are conducive to the effective use of both official languages and accommodate the use of either official language by their ~~officers and~~ employees;

(c) requiring that either or both official languages be used in communications with offices of those institutions that are located in any part or region of Canada, or any place outside Canada, specified in the regulations;

(d) prescribing the manner in which any duties of those institutions under this Part or the regulations made under this Part in relation to the use of both official languages are to be carried out; and

(e) prescribing obligations of those institutions in relation to the use of the official languages of Canada by the institutions in respect of offices in parts or regions of Canada not prescribed for the purpose of paragraph 35(1)(a), having regard to the equality of status of both official languages.

Idem

(2) Le gouverneur en conseil peut, par règlement :

a) inscrire ou radier l'une ou l'autre des régions du Canada désignées conformément au paragraphe 35(2) ou désigner, pour l'application de l'alinéa 35(1)a), tous secteurs ou régions du Canada ou lieux à l'étranger, compte tenu :

(i) du nombre et de la proportion d'~~agents employés~~ francophones et anglophones qui travaillent dans les institutions fédérales des secteurs, régions ou lieux désignés,

(ii) du nombre et de la proportion de francophones et d'anglophones qui résident dans ces secteurs ou régions,

(iii) de tout autre critère qu'il juge indiqué;

b) en cas de conflit — dont la réalité puisse se démontrer — entre l'une des obligations prévues par l'article 36 ou les règlements d'application du paragraphe (1) et le mandat d'une des institutions fédérales, y substituer, compte tenu de l'égalité de statut des deux langues officielles, une autre obligation touchant leur utilisation.

Idem

(2) The Governor in Council may make regulations

(a) adding to or deleting from the regions of Canada prescribed by subsection 35(2) or prescribing any other part or region of Canada, or any place outside Canada, for the purpose of paragraph 35(1)(a), having regard to

(i) the number and proportion of English-speaking and French-speaking ~~officers and~~ employees who constitute the work force of federal institutions based in the parts, regions or places prescribed,

(ii) the number and proportion of English-speaking and French-speaking persons resident in the parts or regions prescribed, and

(iii) any other factors that the Governor in Council considers appropriate; and

(b) substituting, with respect to any federal institution other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service or office of the Parliamentary Budget Officer, a duty in relation to the use of the official languages of Canada in place of a duty under section 36 or the regulations made under subsection (1), having regard to the equality of status of both official languages, if there is a demonstrable conflict between the duty under section 36 or the regulations and the mandate of the institution.

PARTIE VI

Participation des
Canadiens d'expression
française et d'expression
anglaise

PART VI

Participation of English-
speaking and French-
speaking Canadians

Engagement

39 (1) Le gouvernement fédéral s'engage à veiller à ce que :

a) les Canadiens d'expression française et d'expression anglaise, sans distinction d'origine ethnique ni égard à la première langue apprise, aient des chances égales d'emploi et d'avancement dans les institutions fédérales;

b) les effectifs des institutions fédérales tendent à refléter la présence au Canada des deux collectivités de langue officielle, compte tenu de la nature de chacune d'elles et notamment de leur mandat, de leur public et de l'emplacement de leurs bureaux.

Possibilités d'emploi

(2) Les institutions fédérales veillent, au titre de cet engagement, à ce que l'emploi soit ouvert à tous les Canadiens, tant d'expression française que d'expression anglaise, compte tenu des objets et des dispositions des ~~parties IV et V relatives à l'emploi~~ la présente loi.

Principe du mérite

(3) Le présent article n'a pas pour effet de porter atteinte au mode de sélection fondé sur le mérite.

Règlements

40 Le gouverneur en conseil peut, par règlement, prendre toute mesure réglementaire d'application de la présente partie.

PARTIE VII

Promotion du français et de l'anglais

Commitment to equal opportunities and equitable participation

39 (1) The Government of Canada is committed to ensuring that

a) English-speaking Canadians and French-speaking Canadians, without regard to their ethnic origin or first language learned, have equal opportunities to obtain employment and advancement in federal institutions; and

b) the composition of the work-force of federal institutions tends to reflect the presence of both the official language communities of Canada, taking into account the characteristics of individual institutions, including their mandates, the public they serve and their location.

Employment opportunities

(2) In carrying out the commitment of the Government of Canada under subsection (1), federal institutions shall ensure that employment opportunities are open to both English-speaking Canadians and French-speaking Canadians, taking ~~due~~ into account ~~of~~ the purposes and provisions of ~~Parts IV and V in relation to the appointment and advancement of officers and employees by those institutions and the determination of the terms and conditions of their employment~~ this Act.

Merit principle

(3) Nothing in this section shall be construed as abrogating or derogating from the principle of selection of personnel according to merit.

Regulations

40 The Governor in Council may make ~~such~~ regulations ~~as the Governor in Council deems necessary to carry out for~~ the purposes ~~and provisions~~ of this Part.

PART VII

Advancement of English and French

Engagement – épanouissement des minorités et promotion du français et de l’anglais

41 (1) Le gouvernement fédéral s’engage à favoriser l’épanouissement des minorités francophones et anglophones du Canada et à appuyer leur développement, compte tenu de leur caractère unique et pluriel et de leurs contributions historiques et culturelles à la société canadienne, ainsi qu’à promouvoir la pleine reconnaissance et l’usage du français et de l’anglais dans la société canadienne.

Engagement – protection et promotion du français

(2) Le gouvernement fédéral, reconnaissant que le français est en situation minoritaire au Canada et en Amérique du Nord en raison de l’usage prédominant de l’anglais, s’engage à protéger et à promouvoir le français.

Engagement – apprentissages dans la langue de la minorité

(3) Le gouvernement fédéral s’engage à renforcer les possibilités pour les minorités francophones et anglophones de faire des apprentissages de qualité dans leur propre langue tout au long de leur vie, notamment depuis la petite enfance jusqu’aux études postsecondaires.

Engagement – article 23 de la Charte canadienne des droits et libertés

(4) Le gouvernement fédéral s’engage à contribuer périodiquement à l’estimation du nombre d’enfants dont les parents ont, en vertu de l’article 23 de la Charte canadienne des droits et libertés, le droit de les faire instruire dans la langue de la minorité francophone ou anglophone d’une province ou d’un territoire, y compris le droit de les faire instruire dans des établissements d’enseignement de la minorité linguistique.

Obligations des institutions fédérales – mesures positives

~~(2)~~**(5)** Il incombe aux institutions fédérales de veiller à ce que soient prises ~~des~~ les mesures positives qu’elles estiment indiquées pour mettre

Government policy – Commitment – enhancing vitality of communities and fostering English and French

41 (1) The Government of Canada is committed to

(a) enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development, taking into account their uniqueness, diversity and historical and cultural contributions to Canadian society; and

(b) fostering the full recognition and use of both English and French in Canadian society.

Commitment – protection and promotion of French

(2) The Government of Canada, recognizing that French is in a minority situation in Canada and North America due to the predominant use of English, is committed to protecting and promoting the French language.

Commitment – learning in minority language

(3) The Government of Canada is committed to advancing opportunities for members of English and French linguistic minority communities to pursue quality learning in their own language throughout their lives, including from early childhood to post-secondary education.

Commitment – section 23 of the Canadian Charter of Rights and Freedoms

(4) The Government of Canada is committed to contributing periodically to an estimate of the number of children whose parents have, under section 23 of the Canadian Charter of Rights and Freedoms, the right to have their children receive their instruction in the language of the English or French linguistic minority population of a province or territory, including the right to have them receive that instruction in minority language educational facilities.

Duty of federal institutions – positive measures

~~(2)~~**(5)** Every federal institution has the duty to ensure that the positive measures that it considers appropriate are taken for the implementation of

en œuvre ~~et les engagements énoncés aux paragraphes (1) à (3). Il demeure entendu que cette mise en œuvre se fait dans le respect des champs de compétence et des pouvoirs des provinces.~~

the commitments under subsections (1) to (3). ~~For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of the provinces.~~

Mesures positives

(6) Les mesures positives visées au paragraphe (5) :

a) sont concrètes et prises avec l'intention d'avoir un effet favorable sur la mise en œuvre des engagements énoncés aux paragraphes (1) à (3);

b) sont prises tout en respectant :

(i) la nécessité de protéger et promouvoir le français dans chaque province et territoire, compte tenu du fait que cette langue est en situation minoritaire au Canada et en Amérique du Nord en raison de l'usage prédominant de l'anglais,

(ii) la nécessité de prendre en considération les besoins propres à chacune des deux collectivités de langues officielles, compte tenu de leur égale importance;

c) peuvent notamment comprendre toute mesure visant :

(i) à promouvoir et à appuyer l'apprentissage du français et de l'anglais au Canada,

(ii) à favoriser l'acceptation et l'appréciation par le public du français et de l'anglais,

(iii) à inciter et à aider les organisations, associations et autres organismes à refléter et à promouvoir, au Canada et à l'étranger, le caractère bilingue du Canada,

(iv) à appuyer la création et la diffusion d'information en français qui contribue à l'avancement des savoirs scientifiques dans toute discipline,

(v) à appuyer des secteurs essentiels à l'épanouissement des minorités francophones et anglophones, notamment ceux de la culture, de l'éducation — depuis la petite enfance jusqu'aux études postsecondaires —, de la santé, de la justice, de l'emploi et de l'immigration, et à protéger et à promouvoir la présence d'institutions

Positive measures

(6) Positive measures taken under subsection (5)

(a) shall be concrete and taken with the intention of having a beneficial effect on the implementation of the commitments under subsections (1) to (3);

(b) shall respect

(i) the necessity of protecting and promoting the French language in each province and territory, taking into account that French is in a minority situation in Canada and North America due to the predominant use of English, and

(ii) the necessity of considering the specific needs of each of the two official language communities of Canada, taking into account the equal importance of the two communities; and

(c) may include measures, among others, to

(i) promote and support the learning of English and French in Canada,

(ii) foster an acceptance and appreciation of both English and French by members of the public,

(iii) induce and assist organizations and institutions to project and promote the bilingual character of Canada in their activities in Canada or elsewhere,

(iv) support the creation and dissemination of information in French that contributes to the advancement of scientific knowledge in any discipline, and

(v) support sectors that are essential to enhancing the vitality of English and French linguistic minority communities, including the culture, education — from early childhood to post-secondary education — health, justice, employment and immigration sectors, and protect and promote the presence of strong institutions

fortes qui desservent ces minorités.

servicing those communities.

Potentiel de prise de mesures positives et impacts négatifs

(7) Dans la réalisation de leur mandat, les institutions fédérales, sur la base des analyses qu'elles estiment indiquées :

a) considèrent le potentiel de prise de mesures positives au titre du paragraphe (5);

b) prennent en compte les impacts négatifs directs que leurs décisions structurantes pourraient avoir sur les engagements énoncés aux paragraphes (1) à (3), et ce afin de considérer les possibilités d'atténuer ces effets négatifs.

Potential to take positive measures and negative impacts

(7) In carrying out its mandate, every federal institution shall, on the basis of analyses that the federal institution considers appropriate,

(a) consider whether positive measures could potentially be taken under subsection (5); and

(b) take into account the direct negative impacts that its structuring decisions may have on the commitments under subsections (1) to (3) in order to consider the possibilities for mitigating those negative impacts.

Activités de dialogue et de consultation, recherches et données probantes

(8) Les analyses visées au paragraphe (7) sont fondées, dans la mesure du possible, sur le résultat d'activités de dialogue et de consultation, sur des recherches et sur des données probantes.

Dialogue and consultation activities, research and evidence-based findings

(8) The analyses referred to in subsection (7) shall be founded, to the extent possible, on the results of dialogue and consultation activities, on research and on evidence-based findings.

Objectif des activités de dialogue et de consultation

(9) L'objectif des activités de dialogue et de consultation menées pour l'application du paragraphe (8) est de permettre la prise en compte des priorités des minorités francophones et anglophones et des autres intervenants.

Objective of dialogue and consultation activities

(9) The objective of the dialogue and consultation activities carried out for the purposes of subsection (8) is to permit the priorities of the English and French linguistic minority communities and other stakeholders to be taken into account.

Mécanismes d'évaluation et de surveillance

(10) Les institutions fédérales établissent des mécanismes d'évaluation et de surveillance relatifs aux mesures positives prises au titre du paragraphe (5).

Evaluation and monitoring mechanisms

(10) Every federal institution shall establish evaluation and monitoring mechanisms in relation to the positive measures taken under subsection (5).

Règlements

~~(3)~~(11) Sur la recommandation du Conseil du Trésor faite après consultation par celui-ci du ministre du Patrimoine canadien, le gouverneur en conseil peut, par règlement visant les institutions fédérales autres que le Sénat, la Chambre des communes, la bibliothèque du Parlement, le bureau du conseiller sénatorial en éthique, le bureau du commissaire aux conflits d'intérêts et à l'éthique, le Service de protection parlementaire ou le bureau du directeur

Regulations

~~(3)~~(11) The Governor in Council may, on the recommendation of the Treasury Board made after consultation with the Minister of Canadian Heritage, make regulations in respect of federal institutions, other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service or office of the Parliamentary Budget Officer, prescribing the manner in which

parlementaire du budget, fixer les modalités d'exécution des obligations que la présente partie leur impose.

any duties of those institutions under this Part are to be carried out.

Précision

(12) Il est entendu que l'octroi dans la présente partie d'attributions à certains ministres fédéraux ne restreint pas les obligations que celle-ci impose aux institutions fédérales.

For greater certainty

(12) For greater certainty, the express powers, duties and functions of certain ministers of the Crown provided for in this Part do not limit the duties of federal institutions under this Part.

Coordination

~~42 Le ministre du Patrimoine canadien, en consultation avec les autres ministres fédéraux, suscite et encourage la coordination de la mise en œuvre par les institutions fédérales de cet engagement.~~

Coordination

~~42 The Minister of Canadian Heritage, in consultation with other ministers of the Crown, shall encourage and promote a coordinated approach to the implementation by federal institutions of the commitments set out in section 41.~~

Engagement – bilinguisme et promotion du français à l'étranger

42 (1) Le gouvernement fédéral s'engage à favoriser l'usage du français et de l'anglais dans la conduite des affaires extérieures du Canada et à promouvoir le français dans le cadre des relations diplomatiques du Canada.

Commitment – bilingualism and promoting French abroad

42 (1) The Government of Canada is committed to advancing the use of English and French in the conduct of Canada's external affairs and to promoting French as part of Canada's diplomatic relations.

Mise en œuvre

(2) Le ministre des Affaires étrangères prend les mesures qu'il estime indiquées pour mettre en œuvre cet engagement.

Implementation

(2) The Minister of Foreign Affairs shall take such measures as that Minister considers appropriate for the implementation of the commitment under subsection (1).

Reconnaissance – Société Radio-Canada

42.1 Le gouvernement fédéral reconnaît que la Société Radio-Canada, dans l'exécution de la mission que lui confère la *Loi sur la radiodiffusion* en conformité avec les licences qui lui sont attribuées au titre de cette loi par le Conseil de la radiodiffusion et des télécommunications canadiennes et sous réserve des règlements de celui-ci, contribue par ses activités à l'épanouissement des minorités francophones et anglophones du Canada et à la protection et la promotion des deux langues officielles. Cette reconnaissance est faite dans le respect de la liberté d'expression et de l'indépendance en matière de journalisme, de création et de programmation dont jouit la Société Radio-Canada.

Recognition – Canadian Broadcasting Corporation

42.1 The Government of Canada recognizes that the Canadian Broadcasting Corporation, in carrying out its purposes under the *Broadcasting Act* in accordance with the licences issued to it under that Act by the Canadian Radio-television and Telecommunications Commission and subject to any applicable regulations of that Commission, contributes through its activities to enhancing the vitality of the English and French linguistic minority communities in Canada and to the protection and promotion of both official languages. This recognition is made while respecting the freedom of expression and the journalistic, creative and programming independence enjoyed by the Canadian Broadcasting Corporation.

Mise en œuvre

43 (1) Le ministre du Patrimoine canadien prend les mesures qu'il estime indiquées pour favoriser la progression vers l'égalité de statut et d'usage du français et de l'anglais dans la société canadienne et, notamment, toute mesure :

a) de nature à favoriser l'épanouissement des minorités francophones et anglophones du Canada et à appuyer leur développement;

b) pour ~~encourager et appuyer l'apprentissage du français et de l'anglais~~ appuyer le développement et la promotion de la culture francophone au Canada, notamment par l'entremise des activités des organismes dont il est responsable et en veillant à ce que les politiques culturelles du gouvernement fédéral reflètent l'objet de la présente loi;

c) pour ~~encourager le public à mieux accepter et apprécier le français et l'anglais~~ fournir du financement à un organisme indépendant du gouvernement fédéral chargé d'administrer un programme dont l'objectif est de fournir du financement en vue de la présentation devant les tribunaux de causes types d'importance nationale qui visent à clarifier et à faire valoir des droits constitutionnels et quasi-constitutionnels en matière de langues officielles;

d) pour encourager et aider les gouvernements provinciaux et territoriaux à favoriser le développement des minorités francophones et anglophones, et notamment à leur offrir des services provinciaux, territoriaux et municipaux en français et en anglais et à leur permettre de recevoir leur instruction dans leur propre langue;

e) pour encourager et aider ces gouvernements et les organismes à but non lucratif à donner à ~~tous~~ toute personne au Canada la possibilité d'apprendre le français et l'anglais et à favoriser l'acceptation et l'appréciation par le public de ces deux langues;

f) pour ~~encourager~~ inciter les entreprises, les organisations patronales et syndicales, et les

Specific mandate of Minister of Canadian Heritage

43 (1) The Minister of Canadian Heritage shall take such measures as that Minister considers appropriate to advance the equality of status and use of English and French in Canadian society and, without restricting the generality of the foregoing, may take measures to

(a) enhance the vitality of the English and French linguistic minority communities in Canada and support and assist their development;

(b) ~~encourage and support the learning of English and French in Canada~~ support the development and promotion of francophone culture in Canada, including through the activities of entities for which that Minister is responsible and by ensuring that the Government of Canada's cultural policies are consistent with the purpose of this Act;

(c) ~~foster an acceptance and appreciation of both English and French by members of the public~~ provide funding to an organization, independent of the Government of Canada, responsible for administering a program whose purpose is to provide funding for test cases of national significance to be brought before the courts to clarify and assert constitutional and quasi-constitutional official language rights;

(d) encourage and assist provincial and territorial governments to support the development of English and French linguistic minority communities generally and, in particular, to offer provincial, territorial and municipal services in both English and French and to provide opportunities for members of English or French linguistic minority communities to be educated in their own language;

(e) encourage and assist provincial and territorial governments and non-profit organizations to provide opportunities for everyone in Canada to learn both English and French and to foster an acceptance and appreciation of both English and French by members of the public;

(f) ~~encourage~~ induce the business community, labour organizations, ~~voluntary~~ non-profit

organismes ~~bénévoles~~ à but non lucratif et autres à fournir leurs services en français et en anglais et à favoriser la reconnaissance et l'usage de ces deux langues, ~~et pour collaborer avec eux à ces fins~~;

g) pour ~~encourager et aider les organisations, associations ou autres organismes à refléter et promouvoir, au Canada et à l'étranger, le caractère bilingue du Canada~~ mettre en œuvre des programmes d'appui aux langues officielles;

h) sous réserve de l'aval du gouverneur en conseil, pour conclure avec des gouvernements étrangers des accords ou arrangements reconnaissant et renforçant l'identité bilingue du Canada.

organizations and other organizations or institutions to provide services in both English and French and to foster the recognition and use of those languages;

(g) ~~encourage and assist organizations and institutions to project the bilingual character of Canada in their activities in Canada or elsewhere~~ implement programs in support of official languages; and

(h) with the approval of the Governor in Council, enter into agreements or arrangements that recognize and advance the bilingual character of Canada with the governments of foreign states.

Consultation et information au public

(2) Il prend les mesures qu'il juge aptes à assurer la consultation publique sur l'élaboration des principes d'application et la révision des programmes favorisant la progression vers l'égalité de statut et d'usage du français et de l'anglais dans la société canadienne et informe le public sur ces principes et programmes.

Rapport annuel

44 Dans les meilleurs délais après la fin de chaque exercice, le ministre du Patrimoine canadien dépose un rapport annuel au Parlement sur les questions relevant de sa mission en matière de langues officielles.

Politique en matière d'immigration francophone

44.1 (1) Le ministre de la Citoyenneté et de l'Immigration adopte une politique en matière d'immigration francophone afin de favoriser l'épanouissement des minorités francophones du Canada.

Contenu

(2) La politique comprend notamment :

a) des objectifs, des cibles et des indicateurs;

b) un énoncé du fait que le gouvernement fédéral reconnaît que l'immigration est l'un des facteurs qui contribuent au maintien ou à

Public Consultation and information to public

(2) The Minister of Canadian Heritage shall take such measures as that Minister considers appropriate to ensure public consultation in the development of policies and review of programs relating to the advancement and the equality of status and use of English and French in Canadian society and shall provide information to the public relating to those policies and programs.

Annual report to Parliament

44 The Minister of Canadian Heritage shall, within such time as is reasonably practicable after the termination of each financial year, submit an annual report to Parliament on the matters relating to official languages for which that Minister is responsible.

Policy on francophone immigration

44.1 (1) The Minister of Citizenship and Immigration shall adopt a policy on francophone immigration to enhance the vitality of French linguistic minority communities in Canada.

Contents

(2) The policy shall include, among other things,

(a) objectives, targets and indicators; and

(b) a statement that the Government of Canada recognizes that immigration is one of the factors that contributes to maintaining or increasing

l'accroissement du poids démographique des minorités francophones du Canada.

the demographic weight of French linguistic minority communities in Canada.

Consultations et négociations ~~avec les~~ – provinces et territoires

Consultation and negotiation ~~with the~~ – provinces and territories

45 Tout ministre fédéral désigné par le gouverneur en conseil peut procéder à des consultations et négociations d'accords avec les gouvernements provinciaux et territoriaux en vue d'assurer le plus possible, sous réserve de la partie IV et compte tenu des besoins des usagers, la coordination des services fédéraux, provinciaux, territoriaux, municipaux, ainsi que ceux liés à l'instruction, dans les deux langues officielles.

45 Any minister of the Crown designated by the Governor in Council may consult and may negotiate agreements with the provincial and territorial governments to ensure, to the greatest practical extent but subject to Part IV, that the provision of federal, provincial, territorial, municipal and education services in both official languages is coordinated and that regard is had to the needs of the recipients of those services.

Collaboration – provinces et territoires

Cooperation – provinces and territories

45.1 (1) Le gouvernement fédéral reconnaît l'importance de la collaboration avec les gouvernements provinciaux et territoriaux dans la mise en œuvre de la présente partie, compte tenu de la diversité des régimes linguistiques provinciaux et territoriaux qui contribuent à la progression vers l'égalité de statut et d'usage du français et de l'anglais dans la société canadienne, notamment :

45.1 (1) The Government of Canada recognizes the importance of cooperating with provincial and territorial governments in the implementation of this Part, taking into account the diversity of the provincial and territorial language regimes that contribute to the advancement of the equality of status and use of English and French in Canadian society, including that

a) que la Constitution accorde à chacun le droit d'employer le français ou l'anglais dans les débats des chambres de la Législature du Québec et de celles de la Législature du Manitoba et le droit d'utiliser le français ou l'anglais dans toutes les affaires dont sont saisis les tribunaux de ces provinces et dans tous les actes de procédure qui en découlent;

(a) the Constitution of Canada provides every person with the right to use English or French in the debates of the Houses of the Legislature of Quebec and those of the Legislature of Manitoba and the right to use English or French in any pleading or process in or from the courts of those provinces;

b) que la Charte de la langue française du Québec dispose que le français est la langue officielle du Québec;

(b) Quebec's Charter of the French language provides that French is the official language of Quebec;

c) que la Constitution dispose que le français et l'anglais sont les langues officielles du Nouveau-Brunswick et qu'ils ont un statut et des droits et privilèges égaux quant à leur usage dans les institutions de la Législature et du gouvernement du Nouveau-Brunswick;

(c) the Constitution of Canada provides that English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick; and

d) qu'elle dispose que la communauté linguistique française et la communauté linguistique anglaise du Nouveau-Brunswick ont un statut et des droits et privilèges égaux.

(d) the Constitution of Canada provides that the English linguistic community and the French linguistic community in New Brunswick have equality of status and equal rights and privileges.

Précision

(2) Il est entendu que la mise en œuvre de la présente partie se fait dans le respect des champs de compétence et des pouvoirs des provinces et des territoires.

For greater certainty

(2) For greater certainty, the implementation of this Part shall be carried out while respecting the jurisdiction and powers of the provinces and territories.

PARTIE VIII

Attributions et obligations du Conseil du Trésor en matière de langues officielles

Mission du Conseil du Trésor

46 (1) Le Conseil du Trésor est chargé de l'élaboration et de la coordination générales des principes et programmes fédéraux d'application des parties IV, V et VI et du paragraphe 41(5) dans les institutions fédérales, à l'exception du Sénat, de la Chambre des communes, de la bibliothèque du Parlement, du bureau du conseiller sénatorial en éthique, du bureau du commissaire aux conflits d'intérêts et à l'éthique, du Service de protection parlementaire et du bureau du directeur parlementaire du budget.

Attributions

(2) Le Conseil du Trésor peut, dans le cadre de cette mission :

- ~~a) [Abrogé, 2022, ch. 13, art. 25(2)] établir des principes d'application des parties IV, V et VI ou en recommander au gouverneur en conseil;~~
- ~~b) recommander au gouverneur en conseil des mesures réglementaires d'application des parties IV, V et VI;~~
- ~~c) donner des instructions pour l'application des parties IV, V et VI;~~
- ~~d) surveiller et vérifier l'observation par les institutions fédérales des principes, instructions et règlements émanant tant de lui-même que du gouverneur en conseil en matière de langues officielles;~~

PART VIII

Responsibilities and Duties of Treasury Board in Relation to the Official Languages of Canada

Responsibilities of Treasury Board

46 (1) The Treasury Board has responsibility for the general direction and coordination of the policies and programs of the Government of Canada relating to the implementation of Parts IV, V and VI and subsection 41(5) in all federal institutions other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service and office of the Parliamentary Budget Officer.

Powers of Treasury Board

(2) In carrying out its responsibilities under subsection (1), the Treasury Board may

- ~~(a) [Repealed, 2022, c. 13, s. 25(2)] establish policies, or recommend policies to the Governor in Council, to give effect to Parts IV, V and VI;~~
- ~~(b) recommend regulations to the Governor in Council to give effect to Parts IV, V and VI; and~~
- ~~(c) issue directives to give effect to Parts IV, V and VI;~~
- ~~(d) monitor and audit federal institutions in respect of which it has responsibility for their compliance with policies, directives and regulations of Treasury Board or the Governor~~

~~e) évaluer l'efficacité des principes et programmes des institutions fédérales en matière de langues officielles;~~

~~f) informer le public et le personnel des institutions fédérales sur les principes et programmes d'application des parties IV, V et VI;~~

~~g)c) déléguer telle de ses attributions prévues au présent article relatives à une autre institution fédérale à l'administrateur général ou à tout autre responsable administratif de cette institution aux administrateurs généraux ou autres responsables administratifs d'autres institutions fédérales.~~

Précision

(3) Il est entendu que l'administrateur général ou tout autre responsable administratif d'une institution fédérale à qui des attributions sont déléguées en vertu de l'alinéa (2)c) ne peut exercer ces attributions que relativement à cette institution.

Obligations

(4) Le Conseil du Trésor doit, dans le cadre de cette mission :

a) établir des principes d'application des parties IV, V et VI ou en recommander au gouverneur en conseil ou encore donner des instructions pour l'application de ces parties;

b) en consultation avec le ministre du Patrimoine canadien, établir des principes d'application du paragraphe 41(5) ou en recommander au gouverneur en conseil ou encore donner des instructions pour l'application de ce paragraphe;

c) surveiller et vérifier l'observation par les institutions fédérales des principes, instructions et règlements — émanant tant de lui-même que du gouverneur en conseil — en matière de langues officielles;

d) évaluer l'efficacité des principes et programmes des institutions fédérales en matière de langues officielles;

e) informer le public et les employés des institutions fédérales sur les principes et programmes d'application des parties IV, V et

~~in Council relating to the official languages of Canada;~~

~~(e) evaluate the effectiveness and efficiency of policies and programs of federal institutions relating to the official languages of Canada;~~

~~(f) provide information to the public and to officers and employees of federal institutions relating to the policies and programs that give effect to Parts IV, V and VI; and;~~

~~(g)c) delegate any of its powers and duties under this section in respect of another federal institution to the deputy heads or other administrative heads of other federal that institutions.~~

For greater certainty

(3) For greater certainty, the deputy head or other administrative head of a federal institution that is delegated powers or duties under paragraph (2)(c) may exercise those powers and perform those duties only in respect of that institution.

Duties of Treasury Board

(4) In carrying out its responsibilities under subsection (1), the Treasury Board shall

(a) establish policies, recommend policies to the Governor in Council or issue directives to give effect to Parts IV, V and VI;

(b) in consultation with the Minister of Canadian Heritage, establish policies, recommend policies to the Governor in Council or issue directives to give effect to subsection 41(5);

(c) monitor and audit federal institutions in respect of which it has responsibility for their compliance with policies, directives and regulations of the Treasury Board or the Governor in Council relating to the official languages of Canada;

(d) evaluate the effectiveness and efficiency of policies and programs of federal institutions relating to the official languages of Canada;

(e) provide information to the public and to employees of federal institutions relating to the policies, directives and programs that give effect

VI et les instructions données pour l'application de ces parties;

f) informer les employés des institutions fédérales sur les principes et programmes d'application du paragraphe 41(5) et les instructions données pour l'application de ce paragraphe.

Rapport envoyé au commissaire

47 Le dirigeant principal des ressources humaines nommé en vertu du paragraphe 6(2.1) de la *Loi sur la gestion des finances publiques* fait parvenir au commissaire tous rapports établis au titre de l'alinéa 46~~(2)(d)~~(4)c.

Rapport au Parlement

48 Dans les meilleurs délais après la fin de chaque exercice, le président du Conseil du Trésor dépose devant le Parlement un rapport sur l'exercice des attributions conférées au Conseil du Trésor au titre de la présente loi et sur l'exécution des programmes en matière de langues officielles au sein des institutions fédérales visées par sa mission.

PARTIE IX

Commissaire aux langues officielles

Commissariat

Nomination

49 (1) Le gouverneur en conseil nomme le commissaire aux langues officielles du Canada par commission sous le grand sceau, après consultation du chef de chacun des partis reconnus au Sénat et à la Chambre des communes et approbation par résolution du Sénat et de la Chambre des communes.

to Parts IV, V and VI; and

(f) provide information to employees of federal institutions relating to the policies, directives and programs that give effect to subsection 41(5).

Audit reports to ~~be made available to~~ Commissioner

47 The Chief Human Resources Officer appointed under subsection 6(2.1) of the *Financial Administration Act* shall provide the Commissioner with any audit reports that are prepared under paragraph 46~~(2)(d)~~(4)c.

Annual report to Parliament

48 The President of the Treasury Board shall, within such time as is reasonably practicable after the termination of each financial year, submit an annual report to Parliament on the exercise of the Treasury Board's powers and the performance of its duties and functions conferred under this Act and the status of programs relating to the official languages of Canada in the various federal institutions in respect of which it has responsibility under section 46.

PART IX

Commissioner of Official Languages

Office of the Commissioner

Appointment

49 (1) The Governor in Council shall, by commission under the Great Seal, appoint a Commissioner of Official Languages for Canada after consultation with the leader of every recognized party in the Senate and House of Commons and approval of the appointment by resolution of the Senate and House of Commons.

Durée du mandat et révocation

(2) Le commissaire est nommé à titre inamovible pour un mandat de sept ans, sauf révocation motivée par le gouverneur en conseil sur adresse du Sénat et de la Chambre des communes.

Renouvellement du mandat

(3) Le mandat du commissaire est renouvelable pour des périodes d'au plus sept ans chacune.

Intérim

(4) En cas d'absence ou d'empêchement du commissaire ou de vacance de son poste, le gouverneur en conseil peut confier l'intérim à toute personne compétente pour un mandat maximal de six mois et fixer la rémunération et les indemnités auxquelles cette personne aura droit.

Rang et non-cumul de fonctions

50 (1) Le commissaire a rang et pouvoirs d'administrateur général de ministère; il se consacre à sa charge à l'exclusion de tout autre poste au service de Sa Majesté ou de tout autre emploi.

Traitement et indemnités

(2) Le commissaire reçoit le traitement d'un juge de la Cour fédérale autre que le juge en chef. Il a droit aux frais de déplacement et de séjour entraînés par l'accomplissement de ses fonctions hors du lieu de sa résidence habituelle.

Personnel

51 Les ~~personnel~~ ~~employés~~ nécessaires au bon fonctionnement du commissariat ~~est~~ ~~sont~~ nommés conformément à la loi.

Concours d'experts

52 Le commissaire peut engager temporairement des experts compétents dans les domaines relevant

Tenure

(2) Subject to this section, the Commissioner holds office during good behaviour for a term of seven years, but may be removed for cause by the Governor in Council at any time on address of the Senate and House of Commons.

Further terms

(3) The Commissioner, on the expiration of a first or any subsequent term of office, is eligible to be re-appointed for a further term not exceeding seven years.

Interim appointment

(4) In the event of the absence or incapacity of the Commissioner or if that office is vacant, the Governor in Council may appoint any qualified person to hold that office in the interim for a term not exceeding six months, and that person shall, while holding office, be paid the salary or other remuneration and expenses that may be fixed by the Governor in Council.

Rank, powers and duties generally

50 (1) The Commissioner shall rank as and have all the powers of a deputy head of a department, shall engage exclusively in the duties of the office of the Commissioner and shall not hold any other office under Her Majesty or engage in any other employment.

Salary and expenses

(2) The Commissioner shall be paid a salary equal to the salary of a judge of the Federal Court, other than the Chief Justice of that Court, and is entitled to be paid reasonable travel and living expenses while absent from his or her ordinary place of residence in the course of his or her duties.

Staff

51 ~~Such officers and~~ ~~The~~ employees ~~as that~~ are necessary for the proper conduct of the work of the office of the Commissioner shall be appointed in the manner authorized by law.

Technical assistance

52 The Commissioner may engage, on a temporary basis, the services of persons having

de son champ d'activité et, avec l'approbation du Conseil du Trésor, fixer et payer leur rémunération et leurs frais.

technical or specialized knowledge of any matter relating to the work of the Commissioner to advise and assist the Commissioner in the performance of the duties of his office and, with the approval of the Treasury Board, may fix and pay the remuneration and expenses of those persons.

~~Assimilation à fonctionnaire~~ *Loi sur la pension de la fonction publique*

53 Le commissaire et les ~~personnel~~ *employés* régulier du commissariat sont réputés appartenir à la fonction publique pour l'application de la *Loi sur la pension de la fonction publique*.

Public Service Superannuation Act

53 The Commissioner and the ~~officers~~ *and* employees of the office of the Commissioner appointed under section 51 shall be deemed to be persons employed in the public service for the purposes of the *Public Service Superannuation Act*.

Autonomie financière

54 Sur recommandation du Conseil du Trésor, le gouverneur en conseil peut, par décret, soustraire le commissaire à l'exécution d'instructions — données par le Conseil du Trésor ou lui-même en application de la *Loi sur la gestion des finances publiques* — concernant la gestion des institutions fédérales par leurs administrateurs généraux ou autres responsables administratifs.

Order exempting Commissioner from directives

54 The Governor in Council, on the recommendation of the Treasury Board, may by order exempt the Commissioner from any directives of the Treasury Board or the Governor in Council made under the Financial Administration Act that apply to deputy heads or other administrative heads in relation to the administration of federal institutions..

Mandat du commissaire

Duties and Functions of Commissioner

Fonctions du commissaire

55 Le commissaire exerce les attributions que lui confèrent la présente loi et toute autre loi fédérale; il peut en outre se livrer à toute activité connexe autorisée par le gouverneur en conseil.

Duties and functions

55 The Commissioner shall carry out such duties and functions as are assigned to the Commissioner by this Act or any other Act of Parliament, and may carry out or engage in such other related assignments or activities as may be authorized by the Governor in Council.

Mission

56 (1) Il incombe au commissaire de prendre, dans le cadre de sa compétence, toutes les mesures visant à assurer la reconnaissance du statut de chacune des langues officielles et à faire respecter l'esprit de la présente loi et l'intention du législateur en ce qui touche l'administration des affaires des institutions fédérales, et notamment la promotion du français et de l'anglais dans la société canadienne.

Duty of Commissioner under Act

56 (1) It is the duty of the Commissioner to take all actions and measures within the authority of the Commissioner with a view to ensuring recognition of the status of each of the official languages and compliance with the spirit and intent of this Act in the administration of the affairs of federal institutions, including any of their activities relating to the advancement of English and French in Canadian society.

Enquêtes

(2) Pour s'acquitter de cette mission, le commissaire procède à des enquêtes, soit de sa propre initiative, soit à la suite des plaintes qu'il reçoit, et présente ses rapports et recommandations conformément à la présente loi.

Examen des règlements, principes et instructions

57 Le commissaire peut d'office examiner les règlements, principes ou instructions d'application de la présente loi ainsi que tout autre règlement, principe ou instruction visant ou susceptible de viser le statut ou l'emploi des langues officielles et établir à cet égard un rapport circonstancié au titre des articles 66 ou 67.

~~Plaintes et e~~Enquêtes, accords de conformité et ordonnances

Plaintes

58 (1) Sous réserve des autres dispositions de la présente loi, le commissaire instruit toute plainte reçue — sur un acte ou une omission — et faisant état, dans l'administration d'une institution fédérale, d'un cas précis de non-reconnaissance du statut d'une langue officielle, de manquement à une loi ou un règlement fédéraux sur le statut ou l'usage des deux langues officielles ou encore à l'esprit de la présente loi et à l'intention du législateur.

Idem

(2) It is the duty of the Commissioner, for the purpose set out in subsection (1), to conduct and carry out investigations either on his own initiative or pursuant to any complaint made to the Commissioner and to report and make recommendations with respect thereto as provided in this Act.

Review of regulations, policies and directives

57 The Commissioner may initiate a review of any regulation, policies or directives made under this Act, and any other regulations, policies or directives that affect or may affect the status or use of the official languages, and may refer to and comment on any findings on the review in in a report made to Parliament under section 66 or 67.

~~(a) any regulations or directives made under this Act, and~~

~~(b) any other regulations or directives that affect or may affect the status or use of the official languages,~~

~~and may refer to and comment on any findings on the review in a report made to Parliament pursuant to section 66 or 67.~~

Investigation, Compliance Agreement and Orders

Investigation of complaints

58 (1) Subject to this Act, the Commissioner shall investigate any complaint made to the Commissioner arising from any act or omission to the effect that, in any particular instance or case,

(a) the status of an official language was not or is not being recognized,

(b) any provision of any Act of Parliament or regulation relating to the status or use of the official languages was not or is not being complied with, or

(c) the spirit and intent of this Act was not or is not being complied with

in the administration of the affairs of any federal

institution.

Dépôt d'une plainte

(2) Tout individu ou groupe a le droit de porter plainte devant le commissaire, indépendamment de la langue officielle parlée par le ou les plaignants.

Interruption de l'instruction

(3) Le commissaire peut, à son appréciation, interrompre toute enquête qu'il estime, compte tenu des circonstances, inutile de poursuivre.

Refus d'instruire

(4) Le commissaire peut, à son appréciation, refuser ou cesser d'instruire une plainte dans l'un ou l'autre des cas suivants :

- a) elle est sans importance ;
- b) elle est futile ou vexatoire ou n'est pas faite de bonne foi ;
- c) son objet ne constitue pas une contravention à la présente loi ou une violation de son esprit et de l'intention du législateur ou, pour toute autre raison, ne relève pas de la compétence du commissaire¹;
- d) la plainte n'a pas été déposée dans un délai raisonnable après que son objet a pris naissance;
- e) le commissaire a déjà dressé un rapport au titre du paragraphe 63(1) sur l'objet de la plainte;
- f) l'institution fédérale concernée a pris des mesures correctives pour régler la plainte;
- g) le commissaire a conclu un accord de conformité en application du paragraphe 64.1(1) à l'égard de l'objet de la plainte.

Avis au plaignant

(5) En cas de refus d'ouvrir une enquête ou de la poursuivre, le commissaire donne au plaignant un avis motivé.

Who may make complaint

(2) A complaint may be made to the Commissioner by any person or group of persons, ~~whether or not they speak, or represent a group speaking,~~ regardless of the official language ~~the status or use of which is at issue~~ that they speak.

Discontinuance of investigation

(3) If in the course of investigating any complaint it appears to the Commissioner that, having regard to all the circumstances of the case, any further investigation is unnecessary, the Commissioner may refuse to investigate the matter further.

Refus d'instruire

(4) The Commissioner may refuse to investigate or cease to investigate any complaint if in the opinion of the Commissioner

- a) the subject-matter of the complaint is trivial;
- b) the complaint is frivolous or vexatious or is not made in good faith;~~or~~
- c) the subject-matter of the complaint does not involve a contravention or failure to comply with the spirit and intent of this Act, or does not for any other reason come within the authority of the Commissioner under this Act¹;
- (d) the complaint was not made within a reasonable time after the subject-matter of the complaint arose;
- (e) the subject-matter of the complaint has already been the subject of a report by the Commissioner under subsection 63(1);
- (f) the federal institution concerned has taken corrective measures to resolve the complaint; or
- (g) the Commissioner has entered into a compliance agreement under subsection 64.1(1) in respect of the subject-matter of the complaint.

Complainant to be notified

(5) Where the Commissioner decides to refuse to investigate or cease to investigate any complaint, the Commissioner shall inform the complainant of that decision and shall give the reasons therefor.

Préavis d'enquête

59 Le commissaire donne un préavis de son intention d'enquêter à l'administrateur général ou à tout autre responsable administratif de l'institution fédérale concernée.

Secret des enquêtes

60 (1) Les enquêtes menées par le commissaire sont secrètes.

Droit de réponse

(2) Le commissaire n'est pas obligé de tenir d'audience, et nul n'est en droit d'exiger d'être entendu par lui. Toutefois, si au cours de l'enquête, il estime qu'il peut y avoir des motifs suffisants pour faire un rapport ou une recommandation susceptibles de nuire à un particulier ou à une institution fédérale, il prend, avant de clore l'enquête, les mesures indiquées pour leur donner toute possibilité de répondre aux critiques dont ils font l'objet et, à cette fin, de se faire représenter par un avocat.

Procédure

61 (1) Sous réserve des autres dispositions de la présente loi, le commissaire peut établir la procédure à suivre pour ses enquêtes.

Délégation pour la collecte de renseignements

(2) Le commissaire peut, dans les limites qu'il fixe, déléguer en tout ou en partie à un ~~cadre-employé~~ du commissariat nommé au titre de l'article 51 les attributions que lui confère la présente loi en ce qui concerne la collecte des renseignements utiles à l'enquête.

Pouvoir d'enquête

62 (1) Pour les enquêtes, à l'exclusion de celles relatives à la partie III, qu'il mène en vertu de la

Notice of intention to investigate

59 Before carrying out an investigation under this Act, the Commissioner shall inform the deputy head or other administrative head of any federal institution concerned of his intention to carry out the investigation.

Investigation to be conducted in private

60 (1) Every investigation by the Commissioner under this Act shall be conducted in private.

Opportunity to answer allegations and criticisms

(2) It is not necessary for the Commissioner to hold any hearing and no person is entitled as of right to be heard by the Commissioner, but if at any time during the course of an investigation it appears to the Commissioner that there may be sufficient grounds to make a report or recommendation that may adversely affect any individual or any federal institution, the Commissioner shall, before completing the investigation, take every reasonable measure to give to that individual or institution a full and ample opportunity to answer any adverse allegation or criticism, and to be assisted or represented by counsel for that purpose.

Procedure

61 (1) Subject to this Act, the Commissioner may determine the procedure to be followed in carrying out any investigation under this Act.

Receiving and obtaining of information ~~by officer-designated~~

(2) The Commissioner may direct that information relating to any investigation under this Act be received or obtained, in whole or in part, by any ~~officer-employee~~ of the office of the Commissioner appointed under section 51 and that ~~officer-employee~~ shall, subject to ~~such-any~~ restrictions or limitations ~~as-that~~ the Commissioner may specify, have all the powers and duties of the Commissioner under this Act in relation to the receiving or obtaining of that information.

Powers of Commissioner in carrying out investigations

62 (1) The Commissioner has, in relation to the carrying out of any investigation under this Act,

présente loi, le commissaire a le pouvoir :

a) de la même manière et dans la même mesure qu'une cour supérieure d'archives, d'assigner des témoins et de les contraindre à comparaître devant lui et à déposer sous serment, verbalement ou par écrit, ainsi qu'à produire les documents et autres pièces qu'il estime indispensables pour instruire à fond toute question relevant de sa compétence aux termes de la présente loi;

b) de faire prêter serment;

c) de recevoir et d'accepter, notamment par voie de déposition ou d'affidavit, les éléments de preuve et autres renseignements qu'il juge indiqués, indépendamment de leur admissibilité devant les tribunaux;

d) sous réserve des restrictions que peut prescrire, par règlement, le gouverneur en conseil pour des raisons de défense ou de sécurité, de pénétrer dans les locaux d'une institution fédérale et d'y procéder, dans le cadre de la compétence que lui confère la présente loi, aux enquêtes qu'il juge à propos.

Modes substitutifs de règlement des différends

(1.1) Au cours de l'enquête, le commissaire peut tenter de parvenir au règlement de la plainte en ayant recours à des modes substitutifs de règlement des différends, à l'exception de l'arbitrage.

Menaces, intimidation, discrimination ou entrave

(2) Le commissaire peut transmettre un rapport motivé au président du Conseil du Trésor ainsi qu'à l'administrateur général ou à tout autre responsable administratif de l'institution fédérale concernée lorsqu'il estime, pour des motifs raisonnables :

a) qu'une personne a fait l'objet de menaces, d'intimidation ou de discrimination parce qu'elle a déposé une plainte, a témoigné ou participé à une enquête tenue sous le régime de la présente loi, ou se propose de le faire;

b) que son action, ou celle d'une personne agissant en son nom ou sous son autorité dans l'exercice des attributions du commissaire, a été

other than an investigation in relation to Part III, power

(a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the Commissioner deems requisite to the full investigation and consideration of any matter within his authority under this Act, in the same manner and to the same extent as a superior court of record;

(b) to administer oaths;

(c) to receive and accept such evidence and other information, whether on oath or by affidavit or otherwise, as in his discretion the Commissioner sees fit, whether or not the evidence or information is or would be admissible in a court of law; and

(d) subject to such limitation as may in the interests of defence or security be prescribed by regulation of the Governor in Council, to enter any premises occupied by any federal institution and carry out therein such inquiries within his authority under this Act as the Commissioner sees fit.

Alternative dispute resolution

(1.1) The Commissioner may, at any time in the course of an investigation, attempt to resolve a complaint by means of a process of alternative dispute resolution, other than arbitration.

Report – Threats, intimidations, discrimination or obstruction to be reported

(2) ~~Where~~ The Commissioner may provide a report with reasons to the President of the Treasury Board and the deputy head or other administrative head of any federal institution concerned if the Commissioner believes on reasonable grounds that

(a) an individual has been threatened, intimidated or made the object of discrimination because that individual has made a complaint under this Act or has given evidence or assisted in any way in respect of an investigation under this Act, or proposes to do so, or

(b) the Commissioner, or any person acting on behalf or under the direction of the

entravée.

Commissioner, has been obstructed in the performance of the Commissioner's duties or functions under this Act,

~~the Commissioner may report that belief and the grounds therefor to the President of the Treasury Board and the deputy head or other administrative head of any institution concerned.~~

Clôture de l'enquête

63 (1) Au terme de l'enquête, le commissaire transmet un rapport motivé au président du Conseil du Trésor ainsi qu'à l'administrateur général ou à tout autre responsable administratif de l'institution fédérale concernée, s'il est d'avis :

- a) soit que le cas en question doit être renvoyé à celle-ci pour examen et suite à donner si nécessaire;
- b) soit que des lois ou règlements ou des principes ou instructions du gouverneur en conseil ou du Conseil du Trésor devraient être reconsidérés, ou encore qu'un usage aboutissant à la violation de la présente loi ou risquant d'y aboutir devrait être modifié ou abandonné;
- c) soit que d'autres mesures devraient être prises.

Facteurs additionnels

(2) En établissant son rapport, le commissaire tient compte des principes applicables à l'institution fédérale concernée aux termes d'une loi ou d'un règlement fédéraux ou d'instructions émanant du gouverneur en conseil ou du Conseil du Trésor.

Recommandations

(3) Le commissaire peut faire les recommandations qu'il juge indiquées dans son rapport; il peut également demander aux administrateurs généraux ou aux autres responsables administratifs de l'institution fédérale concernée de lui faire savoir, dans le délai qu'il fixe, les mesures envisagées pour donner suite à ses recommandations.

Clôture de l'enquête

63 (1) If, after carrying out an investigation under this Act, the Commissioner is of the opinion that

- (a) the act or omission that was the subject of the investigation should be referred to any federal institution concerned for consideration and action if necessary,
- (b) any Act or regulations ~~thereunder~~, or any policy or directive of the Governor in Council or the Treasury Board, should be reconsidered or any practice that leads or is likely to lead to a contravention of this Act should be altered or discontinued, or
- c) any other action should be taken,

the Commissioner shall report that opinion and the reasons therefor to the President of the Treasury Board and the deputy head or other administrative head of any institution concerned.

Other policies to be taken into account

(2) In making a report under subsection (1) that relates to any federal institution, the Commissioner shall have regard to any policies that apply to that institution that are set out in any Act of Parliament or regulation thereunder or in any directive of the Governor in Council or the Treasury Board.

Recommendations

(3) The Commissioner may

- (a) in a report under subsection (1) make such recommendations as he thinks fit; and
- (b) request the deputy head or other administrative head of the federal institution concerned to notify the Commissioner within a specified time of the action, if any, that the institution proposes to take to give effect to those recommendations.

Publication

63.1 (1) Au terme de l'enquête, le commissaire peut rendre publics :

- a) le sommaire de l'enquête;
- b) les conclusions de l'enquête;
- c) les recommandations qu'il a faites aux termes du paragraphe 63(3).

Renseignements identificateurs

(2) Le commissaire veille à ce que les renseignements qu'il rend publics ne prennent pas une forme qui risque vraisemblablement de permettre l'identification du plaignant ou de tout particulier.

Avis

(3) Avant de rendre les renseignements publics, le commissaire donne à l'administrateur général ou à tout autre responsable administratif de l'institution fédérale concernée un avis d'au moins trente jours ouvrables de son intention de les rendre publics.

Information des intéressés

64 (1) Au terme de l'enquête, le commissaire communique, dans le délai et de la manière qu'il juge indiqués, ses conclusions au plaignant ainsi qu'aux particuliers ou institutions fédérales qui ont exercé le droit de réponse prévu au paragraphe 60(2).

Suivi

(2) Il peut, quand aux termes du paragraphe 63(3) il a fait des recommandations auxquelles, à son avis, il n'a pas été donné suite dans un délai raisonnable par des mesures appropriées, en informer le plaignant et faire à leur sujet les commentaires qu'il juge à propos ; le cas échéant, il fait parvenir le texte de ses recommandations et commentaires aux personnes visées au paragraphe (1).

Publication

63.1 (1) After carrying out an investigation under this Act, the Commissioner may make any of the following information public:

- (a) a summary of the investigation;
- (b) the findings of the investigation;
- (c) any recommendations made by the Commissioner under subsection 63(3).

Identifying information

(2) The Commissioner shall ensure that the information made public under subsection (1) is not in a form that could reasonably be expected to identify the complainant or any individual.

Notice

(3) Before making the information public, the Commissioner shall give to the deputy head or other administrative head of any federal institution concerned at least 30 business days' notice of the Commissioner's intention to make it public.

Where investigation carried out pursuant to complaint

64 (1) Where the Commissioner carries out an investigation pursuant to a complaint, the Commissioner shall inform the complainant and any individual by whom or on behalf of whom, or the deputy head or other administrative head of any federal institution by which or on behalf of which, an answer relating to the complaint has been made pursuant to subsection 60(2), in such manner and at such time as the Commissioner thinks proper, of the results of the investigation.

Where recommendations made

(2) Where recommendations have been made by the Commissioner under subsection 63(3) but adequate and appropriate action has not, in the opinion of the Commissioner, been taken thereon within a reasonable time after the recommendations are made, the Commissioner may inform the complainant of those recommendations and make such comments thereon as he thinks proper, and shall provide a copy of the recommendations and comments to

any individual, deputy head or administrative head whom the Commissioner is required under subsection (1) to inform of the results of the investigation.

Accord de conformité

64.1 (1) Si, au cours de l'enquête ou au terme de celle-ci, le commissaire a des motifs raisonnables de croire qu'une institution fédérale a contrevenu à la présente loi, il peut conclure avec cette institution un accord de conformité visant à la faire respecter.

Autre partie

(2) Le plaignant peut, sur invitation du commissaire, être partie à l'accord de conformité.

Conditions

(3) L'accord de conformité est assorti des conditions que le commissaire estime nécessaires pour faire respecter la présente loi.

Effet de l'accord de conformité : commissaire

64.2 (1) Lorsqu'un accord de conformité est conclu, le commissaire :

a) ne peut rendre d'ordonnance en vertu du paragraphe 64.5(1) à l'égard d'aucune question visée par l'accord;

a.1) ne peut dresser de procès-verbal de violation en vertu du paragraphe 65.6(1) à l'égard d'une telle question;

b) ne peut exercer le recours prévu à l'alinéa 78(1)a) à l'égard d'une telle question;

c) demande à la Cour fédérale la suspension de toute demande à l'égard d'une telle question qu'il a faite au titre de cet alinéa et qui est pendante au moment de la conclusion de l'accord.

Effet de l'accord de conformité : plaignant

(2) Lorsqu'il est partie à l'accord de conformité, le plaignant :

Compliance agreement

64.1 (1) If, at any time during the course of or after carrying out an investigation, the Commissioner has reasonable grounds to believe that a federal institution has contravened this Act, the Commissioner may enter into a compliance agreement with that federal institution aimed at ensuring compliance with this Act.

Other party

(2) The complainant may, at the invitation of the Commissioner, be made a party to the compliance agreement.

Terms

(3) A compliance agreement may contain any terms that the Commissioner considers necessary to ensure compliance with this Act.

Effect of compliance agreement – Commissioner

64.2 (1) Once a compliance agreement is entered into, the Commissioner

(a) is not permitted to make an order under subsection 64.5(1) in respect of any matter covered under the agreement;

(a.1) is not permitted to issue a notice of violation under subsection 65.6(1) in respect of any matter covered under the agreement;

(b) is not permitted to make an application under paragraph 78(1)(a) in respect of any matter covered under the agreement; and

(c) shall apply to the Federal Court for the suspension of any pending applications that the Commissioner made under paragraph 78(1)(a) in respect of any matter covered under the agreement.

Effect of compliance agreement – complainant

(2) The complainant, if they are a party to the compliance agreement entered into,

a) ne peut exercer le recours prévu au paragraphe 77(1) à l'égard de toute question visée par l'accord;

b) demande à la Cour fédérale la suspension de toute demande à l'égard d'une telle question qu'il a faite au titre de ce paragraphe et qui est pendante au moment de la conclusion de l'accord.

Accord de conformité respecté

64.3 Si le commissaire est d'avis que l'institution fédérale a respecté l'accord de conformité :

a) il en avise par écrit cette dernière ainsi que tout plaignant qui est partie à l'accord;

b) il retire toute demande qu'il a faite au titre de l'alinéa 78(1)a) à l'égard d'une question visée par l'accord;

c) dans le cas où le plaignant est partie à l'accord, ce dernier retire toute demande qu'il a faite au titre du paragraphe 77(1) à l'égard d'une question visée par l'accord.

Accord de conformité non respecté

64.4 (1) S'il est d'avis que l'institution fédérale n'a pas respecté l'accord de conformité, le commissaire en avise par écrit l'administrateur général ou tout autre responsable administratif de l'institution fédérale et tout plaignant partie à l'accord. Il peut alors demander à la Cour fédérale :

a) soit une ordonnance enjoignant à l'institution de se conformer à l'accord de conformité, en sus de toute autre réparation que la Cour peut accorder;

b) soit réparation conformément à l'alinéa 78(1)a) ou, en cas de suspension de toute demande à la suite d'une demande faite en application de l'alinéa 64.2(1)c), le rétablissement de la demande.

Partie à l'instance

(2) L'institution fédérale dont l'administrateur général ou tout autre responsable administratif reçoit l'avis en application du paragraphe (1) et tout

(a) is not permitted to make an application under subsection 77(1) in respect of any matter covered under the agreement; and

(b) shall apply to the Federal Court for the suspension of any pending applications that they made under subsection 77(1) in respect of any matter covered under the agreement.

Compliance agreement complied with

64.3 If the Commissioner is of the opinion that a federal institution has complied with a compliance agreement,

(a) the Commissioner shall provide written notice to that effect to the federal institution and, if the complainant is a party to the agreement, to the complainant;

(b) the Commissioner shall withdraw any applications that the Commissioner made under paragraph 78(1)(a) in respect of any matter covered under the agreement; and

(c) the complainant, if they are a party to the agreement, shall withdraw any applications that they made under subsection 77(1) in respect of any matter covered under the agreement.

Compliance agreement not complied with

64.4 (1) If the Commissioner is of the opinion that a federal institution has not complied with a compliance agreement, the Commissioner shall provide written notice to that effect to the deputy head or other administrative head of the federal institution and to the complainant, if they are a party to the agreement, and may apply to the Federal Court

(a) for an order requiring the federal institution to comply with the agreement, in addition to any other remedies that the Federal Court may give; or

(b) for a remedy in accordance with paragraph 78(1)(a) or for the reinstatement of proceedings that have been suspended as a result of any application made under paragraph 64.2(1)(c).

Parties to proceedings

(2) A federal institution whose deputy head or other administrative head receives a notice under subsection (1), and a complainant who receives a

plaignant qui reçoit cet avis ont le droit de comparaître comme partie à l'instance.

Plaignant

(3) Sur réception de l'avis, le plaignant peut demander à la Cour réparation conformément au paragraphe 77(1) ou, en cas de suspension de toute demande à la suite d'une demande faite en application de l'alinéa 64.2(2)b), le rétablissement de la demande.

Délai de la demande

(4) Malgré le paragraphe 77(2) et l'alinéa 78(1)a), mais sous réserve du paragraphe 77(3), la demande est faite dans l'année suivant la date de l'avis de défaut ou dans le délai supérieur que la Cour autorise avant ou après l'expiration de l'année.

Ordonnance du commissaire

64.5 (1) Au terme d'une enquête sur une plainte visant une obligation ou un droit prévus aux parties IV ou V, le commissaire peut, s'il a des motifs raisonnables de croire qu'une institution fédérale a contrevenu à l'une de ces parties et qu'il a fait des recommandations aux termes du paragraphe 63(3) à l'égard de la contravention ou d'une contravention identique commise par l'institution fédérale à l'une de ces parties, lui enjoindre, par ordonnance, de prendre toute mesure qu'il juge indiquée pour remédier à la contravention.

Limite

(2) Toutefois, le commissaire ne peut rendre d'ordonnance à l'égard de l'objet de la plainte sans avoir préalablement proposé à l'institution fédérale de conclure un accord de conformité sur cet objet en application du paragraphe 64.1(1).

Conditions préalables pour rendre une ordonnance

(3) Avant de rendre l'ordonnance, le commissaire donne à l'administrateur général ou à tout autre responsable administratif de l'institution fédérale concernée un avis où :

notice under that subsection, have the right to appear as parties to the proceedings.

Complainant

(3) On receipt of the notice, the complainant may apply to the Federal Court for a remedy in accordance with subsection 77(1) or for the reinstatement of proceedings that have been suspended as a result of an application made under paragraph 64.2(2)(b).

Time for application

(4) Despite subsection 77(2) and paragraph 78(1)(a) but subject to subsection 77(3), the application shall be made within one year after the date of the notice or within any longer period that the Federal Court may, either before or after the expiry of that year, allow.

Commissioner's order

64.5 (1) If, after carrying out an investigation of a complaint in respect of a right or duty under Part IV or V, the Commissioner has reasonable grounds to believe that a federal institution has contravened that Part and has made recommendations under subsection 63(3) in respect of that contravention, or in respect of an identical contravention of that Part by the institution, the Commissioner may make an order directing that institution to take any action that the Commissioner considers appropriate to rectify the contravention.

Limitation

(2) However, the Commissioner is not permitted to make an order in respect of the subject-matter of a complaint unless, before making the order, the Commissioner invited the federal institution to enter into a compliance agreement under subsection 64.1(1) in respect of that subject-matter.

Preconditions to order

(3) Before making an order under subsection (1), the Commissioner shall provide to the deputy head or other administrative head of the federal institution concerned a notice that sets out

a) il présente l'ordonnance qu'il a l'intention de rendre;

b) il spécifie que l'administrateur général ou tout autre responsable administratif doit, dans les vingt jours suivant la réception de l'avis, lui donner avis:

(i) soit des mesures prises ou envisagées par l'institution fédérale pour la mise en œuvre de l'ordonnance qu'il a l'intention de rendre ou des recommandations faites aux termes du paragraphe 63(3) ou des motifs invoqués pour ne pas y donner suite,

(ii) soit de sa volonté de conclure ou non un accord de conformité au titre du paragraphe 64.1(1).

Conditions

(4) L'ordonnance peut être assortie des conditions que le commissaire juge indiquées.

Avis de l'ordonnance

(5) Le commissaire donne au plaignant et à l'administrateur général ou à tout autre responsable administratif de l'institution fédérale un avis qui contient les éléments suivants :

a) toute ordonnance qu'il rend;

b) la mention du droit du plaignant et de l'institution fédérale d'exercer un recours en révision au titre de l'article 78.1 et du délai pour ce faire, ainsi que du fait que s'ils exercent ce droit, ils doivent se conformer à l'article 78.5;

c) la mention qu'à défaut de l'exercice du recours en révision dans ce délai, toute ordonnance contenue dans l'avis prendra effet conformément au paragraphe (6).

Prise d'effet

(6) L'ordonnance prend effet le trente et unième jour ouvrable suivant la date à laquelle l'administrateur général ou tout autre responsable administratif de l'institution fédérale reçoit l'avis.

Date de réception réputée

(7) Pour l'application du présent article, l'administrateur général ou tout autre responsable

(a) the order that the Commissioner intends to make; and

(b) statement that within 20 days after the day on which the deputy head or other administrative head receives the notice, that deputy head or other administrative head shall notify the Commissioner

(i) of the action taken or proposed to be taken by the federal institution to implement the proposed order or the recommendations made under subsection 63(3), or the reasons why no such action has been or is proposed to be taken, or

(ii) whether the federal institution wishes to enter into a compliance agreement under subsection 64.1(1).

Condition

(4) The order may include any condition that the Commissioner considers appropriate.

Notice of order

(5) The Commissioner shall provide to the complainant and to the deputy head or other administrative head of the federal institution a notice that sets out

(a) any order that the Commissioner makes;

(b) a statement that the complainant and the federal institution each have the right to apply for a review under section 78.1, within the period specified for exercising that right, and that they must comply with section 78.5 if they exercise that right; and

(c) a statement that if neither the complainant nor the federal institution applies for a review within the period specified for doing so, any order set out in the notice takes effect in accordance with subsection (6).

Effect

(6) The order takes effect on the 31st business day after the day on which the deputy head or other administrative head of the federal institution receives the notice.

Deemed date of receipt

(7) For the purpose of this section, the deputy head or other administrative head of the federal

administratif de l'institution fédérale est réputé avoir reçu l'avis le cinquième jour ouvrable suivant la date que porte l'avis.

institution is deemed to have received a notice on the fifth business day after the date of the notice.

Dépôt de l'ordonnance

64.6 (1) S'il a des motifs raisonnables de croire que l'institution fédérale n'a pas respecté l'ordonnance rendue en application du paragraphe 64.5(1), le commissaire peut déposer devant la Cour fédérale une copie certifiée conforme par lui de cette ordonnance.

Filing of order

64.6 (1) If the Commissioner is of the opinion that a federal institution has not complied with the terms of an order made under subsection 64.5(1), the Commissioner may file in the Federal Court a copy of the order certified by the Commissioner to be a true copy.

Effet du dépôt

(2) Dès son dépôt, l'ordonnance est assimilée à une ordonnance rendue par la Cour fédérale et peut être exécutée comme telle.

Effect of filing

(2) On the certified copy being filed, the decision becomes and may be enforced as an order of the Federal Court.

Rapport au gouverneur en conseil

65 (1) Dans la situation décrite au paragraphe 63(3), le commissaire peut en outre, à son appréciation et après examen des réponses faites par l'institution fédérale concernée ou en son nom, transmettre au gouverneur en conseil un exemplaire du rapport et de ses recommandations.

Report to Governor in Council where appropriate action not taken

65 (1) If, within a reasonable time after a report containing recommendations under subsection 63(3) is made, adequate and appropriate action has not, in the opinion of the Commissioner, been taken thereon, the Commissioner, in his discretion and after considering any reply made by or on behalf of any federal institution concerned, may transmit a copy of the report and recommendations to the Governor in Council.

Suivi

(2) Le gouverneur en conseil peut prendre les mesures qu'il juge indiquées pour donner suite au rapport et mettre en œuvre les recommandations qu'il contient.

Action by Governor in Council

(2) The Governor in Council may take such action as the Governor in Council considers appropriate in relation to any report transmitted under subsection (1) and the recommendations therein.

Rapport au Parlement

(3) Si, dans un délai raisonnable après la transmission du rapport, il n'y a pas été donné suite, à son avis, par des mesures appropriées, le commissaire peut déposer au Parlement le rapport y afférent qu'il estime indiqué.

Report to Parliament

(3) If, within a reasonable time after a copy of a report is transmitted to the Governor in Council under subsection (1), adequate and appropriate action has not, in the opinion of the Commissioner, been taken thereon, the Commissioner may make such report thereon to Parliament as he considers appropriate.

Incorporation des réponses

(4) Il est tenu de joindre au rapport le texte des réponses faites par l'institution fédérale concernée, ou en son nom.

Reply to be attached to report

(4) The Commissioner shall attach to every report made under subsection (3) a copy of any reply made by or on behalf of any federal institution

concerned.

Sanctions administratives pécuniaires

Définitions

65.1 Les définitions qui suivent s'appliquent aux articles 65.3 à 65.95 et au paragraphe 66(3).

organisme désigné Toute société d'État ou personne morale visée à l'article 65.2. (*designated body*)

sanction Sanction administrative pécuniaire infligée pour une violation. (*penalty*)

Application

65.2 Les articles 65.3 à 65.95 s'appliquent aux sociétés d'État — ainsi qu'aux personnes morales assujetties à la présente loi en application d'une autre loi fédérale — qui remplissent les conditions suivantes :

- a) elles sont désignées par règlement;
- b) elles ont des obligations au titre de la partie IV;
- c) elles exercent leurs activités dans le domaine des transports;
- d) elles offrent des services aux voyageurs et communiquent avec eux.

But de la sanction

65.3 L'imposition d'une sanction vise non pas à punir, mais plutôt à favoriser le respect de la partie IV.

Règlements

65.4 (1) Sur la recommandation du ministre du Patrimoine canadien, le gouverneur en conseil peut prendre des règlements :

- a) désignant des sociétés d'État ou des personnes morales pour l'application de l'article 65.2;
- b) désignant comme violation punissable au titre des articles 65.3 à 65.95 la contravention à

Administrative Monetary Penalties

Definitions

65.1 The following definitions apply in sections 65.3 to 65.95 and subsection 66(3).

designated body means a corporation referred to in section 65.2. (*organisme désigné*)

penalty means an administrative monetary penalty imposed for a violation. (*sanction*)

Application

65.2 Sections 65.3 to 65.95 apply to a Crown corporation — or corporation that is subject to this Act under another Act of Parliament — that

- (a) is designated by regulation;
- (b) has duties under Part IV;
- (c) operates in the transportation sector; and
- (d) engages in communications with and provides or makes available services to the travelling public.

Purpose of penalty

65.3 The purpose of a penalty is to promote compliance with Part IV and not to punish.

Regulations

65.4 (1) The Governor in Council may, on the recommendation of the Minister of Canadian Heritage, make regulations

- (a) designating any corporation for the purposes of section 65.2;
- (b) designating, as a violation that may be proceeded with in accordance with

toute disposition spécifiée de la partie IV et de ses règlements relativement aux services et communications spécifiés ou aux catégories de services et communications spécifiées;

c) déterminant le montant de la sanction — ou établissant un barème de sanctions — applicable à chaque violation;

d) établissant, pour l'application de l'alinéa (3)d), d'autres critères applicables à la détermination du montant de la sanction, lorsqu'un barème de sanctions est établi;

e) augmentant le montant maximal de la sanction prévu au paragraphe (2);

f) concernant la signification des documents autorisés ou exigés par les articles 65.3 à 65.95, notamment par l'établissement de présomptions et de règles de preuve;

g) établissant la forme et le contenu des procès-verbaux de violation;

h) de façon générale, prévoyant toute autre mesure d'application des articles 65.3 à 65.95.

Plafond – montant de la sanction

(2) Sous réserve des règlements pris en vertu de l'alinéa (1)e), le montant maximal de la sanction applicable à une violation déterminé au titre des règlements pris en vertu de l'alinéa (1)c) est de vingt-cinq mille dollars.

Critères – barème de sanctions

(3) Lorsqu'un barème de sanctions applicable à une violation est établi au titre des règlements pris en vertu de l'alinéa (1)c), le commissaire tient compte des critères ci-après pour la détermination du montant de la sanction :

a) la nature et la portée de la violation;

b) les antécédents du prétendu auteur de la violation en ce qui a trait au respect des dispositions de la partie IV et de ses règlements désignées par les règlements pris en vertu de l'alinéa (1)b);

c) sa capacité de payer le montant de la sanction;

sections 65.3 to 65.95, the contravention of any specified provision of Part IV or the regulations made under that Part in respect of specified communications and services or specified categories of communications and services;

(c) fixing a penalty, or a range of penalties, in respect of each violation;

(d) for the purposes of paragraph (3)(d), establishing other criteria to be considered in determining the amount of the penalty if a range of penalties is established;

(e) increasing the amount of the maximum penalty set out in subsection (2);

(f) respecting the service of documents required or authorized to be served under sections 65.3 to 65.95, including the manner and proof of service and the circumstances under which documents are to be considered to be served;

(g) establishing the form and content of notices of violation; and

(h) generally, for carrying out the purposes and provisions of sections 65.3 to 65.95.

Maximum penalty

(2) Subject to regulations made under paragraph (1)(e), the maximum penalty in respect of a violation that may be fixed under regulations made under paragraph (1)(c) is \$25,000.

Criteria – range of penalties

(3) If a range of penalties is fixed by regulations made under paragraph (1)(c) in respect of a violation, then the Commissioner shall take into account the following criteria in determining the amount of the penalty:

(a) the nature and scope of the violation;

(b) the history of compliance, by the designated body that is believed to have committed the violation, with the provisions of Part IV and the regulations made under that Part that are designated by regulations made under paragraph (1)(b);

(c) the designated body's ability to pay the penalty;

- d) tout critère prévu par règlement;
- e) tout autre critère pertinent.

- (d) any criteria established by regulation; and
- (e) any other relevant criterion.

Violations

65.5 La contravention à une disposition — désignée par les règlements pris en vertu de l’alinéa 65.4(1)b) — constitue une violation pour laquelle l’organisme désigné s’expose à une sanction dont le montant est déterminé conformément aux règlements pris en vertu de l’alinéa 65.4(1)c) et au paragraphe 65.4(3).

Violations

65.5 Every designated body that contravenes a provision designated by regulations made under paragraph 65.4(1)(b) commits a violation and is liable to a penalty of an amount to be determined in accordance with regulations made under paragraph 65.4(1)(c) and with subsection 65.4(3).

Procès-verbal

65.6 (1) Si, au terme d’une enquête sur une plainte visant une obligation ou un droit prévus à une disposition désignée par les règlements pris en vertu de l’alinéa 65.4(1)b), il a des motifs raisonnables de croire qu’une violation a été commise et il a établi un rapport au titre du paragraphe 63(1) à l’égard de la violation, le commissaire peut dresser un procès-verbal qu’il fait signifier — avec le rapport et tout autre document pertinent — au prétendu auteur de la violation.

Notice of violation

65.6 (1) If, after carrying out an investigation of a complaint in respect of a right or duty under a provision designated by regulations made under paragraph 65.4(1)(b), the Commissioner has reasonable grounds to believe that a designated body has committed a violation and has made a report under subsection 63(1) in respect of that violation, the Commissioner may issue a notice of violation and shall cause it to be served — along with the report and any other relevant document — on the body.

Limite – accord de conformité

(2) Toutefois, le commissaire ne peut dresser un procès-verbal à l’égard de l’objet de la plainte sans avoir préalablement proposé au prétendu auteur de la violation de conclure un accord de conformité sur cet objet en application du paragraphe 64.1(1).

Limitation – compliance agreement

(2) However, the Commissioner is not permitted to issue a notice of violation in respect of the subject-matter of a complaint unless, before issuing the notice of violation, the Commissioner invited the designated body to enter into a compliance agreement under subsection 64.1(1) in respect of that subject-matter.

Limite – procès-verbal antérieur

(3) Il ne peut non plus dresser un procès-verbal à l’égard de l’objet de la plainte si celui-ci a déjà fait l’objet d’un procès-verbal.

Limitation – previous notice of violation

(3) The Commissioner is not permitted to issue a notice of violation under subsection (1) in respect of the subject-matter of a complaint if that subject-matter has already been the subject of a notice of violation.

Contenu

(4) Tout procès-verbal mentionne les éléments suivants :

- a) le nom du prétendu auteur de la violation;
- b) les faits pertinents concernant la violation ainsi que les dispositions en cause;

Contents

(4) The notice of violation shall

- (a) set out the name of the designated body that is believed to have committed the violation;
- (b) set out the relevant facts of the violation and the provision at issue;

c) le montant de la sanction relative à la violation;

d) la façon dont le commissaire a tenu compte des critères prévus au paragraphe 65.4(3) pour la détermination du montant de la sanction, si un barème de sanctions applicable à la violation est établi par les règlements pris en vertu de l'alinéa 65.4(1)c);

e) la faculté qu'a le prétendu auteur de la violation de contester les faits reprochés ou le montant de la sanction ou les deux, par voie de révision, ainsi que les modalités — de temps et autres — pour ce faire conformément à l'article 65.9;

f) le délai de trente jours ouvrables suivant la date de la signification du procès-verbal pour payer la sanction, ainsi que les autres modalités de paiement;

g) le fait que le prétendu auteur, s'il n'exerce pas le recours visé à l'alinéa e) ou s'il ne paie pas la sanction selon les modalités — de temps ou autre — précisées, est réputé avoir commis la violation et est tenu au paiement de cette sanction;

h) tout autre élément prévu par règlement.

Prescription

(5) Le procès-verbal ne peut être dressé après le deuxième anniversaire de la date où le commissaire a été informé des faits reprochés ou, s'il est antérieur, le troisième anniversaire de la date où les faits reprochés ont été commis.

Attestation

(6) Tout document apparemment délivré par le commissaire et attestant la date où le commissaire a été informé des faits reprochés fait foi de cette date, sauf preuve contraire, sans qu'il soit nécessaire de prouver l'authenticité de la signature ni la qualité officielle du signataire.

Paiement

65.7 Le paiement de la sanction prévue au procès-

(c) set out the penalty for the violation;

(d) set out the manner in which the Commissioner took into account the criteria referred to in subsection 65.4(3) in determining the amount of the penalty, if a range of penalties is fixed for the violation by regulations made under paragraph 65.4(1)(c);

(e) inform the designated body of its right to contest the facts of the alleged violation, the penalty or both, by way of review, and specify the time within which and the manner in which to do so in accordance with section 65.9;

(f) inform the designated body that the penalty is to be paid within 30 business days after the day on which the notice of violation is served and specify the manner in which to do so;

(g) inform the designated body that, if it does not pay the penalty or exercise its right referred to in paragraph (e) within the time and in the manner set out in the notice, it will be considered to have committed the violation and that it is liable for the penalty set out in the notice; and

(h) set out any other information provided by regulation.

Limitation or prescription period

(5) No notice of violation shall be issued in respect of a violation after the second anniversary of the day on which the Commissioner was informed of the facts of the alleged violation or the third anniversary of the day on which the facts of the alleged violation occurred, whichever is earlier.

Certification by Commissioner

(6) A document appearing to have been issued by the Commissioner, certifying the day on which the Commissioner was informed of the facts of the alleged violation, is admissible in evidence without proof of the signature or official character of the person appearing to have signed the document and, in the absence of evidence to the contrary, is proof that the Commissioner was informed of the facts of the alleged violation on that day.

Payment of penalty

65.7 If a designated body that is served with a

verbal vaut aveu de responsabilité à l'égard de la violation et met fin à la procédure.

Défaut

65.8 Vaut aveu de responsabilité, en cas de non-paiement de la sanction, le fait de ne pas demander de révision dans le délai imparti. Le cas échéant, l'auteur de la violation est tenu de payer la sanction.

Révision par la Cour fédérale

65.9 (1) Au lieu de payer la sanction, le prétendu auteur de la violation peut, dans les trente jours ouvrables suivant la date de la signification du procès-verbal et selon les modalités mentionnées dans celui-ci, exercer devant la Cour fédérale un recours en révision des faits reprochés ou du montant de la sanction, ou des deux.

Révision de novo

(2) Il est entendu que le recours prévu au paragraphe (1) est entendu et jugé comme une nouvelle affaire.

Révision des faits reprochés

65.91 (1) Saisie d'un recours en révision des faits reprochés exercé par le prétendu auteur de la violation, la Cour fédérale, au terme de la révision, sous réserve du paragraphe (3) :

a) si elle décide que le prétendu auteur est responsable de la violation, rend une ordonnance dans laquelle elle déclare que ce dernier est responsable de la violation et qu'il est tenu de payer la sanction prévue au procès-verbal;

b) si elle décide que le prétendu auteur n'est pas responsable de la violation, rend une ordonnance dans laquelle elle déclare que ce dernier n'est pas responsable de la violation et qu'il n'est pas tenu de payer la sanction prévue au procès-verbal.

Révision du montant de la sanction

(2) Saisie d'un recours en révision du montant de la sanction exercé par le prétendu auteur de la violation, la Cour fédérale, au terme de la révision, sous réserve du paragraphe (3) :

notice of violation pays the penalty set out in the notice, it is deemed to have committed the violation and the proceedings in respect of it are ended.

Failure to act

65.8 A designated body that neither pays a penalty set out in a notice of violation nor requests a review within the specified time is deemed to have committed the violation and is liable for the penalty.

Review by Federal Court

65.9 (1) Instead of paying the penalty set out in a notice of violation, the designated body named in the notice may, within 30 business days after the day on which the notice is served and in the manner specified in the notice, apply to the Federal Court for a review of the facts of the alleged violation or of the amount of the penalty, or both.

De novo review

(2) For greater certainty, an application under subsection (1) is to be heard and determined as a new proceeding.

Review with respect to facts

65.91 (1) If a designated body applies for a review with respect to the facts of an alleged violation, then on completion of the review the Federal Court shall, subject to subsection (3),

(a) if it determines that the designated body committed the violation, make an order declaring that the designated body committed the violation and is liable for the penalty set out in the notice of violation; or

(b) if it determines that the designated body did not commit the violation, make an order declaring that the designated body did not commit the violation and is not liable for the penalty set out in the notice of violation.

Review with respect to penalty

(2) If a designated body applies for a review with respect to the amount of the penalty for a violation, then on completion of the review the Federal Court shall, subject to subsection (3),

a) d'une part, détermine le montant de la sanction conformément aux règlements pris en vertu de l'alinéa 65.4(1)c) et en tenant compte, si ces règlements établissent un barème de sanctions applicable à la violation, des critères prévues au paragraphe 65.4(3);

b) d'autre part, rend une ordonnance dans laquelle elle déclare que le prétendu auteur est tenu de payer le montant de la sanction qu'elle a ainsi déterminé.

Révision des faits reprochés et du montant de la sanction

(3) Saisie d'un recours en révision des faits reprochés et du montant de la sanction exercé par le prétendu auteur de la violation, la Cour fédérale, au terme de la révision :

a) si elle décide que le prétendu auteur est responsable de la violation :

(i) d'une part, détermine le montant de la sanction conformément aux règlements pris en vertu de l'alinéa 65.4(1)c) et en tenant compte, si ces règlements établissent un barème de sanctions applicable à la violation, des critères prévus au paragraphe 65.4(3).

(ii) d'autre part, rend une ordonnance dans laquelle elle déclare que le prétendu auteur est responsable de la violation et qu'il est tenu de payer le montant de la sanction qu'elle a ainsi déterminé;

b) si elle décide que le prétendu auteur n'est pas responsable de la violation, rend une ordonnance dans laquelle elle déclare que ce dernier n'est pas responsable de la violation et qu'il n'est pas tenu de payer la sanction prévue au procès-verbal.

Créance de Sa Majesté

65.92 (1) Constituent une créance de Sa Majesté du chef du Canada, dont le recouvrement peut être poursuivi à ce titre devant la Cour fédérale :

a) le montant de la sanction mentionné dans le procès-verbal, à compter de la date de paiement qui y est précisée, sauf si un recours en révision est exercé au titre de l'article 65.9;

b) si un recours en révision est exercé au titre de cet article, la somme à payer aux termes

(a) determine the amount of the penalty in accordance with regulations made under paragraph 65.4(1)(c) and, if those regulations fix a range of penalties in respect of the violation, by taking into account the criteria referred to in subsection 65.4(3); and

(b) make an order declaring that the designated body is liable for a penalty of the amount that the Court determines.

Review with respect to facts and penalty

(3) If a designated body applies for a review with respect to both the facts of an alleged violation and the amount of the penalty for the violation, then on completion of the review the Federal Court shall,

(a) if it determines that the designated body committed the violation,

(i) determine the amount of the penalty in accordance with regulations made under paragraph 65.4(1)(c) and, if those regulations fix a range of penalties in respect of the violation, by taking into account the criteria referred to in subsection 65.4(3), and

(ii) make an order declaring that the designated body committed the violation and is liable for a penalty of the amount that the Court determines; or

(b) if it determines that the designated body did not commit the violation, make an order declaring that the designated body did not commit the violation and is not liable for the penalty set out in the notice of violation.

Debt to Her Majesty

65.92 (1) The following amounts are debts due to Her Majesty in right of Canada that may be recovered in the Federal Court:

(a) the amount of the penalty set out in a notice of violation, beginning on the day on which it is required to be paid in accordance with the notice, unless an application for review is made under section 65.9; and

(b) if an application for review is made under section 65.9, the amount payable under an

d'une ordonnance rendue par la Cour fédérale au titre des alinéas 65.91(1)a) ou (2)b) ou du sous-alinéa 65.91(3)a)(ii), à compter de la date de l'ordonnance.

order of the Federal Court made under paragraph 65.91(1)(a) or (2)(b) or subparagraph 65.91(3)(a)(ii), beginning on the date of the order.

Prescription

(2) Le recouvrement de la créance se prescrit après le cinquième anniversaire de la date à laquelle elle est devenue exigible.

Limitation or prescription period

(2) Proceedings to recover a debt referred to in subsection (1) may be commenced no later than the fifth anniversary of the day on which the debt becomes payable.

Receveur général

(3) Toute créance visée au paragraphe (1) est versée au receveur général.

Proceeds payable to Receiver General

(3) A debt referred to in subsection (1) that is paid or recovered is payable to and shall be remitted to the Receiver General.

Certificat de non-paiement

65.93 (1) Le commissaire peut établir un certificat de non-paiement pour la partie impayée de toute créance visée au paragraphe 65.92(1).

Certificate of default

65.93 (1) The Commissioner may issue a certificate for the unpaid amount of any debt referred to in subsection 65.92(1).

Effet de l'enregistrement

(2) L'enregistrement à la Cour fédérale confère au certificat la valeur d'un jugement de cette juridiction pour la somme visée et les frais afférents à l'enregistrement.

Effect of registration

(2) Registration of a certificate in the Federal Court has the same effect as a judgment of that Court for a debt of the amount set out in the certificate and all related registration costs.

Admissibilité en preuve

65.94 Dans les procédures en violation, le procès-verbal apparemment signifié en application du paragraphe 65.6(1) est admissible en preuve sans qu'il soit nécessaire de prouver l'authenticité de la signature ni la qualité officielle du signataire.

Evidence

65.94 In a proceeding in respect of a violation, a notice purporting to be served under subsection 65.6(1) is admissible in evidence without proof of the signature or official character of the person appearing to have signed it.

Exclusion de certains moyens de défense

65.95 (1) Le prétendu auteur de la violation ne peut invoquer en défense le fait qu'il a pris les mesures nécessaires pour empêcher la violation ou qu'il croyait raisonnablement et en toute honnêteté à l'existence de faits qui, avérés, l'exonéreraient.

Certain defences not available

65.95 (1) A designated body named in a notice of violation does not have a defence by reason that it
(a) exercised due diligence to prevent the violation; or
(b) reasonably and honestly believed in the existence of facts that, if true, would exonerate it.

Principes de la common law

(2) Les règles et principes de la common law qui font d'une circonstance une justification ou une excuse dans le cadre d'une poursuite pour

Common law principles

(2) Every rule and principle of the common law that renders any circumstance a justification or excuse in relation to a charge for an offence applies

infraction s'appliquent à l'égard d'une violation dans la mesure où ils sont compatibles avec la présente loi.

in respect of a violation to the extent that it is consistent with this Act.

Rapports au Parlement

Reports to Parliament

Rapport annuel

66 (1) Dans les meilleurs délais après la fin de chaque année, le commissaire présente au Parlement le rapport d'activité du commissariat pour l'année précédente, assorti éventuellement de ses recommandations quant aux modifications qu'il estime souhaitable d'apporter à la présente loi pour rendre son application plus conforme à son esprit et à l'intention du législateur.

Annual report

66 (1) The Commissioner shall, within such time as is reasonably practicable after the termination of each year, prepare and submit to Parliament a report relating to the conduct of his office and the discharge of his duties under this Act during the preceding year including his recommendations, if any, for proposed changes to this Act that the Commissioner deems necessary or desirable in order that effect may be given to it according to its spirit and intent.

Inclusion dans le rapport

(2) Le commissaire inclut dans son rapport, en regard de chaque institution fédérale concernée :

a) le nombre de fois que le commissaire a refusé ou cessé d'instruire une plainte au titre du paragraphe 58(4) et l'alinéa de ce paragraphe invoqué à cette fin;

b) pour chacun des modes substitutifs de règlement des différends utilisés, le nombre de plaintes qui ont été soumises à ce mode et le nombre d'entre elles qui ont été réglées par ce mode;

c) le nombre de fois qu'il a rendu publics des renseignements en vertu du paragraphe 63.1(1);

d) le nombre de plaintes qui ont fait l'objet d'un accord de conformité en application du paragraphe 64.1(1), une description de la contravention qui a donné lieu à l'accord, une mention indiquant si l'institution fédérale a respecté ou non l'accord et, en cas de non-respect, les mesures qu'il a prises par la suite;

e) le nombre de plaintes qui ont fait l'objet d'une ordonnance en vertu du paragraphe 64.5(1), une description de la contravention qui a donné lieu à l'ordonnance, une mention indiquant si l'institution fédérale a respecté ou non l'ordonnance et, en cas de non-respect, les

Part of report

(2) The Commissioner shall include, as part of the report, in respect of each federal institution concerned,

(a) the number of times that the Commissioner refused or ceased to investigate a complaint under subsection 58(4) and the paragraph of that subsection that was relied on;

(b) for each process of alternative dispute resolution used, the number of complaints on which that process was used and the number of them that were resolved through that process;

(c) the number of times that the Commissioner published any information under subsection 63.1(1);

(d) the number of complaints that were made the object of a compliance agreement under subsection 64.1(1), a description of the contravention that resulted in the agreement being entered into and an indication as to whether the federal institution complied with the agreement and, if not, any measures taken by the Commissioner as a result; and

(e) the number of complaints that were made the object of an order under subsection 64.5(1), a description of the contravention that resulted in the order being made and an indication as to whether the federal institution complied with the order and, if not, any measures taken by the

mesures qu'il a prises par la suite.

Commissioner as a result.

Inclusion dans le rapport – sanctions administratives pécuniaires

(3) Le commissaire inclut en outre dans son rapport, en regard de chaque organisme désigné concerné :

a) le nombre de procès-verbaux de violation dressés en vertu du paragraphe 65.6(1);

b) les faits pertinents concernant les violations et les dispositions en cause;

c) le montant des sanctions infligées, le cas échéant.

Part of report – administrative monetary penalties

(3) The Commissioner shall include, as part of the report, in respect of each designated body concerned,

(a) the number of notices of violation that the Commissioner issued under subsection 65.6(1);

(b) the relevant facts of the violations and the provisions at issue; and

(c) the amount of the penalties imposed, if any.

Rapport spécial

67 (1) Le commissaire peut également présenter au Parlement un rapport spécial sur toute question relevant de sa compétence et dont l'urgence ou l'importance sont telles, selon lui, qu'il serait contre-indiqué d'en différer le compte rendu jusqu'au moment du rapport annuel suivant.

Special reports

67 (1) The Commissioner may, at any time, make a special report to Parliament referring to and commenting on any matter within the scope of the powers, duties and functions of the Commissioner where, in the opinion of the Commissioner, the matter is of such urgency or importance that a report thereon should not be deferred until the time provided for transmission of the next annual report of the Commissioner under section 66.

Incorporation des réponses

(2) Il est tenu de joindre à tout rapport prévu par le présent article le texte des réponses faites par l'institution fédérale concernée, ou en son nom.

Reply to be attached to report

(2) The Commissioner shall attach to every report made under this section a copy of any reply made by or on behalf of any federal institution concerned.

Divulgence et précautions à prendre

68 Le commissaire peut rendre publics dans ses rapports les éléments nécessaires, selon lui, pour étayer ses conclusions et recommandations en prenant toutefois soin d'éviter toute révélation susceptible de porter préjudice à la défense ou à la sécurité du Canada ou de tout État allié ou associé.

Contents of report

68 The Commissioner may disclose in any report made under subsection 65(3) or section 66 or 67 such matters as in his opinion ought to be disclosed in order to establish the grounds for any conclusions and recommendations contained therein, but in so doing shall take every reasonable precaution to avoid disclosing any matter the disclosure of which would or might be prejudicial to the defence or security of Canada or any state allied or associated with Canada.

Transmission des rapports au Parlement

69 (1) La présentation des rapports du commissaire au Parlement s'effectue par remise au président du Sénat et à celui de la Chambre des communes pour dépôt devant leur chambre

Transmission of report

69 (1) Every report to Parliament made by the Commissioner under subsection 65(3) or section 66 or 67 shall be made by being transmitted to the Speaker of the Senate and to the Speaker of the House of Commons for tabling respectively in

respective.

those Houses.

Renvoi en comité

(2) Les rapports sont, après leur dépôt, renvoyés devant le comité désigné ou constitué par le Parlement pour l'application de l'article 88.

Reference to parliamentary committee

(2) Every report referred to in subsection (1) shall, after it is transmitted for tabling pursuant to that subsection, be referred to the committee designated or established by Parliament for the purpose of section 88.

Délégation

Delegation

Pouvoir de délégation

70 Le commissaire peut, dans les limites qu'il fixe, déléguer les pouvoirs et attributions que lui confère la présente loi ou toute autre loi du Parlement, sauf :

- a) le pouvoir même de délégation;
- b) les pouvoirs et attributions énoncés aux articles 63, ~~65-63.1~~, ~~64.1~~ à 69 et 78.

Delegation by Commissioner

70 The Commissioner may authorize any person to exercise or perform, subject to such restrictions or limitations as the Commissioner may specify, any of the powers, duties or functions of the Commissioner under this or any other Act of Parliament except

- (a) the power to delegate under this section; and
- (b) the powers, duties or functions set out in sections 63, ~~65-63.1~~, ~~64.1~~ to 69 et 78.

Dispositions générales

General

Normes de sécurité

71 Le commissaire et les personnes agissant en son nom ou sous son autorité qui reçoivent ou recueillent des renseignements dans le cadre des enquêtes prévues par la présente loi sont tenus, quant à l'accès à ces renseignements et à leur utilisation, de satisfaire aux normes applicables en matière de sécurité et de prêter les serments imposés à leurs usagers habituels.

Normes de sécurité

71 The Commissioner and every person acting on behalf or under the direction of the Commissioner who receives or obtains information relating to any investigation under this Act shall, with respect to access to and the use of such information, satisfy any security requirements applicable to, and take any oath of secrecy required to be taken by, persons who normally have access to and use of such information.

Secret

72 Sous réserve des autres dispositions de la présente loi, le commissaire et les personnes agissant en son nom ou sous son autorité sont tenus au secret en ce qui concerne les renseignements dont ils prennent connaissance dans l'exercice des attributions que leur confère la présente loi.

Confidentiality

72 Subject to this Act, the Commissioner and every person acting on behalf or under the direction of the Commissioner shall not disclose any information that comes to their knowledge in the performance of their duties and functions under this Act.

Divulgateion

73 Le commissaire peut communiquer ou autoriser les personnes agissant en son nom ou sous son autorité à communiquer :

- a)** les renseignements qui, à son avis, sont nécessaires pour mener ses enquêtes;
- b)** des renseignements, soit lors d'un recours formé devant la Cour fédérale aux termes de la partie X, soit lors de l'appel de la décision rendue en l'occurrence.

Non-assignation

74 En ce qui concerne les questions venues à leur connaissance au cours d'une enquête, dans l'exercice de leurs attributions, le commissaire et les personnes qui agissent en son nom ou sous son autorité ont qualité pour témoigner, mais ne peuvent y être contraints que lors des circonstances visées à l'alinéa 73b).

Immunité

75 (1) Le commissaire — ou toute personne qui agit en son nom ou sous son autorité — bénéficie de l'immunité civile ou pénale pour les actes accomplis, les rapports ou comptes rendus établis et les paroles prononcées de bonne foi dans l'exercice effectif ou censé tel de ses attributions.

Diffamation

(2) Ne peuvent donner lieu à poursuite pour diffamation verbale ou écrite ni les paroles prononcées, les renseignements fournis ou les documents ou autres pièces produits de bonne foi au cours d'une enquête menée par le commissaire ou en son nom, ni les rapports ou comptes rendus établis de bonne foi par celui-ci dans le cadre de la présente loi. Sont également protégées les relations qui sont faites de bonne foi par la presse écrite ou audio-visuelle.

Disclosure authorized

73 The Commissioner may disclose or may authorize any person acting on behalf or under the direction of the Commissioner to disclose information

- (a)** that, in the opinion of the Commissioner, is necessary to carry out an investigation under this Act; or
- (b)** in the course of proceedings before the Federal Court under Part X or an appeal therefrom.

No summons

74 The Commissioner or any person acting on behalf or under the direction of the Commissioner is not a compellable witness, in respect of any matter coming to the knowledge of the Commissioner or that person as a result of performing any duties or functions under this Act during an investigation, in any proceedings other than proceedings before the Federal Court under Part X or an appeal therefrom.

Protection of Commissioner

75 (1) No criminal or civil proceedings lie against the Commissioner, or against any person acting on behalf or under the direction of the Commissioner, for anything done, reported or said in good faith in the course of the exercise or performance or purported exercise or performance of any power, duty or function of the Commissioner under this Act.

Libel or slander

(2) For the purposes of any law relating to libel or slander,

- (a)** anything said, any information supplied or any document or thing produced in good faith in the course of an investigation by or on behalf of the Commissioner under this Act is privileged; and
- (b)** any report made in good faith by the Commissioner under this Act and any fair and accurate account of the report made in good faith in a newspaper or any other periodical publication or in a broadcast is privileged.

PARTIE X

Recours judiciaire

Définition de *tribunal*

76 Le tribunal visé à la présente partie est la Cour fédérale.

Recours

77 (1) Quiconque a saisi le commissaire d'une plainte visant une obligation ou un droit prévus aux articles 4 à 7 et 10 à 13 ou aux parties IV, V, ou VII, ou fondée sur l'article 91, peut former un recours devant le tribunal sous le régime de la présente partie.

Délai

(2) Sauf délai supérieur accordé par le tribunal sur demande présentée ou non avant l'expiration du délai normal, le recours est formé dans les soixante jours qui suivent la communication au plaignant des conclusions de l'enquête, des recommandations visées au paragraphe 64(2) ou de l'avis de refus d'ouverture ou de poursuite d'une enquête donné au titre du paragraphe 58(5).

Autre délai

(3) Si, dans les six mois suivant le dépôt d'une plainte, il n'est pas avisé des conclusions de l'enquête, des recommandations visées au paragraphe 64(2) ou du refus opposé au titre du paragraphe 58(5), le plaignant peut former le recours à l'expiration de ces six mois.

PART X

Court Remedy

Definition of *Court*

76 In this Part, Court means the Federal Court.

Application for remedy

77 (1) Any person who has made a complaint to the Commissioner in respect of a right or duty under sections 4 to 7, sections 10 to 13 or Part IV, V or VII, or in respect of section 91, may apply to the Court for a remedy under this Part.

~~Limitation period~~ Time limit

(2) An application may be made under subsection (1) within ~~sixty~~ 60 days ~~— or within any further time that the Court may allow, on request made wither before or after the expiry of those 60 days —~~ after

(a) the results of an investigation of the complaint by the Commissioner are reported to the complainant under subsection 64(1),

(b) the complainant is informed of the recommendations of the Commissioner under subsection 64(2), or

(c) the complainant is informed of the Commissioner's decision to refuse or cease to investigate the complaint under subsection 58(5).~~;~~

~~or within such further time as the Court may, either before or after the expiration of those sixty days, fix or allow.~~

Application six months after complaint

(3) Where a complaint is made to the Commissioner under this Act but the complainant is not informed of the results of the investigation of the complaint under subsection 64(1), of the recommendations of the Commissioner under subsection 64(2) or of a decision under subsection 58(5) within six months after the complaint is made, the complainant may make an

application under subsection (1) at any time thereafter.

Ordonnance

(4) Le tribunal peut, s'il estime qu'une institution fédérale ne s'est pas conformée à la présente loi, accorder la réparation qu'il estime convenable et juste eu égard aux circonstances.

Incompatibilité : accord de conformité

(4.1) Les dispositions de l'ordonnance rendue au titre du paragraphe (4) l'emportent sur les dispositions incompatibles de l'ordonnance visée à l'alinéa 64.4(1)a).

Incompatibilités : ordonnance du commissaire

(4.2) Les dispositions de l'ordonnance rendue au titre du paragraphe (4) l'emportent sur les dispositions incompatibles d'une ordonnance déposée aux termes du paragraphe 64.6(1).

Précision

(5) Le présent article ne porte atteinte à aucun autre droit d'action.

Exercice de recours par le commissaire

78 (1) Le commissaire peut selon le cas :

- a)** exercer lui-même le recours, dans les soixante jours qui suivent la communication au plaignant des conclusions de l'enquête ou des recommandations visées au paragraphe 64(2) ou dans le délai supérieur accordé au titre du paragraphe 77(2), si le plaignant y consent;
- b)** comparaître devant le tribunal pour le compte de l'auteur d'un recours;
- c)** comparaître, avec l'autorisation du tribunal, comme partie à une instance engagée sur le fondement de la présente partie.

Exception

(1.1) Malgré l'alinéa (1)a), si le commissaire rend une ordonnance en vertu du paragraphe 64.5(1) :

Order of Court

(4) Where, in proceedings under subsection (1), the Court concludes that a federal institution has failed to comply with this Act, the Court may grant such remedy as it considers appropriate and just in the circumstances.

Conflict — compliance agreement

(4.1) If there is a conflict between a provision of an order made under paragraph 64.4(1)(a) and a provision of an order made under subsection (4), the order made under subsection (4) prevails to the extent of the conflict.

Conflict — Commissioner's order

(4.2) If there is a conflict between a provision of an order filed under subsection 64.6(1) and a provision of an order made under subsection (4), the order made under subsection (4) prevails to the extent of the conflict.

Other rights of action

(5) Nothing in this section abrogates or derogates from any right of action a person might have other than the right of action set out in this section.

Commissioner may apply or appear

78 (1) Le commissaire peut selon le cas :

- (a)** within the time limits prescribed by paragraph 77(2)(a) or (b), apply to the Court for a remedy under this Part in relation to a complaint investigated by the Commissioner if the Commissioner has the consent of the complainant;
- (b)** appear before the Court on behalf of any person who has applied under section 77 for a remedy under this Part; or
- (c)** with leave of the Court, appear as a party to any proceedings under this Part.

Exception

(1.1) Despite paragraph (1)(a), if the Commissioner makes an order under

a) il ne peut exercer le recours prévu à cet alinéa à l'égard de toute question dont traite l'ordonnance;

b) il retire toute demande faite au titre de cet alinéa à l'égard d'une telle question.

Comparution de l'auteur du recours

(2) Dans le cas prévu à l'alinéa (1)a), le plaignant peut comparaître comme partie à l'instance.

Pouvoir d'intervenir

(3) Le présent article n'a pas pour effet de porter atteinte au pouvoir du commissaire de demander l'autorisation d'intervenir dans toute instance judiciaire relative au statut ou à l'usage du français ou de l'anglais.

Révisions par le tribunal : plaignant

78.1 (1) Le plaignant dont la plainte est visée au paragraphe 64.5(1) et qui reçoit à cet égard l'avis prévu au paragraphe 64.5(5) peut, dans les trente jours ouvrables suivant la réception de l'avis par l'administrateur général ou tout autre responsable administratif de l'institution fédérale, exercer devant le tribunal un recours en révision de toute question dont traite l'ordonnance contenue dans l'avis.

Révision par le tribunal : institution fédérale

(2) L'institution fédérale peut, dans les trente jours ouvrables suivant la réception de l'avis en application du paragraphe 64.5(5) par son administrateur général ou tout autre responsable administratif, exercer devant le tribunal un recours en révision de toute question dont traite l'ordonnance contenue dans l'avis.

Défendeur

(3) Le plaignant qui exerce un recours au titre du paragraphe (1) ne peut désigner, à titre de défendeur, que l'institution fédérale concernée; l'institution fédérale qui exerce un recours au titre du paragraphe (2) ne peut désigner, à titre de défendeur, que le commissaire.

subsection 64.5(1), the Commissioner

(a) is not permitted to make an application under paragraph (1)(a) in respect of any matter that is the subject of the order; and

(b) shall withdraw any applications that were made under paragraph (1)(a) in respect of any matter that is the subject of the order.

Complainant may appear as party

(2) Where the Commissioner makes an application under paragraph (1)(a), the complainant may appear as a party to any proceedings resulting from the application.

Capacity to intervene

(3) Nothing in this section abrogates or derogates from the capacity of the Commissioner to seek leave to intervene in any ~~adjudicative~~ judicial proceedings relating to the status or use of English or French.

Review by Court — complainant

78.1 (1) A person who makes a complaint described in subsection 64.5(1) and who receives a notice under subsection 64.5(5) in respect of the complaint may, within 30 business days after the day on which the deputy head or other administrative head of the federal institution receives the notice, apply to the Court for a review of any matter that is the subject of the order set out in the notice.

Review by Court — federal institution

(2) A federal institution may, within 30 business days after the day on which its deputy head or other administrative head receives a notice under subsection 64.5(5), apply to the Court for a review of any matter that is the subject of the order set out in the notice.

Respondents

(3) A complainant who applies for a review under subsection (1) may name only the federal institution concerned as the respondent to the proceedings. A federal institution that applies for a review under subsection (2) may name only the Commissioner as the respondent to the proceedings.

Date de réception réputée

(4) Pour l'application du présent article, l'administrateur général ou tout autre responsable administratif de l'institution fédérale est réputé avoir reçu l'avis le cinquième jour ouvrable suivant la date que porte l'avis.

Suspension de l'ordonnance

78.2 (1) Sous réserve des paragraphes (2) et (3), l'exercice de tout recours au titre de l'article 78.1 a pour effet de suspendre l'exécution de toute ordonnance contenue dans l'avis prévu au paragraphe 64.5(5) jusqu'à ce que l'affaire soit définitivement tranchée.

Levée de la suspension par le tribunal

(2) Le tribunal peut lever la suspension, soit absolument, soit temporairement, aux conditions qu'il juge indiquées.

Levée de la suspension

(3) La suspension est levée à l'égard de toute partie de l'ordonnance traitant de questions qui ne font pas l'objet du recours.

Partie à l'instance : institution fédérale

78.3 (1) Si le plaignant qui reçoit l'avis conformément au paragraphe 64.5(5) exerce le recours en révision prévu au paragraphe 78.1(1), l'institution fédérale dont l'administrateur général ou tout autre responsable administratif a reçu l'avis en cause a le droit de comparaître comme partie à l'instance.

Partie à l'instance : plaignant

(2) Si l'institution fédérale dont l'administrateur général ou tout autre responsable administratif reçoit l'avis conformément au paragraphe 64.5(5) exerce le recours en révision prévu au paragraphe 78.1(2), le plaignant qui a reçu l'avis en cause a le droit de comparaître comme partie à l'instance.

Portée de l'instance

(3) Le plaignant qui présente au tribunal un avis d'intention de comparaître comme partie à l'instance dans les dix jours ouvrables suivant l'expiration du délai prévu au paragraphe 78.1(2)

Deemed date of receipt

(4) For the purposes of this section, the deputy head or other administrative head of the federal institution is deemed to have received the notice on the fifth business day after the date of the notice.

Order stayed

78.2 (1) Subject to subsections (2) and (3), the making of an application under section 78.1 operates as a stay of the order set out in the notice received under subsection 64.5(5) until the proceedings are finally concluded.

Cancellation or suspension of stay by Court

(2) The Court may cancel the stay of the order or may suspend the operation of the stay temporarily subject to any terms that it considers appropriate.

Part of order operative

(3) Any part of the order that relates to a matter that is not the subject of the proceedings becomes operative.

Party to review — federal institution

78.3 (1) If a complainant who receives a notice under subsection 64.5(5) applies to the Court for a review under subsection 78.1(1), the federal institution whose deputy head or other administrative head received the notice under subsection 64.5(5) has the right to appear as a party to the review.

Party to review — complainant

(2) If the federal institution whose deputy head or other administrative head receives a notice under subsection 64.5(5) applies to the Court for a review under subsection 78.1(2), the complainant who received the notice under subsection 64.5(5) has the right to appear as a party to the review.

Scope of proceeding

(3) If a complainant files notice of their intention to appear as a party to a review with the Court within 10 business days after the expiry of the period referred to in subsection 78.1(2), they may

peut soulever auprès du tribunal et faire trancher toute question à l'égard de laquelle il peut exercer le recours prévu au paragraphe 78.1(1).

raise for determination by the Court any matter in respect of which they may make an application under subsection 78.1(1).

Comparution du commissaire

Appearance by Commissioner

78.4 Le commissaire a qualité pour comparaître :

78.4 The Commissioner may

a) devant le tribunal au nom du plaignant;

(a) appear before the Court on behalf of a complainant; or

b) comme partie à une instance engagée au titre de l'article 78.1.

(b) appear as a party to any review applied for under section 78.1.

Signification à l'institution fédérale

Service of originating document

78.5 (1) Dès que le plaignant exerce le recours en révision prévu au paragraphe 78.1(1), il signifie une copie de l'acte introductif d'instance à l'administrateur général ou à tout autre responsable administratif de l'institution fédérale dont l'administrateur général ou tout autre responsable administratif a reçu l'avis prévu au paragraphe 64.5(5).

78.5 (1) If a complainant makes an application for a review under subsection 78.1(1), they shall immediately serve a copy of the originating document on the deputy head or other administrative head of the federal institution whose deputy head or other administrative head received the notice under subsection 64.5(5).

Signification ou avis

Service or notice

(2) Dès que l'institution fédérale exerce le recours en révision prévu au paragraphe 78.1(2), son administrateur général ou tout autre responsable administratif signifie une copie de l'acte introductif d'instance au commissaire. Toutefois, si une copie de l'acte introductif d'instance lui est signifiée au titre du paragraphe (1), il donne, dès que possible après la signification, avis écrit du recours au commissaire, à moins que ce dernier n'ait déjà reçu avis du recours.

(2) If a federal institution makes an application for a review under subsection 78.1(2), its deputy head or other administrative head shall immediately serve a copy of the originating document on the Commissioner. However, if the deputy head or other administrative head of a federal institution is served with a copy of an originating document under subsection (1), that deputy head or other administrative head shall, as soon as possible after being served, give written notice of the application to the Commissioner, unless the Commissioner has already been served with a copy of the document.

Révision de novo

De novo review

78.6 Il est entendu que le recours prévu à l'article 78.1 est entendu et jugé comme une nouvelle affaire.

78.6 For greater certainty, an application under section 78.1 is to be heard and determined as a new proceeding.

Ordonnance du tribunal

Order of Court

78.7 Le tribunal rend, à l'égard de toute question qui fait l'objet du recours :

78.7 The Court shall, in respect of any matter that is the subject of the proceedings,

a) une ordonnance dans laquelle il déclare que l'institution fédérale concernée est tenue de respecter les dispositions de l'ordonnance du commissaire qui traite de cette question;

(a) make an order declaring that the federal institution concerned is required to comply with the provisions of the Commissioner's order that relate to that matter;

b) une ordonnance dans laquelle il déclare que l'institution fédérale concernée n'est pas tenue de respecter les dispositions de l'ordonnance du commissaire qui traite de cette question;

c) toute autre ordonnance qu'il estime indiquée.

(b) make an order declaring that the federal institution concerned is not required to comply with the provisions of the Commissioner's order that relate to that matter; or

(c) make any other order that it considers appropriate.

Dispositions incompatibles

78.8 (1) Toute ordonnance du tribunal rendue en application de l'article 78.7 a pour effet d'annuler les dispositions de l'ordonnance du commissaire traitant des questions qui font l'objet du recours qui sont incompatibles avec l'ordonnance du tribunal.

Précision des dispositions annulées

(2) Le tribunal, dans toute ordonnance qu'il rend, précise les dispositions de l'ordonnance du commissaire qui sont annulées conformément au paragraphe (1).

Preuve – plainte de même nature

79 Sont recevables en preuve dans les recours les renseignements portant sur des plaintes de même nature concernant une même institution fédérale.

Procédure sommaire

80 Le recours est entendu et jugé en procédure sommaire, conformément aux règles de pratique spéciales adoptées à cet égard en vertu de l'article 46 de la *Loi sur les Cours fédérales*.

Frais et dépens

81 (1) Les frais et dépens afférents à tout recours exercé devant le tribunal sous le régime de la présente loi sont laissés à l'appréciation du tribunal et suivent, sauf ordonnance contraire de celui-ci, le sort du principal.

Idem

(2) Cependant, dans les cas où il estime que l'objet du recours a soulevé un principe important et nouveau quant à la présente loi, le tribunal accorde les frais et dépens à l'auteur du recours, même s'il est débouté.

Incompatible provisions

78.8 (1) An order of the Court made under section 78.7 has the effect of rescinding the provisions of the Commissioner's order relating to any matter that is the subject of the proceedings that are incompatible with the Court's order.

Specification of rescinded provisions

(2) The Court must specify in any order that it makes the provisions of the Commissioner's order that are rescinded under subsection (1).

Evidence relating to similar complaint

79 In proceedings under this Part relating to a complaint against a federal institution, the Court may admit as evidence information relating to any similar complaint under this Act in respect of the same federal institution.

Hearing in summary manner

80 An application made under section 77 shall be heard and determined in a summary manner in accordance with any special rules made in respect of such applications pursuant to section 46 of the *Federal Courts Act*.

Costs

81 (1) Subject to subsection (2), the costs of and incidental to all proceedings in the Court under this Act shall be in the discretion of the Court and shall follow the event unless the Court orders otherwise.

Idem-Costs

(2) ~~Where~~ If the Court is of the opinion that an application under section 65.9, 77 or 78.1 has raised an important new principle in relation to this Act, the Court shall order that costs be awarded to the applicant even if the applicant has not been

successful in the result.

PARTIE XI

Dispositions générales

Primauté sur les autres lois

82 (1) Les dispositions des parties qui suivent l'emportent sur les dispositions incompatibles de toute autre loi ou de tout règlement fédéraux :

- a) partie I (Débats et travaux parlementaires);
- b) partie II (Actes législatifs et autres);
- c) partie III (Administration de la justice);
- d) partie IV (Communications avec le public et prestation des services);
- e) partie V (Langue de travail).

Exception

(2) Le paragraphe (1) ne s'applique pas à la *Loi canadienne sur les droits de la personne* ni à ses règlements.

Droits préservés

83 (1) La présente loi n'a pas pour effet de porter atteinte aux droits — antérieurs ou postérieurs à son entrée en vigueur et découlant de la loi ou de la coutume — des langues autres que le français et l'anglais, notamment des langues autochtones.

Maintien du patrimoine linguistique

(2) La présente loi ne fait pas obstacle au maintien et à la valorisation des langues autres que le français ou l'anglais, ni à la réappropriation, à la revitalisation et au renforcement des langues autochtones.

Consultations

84 ~~Selon les circonstances et au moment opportun, le président du Conseil du Trésor, ou tel~~

PART XI

General

Primacy of Parts I to V

82 (1) In the event of any inconsistency between the following Parts and any other Act of Parliament or regulation thereunder, the following Parts prevail to the extent of the inconsistency:

- a) Part I (Proceedings of Parliament);
- b) Part II (Legislative and other Instruments);
- c) Part III (Administration of Justice);
- d) Part IV (Communications with and Services to the Public); and
- e) Part V (Language of Work).

Canadian Human Rights Act excepted

(2) Subsection (1) does not apply to the *Canadian Human Rights Act* or any regulation made thereunder.

Rights relating to other languages

83 (1) Nothing in this Act abrogates or derogates from any legal or customary right acquired or enjoyed either before or after the coming into force of this Act with respect to any language ~~that is not~~ other than English or French, including any Indigenous language.

Preservation and enhancement of other languages

(2) Nothing in this Act shall be interpreted in a manner that is inconsistent with the ~~preservation~~ maintenance and enhancement of languages other than English or French, ~~nor with the reclamation, revitalization and strengthening of Indigenous languages~~.

Consultations

84 ~~The President of the Treasury Board, or such other minister of the Crown as may be designated~~

~~autre~~ Si le gouverneur en conseil a l'intention de prendre un règlement en vertu d'une disposition de la présente loi, le ministre fédéral ~~que peut désigner le gouverneur en conseil~~, responsable de la disposition consulte, selon les circonstances et au moment opportun, les minorités francophones et anglophones et, éventuellement, le grand public sur les projets de règlement ~~d'application de la présente loi~~.

Dépôt d'avant-projets de règlement

85 (1) ~~Lorsque~~ Si le gouverneur en conseil a l'intention de prendre un règlement ~~sous le régime en vertu d'une dispositions~~ de la présente loi, le ~~président du Conseil du Trésor ou tout~~ ministre fédéral ~~désigné par le gouverneur en conseil responsable de la disposition~~ en dépose un avant-projet à la Chambre des communes au moins trente jours avant la publication du règlement dans la *Gazette du Canada* au titre de l'article 86.

Calcul de la période de trente jours

(2) Seuls les jours de séance de la Chambre des communes sont pris en compte pour le calcul de la période de trente jours visée au paragraphe (1).

Publication des projets de règlement

86 (1) ~~Les~~ ~~Tout~~ projets de règlements ~~d'application pris en vertu d'une disposition~~ de la présente loi ~~sont est~~ publiés dans la *Gazette du Canada* au moins trente jours avant la date prévue pour ~~leur son~~ entrée en vigueur, les intéressés se voyant accorder toute possibilité de présenter au ~~président du Conseil du Trésor~~ ~~ministre responsable de la disposition~~ leurs observations à cet égard.

Exception

(2) Ne sont pas visés les projets de règlement déjà publiés dans les conditions prévues au paragraphe (1), même s'ils ont été modifiés par suite d'observations présentées conformément à ce paragraphe.

~~by the Governor in Council~~, If the Governor in Council proposes to make a regulation under a provision of this Act, the minister of the Crown who is responsible for the provision shall, at a time and in a manner appropriate to the circumstances, seek the views of members of the English and French linguistic minority communities and, ~~where if~~ appropriate, members of the public generally on ~~the proposed regulations to be made under this Act~~.

Tabling of ~~D~~ draft of proposed regulation ~~to be tabled~~

85 (1) ~~The President of the Treasury Board, or such other minister of the Crown as may be designated by the Governor in Council~~, If the Governor in Council proposes to make a regulation under a provision of this Act, the minister of the Crown who is responsible for the provision shall, ~~where the Governor in Council proposes to make any regulation under this Act~~, lay a draft of the proposed regulation before the House of Commons at least ~~thirty~~ ~~30~~ days before a copy of ~~that~~ regulation is published in the *Canada Gazette* under section 86.

Calculation of thirty day period

(2) In calculating the thirty day period referred to in subsection (1), there shall not be counted any day on which the House of Commons does not sit.

Publication of proposed regulation

86 (1) Subject to subsection (2), a copy of each regulation that the Governor in Council proposes to make under a provision of this Act shall be published in the *Canada Gazette* at least ~~thirty~~ ~~30~~ days before ~~the its~~ proposed effective date ~~thereof~~, and a reasonable opportunity shall be afforded to interested persons to make representations to the ~~President of the Treasury Board~~ ~~minister of the Crown who is responsible for the provision~~ with respect ~~thereto~~ to the proposed regulation.

Exception

(2) No proposed regulation need be published under subsection (1) if it has previously been published pursuant to that subsection, whether or not it has been amended as a result of representations made pursuant to that subsection.

Calcul de la période de trente jours

(3) Seuls les jours où siègent les deux chambres du Parlement sont pris en compte pour le calcul de la période de trente jours visée au paragraphe (1).

Dépôt des projets de règlement

87 (1) Les projets de règlements d'application de l'alinéa 38(2)a visant à désigner un secteur ou une région du Canada pour l'application de l'alinéa 35(1)a sont déposés devant chaque chambre du Parlement au moins trente jours de séance avant la date prévue pour leur entrée en vigueur.

Motion de désapprobation

(2) Dans le cas où une motion signée par au moins quinze sénateurs ou trente députés, selon le cas, et visant à empêcher l'approbation du projet de règlement est remise dans les vingt-cinq jours de séance suivant son dépôt au président de la chambre concernée, celui-ci met aux voix, dans les cinq jours de séance suivants et sans qu'il y ait débat ou modification, toute question nécessaire pour en décider.

Adoption

(3) Il ne peut être procédé à la prise du règlement ayant fait l'objet d'une motion adoptée par les deux chambres conformément au paragraphe (2).

Prorogation ou dissolution du Parlement

(4) Il ne peut non plus y avoir prise du règlement lorsque le Parlement est dissous ou prorogé dans les vingt-cinq jours de séance suivant le dépôt du projet et que la motion dont celui-ci fait l'objet aux termes du paragraphe (2) n'a pas encore été mise aux voix.

Définition de *jour de séance*

(5) Pour l'application du présent article, *jour de séance* s'entend, à l'égard ~~des deux d'une~~ chambres du Parlement, de tout jour où ~~l'une~~

Calculation of ~~thirty~~ 30-day period

(3) In calculating the ~~thirty~~ 30-day period referred to in subsection (1), ~~there shall not be counted any~~ only the days on which ~~neither both~~ both Houses of Parliament sit shall be counted.

Tabling of regulation

87 (1) A regulation that is proposed to be made under paragraph 38(2)(a) and prescribes any part or region of Canada for the purpose of paragraph 35(1)(a) shall be laid before each House of Parliament at least thirty sitting days before the proposed effective date thereof.

Motion to disapprove proposed regulation

(2) Where, within twenty-five sitting days after a proposed regulation is laid before either House of Parliament under subsection (1), a motion for the consideration of that House to the effect that the proposed regulation not be approved, signed by no fewer than fifteen Senators or thirty Members of the House of Commons, as the case may be, is filed with the Speaker of that House, the Speaker shall, within five sitting days after the filing of the motion, without debate or amendment, put every question necessary for the disposition of the motion.

Where motion adopted

(3) Where a motion referred to in subsection (2) is adopted by both Houses of Parliament, the proposed regulation to which the motion relates may not be made.

Prorogation or dissolution of Parliament

(4) Where Parliament dissolves or prorogues earlier than twenty-five sitting days after a proposed regulation is laid before both Houses of Parliament under subsection (1) and a motion has not been disposed of under subsection (2) in relation to the proposed regulation in both Houses of Parliament, the proposed regulation may not be made.

Definition of *sitting day*

(5) For the purposes of this section, *sitting day* means, in respect of either House of Parliament, a day on which that House sits.

d'elles-même.

Suivi par un comité parlementaire

88 Le Parlement désigne ou constitue un comité, soit du Sénat, soit de la Chambre des communes, soit mixte, chargé spécialement de suivre l'application de la présente loi, des règlements, principes et instructions en découlant, ainsi que la mise en œuvre des rapports du commissaire, du président du Conseil du Trésor et du ministre du Patrimoine canadien.

Précision Article 126 du Code criminel

89 ~~Il est entendu que~~ Les contraventions ~~à~~ aux dispositions de la présente loi ou des règlements sont soustraites à l'application de l'article 126 du Code criminel.

Privilèges parlementaires et judiciaires

90 La présente loi n'a pas pour effet de porter atteinte aux pouvoirs, privilèges et immunités dont jouissent les parlementaires en ce qui touche leur bureau privé et leur propre personnel ou les juges.

Dotation en personnel

91 ~~Les parties IV et V n'ont~~ La présente loi n'a pour effet d'autoriser la prise en compte des exigences relatives aux langues officielles, lors d'une dotation en personnel, que si ~~elle~~ cette prise en compte s'impose objectivement pour l'exercice des fonctions en cause.

Mention de « langues officielles »

92 Dans les lois fédérales, la mention « langues officielles » ou « langues officielles du Canada » vaut mention des langues déclarées officielles par le paragraphe 16(1) de la *Charte canadienne des droits et libertés*.

Règlements

93 Le gouverneur en conseil peut prendre les règlements qu'il estime nécessaires pour assurer le

Permanent ~~r~~ Review of Act, ~~etc.~~, by parliamentary committee

88 The administration of this Act, any regulations, policies and directives made under this Act and the reports of the Commissioner, the President of the Treasury Board and the Minister of Canadian Heritage made under this Act shall be reviewed on a permanent basis by ~~such~~ any committee of the Senate, of the House of Commons or of both Houses of Parliament ~~as that~~ may be designated or established for that purpose.

Section 126 of Criminal Code ~~not applicable~~

89 ~~For greater certainty, it is hereby declared that~~ Section 126 of the *Criminal Code* does not apply to or in respect of any contravention ~~or alleged contravention~~ of any provision of this Act, or the regulations.

Parliamentary and judicial powers, privileges and immunities saved

90 Nothing in this Act abrogates or derogates from any powers, privileges or immunities of members of the Senate or the House of Commons in respect of their personal offices and staff or of judges of any Court.

Staffing generally

91 Nothing in ~~Part IV or V~~ this Act authorizes the application of official language requirements to a particular staffing action unless those requirements are objectively required to perform the functions for which the staffing action is undertaken.

References in Acts of Parliament to the "official languages"

92 In every Act of Parliament, a reference to the "official languages" or the "official languages of Canada" shall be construed as a reference to the languages declared by subsection 16(1) of the *Canadian Charter of Rights and Freedoms* to be the official languages of Canada.

Regulations

93 The Governor in Council may make regulations
(a) prescribing anything that the Governor in

respect de la présente loi dans le cadre des activités des institutions fédérales autres que le Sénat, la Chambre des communes, la bibliothèque du Parlement, le bureau du conseiller sénatorial en éthique, le bureau du commissaire aux conflits d'intérêts et à l'éthique, le Service de protection parlementaire ou le bureau du directeur parlementaire du budget. Il peut également prendre toute autre mesure réglementaire d'application de la présente loi.

Council considers necessary to effect compliance with this Act in the conduct of the affairs of federal institutions other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service or office of the Parliamentary Budget Officer; and

(b) prescribing anything that is by this Act to be prescribed by regulation of the Governor in Council.

Examen

93.1 (1) Au dixième anniversaire de la date d'entrée en vigueur du présent article, et tous les dix ans par la suite, le ministre du Patrimoine canadien procède à l'examen des dispositions et de l'application de la présente loi.

Review

93.1 (1) On the 10th anniversary of the day on which this section comes into force and every 10 years after that anniversary, the Minister of Canadian Heritage shall undertake a review of the provisions and operation of this Act.

Rapport

(2) Il fait déposer un rapport de l'examen devant chaque chambre du Parlement dans les trente premiers jours de séance de celle-ci suivant l'établissement du rapport.

Report

(2) That Minister shall cause a report of the review to be tabled in each House of Parliament within the first 30 days on which that House is sitting after the report has been completed.

PARTIE XII

Modifications connexes

94 à 99 [Modifications]

PARTIE XIII

Modifications corrélatives

100 à 103 [Modifications]

PART XII

Related Amendments

94 to 99 [Amendments]

PART XIII

Consequential Amendments

100 to 103 [Amendments]

PARTIE XIV

Dispositions transitoires, abrogation et entrée en vigueur

Dispositions transitoires

104 et 105 [Abrogés, L.R. (1985), ch. 31
(4^e suppl.), art. 106]

106 [Modification]

Maintien en poste

107 [~~Abrogé, 2022, ch. 13, art. 51~~] ~~Le commissaire aux langues officielles en fonction lors de l'entrée en vigueur de la partie IX poursuit son mandat mais est réputé avoir été nommé sous le régime de la présente loi.~~

Versements aux sociétés d'État

108 [~~Abrogé, 2022, ch. 13, art. 51~~] ~~(1) Le président du Conseil du Trésor peut, pour les quatre exercices suivant l'entrée en vigueur du présent article, verser des crédits aux sociétés d'État pour les aider à mettre en œuvre les dispositions de la présente loi.~~

Crédits supplémentaires

~~(2) Sont prélevées sur les crédits que le Parlement peut affecter à ces fins les sommes additionnelles qui peuvent être requises pour l'application du paragraphe (1).~~

Abrogation

109 [Abrogation]

PART XIV

Transitional Provisions, Repeal and Coming into Force

Transitional

104 et 105 [Repealed, R.S., 1985, c. 31 (4th Supp.),
s. 106]

106 [Amendment]

Commissioner remains in office

107 [~~Repealed, 2022, c. 13, s. 51~~] ~~The person holding office as Commissioner on the coming into force of Part IX shall continue in office as Commissioner and shall be deemed to have been appointed under this Act but to have been appointed at the time he was appointed under the *Official Languages Act*, being chapter O-2 of the Revised Statutes of Canada, 1970.~~

Payments to Crown corporations

108 (1) [~~Repealed, 2022, c. 13, s. 51~~] ~~In respect of the four fiscal years immediately following the date this section comes into force, the President of the Treasury Board may make payments to Crown corporations to assist them in the timely implementation of this Act.~~

Appropriation

~~(2) Any sums required for the purpose referred to in subsection (1) shall be paid out of such moneys as may be appropriated by Parliament for that purpose.~~

Repeal

109 [Repeal]

Entrée en vigueur

***110** La présente loi ou telle de ses dispositions entre en vigueur à la date ou aux dates fixées par proclamation.

* [Note : Les articles 1 à 93, le paragraphe 534(3) du *Code criminel*, tel qu'édicte par l'article 95, et les articles 96 et 98 à 109 en vigueur le 15 septembre 1988 et l'article 97 en vigueur le 1er février 1989, voir TR/88-197; l'entrée en vigueur de l'article 530.1 du *Code criminel*, tel qu'édicte par l'article 94, est prévue par le paragraphe 534(2) du *Code criminel*, tel qu'édicte par l'article 95.]

DISPOSITIONS CONNEXES

— 2006, c. 9, par. 120 (c)

Maintien en fonction

120 L'entrée en vigueur des articles 109 à 111, 118 et 119 est sans effet sur le mandat des titulaires des charges ciaprès, qui demeurent en fonctions et sont réputés avoir été nommés en vertu de la disposition mentionnée ciaprès pour chacune, dans sa version modifiée par l'un ou l'autre de ces articles, selon le cas :

c) le commissaire aux langues officielles du Canada nommé en vertu de l'article 49 de la *Loi sur les langues officielles* ;

Coming into Force

***110** This Act or any provision thereof shall come into force on a day or days to be fixed by proclamation.

* [Note: Sections 1 to 93, subsection 534(3) of the *Criminal Code*, as enacted by section 95, and sections 96 and 98 to 109 in force September 15, 1988, and section 97 in force February 1, 1989, see SI/88-197; section 530.1 of the *Criminal Code*, as enacted by section 94, shall come into force in accordance with subsection 534(2) of the *Criminal Code*, as enacted by section 95.]

RELATED PROVISIONS

— 2006, ch. 9, al. 120 (c)

Transitional – continuation in office

120 A person who holds office under one of the following provisions immediately before the day on which this section comes into force continues in office and is deemed to have been appointed under that provision, as amended by sections 109 to 111, 118 and 119, to hold office for the remainder of the term for which he or she had been appointed:

(c) the Commissioner of Official Languages for Canada under section 49 of the *Official Languages Act*;

ANNEXE A

Modification connexe à la Loi sur le ministère du Patrimoine canadien

Dispositions générales

Aide financière

7 Pour faciliter la mise en œuvre des opérations ou programmes prévus par la présente loi, le ministre peut :

- a) accorder une aide financière sous forme de subventions, contributions ou dotations;
- b) sous réserve de la *Loi sur les immeubles fédéraux et les biens réels fédéraux* et des instructions du Conseil du Trésor :
 - (i) acquérir ou chercher à acquérir des biens par don, legs ou autre mode de libéralité,
 - (ii) employer, gérer, investir, détenir, échanger ou aliéner les biens, sous réserve de la *Loi sur les biens de surplus de la Couronne* et à la condition de respecter les conditions dont est assortie la libéralité;
- c) faire des donations, décerner des prix ou récompenses ou distribuer des objets commémoratifs au nom de son ministère ou de celui des autres ministères.

Financement – causes types

7.1 Pour promouvoir une meilleure compréhension des droits de la personne, des libertés fondamentales et des valeurs qui en découlent, le ministre peut prendre toute mesure pour fournir du financement à un organisme indépendant du gouvernement fédéral chargé d'administrer un programme dont l'objectif est de fournir du financement en vue de la présentation devant les tribunaux de causes types d'importance nationale qui visent à clarifier et à faire valoir des droits constitutionnels en matière de droits de la personne.

APPENDIX A

Related Amendment to the Department of Canadian Heritage Act

General

Financial assistance and dealing with property

7 To facilitate the implementation of any program of the Minister under this Act, the Minister may

- (a) provide financial assistance in the form of grants, contributions and endowments to any person;
- (b) subject to the *Federal Real Property and Federal Immovables Act* and any direction made by the Treasury Board,
 - (i) acquire or seek to acquire any property by way of gift, bequest or other form of donation, and
 - (ii) subject to the Surplus Crown Assets Act and to the terms and conditions on which the property was acquired, hold, administer, invest, expend, sell, exchange or otherwise dispose of that property; and
- (c) make gifts and issue prizes, awards, souvenirs and mementos on behalf of the Department of Canadian Heritage or of any other department.

Funding – test cases

7.1 To promote a greater understanding of human rights, fundamental freedoms and related values, the Minister may take measures to provide funding to an organization, independent of the Government of Canada, responsible for administering a program whose purpose is to provide funding for test cases of national significance to be brought before the courts to clarify and assert constitutional human rights.

1. Clarification of the Treasury Board’s role as the central agency coordinating the implementation of the *Official Languages Act*

Only the Treasury Board must be responsible for the overall development and coordination of federal policies and programs for the application of the entire Act without delegation authority.

| Explanatory notes | <i>Loi sur les langues officielles</i> si modifiée par C-13 | Modifications | <i>Official Languages Act</i> if amended by C-13 | Amendments |
|---|--|--|--|--|
| <p>The heading change reflects the following amendments.</p> <p>To avoid conflicts of interpretation regarding responsibility for implementation, this amendment ensures that <u>only</u> the Treasury Board is assigned the <u>coordinating</u> role of implementing the <u>entire</u> <i>Official Languages Act</i> by removing the coordinating role assigned to the Minister of Canadian Heritage under section 2.1.</p> <p>The FCFA believes that it is critical to the success of the Act that the coordination of its implementation no longer be shared among multiple departments.</p> | <p><u>Coordination pangouvernementale</u></p> <p>Ministre du Patrimoine canadien</p> <p><u>2.1 (1) Le ministre du Patrimoine canadien est chargé d’assumer un rôle de premier plan au sein du gouvernement fédéral en ce qui a trait à la mise en œuvre de la présente loi.</u></p> <p>Coordination</p> <p><u>(2) Il suscite et encourage, en consultation avec les autres ministres fédéraux, la coordination de la mise en œuvre de la présente loi, notamment la mise en œuvre des engagements énoncés aux paragraphes 41(1) à (3).</u></p> | <p>Coordination pangouvernementale Stratégie pangouvernementale sur les langues officielles</p> <p>Ministre du Patrimoine canadien</p> <p>2.1 (1) Le ministre du Patrimoine canadien est chargé d’assumer un rôle de premier plan au sein du gouvernement fédéral en ce qui a trait à la mise en œuvre de la présente loi.</p> <p>Coordination</p> <p>(2) Il suscite et encourage, en consultation avec les autres ministres fédéraux, la coordination de la mise en œuvre de la présente loi, notamment la mise en œuvre des engagements énoncés aux paragraphes 41(1) à (3).</p> | <p><u>Government-wide Coordination</u></p> <p>Minister of Canadian Heritage</p> <p><u>2.1 (1) The Minister of Canadian Heritage is responsible for exercising leadership within the Government of Canada in relation to the implementation of this Act.</u></p> <p>Coordination</p> <p><u>(2) That Minister shall, in consultation with the other ministers of the Crown, promote and encourage coordination in the implementation of this Act, including the implementation of the commitments set out in subsections 41(1) to (3).</u></p> | <p>Government-wide Coordination Government-wide strategy on official languages</p> <p>Minister of Canadian Heritage</p> <p>2.1 (1) The Minister of Canadian Heritage is responsible for exercising leadership within the Government of Canada in relation to the implementation of this Act.</p> <p>Coordination</p> <p>(2) That Minister shall, in consultation with the other ministers of the Crown, promote and encourage coordination in the implementation of this Act, including the implementation of the commitments set out in subsections 41(1) to (3).</p> |

| Explanatory notes | <i>Loi sur les langues officielles</i> si modifiée par C-13 | Modifications | <i>Official Languages Act</i> if amended by C-13 | Amendments |
|---|---|--|---|---|
| <p>Since the Treasury Board should be responsible for the overall development and coordination of federal policies and programs for the implementation of the <u>entire</u> <i>Official Languages Act</i> (including section 2.2), the President of the Treasury Board should also be involved in the development and maintenance of the government-wide strategy on official languages (the Action Plan), which affects a number of departments.</p> <p>The FCFA recognizes that the Minister of Canadian Heritage should continue to be involved in the development of the government-wide strategy on official languages, as it currently has particular expertise in official languages programs and policies, but <u>only if</u> the Treasury Board is responsible for the overall development and coordination of federal policies and programs for the application of the <u>entire</u> Act (including section 2.2).</p> | <p><u>Stratégie pangouvernementale sur les langues officielles</u></p> <p><u>2.2 (1) Le ministre du Patrimoine canadien élabore et maintient, en collaboration avec les autres ministres fédéraux, une stratégie pangouvernementale qui énonce les grandes priorités en matière de langues officielles.</u></p> <p><u>Dépôt au Parlement</u></p> <p><u>(2) Il fait déposer la stratégie devant chaque chambre du Parlement dans les quinze premiers jours de séance de celle-ci suivant son élaboration et périodiquement par la suite.</u></p> <p><u>Accessible au public</u></p> <p><u>(3) Il rend la stratégie accessible au public par Internet ou par tout autre moyen qu'il estime indiqué.</u></p> <p><u>Processus – mise en œuvre de l'engagement énoncé au paragraphe 41(4)</u></p> <p><u>2.3 Le ministre du Patrimoine canadien établit un processus pour que le gouvernement fédéral mette en œuvre l'engagement énoncé au paragraphe 41(4).</u></p> | <p>Stratégie pangouvernementale sur les langues officielles</p> <p>2.2 (1) Le ministre du Patrimoine canadien et le président du Conseil du Trésor élaborent et maintienent, en collaboration avec les autres ministres fédéraux, une stratégie pangouvernementale qui énonce les grandes priorités en matière de langues officielles.</p> <p>Dépôt au Parlement</p> <p>(2) Le ministre du Patrimoine canadien fait déposer la stratégie devant chaque chambre du Parlement dans les quinze premiers jours de séance de celle-ci suivant son élaboration et périodiquement par la suite.</p> <p>Accessible au public</p> <p>(3) Le ministre du Patrimoine canadien rend la stratégie accessible au public par Internet ou par tout autre moyen qu'il estime indiqué.</p> <p style="text-align: center;">Aucunes</p> | <p><u>Government-wide strategy on official languages</u></p> <p><u>2.2 (1) The Minister of Canadian Heritage shall, in cooperation with the other ministers of the Crown, develop and maintain a government-wide strategy that sets out the overall official languages priorities.</u></p> <p><u>Tabling in Parliament</u></p> <p><u>(2) That Minister shall cause the strategy to be tabled in each House of Parliament within the first 15 days on which that House is sitting after the strategy has been developed, and periodically after that.</u></p> <p><u>Accessible to public</u></p> <p><u>(3) That Minister shall make the strategy accessible to the public through the Internet or by any other means that the Minister considers appropriate.</u></p> <p><u>Process – implementation of commitment under subsection 41(4)</u></p> <p><u>2.3 The Minister of Canadian Heritage shall establish a process for the Government of Canada to implement its commitment under subsection 41(4).</u></p> | <p>Government-wide strategy on official languages</p> <p>2.2 (1) The Minister of Canadian Heritage and the President of the Treasury Board shall, in cooperation with the other ministers of the Crown, develop and maintain a government-wide strategy that sets out the overall official languages priorities.</p> <p>Tabling in Parliament</p> <p>(2) That Minister <u>The Minister of Canadian Heritage</u> shall cause the strategy to be tabled in each House of Parliament within the first 15 days on which that House is sitting after the strategy has been developed, and periodically after that.</p> <p>Accessible to public</p> <p>(3) That Minister <u>The Minister of Canadian Heritage</u> shall make the strategy accessible to the public through the Internet or by any other means that the Minister considers appropriate.</p> <p style="text-align: center;">None</p> |

| Explanatory notes | <i>Loi sur les langues officielles</i> si modifiée par C-13 | Modifications | <i>Official Languages Act</i> if amended by C-13 | Amendments |
|---|---|---|---|---|
| <p>This amendment ensures that <u>only</u> the Treasury Board is responsible for <u>coordinating</u> the implementation of the <i>Official Languages Act</i> by expanding its mandate to the <u>entire</u> Act (including with regard to the government-wide official languages strategy set out in section 2.2).</p> | <p>Mission du Conseil du Trésor</p> <p>46 (1) Le Conseil du Trésor est chargé de l'élaboration et de la coordination générales des principes et programmes fédéraux d'application des parties IV, V et VI <u>et du paragraphe 41(5)</u> dans les institutions fédérales, à l'exception du Sénat, de la Chambre des communes, de la bibliothèque du Parlement, du bureau du conseiller sénatorial en éthique, du bureau du commissaire aux conflits d'intérêts et à l'éthique, du Service de protection parlementaire et du bureau du directeur parlementaire du budget.</p> | <p>Mission du Conseil du Trésor</p> <p>46 (1) Le Conseil du Trésor est chargé de l'élaboration et de la coordination générales des principes et programmes fédéraux d'application des parties IV, V et VI et du paragraphe 41(5) <u>de la présente loi, y compris la stratégie pangouvernementale sur les langues officielles</u>, dans les institutions fédérales, à l'exception du Sénat, de la Chambre des communes, de la bibliothèque du Parlement, du bureau du conseiller sénatorial en éthique, du bureau du commissaire aux conflits d'intérêts et à l'éthique, du Service de protection parlementaire et du bureau du directeur parlementaire du budget.</p> | <p>Responsibilities of Treasury Board</p> <p>46 (1) The Treasury Board <u>has responsibility for the general direction and coordination</u> of the policies and programs of the Government of Canada relating to the implementation of Parts IV, V and VI <u>and subsection 41(5)</u> in all federal institutions other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service and office of the Parliamentary Budget Officer.</p> | <p>Responsibilities of Treasury Board</p> <p>46 (1) The Treasury Board has responsibility for the general direction and coordination of the policies and programs of the Government of Canada relating to the implementation of Parts IV, V and VI and subsection 41(5) <u>this Act, including the government-wide strategy on official languages</u>, in all federal institutions other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service and office of the Parliamentary Budget Officer.</p> |
| <p>This amendment allows the Treasury Board to recommend to the Governor in Council regulations for the implementation of the <u>entire</u> <i>Official Languages Act</i>. The Treasury Board is the only body with the expertise and overview to recommend regulations.</p> | <p>Attributions</p> <p>(2) Le Conseil du Trésor peut, dans le cadre de cette mission :</p> <p>a) établir des principes d'application des parties IV, V et VI ou en recommander au gouverneur en conseil;</p> <p>b) recommander au gouverneur en conseil des mesures réglementaires d'application des parties IV, V et VI;</p> <p>c) donner des instructions pour l'application des parties IV, V et VI;</p> <p>d) surveiller et vérifier l'observation par les institutions fédérales des principes, instructions et règlements — émanant tant de lui-même que du gouverneur en conseil — en matière de langues officielles;</p> <p>e) évaluer l'efficacité des principes et programmes des institutions fédérales en matière de langues officielles;</p> <p>f) informer le public et le personnel des institutions fédérales sur les principes et programmes d'application des parties IV, V et VI;</p> | <p>Attributions</p> <p>(2) Le Conseil du Trésor peut, dans le cadre de cette mission :</p> <p>a) [Abrogé, 2022, ch. 13, art. 25(2)]</p> <p>b) recommander au gouverneur en conseil des mesures réglementaires d'application des parties IV, V et VI; <u>de la présente loi.</u></p> | <p>Powers of Treasury Board</p> <p>(2) In carrying out its responsibilities under subsection (1), the Treasury Board may</p> <p>(a) establish policies, or recommend policies to the Governor in Council, to give effect to Parts IV, V and VI;</p> <p>(b) recommend regulations to the Governor in Council to give effect to Parts IV, V and VI; <u>and</u></p> <p>(c) issue directives to give effect to Parts IV, V and VI;</p> <p>(d) monitor and audit federal institutions in respect of which it has responsibility for their compliance with policies, directives and regulations of Treasury Board or the Governor in Council relating to the official languages of Canada;</p> <p>(e) evaluate the effectiveness and efficiency of policies and programs of federal institutions relating to the official languages of Canada;</p> <p>(f) provide information to the public and to officers and employees of federal institutions relating to the policies and programs that give effect to Parts IV, V and VI; and;</p> | <p>Powers of Treasury Board</p> <p>(2) In carrying out its responsibilities under subsection (1), the Treasury Board may</p> <p>(a) [Repealed, 2022, c. 13, s. 25(2)]</p> <p>(b) recommend regulations to the Governor in Council to give effect to Parts IV, V and VI; <u>and this Act.</u></p> |

| Explanatory notes | <i>Loi sur les langues officielles</i> si modifiée par C-13 | Modifications | <i>Official Languages Act</i> if amended by C-13 | Amendments |
|--|---|---|--|--|
| <p>These amendments <u>repeal the Treasury Board's authority to delegate</u> its obligations, thereby ensuring that the leading role played by this central agency will continue.</p> <p>The absence of a central agency responsible for ensuring consistent implementation of the <i>Official Languages Act</i> has been one of its major structural flaws for 50 years. Allowing the Treasury Board to delegate its powers poses too great a risk that each federal institution will self-regulate the implementation of its language obligations, without horizontal coordination.</p> <p>These amendments expand the Treasury Board's obligations to the <u>entire <i>Official Languages Act</i></u> (including the government-wide official languages strategy set out in section 2.2).</p> | <p>g) c) déléguer telle de ses attributions prévues au présent article relatives à une autre institution fédérale à l'administrateur général ou à tout autre responsable administratif de cette institution aux administrateurs généraux ou autres responsables administratifs d'autres institutions fédérales.</p> <p>Précision</p> <p><u>(3) Il est entendu que l'administrateur général ou tout autre responsable administratif d'une institution fédérale à qui des attributions sont déléguées en vertu de l'alinéa (2)c) ne peut exercer ces attributions que relativement à cette institution.</u></p> <p>Obligations</p> <p><u>(4) Le Conseil du Trésor doit, dans le cadre de cette mission :</u></p> <p><u>a) établir des principes d'application des parties IV, V et VI ou en recommander au gouverneur en conseil ou encore donner des instructions pour l'application de ces parties;</u></p> <p><u>b) en consultation avec le ministre du Patrimoine canadien, établir des principes d'application du paragraphe 41(5) ou en recommander au gouverneur en conseil ou encore donner des instructions pour l'application de ce paragraphe;</u></p> <p><u>c) surveiller et vérifier l'observation par les institutions fédérales des principes, instructions et règlements — émanant tant de lui-même que du gouverneur en conseil — en matière de langues officielles;</u></p> <p><u>d) évaluer l'efficacité des principes et programmes des institutions fédérales en matière de langues officielles;</u></p> | <p>e) déléguer telle de ses attributions prévues au présent article relatives à une autre institution fédérale à l'administrateur général ou à tout autre responsable administratif de cette institution.</p> <p>Précision</p> <p>(3) Il est entendu que l'administrateur général ou tout autre responsable administratif d'une institution fédérale à qui des attributions sont déléguées en vertu de l'alinéa (2)c) ne peut exercer ces attributions que relativement à cette institution.</p> <p>Obligations</p> <p>(4) Le Conseil du Trésor doit, dans le cadre de cette mission :</p> <p>a) établir des principes d'application des parties IV, V et VI de la présente loi, ou en recommander au gouverneur en conseil ou encore donner des instructions pour l'application de ces parties celle-ci;</p> <p>b) en consultation avec le ministre du Patrimoine canadien, établir des principes d'application du paragraphe 41(5) ou en recommander au gouverneur en conseil ou encore donner des instructions pour l'application de ce paragraphe;</p> <p>c) surveiller et vérifier l'observation par les institutions fédérales des principes, instructions et règlements — émanant tant de lui-même que du gouverneur en conseil — en matière de langues officielles;</p> <p>d) évaluer l'efficacité des principes et programmes des institutions fédérales en matière de langues officielles;</p> | <p>(g) (c) delegate any of its powers <u>and duties</u> under this section <u>in respect of another federal institution</u> to the deputy heads <u>head</u> or other administrative heads <u>head</u> of other federal institutions <u>that institution</u>.</p> <p>For greater certainty</p> <p><u>(3) For greater certainty, the deputy head or other administrative head of a federal institution that is delegated powers or duties under paragraph (2)(c) may exercise those powers and perform those duties only in respect of that institution.</u></p> <p>Duties of Treasury Board</p> <p><u>(4) In carrying out its responsibilities under subsection (1), the Treasury Board shall</u></p> <p><u>(a) establish policies, recommend policies to the Governor in Council or issue directives to give effect to Parts IV, V and VI;</u></p> <p><u>(b) in consultation with the Minister of Canadian Heritage, establish policies, recommend policies to the Governor in Council or issue directives to give effect to subsection 41(5);</u></p> <p><u>(c) monitor and audit federal institutions in respect of which it has responsibility for their compliance with policies, directives and regulations of the Treasury Board or the Governor in Council relating to the official languages of Canada;</u></p> <p><u>(d) evaluate the effectiveness and efficiency of policies and programs of federal institutions relating to the official languages of Canada;</u></p> | <p>(e) delegate any of its powers and duties under this section in respect of another federal institution to the deputy head or other administrative head of that institution.</p> <p>For greater certainty</p> <p>(3) For greater certainty, the deputy head or other administrative head of a federal institution that is delegated powers or duties under paragraph (2)(c) may exercise those powers and perform those duties only in respect of that institution.</p> <p>Duties of Treasury Board</p> <p>(4) In carrying out its responsibilities under subsection (1), the Treasury Board shall</p> <p>(a) establish policies, recommend policies to the Governor in Council or issue directives to give effect to Parts IV, V and VI <u>this Act</u>;</p> <p>(b) in consultation with the Minister of Canadian Heritage, establish policies, recommend policies to the Governor in Council or issue directives to give effect to subsection 41(5);</p> <p>(c) monitor and audit federal institutions in respect of which it has responsibility for their compliance with policies, directives and regulations of the Treasury Board or the Governor in Council relating to the official languages of Canada;</p> <p>(d) evaluate the effectiveness and efficiency of policies and programs of federal institutions relating to the official languages of Canada;</p> |

| Explanatory notes | <i>Loi sur les langues officielles</i> si modifiée par C-13 | Modifications | <i>Official Languages Act</i> if amended by C-13 | Amendments |
|---|--|--|--|--|
| <p>These amendments expand the Treasury Board's obligations to the <u>entire Official Languages Act</u> (continued).</p> | <p><u>e) informer le public et les employés des institutions fédérales sur les principes et programmes d'application des parties IV, V et VI et les instructions données pour l'application de ces parties;</u></p> <p><u>f) informer les employés des institutions fédérales sur les principes et programmes d'application du paragraphe 41(5) et les instructions données pour l'application de ce paragraphe.</u></p> | <p>e) informer le public et les employés des institutions fédérales sur les principes et programmes d'application des parties IV, V et VI <u>de la présente loi</u> et les instructions données pour l'application de <u>celle-ci</u>, ees parties;</p> <p>f) informer les employés des institutions fédérales sur les principes et programmes d'application du paragraphe 41(5) et les instructions données pour l'application de ce paragraphe.</p> | <p><u>(e) provide information to the public and to employees of federal institutions relating to the policies, directives and programs that give effect to Parts IV, V and VI; and</u></p> <p><u>(f) provide information to employees of federal institutions relating to the policies, directives and programs that give effect to subsection 41(5).</u></p> | <p>(e) provide information to the public and to employees of federal institutions relating to the policies, directives and programs that give effect to <u>this Act, Parts IV, V and VI;</u> and</p> <p>(f) provide information to employees of federal institutions relating to the policies, directives and programs that give effect to subsection 41(5).</p> |
| <p>Given the leading role that the Treasury Board will have to play in coordinating the implementation of the <u>entire Official Languages Act</u>, this amendment is intended to involve it specifically in the 10-year review process of the Act.</p> | <p>Examen</p> <p><u>93.1 (1) Au dixième anniversaire de la date d'entrée en vigueur du présent article, et tous les dix ans par la suite, le ministre du Patrimoine canadien procède à l'examen des dispositions et de l'application de la présente loi.</u></p> <p>Rapport</p> <p><u>(2) Il fait déposer un rapport de l'examen devant chaque chambre du Parlement dans les trente premiers jours de séance de celle-ci suivant l'établissement du rapport.</u></p> | <p>Examen</p> <p>93.1 (1) Au dixième anniversaire de la date d'entrée en vigueur du présent article, et tous les dix ans par la suite, <u>le président du Conseil du Trésor, en consultation avec</u> le ministre du Patrimoine canadien, procède à l'examen des dispositions et de l'application de la présente loi.</p> <p>Rapport</p> <p>(2) Le président du Conseil du Trésor fait déposer un rapport de l'examen devant chaque chambre du Parlement dans les trente premiers jours de séance de celle-ci suivant l'établissement du rapport.</p> | <p>Review</p> <p><u>93.1 (1) On the 10th anniversary of the day on which this section comes into force and every 10 years after that anniversary, the Minister of Canadian Heritage shall undertake a review of the provisions and operation of this Act.</u></p> <p>Report</p> <p><u>(2) That Minister shall cause a report of the review to be tabled in each House of Parliament within the first 30 days on which that House is sitting after the report has been completed.</u></p> | <p>Review</p> <p>93.1 (1) On the 10th anniversary of the day on which this section comes into force and every 10 years after that anniversary, <u>the President of the Treasury Board, in consultation with</u> the Minister of Canadian Heritage, shall undertake a review of the provisions and operation of this Act.</p> <p>Report</p> <p>(2) That Minister <u>The President of the Treasury Board</u> shall cause a report of the review to be tabled in each House of Parliament within the first 30 days on which that House is sitting after the report has been completed.</p> |

1. The Treasury Board's role

MISE EN PAGE

Le libellé de la *Loi sur les langues officielles* en vigueur apparaît en noir et sans soulignement.

Les ajouts proposés par le projet de loi C-13 sont en vert et soulignés.

Le libellé que le projet de loi C-13 propose de retirer est en ~~rouge et barré~~.

Voici un exemple :

Obligations des institutions fédérales – mesures positives

~~(2)-(5)~~ Il incombe aux institutions fédérales de veiller à ce que soient prises des les mesures positives qu'elles estiment indiquées pour mettre en œuvre cet engagement les engagements énoncés aux paragraphes (1) à (3). ~~Il demeure entendu que cette mise en œuvre se fait dans le respect des champs de compétence et des pouvoirs des provinces.~~

LAYOUT

The wording of the *Official Languages Act* in force is shown in black with no underlining.

The amendments proposed by Bill C-13 are in green and underlined.

Wording that Bill C-13 proposes to remove is in ~~red and struck out~~.

An example is shown below

Duty of federal institutions – positive measures

~~(2)-(5)~~ Every federal institution has the duty to ensure that the positive measures that it considers appropriate are taken for the implementation of the commitments under subsection (1) to (3). ~~For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of the provinces.~~

The wording of the *Official Languages Act* if amended by Bill C-13 is shown in black with no underlining.

The amendments proposed to Bill C-13 are in blue and underlined.

Proposed retractions to Bill C-13 are in ~~orange and struck through~~.

An example is shown below:

Duty of federal institutions – positive measures

(5) Every federal institution has the duty to ensure that the necessary positive measures that it considers appropriate are taken for the implementation of the commitments under ~~subsection (1) to (3)~~ (4).

2. Refining of intergovernmental agreements: clauses concerning language and services provided on behalf of federal institutions

Strengthening and clarifying the obligation of third parties to provide services in both official languages and the obligation to include language clauses in federal government agreements

| Explanatory notes | <i>Loi sur les langues officielles</i> si modifiée par C-13 | Modifications | <i>Official Languages Act</i> if amended by C-13 | Amendments |
|---|---|--|---|--|
| <p>The application of section 25 of the <i>Official Languages Act</i> is difficult and unpredictable, as demonstrated in the case between the Fédération des francophones de la Colombie-Britannique and Employment and Social Development Canada, currently before the Supreme Court of Canada.</p> <p>This amendment makes it easier to identify third parties acting “on behalf of” federal institutions in the preceding paragraph and clarifies the definition of “third parties,” particularly in light of <i>Eldridge v. British Columbia (AG)</i>, [1997] 3 SCR 624 and <i>DesRochers v. Canada (Industry)</i>, 2006 FCA 374.</p> | <p>Services fournis par des tiers</p> <p>Fourniture dans les deux langues</p> <p>25 Il incombe aux institutions fédérales de veiller à ce que, tant au Canada qu’à l’étranger, les services offerts au public par des tiers pour leur compte le soient, et à ce qu’il puisse communiquer avec ceux-ci, dans l’une ou l’autre des langues officielles dans le cas où, offrant elles-mêmes les services, elles seraient tenues, au titre de la présente partie, à une telle obligation.</p> | <p>Services fournis par des tiers</p> <p>Fourniture dans les deux langues</p> <p>25 (1) Il incombe aux institutions fédérales de veiller à ce que, tant au Canada qu’à l’étranger, les services offerts au public par des tiers pour leur compte le soient, et à ce qu’il puisse communiquer avec ceux-ci, dans l’une ou l’autre des langues officielles dans le cas où, offrant elles-mêmes les services, elles seraient tenues, au titre de la présente partie, à une telle obligation.</p> <p>Présomption</p> <p>(2) <u>Pour l’application du paragraphe (1), un tiers est réputé agir pour le compte d’une institution fédérale si, selon le cas,</u></p> <p>a) <u>l’institution fédérale exerce un degré de contrôle suffisant sur lui;</u></p> <p>b) <u>dans le cadre de l’une de ses activités, il met en œuvre une politique, un programme ou un régime législatif déterminé de l’institution fédérale.</u></p> <p>Provinces et territoires</p> <p>(3) <u>Est présumé être un tiers agissant pour le compte d’une institution fédérale aux termes du paragraphe (1) la province ou le territoire qui agit en vertu d’un accord avec le gouvernement fédéral prévoyant un transfert de fonds.</u></p> | <p>Services Provided on behalf of Federal Institutions</p> <p>Where services provided on behalf of federal institutions</p> <p>25 Every federal institution has the duty to ensure that, where services are provided or made available by another person or organization on its behalf, any member of the public in Canada or elsewhere can communicate with and obtain those services from that person or organization in either official language in any case where those services, if provided by the institution, would be required under this Part to be provided in either official language.</p> | <p>Services Provided on behalf of Federal Institutions</p> <p>Where services provided on behalf of federal institutions</p> <p>25 (1) Every federal institution has the duty to ensure that, where services are provided or made available by another person or organization on its behalf, any member of the public in Canada or elsewhere can communicate with and obtain those services from that person or organization in either official language in any case where those services, if provided by the institution, would be required under this Part to be provided in either official language.</p> <p>Deeming</p> <p>(2) <u>For the purpose of subsection (1), a person or organization is considered to act on behalf of a federal institution if</u></p> <p>(a) <u>the institution exercises a sufficient degree of control over the person or organization; or</u></p> <p>(b) <u>the person or organization implements a specific policy, program or statutory scheme of the institution through one of its activities.</u></p> <p>Provinces and territories</p> <p>(3) <u>A province or territory acting under an agreement with the federal government that provides for a transfer of funds is deemed to be acting on behalf of a federal institution under subsection (1).</u></p> |

| Explanatory notes | <i>Loi sur les langues officielles</i> si modifiée par C-13 | Modifications | <i>Official Languages Act</i> if amended by C-13 | Amendments |
|--|--|---|---|--|
| <p>This amendment sets out the obligation to include a <u>binding language clause</u> in all federal institution agreements that provide for funds transfers.</p> <p>This amendment specifies the <u>minimum content</u> of any language clause.</p> <p>This amendment states the federal institution's responsibility of ensuring the <u>appropriate use of funds</u> that it transfers.</p> <p>This amendment provides that a federal institution must transfer funds specific to the needs of English and French linguistic minority communities <u>when there is no agreement</u>.</p> | | <p><u>Accords intergouvernementaux et autres</u></p> <p><u>41.1 (1) Tout accord entre le gouvernement fédéral et une province, un territoire, une municipalité ou un organisme de services publics prévoyant un transfert de fonds contient une clause linguistique exécutoire mettant en œuvre l'engagement énoncé au paragraphe 41(1).</u></p> <p><u>Contenu</u></p> <p><u>(2) La clause prévoit, notamment :</u></p> <p><u>a) l'exigence de consulter les minorités francophones et anglophones et les autres intervenants afin de permettre la prise en compte de leurs priorités;</u></p> <p><u>b) l'affectation de fonds répondant spécifiquement aux besoins des minorités francophones et anglophones;</u></p> <p><u>c) l'énumération des responsabilités des parties en matière de reddition de comptes;</u></p> <p><u>d) un énoncé du droit d'intervention de l'institution fédérale en cas de manquement à la clause linguistique.</u></p> <p><u>Utilisation des fonds</u></p> <p><u>(3) L'institution fédérale s'assure que les fonds transférés, comme prévu au paragraphe (1), afin de répondre aux besoins spécifiques des minorités francophones et anglophones sont dépensés de la manière prévue dans l'accord.</u></p> <p><u>Absence de clause linguistique</u></p> <p><u>(4) Malgré le paragraphe (1), un accord peut être conclu même s'il ne comprend aucune clause linguistique pourvu que le gouvernement du Canada s'engage, dans l'accord ou d'une autre façon, à tenir les consultations visées à l'alinéa (2)a) et à affecter des fonds directement aux organismes ou institutions de la minorité linguistique conformément à l'alinéa (2)b).</u></p> | | <p><u>Intergovernmental and other agreements</u></p> <p><u>41.1 (1) Every agreement between the Government of Canada and a province, territory, municipality or public service body that provides for a transfer of funds shall contain a binding language clause to give effect to the commitment under subsection 41(1).</u></p> <p><u>Content</u></p> <p><u>(2) A language clause shall include, among other things,</u></p> <p><u>(a) a requirement that consultations be carried out with English and French linguistic minority communities and other stakeholders to allow their priorities to be taken into account;</u></p> <p><u>(b) the allocation of funds specific to the needs of English and French linguistic minority communities;</u></p> <p><u>(c) a list of the responsibilities of the parties regarding reporting; and</u></p> <p><u>(d) a statement that, in the event that the language clause is breached, the federal institution has the right to intervene.</u></p> <p><u>Use of funds</u></p> <p><u>(3) The federal institution shall ensure that the funds specific to the needs of English and French linguistic minority communities that are transferred as described in subsection (1) are spent in the manner provided for in the agreement.</u></p> <p><u>When no language clause</u></p> <p><u>(4) Despite subsection (1), an agreement that does not contain a language clause may be entered into if the Government of Canada commits, in the agreement or otherwise, to carry out the consultations described in paragraph (2)(a) and directly allocate funds to organizations or institutions of the minority linguistic community in accordance with paragraph (2)(b).</u></p> |

| Explanatory notes | <i>Loi sur les langues officielles</i> si modifiée par C-13 | Modifications | <i>Official Languages Act</i> if amended by C-13 | Amendments |
|-------------------|--|--|---|---|
| | | <p><u>Définitions</u></p> <p><u>(5) Les définitions qui suivent s'appliquent au présent article.</u></p> <p><u><i>municipalité</i></u> Toute municipalité ou tout organisme municipal établi au titre du droit provincial ou territorial qui exerce une fonction gouvernementale, y compris, qu'ils soient dotés de la personnalité morale ou non, une municipalité régionale, une cité, une ville, un village, une municipalité rurale, une municipalité de canton, de comté ou de district, ou toute autre municipalité. Il est entendu que les corps dirigeants autochtones ne sont pas des municipalités (<i>municipality</i>);</p> <p><u><i>organisme de services publics</i></u> Toute organisation à but non lucratif, toute administration hospitalière ou tout collège ou université public établi au titre du droit provincial ou territorial qui dispense des services ou programmes à la fois à la majorité et à la minorité linguistiques (<i>public service body</i>).</p> | | <p><u>Definitions</u></p> <p><u>(5) In this section,</u></p> <p><u><i>municipality</i></u> means a municipality or a municipal body performing a function of government, established under the law of a province or territory. It includes an incorporated or unincorporated regional municipality, city, town, village, rural municipality, township, county, district or other municipality. For greater certainty, it does not include an Indigenous governing body (<i>municipalité</i>);</p> <p><u><i>public service body</i></u> means a non-profit organization, a hospital authority or a public college or university that is established under the law of a province or territory and that provides services or programs to both the majority and minority linguistic communities in that province or territory (<i>organisme de services publics</i>).</p> |

2. Third party services and language clauses

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Le libellé que le projet de loi C-13 propose de retirer est en ~~rouge et barré~~.

Voici un exemple :

Obligations des institutions fédérales – mesures positives

~~(2)-(5)~~ Il incombe aux institutions fédérales de veiller à ce que soient prises ~~des~~ les mesures positives qu'elles estiment indiquées pour mettre en œuvre ~~cet engagement~~ les engagements énoncés aux paragraphes (1) à (3). ~~Il demeure entendu que cette mise en œuvre se fait dans le respect des champs de compétence et des pouvoirs des provinces.~~

LAYOUT

The wording of the *Official Languages Act* in force is shown in black with no underlining.

The amendments proposed by Bill C-13 are in green and underlined.

Wording that Bill C-13 proposes to remove is in ~~red and struck out~~.

An example is shown below

Duty of federal institutions – positive measures

~~(2)-(5)~~ Every federal institution has the duty to ensure that the positive measures that it considers appropriate are taken for the implementation of the commitments under ~~subsection (1)~~ subsections (1) to (3). ~~For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of the provinces.~~

The wording of the *Official Languages Act* if amended by Bill C-13 is shown in black with no underlining.

The amendments proposed to Bill C-13 are in blue and underlined.

Proposed retractions to Bill C-13 are in ~~orange and struck through~~.

An example is shown below:

Duty of federal institutions – positive measures

(5) Every federal institution has the duty to ensure that the necessary positive measures ~~that it considers appropriate~~ are taken for the implementation of the commitments under subsections (1) to ~~(3)-(4)~~.

3. Clarification of the francophone immigration policy

The francophone immigration policy must truly ensure the restoration and growth of the demographic weight of French linguistic minority communities

| Explanatory notes | <i>Loi sur les langues officielles</i> si modifiée par C-13 | Modifications | <i>Official Languages Act</i> if amended by C-13 | Amendments |
|--|--|---|---|--|
| <p>Following the failure to meet francophone immigration targets for at least 20 years, this amendment clarifies that Parliament's intention is to strengthen the francophone immigration policy of the Minister of Immigration, Refugees and Citizenship to ensure not only the maintenance of the demographic weight of French linguistic minority communities, but also its <u>restoration and growth</u>.</p> <p>Moreover, this amendment recognizes that immigration is now the main driver of population growth in Canada and, therefore, in French linguistic minority communities.</p> | <p>Préambule [...] qu'il reconnaît l'importance de la contribution de l'immigration francophone pour favoriser l'épanouissement des minorités francophones, et le fait que l'immigration est l'un des facteurs qui contribuent au maintien ou à l'accroissement du poids démographique de ces minorités;</p> | <p>Préambule [...] qu'il reconnaît l'importance de la contribution de l'immigration francophone pour favoriser l'épanouissement des minorités francophones, et le fait que l'immigration est l'un des facteurs qui contribuent au maintien ou à pour assurer le rétablissement et l'accroissement du poids démographique de ces minorités;</p> | <p>Preamble [...] AND WHEREAS the Government of Canada recognizes the importance of the contribution of francophone immigration to enhancing the vitality of French linguistic minority communities and that immigration is one of the factors that contributes to maintaining or increasing the demographic weight of those communities;</p> | <p>Preamble [...] AND WHEREAS the Government of Canada recognizes the importance of the contribution of francophone immigration to enhancing the vitality of French linguistic minority communities and that immigration is one of the factors that contributes to maintaining or increasing to ensuring the restoration and growth of the demographic weight of those communities;</p> |

| Explanatory notes | <i>Loi sur les langues officielles</i> si modifiée par C-13 | Modifications | <i>Official Languages Act</i> if amended by C-13 | Amendments |
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| <p>This amendment strengthens the francophone immigration policy of the Minister of Citizenship and Immigration so that it <u>truly</u> ensures the restoration and growth of the demographic weight of French linguistic minority communities. It also allows for greater accountability with respect to the results achieved in francophone immigration.</p> | <p>Politique en matière d’immigration francophone</p> <p><u>44.1 (1) Le ministre de la Citoyenneté et de l’Immigration adopte une politique en matière d’immigration francophone afin de favoriser l’épanouissement des minorités francophones du Canada.</u></p> <p>Contenu</p> <p><u>(2) La politique comprend notamment :</u></p> <p><u>a) des objectifs, des cibles et des indicateurs;</u></p> <p><u>b) un énoncé du fait que le gouvernement fédéral reconnaît que l’immigration est l’un des facteurs qui contribuent au maintien ou à l’accroissement du poids démographique des minorités francophones du Canada.</u></p> | <p>Politique en matière d’immigration francophone</p> <p>44.1 (1) Le ministre de la Citoyenneté et de l’Immigration adopte une politique en matière d’immigration francophone dont l’objectif est d’assurer le rétablissement et l’accroissement du poids démographique des minorités francophones du Canada afin de favoriser leur l’épanouissement des minorités francophones du Canada.</p> <p>Contenu</p> <p>(2) La politique comprend notamment :</p> <p>a) des objectifs, des cibles et des indicateurs;</p> <p>b) un énoncé du fait que le gouvernement fédéral reconnait que l’immigration est l’un des facteurs qui contribuent au maintien ou à de son intention, par l’entremise de la politique, d’assurer le rétablissement et l’accroissement du poids démographique des minorités francophones du Canada.</p> | <p>Policy on francophone immigration</p> <p><u>44.1 (1) The Minister of Citizenship and Immigration shall adopt a policy on francophone immigration to enhance the vitality of French linguistic minority communities in Canada.</u></p> <p>Contents</p> <p><u>(2) The policy shall include, among other things,</u></p> <p><u>(a) objectives, targets and indicators; and</u></p> <p><u>(b) a statement that the Government of Canada recognizes that immigration is one of the factors that contributes to maintaining or increasing the demographic weight of French linguistic minority communities in Canada.</u></p> | <p>Policy on francophone immigration</p> <p>44.1 (1) The Minister of Citizenship and Immigration shall adopt a policy on francophone immigration that ensures the restoration and growth of the demographic weight of French linguistic minority communities in Canada to enhance the vitality of those French linguistic minority communities in Canada.</p> <p>Contents</p> <p>(2) The policy shall include, among other things,</p> <p>(a) objectives, targets and indicators; and</p> <p>(b) a statement that the Government of Canada recognizes that immigration is one of the factors that contributes to maintaining or increasing <u>intends with the policy to ensure the restoration and growth of</u> the demographic weight of French linguistic minority communities in Canada.</p> |

3. Strengthening francophone immigration

MISE EN PAGE

Le libellé de la *Loi sur les langues officielles* en vigueur apparaît en noir et sans soulignement.

Les ajouts proposés par le projet de loi C-13 sont en vert et soulignés.

Le libellé que le projet de loi C-13 propose de retirer est en ~~rouge et barré~~.

Voici un exemple :

Obligations des institutions fédérales – mesures positives

~~(2)-(5)~~ Il incombe aux institutions fédérales de veiller à ce que soient prises ~~des~~ les mesures positives qu'elles estiment indiquées pour mettre en œuvre ~~cet engagement~~ les engagements énoncés aux paragraphes (1) à (3). ~~Il demeure entendu que cette mise en œuvre se fait dans le respect des champs de compétence et des pouvoirs des provinces.~~

LAYOUT

The wording of the *Official Languages Act* in force is shown in black with no underlining.

The amendments proposed by Bill C-13 are in green and underlined.

Wording that Bill C-13 proposes to remove is in ~~red and struck out~~.

An example is shown below

Duty of federal institutions – positive measures

~~(2)-(5)~~ Every federal institution has the duty to ensure that the positive measures that it considers appropriate are taken for the implementation of the commitments under ~~subsection (1)~~ subsections (1) to (3). ~~For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of the provinces.~~

The wording of the *Official Languages Act* if amended by Bill C-13 is shown in black with no underlining.

The amendments proposed to Bill C-13 are in blue and underlined.

Proposed retractions to Bill C-13 are in ~~orange and struck through~~.

An example is shown below:

Duty of federal institutions – positive measures

(5) Every federal institution has the duty to ensure that the necessary positive measures ~~that it considers appropriate~~ are taken for the implementation of the commitments under subsections (1) to ~~(3)-(4)~~.

4. Necessary conditions for the effective consultation and the strengthening if Part VII of the *Official Languages Act*

Strengthening Part VII, particularly with respect to consultation

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| <p>The commitments set out in subsections 41(1), (2) and (3) are excellent, but they are dependent on positive measures, which are not sufficiently enforceable or effective (see amendments below).</p> <p>Significant work has been done to clarify what the term “positive measures” means for federal institutions, particularly since Part VII was amended in 2005. The term’s vagueness continues to cause significant harm to French linguistic minority communities.</p> <p>Parliament must clarify its intention, i.e., that federal institutions take the <u>necessary</u> positive measures.</p> <p>The FCFA wants to be less dependent on judicialization, which carries enormous social costs with regard to the French language.</p> | <p>Engagement – épanouissement des minorités et promotion du français et de l’anglais</p> <p>41 (1) Le gouvernement fédéral s’engage à favoriser l’épanouissement des minorités francophones et anglophones du Canada et à appuyer leur développement, <u>compte tenu de leur caractère unique et pluriel et de leurs contributions historiques et culturelles à la société canadienne</u>, ainsi qu’à promouvoir la pleine reconnaissance et l’usage du français et de l’anglais dans la société canadienne.</p> <p>Engagement – protection et promotion du français</p> <p>(2) <u>Le gouvernement fédéral, reconnaissant que le français est en situation minoritaire au Canada et en Amérique du Nord en raison de l’usage prédominant de l’anglais, s’engage à protéger et à promouvoir le français.</u></p> <p>Engagement – apprentissages dans la langue de la minorité</p> <p>(3) <u>Le gouvernement fédéral s’engage à renforcer les possibilités pour les minorités francophones et anglophones de faire des apprentissages de qualité dans leur propre langue tout au long de leur vie, notamment depuis la petite enfance jusqu’aux études postsecondaires.</u></p> | <p>Aucunes</p> | <p>Government policy</p> <p>Commitment – enhancing vitality of communities and fostering English and French</p> <p>41 (1) The Government of Canada is committed to</p> <p>(a) enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development, <u>taking into account their uniqueness, diversity and historical and cultural contributions to Canadian society</u>; and</p> <p>(b) fostering the full recognition and use of both English and French in Canadian society.</p> <p>Commitment – protection and promotion of French</p> <p>(2) <u>The Government of Canada, recognizing that French is in a minority situation in Canada and North America due to the predominant use of English, is committed to protecting and promoting the French language.</u></p> <p>Commitment – learning in minority language</p> <p>(3) <u>The Government of Canada is committed to advancing opportunities for members of English and French linguistic minority communities to pursue quality learning in their own language throughout their lives, including from early childhood to post-secondary education.</u></p> | <p>None</p> |

| Explanatory notes | Loi sur les langues officielles si modifiée par C-13 | Modifications | Official Languages Act if amended by C-13 | Amendments |
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| <p>This amendment helps implement section 23 of the <i>Canadian Charter of Rights and Freedoms</i>, which, according to the Supreme Court of Canada, requires that all eligible children be enumerated (not estimated) to determine what is “warranted” by the numbers.</p> <p>This amendment strengthens Part VII by requiring federal institutions to take positive measures that will <u>truly</u> implement the commitments, not just those that they <i>think</i> would implement these commitments.</p> | <p>Engagement – article 23 de la <i>Charte canadienne des droits et libertés</i></p> <p><u>(4) Le gouvernement fédéral s’engage à contribuer périodiquement à l’estimation du nombre d’enfants dont les parents ont, en vertu de l’article 23 de la <i>Charte canadienne des droits et libertés</i>, le droit de les faire instruire dans la langue de la minorité francophone ou anglophone d’une province ou d’un territoire, y compris le droit de les faire instruire dans des établissements d’enseignement de la minorité linguistique.</u></p> <p>Obligations des institutions fédérales – mesures positives</p> <p>(2)-(5) Il incombe aux institutions fédérales de veiller à ce que soient prises des-les mesures positives <u>qu’elles estiment indiquées</u> pour mettre en œuvre cet engagement-les <u>engagements énoncés aux paragraphes (1) à (3).</u> Il demeure entendu que cette mise en œuvre se fait dans le respect des champs de compétence et des pouvoirs des provinces.</p> <p>Mesures positives</p> <p><u>(6) Les mesures positives visées au paragraphe (5) :</u></p> <p><u>a) sont concrètes et prises avec l’intention d’avoir un effet favorable sur la mise en œuvre des engagements énoncés aux paragraphes (1) à (3);</u></p> <p><u>b) sont prises tout en respectant :</u></p> <p><u>(i) la nécessité de protéger et promouvoir le français dans chaque province et territoire, compte tenu du fait que cette langue est en situation minoritaire au Canada et en Amérique du Nord en raison de l’usage prédominant de l’anglais,</u></p> <p><u>(ii) la nécessité de prendre en considération les besoins propres à chacune des deux collectivités de langues officielles, compte tenu de leur égale importance;</u></p> | <p>Engagement – article 23 de la <i>Charte canadienne des droits et libertés</i></p> <p>(4) Le gouvernement fédéral s’engage à <u>faire dénombrer</u> contribuer périodiquement à l’estimation du nombre d’les enfants dont les parents ont, en vertu de l’article 23 de la <i>Charte canadienne des droits et libertés</i>, le droit de les faire instruire dans la langue de la minorité francophone ou anglophone d’une province ou d’un territoire, y compris le droit de les faire instruire dans des établissements d’enseignement de la minorité linguistique.</p> <p>Obligations des institutions fédérales – mesures positives</p> <p>(5) Il incombe aux institutions fédérales de veiller à ce que soient prises les mesures positives <u>nécessaires</u> qu’elles estiment indiquées pour mettre en œuvre les engagements énoncés aux paragraphes (1) à (3).</p> <p>Mesures positives</p> <p>(6) Les mesures positives visées au paragraphe (5) :</p> <p>a) sont concrètes et prises avec l’intention d’avoir un effet favorable sur la mise en œuvre des engagements énoncés aux paragraphes (1) à (3);</p> <p>b) sont prises tout en respectant :</p> <p>(i) la nécessité de protéger et promouvoir le français dans chaque province et territoire, compte tenu du fait que cette langue est en situation minoritaire au Canada et en Amérique du Nord en raison de l’usage prédominant de l’anglais,</p> <p>(ii) la nécessité de prendre en considération les besoins propres à chacune des deux collectivités de langues officielles, compte tenu de leur égale importance;</p> | <p>Commitment – section 23 of the <i>Canadian Charter of Rights and Freedoms</i></p> <p><u>(4) The Government of Canada is committed to contributing periodically to an estimate of the number of children whose parents have, under section 23 of the <i>Canadian Charter of Rights and Freedoms</i>, the right to have their children receive their instruction in the language of the English or French linguistic minority population of a province or territory, including the right to have them receive that instruction in minority language educational facilities.</u></p> <p>Duty of federal institutions – positive measures</p> <p>(2)-(5) Every federal institution has the duty to ensure that <u>the</u> positive measures <u>that it considers appropriate</u> are taken for the implementation of the commitments under subsection (1)-subsections (1) to (3). For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of the provinces.</p> <p>Positive measures</p> <p><u>(6) Positive measures taken under subsection (5)</u></p> <p><u>(a) shall be concrete and taken with the intention of having a beneficial effect on the implementation of the commitments under subsections (1) to (3);</u></p> <p><u>(b) shall respect</u></p> <p><u>(i) the necessity of protecting and promoting the French language in each province and territory, taking into account that French is in a minority situation in Canada and North America due to the predominant use of English, and</u></p> <p><u>(ii) the necessity of considering the specific needs of each of the two official language communities of Canada, taking into account the equal importance of the two communities; and</u></p> | <p>Commitment – section 23 of the <i>Canadian Charter of Rights and Freedoms</i></p> <p>(4) The Government of Canada is committed to <u>carrying out a periodic enumeration</u> contributing periodically to an estimate of the number of children whose parents have, under section 23 of the <i>Canadian Charter of Rights and Freedoms</i>, the right to have their children receive their instruction in the language of the English or French linguistic minority population of a province or territory, including the right to have them receive that instruction in minority language educational facilities.</p> <p>Duty of federal institutions – positive measures</p> <p>(5) Every federal institution has the duty to ensure that the-all necessary positive measures that it considers appropriate are taken for the implementation of the commitments under subsections (1) to (3).</p> <p>Positive measures</p> <p>(6) Positive measures taken under subsection (5)</p> <p>(a) shall be concrete and taken with the intention of having a beneficial effect on the implementation of the commitments under subsections (1) to (3);</p> <p>(b) shall respect</p> <p>(i) the necessity of protecting and promoting the French language in each province and territory, taking into account that French is in a minority situation in Canada and North America due to the predominant use of English, and</p> <p>(ii) the necessity of considering the specific needs of each of the two official language communities of Canada, taking into account the equal importance of the two communities; and</p> |

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| <p>This amendment limits the flexibility of federal institutions by <u>requiring</u> them to take at least those measures aimed at certain specific objectives.</p> | <p>c) <u>peuvent</u> notamment comprendre toute mesure visant :</p> <p>(i) <u>à promouvoir et à appuyer l'apprentissage du français et de l'anglais au Canada,</u></p> <p>(ii) <u>à favoriser l'acceptation et l'appréciation par le public du français et de l'anglais,</u></p> <p>(iii) <u>à inciter et à aider les organisations, associations et autres organismes à refléter et à promouvoir, au Canada et à l'étranger, le caractère bilingue du Canada,</u></p> <p>(iv) <u>à appuyer la création et la diffusion d'information en français qui contribue à l'avancement des savoirs scientifiques dans toute discipline,</u></p> <p>(v) <u>à appuyer des secteurs essentiels à l'épanouissement des minorités francophones et anglophones, notamment ceux de la culture, de l'éducation — depuis la petite enfance jusqu'aux études postsecondaires —, de la santé, de la justice, de l'emploi et de l'immigration, et à protéger et à promouvoir la présence d'institutions fortes qui desservent ces minorités,</u></p> | <p>c) peuvent <u>doivent</u> notamment comprendre toute mesure visant :</p> <p>(i) à promouvoir et à appuyer l'apprentissage du français et de l'anglais au Canada,</p> <p>(ii) à favoriser l'acceptation et l'appréciation par le public du français et de l'anglais,</p> <p>(iii) à inciter et à aider les organisations, associations et autres organismes à refléter et à promouvoir, au Canada et à l'étranger, le caractère bilingue du Canada,</p> <p>(iv) à appuyer la création et la diffusion d'information en français qui contribue à l'avancement des savoirs scientifiques dans toute discipline, <u>pourvu qu'une telle mesure soit compatible avec le mandat de l'institution fédérale en cause,</u></p> <p>(v) à appuyer des secteurs essentiels à l'épanouissement des minorités francophones et anglophones, notamment ceux de la culture, de l'éducation — depuis la petite enfance jusqu'aux études postsecondaires —, de la santé, de la justice, de l'emploi et de l'immigration, et à protéger et à promouvoir la présence d'institutions fortes qui desservent ces minorités, <u>pourvu qu'une telle mesure soit compatible avec le mandat de l'institution fédérale en cause.</u></p> | <p>(c) <u>may</u> include measures, among others, to</p> <p>(i) <u>promote and support the learning of English and French in Canada,</u></p> <p>(ii) <u>foster an acceptance and appreciation of both English and French by members of the public,</u></p> <p>(iii) <u>induce and assist organizations and institutions to project and promote the bilingual character of Canada in their activities in Canada or elsewhere,</u></p> <p>(iv) <u>support the creation and dissemination of information in French that contributes to the advancement of scientific knowledge in any discipline, and</u></p> <p>(v) <u>support sectors that are essential to enhancing the vitality of English and French linguistic minority communities, including the culture, education — from early childhood to post-secondary education — health, justice, employment and immigration sectors, and protect and promote the presence of strong institutions serving those communities.</u></p> | <p>(c) may <u>shall</u> include measures, among others, to</p> <p>(i) promote and support the learning of English and French in Canada,</p> <p>(ii) foster an acceptance and appreciation of both English and French by members of the public,</p> <p>(iii) induce and assist organizations and institutions to project and promote the bilingual character of Canada in their activities in Canada or elsewhere,</p> <p>(iv) support, <u>in a manner that is compatible with the mandate of the federal institution,</u> the creation and dissemination of information in French that contributes to the advancement of scientific knowledge in any discipline, and</p> <p>(v) support, <u>in a manner that is compatible with the mandate of the federal institution,</u> sectors that are essential to enhancing the vitality of English and French linguistic minority communities, including the culture, education — from early childhood to post-secondary education — health, justice, employment and immigration sectors, and protect and promote the presence of strong institutions serving those communities.</p> |
| <p>This amendment restricts the ability of federal institutions to choose which analyses to consider in determining the positive measures to take and in analyzing the negative impacts of their decisions.</p> | <p>Potentiel de prise de mesures positives et impacts négatifs</p> <p>(7) <u>Dans la réalisation de leur mandat, les institutions fédérales, sur la base des analyses qu'elles estiment indiquées :</u></p> <p>a) <u>considèrent le potentiel de prise de mesures positives au titre du paragraphe (5);</u></p> | <p>Potentiel de prise de mesures positives et impacts négatifs</p> <p>(7) Dans la réalisation de leur mandat, les institutions fédérales, sur la base des <u>d'</u>analyses qu'elles estiment indiquées:</p> <p>a) considèrent le potentiel de prise de mesures positives au titre du paragraphe (5);</p> | <p>Potential to take positive measures and negative impacts</p> <p>(7) <u>In carrying out its mandate, every federal institution shall, on the basis of analyses that the federal institution considers appropriate,</u></p> <p>(a) <u>consider whether positive measures could potentially be taken under subsection (5); and</u></p> | <p>Potential to take positive measures and negative impacts</p> <p>(7) In carrying out its mandate, every federal institution shall, on the basis of analyses that the federal institution considers appropriate,</p> <p>(a) consider whether positive measures could potentially be taken under subsection (5); and</p> |

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| <p>This amendment requires federal institutions to try to avoid negative impacts from their decisions and, if this is not possible, to mitigate the negative effects of some of their decisions.</p> <p>This amendment ensures that the <i>Official Languages Act</i> sets out in detail the terms and conditions of the duty to consult it, as did Bill C-11, An Act to amend the Broadcasting Act (clause 6), and its predecessor in the previous Parliament, Bill C-10 (clause 3(4)). The consultation procedures set out in these bills were the result of a consensus among all political parties, which needs to be replicated in Bill C-13.</p> | <p><u>b) prennent en compte les impacts négatifs directs que leurs décisions structurantes pourraient avoir sur les engagements énoncés aux paragraphes (1) à (3), et ce afin de considérer les possibilités d'atténuer ces effets négatifs.</u></p> <p>Activités de dialogue et de consultation, recherches et données probantes</p> <p><u>(8) Les analyses visées au paragraphe (7) sont fondées, dans la mesure du possible, sur le résultat d'activités de dialogue et de consultation, sur des recherches et sur des données probantes.</u></p> <p>Objectif des activités de dialogue et de consultation</p> <p><u>(9) L'objectif des activités de dialogue et de consultation menées pour l'application du paragraphe (8) est de permettre la prise en compte des priorités des minorités francophones et anglophones et des autres intervenants.</u></p> | <p>b) prennent en compte les impacts négatifs directs que leurs décisions structurantes pourraient avoir sur les engagements énoncés aux paragraphes (1) à (3), et ce afin de considérer les possibilités <u>d'éviter ou, à tout le moins, d'atténuer ces effets-impacts</u> négatifs.</p> <p>Aucunes</p> <p>Objectif des activités de dialogue et de consultation</p> <p>(9) L'objectif des activités de dialogue et de consultation menées pour l'application du paragraphe (8) est de permettre la prise en compte des priorités des minorités francophones et anglophones et des autres intervenants. <u>Dans le cadre de ces activités de dialogue et de consultation, les institutions fédérales doivent à la fois :</u></p> <p><u>a) recueillir des renseignements pour vérifier leurs politiques, décisions et initiatives;</u></p> <p><u>b) proposer des politiques, décisions et initiatives qui ne sont pas encore arrêtées définitivement;</u></p> <p><u>c) obtenir l'opinion des minorités francophones et anglophones du Canada concernant les politiques, décisions et initiatives faisant l'objet des consultations;</u></p> <p><u>d) fournir tous les renseignements pertinents sur lesquels reposent ces politiques, décisions et initiatives;</u></p> <p><u>e) considérer leur opinion avec ouverture et sérieux;</u></p> <p><u>f) être disposées à modifier ces politiques, décisions ou initiatives;</u></p> <p><u>g) fournir une rétroaction, tant au cours du processus de consultation qu'après la prise d'une décision.</u></p> | <p><u>(b) take into account the direct negative impacts that its structuring decisions may have on the commitments under subsections (1) to (3) in order to consider the possibilities for mitigating those negative impacts.</u></p> <p>Dialogue and consultation activities, research and evidence-based findings</p> <p><u>(8) The analyses referred to in subsection (7) shall be founded, to the extent possible, on the results of dialogue and consultation activities, on research and on evidence-based findings.</u></p> <p>Objective of dialogue and consultation activities</p> <p><u>(9) The objective of the dialogue and consultation activities carried out for the purposes of subsection (8) is to permit the priorities of the English and French linguistic minority communities and other stakeholders to be taken into account.</u></p> | <p>(b) take into account the direct negative impacts that its structuring decisions may have on the commitments under subsections (1) to (3) in order to consider the possibilities <u>for avoiding or, if avoidance is not possible,</u> for mitigating those negative impacts.</p> <p>None</p> <p>Objective of dialogue and consultation activities</p> <p>(9) The objective of the dialogue and consultation activities carried out for the purposes of subsection (8) is to permit the priorities of the English and French linguistic minority communities and other stakeholders to be taken into account. <u>When engaging in dialogue and consultation activities, every federal institution shall</u></p> <p><u>(a) gather information to test its policies, decisions and initiatives;</u></p> <p><u>(b) propose policies, decisions and initiatives that have not been finalized;</u></p> <p><u>(c) seek the communities' opinions with regard to the policies, decisions or initiatives that are the subject of the consultations;</u></p> <p><u>(d) provide them with all relevant information on which those policies, decisions or initiatives are based;</u></p> <p><u>(e) openly and meaningfully consider those opinions;</u></p> <p><u>(f) be prepared to alter those policies, decisions or initiatives; and</u></p> <p><u>(g) provide the communities with feedback, both during the consultation process and after a decision has been made.</u></p> |

| Explanatory notes | <i>Loi sur les langues officielles</i> si modifiée par C-13 | Modifications | <i>Official Languages Act</i> if amended by C-13 | Amendments |
|-------------------|--|---------------|---|------------|
| | <p><u>Mécanismes d'évaluation et de surveillance</u></p> <p><u>(10) Les institutions fédérales établissent des mécanismes d'évaluation et de surveillance relatifs aux mesures positives prises au titre du paragraphe (5).</u></p> <p>Règlements</p> <p>(3)–(11) Sur la recommandation du Conseil du Trésor faite après consultation par celui-ci du ministre du Patrimoine canadien, le le gouverneur en conseil peut, par règlement visant les institutions fédérales autres que le Sénat, la Chambre des communes, la bibliothèque du Parlement, le bureau du conseiller sénatorial en éthique, le bureau du commissaire aux conflits d'intérêts et à l'éthique, le Service de protection parlementaire ou le bureau du directeur parlementaire du budget, fixer les modalités d'exécution des obligations que la présente partie leur impose.</p> <p><u>Précision</u></p> <p><u>(12) Il est entendu que l'octroi dans la présente partie d'attributions à certains ministres fédéraux ne restreint pas les obligations que celle-ci impose aux institutions fédérales.</u></p> <p><u>Coordination</u></p> <p>42 Le ministre du Patrimoine canadien, en consultation avec les autres ministres fédéraux, suscite et encourage la coordination de la mise en œuvre par les institutions fédérales de cet engagement.</p> <p><u>Engagement – bilinguisme et promotion du français à l'étranger</u></p> <p><u>42 (1) Le gouvernement fédéral s'engage à favoriser l'usage du français et de l'anglais dans la conduite des affaires extérieures du Canada et à promouvoir le français dans le cadre des relations diplomatiques du Canada.</u></p> | Aucunes | <p><u>Evaluation and monitoring mechanisms</u></p> <p><u>(10) Every federal institution shall establish evaluation and monitoring mechanisms in relation to the positive measures taken under subsection (5).</u></p> <p>Regulations</p> <p>(3)–(11) The Governor in Council may, <u>on the recommendation of the Treasury Board made after consultation with the Minister of Canadian Heritage,</u> make regulations in respect of federal institutions, other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service or office of the Parliamentary Budget Officer, prescribing the manner in which any duties of those institutions under this Part are to be carried out.</p> <p><u>For greater certainty</u></p> <p><u>(12) For greater certainty, the express powers, duties and functions of certain ministers of the Crown provided for in this Part do not limit the duties of federal institutions under this Part.</u></p> <p><u>Coordination</u></p> <p>42 The Minister of Canadian Heritage, in consultation with other ministers of the Crown, shall encourage and promote a coordinated approach to the implementation by federal institutions of the commitments set out in section 41.</p> <p><u>Commitment – bilingualism and promoting French abroad</u></p> <p><u>42 (1) The Government of Canada is committed to advancing the use of English and French in the conduct of Canada's external affairs and to promoting French as part of Canada's diplomatic relations.</u></p> | None |

| Explanatory notes | <i>Loi sur les langues officielles</i> si modifiée par C-13 | Modifications | <i>Official Languages Act</i> if amended by C-13 | Amendments |
|--|--|---|---|--|
| <p>This amendment limits the ability of the Minister of Foreign Affairs to choose what measures to take to implement the commitment and requires that the commitment be implemented.</p> | <p>Mise en œuvre</p> <p><u>(2) Le ministre des Affaires étrangères prend les mesures qu'il estime indiquées pour mettre en œuvre cet engagement.</u></p> | <p>Mise en œuvre</p> <p>(2) Le ministre des Affaires étrangères prend les mesures qu'il estime indiquées nécessaires pour mettre en œuvre cet engagement.</p> | <p>Implementation</p> <p><u>(2) The Minister of Foreign Affairs shall take such measures as that Minister considers appropriate for the implementation of the commitment under subsection (1).</u></p> | <p>Implementation</p> <p>(2) The Minister of Foreign Affairs shall take such <u>all necessary</u> measures as that Minister considers appropriate for the implementation of the commitment under subsection (1).</p> |
| <p>This amendment limits the flexibility of the Minister of Canadian Heritage by <u>requiring</u> the minister to take at least those measures aimed at certain specific objectives.</p> | <p>Mise en œuvre</p> <p>43 (1) Le ministre du Patrimoine canadien prend les mesures qu'il estime indiquées nécessaires pour favoriser la progression vers l'égalité de statut et d'usage du français et de l'anglais dans la société canadienne et, notamment, toute mesure :</p> <p>a) de nature à favoriser l'épanouissement des minorités francophones et anglophones du Canada et à appuyer leur développement;</p> <p>b) pour encourager et appuyer l'apprentissage du français et de l'anglais <u>appuyer le développement et la promotion de la culture francophone au Canada, notamment par l'entremise des activités des organismes dont il est responsable et en veillant à ce que les politiques culturelles du gouvernement fédéral reflètent l'objet de la présente loi;</u></p> <p>c) pour encourager le public à mieux accepter et apprécier le français et l'anglais <u>fournir du financement à un organisme indépendant du gouvernement fédéral chargé d'administrer un programme dont l'objectif est de fournir du financement en vue de la présentation devant les tribunaux de causes types d'importance nationale qui visent à clarifier et à faire valoir des droits constitutionnels et quasi constitutionnels en matière de langues officielles;</u></p> | <p>Mise en œuvre</p> <p>43 (1) Le ministre du Patrimoine canadien prend les mesures nécessaires qu'il estime indiquées pour favoriser la progression vers l'égalité de statut et d'usage du français et de l'anglais dans la société canadienne et, notamment, toute mesure :</p> <p style="text-align: center;">Aucunes</p> | <p>Specific mandate of Minister of Canadian Heritage</p> <p>43 (1) The Minister of Canadian Heritage shall take such measures as that Minister considers appropriate to advance the equality of status and use of English and French in Canadian society and, without restricting the generality of the foregoing, may take measures to</p> <p>(a) enhance the vitality of the English and French linguistic minority communities in Canada and support and assist their development;</p> <p>(b) encourage and support the learning of English and French in Canada <u>support the development and promotion of francophone culture in Canada, including through the activities of entities for which that Minister is responsible and by ensuring that the Government of Canada's cultural policies are consistent with the purpose of this Act;</u></p> <p>(c) foster an acceptance and appreciation of both English and French by members of the public <u>provide funding to an organization, independent of the Government of Canada, responsible for administering a program whose purpose is to provide funding for test cases of national significance to be brought before the courts to clarify and assert constitutional and quasi-constitutional official language rights;</u></p> | <p>Specific mandate of Minister of Canadian Heritage</p> <p>43 (1) The Minister of Canadian Heritage shall take such <u>all necessary</u> measures as that Minister considers appropriate to advance the equality of status and use of English and French in Canadian society and, without restricting the generality of the foregoing, may <u>shall</u> take measures to</p> <p style="text-align: center;">None</p> |

| Explanatory notes | Loi sur les langues officielles si modifiée par C-13 | Modifications | Official Languages Act if amended by C-13 | Amendments |
|-------------------|--|---------------|--|------------|
| | <p>d) pour encourager et aider les gouvernements provinciaux <u>et territoriaux</u> à favoriser le développement des minorités francophones et anglophones, et notamment à leur offrir des services provinciaux, <u>territoriaux</u> et municipaux en français et en anglais et à leur permettre de recevoir leur instruction dans leur propre langue;</p> <p>e) pour encourager et aider ces gouvernements <u>et les organismes à but non lucratif</u> à donner à tous <u>toute personne au Canada</u> la possibilité d'apprendre le français et l'anglais <u>et à favoriser l'acceptation et l'appréciation par le public de ces deux langues</u>;</p> <p>f) pour encourager <u>inciter</u> les entreprises, les organisations patronales et syndicales, <u>et les organismes bénévoles à but non lucratif</u> et autres à fournir leurs services en français et en anglais et à favoriser la reconnaissance et l'usage de ces deux langues, et pour collaborer avec eux à ces fins;</p> <p>g) pour encourager et aider les organisations, associations ou autres organismes à refléter et promouvoir, au Canada et à l'étranger, le caractère bilingue du Canada <u>mettre en œuvre des programmes d'appui aux langues officielles</u>;</p> <p>h) sous réserve de l'aval du gouverneur en conseil, pour conclure avec des gouvernements étrangers des accords ou arrangements reconnaissant et renforçant l'identité bilingue du Canada.</p> | Aucunes | <p>(d) encourage and assist provincial <u>and territorial</u> governments to support the development of English and French linguistic minority communities generally and, in particular, to offer provincial, <u>territorial</u> and municipal services in both English and French and to provide opportunities for members of English or French linguistic minority communities to be educated in their own language;</p> <p>(e) encourage and assist provincial <u>and territorial</u> governments <u>and non-profit organizations</u> to provide opportunities for everyone in Canada to learn both English and French <u>and to foster an acceptance and appreciation of both English and French by members of the public</u>;</p> <p>(f) encourage <u>induce</u> the business community, labour organizations, voluntary non-profit organizations and other organizations or institutions to provide services in both English and French and to foster the recognition and use of those languages;</p> <p>(g) encourage and assist organizations and institutions to project the bilingual character of Canada in their activities in Canada or elsewhere <u>implement programs in support of official languages</u>; and</p> <p>(h) with the approval of the Governor in Council, enter into agreements or arrangements that recognize and advance the bilingual character of Canada with the governments of foreign states.</p> | None |

4. Strengthening Part VII

MISE EN PAGE

Le libellé de la *Loi sur les langues officielles* en vigueur apparaît en noir et sans soulignement.

Les ajouts proposés par le projet de loi C-13 sont en vert et soulignés.

Le libellé que le projet de loi C-13 propose de retirer est en ~~rouge et barré~~.

Voici un exemple :

Obligations des institutions fédérales – mesures positives

~~(2)-(5)~~ Il incombe aux institutions fédérales de veiller à ce que soient prises ~~des~~ les mesures positives qu'elles estiment indiquées pour mettre en œuvre ~~cet engagement~~ les engagements énoncés aux paragraphes (1) à (3). ~~Il demeure entendu que cette mise en œuvre se fait dans le respect des champs de compétence et des pouvoirs des provinces.~~

Le libellé de la *Loi sur les langues officielles* si modifié par le projet de loi C-13 apparaît en noir et sans soulignement.

Les ajouts proposés au projet de loi C-13 sont en bleu et soulignés.

Ce qui serait retiré du projet de loi C-13 est en ~~orange et barrés~~.

Voici un exemple :

Obligations des institutions fédérales – mesures positives

(5) Il incombe aux institutions fédérales de veiller à ce que soient prises les mesures positives qu'elles estiment indiquées nécessaires pour mettre en œuvre les engagements énoncés aux paragraphes (1) à ~~(3)-(4)~~.

LAYOUT

The wording of the *Official Languages Act* in force is shown in black with no underlining.

The amendments proposed by Bill C-13 are in green and underlined.

Wording that Bill C-13 proposes to remove is in ~~red and struck out~~.

An example is shown below

Duty of federal institutions – positive measures

~~(2)-(5)~~ Every federal institution has the duty to ensure that the positive measures that it considers appropriate are taken for the implementation of the commitments under ~~subsection (1)~~ subsections (1) to (3). ~~For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of the provinces.~~

The wording of the *Official Languages Act* if amended by Bill C-13 is shown in black with no underlining.

The amendments proposed to Bill C-13 are in blue and underlined.

Proposed retractions to Bill C-13 are in ~~orange and struck through~~.

An example is shown below:

Duty of federal institutions – positive measures

(5) Every federal institution has the duty to ensure that the necessary positive measures ~~that it considers appropriate~~ are taken for the implementation of the commitments under subsections (1) to ~~(3)-(4)~~.

5. Addition of the definition of “French linguistic minority communities”

Defining the term “French linguistic minority communities” (“*minorités francophones*”) so that it continues to refer only to French linguistic minority communities outside Quebec

| Explanatory notes | <i>Loi sur les langues officielles</i> si modifiée par C-13 | Modifications | <i>Official Languages Act</i> if amended by C-13 | Amendments |
|--|--|---|--|---|
| <p>The new recognition that French is a minority language in Canada and North America (preamble and ss. 2(b.1), 41(2) and 41(6)(b)(i)) could invite an interpretation whereby the term “French linguistic minority communities” includes Quebec francophones, who are the majority in their province. This risk is eliminated by defining the term “French linguistic minority communities” in the <i>Official Languages Act</i> to refer to French-speaking minority communities <u>outside</u> Quebec.</p> <p>This definition is also more consistent with the English version of the term “French linguistic minority <u>communities</u>” used since 1988 in the <i>Official Languages Act</i>, which expressly includes the concept of <u>communities</u> in English).</p> | <p>Définitions et interprétation</p> <p>Définitions</p> <p>3 (1) Les définitions qui suivent s’appliquent à la présente loi. [...]</p> | <p>Définitions et interprétation</p> <p>Définitions</p> <p>3 (1) Les définitions qui suivent s’appliquent à la présente loi. [...]</p> <p>minorités francophones Les communautés d’expression française en situation minoritaire à l’extérieur du Québec. (<i>French linguistic minority communities</i>)</p> | <p>Interpretation</p> <p>Definitions</p> <p>3 (1) In this Act, [...]</p> | <p>Interpretation</p> <p>Definitions</p> <p>3 (1) In this Act, [...]</p> <p>French linguistic minority communities means French-speaking minority communities outside Québec. (<i>minorités francophones</i>)</p> |

5. The term “French linguistic minority communities”

MISE EN PAGE

Le libellé de la *Loi sur les langues officielles* en vigueur apparaît en noir et sans soulignement.

Les ajouts proposés par le projet de loi C-13 sont en vert et soulignés.

Le libellé que le projet de loi C-13 propose de retirer est en ~~rouge et barré~~.

Voici un exemple :

Obligations des institutions fédérales – mesures positives

~~(2)-(5)~~ Il incombe aux institutions fédérales de veiller à ce que soient prises ~~des~~ les mesures positives qu'elles estiment indiquées pour mettre en œuvre ~~cet engagement~~ les engagements énoncés aux paragraphes (1) à (3). ~~Il demeure entendu que cette mise en œuvre se fait dans le respect des champs de compétence et des pouvoirs des provinces.~~

LAYOUT

The wording of the *Official Languages Act* in force is shown in black with no underlining.

The amendments proposed by Bill C-13 are in green and underlined.

Wording that Bill C-13 proposes to remove is in ~~red and struck out~~.

An example is shown below

Duty of federal institutions – positive measures

~~(2)-(5)~~ Every federal institution has the duty to ensure that the positive measures that it considers appropriate are taken for the implementation of the commitments under ~~subsection (1)~~ subsections (1) to (3). ~~For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of the provinces.~~

The wording of the *Official Languages Act* if amended by Bill C-13 is shown in black with no underlining.

The amendments proposed to Bill C-13 are in blue and underlined.

Proposed retractions to Bill C-13 are in ~~orange and struck through~~.

An example is shown below:

Duty of federal institutions – positive measures

(5) Every federal institution has the duty to ensure that the necessary positive measures ~~that it considers appropriate~~ are taken for the implementation of the commitments under subsections (1) to ~~(3)-(4)~~.

6. Inclusion of Part VII in the order-making powers of the Commissioner of Official Languages

Extending the Commissioner's order-making powers to Part VII

| Explanatory notes | <i>Loi sur les langues officielles</i> si modifiée par C-13 | Modifications | <i>Official Languages Act</i> if amended by C-13 | Amendments |
|---|---|--|--|---|
| <p>The purpose of this amendment is to expand the new order-making powers of the Commissioner of Official Languages of Canada to Part VII.</p> <p>The implementation of Part VII is the subject of an increasing number of investigations by the Commissioner and even legal cases. Given the importance that this part will take on with the adoption of Bill C-13, it makes sense to expand the Commissioner's powers to make orders in respect of it.</p> <p>That way, the Commissioner will be better able to ensure that federal institutions take the necessary measures so that their policies and programs take into account the needs of French linguistic minority communities.</p> | <p>Ordonnance du commissaire</p> <p><u>64.5 (1) Au terme d'une enquête sur une plainte visant une obligation ou un droit prévus aux parties IV ou V, le commissaire peut, s'il a des motifs raisonnables de croire qu'une institution fédérale a contrevenu à l'une de ces parties et qu'il a fait des recommandations aux termes du paragraphe 63(3) à l'égard de la contravention ou d'une contravention identique commise par l'institution fédérale à l'une de ces parties, lui enjoindre, par ordonnance, de prendre toute mesure qu'il juge indiquée pour remédier à la contravention.</u></p> | <p>Ordonnance du commissaire</p> <p>64.5 (1) Au terme d'une enquête sur une plainte visant une obligation ou un droit prévus aux parties IV ou V <u>IV, V ou VII</u>, le commissaire peut, s'il a des motifs raisonnables de croire qu'une institution fédérale a contrevenu à l'une de ces parties et qu'il a fait des recommandations aux termes du paragraphe 63(3) à l'égard de la contravention ou d'une contravention identique commise par l'institution fédérale à l'une de ces parties, lui enjoindre, par ordonnance, de prendre toute mesure qu'il juge indiquée pour remédier à la contravention.</p> | <p>Commissioner's order</p> <p><u>64.5 (1) If, after carrying out an investigation of a complaint in respect of a right or duty under Part IV or V, the Commissioner has reasonable grounds to believe that a federal institution has contravened that Part and has made recommendations under subsection 63(3) in respect of that contravention, or in respect of an identical contravention of that Part by the institution, the Commissioner may make an order directing that institution to take any action that the Commissioner considers appropriate to rectify the contravention.</u></p> | <p>Commissioner's order</p> <p>64.5 (1) If, after carrying out an investigation of a complaint in respect of a right or duty under Part IV or V <u>IV, V or VII</u>, the Commissioner has reasonable grounds to believe that a federal institution has contravened that Part and has made recommendations under subsection 63(3) in respect of that contravention, or in respect of an identical contravention of that Part by the institution, the Commissioner may make an order directing that institution to take any action that the Commissioner considers appropriate to rectify the contravention.</p> |

6. The power of the Commissioner to make orders

MISE EN PAGE

Le libellé de la *Loi sur les langues officielles* en vigueur apparaît en noir et sans soulignement.

Les ajouts proposés par le projet de loi C-13 sont en vert et soulignés.

Le libellé que le projet de loi C-13 propose de retirer est en ~~rouge et barré~~.

Voici un exemple :

Obligations des institutions fédérales – mesures positives

~~(2)-(5)~~ Il incombe aux institutions fédérales de veiller à ce que soient prises ~~des~~ les mesures positives qu'elles estiment indiquées pour mettre en œuvre ~~cet engagement~~ les engagements énoncés aux paragraphes (1) à (3). ~~Il demeure entendu que cette mise en œuvre se fait dans le respect des champs de compétence et des pouvoirs des provinces.~~

LAYOUT

Le libellé de la *Loi sur les langues officielles* si modifié par le projet de loi C-13 apparaît en noir et sans soulignement.

Les ajouts proposés au projet de loi C-13 sont en bleu et soulignés.

Ce qui serait retiré du projet de loi C-13 est en ~~orange et barrés~~.

Voici un exemple :

Obligations des institutions fédérales – mesures positives

(5) Il incombe aux institutions fédérales de veiller à ce que soient prises les mesures positives qu'elles estiment indiquées nécessaires pour mettre en œuvre les engagements énoncés aux paragraphes (1) à ~~(3)-(4)~~.

The wording of the *Official Languages Act* in force is shown in black with no underlining.

The amendments proposed by Bill C-13 are in green and underlined.

Wording that Bill C-13 proposes to remove is in ~~red and struck out~~.

An example is shown below

Duty of federal institutions – positive measures

~~(2)-(5)~~ Every federal institution has the duty to ensure that the positive measures that it considers appropriate are taken for the implementation of the commitments under ~~subsection (1)~~ subsections (1) to (3). ~~For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of the provinces.~~

The wording of the *Official Languages Act* if amended by Bill C-13 is shown in black with no underlining.

The amendments proposed to Bill C-13 are in blue and underlined.

Proposed retractions to Bill C-13 are in ~~orange and struck through~~.

An example is shown below:

Duty of federal institutions – positive measures

(5) Every federal institution has the duty to ensure that the necessary positive measures ~~that it considers appropriate~~ are taken for the implementation of the commitments under subsections (1) to ~~(3)-(4)~~.

CODIFICATION

Loi sur les langues officielles

S.R.C. (1985), ch. 31 (4^e suppl.)

CONSOLIDATION

Official Languages Act

R.S.C. (1985), c. 31 (4th Supp.)

NOTE

[Ceci est une version de
la *Loi sur les langues officielles*
si celle-ci est modifiée par le Projet de loi C-13
dans sa version actuelle ou proposée]

NOTE

[The following is a version of
the *Official Languages Act*
if amended by Bill C-13
in its current or proposed version]

MISE EN PAGE

1. Le libellé de la *Loi sur les langues officielles* présentement en vigueur apparaît en noir et sans soulignement. Les ajouts proposés par le Projet de loi C-13 sont en vert et soulignés. Enfin, le libellé que le Projet de loi C-13 propose de retirer de la loi est en ~~rouge et barré~~.

2. Ce document intègre également certaines des modifications proposées au Projet de loi C-13.

Premièrement, les modifications proposées à une disposition existante sont insérées sous la disposition visée, dans un cadre rouge identifié par une flèche.

Dans le cadre, le libellé de la *Loi sur les langues officielles* si modifié par le Projet de loi C-13 apparaît en noir et sans soulignement. Les ajouts proposés au Projet de loi C-13 sont en bleu et soulignés. Ce qui serait retiré du Projet de loi C-13 est en ~~orange et barré~~.

Voici un exemple :

Obligations des institutions fédérales – mesures positives

~~(2)~~(5) Il incombe aux institutions fédérales de veiller à ce que soient prises ~~des-les~~ mesures positives qu'elles estiment indiquées pour mettre en œuvre ~~et-les~~ engagements énoncés aux paragraphes (1) à (3). ~~Il demeure entendu que cette mise en œuvre se fait dans le respect des champs de compétence et des pouvoirs des provinces.~~

Obligations des institutions fédérales – mesures positives

(5) Il incombe aux institutions fédérales de veiller à ce que soient prises les mesures positives nécessaires qu'elles estiment indiquées pour mettre en œuvre les engagements énoncés aux paragraphes (1) à (3).

Deuxièmement, les modifications proposées visant à ajouter une nouvelle disposition sont insérées en bleu et souligné dans le texte de la *Loi sur les langues officielles* si modifié par le Projet de loi C-13, dans un cadre rouge.

Voici un exemple :

Obligation du gouvernement fédéral

(4) Il incombe au gouvernement fédéral de veiller, dans le cadre des nominations à la magistrature qui relèvent de sa compétence, à ce que les tribunaux fédéraux soient en mesure de s'acquitter de leur obligation aux termes du paragraphe (1).

LAYOUT

1. The wording of the *Official Languages Act* currently in force is shown in black with no underlining. The amendments proposed by the Bill C-13 are in green and underlined. Finally, wording that Bill C-13 proposes be removed from the Act is in ~~red and struck out~~.

2. This document also includes some proposed amendments to Bill C-13.

First, the proposed amendments to an existing provision appear under the existing provision, in a red frame and indicated by an arrow.

Within the frame, the wording of the *Official Languages Act* if amended by Bill C-13 is shown in black with no underlining. The amendments proposed to Bill C-13 are in blue and underlined. Proposed retractions to Bill C-13 are in ~~orange and struck through~~.

An example is shown below:

Duty of federal institutions – positive measures

~~(2)~~(5) Every federal institution has the duty to ensure that the positive measures that it considers appropriate are taken for the implementation of the commitments under subsections (1) to (3). ~~For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of the provinces.~~

Duty of federal institutions – positive measures

(5) Every federal institution has the duty to ensure that the-all necessary positive measures ~~that it considers appropriate~~ are taken for the implementation of the commitments under subsections (1) to (3).

Second, the proposed amendments to add a new provision appear in blue and underlined in the text of the *Official Languages Act* if modified by Bill C-13 and are framed in red.

An example is shown below:

Duty of the Government of Canada

(4) The Government of Canada must take the duty established in subsection (1) into account when making appointments to the federal judiciary.

TABLE ANALYTIQUE

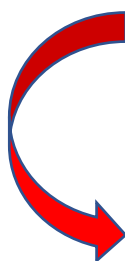
Loi concernant le statut et l'usage des langues officielles du Canada

| | |
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| | <u>Coordination pangouvernementale</u> <u>Stratégie pangouvernementale sur les langues officielles</u> |
| | <u>2.1</u> <u>Ministre du Patrimoine canadien</u> |
| | <u>2.2</u> <u>Stratégie pangouvernementale sur les langues officielles</u> |
| | <u>2.3</u> <u>Processus – mise en œuvre de l'engagement énoncé au paragraphe 41(4)</u> |
| | Définitions <u>et interprétation</u> |
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TABLE OF PROVISIONS

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| | |
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| | Short Title |
| 1 | Short title |
| | Purpose of Act |
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| | <u>Government-wide Coordination</u> |
| | <u>Government-wide Coordination</u> <u>Government-wide strategy on official languages</u> |
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S.R.C. 1985, ch. 31 (4^e suppl.)

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**Loi concernant le statut et
l'usage des langues officielles du
Canada**

**An Act respecting the status and
use of the official languages of
Canada**

telle que modifiée par le

as amended by

Projet de loi C-13

Bill C-13

**1^{re} session, 44^e législature, 2021-2022
(1^{re} lecture le 1^{er} mars 2022)**

**1st Session, 44th Parliament, 2021-2022
(1st reading March 1st, 2022)**

Préambule

Attendu :

que la Constitution dispose que le français et l'anglais sont les langues officielles du Canada et qu'ils ont un statut et des droits et privilèges égaux quant à leur usage dans les institutions du Parlement et du gouvernement du Canada;

qu'elle prévoit l'universalité d'accès dans ces deux langues en ce qui a trait au Parlement et à ses lois ainsi qu'aux tribunaux établis par celui-ci;

qu'elle prévoit en outre des garanties quant au droit du public à l'emploi de l'une ou l'autre de ces langues pour communiquer avec les institutions du Parlement et du gouvernement du Canada ou pour en recevoir les services;

qu'il convient que les ~~agents~~ employés des institutions du Parlement ou du gouvernement du Canada aient l'égale possibilité d'utiliser la langue officielle de leur choix dans la mise en œuvre commune des objectifs de celles-ci;

qu'il convient que les Canadiens d'expression française et d'expression anglaise, sans distinction d'origine ethnique ni égard à la première langue apprise, aient des chances égales d'emploi dans les

Preamble

WHEREAS the Constitution of Canada provides that English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada;

AND WHEREAS the Constitution of Canada provides for full and equal access to Parliament, to the laws of Canada and to courts established by Parliament in both official languages;

AND WHEREAS the Constitution of Canada also provides for guarantees relating to the right of any member of the public to communicate with, and to receive available services from, any institution of the Parliament or government of Canada in either official language;

AND WHEREAS ~~officers and~~ employees of institutions of the Parliament or government of Canada should have equal opportunities to use the official language of their choice while working together in pursuing the goals of those institutions;

AND WHEREAS English-speaking Canadians and French-speaking Canadians should, without regard to their ethnic origin or first language learned, have equal opportunities to obtain

institutions du Parlement ou du gouvernement du Canada;

que le gouvernement fédéral s'est engagé à réaliser, dans le strict respect du principe du mérite en matière de sélection, la pleine participation des Canadiens d'expression française et d'expression anglaise à ses institutions;

qu'il s'est engagé à favoriser l'épanouissement des minorités francophones et anglophones, au titre de leur appartenance aux deux collectivités de langue officielle, et à appuyer leur développement, compte tenu de leur caractère unique et pluriel et de leurs contributions historiques et culturelles à la société canadienne, et à promouvoir la pleine reconnaissance et l'usage du français et de l'anglais dans la société canadienne;

qu'il s'est engagé à protéger et à promouvoir le français, reconnaissant que cette langue est en situation minoritaire au Canada et en Amérique du Nord en raison de l'usage prédominant de l'anglais;

qu'il s'est engagé à collaborer avec les institutions et gouvernements provinciaux et territoriaux en vue d'appuyer le développement des minorités francophones et anglophones, d'offrir des services en français et en anglais, de respecter les garanties constitutionnelles sur les droits à l'instruction dans la langue de la minorité et de faciliter pour tous l'apprentissage du français et de l'anglais;

qu'il s'est engagé à promouvoir le caractère bilingue de la région de la capitale nationale et à encourager les entreprises, les organisations patronales et syndicales, ainsi que les organismes bénévoles canadiens à promouvoir la reconnaissance et l'usage du français et de l'anglais;

qu'il reconnaît l'importance de donner à toute personne au Canada la possibilité d'apprendre une deuxième langue officielle et la contribution de tous ceux qui, au Canada, parlent les deux langues officielles à l'appréciation mutuelle entre les deux collectivités de langue officielle;

qu'il reconnaît l'importance d'appuyer des secteurs essentiels à l'épanouissement des minorités francophones et anglophones et de protéger et

employment in the institutions of the Parliament or government of Canada;

AND WHEREAS the Government of Canada is committed to achieving, with due regard to the principle of selection of personnel according to merit, full participation of English-speaking Canadians and French-speaking Canadians in its institutions;

AND WHEREAS the Government of Canada is committed to enhancing the vitality and supporting the development of English and French linguistic minority communities; – taking into account their uniqueness, diversity and historical and cultural contributions to Canadian society – as an integral part of the two official language communities of Canada, and to fostering full recognition and use of English and French in Canadian society;

AND WHEREAS the Government of Canada is committed to protecting and promoting the French language, recognizing that French is in a minority situation in Canada and North America due to the predominant use of English;

AND WHEREAS the Government of Canada is committed to cooperating with provincial and territorial governments and their institutions to support the development of English and French linguistic minority communities, to provide services in both English and French, to respect the constitutional guarantees of minority language educational rights and to enhance opportunities for all to learn both English and French;

AND WHEREAS the Government of Canada is committed to enhancing the bilingual character of the National Capital Region and to encouraging the business community, labour organizations and voluntary organizations in Canada to foster the recognition and use of English and French;

AND WHEREAS the Government of Canada recognizes the importance of providing opportunities for everyone in Canada to learn a second official language and the contribution of everyone in Canada who speaks both official languages to a mutual appreciation between the two official language communities of Canada;

AND WHEREAS the Government of Canada recognizes the importance of supporting sectors that are essential to enhancing the vitality of

promouvoir la présence d'institutions fortes qui desservent ces minorités;

English and French linguistic minority communities and protecting and promoting the presence of strong institutions serving those communities;

qu'il reconnaît que la Société Radio-Canada contribue par ses activités à l'épanouissement des minorités francophones et anglophones et à la protection et la promotion des deux langues officielles;

AND WHEREAS the Government of Canada recognizes that the Canadian Broadcasting Corporation contributes through its activities to enhancing the vitality of the English and French linguistic minority communities and to the protection and promotion of both official languages;

qu'il reconnaît l'importance de la contribution de l'immigration francophone pour favoriser l'épanouissement des minorités francophones, et le fait que l'immigration est l'un des facteurs qui contribuent au maintien ou à l'accroissement du poids démographique de ces minorités;

AND WHEREAS the Government of Canada recognizes the importance of the contribution of francophone immigration to enhancing the vitality of French linguistic minority communities and that immigration is one of the factors that contributes to maintaining or increasing the demographic weight of those communities;

qu'il reconnaît l'importance de la contribution de l'immigration francophone pour favoriser l'épanouissement des minorités francophones, et ~~le fait que l'immigration est l'un des facteurs qui contribuent au maintien ou à~~ pour assurer le rétablissement et l'accroissement du poids démographique de ces minorités;

AND WHEREAS the Government of Canada recognizes the importance of the contribution of francophone immigration to enhancing the vitality of French linguistic minority communities and ~~that immigration is one of the factors that contributes to maintaining or~~ to ensuring the restoration and growth of the demographic weight of those communities;

qu'il reconnaît que des minorités francophones ou anglophones sont présentes dans chaque province et territoire;

AND WHEREAS the Government of Canada recognizes the presence of English or French linguistic minority communities in each province and territory;

qu'il reconnaît la diversité des régimes linguistiques provinciaux et territoriaux qui contribuent à la progression vers l'égalité de statut et d'usage du français et de l'anglais dans la société canadienne, notamment :

AND WHEREAS the Government of Canada recognizes the diversity of the provincial and territorial language regimes that contribute to the advancement of the equality of status and use of English and French in Canadian society, including that

que la Constitution accorde à chacun le droit d'employer le français ou l'anglais dans les débats des chambres de la Législature du Québec et de celles de la Législature du Manitoba et le droit d'utiliser le français ou l'anglais dans toutes les affaires dont sont saisis les tribunaux de ces provinces et dans tous les actes de procédure qui en découlent,

the Constitution of Canada provides every person with the right to use English or French in the debates of the Houses of the Legislature of Quebec and those of the Legislature of Manitoba and the right to use English or French in any pleading or process in or from the courts of those provinces,

que la Charte de la langue française du Québec dispose que le français est la langue officielle du Québec,

Quebec's Charter of the French language provides that French is the official language of Quebec,

que la Constitution dispose que le français et l'anglais sont les langues officielles du Nouveau-Brunswick et qu'ils ont un statut et des droits et privilèges égaux quant à leur usage dans les institutions de la Législature et du gouvernement du Nouveau-Brunswick,

qu'elle dispose que la communauté linguistique française et la communauté linguistique anglaise du Nouveau-Brunswick ont un statut et des droits et privilèges égaux;

qu'il reconnaît que chaque province et territoire a adopté des lois, des politiques ou des programmes qui garantissent des services en français ou qui reconnaissent la contribution des minorités francophones ou anglophones à la société canadienne;

qu'il reconnaît l'importance, parallèlement à l'affirmation du statut des langues officielles et à l'élargissement de leur usage, ~~de maintenir et de valoriser~~ du maintien et de la valorisation de l'usage des autres langues; et de la réappropriation, de la revitalisation et du renforcement des langues autochtones;

que les obligations juridiques relatives aux langues officielles s'appliquent en tout temps, notamment lors de situations d'urgence,

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

Titre abrégé

Titre abrégé

1 *Loi sur les langues officielles.*

Objet

Objet

2 La présente loi a pour objet :

a) d'assurer le respect du français et de l'anglais à titre de langues officielles du Canada, leur

the Constitution of Canada provides that English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick, and

the Constitution of Canada provides that the English linguistic community and the French linguistic community in New Brunswick have equality of status and equal rights and privileges;

AND WHEREAS the Government of Canada recognizes that each province and territory has adopted laws, policies or programs guaranteeing service in French or recognizing the contribution of the English or French linguistic minority community to Canadian society;

AND WHEREAS the Government of Canada recognizes the importance of ~~preserving~~ maintaining and enhancing the use of languages other than English and French and reclaiming, revitalizing and strengthening Indigenous languages while strengthening the status and use of the official languages;

AND WHEREAS all legal obligations related to the official languages apply at all times, including during emergencies;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short Title

Short title

1 This Act may be cited as the *Official Languages Act*.

Purpose of Act

Purpose

2 The purpose of this Act is to

(a) ensure respect for English and French as the official languages of Canada and ensure equality

égalité de statut et l'égalité de droits et privilèges quant à leur usage dans les institutions fédérales, notamment en ce qui touche les débats et travaux du Parlement, les actes législatifs et autres, l'administration de la justice, les communications avec le public et la prestation des services, ainsi que la mise en œuvre des objectifs de ces institutions ;

b) d'appuyer le développement des minorités francophones et anglophones ~~et, d'une façon générale, de favoriser, au sein de la société canadienne, la progression vers l'égalité de statut et d'usage du français et de l'anglais en vue de les protéger;~~

b.1) ~~de favoriser, au sein de la société canadienne, la progression vers l'égalité de statut et d'usage du français et de l'anglais, en tenant compte du fait que le français est en situation minoritaire au Canada et en Amérique du Nord en raison de l'usage prédominant de l'anglais;~~

c) de préciser les pouvoirs et les obligations des institutions fédérales en matière de langues officielles.

of status and equal rights and privileges as to their use in all federal institutions, in particular with respect to their use in parliamentary proceedings, in legislative and other instruments, in the administration of justice, in communicating with or providing services to the public and in carrying out the work of federal institutions;

(b) support the development of English and French linguistic minority communities ~~and generally advance the equality of status and use of the English and French languages within Canadian society in order to protect them; and~~

(b.1) ~~advance the equality of status and use of the English and French languages within Canadian society, taking into account that French is in a minority situation in Canada and North America due to the predominant use of English; and~~

(c) set out the powers, duties and functions of federal institutions with respect to the official languages of Canada.

Coordination pangouvernementale

Government-wide Coordination

Coordination pangouvernementale
Stratégie pangouvernementale sur les langues officielles

Government-wide Coordination
Government-wide strategy on official languages

Ministre du Patrimoine canadien

2.1 (1) Le ministre du Patrimoine canadien est chargé d'assumer un rôle de premier plan au sein du gouvernement fédéral en ce qui a trait à la mise en œuvre de la présente loi.

Minister of Canadian Heritage

2.1 (1) The Minister of Canadian Heritage is responsible for exercising leadership within the Government of Canada in relation to the implementation of this Act.

Coordination

(2) Il suscite et encourage, en consultation avec les autres ministres fédéraux, la coordination de la mise en œuvre de la présente loi, notamment la mise en œuvre des engagements énoncés aux paragraphes 41(1) à (3).

Coordination

(2) That Minister shall, in consultation with the other ministers of the Crown, promote and encourage coordination in the implementation of this Act, including the implementation of the commitments set out in subsections 41(1) to (3).

~~Ministre du Patrimoine canadien~~

~~2.1 (1) Le ministre du Patrimoine canadien est chargé d'assumer un rôle de premier plan au sein du gouvernement fédéral en ce qui a trait à la mise en œuvre de la présente loi.~~

~~Minister of Canadian Heritage~~

~~2.1 (1) The Minister of Canadian Heritage is responsible for exercising leadership within the Government of Canada in relation to the implementation of this Act.~~

~~Coordination~~

~~(2) Il suscite et encourage, en consultation avec les autres ministres fédéraux, la coordination de la mise en œuvre de la présente loi, notamment la mise en œuvre des engagements énoncés aux paragraphes 41(1) à (3).~~

~~Coordination~~

~~(2) That Minister shall, in consultation with the other ministers of the Crown, promote and encourage coordination in the implementation of this Act, including the implementation of the commitments set out in subsections 41(1) to (3).~~

Stratégie pangouvernementale sur les langues officielles

2.2 (1) Le ministre du Patrimoine canadien élabore et maintient, en collaboration avec les autres ministres fédéraux, une stratégie pangouvernementale qui énonce les grandes priorités en matière de langues officielles.

Government-wide strategy on official languages

2.2 (1) The Minister of Canadian Heritage shall, in cooperation with the other ministers of the Crown, develop and maintain a government-wide strategy that sets out the overall official languages priorities.

Dépôt au Parlement

(2) Il fait déposer la stratégie devant chaque chambre du Parlement dans les quinze premiers jours de séance de celle-ci suivant son élaboration et périodiquement par la suite.

Tabling in Parliament

(2) That Minister shall cause the strategy to be tabled in each House of Parliament within the first 15 days on which that House is sitting after the strategy has been developed, and periodically after that.

Accessible au public

(3) Il rend la stratégie accessible au public par Internet ou par tout autre moyen qu'il estime indiqué.

Accessible to public

(3) That Minister shall make the strategy accessible to the public through the Internet or by any other means that the Minister considers appropriate.

Stratégie pangouvernementale sur les langues officielles

2.2 (1) Le ministre du Patrimoine canadien et le président du Conseil du Trésor élaborent et maintiennent, en collaboration avec les autres ministres fédéraux, une stratégie

Government-wide strategy on official languages

2.2 (1) The Minister of Canadian Heritage and the president of the Treasury Board shall, in cooperation with the other ministers of the Crown, develop and maintain a government-wide strategy

pangouvernementale qui énonce les grandes priorités en matière de langues officielles.

that sets out the overall official languages priorities.

Dépôt au Parlement

(2) ~~H~~ Le ministre du Patrimoine canadien fait déposer la stratégie devant chaque chambre du Parlement dans les quinze premiers jours de séance de celle-ci suivant son élaboration et périodiquement par la suite.

Tabling in Parliament

(2) ~~That Minister~~ The Minister of Canadian Heritage shall cause the strategy to be tabled in each House of Parliament within the first 15 days on which that House is sitting after the strategy has been developed, and periodically after that.

Accessible au public

(3) ~~H~~ Le ministre du Patrimoine canadien rend la stratégie accessible au public par Internet ou par tout autre moyen qu'il estime indiqué.

Accessible to public

(3) ~~That Minister~~ The Minister of Canadian Heritage shall make the strategy accessible to the public through the Internet or by any other means that the Minister considers appropriate.

Processus – mise en œuvre de l'engagement énoncé au paragraphe 41(4)

2.3 Le ministre du Patrimoine canadien établit un processus pour que le gouvernement fédéral mette en œuvre l'engagement énoncé au paragraphe 41(4).

Process – implementation of commitment under subsection 41(4)

2.3 The Minister of Canadian Heritage shall establish a process for the Government of Canada to implement its commitment under subsection 41(4).

Définitions et interprétation

Définitions

3 (1) Les définitions qui suivent s'appliquent à la présente loi.

commissaire Le commissaire aux langues officielles du Canada nommé au titre de l'article 49. (*Commissioner*)

institutions fédérales Les institutions du Parlement et du gouvernement du Canada, dont le Sénat, la Chambre des communes, la bibliothèque du Parlement, le bureau du conseiller sénatorial en éthique et le bureau du commissaire aux conflits d'intérêts et à l'éthique, le Service de protection parlementaire, le bureau du directeur parlementaire du budget, les tribunaux fédéraux, tout organisme — bureau, commission, conseil, office ou autre — chargé de fonctions administratives sous le régime d'une loi fédérale ou en vertu des attributions du gouverneur en conseil, les ministères fédéraux, les sociétés d'État créées

Interpretation

Definitions

3 (1) In this Act,

business day means day other than

(a) a Saturday;

(b) a Sunday or other holiday; and

(c) a day that falls during the seasonal recess, as defined in section 2 of the Federal Courts Rules; (*jour ouvrable*)

Commissioner means the Commissioner of Official Languages for Canada appointed under section 49; (*commissaire*)

Crown corporation means

(a) a corporation that is ultimately accountable, through a Minister, to Parliament for the conduct of its affairs, and

sous le régime d'une loi fédérale et tout autre organisme désigné par la loi à titre de mandataire de Sa Majesté du chef du Canada ou placé sous la tutelle du gouverneur en conseil ou d'un ministre fédéral. Ne sont pas visés les institutions de l'Assemblée législative du Yukon, de l'Assemblée législative des Territoires du Nord-Ouest ou de l'Assemblée législative du Nunavut ou celles de l'administration de chacun de ces territoires, ni les organismes — bande indienne, conseil de bande ou autres — chargés de l'administration d'une bande indienne ou d'autres groupes de peuples autochtones. (*federal institution*)

jour ouvrable Jour autre que :

- a) le samedi;
- b) le dimanche ou autre jour férié;
- c) un jour compris dans les *vacances judiciaires saisonnières*, au sens de l'article 2 des *Règles des Cours fédérales*. (*business day*)

ministère Ministère au sens de l'article 2 de la *Loi sur la gestion des finances publiques*. (*department*)

minorités francophones Les communautés d'expression française en situation minoritaire à l'extérieur du Québec. (*French linguistic minority communities*)

région de la capitale nationale La région de la capitale nationale au sens de l'annexe de la *Loi sur la capitale nationale*. (*National Capital Region*)

sociétés d'État Les personnes morales tenues de rendre compte au Parlement de leurs activités par l'intermédiaire d'un ministre, ainsi que les sociétés d'État mères — et leurs filiales à cent pour cent — au sens de l'article 83 de la *Loi sur la gestion des finances publiques*. (*Crown corporation*)

(b) a parent Crown corporation or a wholly-owned subsidiary, within the meaning of section 83 of the *Financial Administration Act*; (*sociétés d'État*)

department means a department as defined in section 2 of the *Financial Administration Act*; (*ministère*)

federal institution includes any of the following institutions of the Parliament or government of Canada:

- (a) the Senate,
- (b) the House of Commons,
- (c) the Library of Parliament,
- (c.1) the office of the Senate Ethics Officer and the office of the Conflict of Interest and Ethics Commissioner,
- (c.2) the Parliamentary Protective Service,
- (c.3) the office of the Parliamentary Budget Officer,
- (d) any federal court,
- (e) any board, commission or council, or other body or office, established to perform a governmental function by or pursuant to an Act of Parliament or by or under the authority of the Governor in Council,
- (f) a department of the Government of Canada,
- (g) a Crown corporation established by or pursuant to an Act of Parliament, and
- (h) any other body that is specified by an Act of Parliament to be an agent of Her Majesty in right of Canada or to be subject to the direction of the Governor in Council or a minister of the Crown,

but does not include

- (i) any institution of the Legislative Assembly or government of Yukon, the Northwest Territories or Nunavut, or
- (j) any Indian band, band council or other body established to perform a governmental function in relation to an Indian band or other group of aboriginal people; (*institutions fédérales*)

French linguistic minority communities means French-speaking minority communities outside Québec. (*minorités francophones*)

National Capital Region means the National Capital Region described in the schedule to the *National Capital Act*. (*région de la capitale nationale*)

Définition de *tribunal*

(2) Pour l'application du présent article et des parties II et III, est un tribunal fédéral tout organisme créé sous le régime d'une loi fédérale pour rendre la justice.

Droits linguistiques

3.1 Pour l'application de la présente loi :

- a) les droits linguistiques doivent être interprétés d'une façon large et libérale en fonction de leur objet;
- b) ils doivent être interprétés en fonction de leur caractère réparateur;
- c) l'égalité réelle est la norme applicable à ces droits.

Definition of *federal court*

(2) In this section and in Parts II and III, **federal court** means any court, tribunal or other body that carries out adjudicative functions and is established by or pursuant to an Act of Parliament.

Language rights

3.1 For the purposes of this Act,

- (a) language rights are to be given a large, liberal and purposive interpretation;
- (b) language rights are to be interpreted in light of their remedial character; and
- (c) the norm for the interpretation of language rights is substantive equality.

PARTIE I

Débats et travaux parlementaires

Langues officielles du Parlement

4 (1) Le français et l'anglais sont les langues officielles du Parlement; chacun a le droit d'employer l'une ou l'autre dans les débats et travaux du Parlement.

Interprétation simultanée

(2) Il doit être pourvu à l'interprétation simultanée des débats et autres travaux du Parlement.

PART I

Proceedings of Parliament

Official languages of Parliament

4 (1) English and French are the official languages of Parliament, and everyone has the right to use either of those languages in any debates and other proceedings of Parliament.

Simultaneous interpretation

(2) Facilities shall be made available for the simultaneous interpretation of the debates and other proceedings of Parliament from one official language into the other.

Journal des débats

(3) Les comptes rendus des débats et d'autres comptes rendus des travaux du Parlement comportent la transcription des propos tenus dans une langue officielle et leur traduction dans l'autre langue officielle.

Official reports

(3) Everything reported in official reports of debates or other proceedings of Parliament shall be reported in the official language in which it was said and a translation thereof into the other official language shall be included therewith.

PARTIE II

Actes législatifs et autres

Documents parlementaires

5 Les archives, comptes rendus et procès-verbaux du Parlement sont tenus, imprimés et publiés dans les deux langues officielles.

Lois fédérales

6 Les lois du Parlement sont adoptées, imprimées et publiées dans les deux langues officielles.

Textes d'application

7 (1) Sont établis dans les deux langues officielles, ~~les actes s'ils sont pris,~~ dans l'exercice d'un pouvoir législatif conféré sous le régime d'une loi fédérale, les actes pris soit par le gouverneur en conseil ou par un ou plusieurs ministres fédéraux, soit avec leur agrément, les actes astreints, sous le régime d'une loi fédérale, à l'obligation de publication dans la *Gazette du Canada*, ainsi que les actes de nature publique et générale. Leur impression et leur publication éventuelles se font dans les deux langues officielles.

PART II

Legislative and Other Instruments

Journals and the other records

5 The journals and other records of Parliament shall be made and kept, and shall be printed and published, in both official languages.

Acts of Parliament

6 All Acts of Parliament shall be enacted, printed and published in both official languages.

Legislative instruments

7 (1) Any instrument shall be made in both official languages and, if printed and published, shall be printed and published in both official languages, if it is made in the execution of a legislative power conferred by or under an Act of Parliament ~~that and~~

(a) is made by, or with the approval of, the Governor in Council or one or more ministers of the Crown,

(b) is required by or ~~pursuant to~~ under an Act of Parliament to be published in the *Canada Gazette*, or

(c) is of a public and general nature, ~~and~~

~~shall be made in both official languages and, if printed and published, shall be printed and published in both official languages.~~

Prérogative

(2) Les actes qui procèdent de la prérogative ou de tout autre pouvoir exécutif et sont de nature publique et générale sont établis dans les deux langues officielles. Leur impression et leur publication éventuelles se font dans ces deux langues.

Exceptions

(3) Le paragraphe (1) ne s'applique pas aux textes ~~suivants-ci-après~~ du seul fait qu'ils sont ~~d'intérêt général et public~~ de nature publique et générale :

a) les lois de la Législature du Yukon, de la Législature des Territoires du Nord-Ouest ou de la Législature du Nunavut, ainsi que les actes découlant de ces lois;

b) les actes pris par les organismes — bande indienne, conseil de bande ou autres — chargés de l'administration d'une bande indienne ou d'autres groupes de peuples autochtones.

Dépôt des documents

8 Les documents qui émanent d'une institution fédérale et qui sont déposés au Sénat ou à la Chambre des communes par le gouvernement fédéral le sont dans les deux langues officielles.

Textes de procédures

9 Les textes régissant la procédure et la pratique des tribunaux fédéraux sont établis, imprimés et publiés dans les deux langues officielles.

Traités

10 (1) Le gouvernement fédéral prend toutes les mesures ~~voilées~~ possibles pour veiller à ce que les traités et conventions intervenus entre le Canada et tout autre État soient authentifiés dans les deux langues officielles.

Instruments under prerogative or other executive power

(2) All instruments made in the exercise of a prerogative or other executive power that are of a public and general nature shall be made in both official languages and, if printed and published, shall be printed and published in both official languages.

Exceptions

(3) Subsection (1) does not, by reason only that the ordinance, by-law, law or other instrument is of a public and general nature, apply to

(a) a law made by the Legislature of Yukon, of the Northwest Territories or for Nunavut, or any instrument made under any such law, or

(b) a by-law, law or other instrument of an Indian band, band council or other body established to perform a governmental function in relation to an Indian band or other group of aboriginal people;

~~by reason only that the ordinance, by-law, law or other instrument is of a public and general nature.~~

Documents in Parliament

8 Any document made by or under the authority of a federal institution that is tabled in the Senate or the House of Commons by the Government of Canada shall be tabled in both official languages.

Rules, etc., governing practice and procedure

9 All rules, orders and regulations governing the practice or procedure in any proceedings before a federal court shall be made, printed and published in both official languages.

International treaties

10 (1) The Government of Canada shall take all possible measures to ensure that any treaty or convention between Canada and one or more other states is authenticated in both official languages.

Accords fédéro-provinciaux-territoriaux

(2) Il incombe au gouvernement fédéral de veiller à ce que les textes fédéro-provinciaux-territoriaux ~~suivants-ci-après~~ soient établis; dans les deux langues officielles et à ce que les deux versions ~~ayant aient~~ même valeur; ~~dans les deux langues officielles~~ :

- a) les accords dont la prise d'effet relève du Parlement ou du gouverneur en conseil;
- b) les accords conclus avec une ou plusieurs territoires ou provinces lorsque l'une d'entre elles-eux a comme langues officielles déclarées le français et l'anglais ou demande que le texte soit établi en français et en anglais;
- c) les accords conclus avec plusieurs provinces ou territoires dont les gouvernements n'utilisent pas la même langue officielle.

Règlements

(3) Le gouverneur en conseil peut, par règlement, fixer les circonstances dans lesquelles les catégories d'accords qui y sont mentionnées — avec les provinces ou territoires ou d'autres États — sont à établir ou à rendre publics dans les deux langues officielles lors de leur signature ou de leur publication, ou, sur demande, à traduire.

Avis et annonces

11 (1) Les textes — notamment les avis et annonces — que les institutions fédérales doivent ou peuvent, sous le régime d'une loi fédérale, publier, ou faire publier, et qui sont principalement destinés au public doivent, là où cela est possible, ~~paraître-figurer~~ dans des publications qui sont largement diffusées dans chacune des régions visées, la version française dans au moins une publication d'expression principalement française et son pendant anglais dans au moins une publication d'expression principalement anglaise

Federal-provincial-territorial agreements

(2) The Government of Canada has the duty to ensure that the following classes of agreements between Canada and one or more provinces or territories are made in both official languages and that both versions are equally authoritative:

- (a) agreements that require the authorization of Parliament or the Governor in Council to be effective;
- (b) agreements entered into with one or more provinces or territories ~~where-if~~ English and French are declared to be the official languages of any of those provinces or territories or ~~where if~~ any of ~~those provinces~~ them requests that the agreement be made in English and French; and
- (c) agreements entered into with two or more provinces or territories ~~where-if~~ their governments ~~of those provinces~~ do not use the same official language.

Regulations

(3) The Governor in Council may make regulations prescribing the circumstances in which any class, specified in the regulations, of agreements that are made between Canada and one or more other states or between Canada and one or more provinces or territories

- (a) must be made in both official languages;
- (b) must be made available in both official languages at the time of signing or publication; or
- (c) must, on request, be translated.

Notices, advertisements and other published matters

11 (1) A notice, advertisement or other matter that is required or authorized by or ~~pursuant to-under~~ an Act of Parliament to be published by or under the authority of a federal institution primarily for the information of members of the public shall,

- (a) wherever possible, ~~be printed-appear~~ in one of the official languages ~~in at least one publication~~ in general circulation within each region where the matter applies ~~that appears wholly or mainly in that language and the in the~~

ou les deux versions dans au moins une publication d'expression également française et anglaise. En l'absence de telles publications, ils doivent ~~paraître figurer~~ dans les deux langues officielles dans au moins une publication qui est largement diffusée dans la région.

~~other official language, with the English version appearing in at least one publication in general circulation within each region where the matter applies that appears wholly or mainly in that other language that is mainly in English and the French version appearing in at least one publication that is mainly in French or those two versions appearing in at least one publication that appears equally in English and French;~~ and

~~(b) where~~ If there is no publication in general circulation within a region where the matter applies that ~~appears wholly or is~~ mainly in English or ~~no such publication that appears wholly or~~ mainly in French, ~~be printed and no publication in general circulation within that region that appears equally in English and French, appear~~ in both official languages in at least one publication in general circulation within that region.

Publications sur support électronique

(1.1) Il est entendu que les publications visées au paragraphe (1) comprennent toute publication sur support électronique.

Publications in electronic form

(1.1) For greater certainty, a publication referred to in subsection (1) includes a publication in an electronic form.

Importance

(2) Il est donné dans ces textes égale importance aux deux langues officielles.

Equal prominence

(2) Where a notice, advertisement or other matter is printed in one or more publications pursuant to subsection (1), it shall be given equal prominence in each official language.

Actes destinés au public

12 Les actes qui s'adressent au public et qui sont censés émaner d'une institution fédérale sont établis ou délivrés dans les deux langues officielles.

Instruments directed to the public

12 All instruments directed to or intended for the notice of the public, purporting to be made or issued by or under the authority of a federal institution, shall be made or issued in both official languages.

Valeur des deux versions

13 Tous les textes qui sont établis, imprimés, publiés ou déposés sous le régime de la présente partie dans les deux langues officielles le sont simultanément, les deux versions ayant également force de loi ou même valeur.

Both versions simultaneous and equally authoritative

13 Any journal, record, Act of Parliament, instrument, document, rule, order, regulation, treaty, convention, agreement, notice, advertisement or other matter referred to in this Part that is made, enacted, printed, published or tabled in both official languages shall be made, enacted, printed, published or tabled

simultaneously in both languages, and both language versions are equally authoritative.

PARTIE III

Administration de la justice

Langues officielles des tribunaux fédéraux

14 Le français et l'anglais sont les langues officielles des tribunaux fédéraux; chacun a le droit d'employer l'une ou l'autre dans toutes les affaires dont ils sont saisis et dans les actes de procédure qui en découlent.

Droits des témoins

15 (1) Il incombe aux tribunaux fédéraux de veiller à ce que tout témoin qui comparait devant eux puisse être entendu dans la langue officielle de son choix sans subir de préjudice du fait qu'il ne s'exprime pas dans l'autre langue officielle.

Services d'interprétation : obligation

(2) Il leur incombe également de veiller, sur demande d'une partie, à ce que soient offerts, notamment pour l'audition des témoins, des services d'interprétation simultanée d'une langue officielle à l'autre langue.

Services d'interprétation : faculté

(3) Ils peuvent faire aussi ordonner que soient offerts, notamment pour l'audition des témoins, des services d'interprétation simultanée d'une langue officielle à l'autre s'ils estiment que l'affaire présente de l'intérêt ou de l'importance pour le public ou qu'il est souhaitable de le faire pour l'auditoire.

PART III

Administration of justice

Official languages of federal courts

14 English and French are the official languages of the federal courts, and either of those languages may be used by any person in, or in any pleading in or process issuing from, any federal court.

Hearing of witnesses in official language of choice

15 (1) Every federal court has, in any proceedings before it, the duty to ensure that any person giving evidence before it may be heard in the official language of his choice, and that in being so heard the person will not be placed at a disadvantage by not being heard in the other official language.

Duty to provide simultaneous interpretation

(2) Every federal court has, in any proceedings conducted before it, the duty to ensure that, at the request of any party to the proceedings, facilities are made available for the simultaneous interpretation of the proceedings, including the evidence given and taken, from one official language into the other.

Federal court may provide simultaneous interpretation

(3) A federal court may, in any proceedings conducted before it, cause facilities to be made available for the simultaneous interpretation of the proceedings, including evidence given and taken, from one official language into the other where it considers the proceedings to be of general public interest or importance or where it otherwise considers it desirable to do so for members of the public in attendance at the proceedings.

Obligation relative à la compréhension des langues officielles

16 (1) Il incombe aux tribunaux fédéraux ~~autres que la Cour suprême du Canada~~ de veiller à ce que celui qui entend l'affaire :

- a) comprenne l'anglais sans l'aide d'un interprète lorsque les parties ont opté pour que l'affaire ait lieu en anglais;
- b) comprenne le français sans l'aide d'un interprète lorsque les parties ont opté pour que l'affaire ait lieu en français;
- c) comprenne l'anglais et le français sans l'aide d'un interprète lorsque les parties ont opté pour que l'affaire ait lieu dans les deux langues.

Fonctions judiciaires

(2) Il demeure entendu que le paragraphe (1) ne s'applique aux tribunaux fédéraux que dans le cadre de leurs fonctions judiciaires.

Mise en œuvre progressive

(3) ~~[Abrogé, 2022, ch. 13, art. 11(2)] Les tribunaux fédéraux autres que la Cour d'appel fédérale, la Cour fédérale et la Cour canadienne de l'impôt disposent toutefois, pour se conformer au paragraphe (1), d'un délai de cinq ans après son entrée en vigueur.~~

Obligation du gouvernement fédéral

(4) Il incombe au gouvernement fédéral de veiller, dans le cadre des nominations à la magistrature qui relèvent de sa compétence, à ce que les tribunaux fédéraux soient en mesure de s'acquitter de leur obligation aux termes du paragraphe (1).

Obligation relative à la compréhension des langues officielles

16 (1) Every federal court, ~~other than the Supreme Court of Canada~~, has the duty to ensure that

- (a) if English is the language chosen by the parties for proceedings conducted before it in any particular case, every judge or other officer who hears those proceedings is able to understand English without the assistance of an interpreter;
- (b) if French is the language chosen by the parties for proceedings conducted before it in any particular case, every judge or other officer who hears those proceedings is able to understand French without the assistance of an interpreter; and
- (c) if both English and French are the languages chosen by the parties for proceedings conducted before it in any particular case, every judge or other officer who hears those proceedings is able to understand both languages without the assistance of an interpreter.

Adjudicative functions

(2) For greater certainty, subsection (1) applies to a federal court only in relation to its adjudicative functions.

Limitation

(3) ~~[Repealed, 2022, c. 13, s. 11(2)] No federal court, other than the Federal Court of Appeal, the Federal Court or the Tax Court of Canada, is required to comply with subsection (1) until five years after that subsection comes into force.~~

Duty of the Government of Canada

(4) The Government of Canada must take the duty established in subsection (1) into account when making appointments to the federal judiciary.

Nomination des juges des cours supérieures

16.1 Le gouvernement fédéral tient compte de l'importance de l'accès égal à la justice dans les deux langues officielles au moment de nommer les juges des cours supérieures.

Indication des compétences linguistiques

16.2 (1) Lors de la soumission de leur candidature en vue d'une nomination à la magistrature, les personnes indiquent leur niveau de compétence dans les deux langues officielles.

Évaluation des compétences linguistiques

(2) Le Bureau du commissaire à la magistrature fédérale évalue la capacité de parler et de comprendre clairement les deux langues officielles de toute personne qui indique dans sa candidature posséder des compétences dans les deux langues officielles.

Formation linguistique

16.3 Le Bureau du commissaire à la magistrature fédérale offre la formation linguistique nécessaire aux juges nommés par le gouvernement fédéral.

Appointment of Superior Court judges

16.1 The Government of Canada shall take into account the importance of equal access to justice in both official languages when appointing judges to Superior Courts.

Indication of language skills

16.2 (1) When a person submits their candidacy for appointment to the judiciary, the person must indicate their skill level in both official languages.

Evaluation of the language skills

(2) The Office of the Commissioner for Federal Judicial Affairs shall evaluate, in respect of every person who indicated in their candidacy submission that they have skills in both official languages, the person's ability to speak and understand clearly both official languages.

Language training

16.3 The Office of the Commissioner for Federal Judicial Affairs shall provide the necessary language training to judges appointed by the Government of Canada.

Pouvoir d'établir des règles de procédure

17 (1) Le gouverneur en conseil peut établir, sauf pour la Cour suprême du Canada, la Cour d'appel fédérale, la Cour fédérale et la Cour canadienne de l'impôt, les règles de procédure judiciaire, y compris en matière de notification, qu'il estime nécessaires pour permettre aux tribunaux fédéraux de se conformer aux articles 15 et 16.

Cour suprême, Cour d'appel fédérale, Cour fédérale, Cour canadienne de l'impôt

(2) La Cour suprême du Canada, la Cour d'appel fédérale, la Cour fédérale et la Cour canadienne de l'impôt peuvent exercer, pour leur propre fonctionnement, le pouvoir visé au paragraphe (1), sous réserve de l'agrément du gouverneur en conseil.

Authority to make implementing rules

17 (1) The Governor in Council may make any rules governing the procedure in proceedings before any federal court, other than the Supreme Court of Canada, the Federal Court of Appeal, the Federal Court or the Tax Court of Canada, including rules respecting the giving of notice, that the Governor in Council deems necessary to enable that federal court to comply with sections 15 and 16 in the exercise of any of its powers or duties.

Supreme Court, Federal Court of Appeal, Federal Court and Tax Court of Canada

(2) Subject to the approval of the Governor in Council, the Supreme Court of Canada, the Federal Court of Appeal, the Federal Court and the Tax Court of Canada may make any rules governing the procedure in their own proceedings, including rules respecting the giving of notice, that they deem necessary to enable themselves to comply with

sections 15 and 16 in the exercise of any of their powers or duties.

Cas où Sa Majesté est partie à l'affaire

18 Dans une affaire civile à laquelle elle est partie devant un tribunal fédéral, Sa Majesté du chef du Canada ou une institution fédérale utilise, pour les plaidoiries ou les actes de la procédure, la langue officielle choisie par les autres parties à moins qu'elle n'établisse le caractère abusif du délai de l'avis l'informant de ce choix. Faute de choix ou d'accord entre les autres parties, elle utilise la langue officielle la plus justifiée dans les circonstances.

Actes judiciaires

19 (1) L'imprimé des actes judiciaires des tribunaux fédéraux que doivent signifier les institutions fédérales est établi dans les deux langues officielles.

Compléments d'information

(2) Ces actes peuvent être remplis dans une seule des langues officielles pourvu qu'il y soit clairement indiqué que la traduction peut être obtenue sur demande; celle-ci doit dès lors être établie sans délai par l'auteur de la signification.

Décisions de justice importantes

20 (1) Les décisions définitives — exposé des motifs compris — des tribunaux fédéraux sont simultanément mises à la disposition du public dans les deux langues officielles :

a) si le point de droit en litige présente de l'intérêt ou de l'importance pour celui-ci;

Language of civil proceedings where Her Majesty is a party

18 Where Her Majesty in right of Canada or a federal institution is a party to civil proceedings before a federal court,

(a) Her Majesty or the institution concerned shall use, in any oral or written pleadings in the proceedings, the official language chosen by the other parties unless it is established by Her Majesty or the institution that reasonable notice of the language chosen has not been given; and

(b) if the other parties fail to choose or agree on the official language to be used in those pleadings, Her Majesty or the institution concerned shall use such official language as is reasonable, having regard to the circumstances.

Bilingual forms

19 (1) The pre-printed portion of any form that is used in proceedings before a federal court and is required to be served by any federal institution that is a party to the proceedings on any other party shall be in both official languages.

Particular details

(2) The particular details that are added to a form referred to in subsection (1) may be set out in either official language but, where the details are set out in only one official language, it shall be clearly indicated on the form that a translation of the details into the other official language may be obtained, and, if a request for a translation is made, a translation shall be made available forthwith by the party that served the form.

Decisions, orders and judgments that must be made available simultaneously

20 (1) Any final decision, order or judgment, including any reasons given therefor, issued by any federal court shall be made available simultaneously in both official languages where

(a) the decision, order or judgment determines a question of law of general public interest or importance; ~~or~~

a.1) si elles ont valeur de précédent;

b) lorsque les débats se sont déroulés, en tout ou en partie, dans les deux langues officielles, ou que les actes de procédure ont été, en tout ou en partie, rédigés dans les deux langues officielles.

Autres décisions

(2) Dans les cas non visés par le paragraphe (1) ou si le tribunal estime que l'établissement au titre des ~~l~~alinéas (1)a) ou a.1) d'une version bilingue entraînerait un retard qui serait préjudiciable à l'intérêt public ou qui causerait une injustice ou un inconvénient grave à une des parties au litige, la décision — exposé des motifs compris — est rendue d'abord dans l'une des langues officielles, puis dans les meilleurs délais dans l'autre langue officielle. Elle est exécutoire à la date de prise d'effet de la première version.

Décisions orales

(3) Les paragraphes (1) et (2) n'ont pas pour effet d'interdire le prononcé, dans une seule langue officielle, d'une décision de justice ou de l'exposé des motifs.

(a.1) the decision, order or judgment has precedential value; or

(b) the proceedings leading to its issuance were conducted in whole or in part in both official languages.

Other decisions, order and judgments

(2) ~~Where~~ A decision, order or judgment issued by the federal court, including any reasons given for it, shall be issued first in one of the official languages and then, at the earliest possible time, in the other official language, with each version to be effective from the time the first version is effective, if

(a) ~~any~~ it is a final decision, order or judgment ~~issued by a federal court that~~ is not required ~~by~~ under subsection (1) to be made available simultaneously in both official languages, or

(b) the decision, order or judgment is required ~~by paragraph (1)(a)~~ to be made available simultaneously in both official languages under paragraph (1)(a) or (a.1) but the court is of the opinion that to make the decision, order or judgment, including any reasons given ~~therefor~~ for it, available simultaneously in both official languages would occasion a delay prejudicial to the public interest or resulting in injustice or hardship to any party to the proceedings leading to its issuance.

~~the decision, order or judgment, including any reasons given therefor, shall be issued in the first instance in one of the official languages and thereafter, at the earliest possible time, in the other official language, each version to be effective from the time the first version is effective.~~

Oral rendition of decisions not affected

(3) Nothing in subsection (1) or (2) shall be construed as prohibiting the oral rendition or delivery, in only one of the official languages, of any decision, order or judgment or any reasons given therefor.

Précision

(4) Les décisions de justice rendues dans une seule des langues officielles ne sont pas invalides pour autant.

Decisions not invalidated

(4) No decision, order or judgment issued by a federal court is invalid by reason only that it was not made or issued in both official languages.

PARTIE IV

Communications avec le public et prestation des services

Communications et services

Droits en matière de communication

21 Le public a, au Canada, le droit de communiquer avec les institutions fédérales et d'en recevoir les services conformément à la présente partie.

Langues des communications et services

22 Il incombe aux institutions fédérales de veiller à ce que le public puisse communiquer avec leur siège ou leur administration centrale, et en recevoir les services, dans l'une ou l'autre des langues officielles. Cette obligation vaut également pour leurs bureaux — auxquels sont assimilés, pour l'application de la présente partie, tous autres lieux où ces institutions offrent des services — situés soit dans la région de la capitale nationale, soit là où, au Canada comme à l'étranger, l'emploi de cette langue fait l'objet d'une demande importante.

Voyageurs

23 (1) Il est entendu qu'il incombe aux institutions fédérales offrant des services aux voyageurs de veiller à ce que ceux-ci puissent, dans l'une ou l'autre des langues officielles, communiquer avec leurs bureaux et en recevoir les services, là où, au

PART IV

Communications with and Services to the Public

Communications and Services

Rights relating to language of communication

21 Any member of the public in Canada has the right to communicate with and to receive available services from federal institutions in accordance with this Part.

Where communications and services must be in both official languages

22 Every federal institution has the duty to ensure that any member of the public can communicate with and obtain available services from its head or central office in either official language, and has the same duty with respect to any of its other offices or facilities

(a) within the National Capital Region; or

(b) in Canada or elsewhere, where there is significant demand for communications with and services from that office or facility in that language.

Travelling public

23 (1) For greater certainty, every federal institution that provides services or makes them available to the travelling public has the duty to ensure that any member of the travelling public can communicate with and obtain those services in either official language from any office or facility of

Canada comme à l'étranger, l'emploi de cette langue fait l'objet d'une demande importante.

the institution in Canada or elsewhere where there is significant demand for those services in that language.

Services conventionnés

(2) Il incombe aux institutions fédérales de veiller à ce que, dans les bureaux visés au paragraphe (1), les services réglementaires offerts aux voyageurs par des tiers conventionnés par elles à cette fin le soient, dans les deux langues officielles, selon les modalités réglementaires.

Services provided pursuant to a contract

(2) Every federal institution has the duty to ensure that such services to the travelling public as may be prescribed by regulation of the Governor in Council that are provided or made available by another person or organization pursuant to a contract with the federal institution for the provision of those services at an office or facility referred to in subsection (1) are provided or made available, in both official languages, in the manner prescribed by regulation of the Governor in Council.

Vocation du bureau

24 (1) Il incombe aux institutions fédérales de veiller à ce que le public puisse communiquer avec leurs bureaux, tant au Canada qu'à l'étranger, et en recevoir les services dans l'une ou l'autre des langues officielles :

a) soit dans les cas, fixés par règlement, touchant à la santé ou à la sécurité du public ainsi qu'à l'emplacement des bureaux, ou liés au caractère national ou international de leur mandat;

b) soit en toute autre circonstance déterminée par règlement, si la vocation des bureaux justifie l'emploi des deux langues officielles.

Nature of the office

24 (1) Every federal institution has the duty to ensure that any member of the public can communicate in either official language with, and obtain available services in either official language from, any of its offices or facilities in Canada or elsewhere

(a) in any circumstances prescribed by regulation of the Governor in Council that relate to any of the following:

(i) the health, safety or security of members of the public,

(ii) the location of the office or facility, or

(iii) the national or international mandate of the office; or

(b) soit en toute autre circonstance déterminée par règlement, si la vocation des bureaux justifie l'emploi des deux langues officielles.

Institutions relevant directement du Parlement

(2) Il incombe aux institutions fédérales tenues de rendre directement compte au Parlement de leurs activités de veiller à ce que le public puisse communiquer avec leurs bureaux, tant au Canada qu'à l'étranger, et en recevoir les services dans l'une ou l'autre des langues officielles.

Institutions reporting directly to Parliament

(2) Any federal institution that reports directly to Parliament on any of its activities has the duty to ensure that any member of the public can communicate with and obtain available services from all of its offices or facilities in Canada or elsewhere in either official language.

Précision

(3) Cette obligation vise notamment :

- a) le commissariat aux langues officielles;
- b) le bureau du directeur général des élections;
- b.1) le commissariat à l'intégrité du secteur public;
- c) le bureau du vérificateur général;
- d) le commissariat à l'information;
- e) le commissariat à la protection de la vie privée;
- f) le Commissariat au lobbying.

Idem

(3) Without restricting the generality of subsection (2), the duty set out in that subsection applies in respect of

- (a) the Office of the Commissioner of Official Languages;
- (b) the Office of the Chief Electoral Officer;
- (b.1) the Office of the Public Sector Integrity Commissioner;
- (c) the Office of the Auditor General;
- (d) the Office of the Information Commissioner;
- (e) the Office of the Privacy Commissioner; and
- (f) the Office of the Commissioner of Lobbying.

Services fournis par des tiers

Services Provided on behalf of Federal Institutions

Fourniture dans les deux langues

25 Il incombe aux institutions fédérales de veiller à ce que, tant au Canada qu'à l'étranger, les services offerts au public par des tiers pour leur compte le soient, et à ce qu'il puisse communiquer avec ceux-ci, dans l'une ou l'autre des langues officielles dans le cas où, offrant elles-mêmes les services, elles seraient tenues, au titre de la présente partie, à une telle obligation.

Where services provided on behalf of federal institutions

25 Every federal institution has the duty to ensure that, where services are provided or made available by another person or organization on its behalf, any member of the public in Canada or elsewhere can communicate with and obtain those services from that person or organization in either official language in any case where those services, if provided by the institution, would be required under this Part to be provided in either official language.

Fourniture dans les deux langues

25 (1) Il incombe aux institutions fédérales de veiller à ce que, tant au Canada qu'à l'étranger, les services offerts au public par des tiers pour leur compte le soient, et à ce qu'il puisse communiquer avec ceux-ci, dans l'une ou l'autre des langues officielles dans le cas où, offrant elles-mêmes les services, elles seraient tenues, au titre de la présente partie, à une telle obligation.

Where services provided on behalf of federal institutions

25 (1) Every federal institution has the duty to ensure that, where services are provided or made available by another person or organization on its behalf, any member of the public in Canada or elsewhere can communicate with and obtain those services from that person or organization in either official language in any case where those services, if provided by the institution, would be required

under this Part to be provided in either official language.

Présomption

(2) Pour l'application du paragraphe (1), un tiers est réputé agir pour le compte d'une institution fédérale si, selon le cas,

a) L'institution fédérale exerce un degré de contrôle suffisant sur lui;

b) dans le cadre de l'une de ses activités, il met en œuvre une politique, un programme ou un régime législatif déterminé de l'institution fédérale.

Provinces et territoires

(3) Est présumé être un tiers agissant pour le compte d'une institution fédérale aux termes du paragraphe (1) la province ou le territoire qui agit en vertu d'un accord avec le gouvernement fédéral prévoyant un transfert de fonds.

Deeming

(2) For the purpose of subsection (1), a person or organization is considered to act on behalf of a federal institution if

(a) the institution exercises a sufficient degree of control over the person or organization; or

(b) the person or organization implements a specific policy, program or statutory scheme of the institution through one of its activities.

Provinces and territories

(3) A province or territory acting under an agreement with the federal government that provides for a transfer of funds is deemed to be acting on behalf of a federal institution under subsection (1).

Pouvoir réglementaire en
matière de santé ou de
sécurité publiques

Regulatory Activities of Federal
Institutions

Réglementation en matière de santé et de sécurité publiques

26 Il incombe aux institutions fédérales qui réglementent les activités de tiers exercées en matière de santé ou de sécurité du public de veiller, si les circonstances le justifient, à ce que celui-ci puisse, grâce à cette réglementation, communiquer avec eux et en recevoir les services, en cette matière, dans les deux langues officielles.

Regulatory activities relating to health, safety and security of public

26 Every federal institution that regulates persons or organizations with respect to any of their activities that relate to the health, safety or security of members of the public has the duty to ensure, through its regulation of those persons or organizations, wherever it is reasonable to do so in the circumstances, that members of the public can communicate with and obtain available services from those persons or organizations in relation to those activities in both official languages.

Dispositions générales

General

Obligation : communications et services

27 L'obligation que la présente partie impose en matière de communications et services dans les deux langues officielles à cet égard vaut également, tant sur le plan de l'écrit que de l'oral, pour tout ce qui s'y rattache.

Offre active

28 Lorsqu'elles sont tenues, sous le régime de la présente partie, de veiller à ce que le public puisse communiquer avec leurs bureaux ou recevoir les services de ceux-ci ou de tiers pour leur compte, dans l'une ou l'autre langue officielle, il incombe aux institutions fédérales de veiller également à ce que les mesures voulues soient prises pour informer le public, notamment par entrée en communication avec lui ou encore par signalisation, avis ou documentation sur les services, que ceux-ci lui sont offerts dans l'une ou l'autre langue officielle, au choix.

Signalisation

29 Tous les panneaux et enseignes signalant les bureaux d'une institution fédérale doivent être dans les deux langues officielles, ou placés ensemble de façon que les textes de chaque langue soient également en évidence.

Mode de communication

30 Sous réserve de la partie II, les institutions fédérales qui, sous le régime de la présente partie, communiquent avec le public dans les deux langues officielles sont tenues d'utiliser les médias qui leur permettent d'assurer, en conformité avec les objectifs de la présente loi, une communication efficace avec chacun dans la langue officielle de son choix.

Obligations relating to communications and services

27 Wherever in this Part there is a duty in respect of communications and services in both official languages, the duty applies in respect of oral and written communications and in respect of any documents or activities that relate to those communications or services.

Active offre

28 Every federal institution that is required under this Part to ensure that any member of the public can communicate with and obtain available services from an office or facility of that institution, or of another person or organization on behalf of that institution, in either official language shall ensure that appropriate measures are taken, including the provision of signs, notices and other information on services and the initiation of communication with the public, to make it known to members of the public that those services are available in either official language at the choice of any member of the public.

Signs identifying offices

29 Where a federal institution identifies any of its offices or facilities with signs, each sign shall include both official languages or be placed together with a similar sign of equal prominence in the other official language.

Manner of communicating

30 Subject to Part II, where a federal institution is engaged in communications with members of the public in both official languages as required in this Part, it shall communicate by using such media of communication as will reach members of the public in the official language of their choice in an effective and efficient manner that is consistent with the purposes of this Act.

Incompatibilité

31 Les dispositions de la présente partie l'emportent sur les dispositions incompatibles de la partie V.

Relationship to Part V

31 In the event of any inconsistency between this Part and Part V, this Part prevails to the extent of the inconsistency.

Règlements

Règlements

32 (1) Le gouverneur en conseil peut, par règlement :

- a)** déterminer, pour l'application de l'article 22 ou du paragraphe 23(1), les circonstances dans lesquelles il y a demande importante;
- b)** en cas de silence de la présente partie, déterminer les circonstances dans lesquelles il incombe aux institutions fédérales de veiller à ce que le public puisse communiquer avec leurs bureaux, ou recevoir les services de ceux-ci, dans l'une ou l'autre langue officielle;
- c)** déterminer les services visés au paragraphe 23(2) et les modalités de leur fourniture;
- d)** déterminer pour le public et les voyageurs les cas visés à l'alinéa 24(1)a) et les circonstances visées à l'alinéa 24(1)b);
- e)** définir « population de la minorité francophone ou anglophone » pour l'application de l'alinéa (2)a).

Critères

(2) Le gouverneur en conseil peut, pour déterminer les circonstances visées aux alinéas (1)a) ou b), tenir compte :

- a)** de la population de la minorité francophone ou anglophone de la région desservie, de la spécificité de cette minorité et de la proportion que celle-ci représente par rapport à la population totale de cette région;
- b)** du volume des communications ou des services assurés entre un bureau et les utilisateurs de l'une ou l'autre langue officielle;

Regulations

Regulations

32 (1) The Governor in Council may make regulations

- (a)** prescribing the circumstances in which there is significant demand for the purpose of paragraph 22(b) or subsection 23(1);
- (b)** prescribing circumstances not otherwise provided for under this Part in which federal institutions have the duty to ensure that any member of the public can communicate with and obtain available services from offices of the institution in either official language;
- (c)** prescribing services, and the manner in which those services are to be provided or made available, for the purpose of subsection 23(2);
- (d)** prescribing circumstances, in relation to the public or the travelling public, for the purpose of paragraph 24(1)(a) or (b); and
- (e)** defining the expression "English or French linguistic minority population" for the purpose of paragraph (2)(a).

Where circumstances prescribed under paragraph (1)(a) or (b)

(2) In prescribing circumstances under paragraph (1)(a) or (b), the Governor in Council may have regard to

- (a)** the number of persons composing the English or French linguistic minority population of the area served by an office or facility, the particular characteristics of that population and the proportion of that population to the total population of that area;
- (b)** the volume of communications or services between an office or facility and members of the public using each official language; and

c) de tout autre critère qu'il juge indiqué.

(c) any other factors that the Governor in Council considers appropriate.

Règlements

33 Le gouverneur en conseil peut, par règlement, prendre les mesures d'incitation qu'il estime nécessaires pour ~~que soient effectivement assurés dans les deux langues officielles~~ favoriser activement les communications ~~et les services que sont tenues de pourvoir dans ces deux langues, au titre de la présente partie,~~ avec les institutions fédérales — autres que le Sénat, la Chambre des communes, la bibliothèque du Parlement, le bureau du conseiller sénatorial en éthique, le bureau du commissaire aux conflits d'intérêts et à l'éthique, le Service de protection parlementaire ou le bureau du directeur parlementaire du budget — et la prestation par elles de services dans les deux langues officielles, si elles sont tenues de pourvoir ces communications et services dans ces deux langues au titre de la présente partie.

Regulations

33 The Governor in Council may make any regulations that the Governor in Council considers necessary to foster actively communications with and services from offices or facilities of federal institutions — other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service or office of the Parliamentary Budget Officer — in both official languages, if those communications and services are required under this Part to be provided in both official languages.

PARTIE V

Langue de travail

Droits en matière de langue de travail

34 Le français et l'anglais sont les langues de travail des institutions fédérales. Leurs ~~agents~~ employés ont donc le droit d'utiliser, conformément à la présente partie, l'une ou l'autre.

Obligations des institutions fédérales

35 (1) Il incombe aux institutions fédérales de veiller à ce que :

a) dans la région de la capitale nationale et dans les régions ou secteurs du Canada ou lieux à l'étranger désignés, leur milieu de travail soit propice à l'usage effectif des deux langues officielles tout en permettant à leurs ~~personnel~~ employés d'utiliser l'une ou l'autre;

b) ailleurs au Canada, la situation des deux langues officielles en milieu de travail soit

PART V

Language of Work

Rights relating to language of work

34 English and French are the languages of work in all federal institutions, and ~~officers and~~ employees of all federal institutions have the right to use either official language in accordance with this Part.

Duties of government

35 (1) Every federal institution has the duty to ensure that

(a) within the National Capital Region and in any part or region of Canada, or in any place outside Canada, that is prescribed, work environments of the institution are conducive to the effective use of both official languages and accommodate the use of either official language by its ~~officers and~~ employees; and

(b) in all parts or regions of Canada not prescribed for the purpose of paragraph (a), the treatment of both official languages in the work

comparable entre les régions ou secteurs où l'une ou l'autre prédomine.

environments of the institution in parts or regions of Canada where one official language predominates is reasonably comparable to the treatment of both official languages in the work environments of the institution in parts or regions of Canada where the other official language predominates.

Régions désignées du Canada

(2) Les régions du Canada énumérées dans la circulaire n° 1977-46 du Conseil du Trésor et de la Commission de la fonction publique du 30 septembre 1977, à l'annexe B de la partie intitulée « Les langues officielles dans la Fonction publique du Canada : Déclaration de politiques », sont des régions désignées aux fins de l'alinéa (1)a).

Regions of Canada prescribed

(2) The regions of Canada set out in Annex B of the part of the Treasury Board and Public Service Commission Circular No. 1977-46 of September 30, 1977 that is entitled "Official Languages in the Public Service of Canada: A Statement of Policies" are prescribed for the purpose of paragraph (1)(a).

Obligations minimales dans les régions désignées

36 (1) Il incombe aux institutions fédérales, dans la région de la capitale nationale et dans les régions, secteurs ou lieux désignés au titre de l'alinéa 35(1)a) :

Minimum duties in relation to prescribed regions

36 (1) Every federal institution has the duty, within the National Capital Region and in any part or region of Canada, or in any place outside Canada, that is prescribed for the purpose of paragraph 35(1)(a), to

a) de fournir à leurs ~~personnel~~ employés, dans les deux langues officielles, tant les services qui ~~lui~~ leur sont destinés, notamment à titre individuel ou à titre de services auxiliaires centraux, que la documentation et les ~~matériel~~ autres instruments de travail d'usage courant et généralisé produits par elles-mêmes ou pour leur compte;

(a) make available in both official languages to ~~officers and~~ employees of the institution

(i) services that are provided to ~~officers and~~ employees, including services that are provided to them as individuals and services that are centrally provided by the institution to support them in the performance of their duties, and

(ii) regularly and widely used documentation or other work instruments produced by or on behalf of that or any other federal institution;

b) de veiller à ce que les systèmes informatiques d'usage courant et généralisé et acquis ou produits par elles à compter du 1^{er} janvier 1991 puissent être utilisés dans l'une ou l'autre des langues officielles;

(b) ensure that regularly and widely used ~~automated computer~~ systems ~~for the processing and communication of data~~ acquired or produced by the institution on or after January 1, 1991 can be used in either official language; and

c) de veiller à ce que, là où il est indiqué de le faire pour que le milieu de travail soit propice à l'usage effectif des deux langues officielles, les ~~supérieurs~~ gestionnaires et les superviseurs soient aptes à communiquer avec leurs ~~subordonnés~~ les employés dans celles-ci lorsqu'ils exercent leurs attributions à titre de

(c) ensure that

(i) ~~where if~~ it is appropriate or necessary in order to create a work environment that is conducive to the effective use of both official languages, managers and supervisors are able to communicate in both official

gestionnaires ou de superviseurs et à ce que la haute direction soit en mesure de fonctionner dans ces deux langues.

languages with ~~officers and~~ employees of the institution in carrying out their managerial or supervisory responsibilities, and

(ii) any management group that is responsible for the general direction of the institution as a whole has the capacity to function in both official languages.

Autres obligations

(2) Il leur incombe également de veiller à ce que soient prises, dans les régions, secteurs ou lieux visés au paragraphe (1), toutes autres mesures possibles permettant de créer et de maintenir en leur sein un milieu de travail propice à l'usage effectif des deux langues officielles et qui permette à leurs ~~personnel employés~~ d'utiliser l'une ou l'autre.

Additional duties ~~in prescribed regions~~

(2) Every federal institution has the duty to ensure that, within the National Capital Region and in any part or region of Canada, or in any place outside Canada, that is prescribed for the purpose of paragraph 35(1)(a), ~~such the measures that are taken in addition to those required under subsection (1) as~~ can reasonably be taken in addition to those required under subsection (1) to establish and maintain work environments of the institution that are conducive to the effective use of both official languages and accommodate the use of either official language by its ~~officers and~~ employees.

Obligations particulières

37 Il incombe aux institutions fédérales centrales de veiller à ce que l'exercice de leurs attributions respecte, dans le cadre de leurs relations avec les autres institutions fédérales sur lesquelles elles ont autorité ou qu'elles desservent, l'usage des deux langues officielles fait par les ~~personnel employés~~ de celles-ci.

Special duties ~~for institutions directing or providing services to others~~

37 Every federal institution that has authority to direct, or provides services to, other federal institutions has the duty to ensure that it exercises its powers and carries out its duties in relation to those other institutions in a manner that accommodates the use of either official language by ~~officers and~~ employees of those institutions.

Règlements

38 (1) Le gouverneur en conseil peut, par règlement visant les institutions fédérales autres que le Sénat, la Chambre des communes, la bibliothèque du Parlement, le bureau du conseiller sénatorial en éthique, le bureau du commissaire aux conflits d'intérêts et à l'éthique, le Service de protection parlementaire ou le bureau du directeur parlementaire du budget :

a) déterminer, pour tout secteur ou région du Canada, ou lieu à l'étranger, les services, la documentation et les ~~matériel autres instruments de travail~~ qu'elles doivent offrir à leurs ~~personnel employés~~ dans les deux langues officielles, les systèmes informatiques qui doivent pouvoir être utilisés dans ces deux langues, ainsi que les activités — de gestion ou

Regulations

38 (1) The Governor in Council may make regulations in respect of federal institutions, other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service or office of the Parliamentary Budget Officer,

(a) prescribing, in respect of any part or region of Canada or any place outside Canada,

(i) any services, documentation or other work instruments that ~~are to be made available by~~ those institutions are to make available to their employees in both official

de ~~surveillance~~ supervision — à exécuter dans ces deux langues;

b) prendre toute autre mesure visant à créer et à maintenir, dans la région de la capitale nationale et dans les régions ou secteurs du Canada, ou lieux à l'étranger, désignés pour l'application de l'alinéa 35(1)a), un milieu de travail propice à l'usage effectif des deux langues officielles et à permettre à leurs ~~personnel~~ employés d'utiliser l'une ou l'autre;

c) déterminer la ou les langues officielles à utiliser dans leurs communications avec ceux de leurs bureaux situés dans les régions ou secteurs du Canada, ou lieux à l'étranger, qui y sont mentionnés;

d) fixer les modalités d'exécution des obligations que la présente partie ou ses règlements leur imposent;

e) fixer les obligations, en matière de langues officielles, qui leur incombent à l'égard de ceux de leurs bureaux situés dans les secteurs ou régions non désignés par règlement pris au titre de l'alinéa 35(1)a), compte tenu de l'égalité de statut des deux langues officielles.

Idem

(2) Le gouverneur en conseil peut, par règlement :

a) inscrire ou radier l'une ou l'autre des régions du Canada désignées conformément au paragraphe 35(2) ou désigner, pour l'application de l'alinéa 35(1)a), tous secteurs ou régions du Canada ou lieux à l'étranger, compte tenu :

(i) du nombre et de la proportion d'~~agents~~ employés francophones et anglophones qui

languages ~~to officers or employees of those institutions,~~

(ii) any ~~automated~~ computer systems ~~for the processing and communication of data~~ that must be available for use in both official languages, and

(iii) any supervisory or ~~management functions~~ managerial responsibilities that are to be carried out by those institutions in both official languages;

(b) prescribing any other measures that are to be taken, within the National Capital Region and in any part or region of Canada, or in any place outside Canada, that is prescribed for the purpose of paragraph 35(1)(a), to establish and maintain work environments of those institutions that are conducive to the effective use of both official languages and accommodate the use of either official language by their ~~officers and~~ employees;

(c) requiring that either or both official languages be used in communications with offices of those institutions that are located in any part or region of Canada, or any place outside Canada, specified in the regulations;

(d) prescribing the manner in which any duties of those institutions under this Part or the regulations made under this Part in relation to the use of both official languages are to be carried out; and

(e) prescribing obligations of those institutions in relation to the use of the official languages of Canada by the institutions in respect of offices in parts or regions of Canada not prescribed for the purpose of paragraph 35(1)(a), having regard to the equality of status of both official languages.

Idem

(2) The Governor in Council may make regulations

(a) adding to or deleting from the regions of Canada prescribed by subsection 35(2) or prescribing any other part or region of Canada, or any place outside Canada, for the purpose of paragraph 35(1)(a), having regard to

(i) the number and proportion of English-speaking and French-speaking ~~officers and~~

travaillent dans les institutions fédérales des secteurs, régions ou lieux désignés,

(ii) du nombre et de la proportion de francophones et d'anglophones qui résident dans ces secteurs ou régions,

(iii) de tout autre critère qu'il juge indiqué;

b) en cas de conflit — dont la réalité puisse se démontrer — entre l'une des obligations prévues par l'article 36 ou les règlements d'application du paragraphe (1) et le mandat d'une des institutions fédérales, y substituer, compte tenu de l'égalité de statut des deux langues officielles, une autre obligation touchant leur utilisation.

employees who constitute the work force of federal institutions based in the parts, regions or places prescribed,

(ii) the number and proportion of English-speaking and French-speaking persons resident in the parts or regions prescribed, and

(iii) any other factors that the Governor in Council considers appropriate; and

(b) substituting, with respect to any federal institution other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service or office of the Parliamentary Budget Officer, a duty in relation to the use of the official languages of Canada in place of a duty under section 36 or the regulations made under subsection (1), having regard to the equality of status of both official languages, if there is a demonstrable conflict between the duty under section 36 or the regulations and the mandate of the institution.

PARTIE VI

Participation des Canadiens d'expression française et d'expression anglaise

Engagement

39 (1) Le gouvernement fédéral s'engage à veiller à ce que :

a) les Canadiens d'expression française et d'expression anglaise, sans distinction d'origine ethnique ni égard à la première langue apprise, aient des chances égales d'emploi et d'avancement dans les institutions fédérales;

b) les effectifs des institutions fédérales tendent à refléter la présence au Canada des deux collectivités de langue officielle, compte

PART VI

Participation of English-speaking and French-speaking Canadians

Commitment to equal opportunities and equitable participation

39 (1) The Government of Canada is committed to ensuring that

a) English-speaking Canadians and French-speaking Canadians, without regard to their ethnic origin or first language learned, have equal opportunities to obtain employment and advancement in federal institutions; and

b) the composition of the work-force of federal institutions tends to reflect the presence of both the official language communities of Canada,

tenu de la nature de chacune d'elles et notamment de leur mandat, de leur public et de l'emplacement de leurs bureaux.

taking into account the characteristics of individual institutions, including their mandates, the public they serve and their location.

Possibilités d'emploi

(2) Les institutions fédérales veillent, au titre de cet engagement, à ce que l'emploi soit ouvert à tous les Canadiens, tant d'expression française que d'expression anglaise, compte tenu des objets et des dispositions des ~~parties IV et V relatives à l'emploi~~ la présente loi.

Employment opportunities

(2) In carrying out the commitment of the Government of Canada under subsection (1), federal institutions shall ensure that employment opportunities are open to both English-speaking Canadians and French-speaking Canadians, taking ~~due into account of the purposes and provisions of Parts IV and V in relation to the appointment and advancement of officers and employees by those institutions and the determination of the terms and conditions of their employment~~ this Act.

Principe du mérite

(3) Le présent article n'a pas pour effet de porter atteinte au mode de sélection fondé sur le mérite.

Merit principle

(3) Nothing in this section shall be construed as abrogating or derogating from the principle of selection of personnel according to merit.

Règlements

40 Le gouverneur en conseil peut, par règlement, prendre toute mesure réglementaire d'application de la présente partie.

Regulations

40 The Governor in Council may make ~~such~~ regulations ~~as the Governor in Council deems necessary to carry out for~~ the purposes ~~and provisions~~ of this Part.

PARTIE VII

Promotion du français et de l'anglais

Engagement – épanouissement des minorités et promotion du français et de l'anglais

41 (1) Le gouvernement fédéral s'engage à favoriser l'épanouissement des minorités francophones et anglophones du Canada et à appuyer leur développement, compte tenu de leur caractère unique et pluriel et de leurs contributions historiques et culturelles à la société canadienne, ainsi qu'à promouvoir la pleine reconnaissance et

PART VII

Advancement of English and French

Government policy – Commitment – enhancing vitality of communities and fostering English and French

41 (1) The Government of Canada is committed to (a) enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development, taking into account their uniqueness, diversity and historical and cultural contributions to Canadian society; and

l'usage du français et de l'anglais dans la société canadienne.

(b) fostering the full recognition and use of both English and French in Canadian society.

Engagement – protection et promotion du français

(2) Le gouvernement fédéral, reconnaissant que le français est en situation minoritaire au Canada et en Amérique du Nord en raison de l'usage prédominant de l'anglais, s'engage à protéger et à promouvoir le français.

Commitment – protection and promotion of French

(2) The Government of Canada, recognizing that French is in a minority situation in Canada and North America due to the predominant use of English, is committed to protecting and promoting the French language.

Engagement – apprentissages dans la langue de la minorité

(3) Le gouvernement fédéral s'engage à renforcer les possibilités pour les minorités francophones et anglophones de faire des apprentissages de qualité dans leur propre langue tout au long de leur vie, notamment depuis la petite enfance jusqu'aux études postsecondaires.

Commitment – learning in minority language

(3) The Government of Canada is committed to advancing opportunities for members of English and French linguistic minority communities to pursue quality learning in their own language throughout their lives, including from early childhood to post-secondary education.

Engagement – article 23 de la Charte canadienne des droits et libertés

(4) Le gouvernement fédéral s'engage à contribuer périodiquement à l'estimation du nombre d'enfants dont les parents ont, en vertu de l'article 23 de la Charte canadienne des droits et libertés, le droit de les faire instruire dans la langue de la minorité francophone ou anglophone d'une province ou d'un territoire, y compris le droit de les faire instruire dans des établissements d'enseignement de la minorité linguistique.

Commitment – section 23 of the Canadian Charter of Rights and Freedoms

(4) The Government of Canada is committed to contributing periodically to an estimate of the number of children whose parents have, under section 23 of the Canadian Charter of Rights and Freedoms, the right to have their children receive their instruction in the language of the English or French linguistic minority population of a province or territory, including the right to have them receive that instruction in minority language educational facilities.

Engagement – article 23 de la Charte canadienne des droits et libertés

(4) Le gouvernement fédéral s'engage à faire dénombrer ~~contribuer~~ périodiquement à ~~l'estimation du nombre d'~~les enfants dont les parents ont, en vertu de l'article 23 de la Charte canadienne des droits et libertés, le droit de les faire instruire dans la langue de la minorité francophone ou anglophone d'une province ou d'un territoire, y compris le droit de les faire instruire dans des établissements d'enseignement de la minorité linguistique.

Commitment – section 23 of the Canadian Charter of Rights and Freedoms

(4) The Government of Canada is committed to carrying out a periodic enumeration ~~contributing periodically to an estimate of the number of~~ children whose parents have, under section 23 of the Canadian Charter of Rights and Freedoms, the right to have their children receive their instruction in the language of the English or French linguistic minority population of a province or territory, including the right to have them receive that instruction in minority language educational facilities.

**Obligations des institutions fédérales –
mesures positives**

~~(2)(5)~~ Il incombe aux institutions fédérales de veiller à ce que soient prises ~~des~~ les mesures positives qu'elles estiment indiquées pour mettre en œuvre ~~et~~ les engagements énoncés aux paragraphes (1) à (3). ~~Il demeure entendu que cette mise en œuvre se fait dans le respect des champs de compétence et des pouvoirs des provinces.~~

**Duty of federal institutions – positive
measures**

~~(2)(5)~~ Every federal institution has the duty to ensure that the positive measures that it considers appropriate are taken for the implementation of the commitments under subsections (1) to (3). ~~For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of the provinces.~~

**Obligations des institutions fédérales –
mesures positives**

(5) Il incombe aux institutions fédérales de veiller à ce que soient prises les mesures positives nécessaires ~~qu'elles estiment indiquées~~ pour mettre en œuvre les engagements énoncés aux paragraphes (1) à (3).

Duty of federal institutions – positive measures

(5) Every federal institution has the duty to ensure that ~~the~~ all necessary positive measures ~~that it considers appropriate~~ are taken for the implementation of the commitments under subsections (1) to (3).

Mesures positives

(6) Les mesures positives visées au paragraphe (5) :

a) sont concrètes et prises avec l'intention d'avoir un effet favorable sur la mise en œuvre des engagements énoncés aux paragraphes (1) à (3) :

b) sont prises tout en respectant :

(i) la nécessité de protéger et promouvoir le français dans chaque province et territoire, compte tenu du fait que cette langue est en situation minoritaire au Canada et en Amérique du Nord en raison de l'usage prédominant de l'anglais,

(ii) la nécessité de prendre en considération les besoins propres à chacune des deux collectivités de langues officielles, compte tenu de leur égale importance;

c) peuvent notamment comprendre toute mesure visant :

(i) à promouvoir et à appuyer l'apprentissage du français et de l'anglais au Canada,

Positive measures

(6) Positive measures taken under subsection (5)

(a) shall be concrete and taken with the intention of having a beneficial effect on the implementation of the commitments under subsections (1) to (3) :

(b) shall respect

(i) the necessity of protecting and promoting the French language in each province and territory, taking into account that French is in a minority situation in Canada and North America due to the predominant use of English, and

(ii) the necessity of considering the specific needs of each of the two official language communities of Canada, taking into account the equal importance of the two communities; and

(c) may include measures, among others, to

(i) promote and support the learning of English and French in Canada,

(ii) à favoriser l'acceptation et l'appréciation par le public du français et de l'anglais.

(iii) à inciter et à aider les organisations, associations et autres organismes à refléter et à promouvoir, au Canada et à l'étranger, le caractère bilingue du Canada.

(iv) à appuyer la création et la diffusion d'information en français qui contribue à l'avancement des savoirs scientifiques dans toute discipline.

(v) à appuyer des secteurs essentiels à l'épanouissement des minorités francophones et anglophones, notamment ceux de la culture, de l'éducation — depuis la petite enfance jusqu'aux études postsecondaires —, de la santé, de la justice, de l'emploi et de l'immigration, et à protéger et à promouvoir la présence d'institutions fortes qui desservent ces minorités.

(iv) à appuyer la création et la diffusion d'information en français qui contribue à l'avancement des savoirs scientifiques dans toute discipline, [pourvu qu'une telle mesure soit compatible avec le mandat de l'institution fédérale en cause.](#)

(v) à appuyer des secteurs essentiels à l'épanouissement des minorités francophones et anglophones, notamment ceux de la culture, de l'éducation — depuis la petite enfance jusqu'aux études postsecondaires —, de la santé, de la justice, de l'emploi et de l'immigration, et à protéger et à promouvoir la présence d'institutions fortes qui desservent ces minorités, [pourvu qu'une telle mesure soit compatible avec le mandat de l'institution fédérale en cause.](#)

(ii) foster an acceptance and appreciation of both English and French by members of the public.

(iii) induce and assist organizations and institutions to project and promote the bilingual character of Canada in their activities in Canada or elsewhere.

(iv) support the creation and dissemination of information in French that contributes to the advancement of scientific knowledge in any discipline, and

(v) support sectors that are essential to enhancing the vitality of English and French linguistic minority communities, including the culture, education — from early childhood to post-secondary education — health, justice, employment and immigration sectors, and protect and promote the presence of strong institutions serving those communities.

(iv) support, [in a manner that is compatible with the mandate of the federal institution,](#) the creation and dissemination of information in French that contributes to the advancement of scientific knowledge in any discipline, and

(v) support, [in a manner that is compatible with the mandate of the federal institution,](#) sectors that are essential to enhancing the vitality of English and French linguistic minority communities, including the culture, education — from early childhood to post-secondary education — health, justice, employment and immigration sectors, and protect and promote the presence of strong institutions serving those communities.

Potentiel de prise de mesures positives et impacts négatifs

(7) Dans la réalisation de leur mandat, les institutions fédérales, sur la base des analyses qu'elles estiment indiquées :

Potentiel de prise de mesures positives et impacts négatifs

(7) Dans la réalisation de leur mandat, les institutions fédérales, sur la base des analyses qu'elles estiment indiquées :

a) considèrent le potentiel de prise de mesures positives au titre du paragraphe (5);

b) prennent en compte les impacts négatifs directs que leurs décisions structurantes pourraient avoir sur les engagements énoncés aux paragraphes (1) à (3), et ce afin de considérer les possibilités d'atténuer ces effets négatifs.

b) prennent en compte les impacts négatifs directs que leurs décisions structurantes pourraient avoir sur les engagements énoncés aux paragraphes (1) à (3), et ce afin de considérer les possibilités d'éviter ou, à tout le moins, d'atténuer ces effets-impacts négatifs.

Activités de dialogue et de consultation, recherches et données probantes

(8) Les analyses visées au paragraphe (7) sont fondées, dans la mesure du possible, sur le résultat d'activités de dialogue et de consultation, sur des recherches et sur des données probantes.

Potential to take positive measures and negative impacts

(7) In carrying out its mandate, every federal institution shall, on the basis of analyses that the federal institution considers appropriate,

Potential to take positive measures and negative impacts

(7) In carrying out its mandate, every federal institution shall, on the basis of analyses that the federal institution considers appropriate,

(a) consider whether positive measures could potentially be taken under subsection (5); and

(b) take into account the direct negative impacts that its structuring decisions may have on the commitments under subsections (1) to (3) in order to consider the possibilities for mitigating those negative impacts.

(b) take into account the direct negative impacts that its structuring decisions may have on the commitments under subsections (1) to (3) in order to consider the possibilities for avoiding or, if avoidance is not possible, for mitigating those negative impacts.

Dialogue and consultation activities, research and evidence-based findings

(8) The analyses referred to in subsection (7) shall be founded, to the extent possible, on the results of dialogue and consultation activities, on research and on evidence-based findings.

Objectif des activités de dialogue et de consultation

(9) L'objectif des activités de dialogue et de consultation menées pour l'application du paragraphe (8) est de permettre la prise en compte des priorités des minorités francophones et anglophones et des autres intervenants.

Objective of dialogue and consultation activities

(9) The objective of the dialogue and consultation activities carried out for the purposes of subsection (8) is to permit the priorities of the English and French linguistic minority communities and other stakeholders to be taken into account.

Objectif des activités de dialogue et de consultation

(9) L'objectif des activités de dialogue et de consultation menées pour l'application du paragraphe (8) est de permettre la prise en compte des priorités des minorités francophones et anglophones et des autres intervenants. Dans le cadre de ces activités de dialogue et de consultation, les institutions fédérales doivent à la fois :

- a) recueillir des renseignements pour vérifier leurs politiques, décisions et initiatives;**
- b) proposer des politiques, décisions et initiatives qui ne sont pas encore arrêtées définitivement;**
- c) obtenir l'opinion des minorités francophones et anglophones du Canada concernant les politiques, décisions et initiatives faisant l'objet des consultations;**
- d) fournir tous les renseignements pertinents sur lesquels reposent ces politiques, décisions et initiatives;**
- e) considérer leur opinion avec ouverture et sérieux;**
- f) être disposées à modifier ces politiques, décisions ou initiatives;**
- g) fournir une rétroaction, tant au cours du processus de consultation qu'après la prise d'une décision.**

Objective of dialogue and consultation activities

(9) The objective of the dialogue and consultation activities carried out for the purposes of subsection (8) is to permit the priorities of the English and French linguistic minority communities and other stakeholders to be taken into account. When engaging in dialogue and consultation activities, every federal institution shall

- (a) gather information to test its policies, decisions and initiatives;**
- (b) propose policies, decisions and initiatives that have not been finalized;**
- (c) seek the communities' opinions with regard to the policies, decisions or initiatives that are the subject of the consultation;**
- (d) provide them with all relevant information on which those policies, decisions or initiatives are based;**
- (e) openly and meaningfully consider those opinions;**
- (f) be prepared to alter those policies, decisions or initiatives; and**
- (g) provide the communities with feedback, both during the consultation process and after a decision has been made.**

Mécanismes d'évaluation et de surveillance

(10) Les institutions fédérales établissent des mécanismes d'évaluation et de surveillance relatifs aux mesures positives prises au titre du paragraphe (5).

Evaluation and monitoring mechanisms

(10) Every federal institution shall establish evaluation and monitoring mechanisms in relation to the positive measures taken under subsection (5).

Règlements

~~(11)~~ Sur la recommandation du Conseil du Trésor faite après consultation par celui-ci du ministre du Patrimoine canadien, le gouverneur en conseil peut, par règlement visant les institutions fédérales autres que le Sénat, la Chambre des communes, la bibliothèque du Parlement, le bureau du conseiller sénatorial en éthique, le bureau du commissaire aux conflits d'intérêts et à l'éthique, le Service de protection parlementaire ou le bureau du directeur parlementaire du budget, fixer les modalités d'exécution des obligations que la présente partie leur impose.

Précision

(12) Il est entendu que l'octroi dans la présente partie d'attributions à certains ministres fédéraux ne restreint pas les obligations que celle-ci impose aux institutions fédérales.

Regulations

~~(11)~~ The Governor in Council may, on the recommendation of the Treasury Board made after consultation with the Minister of Canadian Heritage, make regulations in respect of federal institutions, other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service or office of the Parliamentary Budget Officer, prescribing the manner in which any duties of those institutions under this Part are to be carried out.

For greater certainty

(12) For greater certainty, the express powers, duties and functions of certain ministers of the Crown provided for in this Part do not limit the duties of federal institutions under this Part.

Accords intergouvernementaux et autres

41.1 (1) Tout accord entre le gouvernement fédéral et une province, un territoire, une municipalité ou un organisme de services publics prévoyant un transfert de fonds contient une clause linguistique exécutoire mettant en œuvre l'engagement énoncé au paragraphe 41(1).

Contenu

(2) La clause prévoit, notamment :

- a) l'exigence de consulter les minorités francophones et anglophones et les autres intervenants afin de permettre la prise en compte de leurs priorités;
- b) l'affectation de fonds répondant spécifiquement aux besoins des minorités francophones et anglophones;
- c) l'énumération des responsabilités des parties en matière de reddition des comptes;
- d) un énoncé du droit d'intervention de l'institution fédérale en cas de manquement à la clause linguistique.

Intergovernmental and other agreements

41.1 (1) Every agreement between the Government of Canada and a province, territory, municipality or public service body that provides for a transfer of funds shall contain a binding language clause to give effect to the commitment under subsection 41(1).

Content

(2) A language clause shall include, among other things

- (a) a requirement that consultations be carried out with English and French linguistic minority communities and other stakeholders to allow their priorities to be taken into account;
- (b) the allocation of funds specific to the needs of English and French linguistic minority communities;
- (c) a list of the responsibilities of the parties regarding reporting; and
- (d) a statement that, in the event that the language clause is breached, the federal institution has a right to intervene.

Utilisation des fonds

(3) L'institution fédérale s'assure que les fonds transférés, comme prévu au paragraphe (1), afin de répondre aux besoins spécifiques des minorités francophones et anglophones sont dépensés de la manière prévue dans l'accord.

Absence de clause linguistique

(4) Malgré le paragraphe (1), un accord peut être conclu même s'il ne comprend aucune clause linguistique pourvu que le gouvernement du Canada s'engage, dans l'accord ou d'une autre façon, à tenir les consultations visées à l'alinéa (2)a) et à affecter des fonds directement aux organismes ou institutions de la minorité linguistique conformément à l'alinéa (2)b).

Définitions

(5) Les définitions qui suivent s'appliquent au présent article

municipalité Toute municipalité ou tout organisme municipal établi au titre du droit provincial ou territorial qui exerce une fonction gouvernementale, y compris, qu'ils soient dotés de la personnalité morale ou non, une municipalité régionale, une cité, une ville, un village, une municipalité rurale, une municipalité de canton, de comté ou de district, ou toute autre municipalité. Il est entendu que les corps dirigeants autochtones ne sont pas des municipalités; (*municipality*)

organisme de service public Toute organisation à but non lucratif, toute administration hospitalière ou tout collège ou université public établi au titre du droit provincial ou territorial qui dispense des services à la fois à la majorité et à la minorité linguistique. (*public service body*)

Use of funds

(3) The federal institution shall ensure that the funds specific to the needs of English and French linguistic minority communities that are transferred as described in subsection (1) are spent in the manner provided for in the agreement

When no language clause

(4) Despite subsection (1), an agreement that does not contain a language clause may be entered into if the Government of Canada commits, in the agreement or otherwise, to carry out the consultations described in paragraph (2)(a) and directly allocate funds to organizations or institutions of the minority linguistic community in accordance with paragraph (2)(b).

Definitions

(5) In this section

municipality means a municipality or a municipal body performing a function of government, established under the law of a province or territory. It includes an incorporated or unincorporated regional municipality, city, town, village, rural municipality, township, county, district or other municipality. For greater certainty, it does not include an Indigenous governing body; (*municipality*)

Public service body means a non-profit organization, a hospital authority or a public college or university that is established under the law of a province or territory and that provides services or programs to both the majority and minority linguistic communities in that province or territory. (*organisme de service public*)

Coordination

~~42 Le ministre du Patrimoine canadien, en consultation avec les autres ministres fédéraux, suscite et encourage la coordination de la mise en œuvre par les institutions fédérales de cet engagement.~~

Coordination

~~42 The Minister of Canadian Heritage, in consultation with other ministers of the Crown, shall encourage and promote a coordinated approach to the implementation by federal institutions of the commitments set out in section 41.~~

Engagement – bilinguisme et promotion du français à l'étranger

42 (1) Le gouvernement fédéral s'engage à favoriser l'usage du français et de l'anglais dans la conduite des affaires extérieures du Canada et à promouvoir le français dans le cadre des relations diplomatiques du Canada.

Mise en œuvre

(2) Le ministre des Affaires étrangères prend les mesures qu'il estime indiquées pour mettre en œuvre cet engagement.

Commitment – bilingualism and promoting French abroad

42 (1) The Government of Canada is committed to advancing the use of English and French in the conduct of Canada's external affairs and to promoting French as part of Canada's diplomatic relations.

Implementation

(2) The Minister of Foreign Affairs shall take such measures as that Minister considers appropriate for the implementation of the commitment under subsection (1).

Mise en œuvre

(2) Le ministre des Affaires étrangères prend les mesures nécessaires ~~qu'il estime indiquées~~ pour mettre en œuvre cet engagement.

Implementation

(2) The Minister of Foreign Affairs shall take such all necessary measures ~~as that Minister considers appropriate~~ for the implementation of the commitment under subsection (1).

Reconnaissance – Société Radio-Canada

42.1 Le gouvernement fédéral reconnaît que la Société Radio-Canada, dans l'exécution de la mission que lui confère la Loi sur la radiodiffusion en conformité avec les licences qui lui sont attribuées au titre de cette loi par le Conseil de la radiodiffusion et des télécommunications canadiennes et sous réserve des règlements de celui-ci, contribue par ses activités à l'épanouissement des minorités francophones et anglophones du Canada et à la protection et la promotion des deux langues officielles. Cette reconnaissance est faite dans le respect de la liberté d'expression et de l'indépendance en matière de journalisme, de création et de programmation dont jouit la Société Radio-Canada.

Recognition – Canadian Broadcasting Corporation

42.1 The Government of Canada recognizes that the Canadian Broadcasting Corporation, in carrying out its purposes under the Broadcasting Act in accordance with the licences issued to it under that Act by the Canadian Radio-television and Telecommunications Commission and subject to any applicable regulations of that Commission, contributes through its activities to enhancing the vitality of the English and French linguistic minority communities in Canada and to the protection and promotion of both official languages. This recognition is made while respecting the freedom of expression and the journalistic, creative and programming independence enjoyed by the Canadian Broadcasting Corporation.

Mise en œuvre

43 (1) Le ministre du Patrimoine canadien prend les mesures qu'il estime indiquées pour favoriser la progression vers l'égalité de statut et d'usage du français et de l'anglais dans la société canadienne et, notamment, toute mesure :

Specific mandate of Minister of Canadian Heritage

43 (1) The Minister of Canadian Heritage shall take such measures as that Minister considers appropriate to advance the equality of status and use of English and French in Canadian society and, without restricting the generality of the foregoing, may take measures to

Mise en œuvre

43 (1) Le ministre du Patrimoine canadien prend les mesures nécessaires qu'il estime indiquées pour favoriser la progression vers l'égalité de statut et d'usage du français et de l'anglais dans la société canadienne et, notamment, toute mesure :

Specific mandate of Minister of Canadian Heritage

43 (1) The Minister of Canadian Heritage shall take such all necessary measures ~~as that Minister considers appropriate~~ to advance the equality of status and use of English and French in Canadian society and, without restricting the generality of the foregoing, may shall take measures to

a) de nature à favoriser l'épanouissement des minorités francophones et anglophones du Canada et à appuyer leur développement;

b) pour ~~encourager et appuyer l'apprentissage du français et de l'anglais appuyer le développement et la promotion de la culture francophone au Canada, notamment par l'entremise des activités des organismes dont il est responsable et en veillant à ce que les politiques culturelles du gouvernement fédéral reflètent l'objet de la présente loi;~~ encourager et appuyer l'apprentissage du français et de l'anglais appuyer le développement et la promotion de la culture francophone au Canada, notamment par l'entremise des activités des organismes dont il est responsable et en veillant à ce que les politiques culturelles du gouvernement fédéral reflètent l'objet de la présente loi;

c) pour ~~encourager le public à mieux accepter et apprécier le français et l'anglais fournir du financement à un organisme indépendant du gouvernement fédéral chargé d'administrer un programme dont l'objectif est de fournir du financement en vue de la présentation devant les tribunaux de causes types d'importance nationale qui visent à clarifier et à faire valoir des droits constitutionnels et quasi constitutionnels en matière de langues officielles;~~ encourager le public à mieux accepter et apprécier le français et l'anglais fournir du financement à un organisme indépendant du gouvernement fédéral chargé d'administrer un programme dont l'objectif est de fournir du financement en vue de la présentation devant les tribunaux de causes types d'importance nationale qui visent à clarifier et à faire valoir des droits constitutionnels et quasi constitutionnels en matière de langues officielles;

d) pour encourager et aider les gouvernements provinciaux et territoriaux à favoriser le développement des minorités francophones et anglophones, et notamment à leur offrir des services provinciaux, territoriaux et municipaux en français et en anglais et à leur permettre de recevoir leur instruction dans leur propre langue;

(a) enhance the vitality of the English and French linguistic minority communities in Canada and support and assist their development;

(b) ~~encourage and support the learning of English and French in Canada support the development and promotion of francophone culture in Canada, including through the activities of entities for which that Minister is responsible and by ensuring that the Government of Canada's cultural policies are consistent with the purpose of this Act;~~ encourage and support the learning of English and French in Canada support the development and promotion of francophone culture in Canada, including through the activities of entities for which that Minister is responsible and by ensuring that the Government of Canada's cultural policies are consistent with the purpose of this Act;

(c) ~~foster an acceptance and appreciation of both English and French by members of the public provide funding to an organization, independent of the Government of Canada, responsible for administering a program whose purpose is to provide funding for test cases of national significance to be brought before the courts to clarify and assert constitutional and quasi-constitutional official language rights;~~ foster an acceptance and appreciation of both English and French by members of the public provide funding to an organization, independent of the Government of Canada, responsible for administering a program whose purpose is to provide funding for test cases of national significance to be brought before the courts to clarify and assert constitutional and quasi-constitutional official language rights;

(d) encourage and assist provincial and territorial governments to support the development of English and French linguistic minority communities generally and, in particular, to offer provincial, territorial and municipal services in both English and French and to provide opportunities for members of English or French linguistic minority

e) pour encourager et aider ces gouvernements et les organismes à but non lucratif à donner à ~~tous~~ toute personne au Canada la possibilité d'apprendre le français et l'anglais et à favoriser l'acceptation et l'appréciation par le public de ces deux langues;

f) pour ~~encourager~~ inciter les entreprises, les organisations patronales et syndicales, et les organismes ~~bénévoles~~ à but non lucratif et autres à fournir leurs services en français et en anglais et à favoriser la reconnaissance et l'usage de ces deux langues, ~~et pour collaborer avec eux à ces fins~~;

g) pour ~~encourager et aider les organisations, associations ou autres organismes à refléter et promouvoir, au Canada et à l'étranger, le caractère bilingue du Canada~~ mettre en œuvre des programmes d'appui aux langues officielles;

h) sous réserve de l'aval du gouverneur en conseil, pour conclure avec des gouvernements étrangers des accords ou arrangements reconnaissant et renforçant l'identité bilingue du Canada.

Consultation et information au public

(2) Il prend les mesures qu'il juge aptes à assurer la consultation publique sur l'élaboration des principes d'application et la révision des programmes favorisant la progression vers l'égalité de statut et d'usage du français et de l'anglais dans la société canadienne et informe le public sur ces principes et programmes.

Rapport annuel

44 Dans les meilleurs délais après la fin de chaque exercice, le ministre du Patrimoine canadien dépose un rapport annuel au Parlement sur les questions relevant de sa mission en matière de langues officielles.

communities to be educated in their own language;

(e) encourage and assist provincial and territorial governments and non-profit organizations to provide opportunities for everyone in Canada to learn both English and French and to foster an acceptance and appreciation of both English and French by members of the public;

(f) ~~encourage~~ induce the business community, labour organizations, ~~voluntary~~ non-profit organizations and other organizations or institutions to provide services in both English and French and to foster the recognition and use of those languages;

(g) ~~encourage and assist organizations and institutions to project the bilingual character of Canada in their activities in Canada or elsewhere~~ implement programs in support of official languages; and

(h) with the approval of the Governor in Council, enter into agreements or arrangements that recognize and advance the bilingual character of Canada with the governments of foreign states.

~~Public~~ Consultation and information to public

(2) The Minister of Canadian Heritage shall take such measures as that Minister considers appropriate to ensure public consultation in the development of policies and review of programs relating to the advancement and the equality of status and use of English and French in Canadian society and shall provide information to the public relating to those policies and programs.

Annual report to Parliament

44 The Minister of Canadian Heritage shall, within such time as is reasonably practicable after the termination of each financial year, submit an annual report to Parliament on the matters relating to official languages for which that Minister is responsible.

Politique en matière d'immigration francophone

44.1 (1) Le ministre de la Citoyenneté et de l'Immigration adopte une politique en matière d'immigration francophone afin de favoriser l'épanouissement des minorités francophones du Canada.

Policy on francophone immigration

44.1 (1) The Minister of Citizenship and Immigration shall adopt a policy on francophone immigration to enhance the vitality of French linguistic minority communities in Canada.

Politique en matière d'immigration francophone

44.1 (1) Le ministre de la Citoyenneté et de l'Immigration adopte une politique en matière d'immigration francophone dont l'objectif est d'assurer le rétablissement et l'accroissement du poids démographique des minorités francophones du Canada afin de favoriser leur épanouissement ~~des minorités francophones du Canada.~~

Policy on francophone immigration

44.1 (1) The Minister of Citizenship and Immigration shall adopt a policy on francophone immigration that ensures the restoration and growth of the demographic weight of French linguistic minority communities in Canada to enhance the vitality of those ~~French linguistic minority~~ communities ~~in Canada.~~

Contenu

(2) La politique comprend notamment :

- a) des objectifs, des cibles et des indicateurs;
- b) un énoncé du fait que le gouvernement fédéral reconnaît que l'immigration est l'un des facteurs qui contribuent au maintien ou à l'accroissement du poids démographique des minorités francophones du Canada.

Contents

(2) The policy shall include, among other things,

- (a) objectives, targets and indicators; and
- (b) a statement that the Government of Canada recognizes that immigration is one of the factors that contributes to maintaining or increasing the demographic weight of French linguistic minority communities in Canada.

- ~~b) un énoncé du fait que le gouvernement fédéral reconnaît que l'immigration est l'un des facteurs qui contribuent au maintien ou à de son intention, par l'entremise de la politique, d'assurer le rétablissement et l'accroissement du poids démographique des minorités francophones du Canada.~~

- ~~(b) a statement that the Government of Canada recognizes that immigration is one of the factors that contributes to maintaining or increasing and growth of the demographic weight of French linguistic minority communities in Canada.~~

Consultation lors de l'aliénation d'immeubles fédéraux et de biens réels fédéraux

44.2 (1) Avant d'aliéner un immeuble fédéral ou un bien réel fédéral, l'institution fédérale qui en a la gestion consulte tout conseil ou commission scolaire de langue officielle en situation minoritaire et tout autre organisme intéressé des communautés de langue officielle en situation minoritaire qui desservent le territoire dans lequel se trouve l'immeuble ou le bien réel en question

Consultation when disposing of federal buildings and federal real property

44.2 (1) Before disposing of a federal building or federal real property, the federal institution that manages it shall consult any official language minority school board or commission or any other interested official language minority community organizations that serve the territory in which the building or property is located with regard to their needs and interests in connection with the property.

afin de s'enquérir de leurs besoins et intérêts relativement à ce bien.

Obligation lors de la vente ou la location d'un immeuble fédéral ou d'un bien réel fédéral

(2) Avant de vendre ou de louer l'immeuble ou le bien réel en question, l'institution fédérale offre aux organismes intéressés des communautés de langue officielle en situation minoritaire, selon le cas :

- a) la possibilité de l'acquérir ou de le louer en tout ou en partie, si sa superficie n'excède pas douze acres;
- b) la possibilité d'en acquérir ou d'en louer une partie n'excédant pas douze acres, si sa superficie excède douze acres.

Duty when selling a federal building or federal real property

(2) Before selling or leasing the building or property in question, the federal institution shall offer interested official language minority communities

- (a) the possibility to purchase or lease it in whole or in part, if its area is not greater than twelve acres; or
- (b) the possibility to purchase or lease a part of it not to exceed twelve acres, if its area is greater than twelve acres.

Mise en œuvre de l'article 55 de la Loi constitutionnelle de 1982

44.3 (1) Le ministre de la Justice s'engage à déployer les meilleurs efforts, lors de chaque session parlementaire, pour mettre en œuvre l'obligation que lui impose l'article 55 de la Loi constitutionnelle de 1982 de rédiger et de déposer pour adoption, dans les meilleurs délais, la version française des parties de la Constitution du Canada qui figurent à l'annexe de cette loi.

Rapport au Parlement

(2) Tous les cinq ans après l'entrée en vigueur du présent article, et jusqu'à ce que les obligations prévues par l'article 55 de la Loi constitutionnelle de 1982 aient été rencontrées, le ministre de la Justice établit un rapport faisant état des mesures prises pour mettre en œuvre l'article 55 de la Loi constitutionnelle de 1982 et le fait déposer devant chaque chambre du Parlement.

Renvoi en comité

(3) Le comité du Sénat, de la Chambre des communes ou le comité mixte constitué ou désigné à cette fin, est saisi d'office du rapport. Il procède, dans les meilleurs délais, à l'étude de celui-ci et, dans l'année qui suit le dépôt du rapport ou le délai supérieur accordé par le Sénat, la Chambre des

Implementation of section 55 of the Constitution Act, 1982

44.3 (1) The Minister of Justice is committed to making best efforts at every session of parliament to implement the duty under section 55 of the Constitution Act, 1982 to prepare and put forward for enactment, as expeditiously as possible, a French version of the portions of the Constitution of Canada that appear in the schedule to that Act.

Report to Parliament

(2) Every five years after this section comes into force, and until the duties set out in section 55 of the Constitution Act, 1982 have been fulfilled, the Minister of Justice shall prepare a report setting forth the measures taken to implement section 55 of the Constitution Act, 1982 and cause it to be laid before each House of Parliament.

Reference to parliamentary committee

(3) The report stands referred to the committee of the Senate, the House of Commons or both Houses of Parliament that is designated or established for that purpose, which shall

- (a) as soon as possible after the laying of the report, review the report; and

communes ou les deux chambres, selon le cas, leur présente son propre rapport.

(b) report to the Senate, the House of Commons or both Houses of Parliament, as the case may be, within one year after the laying of the report of the Minister, or any further time authorized by the Senate, the House of Commons or both Houses of Parliament.

Consultations et négociations avec les – provinces et territoires

45 Tout ministre fédéral désigné par le gouverneur en conseil peut procéder à des consultations et négociations d'accords avec les gouvernements provinciaux et territoriaux en vue d'assurer le plus possible, sous réserve de la partie IV et compte tenu des besoins des usagers, la coordination des services fédéraux, provinciaux, territoriaux, municipaux, ainsi que ceux liés à l'instruction, dans les deux langues officielles.

Collaboration – provinces et territoires

45.1 (1) Le gouvernement fédéral reconnaît l'importance de la collaboration avec les gouvernements provinciaux et territoriaux dans la mise en œuvre de la présente partie, compte tenu de la diversité des régimes linguistiques provinciaux et territoriaux qui contribuent à la progression vers l'égalité de statut et d'usage du français et de l'anglais dans la société canadienne, notamment :

a) que la Constitution accorde à chacun le droit d'employer le français ou l'anglais dans les débats des chambres de la Législature du Québec et de celles de la Législature du Manitoba et le droit d'utiliser le français ou l'anglais dans toutes les affaires dont sont saisis les tribunaux de ces provinces et dans tous les actes de procédure qui en découlent;

b) que la Charte de la langue française du Québec dispose que le français est la langue officielle du Québec;

c) que la Constitution dispose que le français et l'anglais sont les langues officielles du Nouveau-Brunswick et qu'ils ont un statut et des droits et privilèges égaux quant à leur usage dans les institutions de la Législature et du gouvernement du Nouveau-Brunswick;

d) qu'elle dispose que la communauté linguistique française et la communauté

Consultation and negotiation with the – provinces and territories

45 Any minister of the Crown designated by the Governor in Council may consult and may negotiate agreements with the provincial and territorial governments to ensure, to the greatest practical extent but subject to Part IV, that the provision of federal, provincial, territorial, municipal and education services in both official languages is coordinated and that regard is had to the needs of the recipients of those services.

Cooperation – provinces and territories

45.1 (1) The Government of Canada recognizes the importance of cooperating with provincial and territorial governments in the implementation of this Part, taking into account the diversity of the provincial and territorial language regimes that contribute to the advancement of the equality of status and use of English and French in Canadian society, including that

(a) the Constitution of Canada provides every person with the right to use English or French in the debates of the Houses of the Legislature of Quebec and those of the Legislature of Manitoba and the right to use English or French in any pleading or process in or from the courts of those provinces;

(b) Quebec's Charter of the French language provides that French is the official language of Quebec;

(c) the Constitution of Canada provides that English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick; and

(d) the Constitution of Canada provides that the English linguistic community and the French linguistic community in New Brunswick

linguistique anglaise du Nouveau-Brunswick
ont un statut et des droits et privilèges égaux.

have equality of status and equal rights and
privileges.

Précision

(2) Il est entendu que la mise en œuvre de la
présente partie se fait dans le respect des champs
de compétence et des pouvoirs des provinces et des
territoires.

For greater certainty

(2) For greater certainty, the implementation of
this Part shall be carried out while respecting the
jurisdiction and powers of the provinces and
territories.

PARTIE VIII

Attributions et obligations du Conseil du Trésor en matière de langues officielles

Mission du Conseil du Trésor

46 (1) Le Conseil du Trésor est chargé de l'élaboration et de la coordination générales des principes et programmes fédéraux d'application des parties IV, V et VI et du paragraphe 41(5) dans les institutions fédérales, à l'exception du Sénat, de la Chambre des communes, de la bibliothèque du Parlement, du bureau du conseiller sénatorial en éthique, du bureau du commissaire aux conflits d'intérêts et à l'éthique, du Service de protection parlementaire et du bureau du directeur parlementaire du budget.

PART VIII

Responsibilities and Duties of Treasury Board in Relation to the Official Languages of Canada

Responsibilities of Treasury Board

46 (1) The Treasury Board has responsibility for the general direction and coordination of the policies and programs of the Government of Canada relating to the implementation of Parts IV, V and VI and subsection 41(5) in all federal institutions other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service and office of the Parliamentary Budget Officer.

Mission du Conseil du Trésor

46 (1) Le Conseil du Trésor est chargé de l'élaboration et de la coordination générales des principes et programmes fédéraux d'application des parties IV, V et VI et du paragraphe 41(5) de la présente loi, y compris la stratégie pangouvernementale sur les langues officielles dans les institutions fédérales, à l'exception du Sénat, de la Chambre des communes, de la bibliothèque du Parlement, du bureau du conseiller sénatorial en éthique, du bureau du commissaire aux conflits d'intérêts et à l'éthique, du Service de protection parlementaire et du bureau du directeur parlementaire du budget.

Responsibilities of Treasury Board

46 (1) The Treasury Board has responsibility for the general direction and coordination of the policies and programs of the Government of Canada relating to the implementation of Parts IV, V and VI and subsection 41(5) this Act, including the government-wide strategy on official languages in all federal institutions other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service and office of the Parliamentary Budget Officer.

Attributions

(2) Le Conseil du Trésor peut, dans le cadre de cette mission :

~~a) [Abrogé, 2022, ch. 13, art. 25(2)] établir des principes d'application des parties IV, V et VI ou en recommander au gouverneur en conseil;~~

b) recommander au gouverneur en conseil des mesures réglementaires d'application des parties IV, V et VI;

b) recommander au gouverneur en conseil des mesures réglementaires ~~d'application des parties IV, V et VI;~~ de la présente loi.

~~c) donner des instructions pour l'application des parties IV, V et VI;~~

~~d) surveiller et vérifier l'observation par les institutions fédérales des principes, instructions et règlements émanant tant de lui-même que du gouverneur en conseil en matière de langues officielles;~~

~~e) évaluer l'efficacité des principes et programmes des institutions fédérales en matière de langues officielles;~~

~~f) informer le public et le personnel des institutions fédérales sur les principes et programmes d'application des parties IV, V et VI;~~

~~g)c) déléguer telle de ses attributions prévues au présent article relatives à une autre institution fédérale à l'administrateur général ou à tout autre responsable administratif de cette institution aux administrateurs généraux ou autres responsables administratifs d'autres institutions fédérales.~~

c) déléguer telle de ses attributions prévues au présent article relatives à une autre institution fédérale à l'administrateur général ou à tout autre responsable administratif de cette institution.

Powers of Treasury Board

(2) In carrying out its responsibilities under subsection (1), the Treasury Board may

~~(a) [Repealed, 2022, c. 13, s. 25(2)] establish policies, or recommend policies to the Governor in Council, to give effect to Parts IV, V and VI;~~

(b) recommend regulations to the Governor in Council to give effect to Parts IV, V and VI; and

(b) recommend regulations to the Governor in Council to give effect to ~~Parts IV, V and VI;~~ this Act.

~~(c) issue directives to give effect to Parts IV, V and VI;~~

~~(d) monitor and audit federal institutions in respect of which it has responsibility for their compliance with policies, directives and regulations of Treasury Board or the Governor in Council relating to the official languages of Canada;~~

~~(e) evaluate the effectiveness and efficiency of policies and programs of federal institutions relating to the official languages of Canada;~~

~~(f) provide information to the public and to officers and employees of federal institutions relating to the policies and programs that give effect to Parts IV, V and VI; and;~~

~~(g)c) delegate any of its powers and duties under this section in respect of another federal institution to the deputy heads or other administrative heads of other federal that institutions.~~

c) delegate any of its powers and duties under this section in respect of another federal institution to the deputy head or other administrative head of that institution.

Précision

(3) Il est entendu que l'administrateur général ou tout autre responsable administratif d'une institution fédérale à qui des attributions sont déléguées en vertu de l'alinéa (2)c ne peut exercer ces attributions que relativement à cette institution.

For greater certainty

(3) For greater certainty, the deputy head or other administrative head of a federal institution that is delegated powers or duties under paragraph (2)(c) may exercise those powers and perform those duties only in respect of that institution.

Précision

~~(3) Il est entendu que l'administrateur général ou tout autre responsable administratif d'une institution fédérale à qui des attributions sont déléguées en vertu de l'alinéa (2)e ne peut exercer ces attributions que relativement à cette institution.~~

For greater certainty

~~(3) For greater certainty, the deputy head or other administrative head of a federal institution that is delegated powers or duties under paragraph (2)(e) may exercise those powers and perform those duties only in respect of that institution.~~

Obligations

(4) Le Conseil du Trésor doit, dans le cadre de cette mission :

a) établir des principes d'application des parties IV, V et VI ou en recommander au gouverneur en conseil ou encore donner des instructions pour l'application de ces parties;

b) en consultation avec le ministre du Patrimoine canadien, établir des principes d'application du paragraphe 41(5) ou en recommander au gouverneur en conseil ou encore donner des instructions pour l'application de ce paragraphe;

Duties of Treasury Board

(4) In carrying out its responsibilities under subsection (1), the Treasury Board shall

(a) establish policies, recommend policies to the Governor in Council or issue directives to give effect to Parts IV, V and VI;

(b) in consultation with the Minister of Canadian Heritage, establish policies, recommend policies to the Governor in Council or issue directives to give effect to subsection 41(5);

~~a) établir des principes d'application des parties IV, V et VI de la présente loi, ou en recommander au gouverneur en conseil ou encore donner des instructions pour l'application de ces parties celle-ci;~~

~~b) en consultation avec le ministre du Patrimoine canadien, établir des principes d'application du paragraphe 41(5) ou en recommander au gouverneur en conseil ou encore donner des instructions pour l'application de ce paragraphe;~~

(a) establish policies, recommend policies to the Governor in Council or issue directives to give effect to Parts IV, V and VI this Act;

~~(b) in consultation with the Minister of Canadian Heritage, establish policies, recommend policies to the Governor in Council or issue directives to give effect to subsection 41(5);~~

c) surveiller et vérifier l'observation par les institutions fédérales des principes, instructions et règlements — émanant tant de lui-même que du gouverneur en conseil — en matière de langues officielles;

(c) monitor and audit federal institutions in respect of which it has responsibility for their compliance with policies, directives and regulations of the Treasury Board or the Governor in Council relating to the official languages of Canada;

d) évaluer l'efficacité des principes et programmes des institutions fédérales en matière de langues officielles;

e) informer le public et les employés des institutions fédérales sur les principes et programmes d'application des parties IV, V et VI et les instructions données pour l'application de ces parties;

f) informer les employés des institutions fédérales sur les principes et programmes d'application du paragraphe 41(5) et les instructions données pour l'application de ce paragraphe.

(d) evaluate the effectiveness and efficiency of policies and programs of federal institutions relating to the official languages of Canada;

(e) provide information to the public and to employees of federal institutions relating to the policies, directives and programs that give effect to Parts IV, V and VI; and

(f) provide information to employees of federal institutions relating to the policies, directives and programs that give effect to subsection 41(5).

e) informer le public et les employés des institutions fédérales sur les principes et programmes d'application ~~des parties IV, V et VI de la présente loi~~ et les instructions données pour l'application de ~~celle-ci~~ celles-ci parties;

~~f) informer les employés des institutions fédérales sur les principes et programmes d'application du paragraphe 41(5) et les instructions données pour l'application de ce paragraphe.~~

(e) provide information to the public and to employees of federal institutions relating to the policies, directives and programs that give effect to this Act, ~~Parts IV, V and VI~~; and

~~(f) provide information to employees of federal institutions relating to the policies, directives and programs that give effect to subsection 41(5).~~

Rapport envoyé au commissaire

47 Le dirigeant principal des ressources humaines nommé en vertu du paragraphe 6(2.1) de la *Loi sur la gestion des finances publiques* fait parvenir au commissaire tous rapports établis au titre de l'alinéa 46~~(2)(d)~~(4)(c).

Rapport au Parlement

48 Dans les meilleurs délais après la fin de chaque exercice, le président du Conseil du Trésor dépose devant le Parlement un rapport sur l'exercice des attributions conférées au Conseil du Trésor au titre de la présente loi et sur l'exécution des programmes en matière de langues officielles au sein des institutions fédérales visées par sa mission.

Audit reports to ~~be made available to~~ Commissioner

47 The Chief Human Resources Officer appointed under subsection 6(2.1) of the *Financial Administration Act* shall provide the Commissioner with any audit reports that are prepared under paragraph 46~~(2)(d)~~(4)(c).

Annual report to Parliament

48 The President of the Treasury Board shall, within such time as is reasonably practicable after the termination of each financial year, submit an annual report to Parliament on the exercise of the Treasury Board's powers and the performance of its duties and functions conferred under this Act and the status of programs relating to the official languages of Canada in the various federal institutions in respect of which it has responsibility under section 46.

PARTIE IX

Commissaire aux langues officielles

Commissariat

Nomination

49 (1) Le gouverneur en conseil nomme le commissaire aux langues officielles du Canada par commission sous le grand sceau, après consultation du chef de chacun des partis reconnus au Sénat et à la Chambre des communes et approbation par résolution du Sénat et de la Chambre des communes.

Durée du mandat et révocation

(2) Le commissaire est nommé à titre inamovible pour un mandat de sept ans, sauf révocation motivée par le gouverneur en conseil sur adresse du Sénat et de la Chambre des communes.

Renouvellement du mandat

(3) Le mandat du commissaire est renouvelable pour des périodes d'au plus sept ans chacune.

Intérim

(4) En cas d'absence ou d'empêchement du commissaire ou de vacance de son poste, le gouverneur en conseil peut confier l'intérim à toute personne compétente pour un mandat maximal de six mois et fixer la rémunération et les indemnités auxquelles cette personne aura droit.

PART IX

Commissioner of Official Languages

Office of the Commissioner

Appointment

49 (1) The Governor in Council shall, by commission under the Great Seal, appoint a Commissioner of Official Languages for Canada after consultation with the leader of every recognized party in the Senate and House of Commons and approval of the appointment by resolution of the Senate and House of Commons.

Tenure

(2) Subject to this section, the Commissioner holds office during good behaviour for a term of seven years, but may be removed for cause by the Governor in Council at any time on address of the Senate and House of Commons.

Further terms

(3) The Commissioner, on the expiration of a first or any subsequent term of office, is eligible to be re-appointed for a further term not exceeding seven years.

Interim appointment

(4) In the event of the absence or incapacity of the Commissioner or if that office is vacant, the Governor in Council may appoint any qualified person to hold that office in the interim for a term not exceeding six months, and that person shall, while holding office, be paid the salary or other remuneration and expenses that may be fixed by the Governor in Council.

Rang et non-cumul de fonctions

50 (1) Le commissaire a rang et pouvoirs d'administrateur général de ministère; il se consacre à sa charge à l'exclusion de tout autre poste au service de Sa Majesté ou de tout autre emploi.

Traitement et indemnités

(2) Le commissaire reçoit le traitement d'un juge de la Cour fédérale autre que le juge en chef. Il a droit aux frais de déplacement et de séjour entraînés par l'accomplissement de ses fonctions hors du lieu de sa résidence habituelle.

Personnel

51 Les ~~personnel-employés~~ nécessaires au bon fonctionnement du commissariat ~~est-sont~~ nommés conformément à la loi.

Concours d'experts

52 Le commissaire peut engager temporairement des experts compétents dans les domaines relevant de son champ d'activité et, avec l'approbation du Conseil du Trésor, fixer et payer leur rémunération et leurs frais.

~~Assimilation à fonctionnaire-Loi sur la pension de la fonction publique~~

53 Le commissaire et les ~~personnel-employés~~ régulier du commissariat sont réputés appartenir à la fonction publique pour l'application de la *Loi sur la pension de la fonction publique*.

Autonomie financière

54 Sur recommandation du Conseil du Trésor, le gouverneur en conseil peut, par décret, soustraire le commissaire à l'exécution d'instructions — données par le Conseil du Trésor ou lui-même en application de la *Loi sur la gestion des finances*

Rank, powers and duties generally

50 (1) The Commissioner shall rank as and have all the powers of a deputy head of a department, shall engage exclusively in the duties of the office of the Commissioner and shall not hold any other office under Her Majesty or engage in any other employment.

Salary and expenses

(2) The Commissioner shall be paid a salary equal to the salary of a judge of the Federal Court, other than the Chief Justice of that Court, and is entitled to be paid reasonable travel and living expenses while absent from his or her ordinary place of residence in the course of his or her duties.

Staff

51 ~~Such officers and~~ The employees ~~as that~~ are necessary for the proper conduct of the work of the office of the Commissioner shall be appointed in the manner authorized by law.

Technical assistance

52 The Commissioner may engage, on a temporary basis, the services of persons having technical or specialized knowledge of any matter relating to the work of the Commissioner to advise and assist the Commissioner in the performance of the duties of his office and, with the approval of the Treasury Board, may fix and pay the remuneration and expenses of those persons.

Public Service Superannuation Act

53 The Commissioner and the ~~officers and~~ employees of the office of the Commissioner appointed under section 51 shall be deemed to be persons employed in the public service for the purposes of the *Public Service Superannuation Act*.

Order exempting Commissioner from directives

54 The Governor in Council, on the recommendation of the Treasury Board, may by order exempt the Commissioner from any directives of the Treasury Board or the Governor in Council made under the Financial Administration

publiques — concernant la gestion des institutions fédérales par leurs administrateurs généraux ou autres responsables administratifs.

Act that apply to deputy heads or other administrative heads in relation to the administration of federal institutions..

Mandat du commissaire

Duties and Functions of Commissioner

Fonctions du commissaire

55 Le commissaire exerce les attributions que lui confèrent la présente loi et toute autre loi fédérale; il peut en outre se livrer à toute activité connexe autorisée par le gouverneur en conseil.

Duties and functions

55 The Commissioner shall carry out such duties and functions as are assigned to the Commissioner by this Act or any other Act of Parliament, and may carry out or engage in such other related assignments or activities as may be authorized by the Governor in Council.

Mission

56 (1) Il incombe au commissaire de prendre, dans le cadre de sa compétence, toutes les mesures visant à assurer la reconnaissance du statut de chacune des langues officielles et à faire respecter l'esprit de la présente loi et l'intention du législateur en ce qui touche l'administration des affaires des institutions fédérales, et notamment la promotion du français et de l'anglais dans la société canadienne.

Duty of Commissioner under Act

56 (1) It is the duty of the Commissioner to take all actions and measures within the authority of the Commissioner with a view to ensuring recognition of the status of each of the official languages and compliance with the spirit and intent of this Act in the administration of the affairs of federal institutions, including any of their activities relating to the advancement of English and French in Canadian society.

Enquêtes

(2) Pour s'acquitter de cette mission, le commissaire procède à des enquêtes, soit de sa propre initiative, soit à la suite des plaintes qu'il reçoit, et présente ses rapports et recommandations conformément à la présente loi.

Idem

(2) It is the duty of the Commissioner, for the purpose set out in subsection (1), to conduct and carry out investigations either on his own initiative or pursuant to any complaint made to the Commissioner and to report and make recommendations with respect thereto as provided in this Act.

Examen des règlements, principes et instructions

57 Le commissaire peut d'office examiner les règlements, principes ou instructions d'application de la présente loi ainsi que tout autre règlement, principe ou instruction visant ou susceptible de viser le statut ou l'emploi des langues officielles et établir à cet égard un rapport circonstancié au titre des articles 66 ou 67.

Review of regulations, policies and directives

57 The Commissioner may initiate a review of [any regulation, policies or directives made under this Act, and any other regulations, policies or directives that affect or may affect the status or use of the official languages, and may refer to and comment on any findings on the review in in a report made to Parliament under section 66 or 67.](#)

~~(a) any regulations or directives made under this Act, and~~

~~(b) any other regulations or directives that affect or may affect the status or use of the official languages;~~

~~and may refer to and comment on any findings on the review in a report made to Parliament pursuant to section 66 or 67.~~

Plaintes et enquêtes, accords de conformité et ordonnances

Plaintes

58 (1) Sous réserve des autres dispositions de la présente loi, le commissaire instruit toute plainte reçue — sur un acte ou une omission — et faisant état, dans l'administration d'une institution fédérale, d'un cas précis de non-reconnaissance du statut d'une langue officielle, de manquement à une loi ou un règlement fédéraux sur le statut ou l'usage des deux langues officielles ou encore à l'esprit de la présente loi et à l'intention du législateur.

Dépôt d'une plainte

(2) Tout individu ou groupe a le droit de porter plainte devant le commissaire, indépendamment de la langue officielle parlée par le ou les plaignants.

Interruption de l'instruction

(3) Le commissaire peut, à son appréciation, interrompre toute enquête qu'il estime, compte tenu des circonstances, inutile de poursuivre.

Investigation, Compliance Agreement and Orders

Investigation of complaints

58 (1) Subject to this Act, the Commissioner shall investigate any complaint made to the Commissioner arising from any act or omission to the effect that, in any particular instance or case,

(a) the status of an official language was not or is not being recognized,

(b) any provision of any Act of Parliament or regulation relating to the status or use of the official languages was not or is not being complied with, or

(c) the spirit and intent of this Act was not or is not being complied with

in the administration of the affairs of any federal institution.

Who may make complaint

(2) A complaint may be made to the Commissioner by any person or group of persons, ~~whether or not they speak, or represent a group speaking, regardless of the official language the status or use of which is at issue~~ that they speak.

Discontinuance of investigation

(3) If in the course of investigating any complaint it appears to the Commissioner that, having regard to all the circumstances of the case, any further investigation is unnecessary, the Commissioner may refuse to investigate the matter further.

Refus d'instruire

(4) Le commissaire peut, à son appréciation, refuser ou cesser d'instruire une plainte dans l'un ou l'autre des cas suivants :

- a) elle est sans importance ;
- b) elle est futile ou vexatoire ou n'est pas faite de bonne foi ;
- c) son objet ne constitue pas une contravention à la présente loi ou une violation de son esprit et de l'intention du législateur ou, pour toute autre raison, ne relève pas de la compétence du commissaire~~;~~
- d) la plainte n'a pas été déposée dans un délai raisonnable après que son objet a pris naissance;
- e) le commissaire a déjà dressé un rapport au titre du paragraphe 63(1) sur l'objet de la plainte;
- f) l'institution fédérale concernée a pris des mesures correctives pour régler la plainte;
- g) le commissaire a conclu un accord de conformité en application du paragraphe 64.1(1) à l'égard de l'objet de la plainte.

Avis au plaignant

(5) En cas de refus d'ouvrir une enquête ou de la poursuivre, le commissaire donne au plaignant un avis motivé.

Préavis d'enquête

59 Le commissaire donne un préavis de son intention d'enquêter à l'administrateur général ou à tout autre responsable administratif de l'institution fédérale concernée.

Secret des enquêtes

60 (1) Les enquêtes menées par le commissaire sont secrètes.

Refus d'instruire

(4) The Commissioner may refuse to investigate or cease to investigate any complaint if in the opinion of the Commissioner

- a) the subject-matter of the complaint is trivial;
- b) the complaint is frivolous or vexatious or is not made in good faith;~~;~~
- c) the subject-matter of the complaint does not involve a contravention or failure to comply with the spirit and intent of this Act, or does not for any other reason come within the authority of the Commissioner under this Act~~;~~
- (d) the complaint was not made within a reasonable time after the subject-matter of the complaint arose;
- (e) the subject-matter of the complaint has already been the subject of a report by the Commissioner under subsection 63(1);
- (f) the federal institution concerned has taken corrective measures to resolve the complaint; or
- (g) the Commissioner has entered into a compliance agreement under subsection 64.1(1) in respect of the subject-matter of the complaint.

Complainant to be notified

(5) Where the Commissioner decides to refuse to investigate or cease to investigate any complaint, the Commissioner shall inform the complainant of that decision and shall give the reasons therefor.

Notice of intention to investigate

59 Before carrying out an investigation under this Act, the Commissioner shall inform the deputy head or other administrative head of any federal institution concerned of his intention to carry out the investigation.

Investigation to be conducted in private

60 (1) Every investigation by the Commissioner under this Act shall be conducted in private.

Droit de réponse

(2) Le commissaire n'est pas obligé de tenir d'audience, et nul n'est en droit d'exiger d'être entendu par lui. Toutefois, si au cours de l'enquête, il estime qu'il peut y avoir des motifs suffisants pour faire un rapport ou une recommandation susceptibles de nuire à un particulier ou à une institution fédérale, il prend, avant de clore l'enquête, les mesures indiquées pour leur donner toute possibilité de répondre aux critiques dont ils font l'objet et, à cette fin, de se faire représenter par un avocat.

Procédure

61 (1) Sous réserve des autres dispositions de la présente loi, le commissaire peut établir la procédure à suivre pour ses enquêtes.

Délégation pour la collecte de renseignements

(2) Le commissaire peut, dans les limites qu'il fixe, déléguer en tout ou en partie à un ~~cadre~~ employé du commissariat nommé au titre de l'article 51 les attributions que lui confère la présente loi en ce qui concerne la collecte des renseignements utiles à l'enquête.

Pouvoir d'enquête

62 (1) Pour les enquêtes, à l'exclusion de celles relatives à la partie III, qu'il mène en vertu de la présente loi, le commissaire a le pouvoir :

a) de la même manière et dans la même mesure qu'une cour supérieure d'archives, d'assigner des témoins et de les contraindre à comparaître devant lui et à déposer sous serment, verbalement ou par écrit, ainsi qu'à produire les documents et autres pièces qu'il estime indispensables pour instruire à fond toute

Opportunity to answer allegations and criticisms

(2) It is not necessary for the Commissioner to hold any hearing and no person is entitled as of right to be heard by the Commissioner, but if at any time during the course of an investigation it appears to the Commissioner that there may be sufficient grounds to make a report or recommendation that may adversely affect any individual or any federal institution, the Commissioner shall, before completing the investigation, take every reasonable measure to give to that individual or institution a full and ample opportunity to answer any adverse allegation or criticism, and to be assisted or represented by counsel for that purpose.

Procedure

61 (1) Subject to this Act, the Commissioner may determine the procedure to be followed in carrying out any investigation under this Act.

Receiving and obtaining of information by officer designated

(2) The Commissioner may direct that information relating to any investigation under this Act be received or obtained, in whole or in part, by any ~~officer~~ employee of the office of the Commissioner appointed under section 51 and that ~~officer~~ employee shall, subject to ~~such~~ any restrictions or limitations ~~as that~~ the Commissioner may specify, have all the powers and duties of the Commissioner under this Act in relation to the receiving or obtaining of that information.

Powers of Commissioner in carrying out investigations

62 (1) The Commissioner has, in relation to the carrying out of any investigation under this Act, other than an investigation in relation to Part III, power

(a) to summon and enforce the attendance of witnesses and compel them to give oral or written evidence on oath, and to produce such documents and things as the Commissioner deems requisite to the full investigation and consideration of any matter within his authority under this Act, in the same manner and to the same extent as a superior court of record;

question relevant de sa compétence aux termes de la présente loi;

b) de faire prêter serment;

c) de recevoir et d'accepter, notamment par voie de déposition ou d'affidavit, les éléments de preuve et autres renseignements qu'il juge indiqués, indépendamment de leur admissibilité devant les tribunaux;

d) sous réserve des restrictions que peut prescrire, par règlement, le gouverneur en conseil pour des raisons de défense ou de sécurité, de pénétrer dans les locaux d'une institution fédérale et d'y procéder, dans le cadre de la compétence que lui confère la présente loi, aux enquêtes qu'il juge à propos.

(b) to administer oaths;

(c) to receive and accept such evidence and other information, whether on oath or by affidavit or otherwise, as in his discretion the Commissioner sees fit, whether or not the evidence or information is or would be admissible in a court of law; and

(d) subject to such limitation as may in the interests of defence or security be prescribed by regulation of the Governor in Council, to enter any premises occupied by any federal institution and carry out therein such inquiries within his authority under this Act as the Commissioner sees fit.

Modes substitutifs de règlement des différends

(1.1) Au cours de l'enquête, le commissaire peut tenter de parvenir au règlement de la plainte en ayant recours à des modes substitutifs de règlement des différends, à l'exception de l'arbitrage.

Alternative dispute resolution

(1.1) The Commissioner may, at any time in the course of an investigation, attempt to resolve a complaint by means of a process of alternative dispute resolution, other than arbitration.

Menaces, intimidation, discrimination ou entrave

(2) Le commissaire peut transmettre un rapport motivé au président du Conseil du Trésor ainsi qu'à l'administrateur général ou à tout autre responsable administratif de l'institution fédérale concernée lorsqu'il estime, pour des motifs raisonnables :

a) qu'une personne a fait l'objet de menaces, d'intimidation ou de discrimination parce qu'elle a déposé une plainte, a témoigné ou participé à une enquête tenue sous le régime de la présente loi, ou se propose de le faire;

b) que son action, ou celle d'une personne agissant en son nom ou sous son autorité dans l'exercice des attributions du commissaire, a été entravée.

Report – ~~T~~hreats, intimidations, discrimination or obstruction to be reported

(2) ~~Where – t~~The Commissioner may provide a report with reasons to the President of the Treasury Board and the deputy head or other administrative head of any federal institution concerned if the Commissioner believes on reasonable grounds that

(a) an individual has been threatened, intimidated or made the object of discrimination because that individual has made a complaint under this Act or has given evidence or assisted in any way in respect of an investigation under this Act, or proposes to do so, or

(b) the Commissioner, or any person acting on behalf or under the direction of the Commissioner, has been obstructed in the performance of the Commissioner's duties or functions under this Act,

~~the Commissioner may report that belief and the grounds therefor to the President of the Treasury Board and the deputy head or other administrative head of any institution concerned.~~

Clôture de l'enquête

63 (1) Au terme de l'enquête, le commissaire transmet un rapport motivé au président du Conseil du Trésor ainsi qu'à l'administrateur général ou à tout autre responsable administratif de l'institution fédérale concernée, s'il est d'avis :

- a) soit que le cas en question doit être renvoyé à celle-ci pour examen et suite à donner si nécessaire;
- b) soit que des lois ou règlements ou des principes ou instructions du gouverneur en conseil ou du Conseil du Trésor devraient être reconsidérés, ou encore qu'un usage aboutissant à la violation de la présente loi ou risquant d'y aboutir devrait être modifié ou abandonné;
- c) soit que d'autres mesures devraient être prises.

Facteurs additionnels

(2) En établissant son rapport, le commissaire tient compte des principes applicables à l'institution fédérale concernée aux termes d'une loi ou d'un règlement fédéraux ou d'instructions émanant du gouverneur en conseil ou du Conseil du Trésor.

Recommandations

(3) Le commissaire peut faire les recommandations qu'il juge indiquées dans son rapport; il peut également demander aux administrateurs généraux ou aux autres responsables administratifs de l'institution fédérale concernée de lui faire savoir, dans le délai qu'il fixe, les mesures envisagées pour donner suite à ses recommandations.

Publication

63.1 (1) Au terme de l'enquête, le commissaire peut rendre publics :

- a) le sommaire de l'enquête;
- b) les conclusions de l'enquête;

Clôture de l'enquête

63 (1) If, after carrying out an investigation under this Act, the Commissioner is of the opinion that

- (a) the act or omission that was the subject of the investigation should be referred to any federal institution concerned for consideration and action if necessary,
- (b) any Act or regulations ~~thereunder~~, or any policy or directive of the Governor in Council or the Treasury Board, should be reconsidered or any practice that leads or is likely to lead to a contravention of this Act should be altered or discontinued, or
- c) any other action should be taken,

the Commissioner shall report that opinion and the reasons therefor to the President of the Treasury Board and the deputy head or other administrative head of any institution concerned.

Other policies to be taken into account

(2) In making a report under subsection (1) that relates to any federal institution, the Commissioner shall have regard to any policies that apply to that institution that are set out in any Act of Parliament or regulation thereunder or in any directive of the Governor in Council or the Treasury Board.

Recommandations

(3) The Commissioner may

- (a) in a report under subsection (1) make such recommendations as he thinks fit; and
- (b) request the deputy head or other administrative head of the federal institution concerned to notify the Commissioner within a specified time of the action, if any, that the institution proposes to take to give effect to those recommendations.

Publication

63.1 (1) After carrying out an investigation under this Act, the Commissioner may make any of the following information public:

- (a) a summary of the investigation;
- (b) the findings of the investigation;

c) les recommandations qu'il a faites aux termes du paragraphe 63(3).

(c) any recommendations made by the Commissioner under subsection 63(3).

Renseignements identificateurs

(2) Le commissaire veille à ce que les renseignements qu'il rend publics ne prennent pas une forme qui risque vraisemblablement de permettre l'identification du plaignant ou de tout particulier.

Identifying information

(2) The Commissioner shall ensure that the information made public under subsection (1) is not in a form that could reasonably be expected to identify the complainant or any individual.

Avis

(3) Avant de rendre les renseignements publics, le commissaire donne à l'administrateur général ou à tout autre responsable administratif de l'institution fédérale concernée un avis d'au moins trente jours ouvrables de son intention de les rendre publics.

Notice

(3) Before making the information public, the Commissioner shall give to the deputy head or other administrative head of any federal institution concerned at least 30 business days' notice of the Commissioner's intention to make it public.

Information des intéressés

64 (1) Au terme de l'enquête, le commissaire communique, dans le délai et de la manière qu'il juge indiqués, ses conclusions au plaignant ainsi qu'aux particuliers ou institutions fédérales qui ont exercé le droit de réponse prévu au paragraphe 60(2).

Where investigation carried out pursuant to complaint

64 (1) Where the Commissioner carries out an investigation pursuant to a complaint, the Commissioner shall inform the complainant and any individual by whom or on behalf of whom, or the deputy head or other administrative head of any federal institution by which or on behalf of which, an answer relating to the complaint has been made pursuant to subsection 60(2), in such manner and at such time as the Commissioner thinks proper, of the results of the investigation.

Suivi

(2) Il peut, quand aux termes du paragraphe 63(3) il a fait des recommandations auxquelles, à son avis, il n'a pas été donné suite dans un délai raisonnable par des mesures appropriées, en informer le plaignant et faire à leur sujet les commentaires qu'il juge à propos ; le cas échéant, il fait parvenir le texte de ses recommandations et commentaires aux personnes visées au paragraphe (1).

Where recommendations made

(2) Where recommendations have been made by the Commissioner under subsection 63(3) but adequate and appropriate action has not, in the opinion of the Commissioner, been taken thereon within a reasonable time after the recommendations are made, the Commissioner may inform the complainant of those recommendations and make such comments thereon as he thinks proper, and shall provide a copy of the recommendations and comments to any individual, deputy head or administrative head whom the Commissioner is required under subsection (1) to inform of the results of the investigation.

Accord de conformité

64.1 (1) Si, au cours de l'enquête ou au terme de celle-ci, le commissaire a des motifs raisonnables de croire qu'une institution fédérale a contrevenu à la présente loi, il peut conclure avec cette institution un accord de conformité visant à la faire respecter.

Autre partie

(2) Le plaignant peut, sur invitation du commissaire, être partie à l'accord de conformité.

Conditions

(3) L'accord de conformité est assorti des conditions que le commissaire estime nécessaires pour faire respecter la présente loi.

Effet de l'accord de conformité : commissaire

64.2 (1) Lorsqu'un accord de conformité est conclu, le commissaire :

a) ne peut rendre d'ordonnance en vertu du paragraphe 64.5(1) à l'égard d'aucune question visée par l'accord;

a.1) ne peut dresser de procès-verbal de violation en vertu du paragraphe 65.6(1) à l'égard d'une telle question;

b) ne peut exercer le recours prévu à l'alinéa 78(1)a) à l'égard d'une telle question;

c) demande à la Cour fédérale la suspension de toute demande à l'égard d'une telle question qu'il a faite au titre de cet alinéa et qui est pendante au moment de la conclusion de l'accord.

Effet de l'accord de conformité : plaignant

(2) Lorsqu'il est partie à l'accord de conformité, le plaignant :

a) ne peut exercer le recours prévu au paragraphe 77(1) à l'égard de toute question visée par l'accord;

Compliance agreement

64.1 (1) If, at any time during the course of or after carrying out an investigation, the Commissioner has reasonable grounds to believe that a federal institution has contravened this Act, the Commissioner may enter into a compliance agreement with that federal institution aimed at ensuring compliance with this Act.

Other party

(2) The complainant may, at the invitation of the Commissioner, be made a party to the compliance agreement.

Terms

(3) A compliance agreement may contain any terms that the Commissioner considers necessary to ensure compliance with this Act.

Effect of compliance agreement – Commissioner

64.2 (1) Once a compliance agreement is entered into, the Commissioner

(a) is not permitted to make an order under subsection 64.5(1) in respect of any matter covered under the agreement;

(a.1) is not permitted to issue a notice of violation under subsection 65.6(1) in respect of any matter covered under the agreement;

(b) is not permitted to make an application under paragraph 78(1)(a) in respect of any matter covered under the agreement; and

(c) shall apply to the Federal Court for the suspension of any pending applications that the Commissioner made under paragraph 78(1)(a) in respect of any matter covered under the agreement.

Effect of compliance agreement – complainant

(2) The complainant, if they are a party to the compliance agreement entered into,

(a) is not permitted to make an application under subsection 77(1) in respect of any matter covered under the agreement; and

b) demande à la Cour fédérale la suspension de toute demande à l'égard d'une telle question qu'il a faite au titre de ce paragraphe et qui est pendante au moment de la conclusion de l'accord.

Accord de conformité respecté

64.3 Si le commissaire est d'avis que l'institution fédérale a respecté l'accord de conformité :

a) il en avise par écrit cette dernière ainsi que tout plaignant qui est partie à l'accord;

b) il retire toute demande qu'il a faite au titre de l'alinéa 78(1)a) à l'égard d'une question visée par l'accord;

c) dans le cas où le plaignant est partie à l'accord, ce dernier retire toute demande qu'il a faite au titre du paragraphe 77(1) à l'égard d'une question visée par l'accord.

Accord de conformité non respecté

64.4 (1) S'il est d'avis que l'institution fédérale n'a pas respecté l'accord de conformité, le commissaire en avise par écrit l'administrateur général ou tout autre responsable administratif de l'institution fédérale et tout plaignant partie à l'accord. Il peut alors demander à la Cour fédérale :

a) soit une ordonnance enjoignant à l'institution de se conformer à l'accord de conformité, en sus de toute autre réparation que la Cour peut accorder;

b) soit réparation conformément à l'alinéa 78(1)a) ou, en cas de suspension de toute demande à la suite d'une demande faite en application de l'alinéa 64.2(1)c), le rétablissement de la demande.

Partie à l'instance

(2) L'institution fédérale dont l'administrateur général ou tout autre responsable administratif reçoit l'avis en application du paragraphe (1) et tout

(b) shall apply to the Federal Court for the suspension of any pending applications that they made under subsection 77(1) in respect of any matter covered under the agreement.

Compliance agreement complied with

64.3 If the Commissioner is of the opinion that a federal institution has complied with a compliance agreement,

(a) the Commissioner shall provide written notice to that effect to the federal institution and, if the complainant is a party to the agreement, to the complainant;

(b) the Commissioner shall withdraw any applications that the Commissioner made under paragraph 78(1)(a) in respect of any matter covered under the agreement; and

(c) the complainant, if they are a party to the agreement, shall withdraw any applications that they made under subsection 77(1) in respect of any matter covered under the agreement.

Compliance agreement not complied with

64.4 (1) If the Commissioner is of the opinion that a federal institution has not complied with a compliance agreement, the Commissioner shall provide written notice to that effect to the deputy head or other administrative head of the federal institution and to the complainant, if they are a party to the agreement, and may apply to the Federal Court

(a) for an order requiring the federal institution to comply with the agreement, in addition to any other remedies that the Federal Court may give; or

(b) for a remedy in accordance with paragraph 78(1)(a) or for the reinstatement of proceedings that have been suspended as a result of any application made under paragraph 64.2(1)(c).

Parties to proceedings

(2) A federal institution whose deputy head or other administrative head receives a notice under subsection (1), and a complainant who receives a

plaignant qui reçoit cet avis ont le droit de comparaître comme partie à l'instance.

notice under that subsection, have the right to appear as parties to the proceedings.

Plaignant

(3) Sur réception de l'avis, le plaignant peut demander à la Cour réparation conformément au paragraphe 77(1) ou, en cas de suspension de toute demande à la suite d'une demande faite en application de l'alinéa 64.2(2)b), le rétablissement de la demande.

Complainant

(3) On receipt of the notice, the complainant may apply to the Federal Court for a remedy in accordance with subsection 77(1) or for the reinstatement of proceedings that have been suspended as a result of an application made under paragraph 64.2(2)(b).

Délai de la demande

(4) Malgré le paragraphe 77(2) et l'alinéa 78(1)a), mais sous réserve du paragraphe 77(3), la demande est faite dans l'année suivant la date de l'avis de défaut ou dans le délai supérieur que la Cour autorise avant ou après l'expiration de l'année.

Time for application

(4) Despite subsection 77(2) and paragraph 78(1)(a) but subject to subsection 77(3), the application shall be made within one year after the date of the notice or within any longer period that the Federal Court may, either before or after the expiry of that year, allow.

Ordonnance du commissaire

64.5 (1) Au terme d'une enquête sur une plainte visant une obligation ou un droit prévus aux parties IV ou V, le commissaire peut, s'il a des motifs raisonnables de croire qu'une institution fédérale a contrevenu à l'une de ces parties et qu'il a fait des recommandations aux termes du paragraphe 63(3) à l'égard de la contravention ou d'une contravention identique commise par l'institution fédérale à l'une de ces parties, lui enjoindre, par ordonnance, de prendre toute mesure qu'il juge indiquée pour remédier à la contravention.

Commissioner's order

64.5 (1) If, after carrying out an investigation of a complaint in respect of a right or duty under Part IV or V, the Commissioner has reasonable grounds to believe that a federal institution has contravened that Part and has made recommendations under subsection 63(3) in respect of that contravention, or in respect of an identical contravention of that Part by the institution, the Commissioner may make an order directing that institution to take any action that the Commissioner considers appropriate to rectify the contravention.

Ordonnance du commissaire

64.5 (1) Au terme d'une enquête sur une plainte visant une obligation ou un droit prévus aux parties ~~IV ou V~~ **IV, V ou VII**, le commissaire peut, s'il a des motifs raisonnables de croire qu'une institution fédérale a contrevenu à l'une de ces parties et qu'il a fait des recommandations aux termes du paragraphe 63(3) à l'égard de la contravention ou d'une contravention identique commise par l'institution fédérale à l'une de ces parties, lui enjoindre, par ordonnance, de prendre toute mesure qu'il juge indiquée pour remédier à la contravention.

Commissioner's order

64.5 (1) If, after carrying out an investigation of a complaint in respect of a right or duty under Part ~~IV or V~~ **IV, V or VII**, the Commissioner has reasonable grounds to believe that a federal institution has contravened that Part and has made recommendations under subsection 63(3) in respect of that contravention, or in respect of an identical contravention of that Part by the institution, the Commissioner may make an order directing that institution to take any action that the Commissioner considers appropriate to rectify the contravention.

Limite

(2) Toutefois, le commissaire ne peut rendre d'ordonnance à l'égard de l'objet de la plainte sans avoir préalablement proposé à l'institution fédérale de conclure un accord de conformité sur cet objet en application du paragraphe 64.1(1).

Conditions préalables pour rendre une ordonnance

(3) Avant de rendre l'ordonnance, le commissaire donne à l'administrateur général ou à tout autre responsable administratif de l'institution fédérale concernée un avis où :

a) il présente l'ordonnance qu'il a l'intention de rendre;

b) il spécifie que l'administrateur général ou tout autre responsable administratif doit, dans les vingt jours suivant la réception de l'avis, lui donner avis:

(i) soit des mesures prises ou envisagées par l'institution fédérale pour la mise en œuvre de l'ordonnance qu'il a l'intention de rendre ou des recommandations faites aux termes du paragraphe 63(3) ou des motifs invoqués pour ne pas y donner suite,

(ii) soit de sa volonté de conclure ou non un accord de conformité au titre du paragraphe 64.1(1).

Conditions

(4) L'ordonnance peut être assortie des conditions que le commissaire juge indiquées.

Avis de l'ordonnance

(5) Le commissaire donne au plaignant et à l'administrateur général ou à tout autre responsable administratif de l'institution fédérale un avis qui contient les éléments suivants :

a) toute ordonnance qu'il rend;

b) la mention du droit du plaignant et de l'institution fédérale d'exercer un recours en révision au titre de l'article 78.1 et du délai pour

Limitation

(2) However, the Commissioner is not permitted to make an order in respect of the subject-matter of a complaint unless, before making the order, the Commissioner invited the federal institution to enter into a compliance agreement under subsection 64.1(1) in respect of that subject-matter.

Preconditions to order

(3) Before making an order under subsection (1), the Commissioner shall provide to the deputy head or other administrative head of the federal institution concerned a notice that sets out

(a) the order that the Commissioner intends to make; and

(b) statement that within 20 days after the day on which the deputy head or other administrative head receives the notice, that deputy head or other administrative head shall notify the Commissioner

(i) of the action taken or proposed to be taken by the federal institution to implement the proposed order or the recommendations made under subsection 63(3), or the reasons why no such action has been or is proposed to be taken, or

(ii) whether the federal institution wishes to enter into a compliance agreement under subsection 64.1(1).

Condition

(4) The order may include any condition that the Commissioner considers appropriate.

Notice of order

(5) The Commissioner shall provide to the complainant and to the deputy head or other administrative head of the federal institution a notice that sets out

(a) any order that the Commissioner makes;

(b) a statement that the complainant and the federal institution each have the right to apply for a review under section 78.1, within the period specified for exercising that right, and

ce faire, ainsi que du fait que s'ils exercent ce droit, ils doivent se conformer à l'article 78.5;

c) la mention qu'à défaut de l'exercice du recours en révision dans ce délai, toute ordonnance contenue dans l'avis prendra effet conformément au paragraphe (6).

that they must comply with section 78.5 if they exercise that right; and

(c) a statement that if neither the complainant nor the federal institution applies for a review within the period specified for doing so, any order set out in the notice takes effect in accordance with subsection (6).

Prise d'effet

(6) L'ordonnance prend effet le trente et unième jour ouvrable suivant la date à laquelle l'administrateur général ou tout autre responsable administratif de l'institution fédérale reçoit l'avis.

Effect

(6) The order takes effect on the 31st business day after the day on which the deputy head or other administrative head of the federal institution receives the notice.

Date de réception réputée

(7) Pour l'application du présent article, l'administrateur général ou tout autre responsable administratif de l'institution fédérale est réputé avoir reçu l'avis le cinquième jour ouvrable suivant la date que porte l'avis.

Deemed date of receipt

(7) For the purpose of this section, the deputy head or other administrative head of the federal institution is deemed to have received a notice on the fifth business day after the date of the notice.

Dépôt de l'ordonnance

64.6 (1) S'il a des motifs raisonnables de croire que l'institution fédérale n'a pas respecté l'ordonnance rendue en application du paragraphe 64.5(1), le commissaire peut déposer devant la Cour fédérale une copie certifiée conforme par lui de cette ordonnance.

Filing of order

64.6 (1) If the Commissioner is of the opinion that a federal institution has not complied with the terms of an order made under subsection 64.5(1), the Commissioner may file in the Federal Court a copy of the order certified by the Commissioner to be a true copy.

Effet du dépôt

(2) Dès son dépôt, l'ordonnance est assimilée à une ordonnance rendue par la Cour fédérale et peut être exécutée comme telle.

Effect of filing

(2) On the certified copy being filed, the decision becomes and may be enforced as an order of the Federal Court.

Rapport au gouverneur en conseil

65 (1) Dans la situation décrite au paragraphe 63(3), le commissaire peut en outre, à son appréciation et après examen des réponses faites par l'institution fédérale concernée ou en son nom, transmettre au gouverneur en conseil un exemplaire du rapport et de ses recommandations.

Report to Governor in Council where appropriate action not taken

65 (1) If, within a reasonable time after a report containing recommendations under subsection 63(3) is made, adequate and appropriate action has not, in the opinion of the Commissioner, been taken thereon, the Commissioner, in his discretion and after considering any reply made by or on behalf of any federal institution concerned, may transmit a copy of the report and recommendations to the Governor in Council.

Suivi

(2) Le gouverneur en conseil peut prendre les mesures qu'il juge indiquées pour donner suite au rapport et mettre en œuvre les recommandations qu'il contient.

Rapport au Parlement

(3) Si, dans un délai raisonnable après la transmission du rapport, il n'y a pas été donné suite, à son avis, par des mesures appropriées, le commissaire peut déposer au Parlement le rapport y afférent qu'il estime indiqué.

Incorporation des réponses

(4) Il est tenu de joindre au rapport le texte des réponses faites par l'institution fédérale concernée, ou en son nom.

Sanctions administratives pécuniaires

Définitions

65.1 Les définitions qui suivent s'appliquent aux articles 65.3 à 65.95 et au paragraphe 66(3).

organisme désigné Toute société d'État ou personne morale visée à l'article 65.2. (*designated body*)

sanction Sanction administrative pécuniaire infligée pour une violation. (*penalty*)

Application

65.2 Les articles 65.3 à 65.95 s'appliquent aux sociétés d'État — ainsi qu'aux personnes morales assujetties à la présente loi en application d'une autre loi fédérale — qui remplissent les conditions suivantes :

- a) elles sont désignées par règlement;
- b) elles ont des obligations au titre de la partie IV;

Action by Governor in Council

(2) The Governor in Council may take such action as the Governor in Council considers appropriate in relation to any report transmitted under subsection (1) and the recommendations therein.

Report to Parliament

(3) If, within a reasonable time after a copy of a report is transmitted to the Governor in Council under subsection (1), adequate and appropriate action has not, in the opinion of the Commissioner, been taken thereon, the Commissioner may make such report thereon to Parliament as he considers appropriate.

Reply to be attached to report

(4) The Commissioner shall attach to every report made under subsection (3) a copy of any reply made by or on behalf of any federal institution concerned.

Administrative Monetary Penalties

Definitions

65.1 The following definitions apply in sections 65.3 to 65.95 and subsection 66(3).

designated body means a corporation referred to in section 65.2. (*organisme désigné*)

penalty means an administrative monetary penalty imposed for a violation. (*sanction*)

Application

65.2 Sections 65.3 to 65.95 apply to a Crown corporation — or corporation that is subject to this Act under another Act of Parliament — that

- (a) is designated by regulation;
- (b) has duties under Part IV;

c) elles exercent leurs activités dans le domaine des transports;

d) elles offrent des services aux voyageurs et communiquent avec eux.

But de la sanction

65.3 L'imposition d'une sanction vise non pas à punir, mais plutôt à favoriser le respect de la partie IV.

Règlements

65.4 (1) Sur la recommandation du ministre du Patrimoine canadien, le gouverneur en conseil peut prendre des règlements :

a) désignant des sociétés d'État ou des personnes morales pour l'application de l'article 65.2;

b) désignant comme violation punissable au titre des articles 65.3 à 65.95 la contravention à toute disposition spécifiée de la partie IV et de ses règlements relativement aux services et communications spécifiés ou aux catégories de services et communications spécifiées;

c) déterminant le montant de la sanction — ou établissant un barème de sanctions — applicable à chaque violation;

d) établissant, pour l'application de l'alinéa (3)d), d'autres critères applicables à la détermination du montant de la sanction, lorsqu'un barème de sanctions est établi;

e) augmentant le montant maximal de la sanction prévu au paragraphe (2);

f) concernant la signification des documents autorisés ou exigés par les articles 65.3 à 65.95, notamment par l'établissement de présomptions et de règles de preuve;

g) établissant la forme et le contenu des procès-verbaux de violation;

h) de façon générale, prévoyant toute autre mesure d'application des articles 65.3 à 65.95.

(c) operates in the transportation sector; and

(d) engages in communications with and provides or makes available services to the travelling public.

Purpose of penalty

65.3 The purpose of a penalty is to promote compliance with Part IV and not to punish.

Regulations

65.4 (1) The Governor in Council may, on the recommendation of the Minister of Canadian Heritage, make regulations

(a) designating any corporation for the purposes of section 65.2;

(b) designating, as a violation that may be proceeded with in accordance with sections 65.3 to 65.95, the contravention of any specified provision of Part IV or the regulations made under that Part in respect of specified communications and services or specified categories of communications and services;

(c) fixing a penalty, or a range of penalties, in respect of each violation;

(d) for the purposes of paragraph (3)(d), establishing other criteria to be considered in determining the amount of the penalty if a range of penalties is established;

(e) increasing the amount of the maximum penalty set out in subsection (2);

(f) respecting the service of documents required or authorized to be served under sections 65.3 to 65.95, including the manner and proof of service and the circumstances under which documents are to be considered to be served;

(g) establishing the form and content of notices of violation; and

(h) generally, for carrying out the purposes and provisions of sections 65.3 to 65.95.

Plafond – montant de la sanction

(2) Sous réserve des règlements pris en vertu de l'alinéa (1)e), le montant maximal de la sanction applicable à une violation déterminé au titre des règlements pris en vertu de l'alinéa (1)c) est de vingt-cinq mille dollars.

Critères – barème de sanctions

(3) Lorsqu'un barème de sanctions applicable à une violation est établi au titre des règlements pris en vertu de l'alinéa (1)c), le commissaire tient compte des critères ci-après pour la détermination du montant de la sanction :

- a) la nature et la portée de la violation;
- b) les antécédents du prétendu auteur de la violation en ce qui a trait au respect des dispositions de la partie IV et de ses règlements désignées par les règlements pris en vertu de l'alinéa (1)b);
- c) sa capacité de payer le montant de la sanction;
- d) tout critère prévu par règlement;
- e) tout autre critère pertinent.

Violations

65.5 La contravention à une disposition — désignée par les règlements pris en vertu de l'alinéa 65.4(1)b) — constitue une violation pour laquelle l'organisme désigné s'expose à une sanction dont le montant est déterminé conformément aux règlements pris en vertu de l'alinéa 65.4(1)c) et au paragraphe 65.4(3).

Procès-verbal

65.6 (1) Si, au terme d'une enquête sur une plainte visant une obligation ou un droit prévus à une disposition désignée par les règlements pris en vertu de l'alinéa 65.4(1)b), il a des motifs raisonnables de croire qu'une violation a été commise et il a établi un rapport au titre du paragraphe 63(1) à l'égard de la violation, le commissaire peut dresser un procès-verbal qu'il fait signifier — avec le rapport et tout autre document pertinent — au prétendu auteur de la violation.

Maximum penalty

(2) Subject to regulations made under paragraph (1)(e), the maximum penalty in respect of a violation that may be fixed under regulations made under paragraph (1)(c) is \$25,000.

Criteria – range of penalties

(3) If a range of penalties is fixed by regulations made under paragraph (1)(c) in respect of a violation, then the Commissioner shall take into account the following criteria in determining the amount of the penalty:

- (a) the nature and scope of the violation;
- (b) the history of compliance, by the designated body that is believed to have committed the violation, with the provisions of Part IV and the regulations made under that Part that are designated by regulations made under paragraph (1)(b);
- (c) the designated body's ability to pay the penalty;
- (d) any criteria established by regulation; and
- (e) any other relevant criterion.

Violations

65.5 Every designated body that contravenes a provision designated by regulations made under paragraph 65.4(1)(b) commits a violation and is liable to a penalty of an amount to be determined in accordance with regulations made under paragraph 65.4(1)(c) and with subsection 65.4(3).

Notice of violation

65.6 (1) If, after carrying out an investigation of a complaint in respect of a right or duty under a provision designated by regulations made under paragraph 65.4(1)(b), the Commissioner has reasonable grounds to believe that a designated body has committed a violation and has made a report under subsection 63(1) in respect of that violation, the Commissioner may issue a notice of violation and shall cause it to be served — along with the report and any other relevant document — on the body.

Limite – accord de conformité

(2) Toutefois, le commissaire ne peut dresser un procès-verbal à l'égard de l'objet de la plainte sans avoir préalablement proposé au prétendu auteur de la violation de conclure un accord de conformité sur cet objet en application du paragraphe 64.1(1).

Limite – procès-verbal antérieur

(3) Il ne peut non plus dresser un procès-verbal à l'égard de l'objet de la plainte si celui-ci a déjà fait l'objet d'un procès-verbal.

Contenu

(4) Tout procès-verbal mentionne les éléments suivants :

- a) le nom du prétendu auteur de la violation;**
- b) les faits pertinents concernant la violation ainsi que les dispositions en cause;**
- c) le montant de la sanction relative à la violation;**
- d) la façon dont le commissaire a tenu compte des critères prévus au paragraphe 65.4(3) pour la détermination du montant de la sanction, si un barème de sanctions applicable à la violation est établi par les règlements pris en vertu de l'alinéa 65.4(1)c);**
- e) la faculté qu'a le prétendu auteur de la violation de contester les faits reprochés ou le montant de la sanction ou les deux, par voie de révision, ainsi que les modalités — de temps et autres — pour ce faire conformément à l'article 65.9;**
- f) le délai de trente jours ouvrables suivant la date de la signification du procès-verbal pour payer la sanction, ainsi que les autres modalités de paiement;**
- g) le fait que le prétendu auteur, s'il n'exerce pas le recours visé à l'alinéa e) ou s'il ne paie pas la sanction selon les modalités — de temps ou autre — précisées, est réputé avoir commis la**

Limitation – compliance agreement

(2) However, the Commissioner is not permitted to issue a notice of violation in respect of the subject-matter of a complaint unless, before issuing the notice of violation, the Commissioner invited the designated body to enter into a compliance agreement under subsection 64.1(1) in respect of that subject-matter.

Limitation – previous notice of violation

(3) The Commissioner is not permitted to issue a notice of violation under subsection (1) in respect of the subject-matter of a complaint if that subject-matter has already been the subject of a notice of violation.

Contents

(4) The notice of violation shall

- (a) set out the name of the designated body that is believed to have committed the violation;**
- (b) set out the relevant facts of the violation and the provision at issue;**
- (c) set out the penalty for the violation;**
- (d) set out the manner in which the Commissioner took into account the criteria referred to in subsection 65.4(3) in determining the amount of the penalty, if a range of penalties is fixed for the violation by regulations made under paragraph 65.4(1)(c);**
- (e) inform the designated body of its right to contest the facts of the alleged violation, the penalty or both, by way of review, and specify the time within which and the manner in which to do so in accordance with section 65.9;**
- (f) inform the designated body that the penalty is to be paid within 30 business days after the day on which the notice of violation is served and specify the manner in which to do so;**
- (g) inform the designated body that, if it does not pay the penalty or exercise its right referred to in paragraph (e) within the time and in the manner set out in the notice, it will be considered to have committed the violation and**

violation et est tenu au paiement de cette sanction;

h) tout autre élément prévu par règlement.

Prescription

(5) Le procès-verbal ne peut être dressé après le deuxième anniversaire de la date où le commissaire a été informé des faits reprochés ou, s'il est antérieur, le troisième anniversaire de la date où les faits reprochés ont été commis.

Attestation

(6) Tout document apparemment délivré par le commissaire et attestant la date où le commissaire a été informé des faits reprochés fait foi de cette date, sauf preuve contraire, sans qu'il soit nécessaire de prouver l'authenticité de la signature ni la qualité officielle du signataire.

Paiement

65.7 Le paiement de la sanction prévue au procès-verbal vaut aveu de responsabilité à l'égard de la violation et met fin à la procédure.

Défaut

65.8 Vaut aveu de responsabilité, en cas de non-paiement de la sanction, le fait de ne pas demander de révision dans le délai imparti. Le cas échéant, l'auteur de la violation est tenu de payer la sanction.

Révision par la Cour fédérale

65.9 (1) Au lieu de payer la sanction, le prétendu auteur de la violation peut, dans les trente jours ouvrables suivant la date de la signification du procès-verbal et selon les modalités mentionnées dans celui-ci, exercer devant la Cour fédérale un recours en révision des faits reprochés ou du montant de la sanction, ou des deux.

that it is liable for the penalty set out in the notice; and

(h) set out any other information provided by regulation.

Limitation or prescription period

(5) No notice of violation shall be issued in respect of a violation after the second anniversary of the day on which the Commissioner was informed of the facts of the alleged violation or the third anniversary of the day on which the facts of the alleged violation occurred, whichever is earlier.

Certification by Commissioner

(6) A document appearing to have been issued by the Commissioner, certifying the day on which the Commissioner was informed of the facts of the alleged violation, is admissible in evidence without proof of the signature or official character of the person appearing to have signed the document and, in the absence of evidence to the contrary, is proof that the Commissioner was informed of the facts of the alleged violation on that day.

Payment of penalty

65.7 If a designated body that is served with a notice of violation pays the penalty set out in the notice, it is deemed to have committed the violation and the proceedings in respect of it are ended.

Failure to act

65.8 A designated body that neither pays a penalty set out in a notice of violation nor requests a review within the specified time is deemed to have committed the violation and is liable for the penalty.

Review by Federal Court

65.9 (1) Instead of paying the penalty set out in a notice of violation, the designated body named in the notice may, within 30 business days after the day on which the notice is served and in the manner specified in the notice, apply to the Federal Court for a review of the facts of the alleged violation or of the amount of the penalty, or both.

Révision de novo

(2) Il est entendu que le recours prévu au paragraphe (1) est entendu et jugé comme une nouvelle affaire.

Révision des faits reprochés

65.91 (1) Saisie d'un recours en révision des faits reprochés exercé par le prétendu auteur de la violation, la Cour fédérale, au terme de la révision, sous réserve du paragraphe (3) :

a) si elle décide que le prétendu auteur est responsable de la violation, rend une ordonnance dans laquelle elle déclare que ce dernier est responsable de la violation et qu'il est tenu de payer la sanction prévue au procès-verbal;

b) si elle décide que le prétendu auteur n'est pas responsable de la violation, rend une ordonnance dans laquelle elle déclare que ce dernier n'est pas responsable de la violation et qu'il n'est pas tenu de payer la sanction prévue au procès-verbal.

Révision du montant de la sanction

(2) Saisie d'un recours en révision du montant de la sanction exercé par le prétendu auteur de la violation, la Cour fédérale, au terme de la révision, sous réserve du paragraphe (3) :

a) d'une part, détermine le montant de la sanction conformément aux règlements pris en vertu de l'alinéa 65.4(1)c) et en tenant compte, si ces règlements établissent un barème de sanctions applicable à la violation, des critères prévues au paragraphe 65.4(3);

b) d'autre part, rend une ordonnance dans laquelle elle déclare que le prétendu auteur est tenu de payer le montant de la sanction qu'elle a ainsi déterminé.

Révision des faits reprochés et du montant de la sanction

(3) Saisie d'un recours en révision des faits reprochés et du montant de la sanction exercé par le prétendu auteur de la violation, la Cour fédérale, au terme de la révision :

De novo review

(2) For greater certainty, an application under subsection (1) is to be heard and determined as a new proceeding.

Review with respect to facts

65.91 (1) If a designated body applies for a review with respect to the facts of an alleged violation, then on completion of the review the Federal Court shall, subject to subsection (3),

(a) if it determines that the designated body committed the violation, make an order declaring that the designated body committed the violation and is liable for the penalty set out in the notice of violation; or

(b) if it determines that the designated body did not commit the violation, make an order declaring that the designated body did not commit the violation and is not liable for the penalty set out in the notice of violation.

Review with respect to penalty

(2) If a designated body applies for a review with respect to the amount of the penalty for a violation, then on completion of the review the Federal Court shall, subject to subsection (3),

(a) determine the amount of the penalty in accordance with regulations made under paragraph 65.4(1)(c) and, if those regulations fix a range of penalties in respect of the violation, by taking into account the criteria referred to in subsection 65.4(3); and

(b) make an order declaring that the designated body is liable for a penalty of the amount that the Court determines.

Review with respect to facts and penalty

(3) If a designated body applies for a review with respect to both the facts of an alleged violation and the amount of the penalty for the violation, then on completion of the review the Federal Court shall,

a) si elle décide que le prétendu auteur est responsable de la violation :

(i) d'une part, détermine le montant de la sanction conformément aux règlements pris en vertu de l'alinéa 65.4(1)c) et en tenant compte, si ces règlements établissent un barème de sanctions applicable à la violation, des critères prévus au paragraphe 65.4(3).

(ii) d'autre part, rend une ordonnance dans laquelle elle déclare que le prétendu auteur est responsable de la violation et qu'il est tenu de payer le montant de la sanction qu'elle a ainsi déterminé;

b) si elle décide que le prétendu auteur n'est pas responsable de la violation, rend une ordonnance dans laquelle elle déclare que ce dernier n'est pas responsable de la violation et qu'il n'est pas tenu de payer la sanction prévue au procès-verbal.

Créance de Sa Majesté

65.92 (1) Constituent une créance de Sa Majesté du chef du Canada, dont le recouvrement peut être poursuivi à ce titre devant la Cour fédérale :

a) le montant de la sanction mentionné dans le procès-verbal, à compter de la date de paiement qui y est précisée, sauf si un recours en révision est exercé au titre de l'article 65.9;

b) si un recours en révision est exercé au titre de cet article, la somme à payer aux termes d'une ordonnance rendue par la Cour fédérale au titre des alinéas 65.91(1)a) ou (2)b) ou du sous-alinéa 65.91(3)a)(ii), à compter de la date de l'ordonnance.

Prescription

(2) Le recouvrement de la créance se prescrit après le cinquième anniversaire de la date à laquelle elle est devenue exigible.

Receveur général

(3) Toute créance visée au paragraphe (1) est versée au receveur général.

(a) if it determines that the designated body committed the violation,

(i) determine the amount of the penalty in accordance with regulations made under paragraph 65.4(1)(c) and, if those regulations fix a range of penalties in respect of the violation, by taking into account the criteria referred to in subsection 65.4(3), and

(ii) make an order declaring that the designated body committed the violation and is liable for a penalty of the amount that the Court determines; or

(b) if it determines that the designated body did not commit the violation, make an order declaring that the designated body did not commit the violation and is not liable for the penalty set out in the notice of violation.

Debt to Her Majesty

65.92 (1) The following amounts are debts due to Her Majesty in right of Canada that may be recovered in the Federal Court:

(a) the amount of the penalty set out in a notice of violation, beginning on the day on which it is required to be paid in accordance with the notice, unless an application for review is made under section 65.9; and

(b) if an application for review is made under section 65.9, the amount payable under an order of the Federal Court made under paragraph 65.91(1)(a) or (2)(b) or subparagraph 65.91(3)(a)(ii), beginning on the date of the order.

Limitation or prescription period

(2) Proceedings to recover a debt referred to in subsection (1) may be commenced no later than the fifth anniversary of the day on which the debt becomes payable.

Proceeds payable to Receiver General

(3) A debt referred to in subsection (1) that is paid or recovered is payable to and shall be remitted to the Receiver General.

Certificat de non-paiement

65.93 (1) Le commissaire peut établir un certificat de non-paiement pour la partie impayée de toute créance visée au paragraphe 65.92(1).

Effet de l'enregistrement

(2) L'enregistrement à la Cour fédérale confère au certificat la valeur d'un jugement de cette juridiction pour la somme visée et les frais afférents à l'enregistrement.

Admissibilité en preuve

65.94 Dans les procédures en violation, le procès-verbal apparemment signifié en application du paragraphe 65.6(1) est admissible en preuve sans qu'il soit nécessaire de prouver l'authenticité de la signature ni la qualité officielle du signataire.

Exclusion de certains moyens de défense

65.95 (1) Le prétendu auteur de la violation ne peut invoquer en défense le fait qu'il a pris les mesures nécessaires pour empêcher la violation ou qu'il croyait raisonnablement et en toute honnêteté à l'existence de faits qui, avérés, l'exonéreraient.

Principes de la common law

(2) Les règles et principes de la common law qui font d'une circonstance une justification ou une excuse dans le cadre d'une poursuite pour infraction s'appliquent à l'égard d'une violation dans la mesure où ils sont compatibles avec la présente loi.

Rapports au Parlement

Rapport annuel

66 (1) Dans les meilleurs délais après la fin de chaque année, le commissaire présente au Parlement le rapport d'activité du commissariat pour l'année précédente, assorti éventuellement de ses recommandations quant aux modifications qu'il estime souhaitable d'apporter à la présente loi

Certificate of default

65.93 (1) The Commissioner may issue a certificate for the unpaid amount of any debt referred to in subsection 65.92(1).

Effect of registration

(2) Registration of a certificate in the Federal Court has the same effect as a judgment of that Court for a debt of the amount set out in the certificate and all related registration costs.

Evidence

65.94 In a proceeding in respect of a violation, a notice purporting to be served under subsection 65.6(1) is admissible in evidence without proof of the signature or official character of the person appearing to have signed it.

Certain defences not available

65.95 (1) A designated body named in a notice of violation does not have a defence by reason that it

(a) exercised due diligence to prevent the violation; or

(b) reasonably and honestly believed in the existence of facts that, if true, would exonerate it.

Common law principles

(2) Every rule and principle of the common law that renders any circumstance a justification or excuse in relation to a charge for an offence applies in respect of a violation to the extent that it is consistent with this Act.

Reports to Parliament

Annual report

66 (1) The Commissioner shall, within such time as is reasonably practicable after the termination of each year, prepare and submit to Parliament a report relating to the conduct of his office and the discharge of his duties under this Act during the preceding year including his recommendations, if

pour rendre son application plus conforme à son esprit et à l'intention du législateur.

any, for proposed changes to this Act that the Commissioner deems necessary or desirable in order that effect may be given to it according to its spirit and intent.

Inclusion dans le rapport

(2) Le commissaire inclut dans son rapport, en regard de chaque institution fédérale concernée :

a) le nombre de fois que le commissaire a refusé ou cessé d'instruire une plainte au titre du paragraphe 58(4) et l'alinéa de ce paragraphe invoqué à cette fin;

b) pour chacun des modes substitutifs de règlement des différends utilisés, le nombre de plaintes qui ont été soumises à ce mode et le nombre d'entre elles qui ont été réglées par ce mode;

c) le nombre de fois qu'il a rendu publics des renseignements en vertu du paragraphe 63.1(1);

d) le nombre de plaintes qui ont fait l'objet d'un accord de conformité en application du paragraphe 64.1(1), une description de la contravention qui a donné lieu à l'accord, une mention indiquant si l'institution fédérale a respecté ou non l'accord et, en cas de non-respect, les mesures qu'il a prises par la suite;

e) le nombre de plaintes qui ont fait l'objet d'une ordonnance en vertu du paragraphe 64.5(1), une description de la contravention qui a donné lieu à l'ordonnance, une mention indiquant si l'institution fédérale a respecté ou non l'ordonnance et, en cas de non-respect, les mesures qu'il a prises par la suite.

Inclusion dans le rapport – sanctions administratives pécuniaires

(3) Le commissaire inclut en outre dans son rapport, en regard de chaque organisme désigné concerné :

a) le nombre de procès-verbaux de violation dressés en vertu du paragraphe 65.6(1);

b) les faits pertinents concernant les violations et les dispositions en cause;

Part of report

(2) The Commissioner shall include, as part of the report, in respect of each federal institution concerned,

(a) the number of times that the Commissioner refused or ceased to investigate a complaint under subsection 58(4) and the paragraph of that subsection that was relied on;

(b) for each process of alternative dispute resolution used, the number of complaints on which that process was used and the number of them that were resolved through that process;

(c) the number of times that the Commissioner published any information under subsection 63.1(1);

(d) the number of complaints that were made the object of a compliance agreement under subsection 64.1(1), a description of the contravention that resulted in the agreement being entered into and an indication as to whether the federal institution complied with the agreement and, if not, any measures taken by the Commissioner as a result; and

(e) the number of complaints that were made the object of an order under subsection 64.5(1), a description of the contravention that resulted in the order being made and an indication as to whether the federal institution complied with the order and, if not, any measures taken by the Commissioner as a result.

Part of report – administrative monetary penalties

(3) The Commissioner shall include, as part of the report, in respect of each designated body concerned,

(a) the number of notices of violation that the Commissioner issued under subsection 65.6(1);

(b) the relevant facts of the violations and the provisions at issue; and

c) le montant des sanctions infligées, le cas échéant.

(c) the amount of the penalties imposed, if any.

Rapport spécial

67 (1) Le commissaire peut également présenter au Parlement un rapport spécial sur toute question relevant de sa compétence et dont l'urgence ou l'importance sont telles, selon lui, qu'il serait contre-indiqué d'en différer le compte rendu jusqu'au moment du rapport annuel suivant.

Special reports

67 (1) The Commissioner may, at any time, make a special report to Parliament referring to and commenting on any matter within the scope of the powers, duties and functions of the Commissioner where, in the opinion of the Commissioner, the matter is of such urgency or importance that a report thereon should not be deferred until the time provided for transmission of the next annual report of the Commissioner under section 66.

Incorporation des réponses

(2) Il est tenu de joindre à tout rapport prévu par le présent article le texte des réponses faites par l'institution fédérale concernée, ou en son nom.

Reply to be attached to report

(2) The Commissioner shall attach to every report made under this section a copy of any reply made by or on behalf of any federal institution concerned.

Divulgence et précautions à prendre

68 Le commissaire peut rendre publics dans ses rapports les éléments nécessaires, selon lui, pour étayer ses conclusions et recommandations en prenant toutefois soin d'éviter toute révélation susceptible de porter préjudice à la défense ou à la sécurité du Canada ou de tout État allié ou associé.

Contents of report

68 The Commissioner may disclose in any report made under subsection 65(3) or section 66 or 67 such matters as in his opinion ought to be disclosed in order to establish the grounds for any conclusions and recommendations contained therein, but in so doing shall take every reasonable precaution to avoid disclosing any matter the disclosure of which would or might be prejudicial to the defence or security of Canada or any state allied or associated with Canada.

Transmission des rapports au Parlement

69 (1) La présentation des rapports du commissaire au Parlement s'effectue par remise au président du Sénat et à celui de la Chambre des communes pour dépôt devant leur chambre respective.

Transmission of report

69 (1) Every report to Parliament made by the Commissioner under subsection 65(3) or section 66 or 67 shall be made by being transmitted to the Speaker of the Senate and to the Speaker of the House of Commons for tabling respectively in those Houses.

Renvoi en comité

(2) Les rapports sont, après leur dépôt, renvoyés devant le comité désigné ou constitué par le Parlement pour l'application de l'article 88.

Reference to parliamentary committee

(2) Every report referred to in subsection (1) shall, after it is transmitted for tabling pursuant to that subsection, be referred to the committee designated or established by Parliament for the purpose of section 88.

Délégation

Pouvoir de délégation

70 Le commissaire peut, dans les limites qu'il fixe, déléguer les pouvoirs et attributions que lui confère la présente loi ou toute autre loi du Parlement, sauf :

- a) le pouvoir même de délégation;
- b) les pouvoirs et attributions énoncés aux articles 63, ~~65-63.1~~, ~~64.1~~ à 69 et 78.

Delegation

Delegation by Commissioner

70 The Commissioner may authorize any person to exercise or perform, subject to such restrictions or limitations as the Commissioner may specify, any of the powers, duties or functions of the Commissioner under this or any other Act of Parliament except

- (a) the power to delegate under this section; and
- (b) the powers, duties or functions set out in sections 63, ~~65-63.1~~, ~~64.1~~ to 69 et 78.

Dispositions générales

Normes de sécurité

71 Le commissaire et les personnes agissant en son nom ou sous son autorité qui reçoivent ou recueillent des renseignements dans le cadre des enquêtes prévues par la présente loi sont tenus, quant à l'accès à ces renseignements et à leur utilisation, de satisfaire aux normes applicables en matière de sécurité et de prêter les serments imposés à leurs usagers habituels.

Secret

72 Sous réserve des autres dispositions de la présente loi, le commissaire et les personnes agissant en son nom ou sous son autorité sont tenus au secret en ce qui concerne les renseignements dont ils prennent connaissance dans l'exercice des attributions que leur confère la présente loi.

Divulgation

73 Le commissaire peut communiquer ou autoriser les personnes agissant en son nom ou sous son autorité à communiquer :

General

Normes de sécurité

71 The Commissioner and every person acting on behalf or under the direction of the Commissioner who receives or obtains information relating to any investigation under this Act shall, with respect to access to and the use of such information, satisfy any security requirements applicable to, and take any oath of secrecy required to be taken by, persons who normally have access to and use of such information.

Confidentiality

72 Subject to this Act, the Commissioner and every person acting on behalf or under the direction of the Commissioner shall not disclose any information that comes to their knowledge in the performance of their duties and functions under this Act.

Disclosure authorized

73 The Commissioner may disclose or may authorize any person acting on behalf or under the direction of the Commissioner to disclose information

a) les renseignements qui, à son avis, sont nécessaires pour mener ses enquêtes;

b) des renseignements, soit lors d'un recours formé devant la Cour fédérale aux termes de la partie X, soit lors de l'appel de la décision rendue en l'occurrence.

(a) that, in the opinion of the Commissioner, is necessary to carry out an investigation under this Act; or

(b) in the course of proceedings before the Federal Court under Part X or an appeal therefrom.

Non-assignment

74 En ce qui concerne les questions venues à leur connaissance au cours d'une enquête, dans l'exercice de leurs attributions, le commissaire et les personnes qui agissent en son nom ou sous son autorité ont qualité pour témoigner, mais ne peuvent y être contraints que lors des circonstances visées à l'alinéa 73b).

No summons

74 The Commissioner or any person acting on behalf or under the direction of the Commissioner is not a compellable witness, in respect of any matter coming to the knowledge of the Commissioner or that person as a result of performing any duties or functions under this Act during an investigation, in any proceedings other than proceedings before the Federal Court under Part X or an appeal therefrom.

Immunité

75 (1) Le commissaire — ou toute personne qui agit en son nom ou sous son autorité — bénéficie de l'immunité civile ou pénale pour les actes accomplis, les rapports ou comptes rendus établis et les paroles prononcées de bonne foi dans l'exercice effectif ou censé tel de ses attributions.

Protection of Commissioner

75 (1) No criminal or civil proceedings lie against the Commissioner, or against any person acting on behalf or under the direction of the Commissioner, for anything done, reported or said in good faith in the course of the exercise or performance or purported exercise or performance of any power, duty or function of the Commissioner under this Act.

Diffamation

(2) Ne peuvent donner lieu à poursuite pour diffamation verbale ou écrite ni les paroles prononcées, les renseignements fournis ou les documents ou autres pièces produits de bonne foi au cours d'une enquête menée par le commissaire ou en son nom, ni les rapports ou comptes rendus établis de bonne foi par celui-ci dans le cadre de la présente loi. Sont également protégées les relations qui sont faites de bonne foi par la presse écrite ou audio-visuelle.

Libel or slander

(2) For the purposes of any law relating to libel or slander,

(a) anything said, any information supplied or any document or thing produced in good faith in the course of an investigation by or on behalf of the Commissioner under this Act is privileged; and

(b) any report made in good faith by the Commissioner under this Act and any fair and accurate account of the report made in good faith in a newspaper or any other periodical publication or in a broadcast is privileged.

PARTIE X

Recours judiciaire

Définition de *tribunal*

76 Le tribunal visé à la présente partie est la Cour fédérale.

Recours

77 (1) Quiconque a saisi le commissaire d'une plainte visant une obligation ou un droit prévus aux articles 4 à 7 et 10 à 13 ou aux parties IV, V, ou VII, ou fondée sur l'article 91, peut former un recours devant le tribunal sous le régime de la présente partie.

Délai

(2) Sauf délai supérieur accordé par le tribunal sur demande présentée ou non avant l'expiration du délai normal, le recours est formé dans les soixante jours qui suivent la communication au plaignant des conclusions de l'enquête, des recommandations visées au paragraphe 64(2) ou de l'avis de refus d'ouverture ou de poursuite d'une enquête donné au titre du paragraphe 58(5).

Autre délai

(3) Si, dans les six mois suivant le dépôt d'une plainte, il n'est pas avisé des conclusions de l'enquête, des recommandations visées au paragraphe 64(2) ou du refus opposé au titre du paragraphe 58(5), le plaignant peut former le recours à l'expiration de ces six mois.

PART X

Court Remedy

Definition of *Court*

76 In this Part, Court means the Federal Court.

Application for remedy

77 (1) Any person who has made a complaint to the Commissioner in respect of a right or duty under sections 4 to 7, sections 10 to 13 or Part IV, V or VII, or in respect of section 91, may apply to the Court for a remedy under this Part.

~~Limitation period~~ **Time limit**

(2) An application may be made under subsection (1) within ~~sixty-60~~ days — or within any further time that the Court may allow, on request made wither before or after the expiry of those 60 days —after

(a) the results of an investigation of the complaint by the Commissioner are reported to the complainant under subsection 64(1),

(b) the complainant is informed of the recommendations of the Commissioner under subsection 64(2), or

(c) the complainant is informed of the Commissioner's decision to refuse or cease to investigate the complaint under subsection 58(5).

~~or within such further time as the Court may, either before or after the expiration of those sixty days, fix or allow.~~

Application six months after complaint

(3) Where a complaint is made to the Commissioner under this Act but the complainant is not informed of the results of the investigation of the complaint under subsection 64(1), of the recommendations of the Commissioner under subsection 64(2) or of a decision under subsection 58(5) within six months after the

complaint is made, the complainant may make an application under subsection (1) at any time thereafter.

Ordonnance

(4) Le tribunal peut, s'il estime qu'une institution fédérale ne s'est pas conformée à la présente loi, accorder la réparation qu'il estime convenable et juste eu égard aux circonstances.

Incompatibilité : accord de conformité

(4.1) Les dispositions de l'ordonnance rendue au titre du paragraphe (4) l'emportent sur les dispositions incompatibles de l'ordonnance visée à l'alinéa 64.4(1)a).

Incompatibilités : ordonnance du commissaire

(4.2) Les dispositions de l'ordonnance rendue au titre du paragraphe (4) l'emportent sur les dispositions incompatibles d'une ordonnance déposée aux termes du paragraphe 64.6(1).

Précision

(5) Le présent article ne porte atteinte à aucun autre droit d'action.

Exercice de recours par le commissaire

78 (1) Le commissaire peut selon le cas :

- a)** exercer lui-même le recours, dans les soixante jours qui suivent la communication au plaignant des conclusions de l'enquête ou des recommandations visées au paragraphe 64(2) ou dans le délai supérieur accordé au titre du paragraphe 77(2), si le plaignant y consent;
- b)** comparaître devant le tribunal pour le compte de l'auteur d'un recours;
- c)** comparaître, avec l'autorisation du tribunal, comme partie à une instance engagée sur le fondement de la présente partie.

Order of Court

(4) Where, in proceedings under subsection (1), the Court concludes that a federal institution has failed to comply with this Act, the Court may grant such remedy as it considers appropriate and just in the circumstances.

Conflict — compliance agreement

(4.1) If there is a conflict between a provision of an order made under paragraph 64.4(1)(a) and a provision of an order made under subsection (4), the order made under subsection (4) prevails to the extent of the conflict.

Conflict — Commissioner's order

(4.2) If there is a conflict between a provision of an order filed under subsection 64.6(1) and a provision of an order made under subsection (4), the order made under subsection (4) prevails to the extent of the conflict.

Other rights of action

(5) Nothing in this section abrogates or derogates from any right of action a person might have other than the right of action set out in this section.

Commissioner may apply or appear

78 (1) Le commissaire peut selon le cas :

- (a)** within the time limits prescribed by paragraph 77(2)(a) or (b), apply to the Court for a remedy under this Part in relation to a complaint investigated by the Commissioner if the Commissioner has the consent of the complainant;
- (b)** appear before the Court on behalf of any person who has applied under section 77 for a remedy under this Part; or
- (c)** with leave of the Court, appear as a party to any proceedings under this Part.

Exception

(1.1) Malgré l'alinéa (1)a), si le commissaire rend une ordonnance en vertu du paragraphe 64.5(1) :

a) il ne peut exercer le recours prévu à cet alinéa à l'égard de toute question dont traite l'ordonnance;

b) il retire toute demande faite au titre de cet alinéa à l'égard d'une telle question.

Comparution de l'auteur du recours

(2) Dans le cas prévu à l'alinéa (1)a), le plaignant peut comparaître comme partie à l'instance.

Pouvoir d'intervenir

(3) Le présent article n'a pas pour effet de porter atteinte au pouvoir du commissaire de demander l'autorisation d'intervenir dans toute instance judiciaire relative au statut ou à l'usage du français ou de l'anglais.

Révisions par le tribunal : plaignant

78.1 (1) Le plaignant dont la plainte est visée au paragraphe 64.5(1) et qui reçoit à cet égard l'avis prévu au paragraphe 64.5(5) peut, dans les trente jours ouvrables suivant la réception de l'avis par l'administrateur général ou tout autre responsable administratif de l'institution fédérale, exercer devant le tribunal un recours en révision de toute question dont traite l'ordonnance contenue dans l'avis.

Révision par le tribunal : institution fédérale

(2) L'institution fédérale peut, dans les trente jours ouvrables suivant la réception de l'avis en application du paragraphe 64.5(5) par son administrateur général ou tout autre responsable administratif, exercer devant le tribunal un recours en révision de toute question dont traite l'ordonnance contenue dans l'avis.

Exception

(1.1) Despite paragraph (1)(a), if the Commissioner makes an order under subsection 64.5(1), the Commissioner

(a) is not permitted to make an application under paragraph (1)(a) in respect of any matter that is the subject of the order; and

(b) shall withdraw any applications that were made under paragraph (1)(a) in respect of any matter that is the subject of the order.

Complainant may appear as party

(2) Where the Commissioner makes an application under paragraph (1)(a), the complainant may appear as a party to any proceedings resulting from the application.

Capacity to intervene

(3) Nothing in this section abrogates or derogates from the capacity of the Commissioner to seek leave to intervene in any ~~adjudicative~~ judicial proceedings relating to the status or use of English or French.

Review by Court – complainant

78.1 (1) A person who makes a complaint described in subsection 64.5(1) and who receives a notice under subsection 64.5(5) in respect of the complaint may, within 30 business days after the day on which the deputy head or other administrative head of the federal institution receives the notice, apply to the Court for a review of any matter that is the subject of the order set out in the notice.

Review by Court – federal institution

(2) A federal institution may, within 30 business days after the day on which its deputy head or other administrative head receives a notice under subsection 64.5(5), apply to the Court for a review of any matter that is the subject of the order set out in the notice.

Défendeur

(3) Le plaignant qui exerce un recours au titre du paragraphe (1) ne peut désigner, à titre de défendeur, que l'institution fédérale concernée; l'institution fédérale qui exerce un recours au titre du paragraphe (2) ne peut désigner, à titre de défendeur, que le commissaire.

Date de réception réputée

(4) Pour l'application du présent article, l'administrateur général ou tout autre responsable administratif de l'institution fédérale est réputé avoir reçu l'avis le cinquième jour ouvrable suivant la date que porte l'avis.

Suspension de l'ordonnance

78.2 (1) Sous réserve des paragraphes (2) et (3), l'exercice de tout recours au titre de l'article 78.1 a pour effet de suspendre l'exécution de toute ordonnance contenue dans l'avis prévu au paragraphe 64.5(5) jusqu'à ce que l'affaire soit définitivement tranchée.

Levée de la suspension par le tribunal

(2) Le tribunal peut lever la suspension, soit absolument, soit temporairement, aux conditions qu'il juge indiquées.

Levée de la suspension

(3) La suspension est levée à l'égard de toute partie de l'ordonnance traitant de questions qui ne font pas l'objet du recours.

Partie à l'instance : institution fédérale

78.3 (1) Si le plaignant qui reçoit l'avis conformément au paragraphe 64.5(5) exerce le recours en révision prévu au paragraphe 78.1(1), l'institution fédérale dont l'administrateur général ou tout autre responsable administratif a reçu l'avis en cause a le droit de comparaître comme partie à l'instance.

Partie à l'instance : plaignant

(2) Si l'institution fédérale dont l'administrateur général ou tout autre responsable administratif reçoit l'avis conformément au paragraphe 64.5(5)

Respondents

(3) A complainant who applies for a review under subsection (1) may name only the federal institution concerned as the respondent to the proceedings. A federal institution that applies for a review under subsection (2) may name only the Commissioner as the respondent to the proceedings.

Deemed date of receipt

(4) For the purposes of this section, the deputy head or other administrative head of the federal institution is deemed to have received the notice on the fifth business day after the date of the notice.

Order stayed

78.2 (1) Subject to subsections (2) and (3), the making of an application under section 78.1 operates as a stay of the order set out in the notice received under subsection 64.5(5) until the proceedings are finally concluded.

Cancellation or suspension of stay by Court

(2) The Court may cancel the stay of the order or may suspend the operation of the stay temporarily subject to any terms that it considers appropriate.

Part of order operative

(3) Any part of the order that relates to a matter that is not the subject of the proceedings becomes operative.

Party to review — federal institution

78.3 (1) If a complainant who receives a notice under subsection 64.5(5) applies to the Court for a review under subsection 78.1(1), the federal institution whose deputy head or other administrative head received the notice under subsection 64.5(5) has the right to appear as a party to the review.

Party to review — complainant

(2) If the federal institution whose deputy head or other administrative head receives a notice under subsection 64.5(5) applies to the Court for a review

exerce le recours en révision prévu au paragraphe 78.1(2), le plaignant qui a reçu l'avis en cause a le droit de comparaître comme partie à l'instance.

Portée de l'instance

(3) Le plaignant qui présente au tribunal un avis d'intention de comparaître comme partie à l'instance dans les dix jours ouvrables suivant l'expiration du délai prévu au paragraphe 78.1(2) peut soulever auprès du tribunal et faire trancher toute question à l'égard de laquelle il peut exercer le recours prévu au paragraphe 78.1(1).

Comparution du commissaire

78.4 Le commissaire a qualité pour comparaître :

- a) devant le tribunal au nom du plaignant;
- b) comme partie à une instance engagée au titre de l'article 78.1.

Signification à l'institution fédérale

78.5 (1) Dès que le plaignant exerce le recours en révision prévu au paragraphe 78.1(1), il signifie une copie de l'acte introductif d'instance à l'administrateur général ou à tout autre responsable administratif de l'institution fédérale dont l'administrateur général ou tout autre responsable administratif a reçu l'avis prévu au paragraphe 64.5(5).

Signification ou avis

(2) Dès que l'institution fédérale exerce le recours en révision prévu au paragraphe 78.1(2), son administrateur général ou tout autre responsable administratif signifie une copie de l'acte introductif d'instance au commissaire. Toutefois, si une copie de l'acte introductif d'instance lui est signifiée au titre du paragraphe (1), il donne, dès que possible après la signification, avis écrit du recours au commissaire, à moins que ce dernier n'ait déjà reçu avis du recours.

under subsection 78.1(2), the complainant who received the notice under subsection 64.5(5) has the right to appear as a party to the review.

Scope of proceeding

(3) If a complainant files notice of their intention to appear as a party to a review with the Court within 10 business days after the expiry of the period referred to in subsection 78.1(2), they may raise for determination by the Court any matter in respect of which they may make an application under subsection 78.1(1).

Appearance by Commissioner

78.4 The Commissioner may

- (a) appear before the Court on behalf of a complainant; or
- (b) appear as a party to any review applied for under section 78.1.

Service of originating document

78.5 (1) If a complainant makes an application for a review under subsection 78.1(1), they shall immediately serve a copy of the originating document on the deputy head or other administrative head of the federal institution whose deputy head or other administrative head received the notice under subsection 64.5(5).

Service or notice

(2) If a federal institution makes an application for a review under subsection 78.1(2), its deputy head or other administrative head shall immediately serve a copy of the originating document on the Commissioner. However, if the deputy head or other administrative head of a federal institution is served with a copy of an originating document under subsection (1), that deputy head or other administrative head shall, as soon as possible after being served, give written notice of the application to the Commissioner, unless the Commissioner has already been served with a copy of the document.

Révision de novo

78.6 Il est entendu que le recours prévu à l'article 78.1 est entendu et jugé comme une nouvelle affaire.

Ordonnance du tribunal

78.7 Le tribunal rend, à l'égard de toute question qui fait l'objet du recours :

- a)** une ordonnance dans laquelle il déclare que l'institution fédérale concernée est tenue de respecter les dispositions de l'ordonnance du commissaire qui traite de cette question;
- b)** une ordonnance dans laquelle il déclare que l'institution fédérale concernée n'est pas tenue de respecter les dispositions de l'ordonnance du commissaire qui traite de cette question;
- c)** toute autre ordonnance qu'il estime indiquée.

Dispositions incompatibles

78.8 (1) Toute ordonnance du tribunal rendue en application de l'article 78.7 a pour effet d'annuler les dispositions de l'ordonnance du commissaire traitant des questions qui font l'objet du recours qui sont incompatibles avec l'ordonnance du tribunal.

Précision des dispositions annulées

(2) Le tribunal, dans toute ordonnance qu'il rend, précise les dispositions de l'ordonnance du commissaire qui sont annulées conformément au paragraphe (1).

Preuve – plainte de même nature

79 Sont recevables en preuve dans les recours les renseignements portant sur des plaintes de même nature concernant une même institution fédérale.

Procédure sommaire

80 Le recours est entendu et jugé en procédure sommaire, conformément aux règles de pratique spéciales adoptées à cet égard en vertu de l'article 46 de la *Loi sur les Cours fédérales*.

De novo review

78.6 For greater certainty, an application under section 78.1 is to be heard and determined as a new proceeding.

Order of Court

78.7 The Court shall, in respect of any matter that is the subject of the proceedings,

- (a)** make an order declaring that the federal institution concerned is required to comply with the provisions of the Commissioner's order that relate to that matter;
- (b)** make an order declaring that the federal institution concerned is not required to comply with the provisions of the Commissioner's order that relate to that matter; or
- (c)** make any other order that it considers appropriate.

Incompatible provisions

78.8 (1) An order of the Court made under section 78.7 has the effect of rescinding the provisions of the Commissioner's order relating to any matter that is the subject of the proceedings that are incompatible with the Court's order.

Specification of rescinded provisions

(2) The Court must specify in any order that it makes the provisions of the Commissioner's order that are rescinded under subsection (1).

Evidence relating to similar complaint

79 In proceedings under this Part relating to a complaint against a federal institution, the Court may admit as evidence information relating to any similar complaint under this Act in respect of the same federal institution.

Hearing in summary manner

80 An application made under section 77 shall be heard and determined in a summary manner in accordance with any special rules made in respect

of such applications pursuant to section 46 of the
Federal Courts Act.

Frais et dépens

81 (1) Les frais et dépens afférents à tout recours exercé devant le tribunal sous le régime de la présente loi sont laissés à l'appréciation du tribunal et suivent, sauf ordonnance contraire de celui-ci, le sort du principal.

Idem

(2) Cependant, dans les cas où il estime que l'objet du recours a soulevé un principe important et nouveau quant à la présente loi, le tribunal accorde les frais et dépens à l'auteur du recours, même s'il est débouté.

PARTIE XI

Dispositions générales

Primauté sur les autres lois

82 (1) Les dispositions des parties qui suivent l'emportent sur les dispositions incompatibles de toute autre loi ou de tout règlement fédéraux :

- a) partie I (Débats et travaux parlementaires);
- b) partie II (Actes législatifs et autres);
- c) partie III (Administration de la justice);
- d) partie IV (Communications avec le public et prestation des services);
- e) partie V (Langue de travail).

Exception

(2) Le paragraphe (1) ne s'applique pas à la *Loi canadienne sur les droits de la personne* ni à ses règlements.

Droits préservés

83 (1) La présente loi n'a pas pour effet de porter atteinte aux droits — antérieurs ou postérieurs à

Costs

81 (1) Subject to subsection (2), the costs of and incidental to all proceedings in the Court under this Act shall be in the discretion of the Court and shall follow the event unless the Court orders otherwise.

~~Idem~~ Costs

(2) ~~Where~~ If the Court is of the opinion that an application under section ~~65.9, 77~~ or 78.1 has raised an important new principle in relation to this Act, the Court shall order that costs be awarded to the applicant even if the applicant has not been successful in the result.

PART XI

General

Primacy of Parts I to V

82 (1) In the event of any inconsistency between the following Parts and any other Act of Parliament or regulation thereunder, the following Parts prevail to the extent of the inconsistency:

- a) Part I (Proceedings of Parliament);
- b) Part II (Legislative and other Instruments);
- c) Part III (Administration of Justice);
- d) Part IV (Communications with and Services to the Public); and
- e) Part V (Language of Work).

Canadian Human Rights Act excepted

(2) Subsection (1) does not apply to the *Canadian Human Rights Act* or any regulation made thereunder.

Rights relating to other languages

83 (1) Nothing in this Act abrogates or derogates from any legal or customary right acquired or

son entrée en vigueur et découlant de la loi ou de la coutume — des langues autres que le français et l'anglais, notamment des langues autochtones.

Maintien du patrimoine linguistique

(2) La présente loi ne fait pas obstacle au maintien et à la valorisation des langues autres que le français ou l'anglais, ni à la réappropriation, à la revitalisation et au renforcement des langues autochtones.

Consultations

~~84 Selon les circonstances et au moment opportun, le président du Conseil du Trésor, ou tel autre~~ Si le gouverneur en conseil a l'intention de prendre un règlement en vertu d'une disposition de la présente loi, le ministre fédéral ~~que peut désigner le gouverneur en conseil, responsable de la disposition~~ consulte, selon les circonstances et au moment opportun, les minorités francophones et anglophones et, éventuellement, le grand public sur les projets de règlement ~~d'application de la présente loi~~.

Dépôt d'avant-projets de règlement

~~85 (1) Lorsque~~ Si le gouverneur en conseil a l'intention de prendre un règlement ~~sous le régime en vertu d'une dispositions~~ de la présente loi, le ~~président du Conseil du Trésor ou tout~~ ministre fédéral ~~désigné par le gouverneur en conseil responsable de la disposition~~ en dépose un avant-projet à la Chambre des communes au moins trente jours avant la publication du règlement dans la *Gazette du Canada* au titre de l'article 86.

Calcul de la période de trente jours

(2) Seuls les jours de séance de la Chambre des communes sont pris en compte pour le calcul de la période de trente jours visée au paragraphe (1).

enjoyed either before or after the coming into force of this Act with respect to any language ~~that is not other than~~ English or French, including any Indigenous language.

Preservation and enhancement of other languages

(2) Nothing in this Act shall be interpreted in a manner that is inconsistent with the ~~preservation~~ maintenance and enhancement of languages other than English or French, nor with the reclamation, revitalization and strengthening of Indigenous languages.

Consultations

~~84 The President of the Treasury Board, or such other minister of the Crown as may be designated by the Governor in Council, If the Governor in Council proposes to make a regulation under a provision of this Act, the minister of the Crown who is responsible for the provision~~ shall, at a time and in a manner appropriate to the circumstances, seek the views of members of the English and French linguistic minority communities and, ~~where if~~ appropriate, members of the public generally on ~~the proposed regulations to be made under this Act~~.

~~Tableting of D~~ draft of proposed regulation to be tabled

~~85 (1) The President of the Treasury Board, or such other minister of the Crown as may be designated by the Governor in Council, If the Governor in Council proposes to make a regulation under a provision of this Act, the minister of the Crown who is responsible for the provision shall, where the Governor in Council proposes to make any regulation under this Act,~~ lay a draft of the proposed regulation before the House of Commons at least ~~thirty~~ 30 days before a copy of ~~that~~ the regulation is published in the *Canada Gazette* under section 86.

Calculation of thirty day period

(2) In calculating the thirty day period referred to in subsection (1), there shall not be counted any day on which the House of Commons does not sit.

Publication des projets de règlement

86 (1) ~~Les~~ ~~Tout~~ ~~projets~~ de règlements ~~d'application pris en vertu d'une disposition~~ de la présente loi ~~sont~~ ~~est~~ publiés dans la *Gazette du Canada* au moins trente jours avant la date prévue pour ~~leur~~ ~~son~~ entrée en vigueur, les intéressés se voyant accorder toute possibilité de présenter au ~~président du Conseil du Trésor~~ ~~ministre responsable de la disposition~~ leurs observations à cet égard.

Exception

(2) Ne sont pas visés les projets de règlement déjà publiés dans les conditions prévues au paragraphe (1), même s'ils ont été modifiés par suite d'observations présentées conformément à ce paragraphe.

Calcul de la période de trente jours

(3) Seuls les jours où siègent les deux chambres du Parlement sont pris en compte pour le calcul de la période de trente jours visée au paragraphe (1).

Dépôt des projets de règlement

87 (1) Les projets de règlements d'application de l'alinéa 38(2)a visant à désigner un secteur ou une région du Canada pour l'application de l'alinéa 35(1)a sont déposés devant chaque chambre du Parlement au moins trente jours de séance avant la date prévue pour leur entrée en vigueur.

Motion de désapprobation

(2) Dans le cas où une motion signée par au moins quinze sénateurs ou trente députés, selon le cas, et visant à empêcher l'approbation du projet de règlement est remise dans les vingt-cinq jours de séance suivant son dépôt au président de la chambre concernée, celui-ci met aux voix, dans les cinq jours de séance suivants et sans qu'il y ait débat ou modification, toute question nécessaire pour en décider.

Publication of proposed regulation

86 (1) Subject to subsection (2), a copy of each regulation that the Governor in Council proposes to make under a provision of this Act shall be published in the *Canada Gazette* at least ~~thirty~~ 30 days before ~~the~~ ~~its~~ proposed effective date ~~thereof~~, and a reasonable opportunity shall be afforded to interested persons to make representations to the ~~President of the Treasury Board~~ ~~minister of the Crown who is responsible for the provision~~ with respect ~~thereto~~ to the proposed regulation.

Exception

(2) No proposed regulation need be published under subsection (1) if it has previously been published pursuant to that subsection, whether or not it has been amended as a result of representations made pursuant to that subsection.

Calculation of ~~thirty~~ 30-day period

(3) In calculating the ~~thirty~~ 30-day period referred to in subsection (1), ~~there shall not be counted any~~ only the days on which ~~neither~~ ~~both~~ Houses of Parliament sits shall be counted.

Tabling of regulation

87 (1) A regulation that is proposed to be made under paragraph 38(2)(a) and prescribes any part or region of Canada for the purpose of paragraph 35(1)(a) shall be laid before each House of Parliament at least thirty sitting days before the proposed effective date thereof.

Motion to disapprove proposed regulation

(2) Where, within twenty-five sitting days after a proposed regulation is laid before either House of Parliament under subsection (1), a motion for the consideration of that House to the effect that the proposed regulation not be approved, signed by no fewer than fifteen Senators or thirty Members of the House of Commons, as the case may be, is filed with the Speaker of that House, the Speaker shall, within five sitting days after the filing of the motion, without debate or amendment, put every question necessary for the disposition of the motion.

Adoption

(3) Il ne peut être procédé à la prise du règlement ayant fait l'objet d'une motion adoptée par les deux chambres conformément au paragraphe (2).

Prorogation ou dissolution du Parlement

(4) Il ne peut non plus y avoir prise du règlement lorsque le Parlement est dissous ou prorogé dans les vingt-cinq jours de séance suivant le dépôt du projet et que la motion dont celui-ci fait l'objet aux termes du paragraphe (2) n'a pas encore été mise aux voix.

Définition de *jour de séance*

(5) Pour l'application du présent article, *jour de séance* s'entend, à l'égard ~~des deux d'une~~ chambres du Parlement, de tout jour où ~~l'une d'elles~~ siège.

Suivi par un comité parlementaire

88 Le Parlement désigne ou constitue un comité, soit du Sénat, soit de la Chambre des communes, soit mixte, chargé spécialement de suivre l'application de la présente loi, des règlements, principes et instructions en découlant, ainsi que la mise en œuvre des rapports du commissaire, du président du Conseil du Trésor et du ministre du Patrimoine canadien.

Précision Article 126 du Code criminel

89 ~~Il est entendu que~~ Les ~~contraventions à aux dispositions de la présente loi ou des règlements~~ sont soustraites à l'application de l'article 126 du Code criminel.

Privilèges parlementaires et judiciaires

90 La présente loi n'a pas pour effet de porter atteinte aux pouvoirs, privilèges et immunités dont jouissent les parlementaires en ce qui touche leur bureau privé et leur propre personnel ou les juges.

Where motion adopted

(3) Where a motion referred to in subsection (2) is adopted by both Houses of Parliament, the proposed regulation to which the motion relates may not be made.

Prorogation or dissolution of Parliament

(4) Where Parliament dissolves or prorogues earlier than twenty-five sitting days after a proposed regulation is laid before both Houses of Parliament under subsection (1) and a motion has not been disposed of under subsection (2) in relation to the proposed regulation in both Houses of Parliament, the proposed regulation may not be made.

Definition of *sitting day*

(5) For the purposes of this section, *sitting day* means, in respect of either House of Parliament, a day on which that House sits.

~~Permanent r~~ Review of Act, etc., by parliamentary committee

88 The administration of this Act, any regulations, policies and directives made under this Act and the reports of the Commissioner, the President of the Treasury Board and the Minister of Canadian Heritage made under this Act shall be reviewed on a permanent basis by ~~such any~~ committee of the Senate, of the House of Commons or of both Houses of Parliament ~~as that~~ may be designated or established for that purpose.

Section 126 of Criminal Code not applicable

89 ~~For greater certainty, it is hereby declared that~~ sSection 126 of the *Criminal Code* does not apply to or in respect of any contravention ~~or alleged contravention~~ of any provision of this Act, or the regulations.

Parliamentary and judicial powers, privileges and immunities saved

90 Nothing in this Act abrogates or derogates from any powers, privileges or immunities of members of the Senate or the House of Commons in respect

of their personal offices and staff or of judges of any Court.

Dotation en personnel

91 ~~Les parties IV et V n'ont~~ La présente loi n'a pour effet d'autoriser la prise en compte des exigences relatives aux langues officielles, lors d'une dotation en personnel, que si ~~elle~~ cette prise en compte s'impose objectivement pour l'exercice des fonctions en cause.

Staffing generally

91 Nothing in ~~Part IV or V~~ this Act authorizes the application of official language requirements to a particular staffing action unless those requirements are objectively required to perform the functions for which the staffing action is undertaken.

Précision

91.1 La capacité de parler et de comprendre clairement les deux langues officielles s'impose, dès la nomination, pour l'exercice des fonctions suivantes :

a) les sous-ministres et administrateurs généraux des institutions fédérales, dont les titulaires sont nommés en vertu du paragraphe 127.1(1) de la Loi sur l'emploi dans la fonction publique ;

b) le gouverneur général du Canada ou tout autre haut responsable qui exerce le gouvernement du Canada pour le compte et au nom du Souverain, quel que soit son titre ;

For greater certainty

91.1 Any person appointed to any of the following offices must, at the time of his or her appointment, be able to speak and understand clearly both official languages:

(a) deputy ministers and deputy heads of federal institutions appointed pursuant to subsection 127.1(1) of the Public Service Employment Act;

(b) the Governor General of Canada or any other chief executive officer or administrator carrying on the Government of Canada on behalf and in the name of the Sovereign, by whatever title designated;

Mention de « langues officielles »

92 Dans les lois fédérales, la mention « langues officielles » ou « langues officielles du Canada » vaut mention des langues déclarées officielles par le paragraphe 16(1) de la *Charte canadienne des droits et libertés*.

References in Acts of Parliament to the “official languages”

92 In every Act of Parliament, a reference to the “official languages” or the “official languages of Canada” shall be construed as a reference to the languages declared by subsection 16(1) of the *Canadian Charter of Rights and Freedoms* to be the official languages of Canada.

Règlements

93 Le gouverneur en conseil peut prendre les règlements qu'il estime nécessaires pour assurer le respect de la présente loi dans le cadre des activités des institutions fédérales autres que le Sénat, la Chambre des communes, la bibliothèque du Parlement, le bureau du conseiller sénatorial en éthique, le bureau du commissaire aux conflits d'intérêts et à l'éthique, le Service de protection parlementaire ou le bureau du directeur parlementaire du budget. Il peut également prendre toute autre mesure réglementaire d'application de la présente loi.

Regulations

93 The Governor in Council may make regulations

(a) prescribing anything that the Governor in Council considers necessary to effect compliance with this Act in the conduct of the affairs of federal institutions other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service or office of the Parliamentary Budget Officer; and

(b) prescribing anything that is by this Act to be prescribed by regulation of the Governor in Council.

Examen

93.1 (1) Au dixième anniversaire de la date d'entrée en vigueur du présent article, et tous les dix ans par la suite, le ministre du Patrimoine canadien procède à l'examen des dispositions et de l'application de la présente loi.

Rapport

(2) Il fait déposer un rapport de l'examen devant chaque chambre du Parlement dans les trente premiers jours de séance de celle-ci suivant l'établissement du rapport

Review

93.1 (1) On the 10th anniversary of the day on which this section comes into force and every 10 years after that anniversary, the Minister of Canadian Heritage shall undertake a review of the provisions and operation of this Act.

Report

(2) That Minister shall cause a report of the review to be tabled in each House of Parliament within the first 30 days on which that House is sitting after the report has been completed

Examen

93.1 (1) Au dixième anniversaire de la date d'entrée en vigueur du présent article, et tous les dix ans par la suite, le président du Conseil du Trésor, en consultation avec le ministre du Patrimoine canadien, procède à l'examen des dispositions et de l'application de la présente loi.

Rapport

(2) ~~Il~~ Le président du Conseil du Trésor fait déposer un rapport de l'examen devant chaque chambre du Parlement dans les trente premiers jours de séance de celle-ci suivant l'établissement du rapport.

Review

93.1 (1) On the 10th anniversary of the day on which this section comes into force and every 10 years after that anniversary, the president of the Treasury Board, in consultation with the Minister of Canadian Heritage, shall undertake a review of the provisions and operation of this Act.

Report

(2) ~~That Minister~~ The president of the Treasury Board shall cause a report of the review to be tabled in each House of Parliament within the first 30 days on which that House is sitting after the report has been completed.

PARTIE XII

Modifications connexes

94 à 99 [Modifications]

PARTIE XIII

Modifications corrélatives

100 à 103 [Modifications]

PART XII

Related Amendments

94 to 99 [Amendments]

PART XIII

Consequential Amendments

100 to 103 [Amendments]

PARTIE XIV

Dispositions transitoires, abrogation et entrée en vigueur

Dispositions transitoires

104 et 105 [Abrogés, L.R. (1985), ch. 31
(4^e suppl.), art. 106]

106 [Modification]

Maintien en poste

107 ~~Le commissaire aux langues officielles en fonction lors de l'entrée en vigueur de la partie IX poursuit son mandat mais est réputé avoir été nommé sous le régime de la présente loi. Les titulaires des charges visées au paragraphe 91.1, en fonction lors de l'entrée en vigueur de cette disposition, poursuivent leur mandat.~~

108 ~~[Abrogé, 2022, ch. 13, art. 51] (1) Le président du Conseil du Trésor peut, pour les quatre exercices suivant l'entrée en vigueur du présent article, verser des crédits aux sociétés d'État pour les aider à mettre en œuvre les dispositions de la présente loi.~~

Crédits supplémentaires

~~(2) Sont prélevées sur les crédits que le Parlement peut affecter à ces fins les sommes additionnelles qui peuvent être requises pour l'application du paragraphe (1).~~

Abrogation

109 [Abrogation]

PART XIV

Transitional Provisions, Repeal and Coming into Force

Transitional

104 et 105 [Repealed, R.S., 1985, c. 31 (4th Supp.),
s. 106]

106 [Amendment]

Commissioner remains Continuation in office

107 The person holding office as Commissioner on the coming into force of Part IX shall continue in office as Commissioner and shall be deemed to have been appointed under this Act but to have been appointed at the time he was appointed under the *Official Languages Act*, being chapter O-2 of the Revised Statutes of Canada, 1970. A person holding one of the offices referred to in subsection 91.1 on the coming into force of that provision continues in office.

108 (1) ~~[Repealed, 2022, c. 13, s. 51] In respect of the four fiscal years immediately following the date this section comes into force, the President of the Treasury Board may make payments to Crown corporations to assist them in the timely implementation of this Act.~~

Appropriation

~~(2) Any sums required for the purpose referred to in subsection (1) shall be paid out of such moneys as may be appropriated by Parliament for that purpose.~~

Repeal

109 [Repeal]

Entrée en vigueur

***110** La présente loi ou telle de ses dispositions entre en vigueur à la date ou aux dates fixées par proclamation.

* [Note : Les articles 1 à 93, le paragraphe 534(3) du *Code criminel*, tel qu'édicte par l'article 95, et les articles 96 et 98 à 109 en vigueur le 15 septembre 1988 et l'article 97 en vigueur le 1er février 1989, voir TR/88-197; l'entrée en vigueur de l'article 530.1 du *Code criminel*, tel qu'édicte par l'article 94, est prévue par le paragraphe 534(2) du *Code criminel*, tel qu'édicte par l'article 95.]

DISPOSITIONS CONNEXES

— 2006, c. 9, par. 120 (c)

Maintien en fonction

120 L'entrée en vigueur des articles 109 à 111, 118 et 119 est sans effet sur le mandat des titulaires des charges ciaprès, qui demeurent en fonctions et sont réputés avoir été nommés en vertu de la disposition mentionnée ciaprès pour chacune, dans sa version modifiée par l'un ou l'autre de ces articles, selon le cas :

c) le commissaire aux langues officielles du Canada nommé en vertu de l'article 49 de la *Loi sur les langues officielles* ;

Coming into Force

***110** This Act or any provision thereof shall come into force on a day or days to be fixed by proclamation.

* [Note: Sections 1 to 93, subsection 534(3) of the *Criminal Code*, as enacted by section 95, and sections 96 and 98 to 109 in force September 15, 1988, and section 97 in force February 1, 1989, see SI/88-197; section 530.1 of the *Criminal Code*, as enacted by section 94, shall come into force in accordance with subsection 534(2) of the *Criminal Code*, as enacted by section 95.]

RELATED PROVISIONS

— 2006, ch. 9, al. 120 (c)

Transitional – continuation in office

120 A person who holds office under one of the following provisions immediately before the day on which this section comes into force continues in office and is deemed to have been appointed under that provision, as amended by sections 109 to 111, 118 and 119, to hold office for the remainder of the term for which he or she had been appointed:

(c) the Commissioner of Official Languages for Canada under section 49 of the *Official Languages Act*;

ANNEXE A

Modification connexe à la Loi sur le ministère du Patrimoine canadien

Dispositions générales

Aide financière

7 Pour faciliter la mise en œuvre des opérations ou programmes prévus par la présente loi, le ministre peut :

- a) accorder une aide financière sous forme de subventions, contributions ou dotations;
- b) sous réserve de la *Loi sur les immeubles fédéraux et les biens réels fédéraux* et des instructions du Conseil du Trésor :
 - (i) acquérir ou chercher à acquérir des biens par don, legs ou autre mode de libéralité,
 - (ii) employer, gérer, investir, détenir, échanger ou aliéner les biens, sous réserve de la *Loi sur les biens de surplus de la Couronne* et à la condition de respecter les conditions dont est assortie la libéralité;
- c) faire des donations, décerner des prix ou récompenses ou distribuer des objets commémoratifs au nom de son ministère ou de celui des autres ministères.

Financement – causes types

7.1 Pour promouvoir une meilleure compréhension des droits de la personne, des libertés fondamentales et des valeurs qui en découlent, le ministre peut prendre toute mesure pour fournir du financement à un organisme indépendant du gouvernement fédéral chargé d'administrer un programme dont l'objectif est de fournir du financement en vue de la présentation devant les tribunaux de causes types d'importance nationale qui visent à clarifier et à faire valoir des droits constitutionnels en matière de droits de la personne.

APPENDIX A

Related Amendment to the Department of Canadian Heritage Act

General

Financial assistance and dealing with property

7 To facilitate the implementation of any program of the Minister under this Act, the Minister may

- (a) provide financial assistance in the form of grants, contributions and endowments to any person;
- (b) subject to the *Federal Real Property and Federal Immovables Act* and any direction made by the Treasury Board,
 - (i) acquire or seek to acquire any property by way of gift, bequest or other form of donation, and
 - (ii) subject to the Surplus Crown Assets Act and to the terms and conditions on which the property was acquired, hold, administer, invest, expend, sell, exchange or otherwise dispose of that property; and
- (c) make gifts and issue prizes, awards, souvenirs and mementos on behalf of the Department of Canadian Heritage or of any other department.

Funding – test cases

7.1 To promote a greater understanding of human rights, fundamental freedoms and related values, the Minister may take measures to provide funding to an organization, independent of the Government of Canada, responsible for administering a program whose purpose is to provide funding for test cases of national significance to be brought before the courts to clarify and assert constitutional human rights.



SENATE | SÉNAT
CANADA

Final Report of the Standing Senate Committee on Official Languages

The Honourable René Cormier, Chair
The Honourable Rose-May Poirier, Deputy Chair

MODERNIZING THE OFFICIAL LANGUAGES ACT

*The Views of Federal
Institutions and
Recommendations*

JUNE 2019



CHAPTER 2

*List of
recommendations*

LEADERSHIP AND COOPERATION

The Senate Committee recommends that the federal government:

RECOMMENDATION 1

Treasury Board

1.1 Amend the *Official Languages Act* to assign responsibility for the implementation and coordination of the Act's provisions with respect to institutions within the executive branch to the Treasury Board. In those circumstances, provide that:

- an Official Languages Secretariat be created to support the Treasury Board in the performance of its duties;
- the Official Languages Secretariat be given the necessary tools and resources to work with all these institutions and review their performance; and
- it provide a clear picture of the Act's implementation by all these institutions on an annual basis.

1.2 Amend the *Official Languages Act* to state what the Treasury Board "must" do, rather than what it "may" do, in carrying out its responsibilities.

RECOMMENDATION 2

Government plan
for official languages

2.1 Amend the *Official Languages Act* to provide for the adoption, coordination and implementation of a government plan for official languages by the Treasury Board based on the model set out in New Brunswick's *Official Languages Act*. In those circumstances, provide that:

- the priority areas supported by the government plan include, but not be limited to, the offer of services in both official languages, the promotion of linguistic duality in the workplace and support for official language minority communities in the following strategic sectors: education, health, justice, immigration, economic development, community media, and arts and culture;
- the federal institutions covered by the government plan have clear responsibilities and report to the Treasury Board on its implementation; and
- the Treasury Board adopt an accountability framework to guide it and that it be made public.

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| <p>RECOMMENDATION 3 Federal–provincial/ territorial agreements</p> | <p>3.1 Amend the <i>Official Languages Act</i> to recognize federal–provincial/territorial agreements on services in the minority language, minority language education and second language instruction; to acknowledge their importance in enhancing the vitality and supporting the development of official language minority communities; and to strengthen their implementation. In those circumstances, provide that:</p> <ul style="list-style-type: none"> • the agreements and the accompanying action plans be made public; and • language clauses be included to define specific objectives for consulting official language minority communities and for communications with and services to the public in both official languages. |
| <p>RECOMMENDATION 4 Review of policies, programs, initiatives and services</p> | <p>4.1 Amend the <i>Official Languages Act</i> to provide for the adoption of a tool to apply an “official languages lens” to policies, programs, initiatives and services implemented by federal institutions that is based on the Gender-Based Analysis Plus (GBA+) model.</p> |
| <p>RECOMMENDATION 5 Consultation with official language minority communities</p> | <p>5.1 Amend the <i>Official Languages Act</i> to specify the obligation of federal institutions to assess the impact of their decisions on official language minority communities and to ensure that the policies and programs they implement are aligned with their needs. In those circumstances, provide that:</p> <ul style="list-style-type: none"> • the obligation to consult official language minority communities applies to decisions on general program and policy direction relating to the implementation of Part IV, the implementation of Part VII, the making of regulations under these two parts and their 10-year review, the government plan for official languages, federal–provincial/territorial agreements, the 10-year review of the Act and the disposal of federal real property; and • federal institutions take into account the results of those consultations and provide reasons for their decisions. |

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| <p>RECOMMENDATION 6 Advisory board</p> | <p>6.1 Amend the <i>Official Languages Act</i> to create an advisory board to advise the federal government on measures to enhance the vitality of official language minority communities and to support their development, based on the model set out in Manitoba's <i>Francoophone Community Enhancement and Support Act</i>. In those circumstances, provide that:</p> <ul style="list-style-type: none"> • a majority of the board be made up of regional and sectoral representatives of official language minority communities, appointed by the federal government on the recommendation of their main representative organizations; • the other members of the board be appointed by the federal government; and • this amendment be made notwithstanding the requirement for public consultation under subsection 43(2) of the Act. |
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COMPLIANCE

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| <p>RECOMMENDATION 7 Office of the Commissioner of Official Languages and the Official Languages Tribunal</p> | <p>7.1 Amend the <i>Official Languages Act</i> to create the Official Languages Tribunal, independent of the Office of the Commissioner of Official Languages and based on the model set out in the <i>Canadian Human Rights Act</i>:</p> <ul style="list-style-type: none"> • made up of members appointed by the Governor in Council who have expertise in, and sensitivity to, language rights, and who have a strong interest in the field; • whose mandate is to decide, in the first instance, proceedings brought under the <i>Official Languages Act</i>, including proceedings brought following a complaint filed with the Commissioner of Official Languages; • authorized to grant any remedy it considers just and appropriate in the circumstances, including declarations, orders, damages and administrative monetary penalties, the amounts of which will be allocated to a fund supporting projects that promote the development of official language minority communities and/or the promotion of both official languages; and • having a review mechanism before the Federal Court. |
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7.2 Amend the *Official Languages Act* to strengthen the ombudsman role of the Commissioner of Official Languages:

- by allowing the Commissioner to enter into compliance agreements with federal institutions, with such conditions as it considers necessary to ensure compliance and a recourse mechanism before the Official Languages Tribunal to review violations, based on the model set out in the *Personal Information Protection and Electronic Documents Act*;
- by providing for the public disclosure of its investigation reports, in the public interest, based on the model set out in New Brunswick's *Official Languages Act*;
- by making the current facilitated complaint resolution process permanent; and
- by authorizing the Commissioner to act before the Official Languages Tribunal on behalf of one or more complainants to obtain a just and appropriate remedy in the circumstances, and by providing for the circumstances in which the Commissioner would be required to do so.

7.3 Amend the *Official Languages Act* to provide a framework for the appointment process for the position of Commissioner of Official Languages by creating an independent committee to review the appointment, based on the model set out in New Brunswick's *Official Languages Act*.

ENFORCEMENT PRINCIPLES

RECOMMENDATION 8

Federal services as drivers of vitality

8.1 Amend the *Official Languages Act* to explicitly recognize that the offer of communications with and services to the public in both official languages, including active offer, contributes to the vitality and development of official language minority communities. In those circumstances, provide that:

- institutional vitality be defined broadly, including all elements of the education continuum, from early childhood to post-secondary education, community centres, cultural centres and community media;

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| | <ul style="list-style-type: none"> • the determination of significant demand: <ul style="list-style-type: none"> > be based on institutional vitality and a broad definition of the population to be served, including all potential users of services, not just those who have English or French as their first language or who speak either language at home; > not give consideration to the proportion of the official language minority population with respect to the majority; and • the Governor in Council be required to take measures to enforce these requirements. |
| <p>RECOMMENDATION 9 Federally regulated private companies</p> | <p>9.1 Amend the <i>Official Languages Act</i> to extend the obligations regarding communications with and services to the public to federally regulated private carriers. In those circumstances, provide that:</p> <ul style="list-style-type: none"> • air, marine, rail and road transport companies be required to provide communications and services in both official languages; and • the Governor in Council be required to take measures to enforce these requirements. |
| <p>RECOMMENDATION 10 Linguistic duality, bilingualism and communities able to develop and flourish</p> | <p>10.1 Amend the <i>Official Languages Act</i>, including its purpose, to clarify the federal government's commitment to linguistic duality and bilingualism, which requires that measures be taken to:</p> <ul style="list-style-type: none"> • recognize the remedial nature of language rights; • protect the survival of official language minority communities; • encourage interest in and support for bilingualism in Canadian society; and • promote the substantive equality of both official languages. <p>10.2 Amend the <i>Official Languages Act</i>, including its purpose, to replace references to “English and French linguistic minorities” with “official language minority communities.”</p> |

10.3 Amend the *Official Languages Act* to state what the Treasury Board “must” do to coordinate the implementation of Part VII, rather than “encourage” or “promote” such coordination.

10.4 Amend the *Official Languages Act* to state what measures the Treasury Board “must” take to advance the equality of status and use of English and French in Canadian society, rather than “take such measures as [the Treasury Board] considers appropriate.” In those circumstances, provide that:

- these measures include the following strategic sectors: health, justice, immigration, economic development, community media, and arts and culture; and
- the Governor in Council be required to take measures to enforce these requirements.

10.5 Amend the *Official Languages Act* to affirm that the provisions of Part VII are taken into consideration in the interpretation of the other parts of the Act.

RECOMMENDATION 11
The federal public service

11.1 Amend the *Official Languages Act* to require that, on appointment, deputy ministers have a sufficient understanding of English and French to be able to perform their duties in both official languages, orally and in writing. In those circumstances, provide that:

- the required level of proficiency in both official languages be C-B-C;
- a deputy minister in office at the time of the coming into force of this amendment may remain in office even if the deputy minister does not meet this requirement; and
- the Governor in Council be required to take measures to enforce these requirements.

11.2 Amend the *Official Languages Act* to clarify the obligations of deputy heads and managers to foster a culture of linguistic duality in the workplace. In those circumstances, provide that:

- they ensure an active offer of services in English and French to their employees, pursuant to subsection 36(1);

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| | <ul style="list-style-type: none"> • the language requirements of their positions be increased, in all cases, to the C-B-C level, and that deputy heads and managers already in these positions at the time of the coming into force of this amendment be given two years to meet the requirements; • they adequately assess the language skills of their employees; and • they provide their employees with language training opportunities. |
| <p>RECOMMENDATION 12 The Translation Bureau</p> | <p>12.1 Amend the <i>Official Languages Act</i> to establish the role of the Translation Bureau in the Act's implementation. In those circumstances, provide that:</p> <ul style="list-style-type: none"> • the Translation Bureau be the exclusive provider of translation and interpretation services for federal institutions; and • it be equipped with the tools and resources necessary to serve as a centre of expertise in quality translation and interpretation. |
| <p>RECOMMENDATION 13 Regulations to give effect to Part VII</p> | <p>13.1 Amend the <i>Official Languages Act</i> to specify that the Governor in Council is required to make regulations setting out measures to give effect to Part VII. In those circumstances, provide that:</p> <ul style="list-style-type: none"> • the Governor in Council promote a broad and liberal interpretation of these requirements; • the Treasury Board consult with official language minority communities when developing the regulations; • these measures achieve the following objectives: <ul style="list-style-type: none"> > raising employees' awareness of the needs of official language minority communities and the government's commitments under Part VII; > determining whether policies and programs have impacts on the development of official language minority communities and the promotion of linguistic duality, from the initial development of policies through to their implementation; |

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| | <ul style="list-style-type: none"> > consulting representatives of official language minority communities as required in connection with the development or implementation of policies and programs; > describing the federal institution’s actions and demonstrating that it has considered the needs of these communities; and > if it has been determined that impacts exist, planning anticipated activities accordingly, presenting the expected outcomes and providing for results evaluation mechanisms. <p>13.2 Ensure, in conjunction with the modernization of the <i>Official Languages Act</i>, that regulations to give effect to Part VII are made by June 2021.</p> |
| <p>RECOMMENDATION 14 Regulations to give effect to parts IV to VI</p> | <p>14.1 Amend the <i>Official Languages Act</i> to specify that the Governor in Council is required, in regulations to give effect to Part IV, to recognize that the offer of communications with and services to the public in both official languages contributes to the vitality and development of official language minority communities.</p> <p>14.2 Ensure, in conjunction with the modernization of the <i>Official Languages Act</i>, that regulations to give effect to Part IV are amended by June 2023 and that the Treasury Board consults with official language minority communities when the regulations are amended.</p> <p>14.3 Amend the <i>Official Languages Act</i> to specify that the Governor in Council is required to make regulations setting out measures to give effect to Part V and Part VI. In those circumstances, provide that:</p> <ul style="list-style-type: none"> • the Governor in Council promote a broad and liberal interpretation of these requirements; • these measures achieve the following objectives: <ul style="list-style-type: none"> > creating workplaces conducive to the use of both official languages across the country; > clarifying the obligations of managers, chief executives and deputy ministers to encourage linguistic duality in the workplace; |

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| | <ul style="list-style-type: none"> > clarifying the resources available to federal employees to ensure that their rights are respected; and > ensuring a more equitable representation of English-speaking and French-speaking Canadians in federal institutions located in the regions. <p>14.4 Ensure, in conjunction with the modernization of the <i>Official Languages Act</i>, that regulations to give effect to Part V and Part VI are made by June 2023.</p> |
| <p>RECOMMENDATION 15 Regulations on active offer</p> | <p>15.1 Amend the <i>Official Languages Act</i> to provide that the Governor in Council be required to make regulations setting out measures to give effect to the active offer. In those circumstances, provide that:</p> <ul style="list-style-type: none"> • the Governor in Council promote a broad and liberal interpretation of these requirements; • the Treasury Board consult with official language minority communities when developing the regulations; • these measures achieve the following objectives: <ul style="list-style-type: none"> > ensuring that the public is informed of the availability of services in both official languages; > offering services in both official languages on first contact; > providing services according to the principle of linguistically and culturally appropriate services; > providing services of equal quality in both official languages and ensuring respect for the principle of substantive equality; > allocating the human and financial resources necessary for the active offer of service in both official languages; and > extending the obligation to third parties providing services on behalf of federal institutions. <p>15.2 Ensure, in conjunction with the modernization of the <i>Official Languages Act</i>, that regulations on the active offer are made by June 2023.</p> |

RECOMMENDATION 16

Extension of New Brunswick's constitutional rights

16.1 Amend the *Official Languages Act* to recognize the equality of status of the English linguistic community and the French linguistic community of New Brunswick, as set out in section 16.1 of the *Canadian Charter of Rights and Freedoms*.

In those circumstances, provide that:

- the preamble to the Act be amended to refer to this equality of status;
- English-speaking and French-speaking employees in the federal public service in New Brunswick be represented in a manner that reflects this equality of status;
- all initiatives affecting the vitality and development of these two communities take into account the equality of their status and recognize their right to distinct educational and cultural institutions; and
- the Governor in Council be required to take measures to enforce these requirements.

16.2 Amend the *Official Languages Act* to recognize that the offer of communications with and services to the public in both official languages applies throughout New Brunswick.

In those circumstances, provide that:

- the duties and obligations in Part IV apply to New Brunswick notwithstanding the criteria of significant demand and nature of the office; and
- the Governor in Council be required to take measures to enforce these requirements.

RECOMMENDATION 17

Extension of constitutional educational rights

17.1 Amend the *Official Languages Act* to recognize the right to school governance and the right to equal access to quality education in the minority language, as set out in section 23 of the *Canadian Charter of Rights and Freedoms*.

In those circumstances:

- recognize that federal–provincial/territorial agreements on minority language education enhance the vitality and support the development of official language minority communities;

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| | <ul style="list-style-type: none"> • include all stages of the education continuum, from early childhood to post-secondary education, in the measures to enforce this requirement; and • provide for mandatory consultation with minority school boards, represented by their main representative organizations, in the measures to enforce this requirement. <p>17.2 Amend the <i>Official Languages Act</i> or other federal legislation to require the enumeration of education rights-holders under section 23 of the <i>Canadian Charter of Rights and Freedoms</i>.</p> |
| <p>RECOMMENDATION 18 General provisions</p> | <p>18.1 Amend the <i>Official Languages Act</i> to specify the obligation of federal institutions to implement the Act's various parts in a consistent manner.</p> <p>18.2 Amend the <i>Official Languages Act</i> to affirm the primacy of all parts of the Act over other federal laws. In those circumstances, provide that:</p> <ul style="list-style-type: none"> • the provisions of Part IV take precedence over those of Part V in the event of conflict; and • this principle does not apply to the <i>Canadian Human Rights Act</i> nor to its regulations. <p>18.3 Amend the <i>Official Languages Act</i> to extend the right to court remedy to all parts of the Act.</p> <p>18.4 Amend the <i>Official Languages Act</i> to require the Treasury Board to review the Act and its regulations every 10 years. In those circumstances, provide that:</p> <ul style="list-style-type: none"> • the review be carried out 10 years after the date of coming into force of the amended Act; and • the Treasury Board consult with official language minority communities during the 10-year review of the Act and its regulations. |

RECOMMENDATION 19

Equal access to justice
in both official languages

19.1 Amend the *Official Languages Act* or other federal legislation to ensure that the importance of ensuring equal access to justice in both official languages is taken into account when appointing judges to provincial and territorial superior courts and courts of appeal. In those circumstances, mandate the Office of the Commissioner for Federal Judicial Affairs to ensure a systematic assessment of:

- the need for bilingual judicial candidates in all regions of the country; and
- the language skills of judicial candidates.

19.2 Amend the *Official Languages Act* to set a maximum period of six months to publish, in the other official language, the decisions of federal courts referred to in subsection 20(2).

19.3 Amend the *Official Languages Act* to require the use of jurilinguists' expertise in translating federal court decisions and establish a system for revising decisions translated into the other official language.

19.4 Amend the *Official Languages Act* to specify that the simultaneous publication of federal court decisions online is a communication with the public subject to the duties and obligations of Part IV.

19.5 Amend the *Official Languages Act* to specify that the active offer of services in both official languages applies to federal courts.

19.6 Amend the *Official Languages Act* to enshrine the existence of the "official language rights component" of the Court Challenges Program and its funding.

RECOMMENDATION 20

Supreme Court judges

20.1 Amend the *Official Languages Act* and any necessary federal legislation to require that, on appointment, judges of the Supreme Court of Canada have a sufficient understanding of English and French to be able to read the written submissions of the parties and understand oral arguments without the assistance of translation or interpretation services. In those circumstances, provide that:

- a judge in office at the time of the coming into force of this amendment may remain in office even if the judge does not meet this requirement; and
- the Governor in Council may take measures to enforce this requirement, including compliance mechanisms.



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

MODERNIZATION OF THE *OFFICIAL LANGUAGES ACT*

Report of the Standing Committee on Official Languages

The Honourable Denis Paradis, Chair

**JUNE 2019
42nd PARLIAMENT, 1st SESSION**

Published under the authority of the Speaker of the House of Commons

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LIST OF RECOMMENDATIONS

As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

Recommendation 1

That the Government of Canada, as part of its modernization of the *Official Languages Act*, add an interpretative clause seeking to prioritize the goals and objectives of the Act; define and reinforce the concept of positive measures and other key concepts related to the effective application of the Act; and recognize the constitutional specificity of New Brunswick..... 65

Recommendation 2

That the Government of Canada introduce a bill to modernize the *Official Languages Act* to redefine the roles and responsibilities of the Commissioner of Official Languages, prioritizing, without being limited to, the following:

- a) giving the Commissioner the authority to impose monetary sanctions;
- b) giving the Commissioner the authority to require institutions that are subject to the Act to submit compliance reports and having the Commissioner issue statutory requirements; and
- c) creating an administrative tribunal and defining its role and mandate..... 65

Recommendation 3

That the Government of Canada introduce a bill to modernize the *Official Languages Act* with new provisions, including but not limited to the following, to:

- a) establish a formal consultation framework with official language minority communities (OLMCs);

- b) require the Government of Canada to develop a multi-year horizontal strategy for official languages with targets and performance indicators developed in collaboration with OLMCs and that is subject to both a mid-term and a final review made available to the public;
- c) require federal institutions to develop a multi-year strategy to implement the *Official Languages Act*;
- d) require federal institutions to include language variables in research it carries out and funds, particularly in sample selection for studies, as well as to produce and publish compelling data on OLMCs; and
- e) require Statistics Canada to collect data on OLMCs, including whether children are eligible to receive their education in the minority language, with the goal of accurately counting how many rights-holders could potentially attend English and French minority-language schools, pursuant to section 23 of the *Canadian Charter of Rights and Freedoms* and respecting provincial and territorial jurisdiction. 66

Recommendation 4

That the Government of Canada introduce a bill to modernize the *Official Languages Act* with clear objectives and obligations respecting language rights in francophone immigration and health..... 67

Recommendation 5

That the government of Canada, in future negotiations on the Official Languages in Education Program (OLEP), work with the provinces and territories to support French first-language education and to strengthen education rights, as set out in the strategic education agreement between the Government of Canada, the Fédération nationale des conseils scolaires francophones (FNCSF), the Fédération des communautés francophones et acadienne du Canada (FCFA) and the Commission nationale des parents francophones (CNPF)..... 67

Recommendation 6

That the Government of Canada, in future negotiations on the Official Languages in Education Program (OLEP), work with the provinces and territories to support second-language instruction and strengthen education rights. 67

Recommendation 7

That the Government of Canada introduce a bill to modernize the *Official Languages Act* that includes a new section on the Government of Canada’s role in minority-language education. This new section should include, but not be limited to, the following:

- a) a provision ensuring the enumeration of rights-holders under section 23 of the *Canadian Charter of Rights and Freedoms*; and
- b) a provision ensuring that the educational and cultural infrastructure needs of official language minority communities are identified as a priority in the Government of Canada’s disposal process for surplus real property under subsection 16.1(1) as it applies to New Brunswick and section 23 of the *Canadian Charter of Rights and Freedoms*..... 67

Recommendation 8

That the Government of Canada consider, as part of its efforts to modernize the *Official Languages Act*, including new provisions seeking to:

- a) require the inclusion, in any agreement between the Government of Canada and a province or territory that provides for a transfer of funds, of enforceable language clauses that encourage progress toward equality of status and use of English and French, as well as the vitality and development of official language minority communities, through the establishment of consultations and transparency and accountability mechanisms;
- b) give the Minister of Official Languages the authority to ensure that all federal departments and institutions comply with the language clauses;

- c) make available, in both official languages, all federal–provincial/territorial agreements; and
- d) ensure that members of official language minority communities eligible to receive their education in the language of the minority can do so, if they so choose, and that spaces are allocated for them in public schools, particularly in the case of Quebec..... 68

Recommendation 9

That the Government of Canada transfer the official languages file to a central agency and entrust the implementation of the *Official Languages Act* to that agency. 69

Recommendation 10

That the new *Official Languages Act* include a chapter on promoting the French language both in Canada and at the international level, particularly in the Americas. 69

Recommendation 11

That the new *Official Languages Act* promote bilingualism in Canada. 69



Office of the
Commissioner of
Official Languages

Commissariat
aux langues
officielles

BRIEF TO THE STANDING COMMITTEE ON OFFICIAL LANGUAGES:

Bill C-13: An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts

**SEIZING A HISTORIC OPPORTUNITY:
FOR A COMPLETE MODERNIZATION
OF THE *OLA***



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COMMISSIONER OF OFFICIAL LANGUAGES

OTTAWA, ONTARIO
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1. INTRODUCTION

This brief sets out the position of the Commissioner of Official Languages on Bill C-13, *An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts*.

Part 1 of the bill makes substantial changes to the *Official Languages Act* (“OLA”). These modifications will undoubtedly help to strengthen the OLA, modernize it, and ensure it is interpreted in accordance with the standard of substantive equality. The Commissioner supports this much-anticipated legislative measure, which reflects the government’s commendable effort to be responsive to society’s needs and advance linguistic duality as well as the vitality of official language minority communities.

In light of his analysis, the Commissioner feels that certain changes to Bill C-13 would further foster the achievement of the results desired from the modernization of the OLA. A fully modernized act is one whose parts come together to form a coherent and robust whole.

Part 2 of the bill enacts the *Use of French in Federally Regulated Businesses Act* (“UFA”). It meets a significant need by filling a legal void and creating language rights for consumers who do business with federally regulated private businesses (“FRPBs”) and for the employees who work for them.

The Commissioner invites Parliament to take full advantage of this historic opportunity to make this bill a success for the future of official languages. To that end, he respectfully submits concrete recommendations, grouped into the following five themes:

- A robust and effective approach to the governance of official languages;
- Federal institutions that value official languages among their employees and the public;
- Support for official language minority communities and advancement of official languages to preserve gains and clarify institutions’ obligations;
- Effective roles and powers for the Commissioner; and
- A coherent language regime for federally regulated private businesses.

2. OFFICIAL LANGUAGES GOVERNANCE: ENSURING A ROBUST AND EFFECTIVE APPROACH

Strict adherence to the OLA starts with effective governance. In this instance, governance refers to the way the federal government goes about implementing the OLA. It has a direct effect on the capacity of institutions and that of their employees to understand their obligations and the values that underpin them, to plan and carry out



their work accordingly, and to account for their results. To ensure full compliance with the OLA, it is therefore crucial that it contain appropriate governance-related provisions.

Bill C-13 makes some improvements in this regard by reinforcing Treasury Board's obligations and assigning concrete responsibilities to some key federal institutions. However, as they stand, these improvements, alone, cannot address the many governance issues that have long undermined the full implementation of the OLA.

The changes to the bill put forward in this chapter are aimed at ensuring that the administration of the OLA falls under the responsibility of Treasury Board, an institution that already has the mandate and means to set broad policies for the federal government as a whole and to monitor their application. The changes are also intended to ensure that federal institutions with a role in official languages governance are made more accountable through appropriate guidance and reporting.

A. A central agency must coordinate the implementation of the OLA and ensure its results

Given its government-wide nature and inherent challenges, the OLA's implementation must be well coordinated. The coordination function, which is critical, should be neither fragmented nor must it be denied appropriate means of action. For this reason, it is important that a central agency be placed in charge, given the authority conferred to such a body by that status. The current iteration of Bill C-13 takes a different approach entirely.

Fragmented governance is a longstanding issue. In his 1971 Annual Report, the first Commissioner, Keith Spicer, pointed out that the Department of the Secretary of State (the predecessor to Canadian Heritage) was poorly equipped to carry out the coordination task it had been given. Because it lacked the necessary means and shared coordination responsibilities with other agencies, the Department of the Secretary of State could not require departments to follow its direction. More than five decades later, the government has not altered its approach to coordinating the implementation of the OLA.

Although Bill C-13 contains a section promisingly entitled "Government-wide Coordination," responsibility for implementing the OLA as a whole is still not assigned to a central agency, since subsection 2.1(1) designates the Minister of Canadian Heritage as "responsible for exercising leadership within the Government of Canada in relation to the implementation of [the OLA]."

As a central agency, Treasury Board, rather than Canadian Heritage, would be best placed to play this role.



B. The agency in charge of implementation must have clearly defined obligations

Once more under subsection 2.1(1), the expression “exercising leadership” is vague and not conducive to requiring that the agency in charge of implementation meet clearly defined obligations. It is therefore important to clarify this role.

Similarly, subsection 2.1(2) states that in its coordination role, the Minister of Canadian Heritage, “shall, in consultation with the other ministers of the Crown, promote and encourage coordination in the implementation of [the OLA], including the implementation of the commitments set out in subsections 41(1) to (3),” relating to enhancing the vitality of communities and fostering official languages, protecting and promoting French, and advancing minority-language learning.

Not only should Treasury Board play this role, as suggested above, but the requirement set out in this provision, i.e., to “promote” and “encourage” the “coordination” of the implementation of the OLA, does not constitute an obligation likely to yield tangible results. The obligations of the coordinating agency must therefore be strengthened such that the agency in charge of the coordination is able to require federal institutions to implement the OLA.

Further, to make it clear that coordination must focus on all obligations and commitments of federal institutions, subsections 41(1) to (3) should not be referred to specifically in subsection 2.1(2) by use of the word “including.”

Moreover, in subsection 2.2(1), Bill C-13 creates an obligation for the Minister of Canadian Heritage, “in cooperation with the other ministers of the Crown,” to “develop and maintain a government-wide strategy that sets out the overall official languages priorities.” A government-wide strategy can contribute to the implementation of the OLA, particularly if it successfully manages to raise federal institutions’ awareness of the government’s key official languages priorities and spurs them to act; however, this new obligation, in its current form, contains a few shortcomings.

First, it is important to amend subsection 2.2(1) so that the government-wide strategy—which should be Treasury Board’s responsibility—is informed by consultations with official language minority communities to ensure it reflects their actual needs. In addition, interdepartmental cooperation, however necessary it may be to establishing a government-wide strategy, must not bog down the process. This risk could be mitigated by giving the agency in charge the discretion, rather than the obligation to consult other federal ministers. Lastly, it is not sufficient that the strategy be “developed” and “maintained”. Accountability measures must absolutely accompany it to ensure it is followed and results are achieved.



C. The governance structure must be effective and transparent

Bill C-13 assigns certain implementation and coordination responsibilities of the OLA to both Canadian Heritage and Treasury Board. This overlap risks perpetuating the fragmented implementation of the OLA.

On one hand, Treasury Board is responsible for the development and general coordination of the principles and programs for the application of parts IV, V and VI of the OLA. Under Bill C-13, it would also be responsible for subsection 41(5) in Part VII, which deals with the *obligation* of federal institutions to take positive measures.

The Minister of Canadian Heritage, on the other hand, is responsible for implementing the OLA, including the *commitments* pertaining to the enhancement of the vitality of minority communities, the protection of French, minority-language learning and, to a certain extent, the commitment relating to estimating the number of children entitled to minority-language education.

It is difficult to distinguish the respective roles Treasury Board and the Minister of Canadian Heritage will play in practice with regard to OLA implementation, particularly the implementation of Part VII, which focuses on the advancement of English and French and the enhancement of the vitality of official language minority communities. The overlap of institutions responsible for OLA implementation causes confusion and impedes effective and transparent governance. Treasury Board's obligation to consult Canadian Heritage also raises questions. Although these obligations would seem desirable at first blush, the question remains as to whether they risk encumbering and further complicating official languages governance.

It is therefore important to correct the relevant provisions of the bill. More specifically, provisions regarding Treasury Board's responsibilities and obligations should be amended such that Treasury Board becomes responsible for establishing policies for the application of Part VII in its entirety, recommending these to the Governor in Council, or even issuing directives to give effect to this part.

Again with a view of making federal institutions more accountable, the OLA should enhance the transparency of certain processes and results. To that end, it would be best for Bill C-13 to provide that the following key documents be made available to the public: the Minister of Citizenship and Immigration's immigration policy, the Minister of Canadian Heritage's process for estimating the number of children of rights holders and, as will be discussed below, federal-provincial-territorial agreements.

Lastly, to achieve a transparent governance structure, the OLA's ten-year reviews should be based on consultations with official language minority communities.



D. Treasury Board should be given enhanced powers

Bill C-13 strengthens Treasury Board's responsibilities, which are set out in Part VIII of the OLA. In effect, it turns the majority of Treasury Board's discretionary powers (what it *may* do) into duties (what it *must* do). This change is a significant step forward, as it provides a much better framework for its mandate. It is, however, necessary to go further.

Under Bill C-13, Treasury Board would retain two discretionary powers. The first is the power to recommend regulations for the application of parts IV, V and VI. On the one hand, part VII should be included, and on the other hand, this power should be made a mandatory duty so that it is not optional for Treasury Board to recommend regulations when they are needed. The second discretionary power is that of delegating any of its powers and duties to the deputy heads of other federal institutions. This power needs to be eliminated, as it would be odd for Treasury Board to be able to delegate powers that are to be made mandatory.

Furthermore, to ensure effective accountability, it is crucial that Treasury Board's auditing and monitoring role be expanded in Bill C-13. First, Part VIII should include a provision that Treasury Board monitors and audits federal institutions' compliance with the OLA, and not be limited to overseeing compliance with policies, directives and regulations. Then, to ensure that the government's identified priorities amount to more than good intentions, Treasury Board should be responsible for monitoring the implementation status of the government-wide strategy.

In short, Treasury Board must be the agency ensuring that the federal government prioritizes official languages not only to ensure compliance with the OLA, but also to advance linguistic duality.

RECOMMENDATIONS:

With regard to horizontal governance by a central agency:

1. Amend the OLA to place Treasury Board in charge of implementing the OLA and ensuring the horizontal coordination of this implementation.
2. Give Treasury Board the role of developing and maintaining the government-wide strategy.
3. Ensure that the government-wide strategy be informed by consultations with official language minority communities.
4. Incorporate monitoring and accountability measures, to be administered by Treasury Board, into the government-wide strategy.



With regard to effective and transparent governance:

5. Eliminate the overlap in responsibilities between Treasury Board and the Minister of Canadian Heritage. In so doing, place Treasury Board in charge of the overall development and of coordinating the principles and programs for the application for Part VII in its entirety, rather than solely subsection 41(5).
6. Make publicly available the immigration policy, the Minister of Canadian Heritage's process for estimating the number of children of rights holders and federal-provincial-territorial agreements.
7. Ensure that each ten-year review of the OLA be accompanied by consultations with official language minority communities.

With regard to the role of Treasury Board:

8. Turn all of Treasury Board's discretionary powers into binding obligations.
9. Eliminate Treasury Board's permission to delegate its powers and duties.
10. Expand Treasury Board's auditing and monitoring role by having it monitor and audit federal institutions' compliance with the OLA.

3. MODERNIZATION'S OVERLOOKED ELEMENTS: FEDERAL INSTITUTIONS THAT PROMOTE OFFICIAL LANGUAGES AMONG THEIR EMPLOYEES AND TOWARD THE PUBLIC

The OLA is more than the sum of its parts. It should be thought of as a whole whose parts reinforce each other. The lack of key provisions in Bill C-13 that would enhance the obligations of institutions when communicating with and providing services to the public, and that would strengthen institutions' obligations toward their employees, is a stumbling block to the success of the bill as a whole.

The amendments suggested in this chapter are intended to ensure that the OLA's core components, i.e., communications and services to the public, and language of work, are also modernized. They are also aimed at ensuring that Bill C-13 does not lose sight of other essential components of a modernized OLA, namely emergencies and federal-provincial-territorial agreements. Lastly, they are a reminder that the OLA must remain relevant in response to rapid changes in technology.

A. The right to communicate with federal institutions and receive services in one's language of choice must be respected

A modernized OLA must be unequivocal about the obligations of federal institutions that interact with the travelling public. It must also ensure that federal institutions fulfill their obligation to provide an active offer of bilingual communications and services. Lastly, the OLA should eliminate any existing ambiguity with regard to the obligations of federal courts when communicating their decisions to the public.



i. Rights of the travelling public

Since Transport Canada transferred its airports to airport authorities, successive commissioners of official languages were confronted with the authorities' restrictive interpretation of their obligations. Rather than recognizing that they are subject to the OLA's general communications and services framework, as all federal institutions are, several chose to interpret their obligations narrowly, limiting them to the provision concerning the travelling public, i.e., section 23 of the OLA.

The Federal Court recently handed down a decision in *Thibodeau v St. John's International Airport Authority*, 2022 FC 563, in which it clarified how to interpret airports' and airport authorities' obligations toward the general public and travelling public.

Any amendment to the relevant provisions of Part IV of the OLA must adhere to this decision. Federal institutions that interact with the travelling public must fully comply with their duties prescribed in section 22 of the OLA, which establishes the general framework governing obligations regarding communications and services, as well as those found in section 23 of the OLA. In addition, the travelling public should include those who use federal institutions' services and communications for the purpose or with the intention of travelling. This includes trip planning, travelling, and the period following the travels.

Therefore, in light of *Thibodeau v St. John's International Airport Authority*, the bill should clarify the duties imposed on federal institutions serving the travelling public by specifying that they apply to a broadly defined travelling public, and by specifying in section 23 that they also include the obligations under section 22 of the OLA.

These changes would contribute significantly to overcoming the impasse and ensuring that the general public and the travelling public have their rights respected.

ii. Active offer

Over the years, several commissioners have noted federal institutions' systematic breaches in their duty to provide an active offer of bilingual communications and services. Poorly understood and poorly implemented by many federal institutions, the duty to provide an active offer falls short of attaining its ultimate goal, which is to enable the public to exercise its right to receive communications and services in the official language of its choice. The absence of an adequate active offer particularly affects members of the linguistic minority who are at greater risk of not exercising their right to receive services and communications in the official language of their choice.

It is therefore crucial that the government clarify the obligation found in the OLA to provide an active offer. The amendments should stipulate specific rules, including the



substance of what constitutes an active offer and the manner in which it ought to be made.

iii. Federal Courts' decisions

Bill C-13 requires that a final decision, order or judgment of a federal court that has precedential value is to be made available simultaneously in both official languages. This addition is of great importance, since it will increase the number of decisions available in both official languages.

However, it would be essential to clarify that when federal court decisions are made available to the public, by being posted on the courts' websites for example, they should be made available simultaneously in both official languages so that both official language communities can benefit equally from these decisions. Too often, federal court decisions are posted on their websites in only one language, and several months—even years—may pass before the version in the other language follows on the website. This practice of electronically publishing decisions in only one language is a significant barrier to equal access to justice in both official languages and must be clarified once and for all.

B. The designated bilingual regions must be renewed and the rights of employees working in those regions must be strengthened

Consistency between regions designated bilingual for language of work purposes and regions where offices have an obligation to provide communications and services in both official languages is crucial. In addition, clarifications should be brought to the right of employees in designated bilingual regions to be supervised in the official language of their choice, as well as to the right of all employees, regardless of where they are, to receive services provided to them as individuals, services that are centrally provided, as well as training in the official language of their choice.

i. Designated bilingual regions

In the current OLA, regions designated as bilingual are not harmonized with regions where offices must provide communications and services to the public in both official languages.

This approach undermines the integral application of the OLA. First, a considerable number of federal public servants who work in regions designated as unilingual for language of work purposes must provide services to the public in both official languages without being entitled to work tools, supervision or training in the languages in which they must provide these services. It stands to reason that services offered to the public in the minority language in regions not designated as bilingual may be less accessible and of lower quality than those offered in designated bilingual regions.



Furthermore, the list of regions designated as bilingual for language of work purposes dates back to 1977. This list, which has been outdated for several years, has not been adjusted by the government to reflect the changes brought about by territorial realignments and reorganizations. It would be beneficial to update it to make it easier to understand.

One thing is certain, the OLA must be modernized to ensure consistency between regions designated as bilingual for language of work purposes and offices that must communicate and provide services in both official languages. It is important that any changes made in this regard ensure that language of work rights in regions currently designated as bilingual are maintained.

Also, federal institutions are now offering their employees a level of flexibility and mobility that was foreign to the workplace when Part V came into effect. The emergence of virtual teams and the proliferation of telework from a region other than the one in which an employee's position is located are new realities that the modernized OLA must take into account. Employees whose positions are located in a designated bilingual region should be able to maintain their Part V rights even when they telework from a region that is unilingual for language of work purposes.

ii. Supervision in one's official language of choice

The OLA provides that employees in regions designated as bilingual have the right to be supervised in the official language of their choice. However, Treasury Board indicates in its *Directive on Official Languages for People Management* that only employees who occupy designated bilingual positions are required to be supervised in the official language of their choice in designated bilingual regions.

Language rights apply to individuals, not to the positions they choose to hold. Every employee occupying a position in a designated bilingual region—modernized in the manner proposed above—should have the right to be supervised in the official language of their choice, *regardless of the language requirements of their position*. Bill C-13 must make this clarification to avoid a narrow interpretation of these rights.

iii. Rights involving training, services provided to individuals and services that are centrally provided

Employees receive a range of services in the performance of their duties, both individually and through centrally provided services, such as administrative services, compensation, training and development. These services are normally provided from the federal institution's head or central office. As such, they should be available in both official languages to employees across the country.

This is not currently the case. For example, a service from a head office offered in French to employees in a Montreal office might not be offered to employees in the



Winnipeg region because one is intended for a region designated as bilingual and the other is not. We must put an end to this narrow approach.

The OLA should therefore be amended to guarantee rights relating to training, services provided to employees as individuals, and services that are centrally provided, to all employees of the federal government. These services go beyond the territorial application of Part V in terms of their importance and availability.

Similarly, it would be useful to enact regulations establishing a list of examples of individual and centrally provided services. Such examples would facilitate the interpretation of Part V of the OLA.

C. Legal obligations in emergencies must be binding

Bill C-13 states in its preamble that “all legal obligations related to the official languages apply at all times, including during emergencies.” This addition is welcome as federal institutions tend to neglect these obligations during emergency situations.

However, adding this obligation only in the preamble diminishes its force. It should therefore also be placed in the body of the OLA, thereby making it binding on federal institutions to comply with the OLA at all times, including in emergencies.

D. Language requirements for federal-provincial-territorial agreements must be enshrined in the OLA

It is important not to overlook the fact that federal-provincial-territorial agreements are of the utmost importance to official language minority communities. They can have either negative or positive repercussions for these communities, depending on their content.

Bill C-13 should therefore enshrine in the OLA the obligation for federal institutions to draft all federal-provincial-territorial agreements in both official languages and to include enforceable language clauses. In the interest of transparency, wherever possible, these agreements should be disclosed to the public.

E. The OLA must remain relevant in the context of changing technologies

The technologies that federal institutions use to communicate with the public and their employees have evolved since 1988, when the current OLA was adopted. In order to reflect new technologies and remain relevant, the OLA must be technologically neutral.

Bill C-13 partially adapts the OLA to this reality, by specifying, for example, for a single provision that a publication includes its electronic form. However, it should make the entire OLA technologically neutral so that terms such as “printed,” “publication,” “communication,” and “service” encompass the use of electronic media, social media as well as any current and future means of communication and service delivery.



RECOMMENDATIONS:

With regard to Part IV of the OLA:

1. Taking into account the decision of the Federal Court in *Thibodeau v St. John's International Airport Authority*, clarify the obligations of federal institutions serving the travelling public by specifying that they apply to a broadly defined travelling public and by specifying in section 23 that they also include the duties arising from section 22.
2. Clarify the content and scope of the active offer duty.
3. Clarify that court decisions that are communicated to the public, including those which are posted on the Internet, must be communicated simultaneously in both official languages.

With regard to Part V of the OLA:

4. Modernize the OLA to ensure consistency between regions designated as bilingual for language of work purposes and offices required to communicate and provide services in both official languages, while maintaining the continuation of rights in existing bilingual regions.
5. Clarify in the OLA that employees whose positions are located in a designated bilingual region maintain their Part V rights when teleworking from a unilingual region for language of work purposes.
6. Clarify in paragraph 36(1)(c) of the OLA that the right of an employee to be supervised in the official language of their choice in designated bilingual regions applies regardless of the language requirements of their position.
7. Guarantee rights involving training, services provided to employees as individuals and services that are centrally provided across the country, not only in designated bilingual regions.

With regard to emergencies:

8. Include in the body of the OLA the duty for institutions to comply with the OLA at all times, including in emergencies.

With regard to federal-provincial-territorial agreements:

9. Enshrine in the OLA the duty of federal institutions to draft any federal-provincial-territorial agreements in both official languages, to incorporate enforceable language clauses in these agreements and to disclose them to the public.

With regard to technologically neutral legislation:

10. Make the entire OLA technologically neutral so that the language used includes the use of electronic media, social media and any other current and future means of communication and service delivery.



4. SUPPORT FOR COMMUNITIES AND ADVANCEMENT OF OFFICIAL LANGUAGES: PRESERVING GAINS AND PROVIDING A FRAMEWORK FOR OBLIGATIONS

Over the years, the provisions of the OLA regarding the advancement of English and French and support for the development and vitality of communities (the Part VII provisions) have led to a great deal of misunderstanding and inaction by federal institutions. It is true that the leadership of some federal institutions has made it possible to advance major community development initiatives and to promote the richness of the two official languages across the country. However, there have been too many missed opportunities for action, not to mention measures that have had detrimental effects. This is why a modernized OLA must firmly clarify and improve federal institutions' obligations.

Substantial amendments to Part VII of the OLA are proposed in Bill C-13, some of which are a step in the right direction. However, taken as a whole, the amendments risk undermining the Federal Court of Appeal's interpretation of the institutions' duties under Part VII as set out in *Canada (Commissioner of Official Languages) v Canada (Employment and Social Development)*, 2022 FCA 14 (FFCB). This situation is deeply concerning.

This chapter proposes amendments to Bill C-13 that would enshrine in the OLA the principles set out in the Federal Court of Appeal's decision in order to preserve the gains that have been made. It also describes the elements of the bill that need to be further clarified in Part VII regulations. Finally, it proposes ways to strengthen the provisions concerning the immigration policy and the estimation of children of minority language education rights holders.

A. Federal institutions' discretion to take positive measures must be clarified

From the outset, Bill C-13 makes certain amendments to the OLA which undoubtedly improve Part VII.

In addition to maintaining the commitment to enhance the vitality of English and French linguistic minority communities and support their development, the bill imposes new commitments on the government with corresponding duties, such as advancing opportunities for English and French linguistic minorities to pursue quality learning in their own language.

Bill C-13 also provides guidance to federal institutions in fulfilling their obligation to take positive measures to implement the government's commitments. For example, subsection 41(6) of the modernized OLA specifies that these measures shall be "concrete and taken with the intention of having a beneficial effect on the implementation of the commitments."



The obligation to take positive measures as prescribed by the Federal Court of Appeal in *FFCB*, is, however, diluted in Bill C-13.

First, subsection 41(5)—the key provision of the bill regarding the duty to take positive measures—states that “[e]very federal institution has the duty to ensure that the positive measures that it considers appropriate are taken for the implementation of the commitments under subsections (1) to (3).” The institution is given too much latitude by the specification that the positive measures a federal institution shall take are those “that it considers appropriate.” It might well find that it is appropriate not to take any positive measures. Yet, while the Federal Court of Appeal recognized that federal institutions have latitude in determining *which* positive measures are appropriate, it imposes a duty on them to act, to the extent possible, to enhance the vitality of minority communities.

Second, the new paragraph 41(7)(a) of the modernized OLA provides that in carrying out its mandate, every federal institution shall, on the basis of analyses that the federal institution considers appropriate, consider whether positive measures could potentially be taken under subsection 41(5). This provision is of no assistance to the duty in subsection 41(5) to take positive measures. The federal institution is again given too much latitude, contradicting the duty to act recognized by the Federal Court of Appeal, since the federal institution will be merely required to *consider* the potential of taking positive measures, on the basis of analyses *that it considers appropriate*.

Finally, the Federal Court of Appeal established that the obligation to take positive measures is ongoing. Bill C-13 does not clearly contain the same requirement. Part VII needs to be clarified in accordance with *FFCB* to require federal institutions to act so long as they can to implement the government’s commitments, not just once or sporadically.

In order to preserve the gains made through the Federal Court of Appeal’s decision, it is essential, first, to circumscribe the leeway given to federal institutions in the bill to take positive measures under subsection 41(5) of the modernized OLA. Second, the wording of subsection 41(7) should be revised to incorporate the two-step analysis set out in *FFCB*, adapting it to the commitments enumerated in subsections 41(1) to 41(3). According to this analysis, if one takes the example of the commitment to enhance the vitality of minority communities, federal institutions must first be sensitive to the particular circumstances of these communities and determine the impact of their decisions and initiatives on them. They must then act to enhance the vitality of these communities when implementing their decisions and initiatives; or where these decisions and initiatives could have a negative impact, they must act to mitigate these negative repercussions.



This means that federal institutions should have an obligation to take appropriate positive measures, based on impact analyses, to implement the commitments set out in the modernized OLA in an ongoing manner.

B. Federal institutions must mitigate the negative impacts of their decisions

The duty of federal institutions to identify any negative impacts their decisions may have on communities and to take steps to mitigate them is just as important as the duty to take positive measures.

In comparison to the current OLA, Bill C-13 partially recognizes the importance of this approach. In accordance with subsection 41(7), in carrying out its mandate, every federal institution shall, on the basis of analyses that the federal institution considers appropriate, take into account the direct negative impacts that its structuring decisions may have on the government's commitments in order to consider the possibilities for mitigating those negative impacts.

However, the wording of subsection 41(7) dilutes the duty established by the Federal Court of Appeal in *FFCB*, requiring federal institutions to act to mitigate the negative repercussions of their decisions.

First, under Bill C-13, federal institutions are required to carry out "analyses that the federal institution considers appropriate." This again leaves it up to them to determine not only at what stage an analysis should be carried out, but also *whether* it should even be carried out. A federal institution might therefore choose not to carry out an impact analysis.

Moreover, subsection 41(7) requires only that federal institutions "consider the possibilities" for mitigating the "direct" negative impacts that their "structuring" decisions may have on government commitments. Not only do federal institutions not have to consider the impacts of their "non-structuring" decisions—a term that is not defined in the bill—or any negative impacts that are not considered to be "direct," but they also do not have a duty to act.

To preserve the gains made through the Federal Court of Appeal's decision in *FFCB*, Bill C-13 should not give federal institutions such leeway. The bill should be amended to require them to mitigate any negative repercussions resulting from their decisions, based on impact analyses. In other words, their obligation to act should not be limited to "structuring" decisions or to decisions with "direct" negative impacts.

C. Regulations clarifying Part VII must not be delayed

It is important that the government fulfills its commitment to quickly enact regulations to clarify certain provisions of the new Part VII and provide a better framework for its implementation.



i. Application of paragraph 41(6)(b)

The new paragraph 41(6)(b) narrows the scope of positive measures that may be taken by federal institutions. Positive measures shall respect both the necessity of protecting and promoting the French language, taking into account that French is in a minority situation in North America, and the necessity of considering the specific needs of each of the two official language communities of Canada, taking into account the equal importance of the two communities.

Federal institutions may have difficulty understanding how to implement this provision. A regulation clarifying the implementation parameters would therefore be very useful.

ii. Dialogue and consultation activities, research and evidence-based findings

The decision-making process that federal institutions must follow to comply with the requirements of the other Part VII provisions, specifically with respect to dialogue and consultation activities, research and evidence-based findings, could also be prescribed by regulation.

iii. Evaluation and monitoring mechanisms

Subsection 41(10) of Bill C-13 requires federal institutions to establish evaluation and monitoring mechanisms in relation to the positive measures they take. In its current form, however, this provision does not specify whether those mechanisms must meet minimum requirements.

It would be helpful to make regulations to clarify the terms of these evaluation and monitoring mechanisms, such as what they must always include. This would ensure greater consistency in accountability across federal institutions.

iv. Obligations of the Minister of Foreign Affairs

Under Bill C-13, the federal government is now required to advance the use of English and French in the conduct of Canada's external affairs and to promote French as part of Canada's diplomatic relations. The Minister of Foreign Affairs "shall take such measures as that Minister considers appropriate for the implementation of the commitment."

However, the Minister of Foreign Affairs' obligation is not specific enough to properly implement this important new commitment to showcase our two official languages abroad. It would therefore be helpful to make regulations clarifying the obligation. For example, regulations could provide parameters for the Minister's discretion to take such measures that Minister considers appropriate for the implementation of the government's commitment. They could also include accountability measures that would be overseen by a central agency.



v. *Obligations of the Minister of Canadian Heritage*

Bill C-13 specifies the measures the Minister of Canadian Heritage *may* take to advance the equality of status and use of English and French in Canadian society.

This approach only partially recognizes the important role played by Canadian Heritage for official languages. The bill does not improve the governance of this key department's activities. Subsection 43(1) of the OLA remains non-binding in that it stipulates that the Minister of Canadian Heritage "shall take such measures as that *Minister considers appropriate* to advance the equality of status and use of English and French in Canadian society."

As is the case for the Minister of Foreign Affairs, the discretion that the Minister of Canadian Heritage may exercise—to "take such measures as that Minister considers appropriate"—should be clarified by regulations.

D. The Minister of Citizenship and Immigration needs more direction

Bill C-13 requires the Minister of Citizenship and Immigration to "adopt a policy on francophone immigration to enhance the vitality of French linguistic minority communities in Canada." It specifies that the policy must include objectives, targets and indicators, and a statement that the federal government recognizes that immigration is one of the factors that contributes to maintaining or increasing the demographic weight of French linguistic minority communities in Canada.

The inclusion of a francophone immigration policy is a significant step forward. However, amendments are needed to ensure that it is better able to achieve its ultimate goal of enhancing the vitality of francophone minorities.

First, although the bill indicates that the policy must contain objectives, targets and indicators, it does not require that they actually be linked to maintaining and increasing the demographic weight of francophone minorities. It is therefore important that the bill be amended to ensure that the objectives, targets and indicators are set with the purpose of maintaining and increasing the demographic weight of francophone minorities.

Second, the bill does not specify that the policy should address the entire immigration continuum, nor does it make mention of a strategy to encourage francophone immigrants to settle in francophone minority communities. The bill could be amended to broaden the scope of the policy to be adopted by the Minister so that it does not just apply to the selection and welcoming of francophone immigrants.



Third, the obligation created by the bill is to *adopt* a policy, not to achieve its objectives and meet its targets. The Minister of Citizenship and Immigration is not accountable if these are not met. It is important, therefore, that the Minister specify how they intend to achieve the objectives and targets and what indicators will be used to measure the results. Monitoring and reporting on the policy's performance will also be necessary. Furthermore, the bill does not require consultation with official language minority communities in developing the immigration policy, nor does it require public access to the policy. Amendments are therefore needed to create those requirements.

Finally, the provision regarding the immigration policy will come into force on a day to be set by order in council. It is important that the Minister of Citizenship and Immigration's obligation to adopt a policy on francophone immigration be fulfilled in a timely manner, and therefore that the order in council be issued promptly after Royal Assent.

E. Estimating the number of rights holder children must go beyond a process

Bill C-13 includes a new commitment by the government to contribute to an estimate of the number of children whose parents, under section 23 of the *Canadian Charter of Rights and Freedoms*, have the right to have their children receive instruction in the language of the English or French linguistic minority population of a province or territory, including the right to have them receive that instruction in minority language educational facilities. The bill requires that the Minister of Canadian Heritage shall establish a process to implement this commitment.

Given the importance of knowing the number of children whose parents are rights holders, this new commitment by the government is a significant step forward. However, the obligation to implement this commitment is lacking.

Unlike some of the government's commitments in the bill, this commitment does not impose a corresponding obligation on federal institutions to take positive measures to implement it. The Minister of Canadian Heritage is responsible for establishing a "process," for the federal government to *then* implement its commitment.

The obligation of the Minister of Canadian Heritage is not binding or specific enough to produce tangible results. Establishing a process is certainly necessary, but beyond that, there should be an obligation to directly implement the government's commitment to contribute to an estimate of the number of rights holder children. It would be advisable to include in the bill a clear obligation for Statistics Canada, among others, to implement the commitment regarding the estimate of rights holders.



Lastly, Canadian Heritage should have an obligation to consult official language minority communities when establishing the process for implementing the government's commitment.

RECOMMENDATIONS:

With regard to clarifying the discretion of federal institutions to take positive measures:

1. Create an obligation for federal institutions to take appropriate positive measures, based on impact analyses, to implement the commitments set out in the modernized OLA in an ongoing manner.
2. To preserve the gains made in the Federal Court of Appeal's decision in *FFCB* and enshrine the principles developed in this decision, circumscribe the latitude given to federal institutions in taking the positive measures prescribed in subsection 41(5) of the modernized OLA.
3. To preserve the gains made in the Federal Court of Appeal's decision in *FFCB* and enshrine the principles developed in this decision, amend the wording of subsection 41(7) of the modernized OLA to incorporate the two-step analysis established by the Federal Court of Appeal, adapting it to the commitments set out in subsections 41(1) to 41(3).

With regard to the obligation to mitigate the negative impacts of decisions:

4. Create an obligation for federal institutions to mitigate any negative impacts resulting from their decisions, based on impact analyses.

With regard to regulations for Part VII:

5. Enact regulations that include the following:
 - a. Implementation parameters for new paragraph 41(6)(b);
 - b. Implementation parameters for the decision-making process that federal institutions are required to adopt in relation to dialogue and consultation activities, research and evidence-based findings;
 - c. Implementation parameters for the evaluation and monitoring mechanisms provided for in subsection 41(10);
 - d. Parameters for the obligation of the Minister of Foreign Affairs and the Minister of Canadian Heritage to take such measures as they consider appropriate under subsections 42(2) and 43(1) of the OLA.

With regard to direction for the Minister of Citizenship and Immigration:

6. Link the objectives, targets and indicators of the immigration policy to the objective of maintaining and increasing the demographic weight of francophone minorities.
7. Ensure that the immigration policy apply to the entire immigration continuum.



8. Require the Minister of Citizenship and Immigration to specify how they intend to achieve the objectives and targets.
9. In the OLA require that the immigration policy include monitoring and accountability measures.
10. In the OLA require that the immigration policy be based on consultation with minority communities.
11. Make the immigration policy available to the public.
12. Promptly issue an order in council regarding the coming into force of the obligation to adopt an immigration policy.

With regard to the process of estimating the number of rights holder children:

13. Create a more binding obligation to implement the commitment to periodically contribute to an estimate of the number of rights holder children; include a clear obligation for Statistics Canada, among others, to implement this commitment.

5. THE COMMISSIONER'S NEW ROLES AND POWERS: PROVISIONS TO BE FINE-TUNED

Bill C-13 greatly improves the Commissioner of Official Languages' ability to bring federal institutions into compliance with the OLA. Compliance agreements, orders, and administrative monetary penalties ("monetary penalties"), in addition to increased flexibility in investigations as well as the ability to make certain parts of these public, are all useful and necessary powers given to the Commissioner for this purpose.

The amendments to Bill C-13 being proposed in this chapter are intended to make the Commissioner's power to make orders more flexible and to broaden the power to impose monetary penalties. They are also intended to ensure that the remedies provided in connection with the Commissioner's powers enable complainants to obtain prompt and fair redress for violations of their language rights.

A. The power to make orders must be more flexible

Bill C-13 empowers the Commissioner to make an order directing an institution to take any action that the Commissioner considers appropriate to rectify a contravention of the parts of the OLA dealing with communications with and services to the public and language of work. This is a substantial improvement to the OLA.

The new provision requires the Commissioner to complete a number of steps before making such an order. The Commissioner must have reasonable grounds to believe that a federal institution has contravened Part IV or V of the OLA, have made recommendations in respect of that contravention or an identical contravention by the



institution, and have previously invited the federal institution to enter into a compliance agreement.

Inasmuch as it may delay and complicate progress toward compliance, the prerequisite of having made recommendations to the federal institution in an investigation report should be removed from the bill. In other words, the Commissioner should have the discretion to make an order in the final investigation report, after notifying the institution.

B. The scope of the administrative monetary penalty regime must be reviewed and expanded

The new monetary penalty regime set out in Bill C-13 will give the Commissioner an important new tool in his efforts to ensure compliance with the OLA. However, it has a number of shortcomings that will undoubtedly undermine its usefulness.

i. Scope of monetary penalties

First and foremost, the scope of the monetary penalty regime is far too narrow. The bill states that monetary penalties may only be imposed on Crown corporations and corporations subject to the OLA that are designated by regulation, that have duties under Part IV, that operate in the transportation sector, and that engage in communications with and provide services to the travelling public.

All of these conditions greatly diminish the scope of application of monetary penalties. These could apply to all federal institutions with obligations under Part IV or V of the OLA, or both parts. At the very least, they should apply to federally regulated private businesses subject to the *Use of French in Federally Regulated Businesses Act* (“UFA”). By comparison, the monetary penalty regime in the *Accessible Canada Act*, SC 2019, c 10, is much broader in scope than the provisions in the current version of this bill. Therefore, a review of the application of the monetary penalty regime is required.

The monetary penalty regime in a modernized OLA should not be narrow in application; it should be designed to remain relevant as the compliance landscape evolves for all institutions.

ii. Monetary penalty regulations

Bill C-13 requires that the designation of organizations subject to the monetary penalty regime, which is necessary for the application of the regime, be made by regulation. This approach carries risks which require special attention. First, the need to designate organizations by regulation delays the application of this instrument, which is urgently needed to improve compliance. Second, it is important to set a high bar for successive governments should they seek to change the organizations designated by regulation.



Specifying in the OLA those organizations which are subject to the monetary penalty regime—using the inclusive definition proposed above—would limit this risk.

The bill also allows for the designation by regulation of contraventions that may be subject to a monetary penalty. This suggests the possibility that some violations under Part IV may be excluded. However, it is important to make all violations of Part IV—and Part V of the OLA, as proposed above—and any corresponding regulations, subject to monetary penalties. In addition, the regulatory approach creates avoidable uncertainty regarding which violations could result in a monetary penalty. Again for the sake of comparison, it is instructive to look at the *Accessible Canada Act*, which has a monetary penalty regime whose essential application measures are prescribed in the act itself rather than in regulations.

iii. Ultimate goal of monetary penalties

Amounts paid in respect of monetary penalties are appropriately remitted to the Receiver General. The purpose of monetary penalties, as Bill C-13 itself states, is not to punish but to promote compliance with the OLA. In the same vein, monies resulting from penalties should ultimately contribute to the advancement of linguistic duality. It would be advisable for the bill to require that amounts paid to the Receiver General be subsequently reallocated to a fund to support projects that benefit Canada's two official language communities.

iv. Coming into force

Bill C-13 provides that the monetary penalty regime will come into force on a day to be fixed by order of the Governor in Council. It is important to set a deadline for the coming into force of this long-awaited regime.

C. We must ensure better access to justice

The need for and importance of having judicial remedies in connection with the Commissioner's powers are clear. These remedies should ensure that complainants have access to justice and can obtain timely redress for violations of their language rights.

i. Right of review with respect to compliance agreements

Bill C-13 gives the Commissioner the power to enter into a compliance agreement with a federal institution. A compliance agreement will allow the Commissioner and the institution to agree on solutions that will enable the institution to comply with the OLA. The advantage of a compliance agreement is that it can be tailored to the specific situation raised by the complaint. At the Commissioner's invitation, the complainant may be made party to the agreement. It is therefore a flexible mechanism for ensuring that the problem that gave rise to the complaint is resolved.



On the other hand, the bill states that, if a complainant agrees to be a party to a compliance agreement, the complainant may not apply to the Federal Court for a remedy in the event that they disagree with the Commissioner's position on the institution's compliance with the agreement. In addition, the complainant must apply to the Federal Court for the suspension of any pending applications in respect of any matter covered under the agreement.

The modernized OLA should provide a legal recourse for complainants who are party to a compliance agreement and believe that the federal institution has failed to comply in whole, or in part, with the terms of the agreement, even if the Commissioner believes that the federal institution has complied. A complainant who feels that their rights have been violated should have access to justice.

ii. "De novo" review

Bill C-13 allows complainants and federal institutions to seek review of any matter that is the subject of an order of the Commissioner. It also allows federal institutions to apply for a review of the amount of a monetary penalty, of the facts of an alleged violation, or both.

It specifies that applications for review are *de novo* proceedings. Unlike a judicial review, a *de novo* remedy is heard and determined as a new proceeding, which means that the analysis is conducted again, in all cases, without deference to the Commissioner's analysis. If a federal institution challenges the Commissioner's decision, be it either an order or a monetary penalty, the Federal Court will have to redo the analysis that led to the Commissioner's decision to determine whether the order in question should have been made or the monetary penalty in question should be paid.

The *de novo* nature of the review is problematic for both the Commissioner's orders and monetary penalties. It could sow doubt among federal institutions as to how much attention they ought to pay to the Commissioner's recommendations, up until a decision is taken by the Commissioner to make an order or impose a monetary penalty, which could then be challenged in court. The *de novo* review could have the effect of encouraging federal institutions to challenge the Commissioner's decisions in court, given that it will require a new analysis which could revisit the merits of a complaint. The *de novo* review also significantly prolongs the process of providing fair and suitable redress to complainants for the violation of their language rights.

The type of remedy proposed in Bill C-13 should be revised to give deference to the Commissioner's analysis, based on five decades of accumulated expertise. It could, however, allow new evidence to be presented without the case having to be reviewed *de novo*.



RECOMMENDATIONS:

With regard to the Commissioner's power to make orders:

1. The Commissioner should have the power to make an order in the final investigation report. The prerequisite of having made recommendations should therefore be removed from the bill.

With regard to the Commissioner's power to impose administrative monetary penalties:

2. The organizations that are subject to the administrative monetary penalty regime should be designated in the OLA and not in future regulations.
3. The Commissioner's power to impose administrative monetary penalties should be expanded to apply to all federal institutions with obligations under Part IV or V, or both. At the very least, administrative monetary penalties should apply to businesses subject to the *Use of French in Federally Regulated Private Businesses Act*.
4. All violations of parts IV and V of the OLA and their regulations should be subject to the administrative monetary penalty regime. The possibility of exemption by regulation should be removed.
5. The monies generated by administrative penalties should be used to advance linguistic duality. Accordingly, they should be allocated to a Linguistic Duality Fund.
6. There should be a deadline for the coming into force of the administrative monetary penalty regime.

With regard to better access to justice:

7. The OLA should provide a right of judicial review for complainants who are party to a compliance agreement and believe, unlike the Commissioner, that the federal institution concerned has failed to comply with the compliance agreement.
8. The judicial review provisions applicable to orders and administrative monetary penalties should be revised, affording deference to the Commissioner's decisions, while allowing for the presentation of new evidence without the case being reviewed *de novo*.

6. FEDERALLY REGULATED PRIVATE BUSINESSES: ENSURING CONSISTENCY

Bill C-13 enacts the *Use of French in Federally Regulated Private Businesses Act* ("UFA"). Federally regulated private businesses ("FRPBs" or "businesses") include banks, air and marine transportation services, and telecommunications companies. The bill extends language rights to more Canadians by creating new obligations for such businesses toward consumers and employees.



Taking into account the minority status of French in North America, it is reasonable for Bill C-13 to focus on the need to protect and promote that language. Changes to the bill are however required to ensure greater harmonization with the OLA and clarify concepts that are central to the implementation of the UFA.

A. The UFA and OLA regimes must be consistent

The bill states that businesses subject to the UFA are not businesses that are already subject to the OLA, such as Air Canada or Canadian National. As a result, FRPBs will have obligations that may differ depending on which act they are subject to, including some companies in the same industry, such as Air Canada and WestJet. This means that the public they serve and the employees who work for them will have different rights, and different remedies, depending on which act applies. Ultimately, Canadians will find themselves in a fragmented and sometimes inconsistent language environment. Moreover, they will not have certain key language protections under the UFA that they have under the OLA.

Greater harmonization is therefore required.

i. Rights of Canada's two linguistic minorities

The stated purpose of the UFA is to “foster and protect the use of French in federally regulated private businesses in Quebec” and, at a later date, in “regions with a strong francophone presence.” It creates obligations for FRPBs only with respect to French. It also states that language rights must be given a large, liberal and purposive interpretation and are to be interpreted in light of their remedial character. However, unlike the OLA as modernized by Bill C-13, it does not expressly state that substantive equality is the norm to be used for the interpretation of language rights.

There is no doubt that the protection and advancement of French are laudable goals. But there is also no doubt that enshrining the norm of substantive equality and recognizing legislative rights for both official language communities do not conflict with the protection and advancement of French.

The choice given to FRPBs in Quebec to be subject to the UFA or the *Charter of the French language* also raises a question that deserves particular attention. One of its consequences would be that rights, obligations and remedies would vary depending on the regime chosen by FRPBs located in Quebec. This could leave the public uncertain as to what rights they can exercise if they choose to do business with an FRPB or consider working for one.

ii. Differences between the two regimes

First, with respect to communications with and services to the public, the UFA does not address the rights of the travelling public, unlike the OLA. Section 7 of the UFA sets out,



in general terms, the right of consumers to communicate with FRPBs in French. Although this section could be interpreted as including the travelling public, it would certainly benefit from being made clear. Even if travelling from a UFA region to a non-UFA region, this public is undeniably part of the “consumer” group; and its language rights must be protected.

The UFA also does not address situations in which FRPBs would use third parties to provide certain services. It does not explicitly require FRPBs to ensure that third parties providing services to the public on their behalf, or third parties providing services to the travelling public, meet the same language requirements. It is therefore important that the UFA emulate the OLA in this respect and include a provision specifying FRPBs’ obligations in instances where they employ third parties.

Finally, unlike the OLA, the UFA makes no mention of certain aspects of FRPBs’ communications with the public, such as signage and active offer. The absence of active offer is a particularly significant shortcoming. The obligation regarding active offer of services and communications to consumers is paramount, given how crucial it is that consumers be informed of their language rights, especially in light of the fragmented application of FRPBs’ language obligations, some being subjected to the UFA and others the OLA.

B. Key concepts remain to be clarified

Implementation of the UFA currently depends on the enactment of regulations defining concepts that are critical to its application. Some definitions ought to be incorporated directly into the UFA, while others should follow in regulations enacted as soon as possible.

i. Rights of “consumers”

The UFA creates a right for “consumers” to communicate in French with FRPBs. However, the term “consumer,” which is an important category of rights holders in the UFA, is not defined. The UFA states that it may be defined by regulation. Yet, respect for consumer rights should not depend on, or await, regulations. The UFA should therefore contain a definition of the term so that consumer rights are explicit and definitively guaranteed from the moment the act comes into force.

Moreover, the definition of “consumer” should include all members of the public. Such a definition would ensure greater consistency between the rights of the public under the OLA and the rights of the *same* public with respect to FRPBs subject to the UFA. It would be unfortunate for a member of the public to be able to communicate in French with an FRPB governed by the OLA and not with an FRPB governed by the UFA simply because they are not considered a “consumer” for the purposes of their



communication. Restricting the definition of “consumer” would, therefore, be inappropriate.

ii. Rights of “employees”

The UFA states that the term “employee” may also be defined by regulation. However, like the term “consumer,” it should be defined in the UFA to ensure that employees of FRPBs know their rights and employers know their obligations when the UFA comes into force.

Insofar as it is necessary to define “employees” for the purposes of the UFA, they should be the same category of persons as those who are considered to be “employees” for the purposes of Part V of the OLA, thereby ensuring consistency between the two statutes.

iii. “Regions with a strong francophone presence” and “number of employees”

Certain concepts will still need to be defined by regulation. That is the case for “regions with a strong francophone presence” and “number of employees.”

The UFA provides that the government may take into account any factors it considers appropriate in defining, by regulation, a “region with a strong francophone presence”, including the number of francophones in a region, the number of francophones in a region as a proportion of the region’s total population, and the vitality and specificity of French linguistic minority communities.

The first two factors are quantitative, and the third is qualitative. It is important that the latter factor be central to the definition of “region with a strong francophone presence,” since French-speaking communities in Canada are statistically in a minority situation. In addition, it is a good idea to have regular reviews of the designation of regions so that the UFA has the flexibility to adapt to changing demand in service across the country.

The definition of “number of employees” is particularly important because it will limit the number of FRPBs to which the UFA will apply.

The government should consider setting a low number of employees for the application of the UFA to FRPBs, so that the regime can effectively serve a greater number of Canadians.

All things considered, the government should commit to enacting regulations as soon as possible to define these key concepts, on which the application of the regime depends.

iv. Exemption of selected FRPBs by regulation

Under Bill C-13, the government may make regulations exempting FRPBs from the application of any provision of the UFA or its regulations “for any reason.” Giving the government *carte blanche* makes the rights of the public and employees uncertain and



unpredictable. Any exemption of an FRPB, if necessary, should be included and justified in the UFA, not adopted by regulation.

v. *Rights of travelling employees*

The UFA does not address the case of employees of FRPBs who, in the course of their work, are required to travel between Quebec (or a region with a strong francophone presence) and a region not covered by the UFA. It would be appropriate to clarify what protection those employees have under the UFA.

RECOMMENDATIONS:

With regard to the consistency between the UFA and OLA regimes:

Specifically with regard to the FRPBs' right of option:

1. The choice given to federally regulated private businesses in Quebec to be subject to the *Charter of the French language* should be re-examined with the purpose of reducing public uncertainty.

Specifically with regard to the differences between the two regimes:

2. Section 7 of the UFA should include rights for the travelling public.
3. The UFA should include signage, active offer and third party obligations.

With regard to key concepts that remain to be clarified:

4. The term "consumer" should be defined in the UFA and should include all members of the public.
5. The term "employee" should cover the same class of persons as those who are considered employees under the OLA.
6. Regulations need to be enacted as soon as possible to define the key concepts of "region with a strong francophone presence" and "number of employees."
7. Qualitative factors should be central to the regulatory definition of "region with a strong francophone presence." Regular reviews of the designation of such regions are desirable.
8. The "number of employees" to be established by regulation should be low.
9. Any exemption of an FRPB, if necessary, should be included and justified in the UFA, not adopted by regulation.
10. Employees who must travel between UFA covered and non-UFA covered regions should be afforded protections under the UFA.



7. A COMPREHENSIVE MODERNIZATION IS WITHIN REACH

It bears reiterating that Bill C-13 is a real step forward. Nevertheless, following his analysis, the Commissioner finds it necessary to make recommendations concerning the governance of official languages, the obligations of federal institutions and federally regulated private businesses, and the powers of the Commissioner.

In light of the above, the Commissioner has found recurring issues throughout Bill C-13:

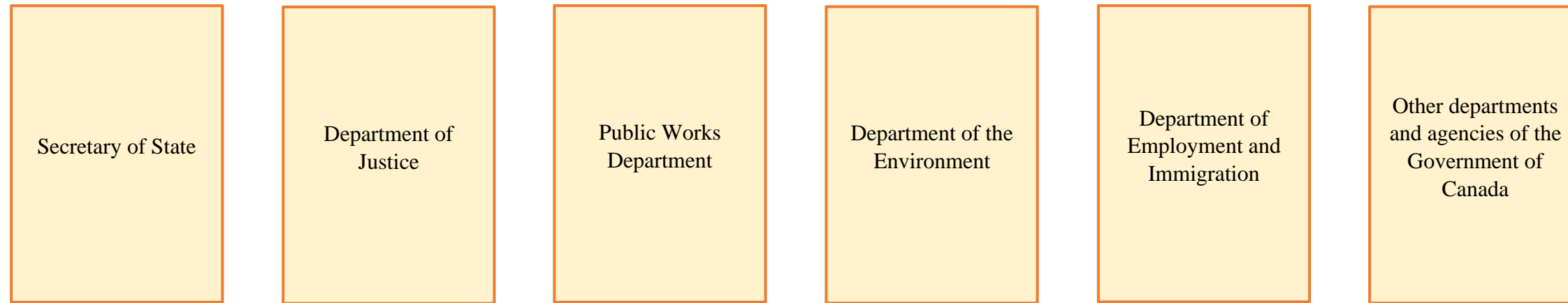
- Inconsistencies between various parts and provisions of the OLA, as well as between the OLA and the UFA;
- The latitude given to federal institutions in meeting their obligations;
- Inefficiencies in the exercise of powers by some key federal institutions;
- Lack of accountability measures;
- Insufficient dialogue with official language minority communities;
- Vagueness surrounding some key terms and concepts.

These issues suggest that Bill C-13 does not fully reflect the experience of the past 50 years; an experience which showcased not only the factors that have impeded the achievement of the OLA's goals but also the prerequisites for achieving significant, lasting progress.

In submitting his recommendations, the Commissioner sincerely hopes that they will help make Bill C-13 a historic milestone for official languages and the communities that speak them. It is thus essential that this language rights reform—which marks a major turning point in the history of official languages—be enacted without delay.

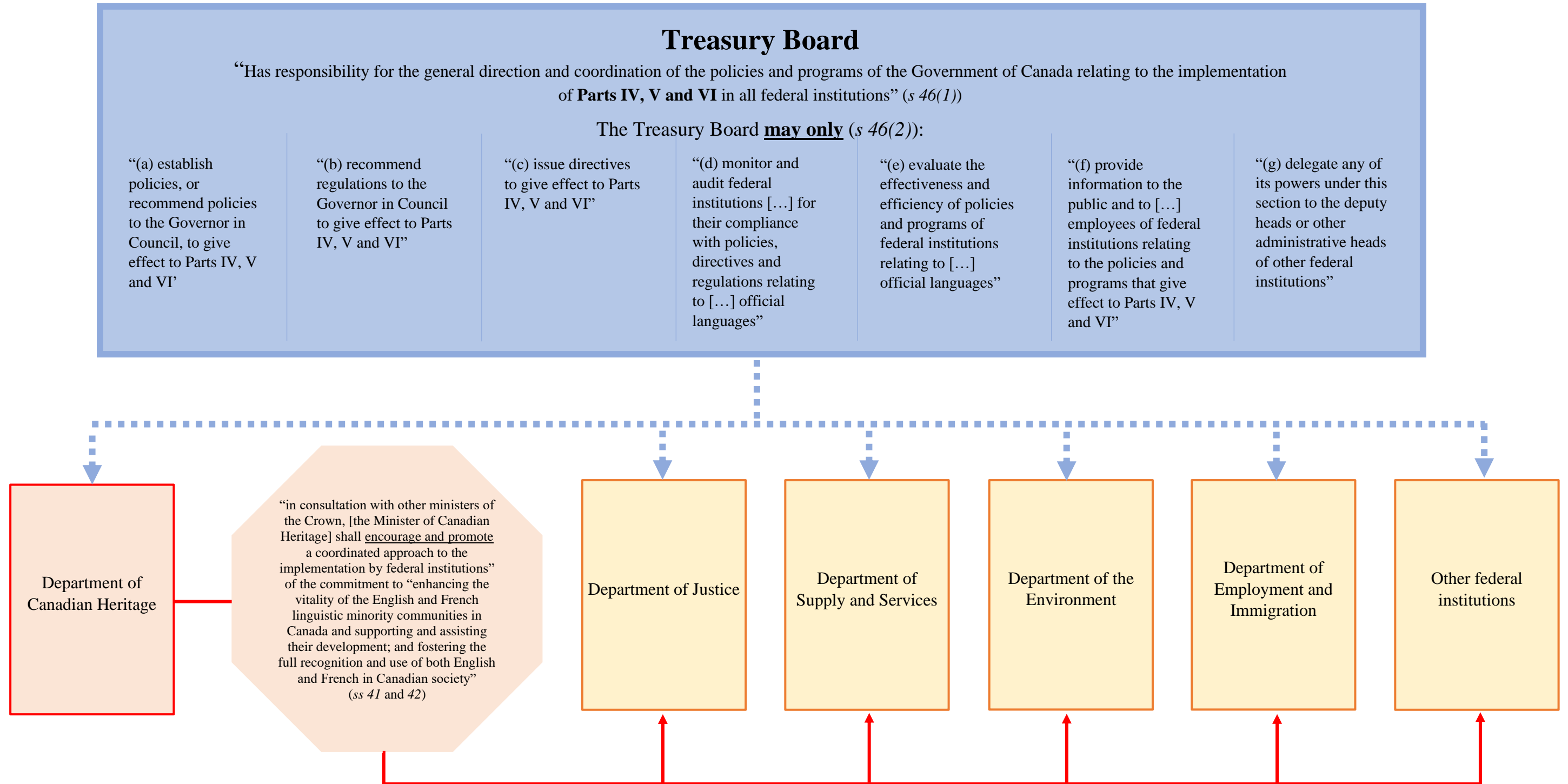


Coordination of the implementation of the *Official Languages Act*, 1969 (Chart)



Coordination Chart, 1969

Coordination of the implementation of the *Official Languages Act*, 1988 (Chart)



Coordination Chart, 1988

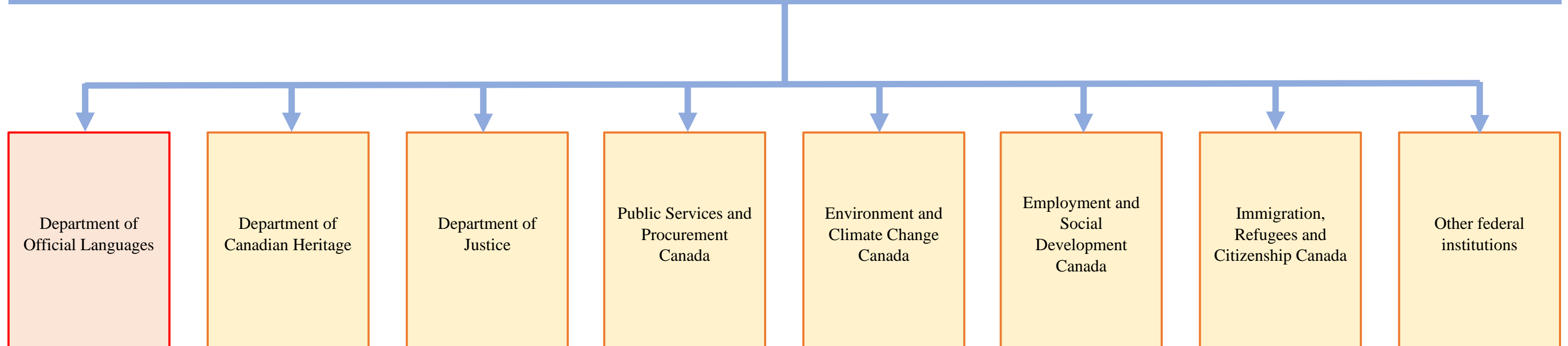
Coordination of the implementation of the modernized *Official Languages Act* (Chart)

Treasury Board

(charged with the administration of the **entire** *Official Languages Act* and, unless the Act provides otherwise, has responsibility for the development of the policies and programs of the Government of Canada relating to the implementation of the Act, and responsible for coordinating the implementation of the Act by federal institutions)

With the support of an “Official Languages Secretariat”, the Treasury Board **shall** (s 46):

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| (a) establish policies, or recommend policies to the Governor in Council, to give effect to this Act; | (b) develop and review directives aimed at orienting the conduct of federal institutions in the performance of their responsibilities concerning the implementation of this Act; | (c) recommend regulations to the Governor in Council to give effect to this Act; | (d) issue directives to give effect to this Act; | (e) monitor and audit federal institutions in respect of which it has responsibility for their enforcement of and compliance with this Act and the policies, directives and regulations of Treasury Board or the Governor in Council relating to [...] official languages; | (f) evaluate the effectiveness and efficiency of policies and programs of federal institutions relating to the official languages of Canada; | (g) provide information to the public and to officers and employees of federal institutions relating to the policies and programs that give effect to this Act; | (h) review, supervise and evaluate the Five-Year Development Plan for Official Languages; | (i) take part in the negotiation of the Five-year agreements referred to in subsections 43.1(3), 43.1(4), 43.2(2) and 43.4(2), as well as in section 43.3, and supervise their enforcement; | (j) supervise the Translation Bureau’s business and affairs; | (k) coordinate the process for the review of this Act. |
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Modernized Coordination Chart

[Text]

du rapport. Je prends bonne note de ce que vous me dites pour m'assurer que le rapport sera précis et exhaustif sur cette question.

Le sénateur Guay: Merci pour le moment, madame le président.

Le sénateur Simard: Monsieur le ministre, quand il est question de participation des Canadiens à la Fonction publique, on sait qu'il est souvent question des prétextes employés par les adversaires du bilinguisme que toute tentative d'augmenter le pourcentage des francophones dans la Fonction publique, toute tentative de corriger les injustices, ça peut porter atteinte à la question du mérite. J'aimerais que vous nous disiez si ce projet de loi protège, en principe, cette perception. Et aussi dans le même ordre d'idée, puisqu'il est question des problèmes associés au projet de loi et des problèmes de définition des critères, est-ce que ce projet de loi corrige les lacunes, par exemple des budgets fédéraux insuffisants? Ce sont souvent des excuses ou des explications qui nous ont été fournies dans le passé par ministère qui semblait tirer de la patte lorsque venait le temps de respecter la Loi sur les langues officielles.

M. Bouchard: Je crois que oui, monsieur le sénateur. D'abord, il n'y a pas de quota de fixé. Il y a une démarche générale l'élargissement du bassin des possibilités de personnes qui pourront accéder aux fonctions. Il y a aussi et surtout dans cette disposition que vous avez sûrement lue, la disposition 39 du paragraphe 3, qui énoncent en toute clarté et d'une façon très spécifique de l'article qui traite de la participation des Canadiens d'expressions française et anglaise, et je cite:

Le présent article n'a pas pour effet de porter atteinte au mode de sélection fondé sur le mérite.

Autrement dit, le principe du mérite est là, c'est le fondement même de l'affectation. Il n'y a personne qui peut faire quoi que ce soit qui enfreigne d'une façon ou une autre, ne serait-ce que très légèrement, le respect du principe du mérite. Je crois que si l'on respecte le mérite, on protège les carrières et on respecte les règles d'évolution des fonctions qui ont cours depuis des temps immémoriaux dans la Fonction publique.

Le sénateur Simard: Et la question d'insuffisance de fonds, de budgets des ministères, parce que l'on s'est fait servir cela bien des fois: mais vous savez, oui, ça prend du temps, vous savez avec l'argent que l'on a on ne peut pas faire plus.

M. Bouchard: A partir du moment où le Conseil du Trésor, sanctionné par le Gouverneur général en conseil, aura arrêté des désignations des services et des régions, plus personne ne pourra invoquer les questions de budgets parce que cela devient un impératif. De plus, il y a une chose très importante dans le nouveau projet de loi: c'est la responsabilité de concertation et de coordination qui est conférée à mon ministère. Ce ministère aura l'obligation maintenant de s'assurer que dans l'ensemble de l'appareil fédéral, les agences fédérales, il y ait non pas seulement une sensibilisation mais qu'il y ait une démarche très vigoureusement engagée pour respecter la loi dans toutes ses obligations. Nous avons l'intention d'activer le processus de mise en place d'une instance qui, périodiquement,

[Traduction]

taking note of what you are asking here, and will make sure that the report is specific and detailed on this issue.

Senator Guay: Thank you for the moment, Madam Chairman.

Senator Simard: Mr. Minister, on the issue of participation by the Public Service, it is well known that the pretext is often used by those opposed to bilingualism that any attempts to increase the percentage of francophones in the Public Service, any attempt to correct injustices, will do damage to the merit principle. I would like you to tell us whether, in principle, this Bill deals with this view. Also, on the same general topic, since what is at issue is problems associated with the Bill and problems in defining criteria, does this Bill correct the deficiencies of inadequate federal budgets? In the past, these have often been the excuse or explanation offered by a department which seemed to lag behind when it came time to respect the Official Languages Act.

Mr. Bouchard: I think so, Mr. Senator. First, there is no fixed quota. Steps have been taken toward a general broadening of the pool of personnel available to take on duties. Also, and above all, this Bill contains a provision which you have surely noted in Section 39, paragraph 3, which deals clearly and very specifically with the participation of English- and French-speaking Canadians, and I quote:

Nothing in this Section shall be construed as abrogating or derogating from the principle of selection of personnel according to merit.

In other words, the merit principle is there; it is the very basis for assignments. No one can do anything to infringe upon the merit principle, even slightly, in any way. I believe that if this principle is respected, careers are protected and the rules for changes in duties, which have existed from time immemorial in the Public Service, are respected.

Senator Simard: And the question of insufficient funds, of inadequate departmental budgets, because this excuse has been used many times; you know: "Yes, it takes time, but you know that with the money we have available, nothing more can be done . . ."

Mr. Bouchard: Once Treasury Board, with the approval of the Governor General in Council, has decided on designations of services and regions, no one will be able to cite budget constraints because the item becomes imperative. Furthermore, there is one very important aspect to the new Bill: the responsibility for co-operation and co-ordination which has been entrusted to my Department. The Department will therefore be obligated henceforward to ensure that the federal machinery as a whole, the federal agencies, will not only be sensitized, but will proceed in a vigorously committed manner, to respect all the obligations of the law. We intend to activate the process of establishing an authority who periodically, without being too bureaucratic or formal, and thus frozen in

[Text]

sans trop la bureaucratiser, sans en faire une chose formelle au point de la congeler dans l'inaction, nous voulons créer d'une façon dynamique de consulter régulièrement et d'intégrer régulièrement les différents ministères dans une entreprise de mise en oeuvre de la loi. C'est déjà commencé, il y a déjà des ministères qui travaillent avec nous. Par exemple, pour la radio communautaire, pour le théâtre amateur, pour le sport. Nous irons plus loin et nous en ferons une démarche systématique.

Je crois que la conjugaison de ce qui est impératif c'est-à-dire la désignation des régions et des services et autres publications de pouvoir de budgets suffisants pour satisfaire à ces obligations et avec la concertation et la coordination obligatoires qui doivent être exercées par mon secrétariat d'État, vont faire que la loi devrait être rapidement connue et appliquée par l'ensemble de la fonction publique fédérale. D'ailleurs il y a des gens qui nous surveillent. Vous êtes là, la Chambre des communes est là, les milieux sont là, les organismes bénévoles. Je vois monsieur D'Yberville Fortier qui ne cessera pas de nous scruter avec bienveillance mais avec rigueur. Il y a tout ce qu'il faut, je crois, pour nous assurer que le processus soit suivi avec respect.

Le sénateur Simard: Merci.

Le président: Merci, sénateur Simard. Sénateur Leblanc, s'il vous plaît?

Le sénateur Leblanc (Saurel): Monsieur le ministre, j'ai eu le plaisir de vous rencontrer lorsque vous étiez à Paris alors que je faisais partie d'une délégation.

M. Bouchard: On vous avait bien reçu à Paris.

Le sénateur Leblanc (Saurel): J'ai bien aimé votre hospitalité. Je tiens à le mentionner d'ailleurs.

M. Bouchard: Je me trouve bien reçu également ici, sénateur Leblanc.

Le sénateur Leblanc (Saurel): On a parlé tout à l'heure des réactions du gouvernement du Québec par l'entremise de monsieur Remillard. Je vois ce matin dans *Le Devoir* et je ne voudrais pas vous mettre mal à l'aise si vous ne l'avez pas lu.

M. Bouchard: C'est l'éditorial?

Le sénateur Leblanc (Saurel): C'est un article par Gilles Lesage, qui a paru dans *Le Devoir* le 9 juillet 1988.

M. Bouchard: Je l'ai peut-être lu, ça va dépendre.

Le sénateur Leblanc (Saurel): Cet article est intitulé: *La Loi C-72 nous ramène au bilinguisme intégral d'antan — Pour Parizeau, le tappage des dinosaures masque l'intrusion d'Ottawa*. On a touché tout à l'heure aux articles 42 et 43 qui traitent avant tout de l'intrusion possible, non existante, cependant, du gouvernement fédéral dans les institutions des gouvernements provinciaux. Alors, il me semble que monsieur Parizeau développe cela davantage. Je pense que vous avez à l'heure actuelle l'opportunité de nous répondre, si vous êtes prêt, sinon je pense qu'il serait peut-être important de taper sur ce ballon que monsieur Parizeau essaie de lancer dans la province de Québec.

M. Bouchard: Je n'ai pas lu l'article mais déjà j'ai lu les déclarations qu'il a faites, j'imagine qu'elles sont dans le même sens. Monsieur Parizeau reprend les inquiétudes qui ont été ex-

[Traduction]

inactivity, will consult regularly in a dynamic way, and will integrate on a regular basis the various departments in the effort to implement the Act. This has already begun; already, there are departments working with us, as, for example, in the case of community radio, amateur theatre and sport. We will go further; we will make this a systematic procedure.

I believe that, by coupling what is imperative—that is, the designation of regions and services, with other requirements to provide adequate budgets to meet these obligations—and with the co-operation and co-ordination which my Department must exercise, this Act will become known quickly, and will soon be applied by the federal public service as a whole. People are watching us, in any case. Yourselves, the House of Commons, communities, and volunteer organizations will all be watching. I see Mr. D'Yberville Fortier, who will continue to scrutinize us with goodwill, but with rigour. I believe that everything is in place to ensure that the process will be fully respected.

Senator Simard: Thank you.

The Chairman: Thank you, Senator Simard. Senator Leblanc, please.

Senator Leblanc (Saurel): Mr. Minister, as a member of a delegation, I had the pleasure of meeting you when you were in Paris.

Mr. Bouchard: You were well received in Paris.

Senator Leblanc (Saurel): I very much appreciated your hospitality, I would like to say.

Mr. Bouchard: I feel well received here, too, Senator Leblanc.

Senator Leblanc (Saurel): A moment ago we talked with Mr. Remillard about the Quebec government's reaction. I read in this morning's *Le Devoir*, and I don't wish to make you uncomfortable if you haven't read it.

Mr. Bouchard: Was it an editorial?

Senator Leblanc (Saurel): It was an article by Gilles Lesage which appeared in the July 9, 1988, edition of *Le Devoir*.

Mr. Bouchard: I may have read it. That depends.

Senator Leblanc (Saurel): The article was entitled, "Bill C-72 Throwback to Wholesale Bilingualism of Old—For Parizeau, Din of Dinosaurs Obscures Interference by Ottawa". We spoke a moment ago of sections 42 and 43 which mainly concern possible federal government interference in provincial government institutions, although no such interference exists at the moment. It seems to me that Mr. Parizeau develops this point further. You now have the opportunity to answer us on that point, if you care to do so. Otherwise, I think it would perhaps be important to take a kick at this particular man which Mr. Parizeau is trying to throw out in the province of Quebec.

Mr. Bouchard: I haven't read the article, but I have already read statements made by him, and I imagine their gist is similar to that of the article. Mr. Parizeau focuses on growing pub-

[Text]

M. Bouchard: Monsieur le sénateur, je reconnais bien là la qualité des hautes exigences littéraires qui vous caractérisait déjà à l'université au moment où nous écrivions ensemble le journal *Le Carabin* qui nous avait valu le trophée du meilleur journal canadien à l'époque.

Ceci étant dit, je me permettrai d'attirer votre auguste attention sur les attendus de la loi. Je crois que vous serez satisfait si vous relisez le premier attendu qui reprend à peu près identiquement la prose cartésienne et si nette que vous avez citée à partir du texte original de la loi.

Attendu: que la Constitution dispose que le français et l'anglais sont les langues officielles du Canada et qu'ils ont un statut et des droits et privilèges égaux . . .

Je crois que c'est très net et très clair. On s'est certainement inspiré de l'influence bénéfique que vous avez exercée déjà à l'époque lorsque l'on a fait la première loi.

Le sénateur De Bané: Je suis bien d'accord avec vous que ce premier attendu est rédigé dans une langue qui coule davantage mais cela demeure quand même le préambule. Je voudrais quand même porter cela à votre attention et j'espère qu'à un moment donné on pourra avoir un article aussi fondamental qui ait moins de relent d'une certaine traduction.

Deuxièmement, monsieur le ministre, je voudrais revenir à cet article 42 auquel vous avez fait allusion. Permettez-moi de vous dire que personnellement je suis très pessimiste au sujet de l'impulsion que le secrétariat d'État pourra avoir avec un article aussi dilué qui se lit de la façon suivante:

Le secrétaire d'État du Canada, en consultation avec les autres ministres fédéraux, suscite et encourage la coordination . . .

Comme vous le savez, au gouvernement central il n'y a que deux ou trois organismes qui réellement ont un pouvoir de coordination: le Conseil du Trésor, le ministère des Finances, le Conseil privé. Je vous prédis, monsieur le ministre, que jamais l'article 42 ne vous donnera l'autorité pour appeler les ministres récalcitrants et pour leur dire en vertu de l'article 42; je vous demande de poser tel et tel geste dans telle section du pays pour m'aider à atteindre les objectifs de la loi. Tel qu'il est, cet article-là, monsieur le ministre, tout ce qu'il va vous causer c'est des frustrations.

Pourquoi Gérard Pelletier avant vous, lorsqu'il était secrétaire d'État, a transféré ses responsabilités au Conseil du Trésor pour le respect du bilinguisme à l'intérieur de la Fonction publique? Ce n'est pas, et permettez-moi de vous le dire franchement, parce qu'il n'avait pas lui aussi des relations très privilégiées avec le premier ministre, non. C'est parce que la loi du secrétariat d'État ne lui donnait pas un pouvoir coercitif sur les ministères récalcitrants. C'est la raison pour laquelle, à un moment donné, c'est Gérard Pelletier lui-même qui a demandé que ça soit transféré au Conseil du Trésor qui lui, en vertu de la loi, doit approuver les budgets des ministères qui peut leur imposer des obligations. Il espérait par là que, bon, il pourrait davantage obtenir l'accord, même à reculons, des ministères récalcitrants. Penser que l'article 42 tel que libellé va vous donner ces pouvoirs-là, je vous prédis qu'il va être pour vous une grande ressource de frustrations. Ce n'est pas des articles

[Traduction]

Mr. Bouchard: Senator, I recognize the quality of the high literary standards which were your stock-in-trade even at university, when you and I wrote *Le Carabin*, the newspaper that won us the award for the best Canadian newspaper at that time.

However, may I draw your august attention to the Preamble of the Act. I believe you will be satisfied if you read the first whereas clause, which contains, virtually word for word, the clear, logical prose which you cited from the text of the original Act:

Whereas the Constitution of Canada provides that English and French are the official languages of Canada and have equality of status and equal rights and privileges . . .

That that is very plain and clear. The framers were certainly affected by the beneficial influence which you wielded at the time the first act was drafted.

Senator De Bané: I entirely agree with you that this first clause is drafted in a more flowing style, but it is nevertheless only the preamble. I would like to draw your attention to that fact and I hope that, at some time in future, we will be given a version of such a fundamental section as this that has less of the unpleasant odour of a translation.

Second, Mr. Minister, I would like to return to section 42, to which you have already referred. Personally, I am highly pessimistic about the power which the Department of the Secretary of State may have to act under so weak a section as the following:

The Secretary of State of Canada, in consultation with other Ministers of the Crown, shall encourage and promote a coordinated approach . . .

As you know, there are only two or three agencies in the federal government that really have the power to coordinate: the Treasury Board, the Department of Finance and the Privy Council. I predict, Mr. Minister, that section 42 will never give you the authority to call recalcitrant ministers before you and require them to take such and such action in a particular part of the country to assist you in achieving the objectives of the act. As this section stands, Mr. Minister, all it is going to do is cause you frustration.

Why did Gérard Pelletier before you, when he was the Secretary of State, transfer his responsibilities concerning bilingualism in the Public Service to Treasury Board? Quite frankly, it was not because he didn't have highly privileged relations with the Prime Minister. No. Rather it was because the law governing the Department of the Secretary of State granted him no coercive power over recalcitrant ministers. It was for that reason that Gérard Pelletier himself requested at one point that those responsibilities be transferred to the Treasury Board, which, by law, must approve departmental budgets and can impose obligations on the departments themselves. In so doing, he hoped to be in a better position to secure the agreement of ministers, even unwilling ones. You may think that section 42, as worded, will give you those powers, but I predict that it will be a major source of frustration for you. Sections such as this do not grant a department the power to make others act if they do not want to follow your lead.

[Text]

comme ça qui donnent à un ministère le pouvoir de faire travailler les autres qui ne veulent pas suivre votre direction.

M. Bouchard: Je crois qu'il ne faut pas, monsieur le sénateur, minimiser le rôle de monsieur Gérard Pelletier à l'époque où il était secrétaire d'État, je crois qu'il a fait beaucoup pour le bilinguisme. Vous savez le bien que je pense de lui. J'ai eu, dans ma vie, la coïncidence de lui succéder à deux endroits qu'il a marqués de sa présence: à Paris et à ce ministère. Je crois que si monsieur Pelletier avait pu compter comme moi ou mes successeurs pourront le faire, sur l'article 41 et sur l'article 43, par exemple, il aurait été beaucoup mieux nanti. Voici l'article 41 qui énonce en toute clarté et d'une façon très impérative:

Le gouvernement fédéral s'engage à favoriser l'épanouissement des minorités . . .

Et ainsi de suite, l'article 43:

Le secrétaire d'État du Canada prend les mesures . . .

Le sénateur De Bané: L'article 43 est parfait.

M. Bouchard: Oui, mais vous ne l'avez pas lu. Vous n'avez cité que l'article 42. Vous auriez dû le lire, ça vous aurait rassuré.

Le sénateur De Bané: Non, non. J'ai lu l'article 41, j'ai lu l'article 43 je n'ai rien à redire sur ces articles-là.

M. Bouchard: Vous m'avez laissé le plaisir de lire l'article 43 et l'article 41. Je suppose que c'est cela?

Le sénateur De Bané: Avec plaisir. Alors, c'est une observation que je voulais porter à votre esprit.

Un autre point, monsieur le ministre, le Commissaire aux langues officielles a suggéré plusieurs modifications. La majorité d'entre elles ont été retenues par le gouvernement. Mais il y en a quelques-unes, comme vous le savez, qui en dernière analyse n'ont pas été retenues. Ce que j'aimerais vous recommander c'est d'essayer de revoir ces questions-là. Je dois vous dire que je suis personnellement d'accord avec les trois recommandations qu'il a faites, qui n'ont pas été retenues par le gouvernement. J'aimerais qu'après un autre examen, que vous puissiez revoir, en temps utile, vos positions là-dessus.

M. Bouchard: Vous savez que le gouvernement a accepté des amendements qui ont amélioré la loi. Je ne crois pas qu'aucun des amendements qui ont été acceptés n'aient pu avoir un effet de dilution sur la loi. Cette loi doit être prise comme un tout. Le processus parlementaire a été suivi intégralement, ainsi que la réaction du grand public aussi vis-à-vis de la loi et vous savez nous avons des télégrammes de tout le monde: je viens de prendre connaissance du télégramme de l'Alliance du Québec qui nous félicite pour ce projet de loi, qui félicite tout le monde, à l'avance le Sénat lorsqu'il va entériner la loi.

Je crois que c'est un ensemble qui est un pas très important en avant. Il ne faut pas y revenir. Il ne faut pas toucher à rien dans ce projet de loi. Il est arrivé à sa maturité, il faut le prendre tel qu'il est. Je crois que c'est un tout extrêmement positif et très important pour l'avenir du Canada. On verra plus tard

[Traduction]

Mr. Bouchard: Senator, I don't believe we should minimize the role Mr. Gérard Pelletier played when he was Secretary of State. I think he did a great deal for bilingualism. You know very well my opinion of him. In my life, I have by coincidence succeeded him in two positions which were marked by his presence: in Paris and in this department. I believe that, if Mr. Pelletier had been able to count on sections 41 and 43, for example, as I and indeed my successors will be able to do, he would have been in a much stronger position. Section 41 states very clearly and imperatively:

The Government of Canada is committed to (a) enhancing the vitality of the English and French linguistic minority communities . . .

Section 43 reads:

The Secretary of State of Canada shall take such measures . . .

Senator De Bané: Section 43 is perfect.

Mr. Bouchard: Yes, but you didn't read it. You cited only section 42. You should have read it. It would have reassured you.

Senator De Bané: No, no. I read section 41; I read section 43. I can find nothing to criticize in those sections.

Mr. Bouchard: You simply allowed me the pleasure of reading sections 43 and 41. I suppose that was the idea?

Senator De Bané: With pleasure. That was an observation I wanted to draw to your attention.

Another point, Mr. Minister. The Commissioner of Official Languages has suggested a number of amendments, most of which the government has adopted. As you are aware, however, there are a few which, ultimately, were not adopted. I would like to recommend that you try to review those questions. I must say that I personally concur with the three recommendations the Commissioner made which were not adopted by the government. Following further study, I would appreciate it if you would review your position on those matters at the appropriate time.

Mr. Bouchard: As you know, the government has accepted a number of amendments that improved the act. I don't believe that any of the amendments that were accepted could have weakened the act. The act must be taken as a whole. The parliamentary process was followed in every respect and the general public's reaction to the act was monitored as well. We have received telegrams from all quarters: I have just read a telegram from Alliance Quebec congratulating us on this bill, congratulating everyone in fact including the Senate, which it commends in advance for ratifying the act.

I believe that this act is a very important step forward. We must not go back on it. We must not touch anything in this bill. It has come to maturity, and we must take it as it is. I believe that it is an extremely positive and very important statute for the future of Canada. We will see its results at a later

[English translation]

ARGENT ENTREPRISES

The Infrastructure Bank, in English only

PHILIPPE ORFALI

Wednesday, 30 May 2018 00:00

Updated: Wednesday, 30 May 2018 00:00

Established in Toronto rather than in Montreal by the Trudeau government, the new Canada Infrastructure Bank (CIB) is breaking the law by offering services only in English, the *Journal* has learned.

Call the new federal institution, which opened in December in the Queen City, and you will be answered in English only.

Whether it's responding to questions from the public, access to information requests or interviews, the CIB is doing business *in English only*. Even though it affirms that 40% of its staff is bilingual.

"There is no one who speaks French at the moment. Can you us send an email [Pouvez-vous envoyer un courriel]?" responds the receptionist, who has been in the job for 5 months. In February, however, she had indicated that a bilingual employee was about to be hired.

Sorry, I don't speak French

"*My apologies for replying in English,*" is the standard response to French-language journalists who communicate with the institution, which is subject to the Official Languages Act.

A year ago, Ottawa decided to establish its new bank in Toronto, and not in Montreal as requested by the Quebec government and the province's business community.

The institution is expected to have close to 200 employees and will help finance various infrastructure projects throughout the country. It has a starting budget of \$35 billion. Ottawa hopes to attract up to \$5 of private capital for every \$1 invested by the federal government.

Mea Culpa

In an interview, the organization's new CEO, who took office last week, says he is sorry. "It's not a capability we've developed since we opened. [But] we can't expect the whole apparatus to be in place," said Pierre Lavallée.

The law is clear, however: any organization must be able to offer services in both official languages, no matter how young it is. The Greater Toronto Area has no less than 100,000 Francophone residents.

“We’re going to fix it, there’s no doubt about it. I grew up in Drummondville and the Outaouais, my daughters were educated in French in Ontario. It’s important to me.”

In the eyes of the Conservative official languages critic, Quebecer Alupa Clark, the situation is still unacceptable.

“It’s a very Toronto-centric approach. CIB is not a private bank, it has to offer bilingual services. This proves what we’ve been saying since the beginning: it’s been done all wrong. We would have liked it to be in Montreal.”

The office of the Infrastructure Minister Amarjeet Sohi acknowledges the mistake. “(Currently), the CIB team is mainly made up of external contractors, including the communications team. Now that Pierre Lavallée has been appointed, we expect him to put in place a (bilingual) team as prescribed by the legislation governing Crown corporations,” explained Director of Communications Kate Monfette.

[English Translation]

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OPINION

OFFICIAL LANGUAGES ACT NOTHING MORE THAN A SCARECROW

MARK POWER AND DARIUS BOSSÉ

Language rights lawyers

The sustainability of French in Canada requires a thorough review of the federal Official Languages Act.

Justin Trudeau's government has little time left to make its mark in this regard if it fails to form a second majority government. The Liberal government certainly seems determined to improve the status of French in Canada.

However, to date, it has acted only on a case-by-case basis. To make progress, Canadian bilingualism requires structural changes that can only be implemented through legislation.

It was in 1969 that Pierre Elliott Trudeau sponsored the first Official Languages Act. At that time, Parliament wanted to avoid "the destruction of Canada" that had been predicted by the Royal Commission on Bilingualism and Biculturalism. The Act was modernized only once, in 1988, at the initiative of Brian Mulroney and his champion of official languages, Lucien Bouchard.

The Internet did not exist. The provinces and the federal government were operating in isolation. There was daydreaming about Francophone management of French-language schools outside of Quebec. **Today, some provinces protect French better than the federal government, which is surprising.** Louis Riel would be delighted to learn that the Manitoba legislature recently passed laws protecting the French language. Even Alberta has a policy on services in French! According to polls conducted by the Office of the Commissioner of Official Languages of Canada, the "Rest of Canada" no longer fears French or Quebec.

Once a pioneer, the federal government must now catch up. French is increasingly marginalized despite the increase in the absolute number of its speakers and the enthusiasm of the English-speaking majority for French immersion and even French in general.

The Official Languages Act is lacking. Its shortcomings are structural and multiple. How is it possible that there is still no right to be understood in French, without an interpreter, by all the judges of the Supreme Court of Canada?

How is it possible that services in French are not provided at all times at the airport in the federal capital, a rudeness denounced by Quebec MPs (especially *Socreds* [Créditistes]) during the 60's!

According to the experts, the diagnosis is twofold. First, the implementation of the Official Languages Act has ceased to be a priority. Second, its wording is outdated. The Official Languages Act has become nothing more than a scarecrow. We need only look at the reports of the Commissioner of Official Languages. In 2017, the Office of the Commissioner called on Parliament to modernize the Official Languages Act.

The Department of Justice is defending the restrictive application of the Official Languages Act, not without success. Last week, the Federal Court upheld the federal government's argument that the Official Languages Act, which sets out the government's obligation to support the vitality and development of Canada's French-speaking minorities in Canada, "does not impose specific duties on federal institutions" because "[t]he language used in subsection 41(2) is devoid of all specificity" (*Fédération des francophones de la Colombie-Britannique v. Canada*). The Federal Court teaches us that because of its vagueness and "incongruity", several sections of this law make empty promises.

The Minister of Canadian Heritage, for her part, is doing her best to enhance the vitality of minority official language communities by "promoting and encouraging a coordinated approach to the implementation [of sections 41 and 42 of the Official Language Act] by federal institutions." While the government's most recent Action Plan for Official Languages is to be commended, it will unfortunately not succeed where almost all of its predecessors have failed.

At its core, the problem is not so much financial as structural: the Official Languages Act traps the Minister of Heritage by asking her to ensure cross-cutting coordination without giving her horizontal powers. Only a central agency would be able to do this.

While Treasury Board can currently play such a role, it is not required to act. A duty to act must now be imposed on it. With such a mandate, Treasury Board would certainly have required that the Infrastructure Bank be able to offer its services in French upon opening...

In its current form, the Official Languages Act does not ensure the sustainability of French in the Americas. Some parliamentarians have shown foresight. A Senate committee is conducting a major study on the issue, while a House of Commons committee called on political decision-makers to act last May. Who is listening?



Government
of Canada

Gouvernement
du Canada

THE NEXT ACT: NEW MOMENTUM FOR CANADA'S LINGUISTIC DUALITY



THE ACTION PLAN FOR
OFFICIAL LANGUAGES

Canada The word "Canada" in a serif font, with a small red maple leaf icon above the letter 'a'.

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PREFACE

Message from the Prime Minister of Canada

When the Government of Canada introduced the official languages policy 30 years ago, it was motivated by a desire for fairness and inspired by the report of the Royal Commission on Bilingualism and Biculturalism. At that time, I was a very young Francophone MP and minister, struggling with the basics of English — the language that was used almost exclusively within the federal government. Time has changed many things.

The ideal of a bilingual Canada where everyone could benefit from our Anglophone and Francophone heritage seemed to us in those days to be a fundamentally just ideal for our society. And aware of the varied origins and cultures of our country's population, we chose to enhance our vision of Canada by acknowledging its rich linguistic heritage. My time at the Department of Justice a few years later gave us the opportunity to protect that heritage by including minority language rights in the *Canadian Charter of Rights and Freedoms*. This fundamentally democratic document is a source of great pride not only for me as Prime Minister, but above all for a great people, a just people: the Canadian people.

Today's Canada contains a veritable world of peoples within its borders, and its two official languages, both a major presence on the international scene, enhance its competitiveness and its influence. Our linguistic duality means better access to markets and more jobs and greater mobility for workers. In that spirit, the *Action Plan for Official Languages* strives to maximize these advantages for all Canadians.

I would like to take this opportunity to thank Minister Stéphane Dion, who chaired a group of Cabinet colleagues particularly interested in the official languages: Don Boudria, Claudette Bradshaw, Martin Cauchon, Denis Coderre, Sheila Copps, Anne McLellan, Lucienne Robillard and Allan Rock, as well as Secretary of State Denis Paradis. Their efforts, inspired by a deep-rooted attachment to our country's official languages, have culminated in an action plan that will breathe new life into our linguistic duality and that reflects one of the primary values of today's Canada.



Jean Chrétien
Prime Minister of Canada

Message from the President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs

This Action Plan with new momentum for the official languages policy of the Government of Canada will benefit all the many Canadians who want to have better access to our rich linguistic duality.

In the two years since the Prime Minister, the Right Honourable Jean Chrétien, asked me to coordinate official languages policy, I have travelled the length and breadth of the country — sometimes to announce one of the many new measures we have put in place; sometimes to hear suggestions from communities, experts and my provincial counterparts; and sometimes to propose directions the Action Plan might take. My Cabinet colleagues who have worked on official languages have done the same.

As a Francophone Quebecer, I was aware of the great importance Francophones in my province place on Canada's bilingual dimension. We in Quebec want French to be respected everywhere and we appreciate the efforts the Government of Canada is making to ensure the influence of the French language and culture in Quebec, throughout Canada and throughout the world.

As a Quebecer, I was aware that the Anglophone community in my province was experiencing great change. But I have learned a great deal more about it during

these two years of dialogue and action. For example, there is not enough awareness that a main aim of the Anglophone community is to have governments help their children learn French so these youngsters can become better integrated into Quebec society and increase the likelihood that, as adults, they will feel at home in Quebec. This community is more and more effectively combining the Anglophone, Quebec and Canadian identities.

As a former professor at the University of Moncton, where I taught in 1984, I recall a city cut in two, with the campus purely French and the rest of the city apparently unilingual English. What a change in 20 years! This time I saw two linguistic communities helping each other give their city remarkable drive.

I was aware that our immersion schools were exemplary, and copied by many other countries. But the reality of it really struck home when I visited one such school in British Columbia and heard young people of Asian origin speak to me in excellent French. Those young people demonstrate better than anyone the complementarity of our multiculturalism and our bilingualism, the two strengths that open us up to the world.

At St. Boniface Cathedral, on October 5, 2002, when I attended the funeral service of that great fighter for the French cause, my colleague Ronald Duhamel, I shared the emotion of a Franco-Manitoban community rich in its culture and inspired by its history. When I saw the report the Société franco-manitobaine submitted for the preparation of the Action Plan, this sentence struck me as especially forward-looking: “To occupy a larger demographic, social, cultural and economic space, the Franco-Manitoban community intends to incorporate the Francophone project into the social project of the province as a whole.” In fact, it is our linguistic duality that we need more than ever to incorporate in the Canadian project.

I could cite many other testimonies and experiences I have benefited from in the two years since the Prime Minister sent me on this fascinating adventure. But what I especially want to express here

is a conviction that has never ceased to grow throughout this experience and which inspires the whole policy statement that follows. It is my conviction that one of the conditions for future success is our linguistic duality in a world where communications are exploding, where cultures are coming together and where openness to others and knowledge of languages is becoming an ever greater asset.

The policy statement and Action Plan on the following pages consist mainly of programs and figures. But behind all this, there is a human dimension: a major endeavour for our country where we place our bets on pluralism and communication. Canadians have so much to say to one another, and so much to say to others. More and more, they want to say it in both official languages. The Government of Canada will help them powerfully through this Action Plan.



Stéphane Dion

1. INTRODUCTION

1.1 Linguistic duality in a modern Canada

Both ambitious and realistic, the Action Plan described in this policy statement will, as its title indicates, truly provide new momentum for Canada's linguistic duality. Yes, after the *Official Languages Act* of 1969, the Charter of Rights and Freedoms of 1982, and the revised *Official Languages Act* of 1988, this Action Plan raises the curtain on a new act for all Canadians. Three considerations have led the Government of Canada to increase this momentum, begin this new act and launch the Action Plan that will be described in this policy statement.

1. Linguistic duality is part of our heritage. A country must be faithful to its roots. Linguistic duality is an important aspect of our Canadian heritage. The evolution that has brought us to the Canada of today has followed different paths. Canada has developed a strong economy, a culture of respect, an effective federation, and a multicultural society. Throughout that evolution, it has remained faithful to one of its fundamental dimensions: its linguistic duality.

One of the inescapable aspects of this country is that the vast majority of its inhabitants speak English or French, and less than 2%¹ of those living here today

say they cannot speak either of those languages. As Canada's population has opened up to cultures from around the world and diversified, our official languages have retained their special status as languages used in the public domain. The values of mutual respect and sharing that led to the passage of the first *Official Languages Act* in 1969 are the same values that allow Canada to contain the world within its borders.

Our history confers upon the Government of Canada the duty to help make our two official languages, English and French, accessible to all Canadians. This dual heritage belongs to all Canadians. The Government of Canada wants to help them fully benefit from it.

Minority official language communities have always nurtured our linguistic duality and have made a strong contribution to our linguistic and cultural diversity. The Government of Canada has historical and political commitments to those communities. Through this Action Plan, it is equipping itself with the means to better meet those commitments. It is doing so for the communities, but also for all Canadians, for while the official languages are rooted in our past, they are also an essential asset for Canada's future success.

1. Census of Canada, 2001.

2. Linguistic duality is an asset for our future. It is not only rooted in our past, but also one of the prerequisites for our future success. Canada is extremely fortunate to have two official languages of international stature. English is the official language of 40 countries in the world, and French of 24.² The United Nations has English and French among its six languages of work. In addition, the Commonwealth comprises 54 countries,³ while 48 countries belong to la Francophonie.⁴ Canada is privileged to belong to and play a leading role in all three of those international forums. The language most frequently known by Europeans, in addition to their mother tongue, is English (41%), followed by French (19%).⁵

Our two official languages are two wonderful wide-open windows that give us access to the world. It is wrong to say that our languages isolate us in two solitudes. In fact, it would be more accurate to say that our two languages make us complete. Together, they make linguistic pluralism and learning other languages a fundamental part of our lives. It is this same spirit of openness and pluralism that motivates us to help

Canada's Aboriginal peoples preserve their own languages.

At the beginning of this new century, in this era of globalization where communications are increasingly important, and where the economy is more and more knowledge- and innovation-oriented, Canada must build on its linguistic duality and the international nature of its two official languages more than ever. That gives it a substantial competitive edge. Access to two of the most vital international languages is an asset for labour markets and enhances mobility of individuals. That is why Canada's Innovation Strategy makes the ability to communicate in English and French one of the foundations for lifelong learning for children and youth.⁶

A number of other developed countries have understood the full importance of language learning. They are investing heavily in the language skills of their populations.

Canada has the advantage of having invested significantly in English- and French-language instruction, which often serves as a springboard for learning a third or fourth language. We can start

2. UNESCO, *World Culture Report 2000, Cultural Diversity, Conflict and Pluralism*, Paris: UNESCO Publishing.

3. Commonwealth Secretariat, *Report of the Commonwealth Secretary-General 2001, Continuity and Renewal in the New Millennium*, September 2001.

4. <http://www.francophonie.org>

5. European Commission, *Eurobarometer: Public Opinion in the European Union*, Report number 54, February 2001, pp. 1 and 2.

6. Government of Canada, *Knowledge Matters: Skills and Learning for Canadians*, 2002, p.18.

with the infrastructure already in place. We need to strengthen it to further enhance the language skills of Canadians.

Canadians are demanding that we do so. The use of two languages in the public domain is rooted in our culture. It is one of the fundamental values that strengthen the attributes that define us, such as openness and respect. It is an asset Canadians do not want to lose, despite the assimilating force of English in North America. The support of 82% of Canadians, including 91% of 18- to 24-year-olds, for the federal official languages policy⁷ reflects that reality. Many Canadians appreciate that linguistic duality does not refer only to our past, but refers as well to the future of a prosperous Canada in a world where, increasingly, the ability to communicate is valued. Canadians are aware that knowledge of another language gives them access to a broader cultural heritage and contributes to their enrichment. For that, they want to build on their linguistic duality. Our Action Plan will help them do that.

3. The federal policy on official languages needs to be enhanced. Much has been achieved, but much remains to be done. That is why we need to give new momentum to our policies with this Action Plan.

Since the introduction of the official languages policy some 30 years ago, Canada's evolution has confirmed its merits. It has brought us closer to the ideal of "a bilingual Canada in which citizens could enjoy and benefit from our rich French and English heritage."⁸

The advent of communication technologies and tools has considerably changed our ways of communicating with one another. Consider the growth of our cities and the resulting new needs. Look too at the changes that have come about in our most basic customs, our notion of family and our lifestyle. Our communities have evolved as they have integrated people from Asia, the Middle East, Africa and elsewhere, such that our two official languages today bring together all increasingly diversified populations. In the midst of this change, our linguistic duality has endured and asserted itself, but it is evolving in a context that has greatly changed. Language vitality and transmission have taken on a new meaning in the face of a lifestyle that leads people to settle, for example, in cosmopolitan cities rather than staying in far-flung communities, to loosen family ties, to have fewer children, and often to have a partner who speaks a different language.

7. Environics Survey, February 2002.

8. Address by Prime Minister Jean Chrétien in Reply to the Speech from the Throne, January 31, 2001.

Let us take the situation of minority Francophone communities. Thirty years ago, they did not have the institutions or the rights they have today. In addition, three decades ago, the Anglophone majority was much less open to linguistic duality than it is today. But at that time, the fertility rate was higher and young people stayed in their own communities more than they do today. Similarly, French-speaking young people did not marry Anglophones to the extent they do today.

So we need to rethink our policies to help these young people strengthen their ties with their language and their community, in a context where they are much more mobile than was previously the case. We also need to help exogamous couples (i.e., Anglophone-Francophone) to pass on their dual linguistic heritage to their children.

The evolution of our law has paralleled that of our society. Our case law now affords much better protection to the equality of status of English and French in Canada. In recent decades, court decisions have taken into account the vulnerability of French or official language minorities for reasons of equity specific to our Constitution and our vision of Canada.

We are also coming out of a period of putting public finances in order. The Government's program spending represented 17.5% of the GDP in 1992-1993. That percentage has dropped to 11.9% for 2003-2004. The official

languages policy was not immune to those budget measures. The consequences, however, have been especially difficult for minority communities because they do not have the flexibility or economies of scale of the majority. With a healthier financial situation, the Government of Canada is able to reinvest in the official languages policy effectively through this Action Plan.

In short, today more than ever, our linguistic duality is an asset, but we cannot take anything for granted. The renewed commitment by the Government of Canada and the resulting Action Plan are testimony to the political will to support Canadians in this process of fostering our two official languages within a society evolving in an increasingly global world. They are part of the actions and initiatives that will help to make Canada an even more inclusive country, offering all Canadians a better quality of life and a promising future. Above all, they are the expression of the ideal that all Canadians can maximize their human capital.

1.2 The origin of the Action Plan

Our past, our future and the modernization of our policies are the three considerations that have led the Government of Canada to develop the Action Plan described in this policy statement. It has been designed in several stages.

In the Speech from the Throne of January 2001, the Government of Canada made a formal commitment to make the promotion of Canada's linguistic duality one of the priorities of its mandate. It reiterated its support for minority official language communities, its intention to expand the influence of the French culture and language throughout the country, and its determination to serve Canadians in both official languages.

In April of that year, the Prime Minister of Canada, the Right Honourable Jean Chrétien, asked the Honourable Stéphane Dion, President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs, to coordinate the Government's official languages policy, chair meetings of interested ministers, and "consider strong new measures that will continue to ensure the vitality of minority official language communities and to ensure that Canada's official languages are better reflected in the culture of the federal public service."⁹

In the Speech from the Throne of September 2002, the Government reiterated its commitment to present an Action Plan to reenergize its official languages policy.

Stimulated by the appointment of a minister responsible for official languages and the concerted efforts of several ministers, the work of parliamentary committees, regular observations by

"Linguistic duality is at the heart of our collective identity. The government will implement an Action Plan on official languages that will focus on minority-language and second-language education, including the goal of doubling within ten years the number of high school graduates with a working knowledge of both English and French. It will support the development of minority English- and French-speaking communities, and expand access to services in their language in areas such as health. It will enhance the use of our two official languages in the federal public service, both in the workplace and when communicating with Canadians."¹⁰

the Commissioner of Official Languages, and continually spurred on by dialogue with communities, the Government has intensified its efforts in the past two years. It has taken tangible action, which it can now build on. In her latest annual report, the Commissioner of Official Languages said she was very pleased with this new vitality: "Over the past year, the government announced new funding for a number of official language projects such as the founding of an institute at the University of Moncton for research on official language minority communities; the translation of municipal by-laws in New Brunswick; youth language exchanges; a distance education network

9. *Prime Minister Gives Minister Dion Additional Responsibilities in the Area of Official Languages*, (news release), PMO, Press Office, April 25, 2001.

10. Government of Canada, *Speech from the Throne*, September 30, 2002, p. 12.

for the English-speaking community in Quebec, in partnership with the province; new agreements under the Interdepartmental Partnership with Official Language Communities (IPOLC); language training for employees of the City of Ottawa; and cultural and community projects for young Francophones in minority communities.”¹¹

Here are some of the tangible initiatives undertaken by the Government since the appointment in April 2001 of a minister responsible for official languages and due to the concerted efforts of several ministers:

- In 2001-2002, \$1 million to New Brunswick to translate municipal by-laws and offer services in both official languages; in 2002-2003 and 2003-2004, a further \$1 million to help the province implement its *Official Languages Act*.
- \$10 million to start up the Institute for Research on Linguistic Minorities. Attached to the University of Moncton, it works with researchers from all regions of Canada to develop a better understanding of the issues affecting communities, including education, language rights and living conditions.
- An investment of \$5 million a year to promote second-language instruction through linguistic exchanges and youth awareness activities: a 20% increase in funding for this field.

- \$2.5 million over five years for the City of Ottawa to expedite language training for municipal employees, translate municipal by-laws, provide simultaneous interpretation for standing committees and facilitate partnerships with the private sector.

Two new policies which were adopted in April 2002 will allow us to take into account the needs of communities:

- The new Communications Policy of the Government of Canada contains provisions on government advertising in relation to minority official-language communities.
- The new Alternative Service Delivery Policy requires federal institutions to consider their impact on official languages and consult communities on alternative service delivery arrangements with a potential effect on community development.

This faster pace would not have been possible without the work by ministers involved in official languages matters, who have met together nine times between May 2001 and November 2002, to help develop concerted measures in all sectors.

11. Office of the Commissioner of Official Languages, Annual Report 2001-2002, *The Texture of Canada*, Canada, 2002, page 19.

While promoting the benefits of our linguistic duality for all Canadians, the President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs has travelled the length and breadth of the country to take note of provincial, territorial and regional realities first-hand. He has met with official language community leaders, including the Fédération des communautés francophones et acadienne du Canada (FCFA) and its member associations in each province, as well as the Quebec Community Groups Network (QCGN), representing Quebec's Anglophone communities.

Dozens of reports were presented to the Minister. The report by the FCFA, entitled *Des communautés en action*, spoke of overall community development, to ensure, according to its president, Georges Arès, that communities have the means to participate effectively in all spheres of a dynamic, forward-looking society.¹² The report by QCGN, *Suggesting Change*¹³, talked of enhancing the ability of minority Anglophone communities to work with all governments to preserve their vitality in Quebec. Major contributions also came from the Société franco-manitobaine, the Fédération canadienne pour l'alphabétisation en français, the

Commission nationale des parents francophones, the Fédération culturelle canadienne-française, Canadian Parents for French, the Canadian Association of Immersion Teachers, and others.

The Government is very grateful to all these associations, which took the time to carefully document their positions in order to better guide the Government in its deliberations. The associations asked the Government not to issue its Action Plan until they had developed their proposals and had time to communicate them properly.

The issues raised in these reports touch on a wide range of areas, from minority-language education to access to services and skills most likely to help communities prosper and play an active role in Canadian society. Because English- and French-speaking communities experience their minority status differently, they expressed specific needs, although some parallels were observed. These issues are dealt with in greater detail in the following chapters.

The Minister met with academics and researchers. He reflected on the recommendations contained, for example, in the Savoie (1998)¹⁴,

12. Fédération des communautés francophones et acadienne du Canada, "Des communautés en action : politique de développement global à l'égard des communautés francophones et acadiennes en milieu minoritaire", unpublished, May 2002, letter of transmittal to the President of the Queen's Privy Council, from Mr. Georges A. Arès.

13. "Suggesting Change" The situation of the English-speaking Minority of Quebec and proposals for change, Report to Minister Stéphane Dion, President of the Queen's Privy Council and Minister for Intergovernmental Affairs by the Quebec Community Groups Network, unpublished, June 2002.

14. Donald Savoie, *Official language minority communities: promoting a government objective*, 1998.

Fontaine (1999)¹⁵ and Simard (1999)¹⁶ reports. He also conferred with his provincial counterparts, attended two ministerial meetings on Francophone affairs and met with the Director General of the Council of Ministers of Education, Canada. He also received detailed documents from his colleagues in New Brunswick and Prince Edward Island. Further food for thought was provided in the reports of the Commissioner of Official Languages and those of the Standing Joint Committee on Official Languages.

1.3 The Plan: An accountability process and three main axes

In speeches delivered in Whitehorse on June 22, 2002, to the Fédération des communautés francophones et acadienne, and in Quebec City on October 20, 2002, to the Quebec Community Groups Network, Minister Dion revealed three main directions for the Action Plan for Official Languages. This five-year plan (2003-2004 to 2007-2008) is in line with the directions that were announced.

The first element of the Action Plan deals less with content than with method. It consists of an accountability and

coordination framework.

Because participants in the consultations and a number of previous studies emphasized implementing an accountability framework that would be an ongoing reminder for ministers and their officials of the priority given to linguistic duality, the Government wanted to clarify and consign responsibilities to departments and agencies as well as enhance coordination among affected organizations. Chapter 2 of the Policy Statement will inform Canadians of the process whereby the Government will ensure that official languages remain one of its ongoing priorities.

In addition to this accountability framework, the Action Plan addresses three priority areas:

Axis 1: Education (Chapter 3). It is worth saying: much has been achieved, but much remains to be done and to build on. The proposed measures will address both minority-language education, to help implement section 23 of the *Canadian Charter of Rights and Freedoms*; and provide for second-language instruction, as per Canada's Innovation Strategy and in accordance with the Government's commitments to foster the use of both official languages in Canadian society.

15. Task Force on Government Transformations and Official Languages, *No turning back: official languages in the face of government transformations*, Ottawa, January 1999 (referred to as the Fontaine Report).

16. The Honourable Jean-Maurice Simard, Senator, *Bridging the gap: from oblivion to the rule of law. Development and vitality of the francophone and Acadian communities: a fundamental obligation for Canada*, report tabled in the Senate, November 16, 1999.

Axis 2: Community development (Chapter 4). It is important to us that communities be able to participate fully, in their own language, in Canada's development. They must continue to contribute to the influence of our two official languages throughout the country. The measures considered will enhance communities' access to public services in both official languages, mainly in the areas of health, early childhood development and justice. They will give them greater access to the economic development tools inherent in the knowledge economy.

Axis 3: An exemplary public service (Chapter 5). The federal government cannot play a leadership role if it does not lead by example. The improvements sought will address the delivery of federal services to Canadians in both official languages, participation of English- and French-speaking Canadians in the federal government, and the use of both languages in the workplace.

The language industries (Chapter 6) give Canadians the opportunity to seize the competitive advantage of our two official languages here in Canada and on the international scene. Assistance for the development of these industries will build on the three axes of the Plan by alleviating the shortage of specialized language training and translation professors, expanding the range of careers open to young Canadians by focussing on federal institutions as a starting point for initiatives in translation, interpretation, terminology and other language skills.

This is the Action Plan, which will now be described in greater detail. With its accountability framework and three axes for development, it will be a powerful engine for revitalizing official languages policy, for the benefit of all Canadians.

2. THE ACCOUNTABILITY AND COORDINATION FRAMEWORK

The Government of Canada's Action Plan is made up of an accountability framework and three axes for action. The framework addresses the Government's method of work, while the axes are designed to guide its actions. It is a good idea to begin by looking at the accountability framework, because before considering what the Government intends to do, there must be agreement on how it intends to proceed.

The Government wants to ensure that official languages remain a day-to-day priority in the design and implementation of public policy and government programs. Accordingly, it has examined its decision-making process regarding official languages. This internal reflection, which has been conducted in consultation with communities and the Commissioner of Official Languages, has led the Government to adopt the accountability framework which is reproduced in Annex A. This framework is the cornerstone of our Action Plan.

2.1 Issues

Three main issues have led to the design of this accountability and coordination framework.

1. Federal institutions need to be more aware of the spirit and purpose of the *Official Languages Act*.

Implementation of the Act leaves much to be desired, as the Government is the first to acknowledge. It has heard criticism from the Commissioner of Official Languages, minority communities, the Standing Joint Committee on Official Languages, and others.

The Government is aware of the opinions of the Commissioner of Official Languages, who emphasized in her 2001-2002 Annual Report that priorities should include strengthening the system for implementing the Act, "for example by mobilizing political and administrative leadership and transforming the organizational culture of the federal public service."¹⁷ It is important that

17. Office of the Commissioner of Official Languages, Annual Report 2001-2002, *The Texture of Canada*, Canada, 2002, p. 20.

each federal institution understand its role with regard to linguistic duality and the development of official language communities.

2. Official language communities need to be consulted by federal institutions with substantial responsibilities for their development.

Minority official language communities have asked to be consulted systematically by federal institutions that are developing policies or priorities on linguistic duality, to be informed of actions being considered in order to achieve those priorities, and to be kept abreast of actions actually undertaken and the results achieved (or not) over a given period.

3. The Government needs a formal interdepartmental coordination mechanism on official languages.

In addition to their respective work on community development, federal institutions must act together and develop the means to support one another.

It is imperative that the Government develop internal mechanisms to ensure consistency of its official languages policies and programs. It is also important that these support mechanisms allow for ongoing information-sharing among federal institutions, and lead them to work together for the benefit of linguistic duality.

Accordingly, the three objectives of the accountability framework are to raise awareness of the *Official Languages Act*

The Fédération des communautés francophones et acadienne (FCFA) speaks of reorienting the federal approach so that it is no longer based on scattered projects, but rather on concerted action that would encourage government departments and agencies to incorporate community development considerations into their departmental policy and program development processes. Fédération des communautés francophones et acadienne du Canada, *Des communautés en action: politique de développement global à l'égard des communautés francophones et acadiennes en milieu minoritaire*, unpublished, May 2002, p. 5.

The Quebec Community Groups Network (QCGN) hopes the Government's Action Plan will "ensure that there is a consultation mechanism to discuss with and seek advice from communities before the elaboration of policy and a declaration of a ministerial priority." The QCGN also states that "The Action plan must have accountability mechanisms." Quebec Community Groups Network. *Suggesting Change, The situation of the English-speaking Minority of Quebec and proposals for change*, Report to Minister Stéphane Dion, President of the Queen's Privy Council and Minister for Intergovernmental Affairs, June 2002, p. 2.

in all federal institutions, strengthen consultation mechanisms with communities, and establish overall coordination of the government process on official languages.

2.2 Our plan

The accountability and coordination framework accomplishes two things. First, it sets out the existing responsibilities of federal institutions. Second, it adds new responsibilities.

2.2.1 A reminder of existing responsibilities

The accountability and coordination framework reproduced in Annex A contains 45 articles. The first 30 set out the main statutory responsibilities of federal institutions, especially those of the Treasury Board and Canadian Heritage. Henceforth, we will have a public document that clearly and formally establishes the main responsibilities for official languages incumbent on each department and agency.

The division of responsibilities among federal departments flows from the very architecture of the *Official Languages Act* (OLA), first passed in 1969 and revised in 1988, following the new constitutional framework of 1982. That is why the first 30 articles address the different chapters of the Act in turn.

Articles 3 to 10 of the framework specify the accountability stemming from Parts I to V of the Act. Those parts set out the obligations of all federal institutions with respect to proceedings of Parliament, legislative instruments, administration of justice, communications with and services to the public, as well as language of work. These articles reiterate that the primary

responsibilities under the *Official Languages Act* are incumbent upon all federal institutions. They are required to serve the public in both languages (Part IV) and to respect their employees' right to work in either language (Part V).

Articles 11 to 15 address Part VI, which sets out the commitment of federal institutions to ensure the equitable representation of English- and French-speaking Canadians within their workforce. Articles 16 to 29 address the important Part VII, which politically commits the Government of Canada to enhancing the vitality of official language minority communities and fostering the full recognition and use of both English and French in society. The framework points out that this commitment by the Government to promote both languages and foster community development is indeed binding on all federal institutions.

The framework confirms the responsibilities of the two key institutions, Treasury Board and Canadian Heritage, in relation to the different parts of the Act.

As the accountability framework indicates, Treasury Board has a general coordination mandate with respect to Parts IV, V and VI. It establishes policies and regulatory measures, disseminates relevant directives, monitors institutions for which it has responsibility, evaluates policies and programs, and provides information to Parliament and the public on the results obtained.

The accountability framework also describes the responsibilities of Canadian Heritage, notably in paragraphs 24 to 26. The Minister of Canadian Heritage has a mandate to coordinate implementation, by all federal institutions, of the commitment to advance English and French. The Minister reports thereon annually to Parliament. The Minister has the power to undertake measures to help promote our official languages. For example, these measures may help fund activities of community organizations or facilitate the contribution of departments and agencies to the vitality of communities. The Minister concludes agreements with the provinces and territories on education and in other areas to enhance delivery of services to communities in their own official language.

2.2.2 The addition of new responsibilities

By pointing out the main responsibilities of departments and agencies, the accountability framework will be a major tool to raise awareness among all federal bodies regarding official languages. But the accountability framework does more than that. While highlighting existing responsibilities, it adds **five** key elements that will help us achieve our awareness, consultation and coordination objectives.

First, the framework assigns all federal institutions a new responsibility of better incorporating the official language dimension in their planning. This new responsibility is clearly indicated in article 7: “Henceforth, all federal

institutions are required to analyse the impact of proposals contained in memoranda to Cabinet on the language rights of Canadians and federal public servants.” This will help ensure that official languages are taken into consideration for all projects which would modify the Government’s policies.

Second, article 17 of the accountability framework describes as follows the process that each institution must follow in its strategic planning and in the general execution of its mandate. It must:

- make employees aware of the needs of minority communities and the Government’s commitments;
- determine whether its policies and programs have an impact on the promotion of linguistic duality and community development, from the initial stages of policy development through to the implementation process;
- consult the affected publics, in particular representatives of minority official language communities, in developing and implementing policies and programs;
- be able to describe its approach and show how it has considered the needs of minority communities;
- where an impact has been identified, plan the activities accordingly in the coming year and in the longer term, present the deliverables (taking into account anticipated funding) and provide for results assessment mechanisms.

It is apparent that the community awareness and consultation stage is central to this process.

Third, and this is one of the key elements of the framework, it adds horizontal coordination, as described in articles 31 to 44.

This coordination will be centred on the Minister responsible for official languages, whose renewed mandate was announced by the Prime Minister of Canada on March 12, 2003.

As indicated in the accountability framework, in addition to listening to communities and coordinating files where the question of official languages is raised, the Minister will facilitate implementation of the Government's Action Plan. He will be supported by the ministers of Canadian Heritage and Justice, the President of the Treasury Board, and other ministers spearheading Action Plan initiatives in their sectors of activity.

The Minister responsible will support the ministers with statutory or sectoral responsibilities for official languages. He will work with them to ensure that:

- communities and other stakeholders are consulted at least once a year;
- stakeholders' priorities are communicated to the government;
- official languages issues are brought to the attention of the government;

- the Government's viewpoint is clearly articulated on topical questions with official languages repercussions.

To properly support the Minister responsible for official languages and the other ministers, the role of the Committee of Deputy Ministers on Official Languages is being strengthened. Among other things, it is tasked with promoting greater collective accountability for all provisions of the Act. It highlights the links between the different parts of the Act and the Action Plan, and supports the affected ministers in implementing the Plan and in communicating the results to Canadians.

The Minister responsible and the Committee of Deputy Ministers on Official Languages are supported by the Intergovernmental Affairs Secretariat, Privy Council Office. The Secretariat will analyze memoranda to Cabinet and draft policies with respect to their impact on official languages and community development.

Fourth, the accountability framework, in article 44, assigns an expanded role to the Justice Department, which must henceforth examine initiatives, programs and policy directions with a potential influence on official languages, in order to determine the legal implications. This new responsibility is added to those the Justice Department already assumes. It will therefore continue to guide the Government in interpreting language rights, articulating the Government's position in litigation, and exercising

specific responsibilities for legislative drafting and access to justice in both official languages.

Fifth, the evaluation of the official languages policy will itself be coordinated. Each department will retain its own responsibilities for evaluation, but there will be an overall evaluation of the measures undertaken in the Action Plan. Article 37 therefore specifies that the Minister responsible “coordinates implementation of the Action Plan, notably the sharing of research tools and evaluation measures.” Article 36 provides for “the presentation of interim and final reports on the implementation of the Action Plan” to the government.

This then is the accountability and coordination framework through which the Government intends to achieve its objectives of official languages awareness, community consultation and policy coordination. But above all, the purpose of the accountability framework is to have all departments work together. It is through collective efforts that the official languages policy has been given renewed momentum in the past two years. And it is through our work together that the Action Plan will yield the maximum positive results for Canadians.

7. CONCLUSION

For any Action Plan to be successful, two ingredients are required: specific objectives and corresponding resources. The Action Plan for Official Languages combines these two ingredients.

Annex B indicates the resources that will be available to various departments to enable them to attain the objectives set out in this policy statement.

In all, the Government of Canada will allocate \$751.3 million to this five-year Action Plan. This will surely have a ripple effect among other governments, the private sector, communities and other partners, prompting them to initiate complementary action.

But the strength of this Plan lies not so much in the funding per se but in the entire set of measures it includes. Each one taken in isolation would not have the desired impact. But, combined within an integrated plan, with the contribution of communities, the provinces and territories and all Canadians, these measures complement one another and create a synergy for success.

If the Plan succeeds, all Canadians will benefit. Within 10 years, the proportion of eligible students who attend French-language educational institutions will rise from 68% to 80%. Anglophone and Francophone minorities will benefit from better public services in their own language and will be better supported for their development.

If the Plan succeeds, the proportion of high school graduates with a command of both our official languages will rise from 24% to 50%. When one out of two high school graduates can speak both our official languages, and in fact some of them will master a third or even a fourth language, Canada will be even more open to the world, more competitive and better positioned to ensure its prosperity.

If the Plan succeeds, the federal public service will set an example in terms of respecting our linguistic duality. The culture of official languages will be better grounded than ever. The Government of Canada will be better able to play its leadership role. We can count on the President of the Treasury Board to undertake without delay the measures provided in the Action Plan, working closely with all federal institutions.

From now on, we will have an accountability and coordination framework that presents each federal institution with its responsibilities, an accountability framework that establishes unparalleled coordination so that the work of each benefits all. The accountability and coordination framework provides for more communication between the federal government and minority official language communities than ever before.

The Government of Canada is resolved to play its own important role together with all Canadians, communities and its constitutional partners to ensure this Plan succeeds. The Minister of Canadian Heritage, in particular, will work closely with her provincial and territorial counterparts so that the best initiatives are chosen in each province and territory of our country.

Our best guarantee of success is the support of Canadians. The message they — in particular young people — are sending to governments is crystal clear. They want to benefit fully from their country's dual linguistic heritage. The Government of Canada is responding to Canadians through this Action Plan. It is inviting them to write the next act in the fascinating adventure of our bilingual country. It is giving new momentum to our linguistic duality in order to assure Canadians a better future.

Annex A

OFFICIAL LANGUAGES ACCOUNTABILITY AND COORDINATION FRAMEWORK

1. The framework specifies the enforcement procedures for obligations under Parts I to V, and the commitments set out in Part VI and VII of the *Official Languages Act*, as well as the responsibilities of each federal institution in that regard, defines the policy coordination mechanisms and the new measures included in the Action Plan, and provides for a common communication strategy adopted on a cross-government basis for all activities.
2. It is noteworthy that the framework in no way alters the obligations and commitments of each federal institution under the Act as a whole, nor the specific mandates assigned by the legislation to certain lead ministers and bodies.

Accountability – Parts I to V

3. Parts I to V of the Act set out the obligations of all federal institutions with respect to proceedings of Parliament, legislative instruments, administration of justice, communications with and services to the public, and language of work. These parts of the Act create rights which give rise, in the event of alleged non-compliance, to court remedy, in addition to administrative and parliamentary remedy.

Enforcement provisions applicable to federal institutions

4. All federal institutions are obviously required to comply with the Act. The institutions listed in Schedules I, I.1 and II of the *Financial Administration Act* are subject to Treasury Board policies.

5. In particular, they must comply with the administrative policies on Parts IV and V. In addition, some guidelines applicable to official languages have been incorporated into the new Alternative Service Delivery policy (ASD), so as to highlight compliance with the spirit and intent of Parts IV and V of the Act and the *Official Languages (Communications with and Services to the Public) Regulations*. The other institutions subject to the Act are required to respect the spirit of those policies.
6. Since 1998, the Treasury Board directive “Official Languages Principles for the Preparation and Analysis of Submissions to Treasury Board” has ensured that institutions that make submissions to Treasury Board have analysed the impact of their initiatives on communications with and services to the public and the right of employees to work in their official language of choice.
7. Henceforth, all federal institutions are required to analyse the impact of proposals contained in memoranda to Cabinet on the language rights of Canadians and federal public servants.
8. Departments and agencies cooperate with the Committee of Deputy Ministers on Official Languages (CDMOL), for example by bringing files they deem relevant to its attention, conducting analyses as required and holding relevant consultations in their respective fields.

Role of Treasury Board

9. Part VIII of the Act assigns Treasury Board a general coordination mandate with respect to Parts IV, V and VI. In addition to establishing policies and regulatory measures, it monitors and audits institutions in respect of which it has responsibility, evaluates the effectiveness of policies and programs, and provides information to employees and the public. Treasury Board tables an annual report in Parliament on the fulfilment of its mandate.

Administrative, parliamentary and court remedies

10. In addition to the administrative and parliamentary remedy described below in connection with Part VII, the Act expressly provides a court remedy for alleged non-compliance of sections 4 to 7, 10 to 13 and 91, or Parts IV or V. The Commissioner of Official Languages can apply for the remedy or appear as an intervener. To facilitate access to the court remedy, the Act provides for a summary manner of procedures and special rules of evidence.

Accountability – Part VI

11. Part VI sets out the Government’s solemn commitment to ensuring that English-speaking Canadians and French-speaking Canadians have equal opportunities to obtain

employment and advancement in federal institutions, and the composition of the work-force of federal institutions tends to reflect the presence of both the official language communities of Canada. Although this is a policy commitment, this part of the Act is binding on all federal institutions. Through the reports tabled by the President of the Treasury Board, who is mandated to coordinate implementation of Part VI, federal institutions report to Parliament for achieving these objectives.

Enforcement provisions applicable to federal institutions

12. All federal institutions are obviously required to comply with the Act. The institutions listed in Schedules I, I.1 and II of the *Financial Administration Act* are subject to Treasury Board policies.
13. In particular, they must comply with the administrative policies on Part VI. In addition, some guidelines applicable to official languages have been incorporated into the new Alternative Service Delivery policy (ASD), so as to highlight compliance with the spirit and intent of Part VI. The other institutions subject to the Act are required to respect the spirit of those policies.

Role of Treasury Board

14. Part VIII of the Act assigns Treasury Board a general coordination mandate with respect to Part VI. In addition to establishing policies and regulatory measures, it monitors and audits institutions in respect of which it has responsibility, evaluates the effectiveness of policies and programs, and provides information to employees and the public. Treasury Board tables an annual report in Parliament in this connection.

Administrative and parliamentary remedy

15. Under Part IX, the Commissioner of Official Languages oversees compliance with the commitment set out in Part VI. The Commissioner can hear complaints, carry out investigations, make recommendations, and, after carrying out an investigation, refer the report first to the affected institution, then to the Governor in Council. If action has not been taken thereon, the Commissioner may report thereon to Parliament. The Commissioner may, at any time, make a special report to Parliament referring to and commenting on any matter within the scope of the powers, duties and functions of the Commissioner. Parliamentary committees on official languages also have an important oversight role on this government commitment.

Accountability – Part VII

16. Part VII (section 41) sets out the Government's solemn commitment to advancing English and French in Canadian society, including the development of minority communities. Although this is a policy commitment, this part of the Act is binding on all federal institutions. Through the reports tabled by the Minister of Canadian Heritage, who is mandated to coordinate implementation of Part VII, federal institutions report to Parliament for achieving these objectives.

Enforcement provisions applicable to all federal institutions

17. Every federal institution, as part of its strategic planning, implementing its mandate and policy and program development process, will need to:

- raise employees' awareness of the needs of minority official-language communities and the Government's commitments under Part VII;
- determine whether its policies and programs have impacts on the promotion of linguistic duality and the development of minority communities, from the initial elaboration of policies through to their implementation, including devolution of services;
- consult affected publics as required, especially representatives of official language minority communities, in connection with the development or implementation of policies or programs;
- be able to describe its actions and demonstrate that it has considered the needs of minority communities;
- when it has been decided that impacts do exist, the institution will have to plan activities accordingly for the following year and in the longer term; present the expected outcomes, taking into account funding provisions, to the greatest extent possible; and provide for results assessment mechanisms.

18. Each institution must be able to make the pertinent information available to the department of Canadian Heritage as needed. It is understood that these procedures can be adapted to the circumstances. If an exception is required (for example, because no minority official-language community is affected), the federal institution will need to justify it.

19. It is noteworthy that following a government decision in 1994, all federal institutions are required to analyse the impact of proposals contained in memoranda to Cabinet on the advancement of English and French.

20. Since 1998, the Treasury Board directive “Official Languages Principles for the Preparation and Analysis of Submissions to Treasury Board” has ensured that institutions that make submissions to Treasury Board have analysed the impact on the development of minority official-language communities (Part VII).
21. In addition, as of April 1, 2002, the Alternative Service Delivery policy (ASD) requires federal institutions to consider the impact of ASD on official languages and consult communities on alternative service delivery situations with a potential effect on community development.
22. Since the new Government of Canada’s communications policy came into effect in April of 2002, and applicable to all federal institutions, “Media buys must include the purchase of advertising space and time in organs serving a community’s official language minority, be it English or French.” (article 23). The new policy also reinforces certain aspects of official language requirements, one of which pertains to the equal status of English and French.

Enforcement provisions applicable to institutions covered by the 1994 Accountability Framework

23. In 1994, the government designated those institutions with the most direct impact on the development of minority communities and the promotion of English and French. In addition to the enforcement provisions set out in paragraph 17, the institutions covered by the accountability framework are required to develop an action plan for implementing section 41. The plan must take account of the specific needs of minority official-language communities. The plans are developed following consultations with communities so as to enable departments and agencies to include these considerations in their activity planning, within the limitations of their mandate. The affected ministers must submit the plans annually to the Minister of Canadian Heritage, together with a report on the results obtained. The Minister of Canadian Heritage reports to Parliament each year on implementation of this government commitment.

Role of Canadian Heritage

24. Under section 42, the Minister of Canadian Heritage is mandated, in consultation with other ministers of the Crown, to encourage and promote a coordinated approach to the implementation by federal institutions of the commitments set out in section 41. The Department facilitates consultations with representatives of minority official-language communities, including coordinating exchange activities with a network of coordinators responsible for applying Part VII in their respective institutions. In addition, it establishes incentives such as the Interdepartmental Partnership with the Official Language Communities, in order to forge new ties of co-operation between affected institutions and communities. Finally, it encourages the sharing of best practices among institutions. It raises public servants' awareness of the need to consult at the start of the policy and program development process. The Department oversees the 29 institutions covered by the 1994 Accountability Framework and may recommend other institutions be covered by the Framework if new needs emerge as expressed by communities.

25. In accordance with her mandate, the Minister of Canadian Heritage takes such measures as that Minister considers appropriate to advance the equality of status and use of English and French in Canadian society, notably by concluding agreements with the provinces and territories on education and in other areas to enhance delivery of services to communities in their own official language.
26. The Minister of Canadian Heritage submits an annual report to Parliament on the matters relating to official languages for which that Minister is responsible. In that context, the Minister analyses action plans and annual progress reports by federal institutions and shares the results with other federal ministers.

Role of Treasury Board

27. In accordance with his mandate under the Act and the *Financial Administration Act*, the President of the Treasury Board :
- ensures that Treasury Board submissions and ASD initiatives respect official languages guidelines;

- facilitates access by minority official-language communities to official languages networks for which TBS is responsible, so that communities can raise awareness of the challenges facing communities among representatives of institutions, and inform them of priority development projects;
 - supports the efforts of federal regional councils with a view to striking official languages committees and cooperating on initiatives to enhance the delivery of services in both official languages or foster the sustainable development of minority communities.
28. In addition, in consultation with the Minister of Canadian Heritage, the President of the Treasury Board encourages departments to take section 41 into consideration in planning and implementing departmental activities.
29. In the spirit of renewed collaboration between the Treasury Board Secretariat and the Department of Canadian Heritage, both will ensure that they combine their actions in support of Part VII. Hence, harmonized measures are being taken, notably in relation to performance evaluation, in order to better report and communicate results to Canadians through Parliament. This continuous collaboration will allow both departments to establish greater complementarity in their endeavours and demonstrate more coherence in the governance of the official languages program.

Administrative and parliamentary remedy

30. Under Part IX, the Commissioner of Official Languages oversees compliance with the commitment set out in Part VII. The Commissioner can hear complaints, carry out investigations, make recommendations, and, after carrying out an investigation, refer the report first to the affected institution, then to the Governor in Council. If follow up action has not been taken, the Commissioner may report on the question, to Parliament. The Commissioner may, at any time, make a special report to Parliament referring to and commenting on any matter within the scope of the powers, duties and functions of the Commissioner. Parliamentary committees on official languages also have an important oversight role on compliance with respect to this government commitment.

Horizontal Coordination

31. This administrative framework is designed to strengthen horizontal coordination for the Act as a whole, so as to decompartmentalize the different components, supporting the Minister responsible for official languages and his colleagues at Treasury Board, Canadian Heritage and Justice. It clarifies for federal institutions the mechanisms in place to support them in their task.

32. The accountability and coordination framework preserves intact the statutory responsibilities of all federal institutions, including the Department of Canadian Heritage and the Treasury Board.

Responsibilities and support mechanisms

33. Minister responsible for official languages: In April 2001, the Prime Minister appointed the President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs as Minister responsible for official languages. He was thereby mandated "to consider strong new measures that will continue to ensure the vitality of minority official-language communities and to ensure that Canada's official languages are better reflected in the culture of the federal public service." That mandate included, in addition to coordinating files where official languages issues were raised, a role "at the forefront of the federal government's efforts to promote bilingualism."

34. The Minister is responsible for facilitating the development of this accountability framework for the official languages policy and for the implementation of the Action Plan to strengthen the official languages program. This new coordination role will help the Government retain an overall approach to actions taken by federal institutions to enforce the

Official Languages Act and contribute to the advancement of English and French in Canadian society.

35. The Minister responsible for official languages will be supported by the ministers of Canadian Heritage and Justice, the President of the Treasury Board, and other sectoral ministers with a role to play in the implementation of the Action Plan.

36. In accordance with the mandate he has received from the Prime Minister, the Minister responsible works with the President of the Treasury Board, the Minister of Justice and the Minister of Canadian Heritage to:

- communicate the priorities of stakeholders (communities, Commissioner of Official Languages, parliamentary committees, etc.) to the government;
- raise with colleagues issues relevant to official languages;
- reflect the Government's viewpoint properly on topical questions with official languages repercussions;

- consult minority communities and other key stakeholders, including the Commissioner of Official Languages, at least once a year;
 - coordinate the presentation to the government of interim and final reports on the implementation of the Action Plan.
37. Moreover, the Minister responsible :
- supports ministers with legislative or sectoral responsibilities;
 - coordinates internal discussions of how to respond to reports by the Commissioner of Official Languages and parliamentary committees; and
 - coordinates implementation of the Action Plan, notably the sharing of research tools and evaluation measures.
38. Committee of Deputy Ministers on Official Languages (CDMOL): CDMOL is a high-level forum on official languages, notably regarding institutional bilingualism, minority official language community development and promotion of Canada's linguistic duality. Members are appointed by the Clerk, and the Committee is chaired by the Deputy Minister of Intergovernmental Affairs in the Privy Council Office.
39. CDMOL supports federal institutions and the Clerk by facilitating information-sharing on, for example:
- current government activities in the official languages field;
 - perceptions and priorities of minority communities, the Commissioner of Official Languages, etc;
 - evolution of case law and its implications for management of government operations;
 - harmonization of existing coordination networks, such as official languages champions and national coordinators;
 - and as required, holds meetings with minority groups.
40. It advises the Minister responsible, the President of the Treasury Board, the Minister of Canadian Heritage, the Minister of Justice, and other Cabinet members as required, in order to foster and encourage an overall approach for application of the *Official Languages Act*. Among other things, CDMOL may:
- provide advice on priorities brought to its attention by the Government, communities or the Office of the Commissioner of Official Languages;



ROADMAP FOR CANADA'S LINGUISTIC DUALITY 2008-2013: *ACTING FOR THE FUTURE*



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MESSAGE FROM THE PRIME MINISTER OF CANADA



Our federation was born of a desire by English- and French-speaking Canadians to share a common future, and it was built on respect for the language and culture of all Canadians. Linguistic duality is a cornerstone of our national identity, and it is a source of immeasurable economic, social, and political benefits for all Canadians.

Recognizing this, our Government is committed to strengthening this duality by providing support for English and French minority-language communities and by taking action to ensure that Canadians can obtain government services in both official languages.

Our country is more united today than it has been since our centennial. Old, tired debates are giving way to a new era of open federalism where the federal, provincial and territorial governments cooperate in the protection and development of English and French minority-language communities and in the creation of opportunities for all Canadians to reap the benefits of our linguistic duality.

As Prime Minister of Canada, I am proud to report that the *Roadmap for Canada's Linguistic Duality 2008–2013: Acting for the Future* reiterates the commitment of the Government of Canada to linguistic duality and our two official languages. It lays out the path we intend to follow over the next five years to build on Canada's sturdy foundations. English- and French-speaking Canadians have come a long way together since the founding of Québec City, which also marks the founding of the Canadian state, 400 years ago this year. This Roadmap points the way to an even stronger future and a more unified Canada.

A handwritten signature in black ink, which appears to be 'Stephen Harper'.

The Right Honourable Stephen Harper, P.C., M.P.



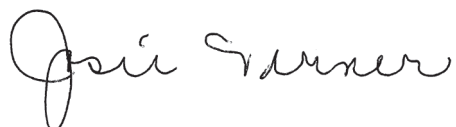
WORD FROM THE MINISTER OF CANADIAN HERITAGE, STATUS OF WOMEN AND OFFICIAL LANGUAGES AND MINISTER FOR LA FRANCOPHONIE



Canada's official languages are part of our national identity. They forge links that unite us within a thriving and dynamic society. To further strengthen these ties, we must provide opportunities to both French- and English-speaking Canadians to better understand and appreciate one another, while continuing to promote the development of their unique cultures and communities.

The *Roadmap for Canada's Linguistic Duality 2008-2013: Acting for the Future* is an unprecedented, government-wide commitment. In planning it, we not only scanned today's social and economic landscape; we also followed the markers laid out by Canadians. This led us to identify five areas where action would make the most difference: the promotion of linguistic duality, youth, services, economic development and governance. The Roadmap proposes new projects and investments that will allow English and French minority-language communities to receive essential services in their own language; and that will encourage dialogue and bring Canadians closer, whatever their official language of choice.

As Minister of Canadian Heritage, Status of Women and Official Languages and Minister for La Francophonie, I would like to thank once again all the citizens who participated in the Government consultations on linguistic duality and official languages. The Roadmap reflects the results of those consultations, as well as the work of other key stakeholders, including official-language minority communities, parliamentary committees and the Commissioner of Official Languages. With this Roadmap, we begin a promising journey for the future of English and French in Canada.



The Honourable Josée Verner, P.C., M.P.

SUMMARY

The *Roadmap for Canada's Linguistic Duality 2008-2013: Acting for the Future* reaffirms the Government of Canada's commitment to linguistic duality and our two official languages. It charts the course the Government intends to follow over the next five years to build on Canada's solid foundations.

The Roadmap reflects the results of the Government of Canada's consultations, as well as the work of other key stakeholders such as official-language minority communities, parliamentary committees and the Commissioner of Official Languages.

The Roadmap is an unprecedented government-wide investment of \$1.1 billion over five years, based on two pillars: the participation of all Canadians in linguistic duality, and the support for official-language minority communities. It invests in priority sectors, including:

- health;
- justice;
- immigration;
- economic development; and
- arts and culture.

The Roadmap targets five areas for government action to strengthen these pillars:

- emphasizing the value of linguistic duality among all Canadians;
- building the future by investing in youth;
- improving access to services for official-language minority communities;
- capitalizing on economic benefits; and
- ensuring efficient governance to better serve Canadians.

Through the Roadmap, the Government will increase its support in the areas of health, immigration, justice, economic development, and arts and culture. In this last area, the Government will establish a **Cultural Development Fund** and will launch a new program; **Music Showcases for Artists from Official Language Minority Communities**.

The Roadmap also calls for additional funding to enable all Canadians to benefit from linguistic duality. For example, the Government will provide all

Canadians with free access to the **Government of Canada language portal**. A **National Translation Program for Book Publishing** will also be put in place to increase the availability of books in both official languages.

These new initiatives are in addition to resources already allocated by the Government of Canada to support the cultural dynamism of communities and improve access for all Canadians to English- and French-language culture.

The Government of Canada will work with key partners and stakeholders including the provincial and territorial governments, the communities and all Canadians to implement the Roadmap for Canada's Linguistic Duality so that people throughout the country can benefit from it.

CAPITALIZING ON ECONOMIC BENEFITS

The Roadmap seeks to take advantage of the economic benefits of linguistic duality, and strengthen support for the economic development of official-language minority communities. Through the Enabling Fund for Official Language Minority Communities, Human Resources and Social Development Canada will continue to support economic and community development. The Fund engages community leaders and leverages partnerships to strengthen community capacity in the areas of human resources and economic development. For Canadians, this will mean continued support for minority-community economic and labour-market development, through partnerships, development plans and capacity building.

In a highly globalized and knowledge-based marketplace, linguistic duality is a key competitive advantage, which can help Canada further its economic success. Having two languages of international scope puts Canada at the forefront of societies with knowledge-based economies. This asset allows Canadian businesses easier access to global markets and partners. The language skills of Canada's workforce, particularly among youth, are also a major asset for the economy. These skills strengthen Canada's human capital advantage and allow Canadians to build stronger economic links with international partners. The National Research Council will continue to produce new technologies to support Canada's language industry and to work in close collaboration with partners such as the Language Technologies Research Centre. Through the Roadmap, the Government will implement two new initiatives to capitalize on the economic benefits of linguistic duality.

Industry Canada and the regional development agencies (the Atlantic Canada Opportunities Agency, the Economic Development Agency of Canada for the Regions of Quebec and Western Economic Diversification Canada) will implement an **Economic Development Initiative** to foster the development of new business expertise in communities. For Canadians, this will mean economic development tailored to their regional needs, through innovation,

entrepreneurship, partnerships and diversifying economic activities.

To support the language industry, Public Works and Government Services Canada will implement a **Language Industry Initiative** to help Canadian translation and language-technology companies become more recognized in both Canadian and international markets. For Canadians, this will mean Canadian companies that are industry leaders and internationally competitive.

ENSURING EFFICIENT GOVERNANCE TO BETTER SERVE CANADIANS

All federal institutions play a role in supporting official languages and Canada's linguistic duality. However, some play a leadership role that involves coordinating the overall federal effort. The Roadmap will make sure that federal institutions, particularly those with specific responsibilities under the *Official Languages Act*, ensure better horizontal governance and coordination. In turn, this will increase the efficiency of their respective actions, in accordance with the *Official Languages Accountability and Coordination Framework*.

The Official Languages Secretariat (Canadian Heritage) supports the Minister of Official Languages in the role of leadership and horizontal coordination of the federal administration, and in the area of inter-governmental relations. Through the Roadmap, the Secretariat will work together with key federal institutions to improve governance and horizontal coordination of Government actions related to official languages, in order to enhance the accountability process and ensure results.

The Treasury Board of Canada Secretariat, together with the Canada Public Service Agency, develops and coordinates the policies and programs related to the use of official languages in federal institutions. The Agency will continue its work in the field of official languages so as to monitor issues related to service to the public, language of work, and the representation of both language groups within the federal administration. Furthermore, it will continue to promote the

creation of work environments that encourage federal public servants to exercise their right to work in the language of their choice in the National Capital Region and other regions designated as bilingual in terms of language of work. The Canada School of Public Service will work to improve the governance of language training provided to federal public servants.

Justice Canada will continue to offer advice on the language provisions of the Constitution, as well as the overall implementation of the *Official Languages Act*, and work together with Canadian Heritage and the Treasury Board Secretariat to ensure increased information sharing, and the compliance of policies, programs, initiatives and government documents with the language provisions of the Constitution and the *Act*.

Canadian Heritage plays a coordination and support role in the Government's commitment to official-language minorities and fostering the full recognition of English and French in Canadian society. The Department's role also includes supporting and guiding federal institutions, especially those whose activities could have an important impact on official-language minorities or the recognition of both official languages. The Department will expand its coordination efforts to all federal institutions and, to this end, will identify the most appropriate ways for these diverse organizations to report on their activities. It will also develop new tools to help federal institutions understand and meet their responsibilities.

To ensure the efficiency and coordination of the Government's actions, the Roadmap will include a review of its horizontal governance, and improve the mechanisms used to ensure accountability. The 2005 Horizontal Results-Based Management and Accountability Framework – one of the main tools to ensure efficient Government action – will be revised and modernized. For Canadians, this responsible approach will mean coordinated Government actions in official languages and efficient use and management of public funds.

SHARING THE ROAD: A MORE INCLUSIVE IMPLEMENTATION

The Government of Canada is committed to exercising its leadership in official languages in a spirit of complementarity and respect for the jurisdictions of its provincial and territorial partners. Increased recognition of the value of linguistic duality, and its expression in many communities, stems from the collaboration of many actors. In this respect, the Government of Canada considers the roles of its partners essential to the promotion of English and French in Canada, and hopes to increase the number of areas of cooperation.

Among these collaborative efforts, the Government will favour those with the provincial and territorial governments, including with Quebec, the cradle of the Canadian Francophonie, and with New Brunswick, which occupies a unique place as the country's only officially bilingual province. The Government will also leverage civil-society partners, the private and volunteer sectors, and those Canadians who know, learn and teach their second official language.

In the spirit of partnership, the Government of Canada provides financial assistance to the provinces and territories so that they may offer young Canadians an education in the minority official language and of the second official language. Agreements signed with provinces and territories have allowed the implementation of initiatives aimed at enhancing core and immersion programs, supporting teaching staff, and increasing access to postsecondary education. The Government of Canada and provincial and territorial governments have also struck agreements to ensure the delivery and development of services in certain key areas for official-language minority communities, such as early childhood, healthcare and social services, justice and economic development.

ANNEX B: DETAILED FINANCIAL COMMITMENTS OF THE 2008-2013 ROADMAP

| Initiatives by department and agency | (\$ millions) |
|---|---------------|
| Atlantic Canada Opportunities Agency (\$16.2 M) | |
| Support to Francophone immigration in New Brunswick | 10.0 |
| Economic development initiative | 6.2 |
| Canada Public Service Agency (\$17.0 M) | |
| Centre of excellence | 17.0 |
| Canada School of Public Service (\$2.5 M) | |
| Extend access of language-learning tools to Canadian universities | 2.5 |
| Canadian Heritage (\$611.0 M) | |
| Support to education in the language of the minority | 280.0 |
| Support to second-language education | 190.0 |
| Summer language bursaries | 40.0 |
| Support to Official-Language Minority Communities | 22.5 |
| Intergovernmental cooperation | 22.5 |
| Official-language monitors | 20.0 |
| Cultural Development Fund | 14.0 |
| Youth initiatives | 12.5 |
| National Translation Program for Book Publishing | 5.0 |
| Music Showcase Program for Artists from Official-Language Minority Communities | 4.5 |
| Citizenship and Immigration Canada (\$20.0 M) | |
| Recruitment and integration of immigrants | 20.0 |
| Economic Development Agency of Canada for the Regions of Quebec (\$10.2 M) | |
| Economic development initiative | 10.2 |
| Health Canada (\$174.3 M) | |
| Training, networks and access to health services | 174.3 |
| Human Resources and Social Development Canada (\$94.0 M) | |
| Enabling Fund for Official Language Minority Communities | 69.0 |
| Childcare pilot project | 13.5 |
| Literacy | 7.5 |
| Improving NGOs' means for early childhood development | 4.0 |
| Industry Canada and Federal Economic Development Initiative in Northern Ontario (\$10.9 M) | |
| Economic development initiative | 10.9 |

ANNEX B: DETAILED FINANCIAL COMMITMENTS OF THE 2008-2013 ROADMAP

| Initiatives by department and agency | (\$ millions) |
|--|----------------|
| Justice Canada (\$93.0 M) | |
| <i>Contravention Act</i> Fund | 49.5 |
| Access to justice in both official languages | 41.0 |
| Accountability and coordination framework | 2.5 |
| National Research Council Canada (\$10.0 M) | |
| Language Technologies Research Centre | 10.0 |
| Official Languages Secretariat (\$13.5 M) | |
| Accountability and coordination framework | 13.5 |
| Public Works and Government Services Canada (\$34.0 M) | |
| Government of Canada linguistic portal (TERMIUM®) | 16.0 |
| Language industry initiative | 10.0 |
| University Scholarships Program in Translation | 8.0 |
| Western Economic Diversification Canada (\$3.2 M) | |
| Economic development initiative | 3.2 |
| Total (in millions of dollars) | 1,109.8 |



EDUCATION IMMIGRATION COMMUNITIES

ROADMAP FOR CANADA'S OFFICIAL LANGUAGES 2013-2018



Government
of Canada

Gouvernement
du Canada

Canada

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represented by the Minister of Canadian Heritage and Official Languages, 2013

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MESSAGE FROM PRIME MINISTER OF CANADA



Canada has a rich culture and history that are the product of Canadians' aspirations and accomplishments. The peoples who formed our vast country did not all speak the same language. They did not all share the same culture. But our peoples did come together. The bonds between us were strengthened and an exceptional feeling of solidarity arose. Over the centuries, our country became enriched with extraordinary diversity. As Canadians, we are very proud of the coexistence of our two national languages. Our cultural diversity is our greatest asset.

All across our vast territory, French- and English-speaking majority and minority communities help make Canada a remarkable country.

Our Government is committed to promoting Canada's official languages, as well as the vitality of official language minority communities. We offer ongoing support to promote, celebrate, and strengthen linguistic duality in Canada.

The *Roadmap for Canada's Official Languages 2013–2018: Education, Immigration, Communities* gives our Government the means to take concrete action in the fields that Canadians consider important: education, immigration, and community support.

As Prime Minister, I am proud to present the *Roadmap for Canada's Official Languages 2013–2018* to Canadians. By building on the successes of the last five years, this Roadmap shows the way forward to an even stronger and more united Canada—a Canada where English and French, the languages of our national identity, are a greater source of pride for all Canadians than ever before.

A handwritten signature in blue ink, which appears to be "Stephen Harper".

The Right Honourable Stephen Harper

MESSAGE FROM THE MINISTER OF CANADIAN HERITAGE AND OFFICIAL LANGUAGES



French and English, Canada's official languages, are an invaluable asset to all Canadians. They are a part of our history and identity. They allow us to express our culture in all its diversity and highlight Canadian excellence around the world. Here at home, French- and English-speaking communities in every province and territory contribute to our society's cultural, social and economic vitality.

Our Government is committed to promoting Canada's linguistic duality and the development of official language minority communities. By presenting the *Roadmap for Canada's Official Languages 2013–2018: Education, Immigration, Communities*, we are continuing the work we began five years ago.

Under this new Roadmap, we are combining the efforts of some fifteen Government of Canada departments and agencies, as well as the efforts of our partners, to take targeted, effective action in three key areas: education, immigration, and community support. Our goal is clear: to give Canadians the means to develop and grow in French and in English and fully participate in society.

As Minister of Canadian Heritage and Official Languages, I would like to thank every Canadian who took part in our Government's consultations on official languages and future perspectives. The Roadmap builds on the participants' vision and the successes of the past few years to help create a country in which Canadians from all walks of life can benefit from Canada's linguistic duality and make their contributions to society in the official language of their choice.

A handwritten signature in black ink, appearing to read 'James Moore', written in a cursive style.

The Honourable James Moore

The portal CliquezJustice.ca offers simplified legal information in plain language to the French-speaking Canadians minority communities of Canada.

Provincial and territorial services in the language of the minority

Provinces and territories provide services important to citizens' wellbeing. While New Brunswick is the only officially bilingual province, more and more provinces and territories guarantee services in both official languages. Canadian Heritage will carry on its longstanding **cooperation with provinces and territories** to enable Canadians living in an official language minority community to access key government services in their language.

“The Roadmap also supports the provincial government and makes possible different French-language provincial services, including the Office of French Services and French immersion programs in English schools, as well as the use of French in provincial school programs.”

Gaël Corbineau, Executive Director,
Fédération des francophones de Terre-Neuve-et-Labrador
The Telegram, July 19, 2012

ACCOUNTABILITY AND RESULTS

Canadians have said they want to better understand and track Roadmap investments and see direct results. The Government will work to continually improve initiatives and the way that the Roadmap partners work together and collectively report on their results.

Streamlined governance

Official language initiatives mobilize the efforts of a large number of federal institutions. In doing so, any duplication of efforts must be eliminated and efficiencies gained. The Government of Canada will intensify its efforts to streamline and harmonize the governance infrastructure for official language activities within the federal system.

Rigorous performance measurement

With the new Roadmap, federal institutions have committed to focussing on efficiency in the use of public funds and program delivery. The performance measurement tools they will need to deliver clear and integrated reports on progress and tangible results will be established at the outset. This will permit rigorous monitoring of all initiatives launched under the new Roadmap to confirm that they emphasize direct services to Canadians and concrete results.

The Government of Canada will work to improve the coordination and management of all Roadmap activities to strengthen its official languages capacity and ultimately allow Canadians to enjoy the benefits of linguistic duality, live and work in communities that reflect Canadian values with respect to the use of English and French, and have access to government services in the official language of their choice.

ANNEX A

DETAILED FINANCIAL COMMITMENTS OF THE NEW ROADMAP FOR CANADA'S OFFICIAL LANGUAGES 2013-2018: EDUCATION, IMMIGRATION, COMMUNITIES

TOTAL FINANCIAL COMMITMENTS — \$1124.11M

Education — \$657.99M

Canadian Heritage

| | |
|---|-----------|
| Support for minority language education | \$265.02M |
| Support for second-language learning | \$175.02M |
| Summer language bursaries | \$36.60M |
| Official language monitors | \$18.60M |
| Exchanges Canada | \$11.25M |

Health Canada

| | |
|--|-----------|
| Training, networks and access to health services (education component) | \$106.50M |
|--|-----------|

Justice Canada

| | |
|---|----------|
| Networks, training and access to justice services (education component) | \$19.00M |
|---|----------|

Public Works and Government Services Canada

| | |
|---------------------------|----------|
| Language Portal of Canada | \$16.00M |
|---------------------------|----------|

National Research Council

| | |
|--|----------|
| Strengthening the language industry and technologies | \$10.00M |
|--|----------|

Immigration — \$149.50M

Citizenship and Immigration Canada

| | |
|---|-----------|
| Language training for economic immigrants | \$120.00M |
| Immigration to official language minority communities (including Support to Francophone immigration in New Brunswick) | \$29.50M |

Communities – \$316.62M

Canadian Heritage

| | |
|---|----------|
| Support for official language minority communities | \$22.26M |
| Intergovernmental cooperation | \$22.26M |
| Community Cultural Action Fund | \$10.00M |
| Music Showcases Program for Artists from official language minority communities | \$5.75M |
| National Translation Program for Book Publishing | \$4.00M |
| Market Access Strategy for Artists from official language minority communities | \$2.75M |

Health Canada

| | |
|--|----------|
| Training, networks and access to health services (communities component) | \$67.80M |
|--|----------|

Justice Canada

| | |
|---|----------|
| Contraventions Act Fund | \$49.60M |
| Networks, training and access to justice services (communities component) | \$21.20M |

Human Resources and Skills Development Canada

| | |
|---|----------|
| Enabling Fund for official language minority communities | \$69.00M |
| Official language minority communities Literacy and Essential Skills Initiative | \$7.50M |
| Social Partnership Initiative in official language minority communities | \$4.00M |

Industry Canada

| | |
|---|---------|
| Economic Development Initiative for regional operations | \$1.60M |
|---|---------|

Federal Economic Development Agency for Northern Ontario (FedNor)

| | |
|--|---------|
| Economic Development Initiative (FedNor) | \$4.45M |
|--|---------|

Canada Economic Development (CED) for Quebec Regions

| | |
|---------------------------------------|----------|
| Economic Development Initiative (CED) | \$10.20M |
|---------------------------------------|----------|

Atlantic Canada Opportunities Agency (ACOA)

| | |
|--|---------|
| Economic Development Initiative (ACOA) | \$6.20M |
|--|---------|

Federal Economic Development Agency for Southern Ontario (FedDev)

| | |
|--|---------|
| Economic Development Initiative (FedDev) | \$4.45M |
|--|---------|

Western Economic Diversification Canada

| | |
|--------------------------------------|---------|
| Economic Development Initiative (WD) | \$3.20M |
|--------------------------------------|---------|

Canadian Northern Economic Development Agency (CanNor)

| | |
|--|---------|
| Economic Development Initiative (CanNor) | \$0.40M |
|--|---------|



Investing in Our Future
2018–2023
ACTION PLAN FOR
OFFICIAL LANGUAGES

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MINISTERS PARTNERING IN THE ACTION PLAN

Mélanie Joly

Minister of Canadian Heritage

Navdeep Bains

Minister of Innovation, Science and Economic Development

Jean-Yves Duclos

Minister of Families, Children and Social Development

Patty Hajdu

Minister of Employment, Workforce Development and Labour

Ahmed Hussen

Minister of Immigration, Refugees and Citizenship

Ginette Petitpas Taylor

Minister of Health

Jody Wilson-Raybould

Minister of Justice and Attorney General of Canada

Amarjeet Sohi

Minister of Infrastructure and Communities

Scott Brison

President of the Treasury Board

Carla Qualtrough

Minister of Public Services and Procurement

MESSAGE FROM THE PRIME MINISTER



The Right Honourable Justin Trudeau

English and French, our two official languages, are at the heart of our identity as a country. The contributions of official-language minority communities are vital to Canada's success.

Throughout their history, official-language minority communities have faced considerable challenges. As a French immersion teacher in Vancouver, I witnessed these challenges myself. In fact, I met many people whose quality of life, sense of belonging and hope of a promising future relied to a great extent upon having access to services, resources and community activities in French.

I am convinced that all Canadians can benefit from having the chance to know and celebrate their two official languages. That's why I have entrusted the Minister of Canadian Heritage with the responsibility of

promoting our official languages. I have asked her to work with her colleagues in Cabinet to ensure that all Canadians can expand their horizons, enrich their lives through others and participate in Canada's prosperity, in English and French.

The Action Plan for Official Languages 2018–2023: Investing in Our Future reflects our government's broad vision of a strong Canadian Francophonie, of Quebec's vibrant English-speaking communities and a bilingualism that encourages exchange and recognizes our English and French linguistic heritage.

This plan reaffirms our government's commitment to official languages. It is the result of the efforts of numerous dedicated Canadians over many years. On a personal note, I am proud that the plan builds on a legacy that is important to me, as my father, Prime Minister Pierre Elliott Trudeau, introduced the *Official Languages Act* in the House of Commons. He said, "We believe in two official languages and in a pluralist society not merely as a political necessity but as an enrichment." Our government believes this as well and will spare no effort to ensure that our official languages continue to play an important role for the benefit of all Canadians.

MESSAGE FROM THE MINISTER



The Honourable Mélanie Joly

Throughout its history, Canada has created an identity all its own—one built on diversity, on reconciliation with Indigenous Peoples and on linguistic duality. Today, our two official languages, English and French, are both an asset and a source of pride.

As Minister of Canadian Heritage and Minister responsible for official languages and a French-speaker, I am strongly attached to our official languages and I am aware of the realities of our official-language minority communities. I am committed to building the vitality of these communities and to promoting English and French in all regions of the country.

I sincerely thank all Canadians, as well as all those involved in civil society and the public service, who have worked together to develop the Action Plan for Official Languages 2018–2023.

This plan, supported by our 2018 Budget, maintains current funding levels while also adding a historic investment of nearly \$500 million over five years in support of official languages. It also includes additional financial resources for successful programs and promising initiatives. This plan supports organizations that, over the past decade, have firelessly served members of their communities and have remained on course despite the challenges and lack of resources. It also encourages bilingualism while reminding us that our official languages are of great relevance to Canada, today and tomorrow.

The first action plan put in place by the Government in 2003 included the tools and structure necessary to support the vitality of minority communities across the country. Our new plan follows that same spirit, confirming our commitment to protecting official languages. It strengthens the Canadian Francophonie and recognizes the unique characteristics of official-language minority communities in Quebec and across the country. Our communities will be able to continue to grow, develop and contribute to the pride of our citizens. The plan also aims to bring people together, encouraging Canadians to discover the richness of bilingualism and the diversity of both cultures.

I have met thousands of Canadians who have told me their stories and expressed how fundamental their language is to their identity. This plan is action-oriented, with an aim to ensure the sustainability of linguistic communities across the country. On the eve of the 50th anniversary of the *Official Languages Act*, our government reaffirms the importance of our linguistic duality and bilingualism as the foundation of the social contract that brings us together.

ANNEX 1: SUMMARY OF GOVERNMENT INVESTMENTS

| Department, name of program/initiative | Total funding 2018–2023 (\$M) |
|--|----------------------------------|
| CANADIAN HERITAGE (CH) | |
| Development of Official-Language Minority Communities Program | |
| - Minority-language education (federal-provincial-territorial agreements) | 805.10 |
| - Cooperation with the non-governmental sector (minority-language organizations) | 8.75 |
| - Intergovernmental Cooperation on Minority-Languages Services (federal-provincial-territorial agreements) | 81.00 |
| - Cooperation with the community sector (minority organizations) | 159.50 |
| - Strategic Fund | 22.50 |
| - Community Cultural Action Fund (CCAF) | 10.00 |
| New | |
| - Additional funding for community organizations (PCH) | 57.37 |
| - Enhancement of the Community Cultural Action Fund (CCAF) | 11.16 |
| - Funding for Quebec English-speaking communities | 5.28 |
| - Strengthening community media and radio | 14.53 |
| - Support for community spaces - infrastructure | 67.25 |
| - Strengthening strategic investment capacity | 10.00 |
| - Support to Civic Community School Initiative | 5.25 |
| - Recruitment of teachers for minority community schools | 31.29 |
| - Enhanced support for French-language services in the territories | 60.00 |
| - Support for Educational Community Infrastructure (\$80M over 10 years) | 28.00 |
| Enhancement of Official Languages Program | |
| - Support for Second-Language Learning (federal-provincial-territorial agreements) | 448.00 |
| - Cooperation with the non-governmental Sector (second-language organizations) | 4.85 |
| - Summer language bursary (Explore, Destination Clic) | 84.50 |
| - Official-language monitors (Odyssey) | 35.50 |
| - Promotion of linguistic duality (appreciation and rapprochement) | 18.50 |
| - Promotion of bilingual services in the voluntary sector | 1.10 |
| - Support for interpretation and translation | 2.50 |
| - Young Canada Works in Both Official Languages | 18.63 |

| Department, name of program/initiative | Total funding 2018–2023 (\$M) |
|---|----------------------------------|
| New | |
| - Mobile application for learning French and English as a second language | 16.50 |
| - Enhanced support – Explore language bursary program | 21.00 |
| - Enhanced support – Odyssey official-languages monitor program | 17.50 |
| - Bursaries for post-secondary education in French as a second language | 12.60 |
| - Recruitment of teachers for French immersion schools | 31.29 |
| - Additional support for Young Canada Works in Both Official Languages | 1.20 |
| Other PCH Programs | |
| - Exchanges Canada (official-languages initiative) | 11.25 |
| - Music Showcases Program for Artists From Official Language Minority Communities (OLMCs) | 5.75 |
| - National Translation Program for Book Publishing | 4.00 |
| | |
| Total – Canadian Heritage | 2 111.65 |

| EMPLOYMENT AND SOCIAL DEVELOPMENT CANADA (ESDC) | |
|---|---------------|
| - Social Partnership Initiative in OLMCs | 4.00 |
| - OLMCs Literacy and Essential Skills Initiative | 7.50 |
| - Enabling fund for OLMCs (employability and economic development.) | 69.00 |
| New | |
| - Additional funding for community organizations (ESDC) | 4.50 |
| - Support for early childhood development | 20.00 |
| | |
| Total – Employment and Social Development Canada | 105.00 |

| HEALTH CANADA (HC) | |
|---|---------------|
| - Official Languages Health Contribution Program (networks, training and access to health services) | 174.30 |
| New | |
| - Additional funding for community organizations (HC) | 4.40 |
| - Enhancement of the Official Languages Health Contribution Program | 12.50 |
| | |
| Total – Health Canada | 191.20 |

| Department, name of program/initiative | Total funding 2018–2023 (\$M) |
|--|----------------------------------|
| IMMIGRATION, REFUGEES AND CITIZENSHIP CANADA (IRCC) | |
| - Immigration to official-language minority communities | 29.50 |
| New | |
| - <i>Francophone integration pathway</i> | 36.56 |
| - <i>Cooperation and Accountability</i> | 4.20 |
| | |
| Total – Immigration, Refugees and Citizenship Canada | 70.26 |
| JUSTICE CANADA (JUS) | |
| - Networks, training and access to justice services | 40.20 |
| - Contraventions Act Fund | 49.60 |
| New | |
| - <i>Access to Justice in Both Official Languages Support Fund</i> | 10.00 |
| - <i>Core funding to justice organizations</i> | 3.75 |
| | |
| Total – Justice Canada | 103.55 |
| INNOVATION, SCIENCE AND ECONOMIC DEVELOPMENT CANADA (ISED) | |
| Economic Development Initiative (various institutions) | |
| - ISED (coordination) | 1.60 |
| - Atlantic Canada Opportunities Agency | 6.20 |
| - Canada Economic Development For Quebec Regions | 10.20 |
| - Canadian Northern Economic Development Agency (CanNor) | 0.40 |
| - Federal Economic Development Agency for Northern Ontario | 4.45 |
| - Federal Economic Development Agency for Southern Ontario | 4.45 |
| - Western Economic Diversification Canada | 3.20 |
| | |
| Total - Innovation, Science and Economic Development Canada | 30.50 |

| Department, name of program/initiative | Total funding 2018–2023 (\$M) |
|---|----------------------------------|
| PUBLIC HEALTH AGENCY OF CANADA (PHAC) | |
| New | |
| - Enhanced early childhood health promotion programming | 10.00 |
| | |
| Total – Public Health Agency of Canada | 10.00 |
| CANADA COUNCIL FOR THE ARTS (CCA) | |
| - Market Access Strategy for Artists from OLMCs | 2.75 |
| | |
| Total – Canada Council for the Arts | 2.75 |
| NATIONAL RESEARCH COUNCIL (NRC) | |
| - Strengthening Language Industries and Technologies | 10.00 |
| | |
| Total – National Research Council | 10.00 |
| PUBLIC SERVICES AND PROCUREMENT CANADA (PSPC)–TRANSLATION BUREAU | |
| - Language Portal of Canada | 16.00 |
| | |
| Total – Public Services and Procurement Canada | 16.00 |
| STATISTICS CANADA (StatCan) | |
| New | |
| - Additional, continued support to the Language Statistics Section | 3.00 |
| | |
| Total – Statistics Canada | 3.00 |
| | |
| TOTAL – GOVERNMENT PROGRAMS/INITIATIVES PROMOTING OFFICIAL LANGUAGES | 2 653.91 |



Canadian
Heritage

Patrimoine
canadien

Canada



ENGLISH AND FRENCH: TOWARDS A SUBSTANTIVE EQUALITY OF OFFICIAL LANGUAGES IN CANADA

The Government has already committed to appointing only functionally bilingual judges to the Supreme Court of Canada. In 2016, it introduced a process for appointing these judges that evaluates candidates' bilingualism; that process has been rigorously followed ever since. In order to reaffirm its commitment, the Government proposes to legislate on this aspect in the Act by amending subsection 16(1) and removing the exception that applies to the Supreme Court of Canada so that federal courts may fully recognize the equal status of the country's two official languages.

In the development of this proposal, it will be necessary to keep in mind the importance of the representativeness of Indigenous peoples in the highest institutions of our country. The growing presence of highly qualified Indigenous jurists leads the Government to actively envision the appointment of Indigenous judges to the Supreme Court of Canada.

Legislative proposals

- Enshrine the existence of the Court Challenges Program in the Act.
- Provide in the Act a commitment with regard to simultaneous access—by the public and in both languages—to final decisions of public interest or precedential value rendered by federal courts.
- Take stock in the Act of the Government's commitment to support, through an independent third party, a program that supports test cases on language rights before the courts.
- Remove the exception relative to the Supreme Court from section 16 of the Act. The Government will take into account the case law on the composition and eligibility criteria of the Supreme Court in developing this proposed legislative amendment.

5.2 Strengthening a central agency, internal levers of accountability and coordination

While all federal institutions are subject to the Act, some have specific roles and responsibilities consistent with their respective mandates. The Treasury Board of Canada Secretariat develops regulations and policies regarding communications with and services to the public, the language of work, and the equitable participation of Anglophones and Francophones in the federal public service. It also ensures compliance with these requirements. The Department of Justice provides legal advice to the government, represents it before the courts, drafts legislation and regulations, and promotes access to justice in both official languages. For its part, the Department of Canadian Heritage coordinates the preparation of government-wide federal strategies on official languages, in addition to ensuring interdepartmental coordination of the implementation of Part VII of the Act, which is aimed at enhancing the vitality of official language minority communities, support their development, and promote the full recognition and use of both official languages in Canadian society.

Over the years, various committees of senior officials (deputy ministers or assistant deputy ministers) have been established to ensure ongoing dialogue among the main departments and agencies that play an important role in official languages, particularly with respect to the government-wide federal strategies.

Despite these mechanisms, the official languages file poses certain challenges around coordination and implementation. Several stakeholders note that, within the government, no single institution is responsible for coordinating and monitoring all federal institutions.^{vii} **Accountability measures are fragmented** into multiple processes and reports, and they are not always conducted in a timely manner. During the development of policies and programs and decision making, evaluative processes with respect to the potential impact on official language minority communities are not always applied in a uniform fashion.

vii A summary of these criticisms and the organizations that made them appear in the 2019 report on the modernization of the Act.

Stakeholders have often proposed to entrust the coordination of all federal official languages activities to a single minister and to entrust the monitoring of implementation to the Treasury Board Secretariat.

The Treasury Board already has considerable powers concerning Parts IV, V and VI of the Act, but the use of these powers has declined over time, contributing to a weakening of oversight.

With this in mind, the Government intends to proceed with a series of reforms to strengthen coordination and accountability for official languages.

Legislative proposals

- Strengthen and expand the Treasury Board's powers, notably the power to monitor compliance with Part VII of the Act as appropriate, by providing the Treasury Board Secretariat with the necessary resources so that it assumes the role of a central body responsible for ensuring the compliance of federal institutions and by examining cases where permissive provisions would be made mandatory.
- Assign the strategic role of horizontal coordination to a single minister in order to ensure effective governance and implementation.
- Create the authority to enact policies, directives and other policy instruments to clarify guidelines on positive measures taken by federal institutions under Part VII, and as proposed in section 3.3 of this document.
- Create an obligation for the Government to periodically prepare a government-wide federal strategy (action plan) on official languages that would set out the Government's main priorities and their funding, and that would promote a clearer overall direction.

Administrative proposals

- Create an accountability and reporting framework to orient federal measures on official languages and provide a framework for the application of the Act.
- Strengthen the analysis of the impact on official languages and official language minority communities of initiatives developed by federal institutions.
- Add requirements related to official languages specifically for emergency situations to Treasury Board policy instruments.

5.3 Bilingualism in the public service

One of the pillars of the Act is the presence of Canadians from both major language groups in the federal public service and the opportunity for them to work in the official language of their choice. The Government of Canada is a crossroads where Anglophones and Francophones meet and work together to serve Canadians.

Problems remain in the application of the Government's language of work obligations, identified by both the Commissioner of Official Languages and the Treasury Board Secretariat. A 2017 report (the Borbey-Mendelsohn report^{viii}) highlights a lack of leadership that hinders the implementation of bilingualism in the public service. Too often, executives do not have the capacity to supervise their employees in the official language of their choice and leaders are slow to set an example for their organization. The result is that too many employees in the Government of Canada do not feel comfortable using their official language at work.

Part of the solution will involve taking measures to improve the accountability of federal institutions and the coordination and monitoring functions described in section 5.2, as well as strengthening the mandate of the Commissioner of Official Languages. A change in culture will also have to take place within the public service so that it values the linguistic capital of public servants and improves the quality and accessibility of language training at all hierarchical levels. The bilingual character of our diplomacy and the presence of both official languages

viii "The Next Level: Entrenching a Culture of Inclusive Linguistic Duality in the Workplace in the Federal Public Service, Report to the Clerk of the Privy Council," December 2017.

HORIZON 2018: TOWARD STRONGER SUPPORT OF FRENCH-LANGUAGE LEARNING IN BRITISH COLUMBIA



Report of the Standing Senate Committee
on Official Languages #OLLO

MAY 2017

The Honourable Claudette Tardif, Chair
The Honourable Rose-May Poirier, Deputy Chair

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(or Diane Bellemare) and Claude Carignan, P.C.
(or Yonah Martin)

**OTHER SENATORS WHO HAVE PARTICIPATED
FROM TIME TO TIME IN THIS STUDY:**

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Norman E. Doyle, Joan Fraser, Victor Oh,
Michel Rivard (retired), Judith G. Seidman

STAFF MEMBERS:

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Kevin Pittman, Committee Clerk, Committees Directorate
Annie Trudel, Administrative Assistant, Committees Directorate
Geneviève Sicard, Communications Officer (committees), Communications Directorate

RECOMMENDATIONS

► Recommendation 1

That the Minister of Public Services and Procurement:

(a) intervene with Canada Lands Company Ltd., engaging with British Columbia's Ministry of Education and the City of Vancouver to advocate for the need of the *Conseil scolaire francophone de la Colombie-Britannique* in Vancouver, west of Main Street, to promptly acquire lands that are currently 50% owned by Canada Lands Company Ltd. to build two schools that will meet the needs of Vancouver's francophone community; and

(b) adopt regulations requiring federal institutions to take into account the interests and needs of official language minority schools in the sale or transfer of real and personal property, by 2018.

► Recommendation 2

That the Minister of Canadian Heritage, in negotiating the new Protocol for Agreements on Education and the next multi-year official languages plan, conclude a special agreement with British Columbia's Ministry of Education to respond to the pressing infrastructure needs of the francophone community and guarantee the recognition of its rights under section 23 of the *Canadian Charter of Rights and Freedoms* and Part VII of the *Official Languages Act*.

► Recommendation 3

That the Minister of Canadian Heritage launch, by 2018, a national awareness and promotion campaign on both the merits of a French education and an education continuum, from early childhood through post-secondary, building on the full respect of rights guaranteed by section 23 of the *Canadian Charter of Rights and Freedoms*.

► Recommendation 4

That the Minister of Canadian Heritage take steps to support the education continuum as regards:

- (a) support for linguistic and cultural identity building for francophone students; and
- (b) retention of students in the francophone school system, throughout their education.



Investing in Our Future 2018–2023 ACTION PLAN FOR OFFICIAL LANGUAGES

Investing in teacher recruitment strategies

Throughout the consultations, stakeholders emphasized existing teacher shortages in minority communities. In fact, the issue of improving the availability of French teachers across Canada was raised by provinces and territories at last year's *Conférence ministérielle sur la francophonie canadienne*. Therefore, we will allocate **new resources of \$31.3 million over four years, starting in 2019–2020, to develop and support teacher recruitment strategies** for Francophone minority schools. We will engage possible partners like provinces, territories and education stakeholders to develop an approach to allocate these funds.



Ensuring access to quality education in British Columbia

The development of minority-language education in Canada depends on communities having access to adequate facilities. The use of former federal lands for the purpose of building minority-language schools provides an important opportunity. However, the sale and transfer of federal lands remains complex, and decisions regarding the planning, allocation and approval for land uses on these properties involve multiple players.

A clear example of this is found in Vancouver, where the *Conseil scolaire francophone de la Colombie-Britannique* would like to obtain land to build a French-language school. The Government has expressed support for the *Conseil scolaire*, and the Minister of Public Services and Procurement has taken on a leadership role in bringing all stakeholders to the table to make this possible. The owners of the land, the Canada Lands Company CLC Limited and its First Nations joint venture partners, have committed to working with the community while respecting the City of Vancouver's planning process, to explore how future uses for this property could respond to the *Conseil scolaire's* pressing need to acquire land.

Ensuring the needs of official-language minority communities are considered in the use and disposition of federal lands remains a priority for the Government.



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Rescinded [2022-05-13] - Directive on the Sale or Transfer of Surplus Real Property

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Note to reader

The *Directive on the Sale or Transfer of Surplus Real Property* was rescinded on May 13, 2022.

It has been replaced by the real property requirements in the *Policy on the Planning and Management of Investments* and the *Directive on the Management of Real Property*.

1. Effective date

This directive is effective as of November 1, 2006.

2. Application

This directive applies to all departments within the meaning of section 2 of the *Financial Administration Act*, unless specific acts or regulations override it.

3. Context

The Treasury Board *Policy on Management of Real Property* defines the performance expectations for the management of real property throughout its life cycle, including obligations associated with the disposal phase. The policy requires deputy heads to ensure a disposal by sale or transfer is completed in conformance with this directive.

Of particular importance to the sale or transfer of real property are the policy requirements to: undertake a performance assessment of the functionality and utilization of real property and to develop disposal strategies. These strategies, which are partly based on the findings of the

performance assessment, will include plans for the disposal or relinquishment of real property that is no longer required for program purposes and therefore will not be retained by the custodian or occupied by the tenant.

This directive only addresses the obligations of custodians to dispose of surplus real property by sale or transfer. Other disposals, such as easements, leases and licences, are addressed in the Guide to Management of Real Property, as are the relinquishment of real property by tenants, demolitions and other activities of the disposal phase.

Surplus real property is sold or transferred following an established process tailored to the characteristics of the surplus property, i.e., whether it is routine or strategic. In general, routine surplus real properties are properties, or a portfolio of properties with lesser value that can be sold easily without any substantial investment. These properties are normally sold in their "as is" state on the open market by the custodian, its agent (Public Works and Government Services Canada), or a private sector firm.

Strategic surplus real properties are properties or portfolios of properties with potential for significantly enhanced value, those that are highly sensitive, or a combination of these factors. Because of the complexity associated with these properties, they may require innovative efforts and a comprehensive management approach to move them into the market. Canada Lands Company CLC Limited, as the government's disposal agent, disposes of these selected surplus properties through a strategic disposal process.

4. Definitions

Agreement (*Entente*)

An instrument, such as a memorandum of understanding, a memorandum of agreement or an occupancy instrument, that while not legally binding, creates a custodian-tenant relationship by conferring certain real property rights of use or benefits and obligations on the part of the two parties as if it were a truly enforceable instrument.

Custodian (*Gardien*)

A department whose minister has administration of real property for the purposes of that department.

Disposal (*Aliénation*)

A transaction that alienates real property from a department's inventory by sale, lease, licence, exchange, gift, easement, transfer of administration to another department or an agent Crown corporation, or transfer of administration and control to the provincial Crown.

Market Value (*Valeur marchande*)

The price that a property would likely bring in a competitive and open market on a specified date under all conditions required for a fair sale, with the buyer and seller each acting prudently and knowledgeably, and where the price is not affected by undue stimulus.

Public purpose (*Fins publiques*)

For federal departments and agent Crown corporations, "public purpose" means program need; for provinces and municipalities, "public purpose" generally refers to roads, utilities and parks, but could include other public purposes if they were non-commercial and for the "common good" of all citizens.

Surplus real property (*Biens immobiliers excédentaires*)

Real property that is no longer required in support of a department's programs.

Tenant (*locataire*)

A department occupying real property that is under the administration of the minister of another department.

5. Purpose

The sale or transfer of surplus real property has potentially higher risk than activities during other life cycle phases of the management of real property because of the sensitivity or value associated with many of the properties, the numerous diverse stakeholder interests and the importance of horizontal cooperation. This directive is intended to address the issues and ensure that sales or transfers of surplus real property provide for:

- a whole of government perspective;
- efficiency, equity and transparency in transactions;
- best value to the Canadian taxpayer;
- consideration of the interests of communities, including official language minority communities, and other levels of government; and
- the fulfillment of any legal obligations with respect to Aboriginal groups.

This directive is issued pursuant to the *Financial Administration Act*, subsections 7(1), 9(1.1), 9(2) and the *Federal Real Property and Federal Immovables Act*, subsection 16(4).

6. Directive requirements

6.1 Custodians shall conclude the sale or transfer of properties within three years of formal notification of the property being surplus to program requirements. The consideration received for the property must be justified in relation to market value, determined in accordance with the Treasury Board *Appraisal and Estimates Standard for Real Property*.

6.2 Custodians shall categorize surplus properties as either routine or strategic. All surplus properties are considered routine unless they meet at least one of the following criteria, which qualifies them as strategic:

- a. the size or value of the property, or of a portfolio of properties, is significant enough to affect local markets negatively if its integration into the market is not managed;

- b. the value of the property, or properties within a portfolio, can be increased significantly (e.g., through subdivision, rezoning, investment or pre-sale development);
- c. a partnership with another level of government, the private sector or other party may offer the best mechanism to realize either the inherent value of a particular property or portfolio of properties or the greatest benefits to the government beyond the financial return; or
- d. sensitive policy issues exist, including the potential for a substantial gain by a party other than the federal government.

6.3 Custodians shall involve the Treasury Board Secretariat in the final identification of surplus strategic properties in Canada that qualify for sale to the Canada Lands Company CLC Limited (CLC). They shall establish and communicate a process for the effective management of horizontal issues related to their disposal.

6.4 Prior to seeking an indication of interest in the surplus property, custodians shall ensure they can provide interested parties with sufficient information, in the following minimum areas, to allow them to make an informed decision within the timeframes allowed:

- a. legal risk analysis on title, including whether a duty to consult with Aboriginal groups exists;
- b. the property's environmental and physical condition;
- c. archaeological and heritage findings;
- d. risk to wildlife habitat; and
- e. market value of the property.

6.5 Custodians shall formally determine the degree of interest in surplus properties in Canada by simultaneously providing federal departments, agent Crown corporations, provincial and municipal governments an opportunity to:

- a. acquire surplus routine properties for a public purpose, in the priority order noted above, before the property is offered for sale on the open market; or
- b. identify their public purpose interest in surplus strategic properties for equal consideration by the custodian during the development of the disposal strategy.

6.6 Custodians shall provide priority organizations or interested parties 30 days to identify their interest and an additional 90 days to confirm in writing the nature and scope of their interest, supported by a financial commitment. Custodians shall give an additional 120 days to Indian and Northern Affairs Canada to provide written confirmation if the real property is to be acquired to settle a comprehensive land claim.

6.7 In the case of a sale or transfer for public purpose:

- a. Custodians shall ensure their deputy head is satisfied that the acquiring party has demonstrated that the surplus property is required for public purpose consistent with its long-term plans and that the sale or transfer is the best real property decision from a whole-of-government perspective, taking into account the market value of the surplus property based on highest and best use.

- b. Consideration received for property shall be based on market value for continued public purpose use, in accordance with the Treasury Board *Appraisal and Estimates Standard for Real Property*. The variance between the values should inform the conditions of sale, when appropriate.
- c. If surplus property sold or transferred for public purpose can or could potentially be rezoned and resold for profit, custodians shall include appropriate covenants in the conveyance documents to ensure that the original intent of the sale or transfer is respected.

6.8 Custodians shall develop a balanced disposal strategy for strategic surplus properties that is supported by a comprehensive assessment of federal and other stakeholder interests (including those of official language minority communities), the legal risk analysis, and policy and financial considerations. They shall also develop a business case that is further supported by the valuation, determined in accordance with the Treasury Board *Appraisal and Estimates Standard for Real Property*, and by a business plan from Canada Lands Company CLC Limited.

6.9 When the real property is contaminated and the acquiring party is undertaking the required remediation, custodians shall take steps to ensure that it is carried out within a reasonable length of time.

6.10 To share in the net proceeds from the sale or transfer of surplus real property custodians must:

- a. have an approved ***investment plan***;
- b. reinvest the proceeds in real property, consistent with their approved investment plan; and
- c. satisfy the reporting requirements of the Treasury Board *Reporting Standard on Real Property*.

Note: Access to net proceeds is done through the expenditure management process.

7. Responsibilities of other organizations

7.1 Canada Lands Company CLC Limited (CLC) is a federal, non-agent Crown corporation mandated with the commercially oriented, orderly disposal of selected surplus federal properties in Canada. A sale to CLC follows the *strategic disposal process* established by the Treasury Board Secretariat.

7.2 The Department of Justice Canada (DOJ), under the authority of the *Department of Justice Act* and the *Federal Real Property and Federal Immovables Act*, acts as solicitor to departments for real property transactions of all types to ensure that all legal aspects of the transaction have been addressed; provides property-specific legal title search and an assessment as to whether potential or established Aboriginal or treaty rights could be adversely impacted by the disposal of the land and whether a duty to consult is triggered; provides information on any relevant litigation; prepares instruments, contracts and other documents, including approval of their form and legal content; provides legal advice and opinions on real property matters and transactions; countersigns conveyance instruments; and operates a document depository.

7.3 Indian and Northern Affairs Canada (INAC) provides available information about surplus federal properties such as: whether the property is in an area subject to a land cession treaty or completed comprehensive land claim; whether there are ongoing claims negotiations or out-of-court settlement discussions; if the property is subject to any asserted claims; or if there is evidence of use or occupation or history of use and occupation by an Aboriginal group or groups

8. References

Principal legislation

- *Canadian Environmental Assessment Act*
- *Canadian Environmental Protection Act 1999*
- *Federal Real Property and Federal Immovables Act*
- *Federal Real Property Regulations*
- *Historic Sites and Monuments Act*
- *Official Languages Act*
- *Species at Risk Act*

Treasury Board policies

- *Policy on Long-term Capital Plans*
- *Policy on the Management of Real Property*
- *Project Management Policy*
- *Common Services Policy*

Treasury Board directives and standards

- *Accessibility Standard for Real Property*
- *Accounting standards*
- *Appraisals and Estimates Standard for Real Property*
- *Federal Identity Program Manual*
- *Reporting Standard for Real Property*
- *Security standards*

Guidance and tools

- *Best Practices Advisory on Environmental Considerations in Real Property Transactions*
- *E-Learning Tool for the Disposal of Surplus Federal Real Property*
- *Environmental Guide for Federal Real Property Managers*
- *Guide to the management of Real Property*

- [Security Assessment Guidelines](#)

9. Enquiries

Please direct enquiries about this policy instrument to the organizational unit in your department responsible for this subject matter. For interpretation of this policy instrument, the responsible organizational unit should contact: [TBS Public Enquiries](#).

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Directive on the Management of Real Property

i Note to reader

The requirements in the *Directive on the Management of Real Property* take effect on May 13, 2021 and replace the following instruments:

- *Policy on Management of Real Property*
- *Directive on the Sale or Transfer of Surplus Real Property*
- *Accessibility Standard for Real Property*
- *Appraisals and Estimates Standard for Real Property*
- *Reporting Standard on Real Property*
- *Fire Protection Standard*

1. Effective date

- 1.1 This directive takes effect on May 13, 2021.
- 1.2 This directive and its appendices replace the following Treasury Board instruments:
 - sections of the *Policy on Management of Real Property* (November 1, 2006)
 - *Directive on the Sale or Transfer of Surplus Real Property* (November 1, 2006)
 - *Accessibility Standard for Real Property* (November 1, 2006)
 - *Appraisals and Estimates Standard for Real Property* (November 1, 2006)
 - *Reporting Standard on Real Property* (November 1, 2006)
 - *Fire Protection Standard* (April 1, 2010)
- 1.3 Departments will have 12 months to transition to the new directive.

2. Authorities

- 2.1 This directive is issued pursuant to the same authorities indicated in section 2 of the *Policy on the Planning and Management of Investments* and subsection 149(1) of the *Financial Administration Act*.

3. Objectives and expected results

- 3.1 The objective of this directive is that real property is planned, acquired, used, and disposed of in a manner that supports the delivery of programs and services to Canadians while ensuring best value to the Crown.
- 3.2 The expected results of this directive are as follows:
- 3.2.1 Real property is managed in a manner that enables operational outcomes, demonstrates sound stewardship and provides best value, consistent with the Government of Canada's socio-economic and environmental objectives;
 - 3.2.2 Real property decisions are based on risk management practices, performance information and an assessment of full life-cycle costs;
 - 3.2.3 Effective governance and oversight mechanisms are in place to support the management of real property;
 - 3.2.4 Opportunities for collaboration are considered in real property decisions;
 - 3.2.5 Workforce capacity for real property management is developed and maintained commensurate with organizational need;
 - 3.2.6 Transactions related to real property are fair, open and transparent, and demonstrate due diligence; and
 - 3.2.7 Acknowledging the relationship between Indigenous peoples and the land, real property management decisions contribute to reconciliation with Indigenous peoples.

4. Requirements

Senior designated official(s) for the management of real property

- 4.1 The senior designated official(s) for the management of real property in a custodian department is responsible for the following:
- 4.1.1 Establishing, implementing and maintaining a department-wide real property management framework consisting of processes, systems and controls that:
 - 4.1.1.1 Include oversight, planning and reporting mechanisms;
 - 4.1.1.2 Incorporate performance results and lessons learned to inform real property decision-making;
 - 4.1.1.3 Include an information system that:

- 4.1.1.3.1 Enables the collection and generation of comprehensive and accurate data on real property holdings, operations and transactions;
- 4.1.1.3.2 Enables year-over-year comparison;
- 4.1.1.3.3 Is linked to departmental financial information systems and processes;
- 4.1.1.3.4 Enables the development and maintenance of a portfolio-level decarbonization plan; and
- 4.1.1.3.5 Supports government-wide reporting requirements;
- 4.1.1.4 Contribute the real property perspective to departmental planning functions, including ensuring that the real property portfolio strategy inputs to the department's investment plan are in accordance with the *Policy on the Planning and Management of Investments*, Appendix A: Mandatory Procedures for Investment Plans; and
- 4.1.1.5 Facilitate collaboration between real property officials and program leads to enable informed and integrated real property management decisions;
- 4.1.2 Providing advice to the deputy head on:
 - 4.1.2.1 The nature, structure and resourcing of the department's real property management function;
 - 4.1.2.2 Significant gaps in performance and issues of non-compliance with the requirements of this directive;
 - 4.1.2.3 The department's real property portfolio strategy;
 - 4.1.2.4 Investments required to maintain the integrity of the department's real property portfolio and to optimize its operational efficiency, environmental performance and climate resiliency; and
 - 4.1.2.5 Seeking the necessary Treasury Board approvals when the value of a transaction will exceed the Transaction Approval Limits and Conditions for the Acquisition or Disposition of Real Property;
- 4.1.3 Identifying and managing the department's needs with respect to the necessary competencies, capacity, and professional development in real property management;

- 4.1.4 Ensuring the development, implementation and monitoring of a real property portfolio strategy;
- 4.1.5 **Cultivating relationships with Indigenous peoples on matters related to real property;**
- 4.1.6 Ensuring that real property transactions are conducted in a manner that:
 - 4.1.6.1 Is fair,
 - 4.1.6.2 Aligns with commercial real estate practices,
 - 4.1.6.3 **Respects treaties and other agreements between the Crown and Indigenous peoples, and**
 - 4.1.6.4 Includes an open solicitation of offers unless the minister is satisfied that the nature of the transaction would make an open solicitation of offers inappropriate or not in the public interest;
- 4.1.7 Ensuring compliance with appropriate building codes, fire codes and applicable specialized standards;
- 4.1.8 Investigating serious fires, in cooperation with local authorities, and ensuring that resulting recommendations are addressed; and
- 4.1.9 Certifying annually to the Treasury Board of Canada Secretariat the completeness and accuracy of the information submitted to the:
 - 4.1.9.1 Directory of Federal Real Property;
 - 4.1.9.2 Federal Contaminated Sites Inventory; and
 - 4.1.9.3 Government of Canada's Greenhouse Gas Emissions Inventory.

Real property practitioners

- 4.2 Real property practitioners in a custodian department are responsible for the following:

Engagement with Indigenous peoples

- 4.2.1 **Engaging Indigenous peoples on matters related to real property to fulfill duties and obligations of the Crown, and respond to interests as appropriate;**

Planning and governance

- 4.2.2 Supporting the senior designated real property official(s) in establishing, implementing and maintaining the real property management framework;
- 4.2.3 Operating and maintaining a real property information system;

4.2.4 Monitoring the functionality, utilization, and physical, environmental and financial performance of real property assets over their life-cycle;

4.2.5 Developing the real property portfolio strategy;

Stewardship and use

4.2.6 Maintaining the physical performance and functionality of real property;

4.2.7 Supporting the optimization of the real property portfolio by identifying real property that is underutilized, inefficient or no longer needed for departmental programs in order to:

4.2.7.1 Better utilize the property in the context of the real property portfolio strategy;

4.2.7.2 Dispose of surplus real property; or

4.2.7.3 Manage surplus real property that cannot be disposed of in a way that reduces costs while minimizing Crown liability;

4.2.8 Identifying opportunities to share special-purpose real property by assessing the costs and benefits of co-locating with other federal departments, other levels of government, and other organizations that have complementary objectives;

4.2.9 Charging the following in co-occupation and lease-out situations:

4.2.9.1 Costs of occupation, on a prorated basis, to other federal departments, other levels of government, and public institutions, such as universities, that co-occupy special-purpose real property, in order to advance or support complementary objectives; or

4.2.9.2 Market rent in all other situations where a party occupies underutilized federal real property that is still needed for program purposes;

4.2.10 Having occupancy, lease or licence agreements that set out the roles and responsibilities of the parties involved;

4.2.11 Ensuring that parties not subject to this directive that occupy federal real property do not impede the delivery of federal programs and departmental compliance with the requirements of this directive;

4.2.12 Undertaking due diligence to protect the Crown's interest when entering into agreements specified in subsection 4.2.10;

4.2.13 Consulting with the Department of Justice Canada, Indigenous Services Canada, and Crown-Indigenous Relations and Northern Affairs Canada when the Crown

contemplates a change in use of real property;

- 4.2.14 **Considering opportunities to co-own, co-manage, or share the use of real property with Indigenous groups, recovering costs as and where appropriate;**
- 4.2.15 Limiting the negative environmental impact of real property in a way that is consistent with the government's sustainable development objectives, including reducing or avoiding to the degree possible:
 - 4.2.15.1 Waste production;
 - 4.2.15.2 Resource and energy use;
 - 4.2.15.3 Greenhouse gas emissions; and
 - 4.2.15.4 Site contamination;
- 4.2.16 Taking immediate and reasonable action to mitigate risk to human health and to the environment in the event of contamination, before assessing a future course of action;
- 4.2.17 Managing contaminated sites by:
 - 4.2.17.1 In Canada, following standards and guidelines endorsed by the Canadian Council of Ministers of the Environment, or their equivalents;
 - 4.2.17.2 Outside of Canada, complying with applicable environmental legislation or regulations and, where none exist, adopting appropriate Canadian best practices to minimize the impacts of contamination;
 - 4.2.17.3 Assessing suspected and known contaminated sites to determine the most appropriate, sustainable, and cost-effective action;
 - 4.2.17.4 Prioritizing remediation or risk management activities on sites that pose the highest risk to human health and the environment; and
 - 4.2.17.5 Undertaking site remediation or risk management to the extent required for current or intended federal use, unless the department can demonstrate that more stringent remediation would represent best value to the federal government;
- 4.2.18 Implementing the commitments set out in the Greening Government Strategy;
- 4.2.19 Considering diversity, including gender identity and gender expression, in the design and provision of built amenities;

- 4.2.20 Conserving the heritage value of federal heritage properties in Canada by following the procedures set out in Appendix A: Mandatory Procedures for Heritage Assessment and Conservation;
- 4.2.21 Conducting appraisals and estimates following Appendix B: Mandatory Procedures for Appraisals and Estimates;
- 4.2.22 Providing barrier-free access to federal real property as prescribed in Appendix D: Standard on Barrier-Free Access to Real Property;

Acquisition

- 4.2.23 Validating the need for acquiring real property based on program needs and on the real property portfolio strategy;
- 4.2.24 Undertaking a full life-cycle analysis, before acquiring a real property asset or interest, to seek best value;
- 4.2.25 Undertaking due diligence with respect to the following and other considerations, as appropriate, before acquiring real property:
 - 4.2.25.1 **Title, including asserted or established Aboriginal or treaty rights;**
 - 4.2.25.2 Environmental condition and performance, including an analysis of the potential to improve the asset's environmental performance over its life-cycle;
 - 4.2.25.3 Physical performance;
 - 4.2.25.4 Heritage value considerations, including for archaeological sites;
 - 4.2.25.5 Security considerations;
 - 4.2.25.6 Accessibility considerations; and
 - 4.2.25.7 Market value or market rent of the property, except as described in subsection B.2.2.1.3;
- 4.2.26 Acquiring real property is in a manner that:
 - 4.2.26.1 Is fair,
 - 4.2.26.2 Aligns with commercial real estate practices,
 - 4.2.26.3 **Respects treaties and other agreements between the Crown and Indigenous peoples, and**

- 4.2.26.4 Includes an open solicitation of offers unless the minister is satisfied that the nature of the transaction would make an open solicitation of offers inappropriate or not in the public interest;
- 4.2.27 Justifying the amount paid for transfers of administration from agent Crown corporations, transfers of administration and control, and purchases of real property, including any goods and services acquired through these transactions, in relation to market value as set out in Appendix B: Mandatory Procedures for Appraisals and Estimates;

Disposal

- 4.2.28 Undertaking due diligence with respect to the following, at a minimum, before disposing of real property:
- 4.2.28.1 Title, including asserted or established Aboriginal or treaty rights;
 - 4.2.28.2 Environmental condition;
 - 4.2.28.3 Physical performance;
 - 4.2.28.4 Heritage value of federal heritage properties or archaeological sites on federal land;
 - 4.2.28.5 Security conditions; and
 - 4.2.28.6 Market value of the property, except as described in subsection B.2.2.1.3;
- 4.2.29 Disclosing the results of due diligence measures to prospective purchasers, where appropriate;
- 4.2.30 Consulting with the Department of Justice Canada, Indigenous Services Canada, and Crown-Indigenous Relations and Northern Affairs Canada when the Crown contemplates a disposal of real property by way of sale, exchange, gift, easement, transfer of administration, or transfer of administration and control;
- 4.2.31 Consulting with Indigenous peoples when there is a legal duty to consult about an intent to dispose of real property;
- 4.2.32 Consulting with Canada Lands Company CLC Limited (CLC) to identify surplus real property for potential sale to CLC when any of the following criteria apply:
- 4.2.32.1 The size of the property or the value of the sale could negatively affect markets if it is not appropriately managed;
 - 4.2.32.2 There is an opportunity to add value through redevelopment;

- 4.2.32.3 Partnerships with other organizations could be the best mechanism to increase benefits to the government and to Canadians; or
- 4.2.32.4 Sensitive policy issues exist;
- 4.2.33 Obtaining the endorsement of the Treasury Board of Canada Secretariat on the identification of surplus real property in Canada that qualifies for sale to CLC;
- 4.2.34 Soliciting expressions of public purpose interest in all or a portion of the site simultaneously from federal departments, agent Crown corporations, provinces, municipalities, and Indigenous groups;
- 4.2.35 Notifying CLC and official language minority communities of the intent to dispose of real property;
- 4.2.36 Granting priority to acquire the entire site for public purpose in the following order:
 - 4.2.36.1 federal departments;
 - 4.2.36.2 agent Crown corporations;
 - 4.2.36.3 provinces;
 - 4.2.36.4 municipalities and Indigenous groups;
- 4.2.37 Providing CLC the opportunity to acquire properties identified in subsection 4.2.33 if no priority public purpose interest for the entire site has been identified under subsection 4.2.34;
- 4.2.38 Ensuring that identified public purpose interests in a portion(s) of a site, and an obligation to reasonably accommodate them, are included in agreements with CLC;
- 4.2.39 Developing a business case for the disposal of surplus real property, supported by the valuation that was determined in accordance with Appendix B: Mandatory Procedures for Appraisals and Estimates, and by a business plan from CLC, when any of the criteria in subsection 4.2.32 have been met;
- 4.2.40 Disposing of real property in a manner that:
 - 4.2.40.1 Is fair,
 - 4.2.40.2 Aligns with commercial real estate practices,
 - 4.2.40.3 Respects treaties and other agreements between the Crown and Indigenous peoples, and

- 4.2.40.4 Includes an open solicitation of offers unless the minister is satisfied that the nature of the transaction would make an open solicitation of offers inappropriate or not in the public interest;
- 4.2.41 Mitigating the risk associated with the disposal of sites containing contamination by any of the following:
 - 4.2.41.1 Remediating the sites or taking action to manage the risks associated with the contamination before disposing of the sites;
 - 4.2.41.2 Requiring that the acquiring party remediate the site after disposal;
 - 4.2.41.3 Ensuring the legal transfer of environmental liability to the acquiring party;
- 4.2.42 Transferring administration of real property to other federal departments and exchanging funds at a value to be agreed upon between the departments, but no greater than the market value determined according to the procedures set out in Appendix B: Mandatory Procedures for Appraisals and Estimates;
- 4.2.43 Justifying the amount paid for transfers of administration to agent Crown corporations, transfers of administration and control, and sales of real property, in relation to market value according to the procedures set out in Appendix B: Mandatory Procedures for Appraisals and Estimates; and

Reporting

- 4.2.44 Ensuring that information is reported in accordance with Appendix C: Mandatory Procedures for Reporting.

5. Roles of other government organizations

- 5.1 This section identifies the roles of other key government organizations in relation to this directive. In and of itself, this section does not confer any authority.
 - 5.1.1 The Federal Heritage Building Review Office at Parks Canada Agency is responsible for the following:
 - 5.1.1.1 Establishing the criteria and a process for designating federal heritage properties;
 - 5.1.1.2 Developing policies, standards and guidelines, and providing advice and recommendations to other departments for the evaluation and conservation of federal heritage properties and archaeological sites on federal lands; and

5.1.1.3 Maintaining a directory of federal heritage properties, including federal heritage buildings, national historic sites, heritage lighthouses, and heritage railway stations.

5.1.2 The Chief Appraiser of Canada at Public Services and Procurement Canada is responsible for providing appraisals used for real property conveyances.

6. Application

- 6.1 This directive applies to the organizations listed in section 6 of the *Policy on the Planning and Management of Investments* that have or will have administration of real property, within the meaning of section 18 of the *Federal Real Property and Federal Immovables Act*.
- 6.2 For the purposes of the interpretation of this directive in the Province of Quebec, “real property” means “immovable” within the meaning of civil law in the Province of Quebec and includes the rights of a lessee in respect of such an immovable.
- 6.3 Reporting requirements in subsection 4.2.44 of this directive also apply to the following organizations, unless specific acts or regulations override it:
- 6.3.1 Directory of Federal Real Property: agent Crown corporations, within the meaning of subsection 83(1) of the *Financial Administration Act*; and
- 6.3.2 Federal Contaminated Sites Inventory: consolidated Crown corporations as described in the Public Accounts of Canada.

7. References

This directive should be read in conjunction with the following legislation and policy instruments. Although items listed are considered the most relevant to departments’ and agencies’ ability to comply with the requirements in this directive, the list should not be considered exhaustive.

7.1 Legislation

- *Accessible Canada Act*
- *Canada Labour Code, Part II*
- *Canada Marine Act*
- *Canada National Parks Act*
- *Canadian Human Rights Act*
- *Department of Natural Resources Act*
- *Federal Real Property and Federal Immovables Act*
- *Financial Administration Act*
- *Fisheries Act*
- *Heritage Lighthouse Protection Act*

- *Historic Sites and Monuments Act*
- *Impact Assessment Act*
- *Indian Act*
- *Migratory Birds Convention Act, 1994*
- *National Capital Act*
- *Northwest Territories Act*
- *Nunavut Act*
- *Official Languages Act*
- *Parks Canada Agency Act*
- *Species at Risk Act*
- *Territorial Lands Act*
- *Yukon Act*
- *Canada Occupational Health and Safety Regulations*
- *Federal Real Property and Federal Immovables Regulations*
- *Territorial Land Use Regulations*

7.2 Related policy instruments

- *Policy on the Planning and Management of Investments*
- *Policy on Financial Management*
- *Policy on Government Security*
- *Policy on People Management*
- *Directive on the Management of Projects and Programmes*
- *Directive on the Management of Procurement*
- *Directive on Management of Materiel*
- *Directive on Accounting Standards*
- *Directive on Security Management*
- *Occupational Health and Safety Directive*
- *Guide to the Federal Real Property Act and Federal Real Property Regulation*
- *Guide to the Management of Real Property*
- *Guide to Real Property Management: Aboriginal Context*
- *Guide to Requesting Capacity-Based Real Property Transaction Approval Limits*
- *Greening Government Strategy*
- *Transaction Approval Limits and Conditions for the Acquisition and Disposition of Real Property*

8. Enquiries

- 8.1 For interpretation of any aspect of this directive, contact Treasury Board of Canada Secretariat Public Enquiries.
-

Appendix A: Mandatory Procedures for Heritage Assessment and Conservation

A.1 Effective date

- A.1.1 These procedures take effect on May 13, 2021.
- A.1.2 These procedures replace sections of the following Treasury Board policy instruments:
 - *Policy on Management of Real Property* (November 1, 2006)

A.2 Procedures

- A.2.1 These procedures provide details on the requirements set out in subsection 4.2.20 of the *Directive on the Management of Real Property*.
- A.2.2 Real property practitioners must apply the mandatory procedures described below.
 - A.2.2.1 Seek a heritage evaluation of any building 50 years of age or older from the Federal Heritage Buildings Review Office at Parks Canada Agency when the building is:
 - A.2.2.1.1 Crown-owned; or
 - A.2.2.1.2 Planned for acquisition by purchase;
 - A.2.2.2 Consult with Parks Canada Agency before undertaking any intervention that may impact the heritage value of a federal heritage property or an archaeological site on federal land, to ensure that appropriate heritage conservation advice is obtained;
 - A.2.2.3 Use best efforts to identify and facilitate alternative uses, including rehabilitation for adaptive reuse, before identifying a federal heritage property as surplus.

Appendix B: Mandatory Procedures for Appraisals and Estimates

B.1 Effective date

- B.1.1 These procedures take effect on May 13, 2021.

B.1.2 These procedures replace sections of the following Treasury Board policy instruments:

- *Policy on Management of Real Property* (November 1, 2006)
- *Appraisals and Estimates Standard for Real Property* (November 1, 2006)

B.2 Procedures

B.2.1 These procedures provide details on the requirements set out in subsections 4.2.21, 4.2.27, 4.2.39, 4.2.42 and 4.2.43 of the *Directive on the Management of Real Property*.

B.2.2 Real property practitioners must apply the mandatory procedures described below.

B.2.2.1 Obtain at least one appraisal from the Chief Appraiser of Canada before acquiring or disposing of real property, except:

B.2.2.1.1 When there will be an open solicitation of offers and the total value of the real property interest is anticipated to be less than \$500,000; in this situation, obtain at least one current estimate of the market value;

B.2.2.1.2 When there is no open solicitation of offers and the value of the lease or licence is anticipated to be less than \$25,000 total consideration; in this situation, obtain at least one current estimate of the market value;

B.2.2.1.3 When there is a transfer of administration between federal departments with no exchange of funds; in this situation, no appraisal or estimate of the market value is required;

B.2.2.2 Segregate transaction and valuation responsibilities related to real property transactions.

Appendix C: Mandatory Procedures for Reporting

C.1 Effective date

C.1.1 These procedures take effect on May 13, 2021.

C.1.2 These procedures replace sections of the following Treasury Board policy instruments:

- *Policy on Management of Real Property* (November 1, 2006)

- Reporting Standard for Real Property (November 1, 2006)

C.2 Procedures

- C.2.1 These procedures provide details on the requirements set out in subsection 4.2.44 of the Directive on the Management of Real Property.
- C.2.2 Real property practitioners, except for those in custodian departments that have been excluded from full reporting by decision of the Executive Director of the Investment Management Directorate, Treasury Board of Canada Secretariat, must apply the mandatory procedures described below.

Reporting information for inclusion in the Directory of Federal Real Property (DFRP) and the Federal Contaminated Sites Inventory (FCSI)

- C.2.2.1 Inform the Treasury Board of Canada Secretariat of designated officials, including the authorized official, official contact, financial contact (where applicable), and data submitters for the DFRP and FCSI;
- C.2.2.2 Input reports to the DFRP and FCSI as prescribed in the applicable input guides;
- C.2.2.3 Provide new or revised information, with the exception of the data specified in subsection C.2.2.4, for inclusion in the DFRP and FCSI within 90 days of a change, including acquisition, disposal, amendment to an existing record, or change in the organization's contacts;
- C.2.2.4 Report annual expenditure, liability and site performance data to the FCSI at fiscal year-end;
- C.2.2.5 Support the annual certification of the completeness and accuracy of organizational records and contacts in the DFRP and FCSI as prescribed in the applicable input guides;
- C.2.2.6 Reconcile all DFRP and FCSI records and applicable fields with internal real property and building management systems, contaminated site management systems, and financial systems;
- C.2.2.7 Reconcile FCSI annual financial records with the financial statements submitted for the Public Accounts of Canada;

Reporting to the Centre for Greening Government

- C.2.2.8 Inform the Centre for Greening Government of designated officials, including the authorized official, official contact, and data submitters for

the Government of Canada's Greenhouse Gas Emissions Inventory;

- C.2.2.9 Provide required data for inclusion in the Government of Canada's Greenhouse Gas Emissions Inventory in accordance with the annual call letter, the Federal Greenhouse Gas Accounting and Reporting Guidance, and other applicable input guides;
- C.2.2.10 Support the annual certification of the completeness and accuracy of organizational data submitted in accordance with the Federal Greenhouse Gas Accounting and Reporting Guidance and other applicable input guides.

Appendix D: Standard on Barrier-Free Access to Real Property

D.1 Effective date

- D.1.1 This standard takes effect on May 13, 2021.
- D.1.2 This standard replaces the Accessibility Standard for Real Property (November 1, 2006) and sections of the Policy on Management of Real Property (November 1, 2006).

D.2 Standards

- D.2.1 This standard provides details on the requirements set out in subsection 4.2.22 of the Directive on the Management of Real Property.
- D.2.2 Real property practitioners must apply this standard as described below.
 - D.2.2.1 Ensure that where amenities are provided on federal real property they are accessible and barrier free and:
 - D.2.2.1.1 If in Canada, they follow the Canadian Standards Association's Accessible Design for the Built Environment (CAN/CSA-B651), except for real property acquired, constructed, or significantly renovated prior to the date of its publication; and
 - D.2.2.1.2 If outside of Canada, they align with the requirements of the local jurisdiction;

- D.2.2.2 Provide barrier-free access to and use of at least the following amenities, where they exist:
- D.2.2.2.1 Entrances;
 - D.2.2.2.2 Passenger elevators;
 - D.2.2.2.3 Public areas;
 - D.2.2.2.4 Common work areas;
 - D.2.2.2.5 Interior doors and corridors;
 - D.2.2.2.6 Washrooms;
 - D.2.2.2.7 Public telephones;
 - D.2.2.2.8 Drinking fountains;
 - D.2.2.2.9 Parking areas;
 - D.2.2.2.10 Parking spaces, when parking is provided;
 - D.2.2.2.11 Seating in auditoriums, theatres and other general assembly areas in the quantities identified in the applicable building code;
 - D.2.2.2.12 Classrooms, auditoriums, meeting rooms and theatres; and
 - D.2.2.2.13 Residential units when employees or their immediate dependents require accessibility;
- D.2.2.3 Ensure that an accessible route from the main entrance is provided to accessible parking spaces, local public transit stops and all drop-off areas that are located within the limits of federal real property;
- D.2.2.4 Equip classrooms, auditoriums, meeting rooms and theatres of more than 100 square metres with an assistive listening system encompassing the entire seating area;
- D.2.2.5 Provide signage and audiovisual indicators for wayfinding and security;

Exceptions and minor variations

- D.2.3 Real property practitioners must do the following in relation to exceptions and minor variations when applying this standard.

- D.2.3.1 Establish internal procedures for identifying and seeking deputy head approval of exceptions from the accessibility requirements of this standard;
- D.2.3.2 Permit minor variations from the requirements, on a case-by-case basis, if consistent with the general intent of this standard, as long as the overall accessibility is maintained;
- D.2.3.3 Where the accessibility requirements of this standard will significantly reduce the heritage quality of the real property, some deviation is permitted; however, the following must be ensured:
 - D.2.3.3.1 Access to at least the main level of the building;
 - D.2.3.3.2 Where washroom facilities are inaccessible, equivalent facilities that are accessible shall be provided;
- D.2.3.4 Reassess exceptions to ensure that they are still justified when initial criteria for the exceptions change; and
- D.2.3.5 Document rationale and maintain records of all approved exceptions and minor variations.

Appendix E: Definitions

Definitions to be used in the interpretation of this directive can be found in Appendix C of the *Policy on the Planning and Management of Investments*.

Date modified: 2021-07-06

[English translation]

ACÉPO

Association des conseils
scolaires des écoles publiques de l'Ontario

26 May 2022

BY EMAIL: ginette.petitpastaylor@parl.gc.ca

Honorable Ginette Petitpas Taylor, P.C., Member of Parliament
Minister of Official Languages
Chamber of Commons
Ottawa, Ontario K1A 0A6

Subject: The *Official Languages Act* applies to the federal real property disposition process; the Association des conseils scolaires des écoles publiques de l'Ontario (ACÉPO) is calling for the *Official Languages Act* to be amended to take into account the needs of French-language school boards

Dear Minister,

The Association des conseils scolaires des écoles publiques de l'Ontario ("ACÉPO") represents all French-language public school boards in the province. ACÉPO is requesting that Bill C-13, *An Act for the Substantive Equality of Canada's Official Languages* ("Bill C-13"), be amended to ensure that the needs of minority official language school boards are taken into account in the real property disposal process.

Identifying and obtaining available land for school construction is a significant challenge to the implementation of section 23 of the *Canadian Charter of Rights and Freedoms*.

The federal government owns a multitude of sites that it routinely disposes of. One of the solutions to the challenge of implementing section 23 is therefore to give French-language school boards an opportunity to acquire federal sites when they are disposed of by the federal government.

The real property disposal process was guided between 2006 and 2021 by the *Directive on the Sale or Transfer of Surplus Real Property (Directive)*, which specified from 2015 to 2021, following the demands of French-language school boards, that the disposal process must take into account "the interests of communities, including official language minority communities."

Despite this, and during this same period, there are numerous examples of federal sites being disposed of without the school boards even having a chance to express an interest in a timely manner (notably the Jericho site (Vancouver), the Heather Street site (Vancouver), the Royal Roads site (Victoria), the Lagimodière Boulevard site (Winnipeg)). Too often, federal sites are disposed of or are subject to a

process of disposal without regard to the interests of French-language school boards or without even taking them into account (for example the site at the corner of Oxford St. and Bayers St. (Halifax), Lebreton flats (Ottawa), etc.).

This issue was strongly criticized publicly in 2019 (Fédération nationale des conseils scolaires francophones, Conseil scolaire francophone de la Colombie-Britannique, Division scolaire franco-manitobaine, Fédération des communautés francophones et acadienne).

In 2019, on the eve of a federal election, the Treasury Board Secretariat publicly indicated that as part of its policy reset, broad consultations with various stakeholders would be conducted to improve the *Directive*. The Parliamentary Secretary to the Minister of Public Services and Procurement and Accessibility, Steven MacKinnon, even invited suggestions “on how to formalize, make official and enhance” the role of official language minority communities in the federal real property disposal process.

As this was a relevant topic, parliamentary committees made recommendations:

- a. First, the House of Commons Standing Committee on Official Languages recommended in 2019 that the bill to modernize the *Official Languages Act* [now Bill C-13] should provide “that the educational and cultural infrastructure needs of official language minority communities are identified as a priority in the Government of Canada’s disposal process for surplus real property.”
- b. Second, the Senate Committee on official languages recommended in 2019 that the *Official Languages Act* be amended to specify the obligations of federal institutions to measure the impact of their decisions on official language communities and to ensure that their policies and programs are aligned with the needs of official language communities, particularly with respect to the disposal of real property.

Despite this, the bills to modernize the *Official Languages Act* [Bills C-32 and C-13] are silent on the disposal of federal real property. Worse, the *Directive* was amended in 2021, on the eve of a federal election, to **repeal** the modest invitation (inserted with great difficulty in 2015) to take into account “the interests of communities, including official language minority communities.” From this point on, French-speaking minority communities only have the right to be **notified** of the federal intention to dispose of real property (French-language school boards are not even identified). However, the new *Directive* adds Aboriginal groups to the list of potential priority purchasers (in addition to federal departments, agent Crown corporations, provinces and municipalities, but **excluding** French-language school boards).

There is only one conclusion: only a legislative change will correct the problem once and for all. Bill C-13 must be amended as follows:

Consultation lors de l'aliénation d'immeubles fédéraux et de biens réels fédéraux

41.1 (1) Avant d'aliéner un immeuble fédéral ou un bien réel fédéral, l'institution fédérale qui en a la gestion consulte tout conseil ou commission scolaire de langue officielle en situation minoritaire et tout autre organisme intéressé des communautés de langue officielle en situation minoritaire qui desservent le territoire dans lequel se trouve l'immeuble ou le bien réel en question afin de s'enquérir de leurs besoins et intérêts relativement à ce bien.

Obligation lors de la vente ou la location d'un immeuble fédéral ou d'un bien réel fédéral

(2) Avant de vendre ou de louer l'immeuble ou le bien réel en question, l'institution fédérale offre aux organismes intéressés des communautés de langue officielle en situation minoritaire, selon le cas :

- a)** la possibilité de l'acquérir ou de le louer en tout ou en partie, si sa superficie n'excède pas douze acres ;
- b)** la possibilité d'en acquérir ou d'en louer une partie n'excédant pas douze acres, si sa superficie excède douze acres.

Consultation when disposing of federal buildings and federal real property

41.1 (1) Before disposing of a federal building or federal real property, the federal institution that manages it shall consult any official language minority school board or commission and any other interested official language minority community organizations that serve the territory in which the building or property is located with regard to their needs and interests in connection with the property.

Duty when selling or leasing a federal building or federal real property

(2) Before selling or leasing the building or property in question, the federal institution shall offer interested official language minority communities

- (a)** the possibility to purchase or lease it in whole or in part, if its area is not greater than twelve acres; or
- (b)** the possibility to purchase or lease a part of it not to exceed twelve acres, if its area is greater than twelve acres.

Yours sincerely,

President of the Association des conseils scolaires des écoles publiques de l'Ontario

Denis Chartrand

c.c. Standing Committee on Official Languages, Chairs of Ontario's French-language public school boards, Fédération nationale des conseils scolaires francophones, Association franco-ontarienne des conseils scolaires catholiques, Fédération des conseils scolaires francophones de l'Alberta, Fédération des conseils d'éducation du Nouveau-Brunswick

[Letterhead: FAJEF, Fédération des associations de juristes d'expression française de common law inc.]

Winnipeg, June 16, 2022

By email: LANG@parl.gc.ca

House of Commons Standing Committee on Official Languages
131 Queen, 6th Floor
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Committee members:

Subject: Amendments to Bill C-13 to improve access to justice in French

We would like to highlight the need to adopt legislative measures to promote better access to justice in French, in particular to ensure that enough bilingual judges are appointed to provincial and territorial superior courts. These various measures could be incorporated into the bill currently under consideration to modernize the *Official Languages Act*.

Bill C-13, An Act to amend the Official Languages Act, will not ensure that French-speaking persons in minority settings have substantive equality before the courts, because it does not require the federal government to take the necessary steps to increase the number of bilingual judges in trial courts and courts of appeal whose judges are appointed by the federal government.

The very small number of bilingual judges makes it difficult, if not impossible, to exercise the right to be heard and understood in French outside Quebec

Fluency in both official languages within the judiciary is a national issue, as “the judicial appointment process does not guarantee sufficient bilingual capacity among the judiciary to respect the language rights of Canadians at all times.”¹ Between 2017 and 2021, just over 80 of the judges appointed by the federal government self-identified as bilingual,² meaning they would be able to work in both English and French upon appointment, without the assistance of an interpreter or translator. The vast majority of them were assigned to urban areas, further accentuating the lack of bilingual judges in rural areas.³ For example, only two bilingual judges on the Court of Queen’s Bench of Manitoba are able to hear cases in French on a regular basis, and neither of them are Family Division judges. The Department of Justice has known about this untenable situation for years, which undermines the federal government’s public

¹ Canada, Office of the Commissioner of Official Languages, [Access to Justice in Both Official Languages: Improving the Bilingual Capacity of the Superior Court Judiciary](#), Ottawa, 2013, p. 1.

² Office of the Commissioner for Federal Judicial Affairs Canada, [Statistics regarding Judicial Applicants and Appointees](#), Ottawa, 2021.

³ Agnès Whitfield, [“Pénurie de juges francophones en Ontario : Une culture du refus,”](#) La Presse, (February 24, 2022) [AVAILABLE IN FRENCH ONLY].

statements regarding access to justice. The situation has only gotten worse since new language guarantees were added to the *Divorce Act* in 2019.⁴

Courts need a sufficient number of bilingual judges in order to provide equal access to justice in both official languages: “For a court to truly be institutionally bilingual it is essential for stakeholders to have a command of legal vocabulary in both official languages.”⁵ Without a sufficient number of bilingual judges, the judicial system is doomed to continue perpetuating linguistic inequalities.

Bill C-13: status quo for access to justice in French

If Bill C-13 is passed without amendments, it will maintain the disgraceful status quo for access to justice in French. The very low number of bilingual judges on the bench means that courts too often rely on interpretation services, which runs counter to the principle of substantive equality outlined by the Supreme Court of Canada: “the exercise of language rights must not be considered exceptional, or as something in the nature of a request for an accommodation.”⁶

The Supreme Court of Canada recently decided that it will hear an appeal regarding the inability of a court to assign a sufficient number of bilingual judges.⁷ This clearly demonstrates the government’s inaction.

And yet, Canada has never trained so many bilingual common law jurists, thanks to the initiative of the law faculties of the University of Ottawa, the University of Moncton, McGill University and the University of Sherbrooke, as well as the Certification in Common Law in French program at the University of Saskatchewan and the University of Calgary, the Concentration in Access to Justice in French at the University of Manitoba and the Judges’ Language Training Program of the Office of the Commissioner for Federal Judicial Affairs. Bilingual jurists are no longer in short supply. It is just that the federal government fails to appoint them to the bench.

To ensure access to justice in French, the Official Languages Act must include a clear and specific obligation regarding the judiciary

The following legislative solution is needed to ensure the enduring presence of the French language. It would ensure that the federal government is equipped to meet the needs of French-speaking citizens across the country. Bill C-13 should be amended to add the following provisions⁸ to the *Official Languages Act*:

⁴ Divorce Act, [RSC 1985 c. 3 \(2nd Supp.\)](#), s. 23.2.

⁵ Department of Justice Canada, [Canada-Wide Analysis of Official Language Training Needs in the Area of Justice](#), Ottawa, March 31, 2019, p. 22.

⁶ R. v. Beaulac, [\[1999\] 1 SCR 768](#), para. 24.

⁷ Mario de Ciccio, “[Cour suprême du Canada : la CSFTNO veut protéger les droits des francophones](#),” Radio-Canada (November 4, 2021) [AVAILABLE IN FRENCH ONLY]; Commission scolaire francophone des Territoires du Nord-Ouest, A.B., et al. v. Minister of Education, Culture and Employment of the Northwest Territories, et al. [case number 39915](#), SCC (April 14, 2022).

⁸ Explanatory note: The wording of the current *Official Languages Act* appears in black and without underlining. The additions proposed by Bill C-13 are underlined. The wording that Bill C-13 proposes to remove is ~~struck through~~. The proposed amendments to Bill C-13 are double underlined.

Obligation relative à la compréhension des langues officielles

16 (1) Il incombe aux tribunaux fédéraux ~~autres que la Cour suprême du Canada~~ de veiller à ce que celui qui entend l'affaire :

a) comprenne l'anglais sans l'aide d'un interprète lorsque les parties ont opté pour que l'affaire ait lieu en anglais;

b) comprenne le français sans l'aide d'un interprète lorsque les parties ont opté pour que l'affaire ait lieu en français;

c) comprenne l'anglais et le français sans l'aide d'un interprète lorsque les parties ont opté pour que l'affaire ait lieu dans les deux langues.

Fonctions judiciaires

(2) Il demeure entendu que le paragraphe (1) ne s'applique aux tribunaux fédéraux que dans le cadre de leurs fonctions judiciaires.

(3) [Abrogé, 2022, ch. 13, art. 11(2)].

Obligation du gouvernement fédéral⁹

(4) Il incombe au gouvernement fédéral de veiller, dans le cadre des nominations à la magistrature qui relèvent de sa compétence, à ce que les tribunaux fédéraux soient en mesure de s'acquitter de leur obligation aux termes du paragraphe (1).

Nomination des juges des cours supérieures

16.1 Le gouvernement fédéral tient compte de l'importance de l'accès égal à la justice dans les deux langues officielles au moment de nommer les juges des cours supérieures.

Indication des compétences linguistiques

16.2 (1) Lors de la soumission de leur candidature en vue d'une nomination à la magistrature, les personnes indiquent leur niveau de compétences dans les deux langues officielles.

Évaluation des compétences linguistiques

Duty to ensure understanding without an interpreter

16 (1) Every federal court, ~~other than the Supreme Court of Canada~~, has the duty to ensure that

(a) if English is the language chosen by the parties for proceedings conducted before it in any particular case, every judge or other officer who hears those proceedings is able to understand English without the assistance of an interpreter;

(b) if French is the language chosen by the parties for proceedings conducted before it in any particular case, every judge or other officer who hears those proceedings is able to understand French without the assistance of an interpreter; and

(c) if both English and French are the languages chosen by the parties for proceedings conducted before it in any particular case, every judge or other officer who hears those proceedings is able to understand both languages without the assistance of an interpreter.

Adjudicative functions

(2) For greater certainty, subsection (1) applies to a federal court only in relation to its adjudicative functions.

(3) [Repealed, 2022, c. 13, s. 11(2)].

Duty of the Government of Canada

(4) The Government of Canada must take the duty established in subsection (1) into account when making appointments to the federal judiciary.

Appointment of Superior Court judges

16.1 The Government of Canada shall take into account the importance of equal access to justice in both official languages when appointing judges to Superior Courts.

Indication of language skills

16.2 (1) When a person submits their candidacy for appointment to the judiciary, the person must indicate their skill level in both official languages.

Evaluation of language skills

⁹ This wording is based on Bill C-411, [An Act to amend the Official Languages Act \(understanding of official languages\)](#), 42-1 (first reading, June 19, 2018).

(2) Le Bureau du commissaire à la magistrature fédérale évalue la capacité de parler et de comprendre clairement les deux langues officielles de toute personne qui indique dans sa candidature posséder des compétences dans les deux langues officielles.

Formation linguistique

16.3 Le Bureau du commissaire à la magistrature fédérale offre la formation linguistique nécessaire aux juges nommés par le gouvernement fédéral.

(2) The Office of the Commissioner for Federal Judicial Affairs shall evaluate, in respect of every person who indicated in their candidacy submission that they have skills in both official languages, the person's ability to speak and understand clearly both official languages.

Language training

16.3 The Office of the Commissioner for Federal Judicial Affairs shall provide the necessary language training to judges appointed by the Government of Canada.

These legislative changes will not apply to unilingual judges, nor is there any intention to legislate a quota of bilingual judges.

The proposed amendments would simply require that access to justice in French be taken into account when judges are appointed, and that the language skills of judges who self-identify as being able to work in French and English without the assistance of interpreters and translators be evaluated. This measure would help optimize judicial resources to meet the needs of French-speaking litigants by matching the language skills of candidates with the capacity of the courts.

Various organizations have stressed the extent of this problem to the federal government, including the Fédération des associations de juristes d'expression française de common law, the Fédération des communautés francophones et acadienne and the Association des juristes d'expression française du Manitoba.

It is time for Parliament to fulfill its responsibility to official language minority communities in the area of access to justice. These amendments to Bill C-13 would solidify the federal government's commitment to enhancing the vitality and supporting the development of official language minority communities.¹⁰

We would appreciate the opportunity to appear before your committee, ideally with a few associations of French-speaking jurists (AJEFs), so we can share our perspective and some real-life examples.

Yours sincerely,

[signed]
Daniel Boivin
FAJEF President

¹⁰ Bill C-13, [An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts](#), 44-1 (first reading, March 1, 2022).



SENATE | SÉNAT
CANADA

**Final Report of the Standing Senate Committee
on Official Languages**

The Honourable René Cormier, Chair
The Honourable Rose-May Poirier, Deputy Chair

**MODERNIZING
THE OFFICIAL
LANGUAGES ACT**

*The Views of Federal
Institutions and
Recommendations*

JUDICIAL BILINGUALISM

RECOMMENDATION 19

Equal access to justice
in both official languages

19.1 Amend the *Official Languages Act* or other federal legislation to ensure that the importance of ensuring equal access to justice in both official languages is taken into account when appointing judges to provincial and territorial superior courts and courts of appeal. In those circumstances, mandate the Office of the Commissioner for Federal Judicial Affairs to ensure a systematic assessment of:

- the need for bilingual judicial candidates in all regions of the country; and
- the language skills of judicial candidates.

19.2 Amend the *Official Languages Act* to set a maximum period of six months to publish, in the other official language, the decisions of federal courts referred to in subsection 20(2).

19.3 Amend the *Official Languages Act* to require the use of jurilinguists' expertise in translating federal court decisions and establish a system for revising decisions translated into the other official language.

19.4 Amend the *Official Languages Act* to specify that the simultaneous publication of federal court decisions online is a communication with the public subject to the duties and obligations of Part IV.

19.5 Amend the *Official Languages Act* to specify that the active offer of services in both official languages applies to federal courts.

19.6 Amend the *Official Languages Act* to enshrine the existence of the "official language rights component" of the Court Challenges Program and its funding.

First Session, Forty-fourth Parliament,
70 Elizabeth II, 2021

Première session, quarante-quatrième législature,
70 Elizabeth II, 2021

SENATE OF CANADA

SÉNAT DU CANADA

BILL S-229

PROJET DE LOI S-229

An Act to amend the Language Skills Act
(Lieutenant Governor of New Brunswick)

Loi modifiant la Loi sur les compétences
linguistiques (lieutenant-gouverneur du
Nouveau-Brunswick)

FIRST READING, DECEMBER 1, 2021

PREMIÈRE LECTURE LE 1^{ER} DÉCEMBRE 2021

THE HONOURABLE SENATOR CARIGNAN, P.C.

L'HONORABLE SÉNATEUR CARIGNAN, C.P.

SUMMARY

This enactment adds the office of Lieutenant Governor of New Brunswick to the list of offices subject to the *Language Skills Act*.

SOMMAIRE

Le texte ajoute le poste de lieutenant-gouverneur du Nouveau-Brunswick à la liste des postes visés par la *Loi sur les compétences linguistiques*.

1st Session, 44th Parliament,
70 Elizabeth II, 2021

SENATE OF CANADA

BILL S-229

An Act to amend the Language Skills Act (Lieutenant Governor of New Brunswick)

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

2013, c. 36

Language Skills Act

1 Paragraph 2(a) of the *Language Skills Act* is renumbered as paragraph (a.1) and section 2 of the Act is amended by adding the following before paragraph (a.1): 5

(a) the Lieutenant Governor of New Brunswick or any other person appointed by the Governor in Council to carry on the government of the province; 10

Coordinating Amendments

Bill S-220

2 (1) Sections (2) to (4) apply if Bill S-220, introduced in the 1st session of the 44th Parliament and entitled *An Act to amend the Language Skills Act (Governor General)* (in this section referred to as the “other Act”), receives royal assent. 15

(2) If Section 1 of the other Act comes into force before section 1 of this Act, then

(a) section 1 of this Act is deemed never to have come into force and is repealed; and 20

(b) section 2 of the *Language Skills Act* is amended by adding the following after paragraph (a):

1^{re} session, 44^e législature,
70 Elizabeth II, 2021

SÉNAT DU CANADA

PROJET DE LOI S-229

Loi modifiant la Loi sur les compétences linguistiques (lieutenant-gouverneur du Nouveau-Brunswick)

Sa Majesté, sur l’avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

2013, ch. 36

Loi sur les compétences linguistiques

1 L’alinéa 2a) de la *Loi sur les compétences linguistiques* devient l’alinéa a.1) et l’article 2 est modifié par adjonction, avant l’alinéa a.1), de ce qui suit : 5

a) lieutenant-gouverneur du Nouveau-Brunswick ou toute autre personne nommée par le gouverneur en conseil et chargée du gouvernement de cette province; 10

Dispositions de coordination

Projet de loi S-220

2 (1) Les paragraphes (2) à (4) s’appliquent en cas de sanction du projet de loi S-220, déposé au cours de la 1^{re} session de la 44^e législature et intitulé *Loi modifiant la Loi sur les compétences linguistiques (gouverneur général)* (appelé « autre loi » au présent article). 15

(2) Si l’article 1 de l’autre loi entre en vigueur avant l’article 1 de la présente loi :

a) l’article 1 de la présente loi est réputé n’être jamais entré en vigueur et est abrogé; 20

b) l’article 2 de la *Loi sur les compétences linguistiques* est modifié par adjonction, après l’alinéa a), de ce qui suit :

(a.01) the Lieutenant Governor of New Brunswick or any other person appointed by the Governor in Council to carry on the government of the province;

a.01) lieutenant-gouverneur du Nouveau-Brunswick ou toute autre personne nommée par le gouverneur en conseil et chargée du gouvernement de cette province;

(3) If section 1 of this Act comes into force before section 1 of the other Act, then on the first day on which section 1 of the other Act and section 1 of this Act are in force,

(3) Si l'article 1 de la présente loi entre en vigueur avant l'article 1 de l'autre loi, dès le premier jour où, à la fois, l'article 1 de l'autre loi et l'article 1 de la présente loi sont en vigueur :

(a) section 1 of the other Act is deemed never to have come into force and is repealed; and

a) l'article 1 de l'autre loi est réputé n'être jamais entré en vigueur et est abrogé;

(b) paragraph 2(a) of the *Language Skills Act* is renumbered as paragraph (a.01) and section 2 of the Act is amended by adding the following before paragraph (a.01):

b) l'alinéa 2a) de la *Loi sur les compétences linguistiques* devient l'alinéa a.01) et l'article 2 est modifié par adjonction, avant l'alinéa a.01), de ce qui suit :

(a) the Governor General of Canada or any other chief executive officer or administrator carrying on the Government of Canada on behalf and in the name of the Sovereign, by whatever title designated;

a) gouverneur général du Canada ou tout autre haut responsable qui exerce le gouvernement du Canada pour le compte et au nom du Souverain, quel que soit son titre;

(4) If section 1 of this Act and section 1 of the other Act come into force on the same day, section 1 of this Act is deemed to have come into force before section 1 of the other Act and subsection (2) applies as a consequence.

(4) Si l'article 1 de la présente loi et l'article 1 de l'autre loi entrent en vigueur le même jour, l'article 1 de la présente loi est réputé être entré en vigueur avant l'article 1 de l'autre loi, le paragraphe (2) s'appliquant en conséquence.

EXPLANATORY NOTES

Language Skills Act

Clause 1: Relevant portion of section 2:

2 Any person appointed to any of the following offices must, at the time of his or her appointment, be able to speak and understand clearly both official languages:

(a) the Auditor General of Canada, appointed pursuant to subsection 3(1) of the *Auditor General Act*;

...

NOTES EXPLICATIVES

Loi sur les compétences linguistiques

Article 1 : Texte du passage visé de l'article 2 :

2 La capacité de parler et de comprendre clairement les deux langues officielles est une condition préalable à la nomination d'une personne à l'un ou l'autre des postes suivants :

a) vérificateur général du Canada, dont le titulaire est nommé en vertu du paragraphe 3(1) de la *Loi sur le vérificateur général*;

[...]

REPRINT

First Session, Forty-fourth Parliament,
70 Elizabeth II, 2021

SENATE OF CANADA

BILL S-220

An Act to amend the Languages Skills Act
(Governor General)

FIRST READING, NOVEMBER 24, 2021

This reprint adds the enactment clause after the long title on the first page of the bill. The enacting clause did not appear in the originally published version due to a technical error.

RÉIMPRESSION

Première session, quarante-quatrième législature,
70 Elizabeth II, 2021

SÉNAT DU CANADA

PROJET DE LOI S-220

Loi modifiant la Loi sur les compétences
linguistiques (gouverneur général)

PREMIÈRE LECTURE LE 24 NOVEMBRE 2021

La présente réimpression vient ajouter la formule d'édition après le titre intégral à la première page du projet de loi. En raison d'une erreur technique, la formule d'édition ne figurait pas dans la version publiée initialement.

THE HONOURABLE SENATOR CARIGNAN, P.C.

L'HONORABLE SÉNATEUR CARIGNAN, C.P.

SUMMARY

The enactment adds the office of Governor General to the list of offices subject to the *Language Skills Act*.

SOMMAIRE

Le texte ajoute le poste de gouverneur général à la liste des postes visés par la *Loi sur les compétences linguistiques*.

1st Session, 44th Parliament,
70 Elizabeth II, 2021

SENATE OF CANADA

1^{re} session, 44^e législature,
70 Elizabeth II, 2021

SÉNAT DU CANADA

BILL S-220

An Act to amend the Languages Skills Act (Governor General)

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

2013, c. 36

Language Skills Act

1 Paragraph 2(a) of the *Language Skills Act* is renumbered as paragraph (a.1) and section 2 of the Act is amended by adding the following before paragraph (a.1): 5

(a) the Governor General of Canada or any other chief executive officer or administrator carrying on the Government of Canada on behalf and in the name of the Sovereign, by whatever title designated; 10

PROJET DE LOI S-220

Loi modifiant la Loi sur les compétences linguistiques (gouverneur général)

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

2013, ch. 36

Loi sur les compétences linguistiques

1 L'alinéa 2a) de la *Loi sur les compétences linguistiques* devient l'alinéa a.1) et l'article 2 est modifié par adjonction, avant l'alinéa a.1), de ce qui suit : 5

a) le gouverneur général du Canada ou tout autre haut responsable qui exerce le gouvernement du Canada pour le compte et au nom du Souverain, quel que soit son titre; 10

EXPLANATORY NOTES

Language Skills Act

Clause 1: Existing text of relevant portions of section 2:

2 Any person appointed to any of the following offices must, at the time of his or her appointment, be able to speak and understand clearly both official languages:

(a) the Auditor General of Canada, appointed pursuant to subsection 3(1) of the *Auditor General Act*;

...

NOTES EXPLICATIVES

Loi sur les compétences linguistiques

Article 1 : Texte du passage visé de l'article 2 :

2 La capacité de parler et de comprendre clairement les deux langues officielles est une condition préalable à la nomination d'une personne à l'un ou l'autre des postes suivants :

a) vérificateur général du Canada, dont le titulaire est nommé en vertu du paragraphe 3(1) de la Loi sur le vérificateur général;

[...]



THE CANADIAN
BAR ASSOCIATION

L'ASSOCIATION DU
BARREAU CANADIEN

Access to Justice in French and English in the Context of Modernizing the *Official Languages Act*

**FRENCH SPEAKING COMMON LAW MEMBERS SECTION
AND CONSTITUTIONAL AND HUMAN RIGHTS LAW SECTION
CANADIAN BAR ASSOCIATION**

October 2018

PREFACE

The Canadian Bar Association is a national association representing 36,000 jurists, including lawyers, notaries, law teachers and students across Canada. The Association's primary objectives include improvement in the law and in the administration of justice.

This submission was prepared by the French Speaking Common Law Members Section and the Constitutional and Human Rights Law Section of the Canadian Bar Association, with the assistance of the Advocacy Department at the CBA office. The submission has been reviewed by the Policy Committee and approved as a public statement of the French Speaking Common Law Members Section and the Constitutional and Human Rights Law Section of the Canadian Bar Association.

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Annex C Letter from the Canadian Bar Association to the Honourable Scott Brison, the Honourable Jody Wilson-Raybould and the Honourable Mélanie Joly, November 23, 2017

Annex D List of constitutional documents enacted only in English

Access to Justice in French and English in the Context of Modernizing the *Official Languages Act*

I. INTRODUCTION

1. The French Speaking Common Law Members Section and the Constitutional and Human Rights Law Section of the Canadian Bar Association (the CBA Sections) are pleased to comment on study on modernizing the *Official Languages Act* by the Senate Committee on Official Languages.¹ The CBA has worked tirelessly to encourage official bilingualism in the legal arena and improve access to justice in French for many years.
2. In February 2018, the CBA adopted a resolution² that aims to promote compliance with section 55 of the *Constitution Act, 1982*,³ which requires that an official French version of the Constitution of Canada be prepared and enacted. This submission describes the problem and offers recommendations to finally resolve the deadlock over the issue.⁴
3. The submission also presents our recommendations to modernize the *Official Languages Act* to better reflect the present-day reality of Canada's linguistic duality.⁵

II. RIGHT TO A BILINGUAL CONSTITUTION

A. Section 55 of the *Constitution Act, 1982*

4. Many Canadians would be astonished to learn that the majority of Canadian constitutional documents are not officially bilingual, including the *Constitution Act, 1867*.⁶ Of the 31 documents declared in the *Constitution Act, 1982* to be part of the Constitution of Canada, 22 (71%) were adopted only in English and still have no official French version.⁷
5. It is a glaring contradiction: even though the Constitution of Canada guarantees the equality of status of French and English⁸ and stipulates that the statutes of Parliament must be

¹ *Official Languages Act*, R.S.C. 1985, c. 31 (4th Supp.).

² [Resolution 18-04-A](#) – Bilingual Constitution of Canada, February 16, 2018 (Annex A).

³ *Constitution Act, 1982*, Schedule B to the *Canada Act 1982*, 1982, c. 11 (U.K.) [*Constitution Act, 1982*].

⁴ This submission expands on the Canadian Bar Association's [letter to the Senate Committee on Official Languages](#) dated August 14, 2018 (Annex B)

⁵ Our recommendations were also outlined in a November 23, 2017 [letter from the Canadian Bar Association](#) to the Honourable Scott Brison, the Honourable Jody Wilson-Raybould and the Honourable Mélanie Joly (Annex C).

⁶ 30 & 31 Victoria, c. 3, formerly the *British North America Act* [*Constitution Act, 1867*].

⁷ See Annex D for list of the constitutional documents that were enacted only in English.

⁸ *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, Schedule B of the *Canada Act 1982*, c. 11, s. 16 (U.K.) [the Charter].

enacted in both official languages,⁹ a clear majority of Canadian constitutional documents, including the founding document (the *Constitution Act, 1867*, sometimes called the *British North America Act*), are unilingual.

6. Remediating this incongruity was the aim of the authors of the *Constitution Act, 1982* in adopting sections 55 and 56:

French version of Constitution of Canada

55. A French version of the portions of the Constitution of Canada referred to in the schedule shall be prepared by the Minister of Justice of Canada as expeditiously as possible and, when any portion thereof sufficient to warrant action being taken has been so prepared, it shall be put forward for enactment by proclamation issued by the Governor General under the Great Seal of Canada pursuant to the procedure then applicable to an amendment of the same provisions of the Constitution of Canada.

English and French versions of certain constitutional texts

56. Where any portion of the Constitution of Canada has been or is enacted in English and French or where a French version of any portion of the Constitution is enacted pursuant to section 55, the English and French versions of that portion of the Constitution are equally authoritative.

Version française de certains textes constitutionnels

55. Le ministre de la Justice du Canada est chargé de rédiger, dans les meilleurs délais, la version française des parties de la Constitution du Canada qui figurent à l'annexe; toute partie suffisamment importante est, dès qu'elle est prête, déposée pour adoption par proclamation du gouverneur général sous le grand sceau du Canada, conformément à la procédure applicable à l'époque à la modification des dispositions constitutionnelles qu'elle contient.

Versions française et anglaise de certains textes constitutionnels

56. Les versions française et anglaise des parties de la Constitution du Canada adoptées dans ces deux langues ont également force de loi. En outre, ont également force de loi, dès l'adoption, dans le cadre de l'article 55, d'une partie de la version française de la Constitution, cette partie et la version anglaise correspondante.

7. The wording of section 55, and use of “shall” in the English version¹⁰, confirm the binding nature of the obligation to prepare and enact an official French version of the Constitution. Section 55 sets out two separate obligations:

(1) For a French version of the portions of the Constitution of Canada referred to in the schedule of the *Constitution Act, 1982* to be prepared by the Minister of Justice as expeditiously as possible.

(2) For the Minister of Justice to put forward for enactment, pursuant to the applicable amendment procedure, any portion of the Constitution of Canada sufficient to warrant action that has been prepared.

8. While the first obligation specifically concerns the Minister of Justice of Canada, the second obligation does not. To make the entire Constitution officially available in French, the

⁹ *Constitution Act, 1867*, s. 133.

¹⁰ See *Re Manitoba Language Rights*, [1985] 1 SCR 721, p. 737 [*Re Manitoba Language Rights*].

provinces must cooperate to respect the constitutional amendment procedure that applies to certain parts of the constitutional documents.¹¹

9. The first obligation has already been completed. In 1984, the French Constitutional Drafting Committee (the Drafting Committee) was created with a mandate to produce French versions of the constitutional documents, a task it completed in 1990.¹² The Committee was made up of eminent jurists, of which the Honorable Senator Gérald Beaudoin, the Honorable Louis-Philippe Pigeon, retired justice of the Supreme Court of Canada, Robert Décary who would go on to the Federal Court of Appeal and Gil Rémillard, future Minister of Justice of the province of Quebec. The Drafting Committee's final report was tabled in the House of Commons in 1990 by the Honourable Kim Campbell, then Minister of Justice.¹³

10. However, the French versions of the constitutional documents were never tabled for adoption, and thus have yet to be enacted.

B. Impact of Unilingualism of Constitutional Documents

i. Serious barrier to improving access to justice and defending the rule of law

11. As early as 1867, the Constitution of Canada recognized the importance of French-speaking Canadians having access to a French version of legislative texts. Section 133 of the *Constitution Act, 1867* "ensures [...] full and equal access to the legislatures, the laws and the courts for francophones and anglophones alike" by guaranteeing access to an official French version of Canadian laws.¹⁴ French-speaking litigants can then use the French text to interpret the law and fully participate in debates on federal legislation in their own language. However, they still cannot exercise this fundamental right when consulting the majority of Canadian constitutional documents, including section 133 of the *Constitution Act, 1867* itself.

12. Although many unofficial translations exist of the constitutional documents adopted only in English, they do not have force of law. If there is any ambiguity, it is not possible to cross-interpret the English and French versions to determine the true meaning. Since the English version is the only official version, its wording takes precedence over that of the French version. Therefore, when courts render constitutional decisions in French, they refer to unofficial French versions, recalling that only the English version has force of law.¹⁵

13. This ongoing problem had unfortunate consequences in *Caron*,¹⁶ where the Court had to decide whether Alberta was required to adopt, print and publish its laws in French and in English. The court had to interpret, among other things, the *1867 Address to Her Majesty the Queen from the Senate and House of Commons of the Dominion of Canada* (the 1867 Address) found in the schedule to the 1870 *Order of Her Majesty in Council admitting Rupert's Land and*

¹¹ Part V of the *Constitution Act, 1982*.

¹² *Final Report of the French Constitutional Drafting Committee responsible for providing the Minister of Justice of Canada with a draft official French version of certain constitution enactments – Introduction*, Ottawa, Department of Justice, 1990, [online](#). [*Final Report of the Drafting Committee*].

¹³ *Final Report of the Drafting Committee, ibid*, No. 342-4/39 in *Journals*, 34th Parliament, 2nd Session, No. 269 (December 19, 1990).

¹⁴ *Re Manitoba Language Rights*, *supra* note 10, p. 739.

¹⁵ See for instance *Société des Acadiens v. Association of Parents*, [1986] 1 S.C.R. 549, p. 573, where Beetz J. recalls that section 133 of the *Constitution Act, 1867* has no official French version, and *Fédération Franco-Ténoise v. Canada*, 2001 F.C.A. 220, para. 11, where the Federal Court of Appeal refers to the Drafting Committee's proposed translation, recalling that these documents still have no official French version.

¹⁶ *R v. Caron*, 2009 ABQB 745, para. 56 [*Caron*].

the North-Western Territory into the union. Considering that only the English version of the 1867 Address had force of law, the Alberta Court of Queen's Bench did not perform a cross-analysis to determine the original meaning of the documents, even though a French version of the document had been produced in 1867 and highlighted an ambiguity in its legal meaning.¹⁷

14. The absence of an official French version has practical implications for the development of law and devalues French-speaking jurists' and litigants' participation in discussions on the interpretation of our society's most fundamental legal texts.

ii. Affront to the equality of status of both official languages in Canada

15. The lack of a complete official French version of the constitutional documents also has a jarring symbolic effect, and is an affront to the equality of status of both official languages in Canada and to our Constitution's underlying fundamental principles, which are the rule of law and the protection of minorities.

16. Recognition of the equality of status of the English and French versions of the Constitution has value in and of itself, beyond its purely instrumental advantage as a legal text. As the Supreme Court of Canada has recognized, language reflects a sense of identity and community:

Language is more than a mere means of communication, it is part and parcel of the identity and culture of the people speaking it. It is the means by which individuals understand themselves and the world around them.¹⁸

17. Official state recognition of a linguistic community increases the community's vitality, by instilling pride of belonging and by promoting community members' involvement in society's institutions.¹⁹ This recognition helps fight and address assimilation.

C. Implementation of Section 55

18. Considering that a complete French version of the constitutional documents was prepared in 1990, one has to wonder why an official version has yet to be adopted 28 years later. Both political and legal hurdles are at play.

i. Political impasse

19. Although the Minister of Justice of Canada is explicitly responsible for preparing a French version of the constitutional documents, the cooperation of Parliament and provincial

¹⁷ The English version used the term "legal rights," whereas the French version produced in 1867 used the term "droits acquis," and the Drafting Committee's proposed translation in 1990 simply used the term "droits" (see *Caron, ibid*, para. 56; François Larocque and Darius Bossé, "L'obligation de faire adopter la version française des textes constitutionnels canadiens" (the obligation to adopt the French version of Canadian constitutional documents), in François Larocque and Linda Cardinal (eds.), *La Constitution bilingue du Canada: Un projet inachevé*, Presses de l'Université Laval, 2017, p 124).

¹⁸ *Mahe v. Alberta*, [1990] 1 SCR 342, p. 362.

¹⁹ Raymond Breton, "L'intégration des francophones hors Québec dans des communautés de langue française" (the integration of Francophones outside Quebec in French-language communities) (1985) 55:2 *University of Ottawa Quarterly*, p. 77, pp. 78-79.

legislatures is required to table the French version for enactment according to the applicable constitutional amendment procedure.²⁰

20. The federal government attempted to begin negotiations with the provinces to adopt a French version of the entire Constitution in the 1990s. However, there was considerable tension between Ottawa and Quebec at the time, and Quebec refused to participate in the process.²¹ The federal government did not go through with the process at the time because Quebec's participation was deemed necessary to adopt all the documents.²² The federal government has not addressed the issue since.

ii. Legal impasse

21. There is no consensus among the courts over the binding nature of section 55 given the need for political cooperation between the federal government and the provinces in the adoption process by Parliament and by provincial legislatures.²³

22. The issue was briefly considered on two separate occasions, but no court ruled on it. In *Bertrand*,²⁴ the plaintiff plead that Quebec's sovereignty proposal was unconstitutional. The Quebec government had filed a motion for dismissal claiming that because section 55 had not been respected, the Constitution was itself inoperative. The judge considered that the issue could not be decided due to inadmissibility, and the substance of the case never moved forward. In *Langlois*,²⁵ the defendant presented a similar argument, and the Court concluded that the Constitution itself could not be unconstitutional, thus avoiding having to decide whether section 55 of the *Constitution Act, 1982* is indeed justiciable.

23. Given this uncertainty, parliamentary action is an effective way to remedy the unilingualism of the Constitution.

iii. Parliamentary action is needed to end the impasse

24. The impasse is related to each stakeholder's lack of accountability in adopting the French version of the Canadian Constitution. The obligation to put forward the French version of the constitutional documents for enactment necessarily devolves to all parties involved in carrying out the applicable constitutional amendment procedure. However, the wording of section 55 of the *Constitution Act, 1982*, which does not explicitly describe the extent of each party's obligation, enabled, if not encouraged, a certain degree of idleness on the part of political actors who have been waiting since the 1990s for their peers to take the initiative and reignite the discussion.

²⁰ Certain constitutional amendments may be made by Parliament acting alone (s. 44 of the *Constitution Act, 1982*), by a single province (s. 45), by some but not all provinces (s. 43), by Parliament and a majority of provinces (ss. 38(1) and 42) or by Parliament and all provinces unanimously (s. 41).

²¹ Mark C. Power, Marc-André Roy and Emmanuelle Léonard-Dufour, "L'adoption de la version française des textes constitutionnels ayant valeur officielle uniquement en anglais: Le recours aux tribunaux ou à la volonté politique pour parvenir au bilinguisme constitutionnel" (the adoption of the French version of constitutional documents that have official status only in English: resorting to the courts or political will to achieve constitutional bilingualism) in François Larocque and Linda Cardinal (eds.), *La Constitution bilingue du Canada: Un projet inachevé*, Presses de l'Université Laval, 2017, pp. 138 to 142.

²² Mary Dawson, "From the Backroom to the Front Line: Making Constitutional History or Encounters with the Constitution: Patriation, Meech Lake, and Charlottetown" (2012) 57:4 *RD McGill* 955, p. 978.

²³ See François Larocque and Linda Cardinal (eds.), *La Constitution bilingue du Canada: Un projet inachevé*, Presses de l'Université Laval, 2017.

²⁴ *Bertrand v. Quebec (Attorney General)*, [1996] Q.J. No. 2150 (S.C.).

²⁵ *Canada (Attorney General) v. Langlois*, (December 5, 1997), Québec 200-73-000514-979 (C.Q.).

25. In response to this impasse, we recommend that Parliament add an *enforceable* section to the *Official Languages Act* requiring the Minister of Justice of Canada to make best efforts to implement section 55 of the *Constitution Act, 1982*. This would reinvigorate implementation of section 55 by renewing the federal government's commitment to official bilingualism, by clarifying the Minister of Justice of Canada's duty to initiate and continue negotiations, and by removing doubts over the binding nature of the obligation to have an official French version of the Constitution adopted.²⁶

26. Implementing section 55 of the *Constitution Act, 1982* could also require sustained efforts beyond the federal government's mandate. To prevent the political will to implement this obligation from crumbling once again, we recommend that Parliament add a section to the *Official Languages Act* requiring the Minister of Justice to submit a report every five years detailing the efforts made to implement section 55 of the *Constitution Act, 1982*, which will be sent to committee. The reason for a five-year time frame is because the Charter sets out that no House of Commons shall continue for longer than five years.²⁷ It is therefore logical to require a report by Parliament at least every five years to ensure section 55 of the *Constitution Act, 1982* is being implemented.

27. We propose the following wording for the consideration of the Senate Committee on Official Languages:

Mise en œuvre de l'article 55 de la Loi constitutionnelle de 1982

(1) Le ministre de la Justice s'engage à déployer les meilleurs efforts, lors de chaque session parlementaire, pour mettre en œuvre son obligation à l'article 55 de la *Loi constitutionnelle de 1982* de rédiger et de faire adopter, dans les meilleurs délais, la version française des parties de la Constitution du Canada qui figurent à l'annexe de celle-ci.

Rapport au Parlement

(2) Tous les cinq ans après l'entrée en vigueur du présent article, et jusqu'à ce que les obligations prévues par l'article 55 de la *Loi constitutionnelle de 1982* aient été rencontrées, le ministre de la Justice établit un rapport des mesures prises pour mettre en œuvre l'article 55 de la *Loi constitutionnelle de 1982* et le fait déposer devant chaque chambre du Parlement.

Implementation of section 55 of the Constitution Act, 1982

(1) The Minister of Justice shall undertake to use best efforts, during each parliamentary session, to fulfill the Minister's obligations pursuant to section 55 of the *Constitution Act, 1982*, to prepare and put forward for enactment a French version of the portions of the Constitution of Canada referred to in the schedule therein as expeditiously as possible.

Report to Parliament

(2) Every five years after the coming into force of this section, and until the obligations under section 55 of the *Constitution Act, 1982* have been met, the Minister of Justice shall prepare and cause to be laid before each House of Parliament a report on the action taken by the Minister with respect to the implementation of section 55 of the *Constitution Act, 1982*.

²⁶ A similar position has been presented by the Fédération des communautés francophones et acadienne du Canada, the national political organization representing 2.7 million Francophone Canadians living in nine provinces and three territories (see Fédération des communautés francophones et acadienne du Canada, *Donner un nouvel élan à la dualité linguistique Canadienne ! Pour une Loi sur les langues officielles moderne et respectée*, Submission to the Senate Committee on Official Languages for its study on Canadians' perspectives on the modernization of the *Official Languages Act* [March 26, 2018], para. 156, [online](#).

²⁷ Charter, subs. 4(1).

Renvoi en comité

(3) Le comité du Sénat, de la Chambre des communes, ou mixte, constitué ou désigné à cette fin, est saisi d'office du rapport et procède dans les meilleurs délais à l'étude de celui-ci et, dans l'année qui suit le dépôt du rapport ou le délai supérieur accordé par le Sénat, la Chambre des communes ou les deux chambres, selon le cas, leur présente son rapport.

Reference to parliamentary committee

(3) The report of the Minister shall stand referred to the committee of the Senate, of the House of Commons or of both Houses of Parliament that is designated or established for that purpose, which shall:

(a) as expeditiously as possible after the laying of the report, undertake a review of the report; and

(b) submit a report to the Senate, to the House of Commons or to both Houses of Parliament, as the case may be, within one year after the laying of the report, or within such further time as the Senate, the House of Commons or both Houses of Parliament, as the case may be, may authorize.

III. MODERNIZATION OF THE OFFICIAL LANGUAGES ACT TO BETTER REFLECT THE PRESENT-DAY REALITY OF CANADA'S LINGUISTIC DUALITY

28. The CBA recently asked the President of the Treasury Board, the Minister of Justice and the Minister of Canadian Heritage to modernize the *Official Languages Act* to make it an efficient tool that will reflect the present-day reality of Canada's linguistic duality.²⁸

29. The CBA's recommendations in that respect are presented below.

30. On June 6, 2018, Prime Minister Trudeau formally committed in the House of Commons that his government would introduce a bill to modernize the legislative framework governing official languages.²⁹ The Prime Minister also commissioned Minister Joly, in her role as Minister of Tourism, Official Languages and La Francophonie, to "begin an examination towards modernizing the *Official Languages Act*".³⁰

IV. CONCLUSION

31. For a country that is said to be officially bilingual, Canada is slow to fulfil its duty to adopt a complete official French version of its Constitution, pursuant to section 55 of the *Constitution Act, 1982*. This anomaly has a harmful impact on the vitality of Canadian linguistic communities and undermines access to justice and the rule of law. Idleness on this issue is caused by both a lack of accountability from each stakeholder in ensuring the Constitution is available in both English and French, and uncertainties about the binding nature of section 55 before the courts.

²⁸ *Supra* note 5 (Annex C).

²⁹ House of Commons Debates, *Hansard*, 42nd parl., 1st sess., Vol. 148, No. 309 (June 6, 2018), p. 20383.

³⁰ Prime Minister's Office, *Minister of Tourism, Official Languages and La Francophonie Mandate Letter* (August 28, 2018), [online](#).

32. In response to this impasse, and in the context of a willingness to renew Canada's commitment toward linguistic duality by modernizing the *Official Languages Act*, the time is now for Parliament to intervene in order to promote compliance with section 55 of the *Constitution Act, 1982*.

V. SUMMARY OF RECOMMENDATIONS

33. We recommend that Parliament:

1. Add an enforceable section to the *Official Languages Act* requiring the Minister of Justice of Canada to make best efforts to implement section 55 of the *Constitution Act, 1982*.
2. Add a section to the *Official Languages Act* requiring the Minister of Justice of Canada to submit a report every five years detailing the efforts made to implement section 55 of the *Constitution Act, 1982*, which will be referred to a Parliamentary Committee.
3. Amend subsection 16(1) of the *Official Languages Act* so that the duty to ensure understanding in both official languages without the assistance of an interpreter applies to the Supreme Court of Canada.
4. Legislate a new mandatory and rigorous assessment of the linguistic abilities of candidates who identified the level of their language skills on their application form to ensure an appropriate bilingual capacity within the judiciary.
5. Require the federal government to take into account the vitality of official languages minority communities in its assessment of the demand for services.
6. Improve the mechanisms for implementing the *Official Languages Act* and ensure that the Commissioner of Official Languages plays a more active role, for example by specifying the circumstances in which the Commissioner *must* (not only *may*) institute and participate in legal recourse.

VI. ANNEXES

Annex A

Resolution 18-04-A, Bilingual Constitution of Canada, February 16, 2018

Annex B

Letter from the Canadian Bar Association to the Senate Committee on Official Languages, August 14, 2018

Annex C

Letter from the Canadian Bar Association to the Honourable Scott Brison, the Honourable Jody Wilson-Raybould and the Honourable Mélanie Joly, November 23, 2017

Annex D

List of constitutional documents enacted only in English

Bilingual Constitution of Canada

Constitution du Canada bilingue

WHEREAS the Constitution of Canada is the supreme law of Canada;

ATTENDU QUE la Constitution du Canada est la loi suprême du Canada;

WHEREAS subsections 16(1) and (3) of the *Canadian Charter of Rights and Freedoms* state:

ATTENDU QUE les paragraphes 16(1) et 16 (3) de la *Charte canadienne des droits et libertés* déclarent que :

16 (1) English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and government of Canada.

16 (1) Le français et l'anglais sont les langues officielles du Canada; ils ont un statut et des droits et privilèges égaux quant à leur usage dans les institutions du Parlement et du gouvernement du Canada.

(3) Nothing in this Charter limits the authority of Parliament or a legislature to advance the equality of status or use of English and French;

(3) La présente charte ne limite pas le pouvoir du Parlement et des législatures de favoriser la progression vers l'égalité de statut ou d'usage du français et de l'anglais;

WHEREAS section 55 of the *Constitution Act, 1982* states:

ATTENDU QUE l'article 55 de la *Loi constitutionnelle de 1982* déclare que :

55. A French version of the portions of the Constitution of Canada referred to in the schedule shall be prepared by the Minister of Justice of Canada as expeditiously as possible and, when any portion thereof sufficient to warrant action being taken has been so prepared, it shall be put forward for enactment by proclamation issued by the Governor General under the Great Seal of Canada pursuant to the procedure then applicable to an amendment of the same provisions of the Constitution of Canada.;

55. Le ministre de la Justice du Canada est chargé de rédiger, dans les meilleurs délais, la version française des parties de la Constitution du Canada qui figurent à l'annexe; toute partie suffisamment importante est, dès qu'elle est prête, déposée pour adoption par proclamation du gouverneur général sous le grand sceau du Canada, conformément à la procédure applicable à l'époque à la modification des dispositions constitutionnelles qu'elle contient;

WHEREAS a French version of sections of the Constitution was tabled in Parliament in 1990, but has yet to be enacted;

ATTENDU QU'une version française des articles de la Constitution a été déposée au Parlement en 1990, mais n'a pas encore été promulguée;

WHEREAS the failure to provide a fully bilingual Constitution of Canada undermines the rule of law and access to justice;

BE IT RESOLVED THAT the Canadian Bar Association urge the Government of Canada to fulfill the obligations imposed by section 55 of the *Constitution Act, 1982*, to give full force and effect to the entirety of the Constitution in both official languages.

Certified true copy of a resolution carried at the Annual Meeting of the Canadian Bar Association held in Ottawa, ON, February 15, 2018.

ATTENDU QUE le défaut de fournir une Constitution du Canada entièrement bilingue mine la primauté du droit et l'accès à la justice;

QU'IL SOIT RÉSOLU QUE l'Association du Barreau canadien exhorte le gouvernement du Canada à respecter les obligations imposées au titre de l'article 55 de la *Loi constitutionnelle de 1982* pour que soit donné pleine vigueur et plein effet à l'intégralité de la Constitution, dans les deux langues officielles.

Copie certifiée d'une résolution adoptée, à l'Assemblée annuelle de l'Association du Barreau canadien, à Ottawa (ON), le 15 février 2018.

**Cheryl Farrow
Chief Executive Officer/Chef de la direction**



Constitutional documents enacted only in English:

1. The *Constitution Act, 1867* (formerly the *British North America Act*)
2. The Order of Her Majesty in Council admitting Rupert's Land and the North-Western Territory into the union (1870)
3. The Order of Her Majesty in Council admitting British Columbia into the union (1871)
4. The *Constitution Act, 1871*, 34-35 Victoria, c. 28 (U.K.)
5. The Order of Her Majesty in Council admitting Prince Edward Island into the union (1873)
6. The *Parliament of Canada Act, 1875*, 38-39 Victoria, c. 38 (U.K.)
7. The *Adjacent Territories Order* (1880)
8. The *Constitution Act, 1886*, 49 & 50 Victoria, c. 35 (U.K.)
9. The *Canada (Ontario Boundary) Act, 1889*, 52 & 53 Victoria, c. 28 (U.K.)
10. The *Canadian Speaker (Appointment of Deputy) Act, 1895*, 59 Victoria, c. 3 (U.K.)
11. The *Constitution Act, 1907*, 7 Edward VII, c. 11 (U.K.)
12. The *Constitution Act, 1915*, 5 & 6 George V, c. 45 (U.K.)
13. The *Constitution Act, 1930*, 20 & 21 George V, c. 26 (U.K.)
14. The *Statute of Westminster, 1931*, 22 George V, c. 4 (U.K.)
15. The *Constitution Act, 1940*, 3 & 4 George VI, c. 36 (U.K.)
16. The *British North America Act, 1943*, 6 & 7 George VI, c. 30 (U.K.)
17. The *British North America Act, 1946*, 12-13 George VI, c. 63 (U.K.)
18. The *Newfoundland Act*, 12 & 13 George VI, c. 22 (1949)
19. The *British North America Act (No.2)*, 1949, 13 George VI, c. 81 (U.K.)
20. The *British North America Act, 1951*, 14 & 15 George VI, c. 32 (U.K.)
21. The *Constitution Act, 1960*, 9 Elizabeth II, c. 2 (U.K.)
22. The *Constitution Act, 1964*, 12 & 13 Elizabeth II, c. 73 (U.K.)

Constitutional documents that are officially bilingual:

1. The *Manitoba Act, 1870*
2. The *Alberta Act* (1905)
3. The *Saskatchewan Act* (1905)
4. The *Constitution Act, 1965*
5. The *Constitution Act, 1974*
6. The *Constitution Act (No. 1)*, 1975
7. The *Constitution Act (No. 2)*, 1975
8. The *Constitution Act, 1982* itself and the *British North America Act, 1952*, 1 Elizabeth II, c. 15 (now repealed).

Out of the 22 unilingual documents set out in the schedule to the *Constitution Act, 1982*, five were repealed when section 55 was enacted. Because section 55 concerns the translation of all documents in the schedule to the *Constitution Act, 1982*, the French Constitutional Drafting Committee also translated the repealed documents. These documents are: the *Canadian Speaker (Appointment of Deputy) Act, 1895*, 59 Victoria, c. 3 (U.K.); the *British North America Act, 1943*, 6 & 7 George VI, c. 30 (U.K.); the *British North America Act, 1946*, 12-13 George VI, c. 63 (U.K.); the *British North America Act (No.2)*, 1949, 13 George VI, c. 81 (U.K.) and the *British North America Act, 1951*, 14 & 15 George VI, c. 32 (U.K.).