



# Amendments recommended by the Ordre des traducteurs, terminologues et interprètes agréés du Québec (OTTIAQ)

TO

## 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*

### **Rationale for recommended amendments<sup>1</sup>**

- Translation enables Canadians to exercise their constitutional right **not** to speak the other official language, while obtaining quality documentation and services in the official language of their choice. It is at the heart of the Canadian social contract/fabric and should be recognized by the *Official Languages Act*.
- Within the federal government, the user-pays model has been applied to translation since 1995 (27 years), even though translation services had been free from 1841 until that date.
- In fact, the user-pays model applies to a constitutional right.
- The lack of free funding has led to major aberrations, contrary to the spirit and the letter of the *Official Languages Act*.
  - Many federal departments and agencies have stopped having documents translated.
  - Or only do so if requested.
  - Or use machine translation or unqualified resources to do so.
  - Created a second Translation Bureau, hiring translators in violation of a Treasury Board directive (Treasury Board Decision no. 831871).

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<sup>1</sup> Arguments presented by Donald Barabé, President of OTTIAQ, during his appearance before the House of Commons Standing Committee on Official Languages, Meeting number 31, September 27, 2022



- Purchase their translation services at a rate that is 18% to 735% more expensive than the Translation Bureau (Parliamentary Question Q-53)
- The Government of Canada is in violation of its own 1934 *Translation Bureau Act*, under which the Bureau's services are mandatory and not optional.
  - "4. (1) The Bureau shall collaborate with and act for all departments, boards, agencies and commissions ... and act for both houses of Parliament in all matters relating to the making and revising of translations..." (our emphasis)
  - "4. (2) All departments ... referred to in subsection (1) shall collaborate with the Bureau in carrying into effect this Act and the regulations."<sup>2</sup>
- The fact that its services are not free but optional prevents the Translation Bureau from properly serving the federal government and Canadians.
- According to the Treasury Board itself, the TB is no longer able to play its "essential stewardship role as regards the security of supply for language services to Parliament, the judiciary and the federal government [and to be] a key player in applying the Official Languages Policy."<sup>3</sup>
- The optional nature of Translation Bureau services has caused the fragmentation of federal purchasing power, which is **the** cause of the fragmentation and weakening of the Canadian language sector.
  - "The Canadian language industry—an essential partner to the Translation Bureau in meeting the needs of Parliament, the judiciary and the federal government—is in a critical state."<sup>4</sup>
  - "... fragmenting has pushed the industry into a corner, and that reversing this fragmentation would be the first step to reversing the decline and getting the industry back on track."<sup>5</sup>
- The private sector, in both translation and interpretation, is strongly recommending that the Translation Bureau's mandate be strengthened:
  - "It is high time that these anarchic and counterproductive practices cease and that the federal purchasing power in translation be again assigned to the expert body that the Government of Canada has established, namely the TB [Translation Bureau]."<sup>6</sup>

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<sup>2</sup> Translation Bureau Act <https://laws.justice.gc.ca/eng/acts/t-16/page-1.html>

<sup>3</sup> Treasury Board Decision no. 831871

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Letter from the Association des conseils en gestion linguistique to the Minister of PSPC on 01.11.16

- “AIIIC-Canada ... is interested in working with the TB [Translation Bureau] to ensure that it remains a center of excellence, offering the best working conditions for its suppliers so as to provide the highest quality services.”<sup>7</sup>
- In February 2017, the Minister of Public Services and Procurement Canada (PSPC) made the following commitment:
  - “This is a new day for the Translation Bureau. The status of this institution is being restored. We are turning the situation around. We have a new management plan, [to] ensure succession and [to] ensure that the Translation Bureau becomes mandatory again.”<sup>8</sup>

## Recommendations

1. “Strengthen the role of translation and interpretation functions within the federal administrative apparatus, notably the Translation Bureau.”<sup>9</sup>
  - Enforce the Translation Bureau Act, that is, restore the mandatory and free nature of its services to Parliament and federal institutions.
2. Mandate the Translation Bureau to use federal purchasing power in translation for the development of the Canadian language sector.
3. Amend the Official Languages Act to emphasize the importance of translation for the application of the Act (see Recommended Amendments on the following pages).
4. Ensure ongoing funding for university training programs in translation and interpretation.

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[https://lacgl.org/medias/94/reponse\\_comite\\_de\\_valorisation\\_des\\_services\\_langagiers%20canadiens\\_%20acgl\\_1ernov2016.pdf](https://lacgl.org/medias/94/reponse_comite_de_valorisation_des_services_langagiers%20canadiens_%20acgl_1ernov2016.pdf)

<sup>7</sup> AIIIC-Canada Evergreen Discussion Paper on the Translation Bureau’s plans to introduce distance interpreting in dispersed mode at Conferences, and possibly at Parliament, August 26, 2022

<sup>8</sup> S. McKinnon, Parliamentary Secretary to the Minister of Public Services and Procurement Canada, Ms. Judy Foote, February 9, 2017 <http://www5.tfo.org/onfr/la-ministre-foote-annonce-un-reinvestissement-dans-le-bureau-de-la-traduction/>

<sup>9</sup> Canadian Heritage, *English and French: Towards a substantive equality of official languages in Canada*, 2021, p. 27 <https://www.canada.ca/en/canadian-heritage/corporate/publications/general-publications/equality-official-languages.html>



**Amendments recommended by the OTTIAQ** (italics and underlined)

## SUMMARY

Part 1 amends the *Official Languages Act* to, among other things:

- (a) specify that all legal obligations related to the official languages apply at all times, including during emergencies;
- (b) codify certain interpretative principles regarding language rights;
- (c) provide that section 16 of that Act applies to the Supreme Court of Canada;
- (d) provide 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;
- (e) provide for Government of Canada commitments to
  - (i) protect and promote French;
  - (ii) ensure the substantive equality of the official languages and the access of Canadians to information of equal quality through professional translation and interpretation;
  - (iii) contribute to an estimate of the number of children whose parents are rights holders under section 23 of the *Canadian Charter of Rights and Freedoms*,
  - (iv) advance 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, and
  - (v) advance the use of English and French in the conduct of Canada's external affairs;

## TABLE OF PROVISIONS

Rights and Duties

Communication with, Services to and Protection of the Language  
Rights of Consumers



## Short Title

1 *An Act for the Substantive Equality of Canada's Official Languages*

Part 1

## Official Languages Act

### Amendments to the Act

2 (1) The fourth paragraph of the preamble to the *Official Languages Act* is replaced by the following:

AND WHEREAS 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 the right to obtain professional translation or interpretation services in the exercising of their duties;<sup>10</sup>

(3) The 10th paragraph of the preamble to the Act is replaced by the following:

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 communities, such as the cultural and language sectors, and protecting and promoting the presence of strong institutions serving those communities;

AND WHEREAS the Government of Canada recognizes the role of translation, interpretation and terminology in upholding the principle of substantive equality of official languages as essential components of the federal government's communications with citizens;<sup>11</sup>

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

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<sup>10</sup> In accordance with the decision by the Federal Court of Appeal *Commissioner of Official Languages of Canada v. Office of the Superintendent of Financial Institutions*, August 4, 2021 <https://decisions.fca-caf.gc.ca/fca-caf/decisions/en/501166/1/document.do>

<sup>11</sup> "Essential components..." taken and adapted from *English and French: Towards a substantive equality of official languages in Canada*, 2021, p. 27, Canadian Heritage <https://www.canada.ca/en/canadian-heritage/corporate/publications/general-publications/equality-official-languages.html>



## Amendments to the Act

### Part I

## Proceedings of Parliament

**Subsection 4(2) of the Act is replaced by the following:**

**(2)** The Translation Bureau shall provide for the simultaneous interpretation of the debates and other proceedings of Parliament from one official language into the other.

### Part II

## Legislative and Other Instruments

**Section 13 of the Act is replaced by the following:**

**13 (1)** 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.

**13 (2)** The Translation Bureau shall provide for the translation of all texts referred to in subsection 13(1).

### Part VII

## Advancement of English and French

**Commitment — enhancing vitality of communities and fostering English and French**

**21 Sections 41 and 42 of the Act are replaced by the following:**

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 and the sectors that contribute to its development such as the cultural and language sectors.



### Positive measures

(6) Positive measures taken under subsection (5)

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, namely through professional translation, interpretation and terminology, 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, immigration, translation, interpretation and terminology sectors, and protect and promote the presence of strong institutions serving those communities.

### **Recognition – Translation Bureau**

42.2 The federal government recognizes that the Translation Bureau, in carrying out its mandate under the Translation Bureau Act and its regulations, contributes through its translation, interpretation and terminology activities to the vitality of Canada's English and French linguistic communities, the protection and fostering of both official languages and the development of the Canadian language sector. Its services are mandatory for Parliament and federal institutions and are therefore free of charge.