Let’s Finally Recognize the Specificity of New Brunswick in the *Official Languages Act*!

Brief by the Société de l’Acadie du Nouveau-Brunswick,
Submitted to the Standing Senate Committee on Official Languages
In the context of its study of Canadians’ views about modernizing the *Official Languages Act*

16 April 2018

Senate
Ottawa, Ontario, 16 April 2018
Introduction

The Société de l’Acadie du Nouveau-Brunswick (SANB), which was founded in 1973, is the political voice for the Acadian nation of New Brunswick. It is dedicated to defending and promoting the rights and interests of that province’s Acadian nation. The SANB is a member of the Société Nationale de l’Acadie, a federation of Acadian spokesperson and youth organizations located in Atlantic Canada and elsewhere in the world. The Société was established in 1881 to promote and defend the rights and interests of the Acadian nation internationally and interprovincially. The SANB is also a member of the Fédération des communautés francophones et acadienne du Canada (FCFA), the national organization representing 2.7 million francophone Canadians living in nine provinces and three territories.

The SANB is ideally placed to present the perspective of the Acadian nation of New Brunswick to the Standing Senate Committee on Official Languages (Senate Committee) as it conducts the second phase of its study on the modernization of the federal Official Languages Act (OLA) and seeks to obtain the views of official language minority communities.¹

To begin with, the SANB applauds the initiative of the Senate Committee to study the modernization of the OLA, but we must stress that New Brunswick’s linguistic specificity can no longer be ignored.

The English and French linguistic communities of New Brunswick enjoy special recognition and status in Canada: they are the only linguistic communities that hold collective rights under the Canadian Constitution.² Section 16.1 of the Canadian Charter of Rights and Freedoms (Charter), the product of a 1993 constitutional amendment, guarantees the English and French linguistic communities of New Brunswick equal rights and privileges, notably the right to distinct educational institutions and such distinct cultural institutions as are necessary for their preservation and promotion.

More than 10% of the Charter is devoted to New Brunswick; it is the only province that is expressly named in that text (Appendix A). However, the status and rights of the English and French linguistic communities of New Brunswick are not even mentioned in the OLA (Appendix B). Indeed, in terms of language rights, New Brunswick’s entire constitutional system – a system of institutional bilingualism that is unique in Canada and that is subject to detailed codification in the Charter – is completely ignored by the OLA. This incongruity must be eliminated!

In its brief, the SANB provides the Senate Committee with a foundation for addressing this flagrant oversight. The first part (A) explains the specificity of the Acadian nation of New Brunswick, a nation distinguished by its history, its demographics and the constitutional language system of its province, which is

¹ Official Languages Act, RSC 1985, c 31 (4th Supplement).
² Besides, obviously, the collective nature of the language rights conferred by sections 20 and 23 of the Charter, which derive in particular from the numerical requirements set out in those sections.
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set out in section 16.1 of the Charter. The second part (B) highlights the shortcomings of the federal system created by the OLA with regard to New Brunswick. Finally, in the third part (C), the SANB recommends a series of concrete amendments to the OLA intended to remedy these shortcomings and finally recognize New Brunswick’s specificity in legal terms.

A) Historic, demographic and constitutional specificity of the Acadian nation of New Brunswick

[7] Acadia is not confined to a territory. The Acadian nation extends to the Atlantic provinces, Quebec, the islands of Saint-Pierre and Miquelon, as well as to mainland France, New England and Louisiana, where descendants of the deported or refugees have been able to preserve their language and culture.

[8] In New Brunswick today, the Acadian nation accounts for nearly a third of the population. This explains why more than 32% of the province’s inhabitants have French as their first official language spoken, an exceptional percentage outside of Quebec.³

[9] Despite the fact that French has been spoken in the Atlantic provinces since 1604, when the first Europeans arrived on St. Croix Island, the Acadians of New Brunswick had to wait more than 350 years for their language and culture to be given legal protections, because no such protection was accorded them in 1784 when New Brunswick was created, nor in 1867 when the Canadian federation was created.⁴

[10] Mandated to “inquire into and report upon the existing state of bilingualism and biculturalism in Canada and to recommend what steps should be taken to develop the Canadian Confederation on the basis of an equal partnership between the two founding races,”⁵ the Royal Commission on Bilingualism and Biculturalism observed in 1965 “the greatest crisis” in the history of Canada, which “if it should persist and gather momentum, it could destroy Canada.”⁶

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³ The Census systematically underestimates the number of people with French as a mother tongue, mainly by discouraging respondents from indicating more than one mother tongue (primarily people raised in exogamous families, a common situation for children of rights-holders). See the Association canadienne-française de l’Alberta (ACFA), Required changes to the Canadian census, as of 2021, brief presented to the Standing Committee on Official Languages during its study of issues related to the enumeration of rights-holders under section 23 of the Canadian Charter of Rights and Freedoms (February 2017), paras. 127–147; House of Commons, Standing Committee on Official Languages, The Enumeration of Rights-holders Under Section 23 of the Canadian Charter of Rights and Freedoms: Toward a Census that Supports the Charter, (9 May 2017, 1st Session, 42nd Parliament) (Chair: the Honourable Denis Paradis), pp 3–5.


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[11] In the face of this prognosis, the Royal Commission of Inquiry on Bilingualism and Biculturalism recommended a profound restructuring of the Canadian federation to promote individual equality and equality between official language communities in Canada:

Thus, it is not enough for members of a minority group to have access to the same activities, institutions, and benefits as the members of the majority group; that simply requires an absence of discrimination against individuals as such. The equality to which we refer requires that a person who engages in some activity or associates with some institution need not renounce his own culture, but can offer his services, act, show his presence, develop, and be accepted with all his cultural traits....

Individual equality can fully exist only if each community has, throughout the country, the means to progress within its culture and to express that culture. To this end it will have its own institutions in certain fields, while in other sectors it will be free to participate, on satisfactory terms, in common institutions and agencies....

[The political dimension consists of] the possibilities for each [community] to choose its own institutions or, at least, to have the opportunity to participate fully in making political decisions within a framework shared by the other community....

[It is not cultural growth and development at the individual level which is at stake, but the degree of self-determination which one society can exercise in relation to another.]

[12] Based on these principles, the Royal Commission on Bilingualism and Biculturalism recommended that “English and French be formally declared the official languages of the Parliament of Canada, of the federal courts, of the federal government, and of the federal administration.” It also recommended that “the provinces of New Brunswick and Ontario themselves declare that they recognize English and French as official languages and that they accept the language régimes that such recognition entails.”


[14] At the same time, New Brunswick’s Acadia was experiencing its own “quiet revolution,” primarily driven by the government of Louis J. Robichaud, the first Acadian to be elected premier of that province. To address the seething political and sociolinguistic tensions in Acadia at the time, the Government of New Brunswick created the Université de Moncton in 1963, established a genuine New Brunswick welfare state between 1965 and 1967 (by implementing the Equal Opportunity program) and passed its own Official Languages Act in 1969 (NB-OLA). However, the NB-OLA was timidly applied, and several of its sections were not enacted until 1977.

7 Royal Commission on Bilingualism and Biculturalism, pp xl–xliv.
8 Royal Commission on Bilingualism and Biculturalism, p 91.
9 Ibid, p 97.
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[15] The OLA and NB-OLA ignored the political dimension of equality advocated by the Royal Commission on Bilingualism and Biculturalism,\(^13\) and were insufficient to prevent the establishment of an independence movement in Acadia in the 1970s.\(^14\) In an attempt to curb the drive for Acadian independence, which was calling for the creation of an Acadian province, in July 1981 the Legislative Assembly of New Brunswick unanimously adopted the Act Recognizing the Equality of the Two Official Linguistic Communities of New Brunswick\(^15\) (Appendix C). The three sections of that Act read as follows:

1. Acknowledging the unique character of New Brunswick, the English linguistic community and the French linguistic community are officially recognized within the context of one province for all purposes to which the authority of the Legislature of New Brunswick extends, and the equality of status and the equal rights and privileges of these two communities are affirmed.

2. The Government of New Brunswick shall ensure protection of the equality of status and the equal rights and privileges of the official linguistic communities and in particular their right to distinct institutions within which cultural, educational and social activities may be carried on.

3. The Government of New Brunswick shall, in its proposed laws, in the allocation of public resources and in its policies and programs, take positive actions to promote the cultural, economic, educational and social development of the official linguistic communities.

[16] As of 1981, the relationship between New Brunswick's two official language communities must therefore be seen through the prism of equality between the Acadian nation and the anglophone community. That is why New Brunswick initially opposed the 1987 proposal for constitutional reform – the Meech Lake

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Accord – which relegated the Acadian nation to a simple “presence” in New Brunswick.¹⁶ For example, Professor Foucher indicated that the Meech Lake Accord relegated Acadians to minority status, which they are trying to overcome:

Legal and social equality should be reflected in constitutional equality; this would enable the Acadian community to continue making progress toward real equality. However, the Meech Lake Accord puts the Acadian community in a constitutional straitjacket by officially giving it a minority status that the community itself rejects. The Acadian community also forms a distinct society, with its institutions, its history, its language, its culture. In only recognizing Quebec, the Meech Lake Accord automatically excludes from its provisions all other distinct societies.¹⁷ [Translation]

[17] The government of Frank McKenna initially opposed the Meech Lake Accord. In March 1990, however, it tabled two resolutions by way of compromise: one proposing the adoption of the Meech Lake Accord, and the other proposing the adoption of a series of additional measures, including enshrining the Act Recognizing the Equality of the Two Official Linguistic Communities of New Brunswick in the Constitution. New Brunswick’s companion resolution was studied by a special parliamentary committee chaired by Jean Charest. The SANB asked the committee to recommend that equality between New Brunswick’s two official language communities be enshrined in the Constitution.¹⁸ The Committee gave effect to that request in recommending that an unaltered version of the Meech Lake Accord be adopted, followed by the adoption of a series of additional amendments, including enshrining the Act Recognizing the Equality of the Two Official Linguistic Communities of New Brunswick in the Constitution.

¹⁶ The Meech Lake Accord: Historica Canada (Canadian Encyclopedia), Meech Lake Accord (Text of the Accord) would have amended the Constitution by inserting the following after section 1 of the Constitution Act, 1867:

2. (1) The Constitution of Canada shall be interpreted in a manner consistent with
   (a) the recognition that the existence of French-speaking Canadians, centered in Quebec but also present elsewhere in Canada, and English-speaking Canadians, concentrated outside Quebec but also present in Quebec, constitutes a fundamental characteristic of Canada; and
   (b) the recognition that Quebec constitutes within Canada a distinct society.

²(1) Toute interprétation de la Constitution du Canada doit concorder avec :
   a) la reconnaissance de ce que l’existence de Canadiens d’expression française, concentrés au Québec mais présents aussi dans le reste du pays, et de Canadiens d’expression anglaise, concentrés dans le reste du pays mais aussi présents au Québec, constitue une caractéristique fondamentale du Canada ;
   b) la reconnaissance de ce que le Québec forme au sein du Canada une société distincte.


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[18] That was met with grumbling in Quebec, particularly from Mr. Bouchard, who told Mr. Mulroney in his letter of resignation that he could not accept “the levelling of Québec society’s distinctive character by inserting in the same clause the equality of New Brunswick’s anglophone and francophone communities.”

[19] The Meech Lake Accord was dead, and with it, New Brunswick’s parallel motion. However, in the wake of the collapse of the agreement, the federal and provincial governments created constitutional commissions, whose reports formed the basis for the Charlottetown Accord. The New Brunswick constitutional commission recommended among other things that “the Constitution be amended to include a clause recognizing the equality of status, rights and privileges of the francophone and anglophone communities of New Brunswick, and that this equality include the right of distinct cultural institutions as necessary for their preservation and promotion.” This led to the inclusion of a clause on the linguistic communities of New Brunswick in the Charlottetown Accord.

19 Lucien Bouchard, On the Record, Toronto, Stoddart, 1994, p 243; See also Raymond B. Blake, Transforming the Nation Canada and Brian Mulroney, Montréal, McGill-Queens’, 2007.

20 The SANB reiterated its demand that the Constitution recognize the equality of status and the equal rights and privileges of the two official language communities of New Brunswick before the Special Joint Committee on a Renewed Canada (see Parliament of Canada, Minutes of Proceedings and Evidence of the Special Joint Committee on a Renewed Canada, 3rd Session, 34th Parliament, No. 43 (15 January 1992) (Testimony of Réal Gervais, President of the Société des Acadiens et des Acadiennes du Nouveau-Brunswick and Michel Doucet, Legal Counsel to the Société des Acadiens et des Acadiennes du Nouveau-Brunswick).


22 The text of the Charlottetown Accord, Historica Canada (Canadian Encyclopedia), Charlottetown Accord (Text of the Accord), included the following:

3. Linguistic Communities in New Brunswick

A separate constitutional amendment requiring only the consent of Parliament and the legislature of New Brunswick should be added to the Canadian Charter of Rights and Freedoms. The amendment would entrench the equality of status of the English and French linguistic communities in New Brunswick, including the right to distinct educational institutions and such distinct cultural institutions as are necessary for the preservation institutions and promotion of these communities. The amendment would also affirm the role of the legislature and government of New Brunswick to preserve and promote this equality of status.

3. Les communautés linguistiques au Nouveau-Brunswick

Il conviendrait d’ajouter à la Charte canadienne des droits et libertés une modification constitutionnelle distincte qui n’exigerait le consentement que du Parlement du Canada et de l’Assemblée législative du Nouveau-Brunswick. Cette modification consacrera l’égalité des communautés anglophones et francophones du Nouveau-Brunswick, notamment le droit à des institutions d’enseignement distinctes et aux culturelles distinctes nécessaires à leur protection et à leur promotion. Elle porterait également que le rôle de la législature et du gouvernement du Nouveau-Brunswick de protéger et de promouvoir cette égalité est confirmé.
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[20] The Charlottetown Accord was put to a referendum. It was rejected by Canada, but not by New Brunswick. Believing therefore that it had obtained the approval of the people of the province to undertake bilateral proceedings to enshrine the equality of New Brunswick’s language communities in the Constitution,

On 4 December 1992, the provincial government tabled a resolution the Legislative Assembly authorizing it to negotiate the amendment to the Constitution of Canada to include the principle of equality. One 17 December 1992, the Senate of Canada adopted the resolution unanimously and on Monday, 1 February 1993, the House of Commons also adopted it. The Resolution received Royal Assent at Rideau Hall on 12 March 1993. [Translation]

[21] This (very) brief historical overview will at least provide the members of the Senate Committee with a better understanding of why the Canadian Constitution accords a special place to New Brunswick among its linguistic guarantees.

[22] New Brunswick is the only officially bilingual province in Canada.

[23] In 1982, the Charter enshrined in the Constitution parliamentary, legislative and judicial bilingualism across the province as well as at the federal level. Subsection 16(2) states 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.” Subsection 17(2) provides that “[e]veryone has the right to use English or French in any debates or other proceedings of the legislature of New Brunswick.” Pursuant to subsection 18(2), “[t]he statutes, records and journals of the legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative.” In judicial matters, “[e]ither English or French may be used by any person in, or in any pleading in or process issuing from, any court of New Brunswick,” pursuant to subsection 19(2). Remember that New Brunswick is the only province that provides such constitutional guarantees for the use of English and French.

[24] Finally, subsection 20(2) provides that any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any office of an institution of the legislature or government. The section therefore establishes “complete institutional bilingualism” in New Brunswick, “as citizens have the right to use the language of their choice at all times when requesting a service from or communicating with the provincial government.”

[25] While New Brunswick already had unique constitutional status in terms of official languages when the Charter was adopted in 1982, this was strengthened in 1993 with the bilateral constitutional amendment that added section 16.1 to the Charter, according equal status to the French and English linguistic communities of New Brunswick, as well as specific rights:

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**English and French linguistic communities in New Brunswick**

16.1 (1) The English linguistic community and the French linguistic community in New Brunswick have equality of status and equal rights and privileges, including the right to distinct educational institutions and such distinct cultural institutions as are necessary for the preservation and promotion of those communities.

**Communautés linguistiques française et anglaise du Nouveau-Brunswick**

16.1 (1) La communauté linguistique française et la communauté linguistique anglaise du Nouveau-Brunswick ont un statut et des droits et privilèges égaux, notamment le droit à des institutions d'enseignement distinctes et aux institutions culturelles distinctes nécessaires à leur protection et à leur promotion.

**Role of the legislature and government of New Brunswick**

(2) The role of the legislature and government of New Brunswick to preserve and promote the status, rights and privileges referred to in subsection (1) is affirmed.

**Rôle de la législature et du gouvernement du Nouveau-Brunswick**

(2) Le rôle de la législature et du gouvernement du Nouveau-Brunswick de protéger et de promouvoir le statut, les droits et les privilèges visés au paragraphe (1) est confirmé.

[26] This recognition of linguistic communities is exceptional in the Canadian constitutional regime. On the occasion of the 2014 World Acadian Congress, Graham Fraser, then Commissioner of Official Languages, commented that “[n]owhere else is there such a clear, unequivocal statement concerning the English and French linguistic communities in Quebec, Ontario, Manitoba—or anywhere else in Canada.”

[27] As indicated by the New Brunswick Court of Appeal, section 16.1 of the Charter represents the realization of “the commitment of the government to bilingualism and biculturalism.” As to the purpose and scope of section 16.1, the Court of Appeal explains that it is intended to “maintain the two official languages, as well as the cultures that they represent, and to encourage the flourishing and development of the two official language communities” and that it “imposes on the provincial government the obligation to take positive measures to ensure that the minority official language community has equality of status and equal rights and privileges with the majority official language community.” Logically, the pursuit of equality between the English and French linguistic communities required by section 16.1 necessitates asymmetrical measures and a recognition of the disparity that exists between these two communities.

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27 *Charlebois v. Mowat*, 2001 NBCA 117, para 62. The unanimous decision was rendered by Chief Justice Daigle and justices Ayles and Larlee.

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[28] It goes without saying that enshrining equality of status and equal rights and privileges for the English and French linguistic communities of New Brunswick constitutes a fundamental starting point for the legal defence of the rights and interests of that province’s Acadian nation.

B) Certain shortcomings in the OLA with regard to New Brunswick

[29] In 1988, the federal OLA was revised in order to comply with the constitutional language rights enshrined in the Charter six years earlier. At least, that was the stated objective. It is nevertheless remarkable that there is *no* mention of New Brunswick’s constitutional linguistic specificities anywhere in the federal OLA.

[30] Of course, the OLA is a federal Act that is only binding on federal institutions. That said, federal institutions do not operate in a linguistic vacuum (legal, historical, social); on the contrary, they exist within a rich framework of constitutional rights and provincial obligations, several of which are unique to New Brunswick.29

[31] Furthermore, the purpose of the 1988 federal OLA, which is defined in section 2, is not only to “set out the powers, duties and functions of federal institutions with respect to the official languages” and to “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,” but also to “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.” It goes without saying that such support and advancement cannot be designed without consideration for the historic, demographic and constitutional specificity of New Brunswick – the only bilingual province in Canada, and in which more than 32% of inhabitants have French as their first official language spoken.

[32] Further amendments were brought to the federal OLA in 2005: parts VII (positive measures) and X (remedies) were amended to strengthen the federal commitment to official language communities. Unfortunately, Parliament once again failed to seize the opportunity to recognize New Brunswick’s linguistic specificity in the OLA, despite the 1993 constitutional amendment that led to section 16.1 of the Charter – the only resolution to survive the collapse of the Meech Lake Accord30 and the Charlottetown Accord31 – and the only provision in the entire Constitution recognizing the rights of “linguistic communities” in Canada. Calling it a missed opportunity would be an understatement.

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30 *Meech Lake Accord*, *supra*.
31 *Charlottetown Accord*, *supra*. 

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C) Concrete proposals for amendments to the OLA to recognize the specificities of New Brunswick

[33] While this brief is limited to ways to ensure that New Brunswick’s specificities are recognized in the federal OLA, the SANB unequivocally supports the proposals of the FCFA with regard to the modernization of the OLA.32 Most of the shortcomings mentioned by the FCFA affect Acadia as well.

[34] For example, need we point out that it was the SANB that was told by the Supreme Court of Canada in 1986 that the right to be heard in the official language of one’s choice before the courts of New Brunswick, guaranteed by section 19(2) of the Charter, does not include the right to be understood in that language?33 This decision was rejected by Parliament, except as it applies to the Supreme Court.34 It’s time to finish the job.35

[35] It was also on Acadian soil, in Raîche v. Canada,36 that the authority of Part VII of the federal OLA over the federal government was unsuccessfully tested with regard to federal electoral district boundaries. The impotence of Part VII was once again demonstrated in Canadian Food Inspection Agency v. Forum des Maires de la Péninsule Acadienne, in which the SANB was an intervener. The Federal Court of Appeal concluded that “section 41 is declaratory of a commitment and that it does not create any right or duty that could at this point be enforced by the courts, by any procedure whatsoever.”37 This decision was the impetus for Senator Jean-Robert Gauthier’s bill to render Part VII “enforceable.”38 It is unfortunate that in 2018 we are still trying to address the problem of the implementation of Part VII, and the federal OLA in general.39

[36] New Brunswick is also an interesting case study for the Senate Committee in terms of who should be responsible for implementation of the federal OLA. The premier of the province is responsible for applying the NB-OLA (s. 2). In reality, however, that responsibility is largely delegated to the minister of official languages. Our experience leads us to support the FCFA proposal that the Treasury Board be given responsibility for application of the federal OLA.40

[37] That said, in order to remedy the silence of the federal OLA with regard to the specificity of New Brunswick and to ensure, after all these years, that New Brunswick’s unique linguistic status is recognized in

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32 Fédération des communautés francophones et acadiennes du Canada, Giving New Momentum to Canada’s Linguistic Duality! For a Modern and Respected Official Languages Act, Brief submitted to the Standing Senate Committee on Official Languages in the context of its study of Canadians’ views about modernizing the Official Languages Act (26 March 2018).

33 Société des Acadiens v. Association of Parents, 1 SCR 549.

34 Official Languages Act, supra, subsection 16(1).

35 FCFA, Giving New Momentum to Canada’s Linguistic Duality, supra, paras. 118–120.

36 Raîche v. Canada (AG), 2004 FC 679.


39 FCFA, Giving New Momentum to Canada’s Linguistic Duality, supra, paras. 32–41, 136–143.

40 FCFA, Giving New Momentum to Canada’s Linguistic Duality, supra, paras. 24–62.
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the federal OLA, the SANB is recommending a series of concrete amendments linked to four specific objectives.

**Objective 1: Recognize New Brunswick’s linguistic specificity in the preamble and purpose section of the federal OLA**

[38] In the 1988 federal OLA, Parliament is inconsistent in its reiteration of the constitutional principles related to language rights. For example, the first paragraph of the preamble on the use of English and French in the institutions of Parliament mentions the “Constitution” and repeats subsection 16(1) of the Charter almost word for word. Section 2, which defines the purpose of the federal OLA, refers to the range of protections set out in subsections 16(1), 17(1), 18(1), 19(1) and 20(1) of the Charter, but does not even mention their second subsections dealing with New Brunswick.

[39] Furthermore, as indicated in the preceding section of this brief, although the specificity of the New Brunswick context is an integral part of the linguistic regime guaranteed by the Charter, which was itself the backdrop for adoption of the federal OLA in 1988, there is no mention of this specificity in the preamble or purpose section of the federal OLA.

[40] The federal OLA is a quasi-constitutional text that describes and frames the linguistic portrait of the entire country, and there must be an addition to the solemn declarations of the preamble in order to recognize New Brunswick’s unique history in terms of bilingualism, a history that is reflected and enshrined in the Charter through the unique protections for that province’s linguistic communities.

[41] In the brief it submitted to the members of the Senate Committee on 26 March 2018, the FCFA called for expanding the scope of the preamble to the federal OLA, notably by recognizing “that New Brunswick has a distinct status with respect to official languages and language rights.” The SANB supports this recommendation wholeheartedly, and would like propose such an addition to the preamble of the OLA, for consideration by the members of the Senate Committee:

[Whereas]

New Brunswick’s language regime is unique in Canada and the specificity of the linguistic communities of that province, particularly the equality of their status and their equal rights and privileges, as well as their right to distinct cultural and educational institutions, are expressly recognized and protected in the Constitution.

Attendu : [...]

que le Nouveau-Brunswick possède un régime linguistique unique au pays et que la spécificité des communautés linguistiques de cette province, notamment l’égalité de leurs statut, droits et privilèges, ainsi que leur droit à des institutions culturelles et d’enseignement distinctes, sont expressément reconnus et protégés dans la Constitution.

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41 *Ibid*, para 100, subpara 8.
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[42] The SANB also supports the FCFA’s call for adding a section to the federal OLA to codify the principles of its interpretation. However, to strengthen the interpretative role that should be played by the Charter in the application of the federal OLA, particularly its specific guarantees pertaining to the New Brunswick context, the SANB proposes the following interpretative section:

**Application**

2.1(1) This Act and the rights it confers must in all cases be interpreted purposively, in a manner consistent with the preservation and development of official language communities in Canada, as well as the constitutional principle of the protection of minorities.

(2) This Act is to be construed and applied in a manner that

(a) ensures that decisions taken pursuant to the Act are consistent with the *Canadian Charter of Rights and Freedoms*, notably the language rights guarantees found in sections 16, 17, 18, 19, 20 and 23; and

(b) recognizes and affirms the historic, demographic and constitutional specificity of New Brunswick with regard to language, and in particular encourages respect for subsections 16(2), 17(2), 18(2), 19(2) and 20(2) of the *Canadian Charter of Rights and Freedoms*.

**Interprélation et mise en œuvre**

2.1 (1) La présente loi et les droits qu’elle confère doivent dans tous les cas être interprétés en fonction de leur objet, de façon compatible avec le maintien et l’épanouissement des collectivités de langue officielle au Canada, ainsi qu’avec le principe constitutionnel de la protection des minorités.

(2) L’interprétation et la mise en œuvre de la loi doivent notamment avoir pour effet :

a) d’assurer que les décisions prises en vertu de la loi sont conformes à la *Charte canadienne des droits et libertés*, et notamment aux garanties en matière de droits linguistiques prévues aux articles 16, 17, 18, 19, 20 et 23 ; et

b) de reconnaître et d’affirmer la spécificité historique, démographique et constitutionnelle du Nouveau-Brunswick en matière linguistique, et en particulier d’encourager le respect de l’article 16.1 et des paragraphes 16(2), 17(2), 18(2), 19(2) et 20(2) de la *Charte canadienne des droits et libertés*.

**Objective 2: Recognize an exception for New Brunswick with regard to “significant demand” in Part IV of the OLA**

[43] Section 20 of the Charter defines the constitutional parameters for the public’s language of communication with government institutions, both federally and in New Brunswick:

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42 FCFA, *Giving New Momentum to Canada’s Linguistic Duality*, supra, para 104.

43 The formulation of this section was inspired by the language used by the Supreme Court of Canada in *R v. Beaulac*, [1990] 1 S.C.R. 768 para 25, the preamble to the Act *to give effect to the requirement for clarity as set out in the opinion of the Supreme Court in the Quebec Secession Reference*, S.C. 2000, c. 26, and subsection 3(3) of the *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.
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Communications by public with federal institutions

20. (1) Any member of the public in Canada has the right to communicate with, and to receive available services from, any head or central office of an institution of the Parliament or government of Canada in English or French, and has the same right with respect to any other office of any such institution where

(a) there is a significant demand for communications with and services from that office in such language; or

(b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French.

Communications by public with New Brunswick institutions

(2) Any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any office of an institution of the legislature or government of New Brunswick in English or French.

Communications entre les administrés et les institutions fédérales

20. (1) Le public a, au Canada, droit à l’emploi du français ou de l’anglais pour communiquer avec le siège ou l’administration centrale des institutions du Parlement ou du gouvernement du Canada ou pour en recevoir les services ; il a le même droit à l’égard de tout autre bureau de ces institutions là où, selon le cas :

a) l’emploi du français ou de l’anglais fait l’objet d’une demande importante ;

b) l’emploi du français et de l’anglais se justifie par la vocation du bureau.

Communications entre les administrés et les institutions du Nouveau-Brunswick

(2) Le public a, au Nouveau-Brunswick, droit à l’emploi du français ou de l’anglais pour communiquer avec tout bureau des institutions de la législature ou du gouvernement ou pour en recevoir les services.

[44] Pursuant to subsection 20(1), the public’s right to use English or French to communicate with or receive services from offices of federal institutions depends on the geographical concentration of French speakers (the concept of “significant demand”) or the nature of the office in question, but these requirements are not found in subsection 20(2). In New Brunswick, the public may use English or French to communicate with and receive services from any office of an institution of the legislature or government of the province.

[45] This “complete institutional bilingualism,” unique in Canada, reflects the specificity of the linguistic landscape of the province, which has a bilingualism rate of 34%, and where French is the first language spoken for more than 32% of the population. In New Brunswick, demand is considered to be “significant”

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44 Société des Acadiens et Acadiennes – 2008, supra, para 1. It should be noted that several commentators maintain that subsections 16(1) and 16(2) of the Charter may confer the right to work in the official language of one’s choice in an institution of Parliament and the federal government, as well as in an institution of the legislature or government of New Brunswick (see Jennifer Klinck, “Le droit à la prestation des services publics dans les langues officielles,” in Michel Bastarache et al., eds., Les droits linguistiques au Canada, 3rd ed., Yvon Blais, 2014, 451, p 523).
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throughout the province, and that is precisely what is reflected and realized in subsection 20(2) of the Charter.

[46] It is therefore surprising that Part IV of the federal OLA does not make any reference to the specificity of New Brunswick that is entrenched in a unique constitutional provision on provincial services. Section 22 of the federal OLA makes “significant demand” a condition for the offer of services by offices of federal institutions in either official language, throughout the country. However, since the Constitution itself recognizes New Brunswick’s linguistic duality, in subsection 20(2) of the Charter, it is illogical not to reflect this recognition in the federal regime.

[47] Indeed, in 1990 the FCFA called for differential treatment for New Brunswick in an appearance before the Joint Standing Committee on Official Languages of the Senate and the House of Commons during its study of the draft regulations on communications with and services to the public:

Our final recommendation concerns New Brunswick, Mr. Chairman. It is the only officially bilingual province in the country. The two official language communities have equal status in New Brunswick. We think this fact should be recognized in the draft regulations. The national government should not provide fewer services or recognize less status for its communities than the province of New Brunswick. We therefore ask your committee to recommend that the government give New Brunswick preferred status.46

[48] Since 1988, subsection 32(2) of the OLA has allowed the federal government, in prescribing circumstances of significant demand, to consider “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,” as well as “any other factors [it] considers appropriate.” Not once in 30 years has that wording led to the federal government providing distinctive treatment for New Brunswick. This despite the 2004 Federal Court decision in Doucet v. Canada, which identified a number of shortcomings in the Official Languages (Communications with and Services to the Public) Regulations.47 In that case, the Federal Court found that “the Regulations do not cover the situation of a busy highway, patrolled by the RCMP, on which a large number of members of the minority linguistic language group are likely to be travelling,” and that the only factor used by the Regulations to determine the significance of demand in such a situation – the total number of people for whom French is the first official language spoken living in a border town of Nova Scotia – did not consider “the existence of a large population travelling on the highway which, according to the evidence, comes from outside the province, primarily from New Brunswick, and is made up to a large extent of francophones.”48 The Federal Court therefore ruled that one subparagraph of the Regulations was inconsistent with paragraph 20(1)(a) of the Charter. The federal government did not appeal the decision, choosing instead to amend that specific

47 Official Languages (Communications with and Services to the Public) Regulations, SOR/92-48.
48 Doucet v. Canada, 2004 FC 1444 paras. 46–47.
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paragraph. The obsolescence of the Regulations, and their inconsistency with the Charter, particularly in New Brunswick, go far beyond the single paragraph discussed in Doucet v. Canada, and yet until 2016, the federal government preferred to maintain the status quo, a status quo that persists to this day.

[49] One might have expected the federal government to accept the constitutional invitation to “advance the equality of status or use of English and French” stated in subsection 16(3) of the Charter by at a very minimum, subjecting federal institutions to New Brunswick’s linguistic regime, given that it is more generous. Some might also have thought that 30 years of “commitment” on the part of the federal government to enhancing the vitality of English and French minorities and supporting their development (Part VII of the federal OLA) would have led to that result.

[50] Unfortunately, that is not the case. Instead, the federal government violates the spirit of the Charter and New Brunswick’s specificity when it attempts to calculate where demand may not be significant enough to warrant the provision of services and communications in both official languages. The resulting Regulations encourage federal institutions to negotiate their linguistic obligations down rather than submit to the broader obligations of New Brunswick.

[51] For example, when Marie-Claire Paulin was stopped in 2000 by an officer of the Royal Canadian Mounted Police for speeding on the TransCanada Highway near Woodstock, New Brunswick, the officer did not communicate with her orally in French. The SANB subsequently asked the Federal Court to clarify the RCMP’s obligations when its members provide provincial policing services pursuant to an agreement with the Government of New Brunswick. The RCMP defended itself all the way to the Supreme Court of Canada, arguing that as a federal institution, it is not subject to subsection 20(2) of the Charter. The Supreme Court agreed with the SANB and Ms. Paulin, finding that “[s]ince each RCMP member is authorized by the New Brunswick legislature to administer justice in the province, he or she performs the role of an “institution of the legislature or government” of New Brunswick and must comply with s.20(2) of the Charter.”

[52] To conclude this point, the SANB supports the FCFA in its call to add to a modernized federal OLA the amendments proposed in Bill S-209 (An Act to amend the Official Languages Act – communications with and services to the public) (Appendix D). Respectfully, however, this bill also ignores New Brunswick’s specificity. The SANB is therefore asking the Senate Committee to also recommend that in a modernized OLA, Parliament

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49 Government of Canada, “Official Languages (Communications with and Services to the Public) Regulations Review,” 17 November 2016. The SANB has no grounds to believe, however, that the new regulations will give effect to what it is calling for in this brief, i.e., recognition of the significant demand across New Brunswick.


52 FCFA, Giving New Momentum to Canada’s Linguistic Duality, supra, para 128.
recognize an exception for New Brunswick, the only officially bilingual province, with regard to significant demand. The following is a draft of such an addition to Part IV for consideration by the members of the Senate Committee:

**Where communications and services must be in both official languages**

22. (1) Every federal institution has the duty to ensure that that any member of the public can communicate with and obtain available services from its head or central office in either official language, and subject to subsection (2), 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.

(2) This duty applies to all offices of federal institutions located in New Brunswick.

**Langues des communications et services**

22. (1) 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. Sous réserve du paragraphe (2), 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.

(2) Cette obligation vaut pour tous les bureaux des institutions fédérales situés Nouveau-Brunswick.

**Objective 3: Modernize Part VII of the federal OLA to require the federal government to consider New Brunswick’s linguistic balance in its immigration policies**

[53] Immigration is a particularly important area of intervention for the Acadian nation. In New Brunswick in particular, where French is the mother tongue of approximately one third of the population, immigration policies and programs have an essential role to play in preserving the demographic weight of the francophone community. Immigration makes an essential contribution to the vitality and survival of Canada’s francophone minorities, particularly in the preservation and development of the Acadian nation of New Brunswick, a community protected by section 16.1 of the Charter. It should also be pointed out that the governments of Canada and New Brunswick are required by the Charter to ensure that their immigration policies and programs do not disadvantage one community in relation to another and – at the very least – that they preserve the demographic weight of the minority community. Unfortunately, the reality the Acadian nation has witnessed in New Brunswick is worrisome: New Brunswick’s francophone community has not benefited from immigration as much as the anglophone community. This is another area where the federal government has harmed Acadia by treating it the same as the rest of Canada.

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53 House of Commons, Standing Committee on Official Languages, *Toward a New Action Plan for Official Languages and Building New Momentum for Immigration in Francophone Minority Communities*, (14 December 2016) (Chair: the Honourable Denis Paradis).

54 According to statistics from the Department of Citizenship and Immigration Canada (CIC), between 2001 and 2010, only about 14% of new arrivals in New Brunswick indicated French as their language of choice. Since the introduction of the New Brunswick...
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[54] Pursuant to section 41 of Part VII of the federal OLA, federal institutions must take positive measures to implement the federal government’s commitment to “enhancing the vitality of the English and French linguistic minority communities in Canada and supporting and assisting their development,” as well as “fostering the full recognition and use of both English and French in Canadian society.”

[55] In the area of immigration, the federal government is therefore required to take positive measures to promote francophone immigration outside Quebec. In 2016, for example, the federal government launched Mobilité francophone, a program that dispenses with the requirement for a labour market impact assessment in certain situations in order to promote francophone immigration to minority francophone communities.55

[56] In March 2017, the governments of Canada and New Brunswick signed an agreement on immigration that includes an annex on francophone immigration. The preamble to this annex recognizes New Brunswick’s objective of “attracting French-speaking Immigrants to New Brunswick to maintain the unique linguistic balance of the province; and partnering with the Government of Canada in pursuit of achieving New Brunswick’s goal of increasing the number of French-speaking Immigrants.”56 It sets out a series of options for increasing the number of French-speaking immigrants, notably with regard to promotion and recruitment, selection of permanent residents and the settlement and integration of refugees.

[57] While these efforts on the part of the federal government are commendable and essential, they must not be the result of fleeting political will.

[58] It goes without saying that federal immigration policies cannot promote the vitality of francophone minorities without considering the specific linguistic composition of the provinces. New Brunswick, with a francophone population of more than 32%, needs permanent federal support in immigration, tailored to ensure the preservation and development of that population. This is because whenever the percentage of new francophone immigrants is lower than the percentage of francophones living in the province, New Brunswick’s unique linguistic balance is disrupted. Isn’t that the likely consequence of the federal government’s target of 4.4% for French-speaking immigrants outside Quebec, which was announced on 23 March 2018 in the Action Plan for Official Languages – 2018-2023, without any mention of New Francophone Immigration Action Plan, while the percentage of francophone and bilingual candidates having received a certificate of nomination under the New Brunswick Provincial Nominee Program (the province’s primary immigration program) has been increasing year over year, in 2016–2017 it still only reached 18%.


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Brunswick?\(^{57}\) Applied to New Brunswick, a rate of 4.4% francophone immigration would in reality constitute an *assimilative* rate. This stands in contrast to the goal set by the Government of New Brunswick in 2014 in its *New Brunswick Francophone Immigration Action Plan* to have the number of francophone immigrants to the province reflect its linguistic makeup by 2020.\(^{58}\) This should serve as a minimum.

[59] Regardless of the government in power, New Brunswick’s unique linguistic character – which is reflected and protected in the Charter – must inform federal immigration policies and their implementation, in order to ensure the preservation and true development of the province’s Acadian nation. To that end, the SANB is proposing the addition of a section to Part VII of the federal OLA to specifically frame the federal government’s role in francophone immigration:

**Government policy regarding immigration**

*41.2(1)* In developing and applying its immigration policies, the federal government commits to promoting the vitality of English and French linguistic minority communities by considering their specificity in each province, and supporting their development.

**Engagement en matière d’immigration**

*41.2(1)* Dans l’élaboration et l’application de ses politiques en matière d’immigration, le gouvernement fédéral s’engage à favoriser l’épanouissement des communautés linguistiques françaises et anglaises, tout en tenant compte de la spécificité de celles-ci dans chaque province, et à appuyer leur développement.

**New Brunswick**

\(2\) With regard to New Brunswick, in developing and applying immigration policies, the Minister of Immigration, Refugees and Citizenship commits to considering the province’s specific linguistic balance and the recognition of the equality of status and equal rights and privileges of New Brunswick’s English and French linguistic communities under subsection 16(2) of the *Canadian Charter of Rights and Freedoms*.

**Le cas du Nouveau-Brunswick**

\(2\) S’agissant du Nouveau-Brunswick, le ministre de l’Immigration, des Réfugiés et de la Citoyenneté s’engage, dans l’élaboration et l’application de ses politiques en matière d’immigration, à tenir compte de l’équilibre linguistique spécifique de la province et de la reconnaissance du statut, des droits et des privilèges égaux des communautés linguistiques française et anglaise du Nouveau-Brunswick en vertu du paragraphe 16(2) et de l’article 16.1 de la *Charte canadienne des droits et libertés*.

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\(^{57}\) Canadian Heritage, *Action Plan for Official Languages – 2018-2023: Investing in Our Future*, (23 March 2018): “We are committed to supporting the vitality of Francophone minority communities and increasing the proportion of French-speaking immigrants outside Quebec, working toward a target of 4.4% of immigrants by 2023.”

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**Objective 4: Amend Part VII of the federal OLA to require the federal government to consider, when exercising its spending power, the distinct institutions guaranteed by section 16.1 of the Charter**

[60] Since 1970, a few months after the first federal OLA was adopted, the federal government has been signing agreements with provincial and territorial governments on the transfer of federal funding for the additional costs of minority-language education and second-language instruction.

[61] In 1988, the new section 43 of Part VII of the federal OLA recognized that education is one of the areas requiring positive measures by the Department of Canadian Heritage in order to advance the equality of status and use of English and French:

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: ...

   (d) encourage and assist provincial governments to support the development of English and French linguistic minority communities generally and, in particular, to offer provincial 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 ....

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 : [...]

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

[62] However, there is no section in the federal OLA to frame such measures. In fact, since 1983, the terms of federal support have been set out in the Protocol for Agreements for Minority-Language Education and Second-Language Instruction, a political agreement negotiated between the federal government and the Council of Ministers of Education.59 While these federal transfers play an essential role for French-language education, the absence of a legislative framework in the OLA leaves the federal government with too much discretion, and creates too much instability.60


60 Fédération nationale des conseils scolaires francophones, Commission nationale des parents francophones and Fédération des communautés francophones et acadiennes, Objective 2018/2023: Modernizing and dividing up the Protocol for Agreements for Minority-Language Education and Second-Language Instruction to enhance the vitality of Francophone and Acadian communities, (Brief) (September 2016).
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[63] Specifically, Part VII of the federal OLA does not in any way take into account section 16.1 of the Charter, which guarantees New Brunswick’s English and French linguistic communities the right to distinct educational institutions and such distinct cultural institutions as are necessary for their preservation and promotion. Section 16.1 of the Charter does not specify to which government it applies, however.

[64] As indicated by the Court of Appeal of New Brunswick, “the constitutional principle of the equality of official languages and the equality of the two official linguistic communities and of their right to distinct institutions is the linchpin of New Brunswick’s language guarantees regime.”61 Note that this right of New Brunswick’s linguistic communities to distinct institutions is not limited to primary and secondary school, as is the case with section 23 of the Charter; it applies to all levels of education, from early childhood to postsecondary. It should be a key parameter for the exercise of the federal spending power in the province.

[65] And that’s not all. Section 16.1 of the Charter is not limited to education. It also guarantees New Brunswick’s English and French linguistic communities the right to the distinct cultural institutions necessary for their preservation and promotion – this includes at the very least community facilities.

[66] In Montfort, the Ontario Court of Appeal held that the Montfort francophone hospital was “an important linguistic, cultural and educational institution, vital to the minority francophone population of Ontario.”62 Montfort Hospital provided training for health care professionals in French.63 It also played a “broader institutional role than the provision of health care services,” i.e., a role that included “maintaining the French language, transmitting francophone culture, and fostering solidarity in the Franco-Ontarian minority.”64 The role of New Brunswick’s health facilities is just as vital, linguistically, culturally and educationally, to the preservation and development of the Acadian nation.

[67] Likewise, New Brunswick’s francophone and Acadian community facilities are essential for transmitting the language and culture, establishing links and creating social support networks, and instilling a sense of belonging within the Acadian nation. They are by definition necessary distinct cultural institutions within the meaning of section 16.1 of the Charter.65

[68] The SANB generally agrees with the arguments of the Conseil des écoles francasiskoises and the Conseil scolaire francophone de la Colombie-Britannique as to the importance of framing financial support for

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61 Charlebois v Mowat, supra, para 62.
63 Ibid, paras 63–68.
64 Ibid, para 71 [Our underlining].
65 Given their general mandate, this is all the more evident in the case of the Centre scolaire-communautaire Samuel-de-Champlain in Saint John, the Centre communautaire de Sainte-Anne in Fredericton and the Centre scolaire/communautaire Carrefour Beausoleil in Miramichi. These are attached to schools and offer a range of services to the Acadian communities they serve. For example, the Carrefour Beausoleil houses a daycare, an amphitheatre, an art gallery, a health clinic, the community radio station and Collège communautaire du Nouveau-Brunswick classes. These centres receive federal funding.
minority-language education in the OLA. The SANB supports the main thrust of their proposals for amendments to the federal OLA to that effect, which were presented in the brief submitted to the Standing Senate Committee on Official Languages on Monday, 12 February 2018\(^{66}\) and in the briefs submitted to the House of Commons Committee on 2 March and 28 February, respectively\(^{67}\), notably with regard to framing federal government financial support for capital expenditures and operations.

[69] The SANB stresses, however, the importance of ensuring that this new legislative framework considers the right of New Brunswick’s English and French linguistic communities, guaranteed in section 16.1 of the Charter, to distinct educational institutions and the distinct cultural institutions necessary for their preservation and promotion. The SANB is proposing the following addition to the members of the Senate Committee:

1. The Official Languages Act is amended by adding the following after section 41:

   “41.1(1) The federal government commits to promoting the exercise, by New Brunswick’s English and French linguistic communities, of the equal rights and privileges they hold pursuant to section 16.1 of the Canadian Charter of Rights and Freedoms, notably their right to distinct educational institutions and such distinct cultural institutions as are necessary for the preservation and promotion of those communities.

   (2) Every federal institution has the duty to ensure that positive measures are taken for the implementation of this commitment. For greater certainty, this implementation shall be carried out while respecting the jurisdiction and powers of New Brunswick.”

1. La Loi sur les langues officielles est modifiée par adjonction, après l’article 41, de ce qui suit :

   « 41.1(1) Le gouvernement fédéral s’engage à favoriser l’exercice, par les communautés linguistiques française et anglaise du Nouveau-Brunswick, des droits et des privilèges égaux dont elles disposent au titre de l’article 16.1 de la Charte canadienne des droits et libertés, notamment leur droit à des institutions d’enseignement et aux institutions culturelles distinctes nécessaires à leur protection et à leur promotion.

   (2) Il incombe aux institutions fédérales de veiller à ce que soient prises des mesures positives pour mettre en œuvre cet engagement. Il demeure entendu que cette mise en œuvre se fait dans le respect des champs de compétence et des pouvoirs du Nouveau-Brunswick. »

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\(^{67}\) Conseil des écoles fransaskoises, Brief submitted to the House of Commons Standing Committee on Official Languages in the context of its study of access to early childhood services in the minority language (2 March 2018); Conseil scolaire francophone de la Colombie-Britannique, *Providing a framework for federal initiatives in early childhood education in the Official Languages Act*, Brief submitted to the House of Commons Standing Committee on Official Languages in the context of its study of access to early childhood services in the minority language, (28 February 2018).
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2. Section 42 of the same Act is replaced by the following:

“42. The President of the Treasury Board, in consultation with other ministers of the Crown, shall coordinate the implementation by federal institutions of the commitments set out in sections 41, 41.1 and 41.2.”

3. The same Act is amended by adding the following after section 43:

“43.1(1) The President of the Treasury Board shall take such measures as that Minister considers appropriate to implement the commitment set out in subsection 41.1(1). This shall include consulting the Government of New Brunswick and the interested representatives of that province’s English and French linguistic communities, and negotiating with them the adoption of a five-year agreement on the support to be provided to those communities’ distinct educational institutions and such distinct cultural institutions as are necessary for the preservation and promotion of those communities.

(2) This five-year plan shall in particular deal with the following areas: primary and secondary education, early childhood, postsecondary education, health, immigration and community, cultural and artistic activities.”

2. L’article 42 de la même loi est remplacé par ce qui suit :

« 42. Le Président du Conseil du Trésor, en consultation avec les autres ministres fédéraux, coordonne la mise en œuvre par les institutions fédérales des engagements prévus aux articles 41, 41.1 et 41.2. »

3. La même loi est modifiée par adjonction, après l’article 43, de ce qui suit :

« 43.1(1) Le Président du Conseil du Trésor prend les mesures qu’il estime indiquées pour mettre en œuvre l’engagement prévu au paragraphe 41.1(1). À cet égard, il doit, notamment, consulter le gouvernement du Nouveau-Brunswick ainsi que les représentants intéressés des communautés linguistiques française et anglaise de cette province, et négocier avec eux l’adoption d’un accord quinquennal sur l’appui à fournir aux institutions d’enseignement et aux institutions culturelles distinctes de ces communautés nécessaires à leur protection et à leur promotion.

(2) Cet accord quinquennal porte, notamment, sur les domaines suivants : l’éducation primaire et secondaire, la petite enfance, l’éducation post-secondaire, la santé, l’immigration, et les activités communautaires, culturels et artistiques »

[70] These additions to the legislative framework give substance to what the federal commitment in section 41 of the OLA should represent in New Brunswick, given that province’s unique linguistic regime. In practice, these subsections would allow, for example, for adopting agreements guaranteeing funding for the Collège communautaire francophone du Nouveau-Brunswick and the Université de Moncton. They could allow the Société Nationale de l’Acadie to negotiate the reinstatement of programs that promote Acadia internationally, such as the Public Diplomacy Program of the Department of Foreign Affairs and International
Trade. In certain cases, the communities would be best placed to provide a particular service on behalf of a federal institution.

[71] It’s time for the OLA to reflect New Brunswick’s linguistic specificity and give the Acadian nation the recognition and status it deserves.

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69 FCFA, *Giving New Momentum to Canada’s Linguistic Duality*, supra, paras 63–79, 100, 131.
Whereas Canada is founded upon principles that recognize the supremacy of God and acknowledge the rule of law.

Guarantee of Rights and Freedoms

The Constitution of Rights and Freedoms guarantees the rights and freedoms enumerated in this document to all persons within the jurisdiction of the federal government.
Subsections 31(1) and (2) of the Legislation Revision and Consolidation Act, in force on June 1, 2009, provide as follows:

Published consolidation is evidence

31 (1) Every copy of a consolidated statute or consolidated regulation published by the Minister under this Act in either print or electronic form is evidence of that statute or regulation and of its contents and every copy purporting to be published by the Minister is deemed to be so published, unless the contrary is shown.

Inconsistencies in Acts

(2) In the event of an inconsistency between a consolidated statute published by the Minister under this Act and the original statute or a subsequent amendment as certified by the Clerk of the Parliaments under the Publication of Statutes Act, the original statute or amendment prevails to the extent of the inconsistency.

NOTE

This consolidation is current to March 26, 2018. The last amendments came into force on September 21, 2017. Any amendments that were not in force as of March 26, 2018 are set out at the end of this document under the heading “Amendments Not in Force”.

Les paragraphes 31(1) et (2) de la Loi sur la révision et la codification des textes législatifs, en vigueur le 1er juin 2009, prévoient ce qui suit :

Codifications comme élément de preuve

31 (1) Tout exemplaire d'une loi codifiée ou d'un règlement codifié, publié par le ministre en vertu de la présente loi sur support papier ou sur support électronique, fait foi de cette loi ou de ce règlement et de son contenu. Tout exemplaire donné comme publié par le ministre est réputé avoir été ainsi publié, sauf preuve contraire.

Incompatibilité — lois

(2) Les dispositions de la loi d'origine avec ses modifications subséquentes par le greffier des Parlements en vertu de la Loi sur la publication des lois l'emportent sur les dispositions incompatibles de la loi codifiée publiée par le ministre en vertu de la présente loi.

NOTE

Cette codification est à jour au 26 mars 2018. Les dernières modifications sont entrées en vigueur le 21 septembre 2017. Toutes modifications qui n'étaient pas en vigueur au 26 mars 2018 sont énoncées à la fin de ce document sous le titre « Modifications non en vigueur ». 
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An Act respecting the status and use of the official languages of Canada

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 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

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

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 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 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 et à
minority communities, 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 cooperating with provincial 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 preserving and enhancing the use of languages other than English and French while strengthening the status and use of the official languages;

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

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

Purpose of Act

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 of the English and French languages within Canadian society; and

promouvoir la pleine reconnaissance et l’usage du français et de l’anglais dans la société canadienne;

qu’il s’est engagé à collaborer avec les institutions et gouvernements provinciaux 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 reconnait l’importance, parallèlement à l’affirmation du statut des langues officielles et à l’élargissement de leur usage, de maintenir et de valoriser l’usage des autres langues,
(c) set out the powers, duties and functions of federal institutions with respect to the official languages of Canada.

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

Interpretation

Definitions

3 (1) In this Act,

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,

(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

Définitions

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

commissaire Le commissaire aux langues officielles 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)

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)
(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;

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

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.

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 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 made in the execution of a legislative power conferred by or under an Act of Parliament that

(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 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 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.

R.S., 1985, c. 31 (4th Supp.), s. 7; 1993, c. 28, s. 78; 2002, c. 7, s. 225; 2014, c. 2, s. 40.

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 pris, dans l’exercice d’un pouvoir législatif conféré sous le régime d’une loi fédérale, 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.

Prérégative
(2) Les actes qui procèdent de la prérégative 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 du seul fait qu’ils sont d’intérêt général et public :

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.

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 agreements
(2) The Government of Canada has the duty to ensure that the following classes of agreements between Canada and one or more provinces 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 where English and French are declared to be the official languages of any of those provinces or where any of those provinces requests that the agreement be made in English and French; and

(c) agreements entered into with two or more provinces where the 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

(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.

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 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
(2) Il incombe au gouvernement fédéral de veiller à ce que les textes fédéro-provinciaux suivants soient établis, les deux versions ayant 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 provinces lorsque l’une d’entre elles 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 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 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.
Notices, advertisements and other matters that are published

11 (1) A notice, advertisement or other matter that is required or authorized by or pursuant to 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 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 in the other official language in at least one publication in general circulation within each region where the matter applies that appears wholly or mainly in that other language; and

(b) where there is no publication in general circulation within a region where the matter applies that appears wholly or mainly in English or no such publication that appears wholly or mainly in French, be printed in both official languages in at least one publication in general circulation within that region.

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.

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.

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 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. En l’absence de telles publications, ils doivent paraître dans les deux langues officielles dans au moins une publication qui est largement diffusée dans la région.

Importance

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

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
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.

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.

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.

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.
Adjudicative functions

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

Limitation

(3) 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.

R.S., 1985, c. 31 (4th Supp.), s. 16; 2002, c. 8, s. 155.

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.

R.S., 1985, c. 31 (4th Supp.), s. 17; 2002, c. 8, s. 156.

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.

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) 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.

L.R. (1985), ch. 31 (4e suppl.), art. 16; 2002, ch. 8, art. 155.

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.

L.R. (1985), ch. 31 (4e suppl.), art. 17; 2002, ch. 8, art. 156.

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’établisit le caractère abusif du délai de l’avis 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.
**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

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

**Other decisions, orders and judgments**

**(2)** Where

(a) any final decision, order or judgment issued by a federal court is not required by 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 but the court is of the opinion that to make the decision, order or judgment, including any reasons given therefor, 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.

**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;

(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 de l’alinéa (1)a) 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.
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.

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 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) in any other circumstances prescribed by regulation of the Governor in Council where, due to the nature of the office or facility, it is reasonable that communications with and services from that office or facility be available in both official languages.

**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.

**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

conventionnées 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;

(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.

**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.

L.R. (1985), ch. 31 (4e suppl.), art. 24; 2005, ch. 46, art. 56.5; 2006, ch. 9, art. 96 et 222.
Official Languages
PART IV Communications with and Services to the Public
Communications and Services
Sections 24-28

Langues officielles
PARTIE IV Communications avec le public et prestation des services
Communications et services
Articles 24-28

(f) the Office of the Commissioner of Lobbying.
R.S., 1985, c. 31 (4th Supp.), s. 24; 2005, c. 46, s. 56.5; 2006, c. 9, ss. 96, 222.

Services Provided on behalf of Federal Institutions

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.

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.

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 offer
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

Services fournis par des tiers

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.

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.

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.
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.

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

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).

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

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).
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.

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

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 les communications et les services que sont tenues de pourvoir dans ces deux langues, au titre de la présente partie, 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.

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 leur personnel d’utiliser l’une ou l’autre;
(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


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 work instruments produced by or on behalf of that or any other federal institution;

(b) ensure that regularly and widely used automated 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 it is appropriate or necessary in order to create a work environment that is conducive to the effective use of both official languages, supervisors are able to communicate in both official languages with officers and employees of the institution in carrying out their supervisory responsibility, and

(ii) any management group that is responsible for the general direction of the institution as a whole

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


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 leur personnel, dans les deux langues officielles, tant les services qui lui sont destinés, notamment à titre individuel ou à titre de services auxiliaires centraux, que la documentation et le matériel d’usage courant et généralisé produits par elles-mêmes ou pour leur compte;

b) de veiller à ce que les systèmes informatiques d’usage courant et généralisé et acquis ou produits par elles à compter du 1er 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 soient aptes à communiquer avec leurs subordonnés dans celles-ci et à ce que la haute direction soit en mesure de fonctionner dans ces deux langues.
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 measures are taken in addition to those required under subsection (1) as can reasonably be taken 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 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 or work instruments that are to be made available by those institutions in both official languages to officers or employees of those institutions,

(ii) any automated 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 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 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.

R.S., 1985, c. 31 (4th Supp.), s. 38; 2004, c. 7, s. 28; 2006, c. 9, s. 22; 2015, c. 36, s. 146; 2017, c. 20, s. 181.
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, 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 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.

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 the purposes and provisions of this Part.

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 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.

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 prendre toute mesure réglementaire d’application de la présente partie.
PART VII

Advancement of English and French

Government policy

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; and

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

Duty of federal institutions

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

Regulations

(3) The Governor in Council may make regulations respecting 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.

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.

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) foster the full recognition and use of both English and French in Canadian society.

Engagement

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

Obligations des institutions fédérales

(2) Il incombe aux institutions fédérales de veiller à ce que soient prises des mesures positives pour mettre en œuvre cet engagement. Il demeure entendu que cette mise en œuvre se fait dans le respect des champs de compétence et des pouvoirs des provinces.

Règlements

(3) 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.

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.

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) encourage and support the learning of English and French in Canada;

(c) foster an acceptance and appreciation of both English and French by members of the public;

(d) encourage and assist provincial governments to support the development of English and French linguistic minority communities generally and, in particular, to offer provincial 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 governments to provide opportunities for everyone in Canada to learn both English and French;

(f) encourage and cooperate with the business community, labour organizations, voluntary 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; 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
(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.

R.S., 1985, c. 31 (4th Supp.), s. 43; 1995, c. 11, s. 28.

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.

R.S., 1985, c. 31 (4th Supp.), s. 44; 1995, c. 11, s. 29.

Consultation and negotiation with the provinces
45 Any minister of the Crown designated by the Governor in Council may consult and may negotiate agreements with the provincial governments to ensure, to the greatest practical extent but subject to Part IV, that the provision of federal, provincial, municipal and education

(b) pour encourager et appuyer l'apprentissage du français et de l'anglais;

c) pour encourager le public à mieux accepter et apprécier le français et l'anglais;

d) pour encourager et aider les gouvernements provinciaux à favoriser le développement des minorités francophones et anglophones, et notamment à leur offrir des services provinciaux 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 à donner à tous la possibilité d'apprendre le français et l'anglais;

f) pour encourager les entreprises, les organisations patronales et syndicales, les organismes bénévoles 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;

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
(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.

L.R. (1985), ch. 31 (4e suppl.), art. 43; 1995, ch. 11, art. 28.

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.

L.R. (1985), ch. 31 (4e suppl.), art. 44; 1995, ch. 11, art. 29.

Consultations et négociations avec les provinces
45 Tout ministre fédéral désigné par le gouverneur en conseil peut procéder à des consultations et négociations d'accords avec les gouvernements provinciaux en vue d'assurer le plus possible, sous réserve de la partie IV et compte tenu des besoins des usagers, la coordination des
services in both official languages is coordinated and that regard is had to the needs of the recipients of those services.

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 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) 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;

(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

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

Mission du Conseil du Trésor


Attributions

(2) Le Conseil du Trésor peut, 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;

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;

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) déléguer telle de ses attributions aux administrateurs généraux ou autres responsables administratifs d’autres institutions fédérales.
(g) delegate any of its powers under this section to the
deputy heads or other administrative heads of other
federal institutions.
R.S., 1985, c. 31 (4th Supp.), s. 46; 2004, c. 7, s. 29; 2006, c. 9, s. 24; 2015, c. 36, s. 148;
2017, c. 20, s. 183.

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).
R.S., 1985, c. 31 (4th Supp.), s. 47; 2005, c. 15, s. 3; 2010, c. 12, s. 1676.

Annual report to Parliament

48 The President of the Treasury Board shall, within
such time as is reasonably practicable after the termina-
tion of each financial year, submit an annual report to
Parliament on the status of programs relating to the offi-
cial languages of Canada in the various federal institu-
tions in respect of which it has responsibility under sec-
tion 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.

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 Com-
missioner or if that office is vacant, the Governor in
Council may appoint any qualified person to hold that

Rapport envoyé au commissaire

47 Le dirigeant principal des ressources humaines nom-
é 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).
L.R. (1985), ch. 31 (4e suppl.), art. 47; 2005, ch. 15, art. 3; 2010, ch. 12, art. 1676.

Rapport au Parlement

48 Dans les meilleurs délais après la fin de chaque exer-
cice, le président du Conseil du Trésor dépose devant le
Parlement un rapport sur l’exécution des programmes en
matière de langues officielles au sein des institutions fé-
dérales 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.

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
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.

1985, c. 31 (4th Supp.), s. 49; 2006, c. 9, s. 111.

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.

50 (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.

R.S., 1985, c. 31 (4th Supp.), s. 50; 2002, c. 8, s. 157.

Salary and expenses

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.

R.S., 1985, c. 31 (4th Supp.), s. 53; 2003, c. 22, s. 225(E).

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 maximal de six mois et fixer la rémunération et les indemnités auxquelles cette personne aura droit.

1985, ch. 31 (4e suppl.), art. 49; 2006, ch. 9, art. 111.

Rang et non-cumul de fonctions

50 (1) Le commissaire a rang et pouvoirs d’administra- teur 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

50 (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 entrainés par l’accomplisse- ment de ses fonctions hors du lieu de sa résidence habi- tuelle.

L.R. (1985), ch. 31 (4e suppl.), art. 50; 2002, ch. 8, art. 157.

Personnel

51 Le personnel nécessaire au bon fonctionnement du commissariat est nommé 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

53 Le commissaire et le personnel régulier du commis- sariat sont réputés appartenir à la fonction publique pour l’application de la Loi sur la pension de la fonction publique.

L.R. (1985), ch. 31 (4e suppl.), art. 53; 2003, ch. 22, art. 225(A).

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 administra- teurs généraux ou autres responsables administratifs.
Duties and Functions of Commissioner

**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.

**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.

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 and directives**

57 The Commissioner may initiate a review of

(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.

**Investigations**

**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, the official language the status or use of which is at issue.

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.

Right of Commissioner to refuse or cease investigation

(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 Act.

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.
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.

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.

Procedure

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

Procédure

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

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 of the office of the Commissioner appointed under section 51 and that officer shall, subject to such restrictions or limitations as 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.

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 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.

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;

(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

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 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...
occupied by any federal institution and carry out therein such inquiries within his authority under this Act as the Commissioner sees fit.

**Threats, intimidation, discrimination or obstruction to be reported**

(2) Where 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.

**Conclusion of investigation**

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 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.

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occupied by any federal institution and d’y procéder, dans le cadre de la compétence que lui confère la présente loi, aux enquêtes qu’il juge à propos.

**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 dans l’exercice des attributions du commissaire, a été entravée.

**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 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;

(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 fédéral ou d’instructions émanant du gouverneur en conseil ou du Conseil du Trésor.
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.

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.

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.

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.

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.

Information des intéressés

64 (1) Au terme de l’enquête, le commissaire communiquera, dans le délai et de la manière qu’il juge indiquées, 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).

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.

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.
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.

Reports to Parliament

Annual report

66 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.

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.

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.

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.

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.

Rapports au Parlement

Rapport annuel

66 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.

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.

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.

Divulgation 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.
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.

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.

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 to 69 and 78.

General

Security requirements

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

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.

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.

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 à 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 :
that, in the opinion of the Commissioner, is necessary to carry out an investigation under this Act; or

in the course of proceedings before the Federal Court under Part X or an appeal therefrom.

No summons

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

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

For the purposes of any law relating to libel or slander,

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

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.

PART X

Court Remedy

Definition of Court

In this Part, Court means the Federal Court.

Application for remedy

Any person who has made a complaint to the Commissioner in respect of a right or duty under sections

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

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

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

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 et les paroles prononcées de bonne foi dans l’exercice effectif ou censé tel de ses attributions.

PARTIE X

Recours judiciaire

Définition de tribunal

Le tribunal visé à la présente partie est la Cour fédérale.

Recours

Quiconque a saisi le commissaire d’une plainte visant une obligation ou un droit prévu aux articles 4 à 7
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

(2) An application may be made under subsection (1) within sixty 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.

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.

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) The Commissioner may

(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.

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 proceedings relating to the status or use of English or French.

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

(2) Where the Court is of the opinion that an application under section 77 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 enjoyed either before or after the coming into force of this Act with respect to any language that is not English or French.

Preservation and enhancement of other languages
(2) Nothing in this Act shall be interpreted in a manner that is inconsistent with the preservation and enhancement of languages other than English or French.

Consultations
84 The President of the Treasury Board, or such other minister of the Crown as may be designated by the Governor in Council, 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 appropriate, members of the public generally on proposed regulations to be made under this Act.

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, 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 days before a copy of that regulation is published in the Canada Gazette under section 86.

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.

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.

Consultations
84 Selon les circonstances et au moment opportun, le président du Conseil du Trésor, ou tel autre ministre fédéral que peut désigner le gouverneur en conseil, consulte 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 le gouverneur en conseil a l’intention de prendre un règlement sous le régime de la présente loi, le président du Conseil du Trésor ou tout ministre fédéral désigné par le gouverneur en conseil 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.
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 this Act shall be published in the Canada Gazette at least thirty days before the proposed effective date thereof, and a reasonable opportunity shall be afforded to interested persons to make representations to the President of the Treasury Board with respect thereto.

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 day period

(3) In calculating the thirty day period referred to in subsection (1), there shall not be counted any day on which neither House of Parliament sits.

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.

Calcule 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 projets de règlements d’application de la présente loi sont publiés dans la Gazette du Canada au moins trente jours avant la date prévue pour leur entrée en vigueur, les intéressés se voyant accorder toute possibilité de présenter au président du Conseil du Trésor 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 mise 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 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 review of Act, etc., by parliamentary committee

88 The administration of this Act, any regulations 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 committee of the Senate, of the House of Commons or of both Houses of Parliament as may be designated or established for that purpose.

R.S., 1985, c. 31 (4th Supp.), s. 88; 1995, c. 11, s. 30.

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.

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 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.

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 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 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

89 Il est entendu que les contraventions à la présente loi 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 pour effet d’autoriser la prise en compte des exigences relatives aux langues officielles, lors d’une dotation en personnel, que si elle 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.
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.

R.S., 1985, c. 31 (4th Supp.), s. 93; 2004, c. 7, s. 30; 2006, c. 9, s. 25; 2015, c. 36, s. 149; 2017, c. 20, s. 184.

PART XII

Related Amendments

94 to 99 [Amendments]

PART XIII

Consequential Amendments

100 to 103 [Amendments]

PART XIV

Transitional Provisions, Repeal and Coming into Force

Transitional

104 and 105 [Repealed, R.S., 1985, c. 31 (4th Supp.), s. 106]

106 [Amendment]

Commissioner remains 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.
Payments to Crown corporations

108 (1) 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]

Coming into Force

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.]

Versements aux sociétés d’État

108 (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]

Entrée en vigueur

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’édiqué 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’édiqué par l’article 94, est prévue par le paragraphe 534(2) du Code criminel, tel qu’édiqué par l’article 95.]
RELATED PROVISIONS

— 2006, c. 9, par. 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;

DISPOSITIONS CONNEXES

— 2006, ch. 9, al. 120c)

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 ci-après, qui demeurent en fonctions et sont réputés avoir été nommés en vertu de la disposition mentionnée ci-après 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;
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## Preamble

An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick

Deposited May 13, 2011
Preamble

WHEREAS the Legislative Assembly of New Brunswick acknowledges the existence of two official linguistic communities within New Brunswick whose values and heritages emanate from and are expressed through the two official languages of New Brunswick; and

WHEREAS the Legislative Assembly of New Brunswick desires to recognize the equality of these official linguistic communities; and

WHEREAS the Legislative Assembly of New Brunswick seeks to enhance the capacity of each official linguistic community to enjoy and safeguard its heritage for succeeding generations; and

WHEREAS the Legislative Assembly of New Brunswick desires to affirm and protect in its laws the equality of status and the equal rights and privileges of the official linguistic communities; and

WHEREAS the Legislative Assembly of New Brunswick desires to enshrine in its laws a declaration of principles relating to this equality of status and these equal rights and privileges which shall provide a framework for action on the part of public institutions and an example to private institutions;

THEREFORE, Her Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick, enacts as follows:

1981, c.O-1.1, Preamble

Recognition of English linguistic community and French linguistic community and affirmation of equality of status and equal rights and privileges of each

1. Acknowledging the unique character of New Brunswick, the English linguistic community and the French linguistic community are officially recognized within the context of one province for all purposes to which the authority of the Legislature of New Brunswick extends, and the equality of status and the equal rights and privileges of these two communities are affirmed.

1981, c.O-1.1, s.1

Preambule

Attendu :

que l’Assemblée législative du Nouveau-Brunswick reconnaît l’existence de deux communautés linguistiques officielles au Nouveau-Brunswick dont les valeurs et les héritages culturels émanent des deux langues officielles du Nouveau-Brunswick et s’expriment par celles-ci;

que l’Assemblée législative du Nouveau-Brunswick désire reconnaître l’égalité de ces communautés linguistiques officielles;

que l’Assemblée législative du Nouveau-Brunswick cherche à accroître les possibilités de chaque communauté linguistique officielle de profiter de son héritage culturel et de le sauvegarder pour les générations à venir;

que l’Assemblée législative du Nouveau-Brunswick désire affirmer et protéger dans ses lois l’égalité de statut et l’égalité des droits et privilèges des communautés linguistiques officielles;

que l’Assemblée législative du Nouveau-Brunswick désire consacrer dans ses lois une déclaration de principes relative à cette égalité de statut et à cette égalité des droits et privilèges et ainsi fournir un cadre d’action aux institutions publiques et un exemple aux institutions privées;

Sa Majesté, sur l’avis et avec le consentement de l’Assemblée législative du Nouveau-Brunswick, édicte :

1981, ch. O-1.1, préambule

Reconnaissance de la communauté linguistique française et de la communauté linguistique anglaise et affirmation de l’égalité de statut et de l’égalité des droits et privilèges de chacune

1. Reconnaissant le caractère unique du Nouveau-Brunswick, la communauté linguistique française et la communauté linguistique anglaise sont officiellement reconnues dans le contexte d’une seule province à toutes fins auxquelles s’étend l’autorité de la Législature du Nouveau-Brunswick et l’égalité de statut et l’égalité des droits et privilèges de ces deux communautés sont affirmées.

1981, ch. O-1.1, art. 1
Protection of the equality of status and equal rights and privileges of official linguistic communities

2 The Government of New Brunswick shall ensure protection of the equality of status and the equal rights and privileges of the official linguistic communities and in particular their right to distinct institutions within which cultural, educational and social activities may be carried on.

1981, c.O-1.1, s.2

Promotion of cultural, economic, educational and social development

3 The Government of New Brunswick, in its proposed laws, in the allocation of public resources and in its policies and programs, shall take positive actions to promote the cultural, economic, educational and social development of the official linguistic communities.

1981, c.O-1.1, s.3

N.B. This Act was proclaimed and came into force September 1, 2011.

N.B. This Act is consolidated to September 1, 2011.

Protection de l’égalité de statut et de l’égalité des droits et privilèges des communautés linguistiques officielles

2 Le gouvernement du Nouveau-Brunswick assure la protection de l’égalité de statut et de l’égalité des droits et privilèges des communautés linguistiques officielles et en particulier de leurs droits à des institutions distinctes où peuvent se dérouler des activités culturelles, éducationnelles et sociales.

1981, ch. O-1.1, art. 2

Promotion du développement culturel, économique, éducationnel et social

3 Le gouvernement du Nouveau-Brunswick, dans les mesures législatives qu’il propose, dans la répartition qu’il fait des ressources publiques et dans ses politiques et programmes encourage, par des mesures positives, le développement culturel, économique, éducationnel et social des communautés linguistiques officielles.

1981, ch. O-1.1, art. 3

N.B. La présente loi a été proclamée et est entrée en vigueur le 1er septembre 2011.

N.B. La présente loi est refondue au 1er septembre 2011.
S-209

First Session, Forty-second Parliament,
64 Elizabeth II, 2015

SENATE OF CANADA

BILL S-209

An Act to amend the Official Languages Act (communications
with and services to the public)

FIRST READING, DECEMBER 8, 2015

THE HONOURABLE SENATOR CHAPUT

4211006
This enactment amends the Official Languages Act to introduce the concept of equal quality of communications and services offered by federal institutions in each official language. The enactment modifies the criteria used to determine if there is a significant demand for communications and services in either official language.

The enactment specifies the locations where federal institutions have a duty to provide communications and services in both official languages.

The enactment provides for a review of the regulations enacted under Part IV of the Act after every decennial census.

The provisions on prior consultation are applied more specifically to regulations that provide for exceptions to the application of Part IV of the Act in certain circumstances or to certain bodies.

Available on the Parliament of Canada Web Site at the following address:
http://www.parl.gc.ca
An Act to amend the Official Languages Act (communications with and services to the public)

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

1. Subsection 3(1) of the Official Languages Act is amended by adding the following in alphabetical order:

“metropolitan area” means any area that is classified by Statistics Canada in its most recent census of Canada as a census metropolitan area;

2. Section 23 of the Act is amended by adding the following after subsection (1):

(1.1) 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 the following locations:

(a) railway stations and airports serving a metropolitan area;
(b) railway stations and airports serving the national capital or the capital of a province or territory;
(c) ferry terminals serving at least one hundred thousand passengers annually; and
(d) railway stations, airports, ferry terminals, public ports and public port facilities prescribed by regulation of the Governor in Council.
3. The Act is amended by adding the following after section 23:

Equal quality

23.1 (1) Every federal institution has the duty to take every reasonable measure to ensure that the communications and services it provides to the public are of equal quality in both official languages.

(2) Every federal institution shall, in the manner prescribed by regulation of the Governor in Council, seek the views of members of the English and French linguistic minority communities on the quality of the communications and services it provides to the public in each official language.

4. Paragraph 24(1)(a) of the Act is replaced by the following:

(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 or services of the office;

(a.1) in any circumstances prescribed by regulation of the Governor in Council where the services in question significantly affect or benefit the English or French linguistic minority population in a given geographic area;

(a.2) in any circumstances prescribed by regulation of the Governor in Council, relating to the loss of the language or linguistic assimilation, where the application of this subsection is likely to lead to the revitalization and advancement of the use of the language of the English or French linguistic minority population; or

5. Paragraphs 32(1)(d) and (e) of the Act are replaced by the following:

(d) designating railway stations, ferry terminals, public ports, public port facilities and airports for the purpose of paragraph 23(1.1)(d);
Factors

Decennial review

Manner

Definition of “regulation”

(e) prescribing the manner in which the consultations described in subsection 23.1(2) are to be carried out;

(f) prescribing circumstances, in relation to the public or the travelling public, for the purpose of paragraphs 24(1)(a), (a.1), (a.2) and (b); and

(g) prescribing the manner in which the review referred to in section 32.1 is to be carried out.

(2) The portion of subsection 32(2) of the Act before paragraph (c) is replaced by the following:

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

(a) the number of persons able to communicate in the language of the English or French linguistic minority population of the area served by an office or facility;

(b) the particular characteristics, including the institutional vitality, of the English or French linguistic minority population of the area served by an office or facility; and

6. The Act is amended by adding the following after section 32:

32.1 (1) In the sixty days following the publication of each decennial census, the President of the Treasury Board, or such other minister of the Crown as may be designated by the Governor in Council, shall undertake a review of the regulations made under this Part and shall complete it within one year from the time the review is undertaken.

(2) The review provided for in subsection (1) shall be carried out in consultation with the English and French linguistic minority communities and in the manner prescribed by regulation of the Governor in Council.

7. The Act is amended by adding the following after section 86:

86.1 (1) In this section and section 86.2, “regulation” means any regulation made under Part IV

6. La même loi est modifiée par adjonction, après l’article 32, de ce qui suit :

32.1 (1) Dans les soixante jours suivant la publication de chaque recensement décennal, le président du Conseil du Trésor ou tout autre ministre fédéral désigné par le gouverneur en conseil entreprend la révision des règlements d’application de la présente partie et la termine au plus tard un an après l’avoir commencée.

(2) La révision prévue au paragraphe (1) est effectuée en consultation avec les minorités francophones et anglophones et conformément aux modalités réglementaires.

7. La même loi est modifiée par adjonction, après l’article 86, de ce qui suit :

86.1 (1) Au présent article et à l’article 86.2, «règlement» s’entend de tout règlement d’application de la partie IV visant à:
(a) exempting certain communications or services provided to the public in either official language by a federal institution from the application of that Part; or

(b) relieving a federal institution of the duty, under that Part, to communicate with or provide services to the public in either official language.

(2) The President of the Treasury Board, or such other minister of the Crown as may be designated by the Governor in Council, shall lay a draft of a proposed regulation before each House of Parliament at least thirty days before a copy of the proposed regulation is published in the Canada Gazette under section 86.2.

(3) In calculating the thirty day period referred to in subsection (2), there shall be counted only days on which both Houses of Parliament sit.

86.2 (1) Subject to subsection (2), a copy of each regulation that the Governor in Council proposes to make shall be published in the Canada Gazette and, wherever possible, be printed 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 in the other official language in at least one publication in general circulation within each region where the matter applies that appears wholly or mainly in that other language at least thirty days before the proposed effective date thereof, and every opportunity shall be afforded to interested persons to make representations to the President of the Treasury Board with respect thereto.

(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.

(a) soit soustraire à l’application de cette partie certaines communications ou certains services offerts au public dans l’une ou l’autre des langues officielles par une institution fédérale;

(b) soit dispenser une institution fédérale de l’obligation — imposée en application de cette partie — de communiquer avec le public ou de lui offrir des services dans l’une ou l’autre des langues officielles.

(2) Le président du Conseil du Trésor ou tout autre ministre fédéral désigné par le gouverneur en conseil dépose les avant-projets de règlement devant les deux chambres du Parlement au moins trente jours avant leur publication sous 15 forme de projets de règlement dans la Gazette du Canada au titre de l’article 86.2.

(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 20 au paragraphe (2).

86.2 (1) Sous réserve du paragraphe (2), les projets de règlement sont publiés dans la Gazette du Canada et, là où cela est possible, 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, au moins 30 trente jours avant la date prévue pour leur entrée en vigueur, les intéressés se voyant accorder la possibilité de présenter au président du Conseil du Trésor leurs observations à cet égard.

(2) Ne sont pas visés les projets de règlement 35 Exception déjà publiés dans les conditions prévues au paragraphe (1), même s’ils ont été modifiés par suite d’observations présentées conformément à ce paragraphe.
Calculation of thirty day period

(3) In calculating the thirty day period referred to in subsection (1), there shall be counted only days on which both Houses of Parliament sit.

8. This Act comes into force 180 days after the day on which it receives royal assent.
Clause 1: New.

Clause 2: New.

Clause 3: New.

Clause 4: Relevant portion of subsection 24(1):

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

. . .

Clause 5: (1) Relevant portion of subsection 32(1):

32. (1) The Governor in Council may make regulations

. . .

(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).

(2) Relevant portion of subsection 32(2):

(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

Clause 6: New.

Clause 7: New.