



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*

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Introduction

- [1] Since 1975, the Fédération des communautés francophones et acadienne du Canada (FCFA) has been the representative organization for 2.7 million French-speaking Canadians in nine provinces and three territories – a national, active, committed and inclusive voice that is devoted to promoting linguistic duality, developing the capacity to live in French, and ensuring the full participation of francophone citizens in Canada’s development.
- [2] Linguistic duality is at the very heart of Canada’s social and legal fabric. Francophone and Acadian communities serve as linchpin for linguistic duality; these cities and towns represent places where those who choose French as their identifying element may live in that language. Such communities are inhabited by those for whom French is their mother tongue, as well as those who have chosen to live in French, all or part of the time. They include all francophones, regardless of their place of birth.
- [3] Linguistic duality is articulated in the *Official Languages Act* (OLA), which makes this text particularly important. It is helpful to recall the origins of the OLA in order to truly appreciate its importance. In their preliminary report in 1965, the commissioners of the Royal Commission on Bilingualism and Biculturalism diagnosed a very serious problem:
- Canada, without being fully conscious of the fact, is passing through the greatest crisis of its history. The source of the crisis lies in the Province of Quebec.... There are secondary sources in the French-speaking minorities of the other provinces and in the “ethnic minorities”—although this does not mean in any way to us such problems are in themselves secondary.... If it should persist and gather momentum it could destroy Canada.¹
- [4] Among other things, the Royal Commission recommended that English and French be declared the official languages of the federal government. With a view to avoiding the destruction of Canada foretold by the commissioners, Parliament adopted its first Act on “official languages” in 1969.²
- [5] The adoption of the OLA proved to be a decisive moment for minority French communities. Section 2 stated that “[t]he English and French languages are the official languages of Canada for all purposes of the Parliament and Government of Canada, and possess and enjoy equality of status and equal rights and privileges as to their use in all the institutions of the Parliament and Government of Canada.”³
- [6] In enshrining linguistic duality in the first OLA, Parliament recognized the existence of French-language communities; something those communities had been demanding for generations.

¹ André Laurendeau and Arnold Davidson Dunton, *A preliminary report of the Royal Commission on Bilingualism and Biculturalism*, Ottawa, Queen’s Printer, 1965 p. 13.

² Pierre Elliott Trudeau, [*Statement by the Prime Minister to the House of Commons on the resolution preceding the introduction of the Official Languages Bill*](#), Ottawa, Office of the Prime Minister, 1968.

³ *Official Languages Act*, LRC 1970, c. O-2, s. 2.

- [7] The incomplete nature of the legislative framework for official languages established by the first OLA was nevertheless acknowledged from the beginning, even by its sponsor, when he said “[w]e do not claim that this bill will take care of all Canada’s needs in respect of French and English or other languages.”⁴ Rather, the adoption of the OLA signaled Parliament’s first commitment to linguistic duality.
- [8] It is therefore no wonder that the flaws in the first OLA became apparent almost immediately after its adoption. As early as 1977, the Commissioner of Official Languages referred to the “bureaucratic jungle”⁵ of official languages and its “administrative plumbing.”⁶
- [9] The first OLA was more ambitious than it was binding. In *Les Héritiers de Lord Durham*, which was released in 1977, the FCFA described the types of situations experienced by francophones seeking services in French, and the problems they faced as a result. These included the example of the individual who after waiting in line for 15 minutes at Winnipeg airport, was told to go wait in a different line to be served in French:

After numerous such experiences, the francophone outside Quebec has had enough: He no longer bothers to speak French. For the most part, institutional bilingualism remains a myth for the francophone minority... Nor is it surprising that Mr. Spicer [then Commissioner of Official Languages of Canada] complains about not receiving as many complaints as before. The results of his recommendations are often slow to be felt or non-existent, because let us not forget that Mr. Spicer only has the power to recommend.⁷ [Translation]

- [10] One of the major flaws of the 1969 OLA was the implementation model chosen by Parliament, which involved decentralization and the lack of an institution or agent responsible for its coordination. For example, in 1981, the Special Joint Committee of the Senate and of the House of Commons on Official Languages pointed out that “twelve years after Parliament’s adoption of the *Official Languages Act*, few, if any, federal institutions are yet capable of meeting the Act’s requirements in a fully satisfactory manner.”⁸ In 1987, the Special Joint Committee of the Senate and of the House of Commons on Official Languages analyzed the management of the official languages program as follows:

19. Treasury Board is responsible for the general administration of the official languages program throughout the federal public service. The members of our Committee feel that in recent years, Treasury

19. Le Conseil du Trésor a la responsabilité de la gestion générale du programme des langues officielles pour l’ensemble de la Fonction publique. Or, il est apparu aux membres de notre Comité que,

⁴ Pierre Elliott Trudeau, [Statement by the Prime Minister to the House of Commons on the resolution preceding the introduction of the Official Languages Bill](#), Ottawa, Office of the Prime Minister, 1968.

⁵ Office of the Commissioner of Official Languages, *Third Annual Report: 1972–1973*, Ottawa, Information Canada, 1974, Catalogue No. SF1-1973, pp. 2–3.

⁶ Office of the Commissioner of Official Languages, *Sixth Annual Report: 1976*, Ottawa, Supply and Services Canada, 1977, Catalogue No. SF1-1976, p. 25.

⁷ Fédération des francophones hors Québec, *Les Héritiers de Lord Durham*, Vol. 1, Ottawa, [Fédération des francophones hors Québec](#), 1977, p. 113.

⁸ Special Joint Committee of the Senate and of the House of Commons on Official Languages, “The First Report to Parliament,” in *Minutes of Proceedings and Evidence of the Special Joint Committee of the Senate and of the House of Commons on Official Languages*, 1st Session, 32nd Parliament, No. 22 (9 July 1981) p. 22:5.

Board has not shown strong leadership in the four program management sectors, namely planning, accountability, resources and monitoring.

20. Departmental official language plans were used for planning purposes between 1977 and 1985. In the past few years, the focus has shifted to letters of understanding between Deputy Ministers and Treasury Board Secretariat. While these letters of understanding were being drafted, little attention was paid to departmental plans. This lack of leadership created a void that rapidly led to a laissez-faire attitude.
[...]

23. Finally, the fourth, but by no means least important, weakness in the management of the program is the lack of control exercised by Treasury Board. For decentralized management to be effective, it is important that programs and the results they generate be evaluated and that disciplinary action be taken in cases where performance is manifestly poor. According to the testimony heard over the past six months, it would seem that far too often it was left up to the departments to modify their plans, either by pushing timetables or even, in some cases, by redrafting them.

24. The Committee is concerned that the official languages program may be running out of steam, particularly in the departments that gave testimony in recent months. It is concerned that Treasury Board may not be doing its job as far as the program is concerned.

ces dernières années, le leadership du Conseil du Trésor a été plutôt faible dans les quatre secteurs de gestion du programme, soit la planification, la responsabilité, les ressources et le contrôle.

20. C'est au moyen de plans ministériels des langues officielles que s'est faite la planification de 1977 à 1985. Or, ces dernières années, on a évolué vers le concept de protocoles d'entente entre les sous-ministres et le Secrétariat du Conseil du Trésor. Pendant l'élaboration de ces protocoles d'entente, on a accordé peu d'attention aux plans ministériels, et ce manque de leadership a créé un vide qui a rapidement entraîné une attitude de laisser-faire.
[...]

23. Enfin, la quatrième faiblesse dans la gestion du programme, mais non la moindre, est le manque de contrôle exercé par le Conseil du Trésor qui en est responsable. Dans un processus efficace de gestion décentralisée, il importe que les programmes et les résultats qu'ils engendrent soient évalués et que des mesures disciplinaires soient prises dans les cas manifestes de contre-performance linguistique. Or, les témoignages entendus durant les derniers six mois laissent croire que, trop souvent, les organismes ont été laissés à eux-mêmes pour modifier les plans ministériels, en retarder les échéanciers ou même en définir de nouveaux, généralement à la baisse.

24. Le Comité s'inquiète des effets de la perte de vitesse et de l'essoufflement actuel du programme des langues officielles, particulièrement dans les ministères et organismes qui ont comparu devant lui ces derniers mois. Il s'inquiète de ce que le Conseil du Trésor qui est responsable du programme ne joue pas son rôle.⁹

[11] Nearly 50 years after the first OLA was adopted, the FCFA would like to be able to tell you that things have changed, but that is unfortunately not the case. Yet, in adopting a new OLA in 1988, Parliament sought to ensure its compliance with the new provisions of the *Canadian Charter of Rights and Freedoms*, which had come into force in 1982. Also, in 1988, Parliament attempted to address weaknesses that had been identified by a number of

⁹ Senate, Standing Joint Committee on Official Languages, "[Fourth Report to Parliament](#)" in *Senate Debates*, 2nd Session, 33rd Parliament, Vol. 2, No. 4 (25 June 1987) pp. 1423–24.

players, for example by giving Treasury Board ultimate responsibility for the application of several parts (IV, V and VI) of the new OLA (section 46). Parliament stated in the 1988 OLA that the objective was to “ensure respect for English and French as the official languages of Canada,” “support the development of English and French linguistic minority communities,” and “set out the powers, duties and functions of federal institutions with respect to the official languages.”¹⁰ The 1988 OLA also expressed 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” and “fostering the full recognition and use of both English and French in Canadian society.”¹¹

[12] During the study of the bill that would become the 1988 OLA, the Honourable Ray Hnatyshyn, Minister of Justice, mentioned that a reform of the language policy had been necessary, and that the new OLA was designed “to take into account the fundamental elements of [Canada’s] language policy as it has evolved over the past 120 years, and to allow us to meet the changing needs of Canadian society.”¹² The Fédération des francophones hors Québec (predecessor to the FCFA) shared this sentiment.¹³

[13] However, even though the 1988 OLA was tougher than that of 1969, applying it was just as difficult. Nothing had changed in 1996, for example, when the FCFA called on the government to make public servants understand that official languages aren’t just something to be tucked away in the bottom of a cupboard.¹⁴

[14] In his 1989 annual report, the Commissioner of Official Languages of Canada expressed his disappointment with “the Department’s [Secretary of State, now the Department of Canadian Heritage] performance in fostering the recognition and use of English and French among the business community and labour and voluntary organizations.”¹⁵ He recalled that the federal government’s commitment under section 41 of the OLA “is binding on all federal institutions and the Secretary of State of Canada plays a key role, which is to: encourage and promote a co-ordinated approach to the implementation by federal institutions of the commitments set out in Section 41.”¹⁶ With regard to the interdepartmental coordination role played by the Secretary of State, the Commissioner observed that “[t]he measures taken to date, like the human resources allotted them, are ultimately quite modest given the scope of the task at hand.”¹⁷

¹⁰ [Official Languages Act](#), R.S.C. 1985, c. 31 (4th Supp.), s. 2, (Our underlining).

¹¹ *Ibid.*, Subsection 41(1).

¹² [House of Commons Debates](#), 33rd Parliament, 2nd Session, Vol. 10, (8 February 1988) p. 12704 (Honourable Ray Hnatyshyn).

¹³ Fédération de francophones hors Québec, *Mémoire de la Fédération des francophones hors Québec adressé au Comité législatif sur le projet de Loi C-72*, Ottawa (20 April 1988); House of Commons, Legislative Committee on Bill C-72, *Minutes of Proceedings*, 2nd Session, 33rd Parliament, No. 7 (20 April 1988) p. 7:5.

¹⁴ Fédération des communautés francophones et acadienne, *Rapport annuel 1996-1997*, Ottawa, FCFA, p. 17.

¹⁵ Commissioner of Official Languages, *Annual Report 1989: From Act to Action?* Ottawa, Supply and Services Canada, 1990, Catalogue No. SF1-1989, p. 17.

¹⁶ *Ibid.*, p. 172.

¹⁷ *Ibid.*, p. 172.

- [15] The numerous observations as to the inadequate implementation of the OLA led to the 1996 special report on the *Federal Government's Implementation of Part VII of the Official Languages Act*, in which the Commissioner of Official Languages of Canada commented that:

Part VII of the *Official Languages Act* 1988 has until now had a relatively weak impact as measured in terms of the objectives set out by Parliament in Section 41 of the *Act*. The lack of impact is traceable to a failure to set clear priorities, objectives and guidelines. Because of this inaction, efforts by the Office of the Secretary of State and later by the Department of Canadian Heritage to co-ordinate government-wide implementation of Part VII have been largely ineffectual.¹⁸

- [16] The Commissioner of Official Languages of Canada also observed that the 58 federal institutions reviewed for the report “[h]ad not formulated guidelines, set objectives or defined specific means for implementing Part VII” and that “[m]easures to implement Part VII were not mentioned in any of the official documents published by any federal institution in the study... with the sole exception of the Department of Canadian Heritage.”¹⁹
- [17] The launch of the first *Action Plan for Official Languages*²⁰ in 2003 was a source of much hope. The plan announced a new direction and set out a political and social vision for enhancing and promoting the official languages throughout Canadian society.²¹ As it happened, the ambition expressed in the *Action Plan* was stifled because of the flawed design of the 1988 OLA, which does not confer ultimate responsibility for its implementation on any agency. In 2005, the FCFA was still criticizing the lack of commitment on the part of federal institutions to provide service in the language of the minority.²²
- [18] In 2005, the amendments to the wording of Part VII of the OLA also stirred optimism among francophone communities. At that time, Parliament conferred enforceable status on the obligation of federal institutions to adopt “positive measures” for the implementation of their commitment to enhance the vitality of French linguistic minorities and support their development.²³ Unfortunately, the legislature had underestimated the inertia of federal institutions. To date, this legislative amendment has still not been implemented, having neither given the Department of Canadian Heritage the necessary tools to ensure that it was, nor centralized responsibility for its implementation with the Treasury Board, the only

¹⁸ Commissioner of Official Languages, [*A Blueprint for Action: Implementing Part VII of the Official Languages Act, 1988: Report of the Commissioner of Official Languages on the Federal Government's Implementation of Part VII of the Official Languages Act*](#), Ottawa, 1996.

¹⁹ Commissioner of Official Languages, *A Blueprint for Action*, *supra*.

²⁰ Canada, Privy Council Office, [*The Next Act: New Momentum for Canada's Linguistic Duality: The Action Plan for Official Languages*](#), Ottawa, National Library of Canada, 2003.

²¹ *Ibid.*, p. 1–9.

²² Fédération des communautés francophones et acadienne du Canada, News release, “[Rapport de la commissaire aux langues officielles : une révision du régime linguistique fédéral s'impose](#),” (31 May 2005).

²³ *Official Languages Act*, 1988, Subsection 41(2); See also [*An Act to Amend the Official Languages Act \(promotion of English and French\)*](#), 1st Session, 38th Parliament, 2005 (Assented to on 25 November 2005), [SC 2005 c. 41](#).

federal institution capable (if it wants to) of exercising enforcement powers under the OLA.

- [19] In 2009, in a white paper entitled *La mise en œuvre de la Loi sur les langues officielles, une nouvelle approche – une nouvelle vision*, the FCFA commented that it is appalling that after 40 years, francophones still do not have access to all the government services and support to which they are entitled.²⁴ The FCFA offered the following analysis: the 1988 OLA has only been partially implemented, not just due to lack of political and administrative will, but also because of its messy governance structure. To address this situation, the FCCA recommended assigning the OLA coordination role to a single federal institution, establishing a formal community consultation structure and providing for tougher accountability mechanisms to penalize violations of the OLA.
- [20] And yet, as we approach the 50th anniversary of the 1969 OLA, and despite the serious ramifications, the OLA implementation framework remains unchanged. Over this time, the priority given by the government to official languages has been eroded. The following are but a few examples identified over the past two years: (1) the poor performance of federal institutions in terms of “active offer” in communications with and services to the public in both official languages;²⁵ (2) the high percentage of public servants who cannot always use the official language of their choice in the workplace;²⁶ (3) the disorganized governance of the official languages program of the Government of Canada and the lack of a vision for francophone immigration;²⁷ (4) the shortcomings in the management framework for federal financial support for minority-language education;²⁸ (5) the persistent lack of understanding throughout government as to its obligation to take the desired or necessary positive measures to enhance the vitality and support the development of francophone minorities;²⁹ and (6) the systematic weakening of the Translation Bureau.³⁰

²⁴ Fédération des communautés francophones et acadienne du Canada, [A New Approach - A New Vision : The implementation of the Official Language Act](#), Ottawa 2009, p.8.

²⁵ Office of the Commissioner of Official Languages, [Bilingual Greetings in Federal Institutions: Let's Talk About It!](#) Ottawa, Minister of Public Works and Government Services Canada, 2016.

²⁶ Privy Council Office, Mendelsohn-Borbey working group, [The Next Level: Normalizing the Culture of Inclusive Linguistic Duality in the Federal Public Service Workplace](#), Ottawa, Privy Council Office, 2017 p. 2 (Message from the Co-chairs).

²⁷ 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: Honourable Denis Paradis).

²⁸ Ibid.; Standing Senate Committee on Official Languages, [Horizon 2018: Toward Stronger Support of French-Language Learning in British Columbia](#), May 2017, p. 44 (Chair: Honourable Claudette Tardif).

²⁹ Despite recent improvements, no federal institution obtained an overall rating of “exemplary” on its most recent report card prepared by the Office of the Commissioner of Official Languages. Office of the Commissioner of Official Languages, [Annual Report 15–16](#), Ottawa, Public Works and Government Services Canada, 2016, pp. 34–36.

³⁰ House of Commons Standing Committee on Official Languages, [Study of the Translation Bureau](#), 1st Session, 42nd Parliament, (June 2016) (Chair: the Honourable Denis Paradis).

[21] Only a complete modernization of the 1988 OLA can address the structural problem at the heart of almost all of these issues: the fact that the implementation of the Act is systematically flawed.

[22] In this brief, the FCFA is proposing to give the OLA a modern and functional backbone that will restore the credibility of the official languages and the privileged place of linguistic duality among fundamental Canadian values. To achieve this objective, Parliament should immediately:

(1) completely rethink the **implementation** of the OLA by assigning it to a **central agency**, by providing official language minority communities with the **right to participate** and by developing new **monitoring and oversight** mechanisms; and

(2) completely rethink the **rights** it confers, the **obligations** it imposes and its underlying **principles**.

1. Modernize implementation of the OLA: Central agency, right to participate and oversight and reporting

[23] There should be a complete rethinking of how the OLA is implemented in order to correct systemic flaws. This will require at least three categories of legislative amendment: **(A)** there should be one central agency responsible for ensuring implementation of the OLA, and that agency must be given the necessary powers to do so; **(B)** official language minority communities should have the right to participate in the implementation of the OLA; and **(C)** the OLA should contain new oversight and reporting mechanisms.

A. A central agency should be responsible for coordinating implementation of the OLA, and should be given the necessary powers to do so

[24] One clear observation can be made after four and a half decades of the OLA: there is no permanent and systematic central coordination of official languages within the federal government. First and foremost, the OLA must be modernized to address this problem, which has persisted since its very first incarnation.

[25] The 1988 overhaul of the OLA did include a general intention to clarify the powers and obligations of federal institutions with respect to official languages set out in its purpose section,³¹ notably through parts VII (Canadian Heritage) and VIII (Treasury Board). However, the OLA does not confer on any government body the power or responsibility to oversee its implementation throughout the federal government. The absence of a “governing soul” in the OLA has led to systemic and recurring flaws in its implementation. Furthermore, the responsibilities it does impose are general, non-binding, or not accompanied by the necessary powers to discharge them.

[26] Two federal institutions are assigned responsibility in the OLA for implementing certain parts of that Act: the Treasury Board and the Department of Canadian Heritage.³² In both cases, however, the powers conferred are insufficient to ensure that federal institutions respect the requirements imposed on them.

Treasury Board

[27] Pursuant to subsection 46(1) of the OLA, “[t]he 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.”³³ Pursuant to subsection 46(2), however, the Treasury Board, “[i]n carrying out its responsibilities...may

(a) establish policies, or recommend policies to the Governor in Council, to give effect to Parts IV, V

a) établir des principes d’application des parties IV, V et VI ou en recommander au gouverneur en

³¹ *Official Languages Act, 1988, Supra*, Subsection 2(c): The purpose of the OLA is to “set out the powers, duties and functions of federal institutions with respect to the official languages of Canada.”

³² See in particular the *Official Languages Act, 1988, Ibid.*, ss. 42–44 (Canadian Heritage) and ss. 46–48 (Treasury Board).

³³ *Official Languages Act, 1988, Supra*, Subsection 46(1).

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
(g) delegate any of its powers under this section to the deputy heads or other administrative heads of other federal institutions.³⁴

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.

[28] The wording of subsection 46(2) creates three major problems.

[29] First, it only says what the Treasury Board “may” do. In its current form, the OLA does not stipulate that the President of the Treasury Board must perform the duties mentioned in subsections 46(1) and (2); rather, it states that the Treasury Board may take the actions listed in subsection 46(2). In other words, the OLA does not require the Treasury Board to do anything at all. At a minimum, a modernized OLA should set out what the Treasury Board “must” do to fulfill its obligations.

[30] Second, the list found in subsection 46(2) is limiting. If Parliament wants to ensure implementation of the OLA, it should use subsection 46(2) to open the door to further powers for the Treasury Board. This could be achieved by simply using an expression such as “including” in the introduction of the list of powers.

[31] Third, while at first glance the list found at subsection 46(2) appears to confer useful and effective powers for implementing parts IV, V and VI of the OLA, it unfortunately contains a poison pill. Indeed, paragraph 42(2)(g) authorizes the Treasury Board to “delegate any of its powers under this section to the deputy heads or other administrative heads of other federal institutions.” This paragraph has led to the sharing of responsibility for implementation of the OLA. This responsibility had been partially concentrated in the hands of the Treasury Board in 1988, but now lies with the heads of federal institutions, who are individually and exclusively responsible for ensuring that their official languages obligations are fulfilled.

The Minister of Canadian Heritage

³⁴ Ibid, Subsection 46(2).

- [32] Since 1988, subsection 41(1) has stated the federal government's general commitment to "enhancing the vitality of the English and French linguistic minority communities in Canada," "supporting and assisting their development," and fostering the full recognition and use of both English and French in Canadian society."
- [33] Section 42 of the OLA sets out the obligation of the Minister of Canadian Heritage, in "consultation" with other federal ministers, to "encourage and promote a coordinated approach to the implementation" of that commitment by federal institutions. To that end, section 43 sets out the following specific obligation:

Specific mandate of Minister of Canadian Heritage

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

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

Mise en œuvre

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

- a) de nature à favoriser l'épanouissement des minorités francophones et anglophones du Canada et à appuyer leur développement ;
- b) pour encourager et appuyer l'apprentissage du français et de l'anglais ;
- 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.

- [34] The Minister of Canadian Heritage has not been given any tools to compel colleagues to act in accordance with the OLA. Of course, the Minister of Canadian Heritage has the power to “promote a coordinated approach” to implementation of Part VII (only) with his or her colleagues, but not the power to compel concrete measures. Why not? The most likely answer stems from the fact that originally, in 1988, Part VII of the OLA was not subject to litigation. At the time, Part VII set out an aspiration rather than a series of obligations. This hypothesis is supported by the parliamentary debates surrounding adoption of the 1988 OLA.
- [35] In March 1988, the House of Commons Legislative Committee on Bill C-72 (*Official Languages Act*) invited the Secretary of State at the time, the Honourable David Crombie, to comment on the bill. He could not have been clearer in explaining that under the new OLA, the role of his department was to encourage – and not compel – compliance with the OLA:

Mr. Crombie: [...] Mr. Chairman, I am especially pleased today to be able to explain the role of the Department of the Secretary of State as spelled out in Bill C-72.

[...]

As Secretary of State my responsibilities relate to the advancement of the equality of status and use throughout Canadian society as a whole. I would like to expand very briefly if I could, Mr. Chairman, on the role of the Secretary of State in this regard.

[...]

Clauses 40 and 41 [which correspond to sections 41(1) and 42 of the current *OLA* but subsections 41(2) and 41(3) in their current form were not adopted before 2005] of the bill set out the broad policy commitments of the government and the co-ordination role of the Secretary of State with regard to the promotion of the official languages in Canadian society.

Clause 42 [which corresponds to section 43 of the current *OLA*] sets out the powers and duties of the Secretary of State: one, to support the development of minority communities; two, to encourage and support the learning of both English and French; three, to foster acceptance and appreciation by Canadians of our two official languages; and four, to co-operate with provinces and the private and voluntary sectors. In addition, the Secretary of State is mandated to ensure public consultation on official languages matters.

[...]

People sometimes say: what is important is to assert

M. Crombie : [...] Je suis particulièrement heureux aujourd'hui de pouvoir expliquer le rôle du Secrétariat d'État, tel qu'il est énoncé dans le projet de loi C-72.

[...]

À titre de Secrétaire d'État, il m'incombe de favoriser la progression vers l'égalité de statut et d'usage des deux langues officielles dans l'ensemble de la société canadienne. J'aimerais dire quelques mots sur le rôle du Secrétaire d'État au regard de ce projet de loi.

[...]

Les clauses 40 et 41 [qui correspondent aux articles 41(1) et 42 de la *LLO* dans leur forme actuelle, mais les paragraphes 41(2) et 41(3) dans leurs formes actuelles n'ont pas été adoptés avant 2005] exposent les grands engagements du gouvernement et le rôle de coordonnateur du Secrétariat d'État en matière de promotion des langues officielles dans la société canadienne.

La clause 42 [qui correspond à l'article 43 de la *LLO* dans sa forme actuelle] énonce les pouvoirs et fonctions du Secrétaire d'État : favoriser l'épanouissement des minorités francophones et anglophones ; encourager le public à mieux accepter et apprécier nos deux langues officielles ; coopérer avec les provinces, ainsi que les secteurs privé et bénévole. En outre, le Secrétaire d'État a pour mandat d'assurer la tenue de consultations publiques sur les questions relatives aux langues officielles.

[...]

and protect the status of both official languages, not to recognize and support official language communities across the nation.

I have trouble understanding such an approach which strikes me as supporting a linguistic concept or abstraction. Language is people speaking, living and experiencing, through it, special emotions. A linguistic community is the vital component of a separate identity.

It is not a question of granting rights to one community over another. In these matters, one does not prescribe, but rather creates attitudes and favourable climates. The language of the bill, particularly insofar as it relates to the Secretary of State, is one of support, of welcome and of encouragement.³⁵

Certains disent parfois : Ce qui importe, c'est d'affirmer et de défendre le statut des deux langues officielles, non de reconnaître et d'appuyer des communautés de langue officielle dispersées à travers le pays.

J'ai de la difficulté à comprendre une telle approche qui me paraît soutenir un concept ou une abstraction linguistique. La langue, ce sont des gens qui la parlent et qui vivent grâce à elle une expérience et des émotions particulières. Une communauté linguistique est le partage vivant d'une identité distincte.

Il ne s'agit pas de privilégier une communauté au détriment d'une autre. Dans ce domaine, on ne prescrit pas ; plutôt, on suscite des comportements, on crée un climat favorable. C'est exactement ce que cherche à faire le projet de loi en parlant d'appui, d'accueil, d'encouragement.

[36] In an exchange with Senator Simard, the Honourable Lucien Bouchard, who had been appointed Secretary of State by the time the Special Senate Committee on Bill C-72 began its work, clearly described his department's role under the OLA as being one of coordination, with little power to compel:

Senator Simard: And the question of insufficient funds, of inadequate departmental budgets, because this excuse has been used many times; you know: "Yes, it takes time, but you know that with the money we have available, nothing more can be done..."

Mr. Bouchard: Once Treasury Board, with the approval of the Governor General in Council, has decided on designations of services and regions, no one will be able to cite budget constraints because the item becomes imperative. Furthermore, there is one very important aspect to the new Bill: the responsibility for co-operation and co-ordination which has been entrusted to my Department [Department of the Secretary of State]. The Department will therefore be obligated henceforward to ensure that the federal machinery as a whole, the federal agencies, will not only be sensitized, but will proceed in a vigorously committed manner, to

Le sénateur Simard : Et la question d'insuffisance de fonds, de budget des ministères, parce que l'on s'est fait servir cela bien des fois : mais vous savez, oui, ça prend du temps, vous savez avec l'argent que l'on a on ne peut pas faire plus.

M. Bouchard : À partir du moment où le Conseil du Trésor, sanctionné par le Gouverneur général en conseil, aura arrêté des désignations des services et des régions, plus personne ne pourra invoquer les questions de budget parce que cela devient un impératif. De plus, il y a une chose très importante dans le nouveau projet de loi : c'est la responsabilité de concertation et de coordination qui est conférée à mon ministère [Secrétariat d'État]. Ce ministère aura l'obligation maintenant de s'assurer que dans l'ensemble de l'appareil fédéral, les agences fédérales, il y ait non pas seulement une sensibilisation mais qu'il y ait une démarche très vigoureusement engagée

³⁵ Legislative Committee on Bill C-72, *Minutes of Proceedings, Supra*, No. 3 pp. 3:4-8.

respect all the obligations of the law. We intend to activate the process of establishing an authority who periodically, without being too bureaucratic or formal, and thus frozen in inactivity, will consult regularly in a dynamic way, and will integrate on a regular basis the various departments in the effort to implement the Act. This has already begun; already, there are departments working with us, as, for example, in the case of community radio, amateur theatre and sport. We will go further: we will make this a systematic procedure.

pour respecter la loi dans toutes ses obligations. Nous avons l'intention d'activer le processus de mise en place d'une instance qui, périodiquement, sans trop la bureaucratiser, sans en faire une chose formelle au point de la congeler dans l'inaction, nous voulons créer d'une façon dynamique de consulter régulièrement et d'intégrer régulièrement les différents ministères dans une entreprise de mise en œuvre de la loi. C'est déjà commencé, il y a déjà des ministères qui travaillent avec nous. Par exemple pour la radio communautaire, pour le théâtre amateur, pour le sport. Nous irons plus loin et nous en ferons une démarche systématique.

I believe that, by coupling what is imperative – that is, the designation of regions and services, with other requirements to provide adequate budgets to meet these obligations – and with the co-operation and co-ordination which my Department must exercise, this Act will become known quickly, and will soon be applied by the federal public service as a whole. People are watching us, in any case. Yourselves, the House of Commons, communities, and volunteer organizations will all be watching. I see Mr. D'Yberville Fortier, who will continue to scrutinize us with goodwill, but with rigour. I believe that everything is in place to ensure that the process will be fully respected.³⁶

Je crois que la conjugaison de ce qui est impératif c'est-à-dire la désignation des régions et des services et autres publications de pouvoir de budgets suffisants pour satisfaire à ces obligations et avec la concertation et la coordination obligatoires qui doivent être exercées par mon secrétariat d'État, vont faire que la loi devrait être rapidement connue et appliquée par l'ensemble de la fonction publique fédérale. D'ailleurs il y a des gens qui nous surveillent. Vous êtes là, la Chambre des communes est là, les milieux sont là, les organismes bénévoles. Je vois monsieur d'Iberville Fortier qui ne cessera pas de nous scruter avec bienveillance mais avec rigueur. Il y a tout ce qu'il faut, je crois, pour nous assurer que le processus soit suivi avec respect.

- [37] Mr. Bouchard underestimated the inherent difficulty of convincing different departments to work together. Ministers are used to having exclusive responsibility for their own departments, and rarely consider cooperation with other departments to be a priority. The government reward and auditing structure focuses on specific objectives in isolation, rather than the attainment of common goals. Furthermore, to cooperate, departments must reach a level of consensus that is rare in the political and administrative arena. During this same meeting of the special Senate committee, Senator De Bané gave Mr. Bouchard a clear warning:

Senator De Bané: [...]

Second, Mr. Minister, I would like to return to section 42 to which you have already referred. Personally, I am highly pessimistic about the power which the Department of the Secretary of State may

Le sénateur De Bané : [...]

Deuxièmement, monsieur le ministre, je voudrais revenir à cet article 42 auquel vous avez fait allusion. Permettez-moi de vous dire que personnellement je suis très pessimiste au sujet de

³⁶ *Minutes and Transcripts of the Special Senate Committee on Bill C-72*, 2nd Session, 33rd Parliament, No. 1 (20 July 1988) pp. 24–25.

have to act under so weak a section as the following:

The Secretary of State of Canada, in consultation with other Ministers of the Crown, shall encourage and promote a coordinated approach...

As you know, there are only two or three agencies in the federal government that really have the power to coordinate: the Treasury Board, the Department of Finance and the Privy Council. I predict, Mr. Minister, that section 42 will never give you the authority to call recalcitrant ministers before you and require them to take such and such action in a particular part of the country to assist you in achieving the objectives of the act. As this section stands, Mr. Minister, all it is going to do is cause you frustration.

Why did Gérard Pelletier before you, when he was the Secretary of State, transfer his responsibilities concerning bilingualism in the Public Service to Treasury Board? Quite frankly, it was not because he didn't have highly privileged relations with the Prime Minister. No. Rather it was because the law governing the Department of the Secretary of State granted him no coercive power over recalcitrant ministers. It was for that reason that Gérard Pelletier himself requested at one point that those responsibilities be transferred to the Treasury Board, which, by law, must approve departmental budgets and can impose obligations on the departments themselves. In so doing, he hoped to be in a better position to secure the agreement of ministers, even unwilling ones. You may think that section 42, as worded, will give you those powers, but I predict that it will be a major source of frustration for you. Sections such as this do not grant a department the power to make others act if they do not want to follow your lead.³⁷

l'impulsion que le secrétariat d'État pourra avoir avec un article aussi dilué que se lit de la façon suivante :

Le secrétaire d'État du Canada, en consultation avec les autres ministres fédéraux, suscite et encourage la coordination...

Comme vous le savez, au gouvernement central il n'y a que deux ou trois organismes qui réellement ont un pouvoir de coordination : le Conseil du Trésor, le ministère des Finances, le Conseil privé. Je vous prédis, monsieur le ministre, que jamais l'article 42 ne vous donnera l'autorité pour appeler les ministres récalcitrants et pour leur dire en vertu de l'article 42 : je vous demande de poser tel et tel geste dans telle section du pays pour m'aider à atteindre les objectifs de la loi. Tel qu'il est, cet article-là, monsieur le ministre, tout ce qu'il va vous causer c'est des frustrations.

Pourquoi Gérard Pelletier avant vous, lorsqu'il était secrétaire d'État, a transféré ses responsabilités au Conseil du Trésor pour le respect du bilinguisme à l'intérieur de la Fonction publique? Ce n'est pas, et permettez-moi de vous le dire franchement, parce qu'il n'avait pas lui aussi des relations très privilégiées avec le premier ministre, non. C'est parce que la loi du secrétariat d'État ne lui donnait pas un pouvoir coercitif sur les ministères récalcitrants. C'est la raison pour laquelle, à un moment donné, c'est Gérard Pelletier lui-même qui a demandé que ça soit transféré au Conseil du Trésor qui lui, en vertu de la loi, doit approuver les budgets des ministères qui peut leur imposer des obligations. Il espérait par là que, bon, il pourrait davantage obtenir l'accord, même à reculons, des ministères récalcitrants. Penser que l'article 42 tel que libellé va vous donner ces pouvoirs-là, je vous prédis qu'il va être pour vous une grande ressource de frustration. Ce n'est pas des articles comme ça qui donnent à un ministère le pouvoir de faire travailler les autres qui ne veulent pas suivre votre direction.

[38] Because they have never had the necessary tools to convince their colleagues to cooperate on achieving the objectives set out in the OLA, successive ministers of Canadian Heritage have failed to ensure implementation of Part VII.

³⁷ *Minutes and Transcripts of the Special Senate Committee on Bill C-72, Supra*, pp. 31–32.

- [39] Subsection 41(2) was added in 2005 to address this problem by strengthening Part VII and creating an obligation for every federal institution “to ensure that positive measures are taken for the implementation of the commitments under subsection (1).” Subsection 77(1) was also amended to allow any person who has made a complaint to the Commissioner of Official Languages in respect of a right under Part VII to apply to the Federal Court for a remedy. While commendable, this attempt to render Part VII enforceable was nevertheless bound to fail unless accompanied by a change in the powers and responsibilities of the Minister of Canadian Heritage. The situation remains the same: Part VII has not been implemented, mainly because the entity responsible for carrying out this task does not have the necessary powers to fulfill its own responsibilities...
- [40] After 50 years of ad hoc implementation and no transparency, it is essential that the OLA implementation structure be refined and clarified to guarantee that rights are respected by the entire federal government and that they remain a priority for all federal institutions.
- [41] The FCFA is therefore calling on the government to modernize the OLA by giving a central agency responsibility for coordinating its implementation. Strong leadership and an unequivocal accountability structure are essential for attaining that objective and those of the OLA. A central agency must be given the necessary powers to carry out this responsibility. The OLA implementation structure should be aligned with the obligations it imposes and the rights it guarantees. Centralizing leadership and responsibility for the State’s obligations under the OLA will reinforce its capacity to ensure that its requirements are respected.

A leadership role for the Privy Council Office

- [42] The FCFA asks that the **Privy Council Office** play a greater political leadership role with regard to official languages, and that the **President of the Treasury Board** be given responsibility for implementing the OLA.
- [43] The Privy Council Office (PCO) is a “central agency.” A central agency is an organization that plays a coordinating role within the federal government. What is unique about these agencies, which are very few in number, is not only the fact that they work across all federal departments, but also that they have certain authority over those departments. They sometimes, in fact often, direct them in the conduct that is required by the government.³⁸
- [44] Headed by the Clerk of the Privy Council, PCO has three main roles: (1) it provides non-partisan advice to the prime minister and ministers whose functions lie within the prime minister’s portfolio; (2) it supports the Cabinet decision-making process; and (3) it acts as the principal link between the prime minister and the public service.
- [45] However, PCO is not currently equipped with the necessary horizontal powers to ensure implementation of the OLA. For example, the only horizontal power conferred on it by Parliament applies uniquely when a federal institution decides to propose regulations (in

³⁸ Library of Parliament, [The Roles and Responsibilities of Central Agencies](#), by Alex Smith, Economics, Resources and International Affairs Division, Ottawa, 2009, Revised in 2015, p. 1.

the context of the OLA, this has only happened twice since 1988!³⁹) In fact, the *Statutory Instruments Act* does not permit PCO to take the initiative in regulatory matters, nor to require that regulations be made:

Proposed regulations sent to Clerk of Privy Council

3 (1) Subject to any regulations made pursuant to paragraph 20(a), where a regulation-making authority proposes to make a regulation, it shall cause to be forwarded to the Clerk of the Privy Council three copies of the proposed regulation in both official languages.

Examination

(2) On receipt by the Clerk of the Privy Council of copies of a proposed regulation pursuant to subsection (1), the Clerk of the Privy Council, in consultation with the Deputy Minister of Justice, shall examine the proposed regulation to ensure that

- (a)** it is authorized by the statute pursuant to which it is to be made;
- (b)** it does not constitute an unusual or unexpected use of the authority pursuant to which it is to be made;
- (c)** it does not trespass unduly on existing rights and freedoms and is not, in any case, inconsistent with the purposes and provisions of the Canadian Charter of Rights and Freedoms and the Canadian Bill of Rights; and
- (d)** the form and draftsmanship of the proposed regulation are in accordance with established standards.

[...]

Refusal to register

7 (1) Where any statutory instrument is transmitted or forwarded to the Clerk of the Privy Council for registration under this Act, the Clerk of the Privy Council may refuse to register the instrument if

- (a)** he is not advised that the instrument was, before it was issued, made or established, determined by the Deputy Minister of Justice pursuant to section 4 to be one that would, if it were issued, made or established, not be a regulation; and
- (b)** in his opinion, the instrument was, before it

Envoi au Conseil privé

3 (1) Sous réserve des règlements d'application de l'alinéa 20a), l'autorité réglementaire envoie chacun de ses projets de règlement en trois exemplaires, dans les deux langues officielles, au greffier du Conseil privé.

Examen

(2) À la réception du projet de règlement, le greffier du Conseil privé procède, en consultation avec le sous-ministre de la Justice, à l'examen des points suivants :

- a)** le règlement est pris dans le cadre du pouvoir conféré par sa loi habilitante ;
- b)** il ne constitue pas un usage inhabituel ou inattendu du pouvoir ainsi conféré ;
- c)** il n'empiète pas indûment sur les droits et libertés existants et, en tout état de cause, n'est pas incompatible avec les fins et les dispositions de la Charte canadienne des droits et libertés et de la Déclaration canadienne des droits ;
- d)** sa présentation et sa rédaction sont conformes aux normes établies.

[...]

Refus d'enregistrement

7 (1) Le greffier du Conseil privé peut refuser d'enregistrer un texte réglementaire dans les cas où :

- a)** d'une part, il n'a pas été informé du fait que le sous-ministre de la Justice, consulté sur le texte à l'état de projet dans le cadre de l'article 4, avait jugé qu'une fois pris, il ne constituerait pas un règlement ;
- b)** d'autre part, à son avis, le texte à l'état de

³⁹ [*Official Languages \(Communications with and Services to the Public\) Regulations; C.N.R. Company Exemption Order.*](#)

was issued, made or established, a proposed regulation to which subsection 3(1) applied and was not examined in accordance with subsection 3(2).

Determination by Deputy Minister of Justice

(2) Where the Clerk of the Privy Council refuses to register any statutory instrument for the reasons referred to in subsection (1), he shall forward a copy of the instrument to the Deputy Minister of Justice who shall determine whether or not it is a regulation.⁴⁰

projet était assujéti au paragraphe 3(1) et n'a pas fait l'objet de l'examen prévu au paragraphe 3(2).

Décision du sous-ministre de la Justice

(2) Le greffier du Conseil privé envoie un exemplaire de tout texte réglementaire qu'il refuse d'enregistrer pour les raisons mentionnées au paragraphe (1) au sous-ministre de la Justice, auquel il appartient de décider s'il constitue un règlement.

- [46] There is no specific statutory basis for most of the other functions performed by the Privy Council Office given that they flow from unwritten constitutional conventions.⁴¹ As such, despite its close relationship with the prime minister and Cabinet, which obviously lends it a great deal of influence, PCO does not have any official authority over departments. The customary foundation and framework of PCO do not offer the transparency and accountability that are demanded by communities and required for effective implementation of the OLA.
- [47] PCO is not currently responsible for implementation of any Acts. It would be odd for Parliament to give it such a role for the first time, making the OLA the only Act it was responsible for implementing. The Treasury Board, meanwhile, is responsible for, has enabling powers for or has a policy interest in a great many important Acts,⁴² including the OLA.
- [48] That does not mean, however, that PCO does not have a role to play in implementing the OLA. Quite the contrary. PCO should play an important political role.
- [49] For example, PCO should be responsible for creating a five-year development plan for official languages setting out the general administrative policy and providing key

⁴⁰ [Statutory Instruments Act](#), R.S.C., 1985, C. S-22.

⁴¹ Craig Forcese and Aaron Freeman, *The Laws of Government: The Legal Foundations of Canadian Democracy*, Toronto, Irwin Law, 2005.

⁴² For example, the website of the [Treasury Board](#) lists the legislation for which it is responsible or has enabling powers, or in which it has a policy interest: [Access to Information Act](#); [Alternative Fuels Act](#); [Auditor General Act](#); [Canada School of Public Service Act](#); [Conflict of Interest Act](#); [Diplomatic Service \(Special\) Superannuation Act](#); [Employment Equity Act](#); [Federal Real Property and Federal Immovables Act](#); [Financial Administration Act](#); [Government Services Act](#); [Lieutenant Governors Superannuation Act](#); [Lobbying Act](#); [Members of Parliament Retiring Allowance Act](#); [Official Languages Act](#); [Privacy Act](#); [Public Pensions Reporting Act](#); [Public Sector Compensation Act](#); [Public Sector Pension Investment Board Act](#); [Public Servants Disclosure Protection Act](#); [Public Service Employment Act](#); [Public Service Labour Relations Act](#); [Public Service Pension Adjustment Act](#); [Public Service Superannuation Act](#); [Special Retirement Arrangements Act](#); [Supplementary Retirement Benefits Act](#); [User Fees Act](#).

performance indicators for activities across government. Each minister, parliamentary secretary, head of federal institution and deputy minister should be accountable for implementation of that development plan. Achievement of the objectives established in the five-year official languages development plan should be tied to financial incentives and disincentives for deputy ministers.

- [50] The FCFA also recommends that the Prime Minister add to the mandate letter of each minister and parliamentary secretary an obligation to promote and support full application of the OLA, in cooperation with their ministerial colleagues. The Clerk of the Privy Council should follow suit with deputy minister mandate letters.

Make the Treasury Board responsible for implementation of the OLA

- [51] The Treasury Board is a central agency established pursuant to the *Financial Administration Act*. In addition to its President, it consists of the Minister of Finance and four other ministers.⁴³ The responsibilities of the Treasury Board are largely set out in subsection 7(1) of the *Financial Administration Act*, which allows it to act for the Queen's Privy Council regarding the following matters:

- (a) general administrative policy in the federal public administration;
- (b) the organization of the federal public administration or any portion thereof, and the determination and control of establishments therein;
- (c) financial management, including estimates, expenditures, financial commitments, accounts, fees or charges for the provision of services or the use of facilities, rentals, licences, leases, revenues from the disposition of property, and procedures by which departments manage, record and account for revenues received or receivable from any source whatever;
- (d) the review of annual and longer term expenditure plans and programs of departments, and the determination of priorities with respect thereto;
- (d.1) the management and development by departments of lands, other than Canada Lands as defined in subsection 24 (1) of the Canada Lands Surveys Act;
- (e) human resources management in the federal public administration, including the determination of the terms and conditions of employment of persons employed in it;
- (e.1) the terms and conditions of employment of persons appointed by the Governor in Council that

- (a) les grandes orientations applicables à l'administration publique fédérale ;
- b) l'organisation de l'administration publique fédérale ou de tel de ses secteurs ainsi que la détermination et le contrôle des établissements qui en font partie ;
- c) la gestion financière, notamment les prévisions budgétaires, les dépenses, les engagements financiers, les comptes, le prix de fourniture de services ou d'usage d'installations, les locations, les permis ou licences, les baux, le produit de la cession de biens, ainsi que les méthodes employées par les ministères pour gérer, inscrire et comptabiliser leurs recettes ou leurs créances ;
- d) l'examen des plans et programmes des dépenses annuels ou à plus long terme des ministères et la fixation de leur ordre de priorité ;
- d.1) la gestion et l'exploitation des terres par les ministères, à l'exclusion des terres du Canada au sens du paragraphe 24(1) de la Loi sur l'arpentage des terres du Canada ;
- e) la gestion des ressources humaines de l'administration publique fédérale, notamment la détermination des conditions d'emploi ;
- e.1) les conditions d'emploi des personnes nommées par le gouverneur en conseil qui ne sont pas prévues par la présente loi, toute autre loi fédérale, un décret ou tout autre moyen ;

⁴³ *Financial Administration Act*, Subsection 5(1).

have not been established under this or any other Act of Parliament or order in council or by any other means; and
(e.2) internal audit in the federal public administration;
(f) such other matters as may be referred to it by the Governor in Council.⁴⁴

e.2) la vérification interne au sein de l'administration publique fédérale ;
f) les autres questions que le gouverneur en conseil peut lui renvoyer.

- [52] The President of the Treasury Board is responsible for managing State activities by converting the policies and programs approved by Cabinet into operational reality, and by providing ministers with the necessary resources and guidance. He or she is therefore perfectly placed and empowered to oversee and even compel the rigorous application of the OLA for many reasons, including the following.
- [53] First, the horizontal powers of development and oversight conferred on the Treasury Board by its enabling legislation are broad and binding and represent exactly the type of levers required for implementation of the OLA.
- [54] Second, given that it is responsible for the budgets of all departments and agencies, the Treasury Board is particularly well placed to promote the full application of the OLA and identify opportunities for the collective initiatives that are necessary to give effect to that Act and the obligations it imposes. For example, the Privy Council Office had a budget of approximately \$0.1 billion for fiscal year 2015–2016.⁴⁵ That same year, the Treasury Board had a budget of almost \$7 billion, most of which was applied to government-wide funds.⁴⁶
- [55] Third, as the only committee of the Privy Council established pursuant to an Act, the Treasury Board has a legislative framework, which requires it to be more transparent than the Privy Council Office.
- [56] Fourth, the Treasury Board already has experience with official languages, given that it has played a role, albeit unsatisfactorily to date, in the implementation of certain parts of the OLA. Indeed, despite its obvious flaws, section 46 does already allow the Treasury Board to implement parts IV, V and VI of the OLA.
- [57] The FCFA is therefore asking your Committee to recommend that the OLA be thoroughly amended such that the Treasury Board be given full responsibility for its implementation, as well as the necessary powers for that purpose, including the powers that currently lie with the Minister of Canadian Heritage pursuant to sections 42, 43 and 44.
- [58] To ensure that the centralization of powers and responsibilities with the Treasury Board provides for effective implementation of the OLA, it should be accompanied by the previously proposed solutions regarding the problematic wording of section 46. The FCFA therefore also asks you to recommend the following amendments: (1) replace the

⁴⁴ *Financial Administration Act*, Subsection 7(1).

⁴⁵ Privy Council Office, [*2015–16 Report on Plans and Priorities*](#), Ottawa, 2015, p. 10.

⁴⁶ *Ibid.*, pp. 16-20.

permissive language of subsection 46(2) (“may”) authorizing the Treasury Board to perform the functions mentioned therein, with an obligation to act (“shall”) in that regard; (2) change the list of powers in subsection 46(2) to a non-limiting list; and (3) remove the Treasury Board’s power in paragraph 46(2)(g) to delegate its responsibilities to deputy heads or other administrative heads.

- [59] To assume a larger role, the Treasury Board will require a political support mechanism. That objective could be addressed by the prime minister appointing a minister of state who would report to the President of the Treasury Board.⁴⁷ The latter could also create an internal secretariat responsible for these new obligations under a modernized OLA.
- [60] Finally, it should be noted that the idea of making the Treasury Board responsible for implementation of the OLA may not achieve unanimity. Some might feel that responsibility for implementing the OLA should be conferred on a different federal institution, such as a new department of Official Languages, or even centralized with the Minister of Canadian Heritage, who would maintain existing responsibilities under the OLA and take over those currently conferred on the Treasury Board.
- [61] In that case, Parliament would not only have to increase the powers of the Department of Canadian Heritage, but also transform it into a new central agency. As for the idea of a new department of Official Languages, this would mean Parliament having to create a new central agency from scratch.
- [62] In so doing, Parliament would be embarking on far more than the simple modernization of the OLA: it would be undertaking an in-depth structural reform of the public administration, going far beyond official languages. The existing central agencies do not need to be given the ability to act. For more than 150 years, the Treasury Board has been treated with respect and deference by federal institutions. That reputation should now be put to work in implementing the OLA.

B. Enshrine the principle of “by and for”: The OLA should enable official language minority communities to participate in its implementation

- [63] The Supreme Court of Canada has recognized the need to involve official language minority communities in the implementation of the OLA,⁴⁸ and has clearly stated that distinct measures for the minority may be required at times in order to ensure substantive

⁴⁷ *Ministries and Ministers of State Act*, R.S.C., 1985, c M-8, Art. 11; See for example Canada Gazette, Part II, Vol. 149, Nov. 23, 18 November 2015 : *Order Assigning the Honourable Kirsty Duncan to assist the Minister of Industry*, SI/2015-88, p 2746; *Order Assigning the Honourable Bardish Chagger to assist the Minister of Industry*, SI/2015-89, p 2747; *Order Assigning the Honourable Carla Qualtrough to assist the Minister of Canadian Heritage and the Minister of Employment and Social Development*, SI/2015-90, p 2748; *Order Assigning the Honourable Patricia A. Hajdu to assist the Minister of Canadian Heritage*, SI/2015-91, p 2749; and *Order Assigning the Honourable Marie-Claude Bibeau to assist the Minister of Foreign Affairs*, SI/2015-92, p 2750.

⁴⁸ [DesRochers v. Canada \(Industry\)](#).

equality between the two official languages in a service or program. This objective is attained when these communities participate in the development and delivery of services.

- [64] A modernized OLA, which the Treasury Board would ultimately be responsible for implementing, should include a specific role for the communities. They should be given the right to participate in the implementation of the OLA. To that end, the OLA should include specific obligations to both consult and to take into consideration the results of those consultations. It should also create within the Treasury Board an advisory board composed of members of official language communities to ensure their participation in internal government affairs.

Include in the OLA an obligation to consult official language minority communities

- [65] There are already certain grounds in the OLA to justify a role for communities in developing programs and regulations for applying the Act. This framework should be modernized to ensure true community participation.
- [66] Pursuant to subsection 43(2) of the OLA, the Minister of Canadian Heritage must “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.”⁴⁹ Subsection 43(2) therefore imposes on the Minister of Canadian Heritage an obligation to consult, but gives the Minister latitude to determine the parameters and terms of such consultation.
- [67] Pursuant to section 45 of the OLA, “[a]ny 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 services in both official languages is coordinated and that regard is had to the needs of the recipients of those services.”⁵⁰ Section 45 therefore does not impose an obligation to consult, but rather an obligation to consider the needs of recipients in the context of consultations and negotiations undertaken voluntarily.
- [68] Meanwhile, section 84 of the OLA provides that “[t]he 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.”⁵¹ The OLA does not, however, specify what is meant by an “appropriate” time and manner.
- [69] In short, the wording of these sections is not terribly binding, nor does it define who should be consulted, or how the consultation should proceed. A first amendment of the OLA giving official language minority communities the right to participate in its implementation

⁴⁹ *Official Languages Act*, 1988, Subsection 43(2).

⁵⁰ *Ibid.*, Section 45.

⁵¹ *Ibid.*, Section 84.

would involve establishing a mandatory, formalized and regulated consultation process (“shall”) for developing the instruments and programs for applying it.

- [70] To apply this requirement, the OLA could include an obligation to adopt regulations prescribing the situations in which the communities should be consulted. This might include, for example, a five-year development plan for official languages, the *Protocol for agreements for minority-language education and second-language instruction*, the *Multilateral Framework Agreement on Early Learning and Child Care* and federal-provincial/territorial agreements on services. This regulation could prescribe the situations in which consultations must take place, and the situations requiring a written decision from the public decision maker, with reasons. Such regulation could also set out the list of organizations that must be consulted in specific contexts.⁵²

Include with the obligation to hold consultations an obligation to consider the results of those consultations, and to provide reasons in certain cases

- [71] It is pointless to conduct consultations if no consideration will be given to the results.
- [72] The consultation process created by a modernized OLA must therefore be regulated, particularly to include an obligation to consider the results of consultations, and an obligation to provide reasons for certain decisions.
- [73] There are precedents for this. For example, the *Inuit Language Protection Act* creates a framework for public consultations on the adoption of certain regulations by the territorial government.⁵³ It stipulates that to support the adoption of these regulations, the Minister of Languages “shall provide a report to the Commissioner in Executive Council, summarizing the measures undertaken to request and obtain public or other input about the regulation, the Minister’s manner of compliance with Article 32 of the *Nunavut Land Claims Agreement* and whether or in what manner the regulation proposed responds to the issues raised during the development of the regulation and in the course of compliance with this section.”⁵⁴ In modernizing the OLA, Parliament should look to the wording of that Act.
- [74] The obligation to consider the results of consultations can be found in areas other than official languages. For example, pursuant to the *Personal Health Information Protection Act, 2004*, the Ontario Minister of Health and Long-Term Care may simply adopt certain regulations if the Minister “has considered whatever comments and submissions that members of the public have made on the proposed regulation in accordance with [...] and has reported to the Lieutenant Governor in Council on what, if any changes to the proposed regulation the Minister considers appropriate.”⁵⁵ The City of Québec’s *Règlement sur la Politique de consultation publique* provides that when undertaking a consultation with

⁵² The FCFA should be identified in the text of the OLA, similar to [The Francophone Community Enhancement and Support Act](#), subsection 8(2), or in regulations, similar to the [French Language Health Services Advisory Council](#), section 1, which identifies among others the Assemblée de la francophonie de l’Ontario.

⁵³ [Inuit Language Protection Act](#), Section 44.

⁵⁴ *Ibid.*, Subsection 44(4).

⁵⁵ [Personal Health Information Protection Act, 2004](#), Schedule A, Subsection 74(1); See also the [Freedom of Information and Protection of Privacy Act](#), Subsection 65.2(1); [Environmental Protection and Enhancement Act](#).

regard to an important decision in an area under its responsibility, the city council, executive committee or borough council must ensure that the population is appropriately informed of how the results of the consultation were considered in the decision-making process.⁵⁶

[75] There are other cases in which the public decision maker is required to provide written conclusions with reasons to address problems raised during public consultations. In Yukon, for example, a development officer making a decision following consultations under the *Area Development Act*⁵⁷ must comply with the following requirements:

(5) The decision of a development officer shall be in writing and shall set out the reasons for the decision, including

(a) the facts upon which the decision is based, to the extent that they are not set out in the application;

(b) for each of the issues raised during public consultation;

(i) a summary of the facts presented and the arguments made on both sides of the issue, and

(ii) the development officer's conclusion and reasons for the conclusion;

(c) where a permit is issued with terms or conditions attached to it, the reasons for them; and

(d) such further information, analysis, or discussion as may be desirable to ensure that the process for arriving at the decision and the matters taken into consideration are fully disclosed.⁵⁸

(5) La décision de l'agent d'aménagement est rendue par écrit, motifs à l'appui, et comprend notamment les renseignements suivants :

a) les faits sur lesquels la décision s'appuie s'ils ne sont pas déjà énoncés dans la demande ;

b) pour chacune des questions soulevées lors de la consultation publique :

(i) un résumé des faits présentés et des arguments avancés en faveur de la demande et ceux présentés contre,

(ii) la conclusion de l'agent d'aménagement, motifs à l'appui ;

c) si le permis est assorti de conditions, les motifs à l'appui ;

d) tout autre renseignement, analyse ou discussion qui permettra une divulgation complète du processus par lequel la décision a été prise et des points dont il a tenu compte pour y arriver.

[76] Those are a few examples of Acts or regulations requiring a decision maker to take into consideration the results of consultations and to provide reasons for the decision following the consultations. Times have changed since 1988; our communities no longer accept being told what to do or having government programs imposed on them without being able to participate in their development. The modern OLA must include modern models for consultation. Parliament should therefore look to the examples cited here to strengthen the usefulness of consultations held under the modernized OLA.

⁵⁶ City of Québec, [Règlement sur la Politique de consultation publique](#), Section 3.3.5.

⁵⁷ [Area Development Act](#).

⁵⁸ [Mayo Road Development Area Regulation](#), Section 10(5); See also [Mount Lorne Development Area Regulation](#); [Deep Creek Development Area Regulation](#); [Golden Horn Development Area Regulation](#); [Wats'ix Eet'í Development Area Regulation](#); [Ibex Valley Development Area Regulation](#); [Whitehorse Periphery Development Area](#). See also [Public Participation Regulation](#).

Create an official languages minority advisory board

- [77] To truly empower official language minority communities to participate in implementing the OLA, the Act must, in addition to imposing modernized consultation obligations on the government, also recognize a status and role for the institutions of those communities. The OLA could establish a structure that fosters cooperation between the federal government and the communities' recognized governance structures in the planning and implementation process for official languages policies.
- [78] The communities want to become partners in the implementation of the OLA, and not just clients of that Act. Given their current institutions and governance structures, it is in the interests of everyone that the communities participate in developing programs and other initiatives.
- [79] Modern models for consulting official language minority communities have been developed and proven since 1988, notably in Ontario.⁵⁹ In Manitoba, the *Francophone Community Enhancement and Support Act* creates an advisory council that is composed, notably, of the president or chair of the board of the Société franco-manitobaine and five members of the francophone community appointed "upon the recommendation of the Société franco-manitobaine."⁶⁰ In modernizing the OLA, Parliament should look to these models for recognizing the structures and institutions of the communities.

C. Modernize oversight and accountability mechanisms

- [80] One can judge how important a piece of legislation is to Parliament by analyzing the effectiveness of the oversight mechanisms designed to ensure compliance and sanction violations. Unfortunately, the only conclusion one can reach from such a review of the OLA is that it has been largely neglected. A modernized OLA must strengthen the mechanisms for overseeing its implementation and provide for new ones.
- [81] The problem is simple, however: the entity mandated by Parliament to oversee implementation of the OLA—the Commissioner of Official Languages—does not have the necessary powers to enforce it.
- [82] The OLA imposes on the Commissioner the duty "to take all actions and measures within his authority 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."⁶¹ This duty contains a major constraint: the Commissioner must act "within his authority." However, the OLA does not give the Commissioner the necessary authority to fulfill the mandate. It provides only that "It is the duty of the Commissioner ... to conduct and carry out investigations either on his own

⁵⁹ *French Language Health Services Advisory Council*.

⁶⁰ *The Francophone Community Enhancement and Support Act*, Paragraph 8(2)(d).

⁶¹ *Official Languages Act*, 1988, *supra*, s. 56(1) [emphasis ours].

initiative or pursuant to any complaint made to the Commissioner and to report and make recommendations with respect thereto as provided in this Act.”

[83] To oversee the implementation of the OLA, the Commissioner’s powers are essentially to investigate⁶² and to make findings recommending corrective action if necessary with respect to an act or omission of a federal institution.⁶³ Of course, since 1988,⁶⁴ the Commissioner “may” initiate certain proceedings in Federal Court, but the Commissioner rarely exercises this power, which is discretionary under the current wording of the OLA.⁶⁵

[84] In 1988, Parliament did not modernize the role and powers of the Commissioner of Official Languages. The FCFA pointed this out at the time, before the Legislative Committee on Bill C-72, later the OLA, 1988:

There is practically no increase in the powers of the Commissioner of official languages. His role remains limited to one of making recommendations. In short, it is almost the status quo. If the Commissioner does in future have the right to go before the Federal Court, we firmly believe that there should be access to an administrative tribunal before this step (as is the case with the Human Rights Commission) to enable individuals and groups to directly initiate proceedings for compensation and redress.

The act will give the Commissioner the power to initiate proceedings before the Federal Court on his own or for a complainant. However, this should not be an alternative to the creation of an administrative tribunal. Taking a case to the Federal Court would result only in judgments on important issues of principle, and individuals would be left to settle other issues on their own and at their own cost.⁶⁶

[85] We see that in 2018, the Commissioner continues to oversee compliance with the OLA using tools dating mostly from 1969.

[86] For example, the Commissioner does not have the power to order compliance with the OLA. Nor does the Commissioner have the power to sanction institutions that do not meet their obligations under the OLA. It is therefore not surprising that federal institutions either fail to adequately act on many of his or her reports and recommendations or simply ignore them. The only recourse available to a complainant when a federal institution does not act on the Commissioner’s recommendations is to go to Federal Court, whether the complainant’s case raises an important issue of principle⁶⁷ or is a simple application of the terms of the OLA.⁶⁸

⁶² *Official Languages Act*, 1988, *supra*, s. 56(1), 57-62.

⁶³ *Official Languages Act*, 1988, *supra*, s. 63-59.

⁶⁴ *Official Languages Act*, 1988, *supra*, s. 78.

⁶⁵ See Mark C Power and Justine Mageau, “Réflexions sur le rôle du Commissaire aux langues officielles devant les tribunaux” (2011) [41:1 Revue Générale de Droit](#) 179.

⁶⁶ Legislative Committee on Bill C-72, *Minutes of Proceedings and Evidence*, *supra*, No. 7 (April 20, 1988), p. 7:7; Fédération de francophones hors Québec, *Mémoire de la Fédération des francophones hors Québec adressé au Comité législatif sur le projet de Loi C-72*, Ottawa (April 20, 1988); see also FCFA, *A New Approach*, *supra*, p. 19.

⁶⁷ *DesRochers*, *supra*; *The Fédération des communautés francophones et acadienne du Canada v. Canada (AG)*, [2010 FC 999](#); *Fédération des francophones de la Colombie-Britannique v Human Resources and Skills Development Canada and the Employment Insurance Commission of Canada* (T-1107-13, under advisement).

⁶⁸ *Norton v. Via Rail Canada*, [2009 FC 704](#).

- [87] The oversight framework created by the OLA is clearly archaic when compared, for example, with the one established by the *Charter of the French Language*, which empowers the Office de la langue française (OLF) to take “any appropriate measure to promote French.”⁶⁹ In the event of a contravention of the *Charter of the French Language*, the Office “shall refer the matter to the Director of Criminal and Penal Prosecutions.”⁷⁰ Although we may sometimes see the OLF as a caricature, it has had unquestionable success with respect to the francization of Quebec.
- [88] The shortcomings of the 1969 and 1988 versions of the OLA need to be addressed. There is no need to criminalize breaches of the OLA’s obligations. The fact remains that Parliament must modernize it to finally provide a framework for overseeing its implementation – a framework accessible to the public, apart from the government, with the necessary powers to ensure its effectiveness, including the power to impose binding orders and sanctions, powers that only the Federal Court currently has.
- [89] In this regard, the FCFA reiterates the request it made in 1988 to create an administrative tribunal responsible for hearing complaints about the implementation of the OLA.
- [90] Parliament would not have to reinvent the wheel. For example, Parliament could create a division within the Human Rights Tribunal (an “Official Languages Division,” for example), an established and well-known administrative tribunal, which hears allegations of human rights violations. Language rights are, after all, human rights.⁷¹ Parliament could just as easily create a new administrative tribunal – the Official Languages Tribunal – that would be responsible for adjudicating alleged language rights violations.
- [91] A new administrative tribunal for official languages must have jurisdiction not only over the entire OLA but also federal legislation with significant official languages implications, such as the *Immigration and Refugees Protection Act*.⁷² Moreover, the Commissioner’s powers should also be extended to apply to these statutes.
- [92] There is the basic tenet that “a right, no matter how expansive in theory, is only as meaningful as the remedy provided for its breach.”⁷³ *Ubi Jus, Ibi Remedium!* Canadians need to be able to quickly obtain effective orders for sanctioning violations of the OLA, whether those orders are imposed by an administrative tribunal or by the Federal Court.
- [93] Parliament should consider mandating the Federal Court to review the decisions of whatever official languages tribunal is established.⁷⁴

⁶⁹ [CQLR c C-11](#), s. 161 [*Charter of the French language*].

⁷⁰ *Charter of the French Language*, *supra*, s 177. See also the penal provisions in s. 205 and seq.

⁷¹ Leslie Green, “Are Language Rights Fundamental?” 25:4 (1987) Osgoode Hall Law Journal 639.

⁷² [SC 2001, c. 27](#). For example, under sections 17 and 18 of the *Refugee Protection Division Rules*, [SOR/2012-256](#), an asylum seeker may choose English or French as the language of the proceedings.

⁷³ *Doucet-Boudreau v. Nova Scotia (Minister of Education)*, [2003 SCC 62](#) [*Doucet-Boudreau*]; *Ashby v. White*, (1703) 92 ER 126.

⁷⁴ It would also be appropriate, for purposes of access to justice, to legislate the applicable standard of review.

- [94] Parliament would need to redefine the role and powers of the Commissioner of Official Languages for overseeing implementation of the OLA within this new framework. Such an oversight framework, which would empower an entity other than the Commissioner to impose sanctions, would enable the Commissioner to fully carry out his or her role as ombudsman and promoter of official languages, and remove the “policing” role (a role the Commissioner has not been able to play since the office was established anyway, due to a lack of such powers). This would allow the Commissioner to continue investigating the failures of federal institutions to comply with their obligations under the OLA and to foster a culture of implementing the OLA.
- [95] Under this new oversight framework, the OLA should set a clear deadline by which the Commissioner would be required to submit an investigation report once a complaint is filed. This amendment is needed given the time taken by several investigations.
- [96] The OLA should also specify the circumstances in which the Commissioner must (rather than may) exercise the power to take legal action, to address the complacency with which this power has been used since it was conferred by Parliament.⁷⁵ For example, the OLA should give the Commissioner a right and a duty to intervene (without having to ask permission to intervene) before the courts. The OLA should require the Commissioner to act as *amicus curiae* (friend of the Court) before the Court of Appeal and when a plaintiff is unrepresented.
- [97] For cases whose significance goes beyond the interests of the complainant, the OLA should require the Commissioner to provide evidence in support of the application. This would shift the burden of time and money, which unfairly rests on the shoulders of litigants, and thereby facilitate access to justice. Similarly, the OLA should grant litigants the right to material relevant to the proceedings that are in the possession of the federal institution concerned.⁷⁶
- [98] Finally, the Commissioner is particularly well suited to appreciate the systemic nature of the problems of implementing the obligations set out in the OLA. To make justice more accessible, a modernized OLA will need to ensure that the Commissioner is required to put into evidence any similar complaints in order to demonstrate recurring violations of language rights.⁷⁷

⁷⁵ See House of Commons, Standing Committee on Official Languages, *Ensuring Justice is Done in Both Official Languages: Report by the Standing Committee on Official Languages*, (1st Session, 42nd Parliament, December 2017), p. 43 (Chair: the Hon. Denis Paradis).

⁷⁶ The existing right to obtain material in the possession of a tribunal under section 317(1) of the *Federal Courts Rules*, [SOR/98-106](#), does not apply to “applications” made under the OLA before the Federal Court.

⁷⁷ *Canada (Commissioner of Official Languages) v. Air Canada*, [1997] 141 FTR 182 (FC), paras. 17-20.

2. Modernize rights under the OLA, its obligations and underlying principles

[99] The first part of this brief deals with the most fundamental aspect of the OLA: its implementation mechanisms. In this second part, the FCFA presents a non-exhaustive list of ways to modernize rights under the OLA, its obligations and some of the underlying principles. The purpose of this second part is to present a portrait in order to inform discussions about modernizing the OLA. The recommendations of this second part are in addition to those presented in the first part of this brief. The FCFA intends to submit a second set of recommendations for your consideration, which will include a first draft of proposed amendments to the OLA.

Preamble, purpose clause, definitions and new interpretation section

[100] A modernized OLA must expand the scope of its **preamble** to reflect and recognize the contemporary realities of official languages in Canada, specifically:

- 1) that Canada's Francophonie is national in character and diverse;
- 2) that French is the minority language in Canada and North America;
- 3) that linguistic duality is one of the foundations of Canadian multiculturalism;⁷⁸
- 4) that linguistic rights are both individual and collective and that communities form the bedrock of linguistic duality;
- 5) that official language minority communities must be involved in implementing the OLA, including the development of public policy, and that they must be meaningfully consulted by governments;
- 6) that official language minority communities have the right, under section 23 of the Charter, to control and govern official language minority education through their own school boards;
- 7) that under the principle of subsidiarity, the level of government in the best place to adopt and implement legislation is the one that is best able to do so, not only in terms of efficiency, but also because it is closest to the community involved and therefore is the most responsive to local needs, issues and diversity;⁷⁹ and
- 8) that New Brunswick has a distinct status with respect to official languages and language rights.

[101] The current **purpose clause** of the OLA needs to be modernized to include the federal government's commitment to linguistic duality and bilingualism. The purpose clause must recognize that for a growing number of Canadians, bilingualism is an important part of their identity.

⁷⁸ Charter, s. 27.

⁷⁹ This is the principle of subsidiarity, as articulated by the Supreme Court in *114957 Canada Ltd. (Spraytech, Watering Corporation) v. Hudson (City)*, [2001 SCC 40](#), para. 3.

- [102] In order to avoid perpetuating or creating new legalistic confusions within the OLA, Parliament should expand the provided list of **definitions** to clarify certain terms and concepts, such as “positive measure,”⁸⁰ “substantive equality,”⁸¹ “on behalf of” and “third party,”⁸² “meaningful consultation,” “active offer” and “making publicly available.”⁸³
- [103] **The definition of “federal institution”** must also be clarified so that the OLA truly applies to all federal institutions, without exception. For example, the OLA must specify that this expression applies to the Office of the Prime Minister and the Canadian Broadcasting Corporation, so that application of the OLA does not lead to the types of disputes that have occurred between the Commissioner and the Canadian Broadcasting Corporation.⁸⁴
- [104] One of the significant developments in the area of language rights since 1988 has been the confirmation by the Supreme Court of Canada in *R v. Beaulac* that these rights “must in all cases be interpreted purposively, in a manner consistent with the preservation and development of official language communities in Canada.”⁸⁵ For purposes of access to justice and legal certainty, Parliament must add a section to the OLA that codifies this principle of **interpretation**. The new interpretive section should also confirm that the OLA must be interpreted in a way that is consistent with the constitutional principle concerning the protection of minorities.⁸⁶

Part I: Proceedings of Parliament

- [105] In *Knopf v. Canada (House of Commons)*⁸⁷ the Federal Court held that subsection 4(1) of the OLA protects an individual’s right to speak to a parliamentary committee in the official language of his or her choice but does not have the effect of requiring the committee to distribute unilingual reference documents related to a witness’s submission. A legislative solution to the conflict between the rights of parliamentarians and those of the public is to

⁸⁰ In his 2006 annual report, the Commissioner of Official Languages set out certain principles to define the notion of “positive measure”: a proactive and systematic approach and a targeted treatment; active participation of Canadians; and a continuous process for improving programs and policies (See Office of the Commissioner of Official Languages, Annual Report 2006-2007, Catalog No. [SF1-2007-PDF](#), Ottawa, Public Works and Government Services Canada, 2007, pp. 32–34).

⁸¹ *DesRochers, supra*, paras. 31, 51; *R v. Beaulac*, [\[1999\] 1 RCS 768](#), para. 22, 24–25 [*Beaulac*]; *Arsenault-Cameron v. Prince Edward Island*, [2000 SCC 1](#), para. 31.

⁸² *Desrochers v. Canada (Industry)*, [2006 CAF 374](#), paras. 42–72.

⁸³ This expression should require that publicly available documents must be published online.

⁸⁴ These judicial proceedings have still not yielded a clear answer as to the Commissioner’s jurisdiction to investigate complaints concerning the Canadian Broadcasting Corporation: *Canada (Commissioner of Official Languages) v. CBC / Radio-Canada*, [2012 FC 650](#); *Canada (Commissioner of Official Languages) v. Radio-Canada*, [2014 FC 849](#); *CBC / Radio-Canada v. Canada (Office of the Commissioner of Official Languages)*, [2015 FCA 251](#).

⁸⁵ *Beaulac, supra*, para. 25.

⁸⁶ *Reference re Secession of Quebec*, [\[1998\] 2 SCR 217](#), paras. 79-82. The *Act to give effect to the requirement for clarity as set out in the opinion of the Supreme Court of Canada in the Quebec Secession Reference*, [SC 2000, c. 26](#), cites the principles of federalism, democracy, constitutionalism and the rule of law, and the protection of minorities in its preamble.

⁸⁷ [2006 FC 808](#), paras. 34, 37, 39.

codify **an obligation on the part of Parliament to provide witnesses with documentation translation services at a reasonable cost.**

- [106] The OLA should also require the federal government to **publish the English and French versions of the proceedings of Parliament side by side**, so that they are accessible in the same manner. This would promote the use of both official languages in Canadian society.

Part II: Legislative and Other Instruments

- [107] The scope of **Part II is too narrow and needs to be expanded**. For example, in *Picard v. Canada (Office of Intellectual Property)*,⁸⁸ the Federal Court rejected the argument that patents must be published in both official languages, concluding that they do not constitute instruments made in the exercise of a prerogative within the meaning of section 7(2) of the OLA, nor an instrument intended for the public within the meaning of section 12 of the OLA. Parliament needs to broaden and clarify the scope of Part II considering the developments and experience gained over the last 30 years, including patents.
- [108] The ability to legislate about language in the Canadian federation is ancillary to the exercise of jurisdiction of the federal, provincial and territorial governments. There are at least two areas over which Parliament has not exercised its language jurisdiction, despite their importance to Canadians: divorce and bankruptcy. This is an anachronism that may have made sense in the 1969 OLA, before the Supreme Court ruled that language is ancillary to the exercise of jurisdiction, but this peculiarity was difficult to justify in 1988. In 2018, Canadians must be able to obtain a divorce or declare bankruptcy in the official language of their choice (!). The new OLA must also **amend the Divorce Act⁸⁹ and the Bankruptcy and Insolvency Act⁹⁰ to include an individual's right to use English or French in the proceedings**. Such a recommendation is long overdue: it dates back to at least 1995 with respect to divorce and to 2002 with respect to bankruptcy.⁹¹
- [109] In those same years, the federal government made substantial transfers to the provinces and territories in a number of areas that have had a significant impact on community vitality. Those transfers are governed by **federal-provincial/territorial agreements**. The federal government should be required to stipulate that a province or territory receiving federal support must meet its official languages obligations, including the obligation to consult official language minority communities. A new section in Part II must therefore require the federal government to include enforceable **“language clauses”** in the agreements it signs

⁸⁸ [2010 FC 86](#).

⁸⁹ [RSC 1985, c. 3 \(2nd suppl.\)](#).

⁹⁰ [RSC 1985, c. B-3](#).

⁹¹ Commissioner of Official Languages, *The Equitable Use of English and French before the Courts in Canada* (1995), Catalogue No. SF31-32-1995E; Canada, Special Joint Committee on Child Custody and Access, [For the Sake of Children](#), (December 1998), p. 46: “This Committee recommends that the Divorce Act be amended to ensure that parties to proceedings under the Divorce Act can choose to have such proceedings conducted in either of Canada’s official languages.”; Standing Joint Committee on Official Languages, Evidence (March 12, 2002) (Mr. Tory Colvin).

with the provinces and territories, clarifying such a transfer of obligations⁹² and providing accountability mechanisms.

[110] **The title of Part II** should be clarified to specifically recognize that this part deals with federal-provincial/territorial agreements.

[111] Another challenge facing official language minority communities is the **inaccessibility of federal-provincial/territorial agreements**, even though communities are clearly beneficiaries of these agreements. Sometimes it even takes an access to information request to obtain them! This problem would easily be solved by a new section requiring the federal government to make these agreements available to the public.

[112] The current architecture of section 10 does not take into account the national character of the Canadian Francophonie. The section requires the federal government to ensure that federal-provincial/territorial agreements are prepared in both official languages only in certain circumstances, depending on the official language(s) of a province. Under subsection 10(1) of the OLA, the federal government is required to take all possible measures to ensure that treaties and international conventions are authenticated in both official languages, regardless of their status within the other states. It should be required to do at least as much for federal-provincial/territorial agreements. The federal government should not lower its official languages standard to that of some provinces or territories; rather, it should seek to raise their standards to its own, in keeping with the spirit of section 16(3) of the Charter. Thus, subsection 10(2) must instead provide that the federal government has the duty to ensure **that federal-provincial/territorial agreements are made in both official languages** and that both versions are equally authoritative, regardless of the official or unofficial status of English and French in the relevant jurisdiction. If so, subsection 10(3) should be repealed, since it is irrelevant.

[113] With respect to the **publication of notices and advertisements by federal institutions**, the wording of subsection 11(1) of the OLA should be both clearer and more binding. The current wording does not require federal institutions to publish these documents simultaneously in English and in French at all times. Parliament should extend the obligation under subsection 11(1) to ensure that all notices and advertisements from federal institutions are published simultaneously, side by side, in both official languages (not just “wherever possible”). This is a simple and meaningful way to promote the use and increase the visibility of French throughout Canada, thus helping to promote the use of French nationally. The OLA should also be modernized by requiring and regulating the electronic publication of notices and advertisements by federal institutions.

⁹² In *Canada (Commissioner of Official Languages) v. Canada (Minister of Justice)*, [2001 FCT 239](#), paras. 135–137, the Federal Court concluded that where the federal government delegates powers or responsibilities to provincial or territorial governments (in this case, it was a delegation of the administration of prosecutions for violations of federal statutes and regulations in Ontario), it has a duty to make sure that its legal obligations and those of the province or the territory are delineated and specified sufficiently to ensure that the rights of accused persons are respected.

[114] As in Part I, and in order to promote the use of both official languages in Canadian society, the OLA should require the federal government to **publish the English and French versions of documents covered by Part II side by side** so that they are accessible in the same way.

[115] Finally, section 13 of the OLA provides that the English and French versions of the federal statutes are “equally authoritative.” The Supreme Court of Canada has developed case law outlining **principles of interpretation applicable to bilingual legislation**.⁹³ For the sake of access to justice and certainty, most of these principles should be codified in the OLA.

Part III: Administration of Justice

[116] The OLA must recognize that **the justice sector offers certain “services” to litigants** and that they must be available and of equivalent quality in both official languages. The principle of judicial independence cannot defeat this idea. In *Kilrich v. Halotier*, the Yukon Court of Appeal concluded that the Yukon Supreme Court is an “institution” within the meaning of the *Languages Act*⁹⁴ and that the Whitehorse Registry is the “central office”; every person has the right to communicate directly in French with a member of the staff of the registry personally, by telephone, in writing and to receive all the services in French that are available to the general public in English.⁹⁵ Parliament must incorporate this idea into the OLA to modernize the administration of justice in Canada.

[117] The new OLA must also avoid allowing the justice sector to circumvent its application by contracting with third parties; **third parties who provide services to litigants on behalf of the federal judiciary must comply with the OLA** whether they are in the private sector (building owners, other service providers, etc.) or provincial/territorial employees offering support services to the judiciary.

[118] Subsection 16(1) of the OLA **exempts the Supreme Court of Canada** from the duty of federal court judges to understand both official languages. However, it is essential that Canadians and the jurists who represent them be heard and understood in the official language of their choice before the highest court of a constitutionally bilingual country and that the judges of this court ask their questions in the official language of the litigant.⁹⁶

[119] The FCFA opposed this exemption in 1988.⁹⁷ In fact, regarding a proposal by the Honourable Jean-Robert Gauthier to amend Bill C-72 (later the 1988 OLA), the then-minister of Justice, the Honourable Ray Hnatyshyn, noted the temporary nature of the bilingualism exemption at the Supreme Court of Canada:

⁹³ *R v. Daoust*, [2004 SCC 6](#).

⁹⁴ *Language Act*, [RSY 2002, c. 133](#).

⁹⁵ *Kilrich Industries Ltd v. Halotier*, [2007 YKCA 12](#) at para 91.

⁹⁶ Sébastien Grammond and Mark Power, “Should Supreme Court Judges be Required to Be Bilingual?”

SC Working Paper 2011-02, Special Series on the Federal Dimensions of Reforming the Supreme Court of Canada, Institute of Intergovernmental Relations, Kingston, Queen’s University, 2011.

⁹⁷ Legislative Standing Committee studying Bill C-72, *Minutes and Evidence*, *supra*, No. 7, April 2, 1988, pp. 7:33-34.

Mr. Hnatyshyn: [...] I say with the greatest deference that those who observe the scene in terms of the operation of the court would argue that as a policy for Canadians and governments we should hope to evolve to the point – as I think we will as the years go by – where Supreme Court judges will have the capacity in both languages. This is a specialized bilingualism – not conversational but rather legal bilingualism for understanding pleadings and concepts – and therefore proposition of the exemption of the Supreme Court of Canada from the legislation is a fair and reasonable one.

It is probably in the national interest at this time that we not put any constraints on the court in the way in which it does its business. It is a very busy court. They have an enormous amount of work now on a constitutional basis. This is not a court that hears witnesses. It is a final appellate court, where they have the benefit of written material they can consider at length. If presentations are made, they do have simultaneous translation, if they do not have a capacity in both languages.

So unilingual francophones and unilingual anglophones still should be able to be appointed to the Supreme Court of Ontario. Until we reach a more developed stage of bilingualism across the country, I think we should still have the availability of the best people who are unilingual, in both languages.⁹⁸

Mr. Hnatyshyn : [...] ceux qui observant le fonctionnement de la Cour suprême diront qu'il faudrait qu'un jour – je pense que nous y parviendrons avec les années – tous les juges de la Cour suprême soient bilingues. Il ne s'agit pas de pouvoir faire la conversation dans les deux langues, mais de vraiment connaître la terminologie juridique pour comprendre les plaidoyers et les principes. Par conséquent, il est juste et raisonnable d'exempter la Cour suprême du Canada des dispositions de la loi.

C'est sans doute dans l'intérêt national d'éviter à ce moment-ci d'imposer à la Cour des contraintes en matière de procédure. Elle a une énorme charge de travail, il y a beaucoup d'affaires qui concernent la Constitution. Ce n'est pas un tribunal qui entend des témoins mais une Cour de dernière instance qui peut examiner en détail toute la documentation écrite. S'il y a des arguments à entendre, l'interprétation simultanée est offerte pour ceux qui ne comprennent pas les deux langues.

Ainsi, il devrait demeurer possible de nommer des unilingues francophones ou anglophones à la Cour suprême de l'Ontario [*sic*]. En attendant que le bilinguisme fasse davantage de progrès à l'échelle nationale, je pense que nous devrions encore avoir la possibilité de profiter des compétences des meilleurs éléments [*sic*] unilingues, qu'ils soient francophones ou anglophones.

[120] Bilingualism has made undeniable national progress since 1988. The appointments of justices Russell Brown and Sheila Martin of Alberta, as well as Justice Malcom Rowe of Newfoundland and Labrador, are proof of this. It is time to repeal the exemption for Supreme Court of Canada justices for the duty to understand both official languages.

[121] In recognizing the importance of and improving the bilingual capacity of the judiciary, the federal government recently introduced a **process to assess the language proficiency of judicial candidates**,⁹⁹ which covers not only federal courts, but also federal judicial appointments to provincial courts. The FCFA applauds this initiative and requests that the OLA be amended to require regulations establishing such a process for assessing the language abilities of judicial candidates. The OLA should also require the government to

⁹⁸ Legislative Standing Committee studying Bill C-72, *Minutes and evidence, supra*, n° 7, June 2 1988, at 28.

⁹⁹ Canada, Department of Justice Canada, [Action Plan: Enhancing the Bilingual Capacity of the Superior Court Judiciary](#), Ottawa, Department of Justice, October 25, 2017.

consider equal access to justice in both official languages when appointing judges to sit in areas where there is also a right to use French in civil proceedings (in addition to *Criminal Code* proceedings).

[122] Section 19 of the OLA gives federal institutions the choice of completing forms used in proceedings before a federal court in one language, provided that it is clearly indicated that a translation can be obtained upon request. However, the language rights of litigants are paramount. Subsection 19(2) should therefore provide that **federal institutions must complete forms used in federal court proceedings in the language of the litigant** or in both official languages.

[123] Section 20 of the OLA sets out the circumstances under which the federal courts have an obligation to make their **final decisions available to the public in both official languages, simultaneously, including the reasons**. The simultaneous publication requirement should be extended to all decisions, except as provided for in subsection 20(2), where the requirement of publication 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. However, even in these latter cases, the OLA must continue to require the publication of decisions “at the earliest possible time”¹⁰⁰ and provide for a maximum period, such as six months.

[124] In addition, as is the case for the English and French versions of all the instruments covered by section 13 of the OLA, the English and French versions of **federal court judgments should henceforth be equally authoritative**.

[125] Finally, the **Court Challenges Program** should be enshrined into a modernized OLA, thus removing it from the political game it has been subjected to since its creation.¹⁰¹ The Court Challenges Program plays a vital role in the implementation of the OLA by supporting individuals who would otherwise not be able to ensure that their rights be respected.¹⁰²

Part IV: Communications with and Services to the Public

¹⁰⁰ *Devinat v. Canada (Immigration and Refugee Board)*, [1998] 3 FCR 590 (FC); *Devinat v. Canada (Immigration and Refugee Board)*, [2000] 2 FC 212 (FCA).

¹⁰¹ The first court challenge program was established in 1978. The court proceedings were initially funded under sections 93 and 133 of the *Constitution Act, 1867*, but the mandate was later expanded to include prosecution under sections 15 and 16 to 23 of the Charter. The Court Challenges Program was abolished in 1984 and reinstated in 1994. It was abolished again in 2006. In 2008, following a court challenge led by the FCFA, the federal government agreed to reinstate the linguistic part of the Court Challenges Program. This led to the creation of the Language Rights Support Program. The current federal government has announced the reinstatement of the Court Challenges Program and the expansion of its mandate to include litigation based on a violation of the OLA. See House of Commons, Standing Committee on Justice and Human Rights, [Access to Justice - Part 1: Court Challenges Program](#), 1st Session, 42nd Parliament, September 2016 (Chair: Anthony Housefather).

¹⁰² Fédération des communautés francophones et acadienne du Canada, *Mémoire de la Fédération des communautés francophones et acadienne (FCFA) du Canada : Sur l'impact de la suppression du financement du Programme de contestation judiciaire*, presented to the Standing Committee on Canadian Heritage, December 6, 2006.

- [126] Given Canada’s demolinguistic changes in recent decades, as well as new technologies, **it is reasonable to presume that the federal government offers all its services in both official languages**, except in exceptional circumstances.
- [127] The Charter and the OLA provide that “the public has the right to communicate with and receive services from federal institutions” in either official language where there is “significant demand” in the minority language.¹⁰³ This is defined in the *Official Languages (Communications with and Services to the Public) Regulations*.¹⁰⁴
- [128] There have been stringent proposals for modernizing Part IV of the OLA for some time, particularly because of the work of Senators Chaput and Tardif, who introduced **Bill S-209** (*An Act to amend the Official Languages Act (communications with and services to the public)*), now sponsored by Senator Gagné. Most of the changes proposed by this bill should be incorporated into a modernized OLA to better regulate the government’s duties under parts IV and XI, with respect to consultations and draft regulations.
- [129] The provision of services in both official languages must be modernized. To do so, the OLA must provide that “significant demand” is not determined solely using quantitative factors and mathematical calculations, as is currently the case. The current wording of the OLA is permissive as to the criteria that must be considered by the government in determining the circumstances under which there is significant demand.¹⁰⁵ Instead, the OLA must require the government to **consider qualitative criteria in determining “significant demand,”** including increasing community diversity and community vitality as exemplified by the presence of a minority school or cultural centre.
- [130] The OLA must be consistent with the laws and policies of the provinces and territories when they are more expansive. For example, because of New Brunswick’s special constitutional status with respect to official languages, the OLA must provide an exception to the requirement of “significant demand” for providing service in both official languages. **There is significant demand everywhere in New Brunswick.**
- [131] In *DesRochers*, the Supreme Court of Canada concluded that the application of the principle of linguistic equality in the provision of government services must take into account the nature of the service in question and its purpose, and that the development and implementation of identical services for each of the linguistic communities may not result in substantive equality.¹⁰⁶ A modernized OLA must codify this principle by specifying that services provided under Part IV must be of “truly equivalent quality” and that in developing a service, the federal government must take into account its nature, its purpose and its users. Sometimes taking these criteria into consideration will lead to the conclusion that the communities are best suited to deliver a service on behalf of a federal institution.

¹⁰³ Charter, *supra*, s. 20; *Official Languages Act*, 1988, *supra*, s. 22.

¹⁰⁴ [SOR/92-48](#).

¹⁰⁵ *Official Languages Act*, 1988, *supra*, s. 32(2).

¹⁰⁶ *DesRochers*, *supra*, para. 51.

Part V: Language of Work

- [132] In addition to stating that officers and employees of all federal institutions have the right to use either official language, section 34 must also set out, in a second subsection, **the government's commitment to create a work environment within the federal public administration across the country where all employees can work in the official language of their choice and learn and use the other official language.** The federal government should, in addition, identify an official language as the primary or preferred official language for each employee.
- [133] The OLA should **provide for and oversee the duty of deputy ministers and senior officials of federal institutions to understand both official languages.** They must be bilingual to properly lead their organizations and ensure a working environment where everyone can work in the official language of their choice.
- [134] Finally, Parliament should also **require federal public service unions to ensure that the language rights of their members under the OLA are respected** and to represent them in the event of violations.

Part VI: Participation of English-speaking and French-speaking Canadians

- [135] Under Part VI of the OLA, the government is committed to ensuring that English-speaking and French-speaking Canadians have equal opportunities to obtain employment and advancement in federal institutions,¹⁰⁷ and federal institutions are to ensure that employment opportunities are open to all Canadians, regardless of their official language,¹⁰⁸ but nothing in this part “shall be construed as abrogating or derogating from the principle of selection of personnel according to merit.”¹⁰⁹ Part VI needs to be clarified by stating that for many positions, **language skills are an integral part of a merit-based selection process.**

Part VII: Advancement of English and French

- [136] **In addition to the structural problems relating to its implementation identified in the first part of this brief,** Part VII of the OLA is too vague. Federal institutions have largely ignored their duty to 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 to support their development. The FCFA requests that some of these positive measures, considered essential for achieving the objectives of the OLA, be explicitly set out in the OLA, starting with the government's obligation to adopt a **five-year official languages development plan** addressing at least the priority areas of intervention, including the provision of services, immigration, education, health, justice, culture, language of work, and mechanisms for official language minority communities to take charge of their development. Conceptually, these new provisions could be included in

¹⁰⁷ *Official Languages Act*, 1988, *supra*, s. 39(1).

¹⁰⁸ *Official Languages Act*, 1988, *supra*, s. 39(2).

¹⁰⁹ *Official Languages Act*, 1988, *supra*, s. 39(3).

a modernized and disaggregated Part VII, or they could form the basis for new separate parts in the OLA dedicated to each area.

[137] Part VII must **oversee the federal government’s financial support for provincial services in the minority language**. Since 1988, many provinces and territories have adopted or modernized French-language services legislation or policies.¹¹⁰ British Columbia is the only province without a French-language service policy. In the spirit of section 16(3) of the Charter, Parliament must modernize the OLA to require the federal government to consult the provincial and territorial governments, as well as official language minority communities, and to negotiate **a five-year agreement on minority language services**, which would specifically take into account the needs of users and the principle of subsidiarity.

[138] **Immigration** is essential to the demographic renewal and vitality of official language minority communities. However, given the lack of federal leadership in this area, “Francophone minority communities outside Quebec received little benefit from the demographic contribution of international immigration, owing to the strong propensity of these immigrants to integrate into communities with an English-speaking majority.”¹¹¹ It is therefore worth explicitly adding a series of sections on immigration that set out new federal obligations to adopt immigration policies that promote linguistic duality (e.g., by increasing the proportion of immigrants able to speak the minority official language), enhance the vitality of official-language minority communities (in Canada and elsewhere), and encourage the integration of newcomers into these communities (e.g., by financing the marginally higher costs of integrating immigrants into official language minority schools).

[139] In its brief filed with your Committee on February 12, 2018,¹¹² the Conseil scolaire francophone de la Colombie-Britannique (CSFCB) requested that the OLA be amended to explicitly require Statistics Canada to **enumerate rights holders under section 23 of the Charter**. Here is an obligation that must be explicitly set out in the OLA. The FCFA adds

¹¹⁰ *Official Languages Act*, [RSNWT 1988, c. O-1](#) (Northwest Territories); *French Language Services Act*, [RSO 1990, c. F.32](#) (Ontario); *Official Languages Act*, [SNB 2002, c. O-0.5](#) (New Brunswick) [NB OLA]; *Languages Act*, [RSY 2002, c. 133](#) (Yukon); *French Language Services Policy of the Government of Saskatchewan* (2003); *French Language Services Act*, [SN 2004, c. 26](#) (Nova Scotia); *Official Languages Act*, [S.Nu. 2008, c. 10](#) (Nunavut); *French Language Services Act*, [PEI 2013, c. F-15.2](#) (Prince Edward Island); *French Language Services Policy* (2015, Newfoundland and Labrador); *Law on Supporting the Vitality of Manitoba’s Francophonie*, *supra*, (2016); *Bilingual Service Centers Act*, [CCSM c. B37](#) (2016, Manitoba); *French Policy* (2017, Alberta).

¹¹¹ Office of the Commissioner of Official Languages of Canada and Office of the French Language Services Commissioner of Ontario, *Time to Act for the Future of Francophone Communities: Redressing the Immigration Imbalance*, catalog number [SF31-119-2014](#), Ottawa, Public Works and Government Services Canada, 2014, p. 7, citing Statistics Canada, *Statistical Portrait of the French-Speaking Immigrant Population Outside Quebec (1991 to 2006)*, Catalogue No. [89-641-X](#), 2010, p. 8; see also *Toward a New Action Plan*, *supra*, p. 27.

¹¹² Le Conseil scolaire francophone de la Colombie-Britannique, Brief presented to the Standing Senate Committee on Official Languages in the context of its study on Canadians’ Views about Modernizing the *Official Languages Act*, For an Official Languages Act in Service of Minority French-Language Education (February 12, 2018) [Brief - CSFCB].

that there should be a general duty of federal institutions to collect data on official languages in relation to their own field of practice.

[140] The CSFCB also requested that the OLA be amended to require federal institutions to consult with minority school boards before **disposing of real property**. The FCFA agrees but specifies that this requirement should be broadened to include official language minority community organizations and institutions, which face the real estate acquisition challenges identified by the CSFCB.

[141] The FCFA supports the Conseil des écoles fransaskoises,¹¹³ CSFCB¹¹⁴ and the Fédération nationale des conseils scolaires francophones¹¹⁵ in calling for the OLA to be amended by adding a **new part on education** governing federal support for elementary and secondary education in the language of the minority. However, this new part must contain provisions that also govern federal support for **early childhood**¹¹⁶ and **post-secondary education**. It should also contain a section governing federal support for **second official language instruction**.

[142] The OLA should also be amended by adding a **new part on health** governing federal support in this area.

[143] Finally, it is fundamental to the survival of official language minority communities that they can continue to have a voice at the ballot box, where they have significant electoral weight. A modern OLA should therefore include a duty of the federal government to consider the representation of minority groups when **redrawing federal electoral boundaries**.¹¹⁷

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

[144] The first part of this brief addresses at length the amendments that should be made to Part VIII.

Part IX: Commissioner of Official Languages

¹¹³ Conseil des écoles fransaskoises, Brief Presented to the Standing Senate Committee on Official Languages in the Context of its Study on Canadians' Views about Modernizing the *Official Languages Act*, [Concrete Proposals for Modifications of the Official Languages Act: Shielding the Role of the Federal Government in French-Language Education from Partisan Politics](#), February 12, 2018.

¹¹⁴ Brief - CSFCB, *supra*.

¹¹⁵ Senate, Standing Committee on Official Languages, [Evidence](#), 1st Session, 42nd Parliament, February 12, 2018 (Fédération nationale des conseils scolaires francophones).

¹¹⁶ House of Commons Standing Committee on Official Languages, [Evidence](#), 1st Session, 42nd Parliament, February 28, 2018, ([Brief](#) of the Conseil scolaire francophone de la Colombie-Britannique); House of Commons Standing Committee on Official Languages, [Evidence](#), 1st Session, 42nd Parliament, February 28, 2018 (Fédération des parents francophones de la Colombie-Britannique); House of Commons Standing Committee on Official Languages, [Evidence](#), 1st Session, 42nd Parliament, March 2, 2018 (Conseil des écoles fransaskoises) Standing Committee on Official Languages, [Evidence](#), 1st Session, 42nd Parliament, March 2, 2018 (testimony of the Division scolaire franco-manitobaine).

¹¹⁷ *Raïche v. Canada* (PG), [2004 FC 679](#).

[145] In addition to the amendments requested in the first part of this brief concerning the powers of the Commissioner of Official Languages, the FCFA calls for the OLA to **require the government to respond publicly to the Commissioner's reports and recommendations**, as is the case for parliamentary committee reports.¹¹⁸ It is unacceptable that the Commissioner's reports and recommendations continue to go unanswered.

[146] In determining whether a complaint is admissible, **the Commissioner should be required to send a copy of the investigation notice stipulated by section 59 of the OLA and investigation reports to the Treasury Board**. This will allow the Treasury Board to better carry out its horizontal function, which is to oversee the compliance of federal institutions and to intervene when necessary, well before a matter goes to court.

[147] **The OLA must protect complainants against reprisals.**¹¹⁹

[148] **The Commissioner's investigation reports must be made public** at the end of an investigation. The availability of investigation reports to the public would provide Commissioner's precedents that would be useful for implementing the OLA. This is what the FCFA asked for in 1988:

The new act gives the Commissioner the responsibility of carrying out private inquiries. The evidence collected in the course of these inquiries and the results are to remain secret. Contrary to this, we believe that the Commissioner should carry out public inquiries, and make public the results and his recommendations to federal agencies. The Joint Committee on Official Languages has shown this to be the most efficient method.¹²⁰

[149] The OLA should **outline the Commissioner appointment process**. Parliament could use section 43 of the New Brunswick OLA¹²¹ as a model. For example, there could be a more binding consultation process involving official language minority communities.

Part X: Court Remedy

[150] As recommended in the first part of this brief, **the right to file a remedy under the OLA should extend to all rights under the OLA**, rather than only the sections and parts currently covered by subsection 77(1).

[151] Subsection 77(4) of the OLA allows the courts to grant such remedy as they consider appropriate and just in the circumstances. Despite the broad scope of this wording (it uses the language of subsection 24(1) of the Charter!¹²²), the courts are reluctant to exercise these powers.¹²³ **In addition to the amendments requested in the first part of this brief with respect to court remedies under the OLA**, the FCFA is calling for the modernized

¹¹⁸ S.O. 109 of the House of Commons; Rules of the Senate, rules 12-24(1).

¹¹⁹ See, for example, the Canadian Human Rights Act, [RSC 1985, c H-6](#), s. 14.1.

¹²⁰ Legislative Committee on Bill C-72, Minutes of Proceedings and Evidence, *supra*, no. 7, April 20, 1988, p. 7:7; Fédération de francophones hors Québec, *Submission of the Federation of Francophones outside Quebec to the Legislative Committee on Bill C-72*, Ottawa (April 20, 1988).

¹²¹ NB OLA, *supra*, s. 43.

¹²² *Forum des maires de la Péninsule acadienne v. Canadian Food Inspection Agency*, [2004 FCA 263](#), paras. 56-58 [*Forum des maires*].

¹²³ See, for example, *Air Canada v. Thibodeau*, [2012 CAF 246](#).

OLA to **set out a non-exhaustive list of remedies that have already been found to be appropriate and just in the circumstances**, including: (a) declaratory relief;¹²⁴ (b) an order directing a party to act or refrain from taking actions (injunction);¹²⁵ (c) maintenance of the court's jurisdiction over the parties or the order requiring the parties to report periodically;¹²⁶ and (d) orders for damages as compensation.¹²⁷

[152] In modernizing the remedies guaranteed by the OLA, Parliament must also amend the *Air Transportation Act* to specify that the *Montreal Convention* does not affect the rights conferred by the OLA and the power of the courts to grant compensation, including damages.¹²⁸ This would have the effect of **reversing the conclusion of the majority of the Supreme Court to the contrary in *Thibodeau v. Air Canada***.¹²⁹

[153] Lastly, Parliament must **clarify the applicable legal procedure** whether a matter is before an administrative tribunal or the Federal Court. In 1988, Parliament specified that a court remedy action under the OLA “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*.”¹³⁰ However, no “special rule” was adopted in the OLA. The result was a thick fog over how to proceed in court to try to enforce the OLA,¹³¹ a fog that the courts have only partially dispersed.¹³² The OLA should also **specify the weight that should be given to the Commissioner's reports**; at a minimum, the findings of fact made by the Commissioner in his reports deserve some deference.

Part XI: General

[154] The OLA is **quasi-constitutional**.¹³³ Section 82 of the OLA partially recognizes that the OLA takes precedence over other statutes by citing provisions that prevail in the event of any inconsistency between the OLA and any other statute. This primacy should be extended to all parts of the OLA.

[155] Parliament should be required to conduct a **review of the OLA and its regulations every ten years**. Twenty years passed between the adoption of the OLA in 1969 and its revision in 1988. This latest version will soon celebrate its 30th anniversary. Such a requirement for

¹²⁴ See, for example, *Mahé v. Alberta*, [1990] 1 SCR 342.

¹²⁵ Doucet-Boudreau, *supra* para. 70.

¹²⁶ Doucet-Boudreau, *supra* para. 83.

¹²⁷ See, for example, *Vancouver (City) Ward*, 2010 SCC 27; *Thibodeau v. Air Canada*, 2011 FC 876.

¹²⁸ House of Commons, Standing Committee on Official Languages, *Air Canada's Implementation of the Official Languages Act: Aiming for Excellence*, 1st Session, 42nd Parliament, November 2017 (Chair: The Hon. Denis Paradis), p. 20-22; Bill C-666, *An Act to amend the Carriage by Air Act (Fundamental Rights)*, 2st Session, 42nd Parliament, 2015 (sponsor: the Hon. Stéphane Dion).

¹²⁹ 2014 QCCA 67.

¹³⁰ *Official Languages Act*, 1988, *supra*, s. 80.

¹³¹ See *Forum des maires de la Péninsule acadienne v. Canadian Food Inspection Agency*, 2003 FCA 1048.

¹³² *Forum of Mayors*, *supra* at paras 15-21; *DesRochers*, *supra*, paras. 32-38.

¹³³ *Lavigne v. Canada (Office of the Commissioner of Official Languages)*, 2002 SCC 53 para 23.

a periodic review exists, for example, in the New Brunswick OLA.¹³⁴ Official language minority communities must be consulted as part of these periodic reviews.

[156] Many will be surprised to learn that most of **Canada’s constitutional texts are not officially bilingual**; this is particularly the case with the *Constitution Act, 1867*! To address this problem, section 55 of the *Constitution Act, 1982*, directs the Minister of Justice to prepare “a French version of the portions of the Constitution of Canada referred to in the schedule ... as expeditiously as possible and, when any portion thereof sufficient to warrant action being taken has been so prepared, it shall be put forward for enactment.” Unfortunately, section 55 has never been implemented. To the best of the FCFA’s knowledge, the federal government tried to implement section 55 of the *Constitution Act, 1982*, only once, in 1990. Recognizing that implementing section 55 involves several stakeholders, the FCFA requests that the OLA be amended to include a section obliging the Prime Minister and the Minister of Justice to do their utmost to implement section 55.¹³⁵ The Charter sets the maximum term of the House of Commons at five years.¹³⁶ The FCFA therefore asks that the Prime Minister and the Minister of Justice make their best effort to implement section 55 of the *Constitution Act, 1982*, once per Parliament.

¹³⁴ NB OLA, *supra*, s 42.

¹³⁵ Adopted on February 16, 2018, the Canadian Bar Association [Resolution 18-04-A](#) “urges the Government of Canada to fulfill the obligations imposed by section 55 of the *Constitution Act, 1982*, to give full force and effect to the entirety of the Constitution in both official languages.”

¹³⁶ Charter, *supra*, s 4(1).

Conclusion

- [157] It will soon be 50 years since Parliament enshrined linguistic duality in a piece of legislation and at the same time recognized the existence of French-language communities in Canada. Although this was commendable, and despite the ambition of the 1988 reform, the FCFA must, even today, highlight the wide-ranging endemic deficiencies with implementing the OLA since then.
- [158] Modernizing the OLA is clearly necessary in order to give new momentum to Canada's linguistic duality.
- [159] To that end, the FCFA has proposed in this brief, first, a thorough restructuring of the implementation of the OLA, which requires giving responsibility for its implementation to the Treasury Board, conferring on official language minority communities the right to participate, and introducing new oversight and accountability mechanisms.
- [160] Second, the FCFA has also proposed a series of amendments that would modernize the rights conferred by the OLA, the obligations they impose on the government and federal institutions, and their underlying principles.
- [161] The FCFA encourages your Committee to continue its leadership so that by 2020, Canada, and its official language minority communities, will have an OLA that meets their expectations and aspirations. The FCFA also encourages your Committee to continue its work by **proposing a new draft of the next OLA as soon as possible so that it can be commented on and analyzed by Canadian**



CHAPTER O-2

An Act respecting the status of the official languages of Canada

SHORT TITLE

Short title

1. This Act may be cited as the *Official Languages Act*. 1968-69, c. 54, s. 1.

DECLARATION OF STATUS OF LANGUAGES

Declaration of status

2. The English and French languages are the official languages of Canada for all purposes of the Parliament and Government of Canada, and possess and enjoy equality of status and equal rights and privileges as to their use in all the institutions of the Parliament and Government of Canada. 1968-69, c. 54, s. 2.

STATUTORY AND OTHER INSTRUMENTS

Instruments directed to public

3. Subject to this Act, all instruments in writing directed to or intended for the notice of the public, purporting to be made or issued by or under the authority of the Parliament or Government of Canada or any judicial, quasi-judicial or administrative body or Crown corporation established by or pursuant to an Act of the Parliament of Canada, shall be promulgated in both official languages. 1968-69, c. 54, s. 3.

Legislative instruments

4. All rules, orders, regulations, by-laws and proclamations that are required by or under the authority of any Act of the Parliament of Canada to be published in the official gazette of Canada shall be made or issued in both official languages and shall be published accordingly in both official lan-

CHAPITRE O-2

Loi concernant le statut des langues officielles du Canada

TITRE ABRÉGÉ

Titre abrégé

1. La présente loi peut être citée sous le titre: *Loi sur les langues officielles*. 1968-69, c. 54, art. 1.

DÉCLARATION DU STATUT DES LANGUES

Déclaration du statut des langues

2. L'anglais et le français sont les langues officielles du Canada pour tout ce qui relève du Parlement et du gouvernement du Canada; elles ont un statut, des droits et des privilèges égaux quant à leur emploi dans toutes les institutions du Parlement et du gouvernement du Canada. 1968-69, c. 54, art. 2.

ACTES STATUTAIRES ET AUTRES

Actes à l'intention du public

3. Sous toutes réserves prévues par la présente loi, tous les actes portés ou destinés à être portés à la connaissance du public et présentés comme établis par le Parlement ou le gouvernement du Canada, par un organisme judiciaire, quasi-judiciaire ou administratif ou une corporation de la Couronne créés en vertu d'une loi du Parlement, ou comme établis sous l'autorité de ces institutions, seront promulgués dans les deux langues officielles. 1968-69, c. 54, art. 3.

Actes du pouvoir législatif

4. Les règles, ordonnances, décrets, règlements et proclamations, dont la publication au journal officiel du Canada est requise en vertu d'une loi du Parlement du Canada, seront établis et publiés dans les deux langues officielles. Toutefois, lorsque l'autorité qui établit une règle, une ordonnance, un décret,

guages, except that where the authority by which any such rule, order, regulation, by-law or proclamation is to be made or issued is of the opinion that its making or issue is urgent and that to make or issue it in both official languages would occasion a delay prejudicial to the public interest, the rule, order, regulation, by-law or proclamation shall be made or issued in the first instance in its version in one of the official languages and thereafter, within the time limited for the transmission of copies thereof or its publication as required by law, in its version in the other, each such version to be effective from the time the first is effective. 1968-69, c. 54, s. 4.

un règlement ou une proclamation estime qu'il est urgent de les établir et que leur établissement dans les deux langues officielles entraînerait un retard préjudiciable à l'intérêt public, la règle, l'ordonnance, le décret, le règlement ou la proclamation seront établis d'abord dans l'une des langues officielles, puis dans l'autre, en respectant le délai légal fixé pour la communication d'exemplaires de ces actes ou leur publication. La dernière version prendra effet à la même date que la première. 1968-69, c. 54, art. 4.

Decisions, orders and judgments

5. (1) All final decisions, orders and judgments, including any reasons given therefor, issued by any judicial or quasi-judicial body established by or pursuant to an Act of the Parliament of Canada shall be issued in both official languages where the decision, order or judgment determines a question of law of general public interest or importance or where the proceedings leading to its issue were conducted in whole or in part in both official languages.

5. (1) Les décisions, ordonnances et jugements finals, avec les motifs y afférents, émis par un organisme judiciaire ou quasi-judiciaire créé en vertu d'une loi du Parlement du Canada, seront tous émis dans les deux langues officielles lorsque la décision, l'ordonnance ou le jugement tranche une question de droit présentant de l'intérêt ou de l'importance pour le public en général ou lorsque les procédures y afférentes se sont déroulées, en totalité ou en partie, dans les deux langues officielles.

Décisions, ordonnances et jugements

Idem

(2) Where any final decision, order or judgment issued by a body described in subsection (1) is not required by that subsection to be issued in both official languages, or where a body described in that subsection by which any final decision, order or judgment including any reasons given therefor is to be issued is of the opinion that to issue it 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 issue, the decision, order or judgment including any reasons given therefor shall be issued in the first instance in its version in one of the official languages and thereafter, within such time as is reasonable in the circumstances, in its version in the other, each such version to be effective from the time the first is effective.

(2) Lorsque le paragraphe (1) n'exige pas qu'une décision, une ordonnance ou un jugement finals, émis par un organisme visé dans ce paragraphe, le soient dans les deux langues officielles ou lorsqu'un organisme visé dans ce paragraphe, qui doit émettre la décision, l'ordonnance ou le jugement finals avec les motifs y afférents, est d'avis que le fait de l'émettre dans les deux langues officielles entraînerait, soit un retard préjudiciable à l'intérêt public, soit une injustice ou un inconvénient grave pour l'une des parties aux procédures qui ont abouti à son émission, la décision, l'ordonnance ou le jugement, avec les motifs y afférents, seront émis d'abord dans l'une des langues officielles, puis dans l'autre, en respectant le délai raisonnable en l'occurrence. La dernière version prendra effet à la même date que la première.

Idem

Oral rendition of decisions not affected

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

(3) Aucune disposition des paragraphes (1) ou (2) ne sera interprétée comme interdisant de rendre de vive voix, en une seule langue officielle, une décision, une ordonnance ou un jugement, avec les motifs y afférents.

Les décisions rendues oralement ne sont pas affectées

Rules governing practice and procedure

(4) All rules, orders and regulations govern-

(4) Les règles, ordonnances et règlements

Règles de pratique et de procédure

ing the practice or procedure in any proceedings before a body described in subsection (1) shall be made in both official languages but where the body by which any such instrument is to be made is satisfied that its making in both official languages would occasion a delay resulting in injustice or hardship to any person or class of persons, the instrument shall be made in the first instance in its version in one of the official languages and thereafter as soon as possible in its version in the other, each such version to be effective from the time the first is effective. 1968-69, c. 54, s. 5.

Non-compliance: effect and limitation

6. Without limiting or restricting the operation of any law of Canada relating to the conviction of a person for an offence consisting of a contravention of a rule, order, regulation, by-law or proclamation that at the time of the alleged contravention was not published in the official gazette of Canada in both official languages, no instrument described in section 4 or 5 is invalid by reason only that it was not made or issued in compliance with those sections, unless in the case of any instrument described in section 4 it is established by the person asserting its invalidity that the non-compliance was due to bad faith on the part of the authority by which the instrument was made or issued. 1968-69, c. 54, s. 6.

Printing of notices and advertisements

7. Where, by or under the authority of the Parliament or Government of Canada or any judicial, quasi-judicial or administrative body or Crown corporation established by or pursuant to an Act of the Parliament of Canada, any notice, advertisement or other matter is to be printed in a publication for the information primarily of members of the public resident in the National Capital Region or a federal bilingual district established under this Act, the matter shall, wherever possible in publications in general circulation within that Region or district, be printed in one of the official languages in at least one such publication appearing wholly or mainly in that language and in the other official language in at least one such publication appearing wholly or mainly in that other language, and shall be given as nearly as reasonably may be equal prominence in each such publication. 1968-69, c. 54, s. 7.

qui régissent la pratique ou la marche à suivre dans les procédures devant un organisme visé au paragraphe (1) seront établis dans les deux langues officielles. Toutefois, lorsque l'organisme par lequel un tel acte doit être établi est convaincu que son établissement dans les deux langues officielles entraînerait un retard aboutissant à une injustice ou à un inconvénient grave pour une personne ou une catégorie de personnes, l'acte sera établi d'abord dans l'une des langues officielles et, dès que possible par la suite, dans l'autre langue. La dernière version prendra effet à la même date que la première. 1968-69, c. 54, art. 5.

6. Sans limiter ni restreindre l'application des lois du Canada ayant trait à la condamnation d'une personne en raison d'une infraction pour contravention d'une règle, d'une ordonnance, d'un décret, d'un règlement ou d'une proclamation qui, au moment de la contravention alléguée, n'était pas publiée au journal officiel du Canada dans les deux langues officielles, aucun acte visé à l'article 4 ou à l'article 5 n'est invalide du seul fait qu'il n'a pas été établi conformément à ces articles, sauf si, pour un acte visé à l'article 4, il est établi par la personne se prévalant de son invalidité que ce défaut était dû à la mauvaise foi de l'autorité par laquelle l'acte a été établi. 1968-69, c. 54, art. 6.

Défaut: effet et limitation

7. Lorsque, dans une publication, doivent être imprimés, par le Parlement ou le gouvernement du Canada, par tout organisme judiciaire, quasi-judiciaire ou administratif ou par une corporation de la Couronne créés en vertu d'une loi du Parlement du Canada, ou lorsque doivent y être imprimés, sous leur autorité, un avis, une annonce ou autre chose principalement dans le but d'informer le public de la région de la Capitale nationale ou d'un district bilingue fédéral créé en vertu de la présente loi, ce texte doit, lorsque c'est possible dans des publications dont la circulation est générale dans cette région ou ce district, être imprimé en l'une des langues officielles dans au moins une publication de ce genre paraissant entièrement ou principalement en cette langue et être imprimé en l'autre langue officielle dans au moins une publication de ce genre paraissant entièrement ou principalement en cette autre langue. On

Impression d'avis et d'annonces

donnera au texte, autant qu'il est raisonnablement possible de le faire, la même importance dans les deux publications. 1968-69, c. 54, art. 7.

CONSTRUCTION OF VERSIONS OF ENACTMENTS

Construction of enactments

8. (1) In construing an enactment, both its versions in the official languages are equally authentic.

Rules to be applied

(2) In applying subsection (1) to the construction of an enactment,

(a) where it is alleged or appears that the two versions of the enactment differ in their meaning, regard shall be had to both its versions so that, subject to paragraph (c), the like effect is given to the enactment in every part of Canada in which the enactment is intended to apply, unless a contrary intent is explicitly or implicitly evident;

(b) subject to paragraph (c), where in the enactment there is a reference to a concept, matter or thing the reference shall, in its expression in each version of the enactment, be construed as a reference to the concept, matter or thing to which in its expression in both versions of the enactment the reference is apt;

(c) where a concept, matter or thing in its expression in one version of the enactment is incompatible with the legal system or institutions of a part of Canada in which the enactment is intended to apply but in its expression in the other version of the enactment is compatible therewith, a reference in the enactment to the concept, matter or thing shall, as the enactment applies to that part of Canada, be construed as a reference to the concept, matter or thing in its expression in that version of the enactment that is compatible therewith; and

(d) if the two versions of the enactment differ in a manner not coming within paragraph (c), preference shall be given to the version thereof that, according to the true spirit, intent and meaning of the enactment, best ensures the attainment of its objects. 1968-69, c. 54, s. 8.

INTERPRÉTATION DES VERSIONS DES TEXTES LÉGISLATIFS

8. (1) Dans l'interprétation d'un texte législatif, les versions des deux langues officielles font pareillement autorité.

Interprétation des textes législatifs

(2) Pour l'application du paragraphe (1) à l'interprétation d'un texte législatif,

Règles à appliquer

a) lorsqu'on allègue ou lorsqu'il apparaît que les deux versions du texte législatif n'ont pas le même sens, on tiendra compte de ses deux versions afin de donner, sous toutes réserves prévues par l'alinéa c), le même effet au texte législatif en tout lieu du Canada où l'on veut qu'il s'applique, à moins qu'une intention contraire ne soit explicitement ou implicitement évidente;

b) sous toutes réserves prévues à l'alinéa c), lorsque le texte législatif fait mention d'un concept ou d'une chose, la mention sera, dans chacune des deux versions du texte législatif, interprétée comme une mention du concept ou de la chose que signifient indifféremment l'une et l'autre version du texte législatif;

c) lorsque l'expression d'un concept ou d'une chose, dans l'une des versions du texte législatif, est incompatible avec le système juridique ou les institutions d'un lieu du Canada où l'on veut que ce texte s'applique mais que son expression dans l'autre version du texte est compatible avec ce système ou ces institutions, une mention du concept ou de la chose dans le texte sera, dans la mesure où ce texte s'applique à ce lieu du Canada, interprétée comme une mention du concept ou de la chose, exprimée dans la version qui est compatible avec ce système ou ces institutions; et

d) s'il y a, entre les deux versions du texte législatif, une différence autre que celle mentionnée à l'alinéa c), on donnera la préférence à la version qui, selon l'esprit, l'intention et le sens véritables du texte, assure le mieux la réalisation de ses objets. 1968-69, c. 54, art. 8.

DUTIES OF DEPARTMENTS, ETC., IN RELATION
TO OFFICIAL LANGUAGES

Services to
public in both
languages in
certain locations

9. (1) Every department and agency of the Government of Canada and every judicial, quasi-judicial or administrative body or Crown corporation established by or pursuant to an Act of the Parliament of Canada has the duty to ensure that within the National Capital Region, at the place of its head or central office in Canada if outside the National Capital Region, and at each of its principal offices in a federal bilingual district established under this Act, members of the public can obtain available services from and can communicate with it in both official languages.

Services to
public in other
locations

(2) Every department and agency of the Government of Canada and every judicial, quasi-judicial or administrative body or Crown corporation established by or pursuant to an Act of the Parliament of Canada has, in addition to but without derogating from the duty imposed upon it by subsection (1), the duty to ensure, to the extent that it is feasible for it to do so, that members of the public in locations other than those referred to in that subsection, where there is a significant demand therefor by such persons, can obtain available services from and can communicate with it in both official languages. 1968-69, c. 54, s. 9.

Services to
travelling public
in Canada or
elsewhere

10. (1) Every department and agency of the Government of Canada and every Crown corporation established by or pursuant to an Act of the Parliament of Canada has the duty to ensure that, at any office, location or facility in Canada or elsewhere at which any services to the travelling public are provided or made available by it, or by any other person pursuant to a contract for the provision of such services entered into by it or on its behalf on and after the 7th day of September 1969, such services can be provided or made available in both official languages.

Services
elsewhere than
in Canada

(2) Every department and agency described in subsection (1), and every Crown corporation described therein that is not expressly exempted by order of the Governor in Council from the application of this subsection in respect of any services provided or made available by

DEVOIRS DES MINISTÈRES, ETC., EN CE QUI A
TRAIT AUX LANGUES OFFICIELLES

9. (1) Il incombe aux ministères, départements et organismes du gouvernement du Canada, ainsi qu'aux organismes judiciaires, quasi-judiciaires ou administratifs ou aux corporations de la Couronne créés en vertu d'une loi du Parlement du Canada, de veiller à ce que, dans la région de la Capitale nationale d'une part et, d'autre part, au lieu de leur siège ou bureau central au Canada s'il est situé à l'extérieur de la région de la Capitale nationale, ainsi qu'en chacun de leurs principaux bureaux ouverts dans un district bilingue fédéral créé en vertu de la présente loi, le public puisse communiquer avec eux et obtenir leurs services dans les deux langues officielles.

(2) Tout ministère, département, et organisme du gouvernement du Canada et tout organisme judiciaire, quasi-judiciaire ou administratif ou toute corporation de la Couronne créés en vertu d'une loi du Parlement du Canada ont, en sus du devoir que leur impose le paragraphe (1), mais sans y déroger, le devoir de veiller, dans la mesure où il leur est possible de le faire, à ce que le public, dans des endroits autres que ceux mentionnés dans ce paragraphe, lorsqu'il y a de sa part demande importante, puisse communiquer avec eux et obtenir leurs services dans les deux langues officielles. 1968-69, c. 54, art. 9.

10. (1) Il incombe aux ministères, départements et organismes du gouvernement du Canada, ainsi qu'aux corporations de la Couronne, créés en vertu d'une loi du Parlement du Canada, de veiller à ce que, si des services aux voyageurs sont fournis ou offerts dans un bureau ou autre lieu de travail, au Canada ou ailleurs, par ces administrations ou par une autre personne agissant aux termes d'un contrat de fourniture de ces services conclu par elles ou pour leur compte après le 7 septembre 1969, lesdits services puissent y être fournis ou offerts dans les deux langues officielles.

(2) Il incombe aux ministères, départements et organismes mentionnés au paragraphe (1), et aux corporations de la Couronne y mentionnées qui ne sont pas expressément exemptées, par décret du gouverneur en conseil, de l'application du présent paragraphe

Services au
public dans les
deux langues en
certains endroits

Services au
public dans
d'autres endroits

Services aux
voyageurs au
Canada ou
ailleurs

Services ailleurs
qu'au Canada

it, has the duty to ensure that any services to which subsection (1) does not apply that are provided or made available by it at any place elsewhere than in Canada can be so provided or made available in both official languages.

relativement à des services fournis ou offerts par eux, de veiller à ce que les services, auxquels ne s'applique pas le paragraphe (1), fournis ou offerts par eux partout ailleurs qu'au Canada puissent l'être dans les deux langues officielles.

Exception re
ss. (1)

(3) Subsection (1) does not apply to require that services to the travelling public be provided or made available at any office, location or facility in both official languages if, at that office, location or facility, there is no significant demand for such services in both official languages by members of the travelling public or the demand therefor is so irregular as not to warrant the application of subsection (1) to that office, location or facility. 1968-69, c. 54, s. 10.

(3) Le paragraphe (1) n'exige pas l'emploi des deux langues officielles pour des services aux voyageurs fournis ou offerts dans un bureau ou autre lieu de travail si la demande de services dans les deux langues officielles, de la part des voyageurs, y est faible ou trop irrégulière pour justifier l'application du paragraphe (1). 1968-69, c. 54, art. 10.

Exception au
par. (1)

Hearing of
witnesses in
official language
of choice

11. (1) Every judicial or quasi-judicial body established by or pursuant to an Act of the Parliament of Canada has, in any proceedings brought or taken before it, and every court in Canada has, in exercising in any proceedings in a criminal matter any criminal jurisdiction conferred upon it by or pursuant to an Act of the Parliament of Canada, 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 he will not be placed at a disadvantage by not being or being unable to be heard in the other official language.

11. (1) Dans toutes procédures engagées devant des organismes judiciaires ou quasi-judiciaires créés en vertu d'une loi du Parlement du Canada et dans les procédures pénales où les tribunaux au Canada exercent une juridiction pénale qui leur a été conférée en vertu d'une loi du Parlement du Canada, il incombe à ces organismes et tribunaux de veiller à ce que toute personne témoignant devant eux puisse être entendue dans la langue officielle de son choix et que, ce faisant, elle ne soit pas défavorisée du fait qu'elle n'est pas entendue ou qu'elle est incapable de se faire entendre dans l'autre langue officielle.

Audition des
témoins dans la
langue officielle
de leur choix

Duty of federal
courts to provide
simultaneous
translation

(2) Every court of record established by or pursuant to an Act of the Parliament of Canada has, in any proceedings conducted before it within the National Capital Region or a federal bilingual district established under this Act, the duty to ensure that, at the request of any party to the proceedings, facilities are made available for the simultaneous translation of the proceedings, including the evidence given and taken, from one official language into the other except where the court, after receiving and considering any such request, is satisfied that the party making it will not, if such facilities cannot conveniently be made available, be placed at a disadvantage by reason of their not being available or the court, after making every reasonable effort to obtain such facilities, is unable then to obtain them.

(2) Il incombe aux cours d'archives créées en vertu d'une loi du Parlement du Canada de veiller à ce que, à la demande d'une partie à des procédures conduites devant elles, dans la région de la Capitale nationale ou dans un district bilingue fédéral établi en vertu de la présente loi, l'on mette à la disposition de cette partie des services d'interprétation des procédures, notamment pour les témoignages recueillis, d'une langue officielle en l'autre langue. Toutefois, la cour n'y sera pas tenue si, après avoir reçu et examiné une telle demande, elle est convaincue que la partie qui l'a faite ne sera pas défavorisée par l'absence de ces services, s'il est difficile de les mettre à la disposition de cette partie, ou si la cour, après avoir fait tout effort pour les obtenir, n'y est pas parvenue.

Les cours
fédérales sont
tenues de
fournir des
services
d'interprétation

Language of
proceedings in
criminal matters

(3) In exercising in any proceedings in a

(3) Lorsqu'il exerce, dans des procédures

Langues
officielles dans
les procédures
pénales

criminal matter any criminal jurisdiction conferred upon it by or pursuant to an Act of the Parliament of Canada, any court in Canada may in its discretion, at the request of the accused or any of them if there is more than one accused, and if it appears to the court that the proceedings can effectively be conducted and the evidence can effectively be given and taken wholly or mainly in one of the official languages as specified in the request, order that, subject to subsection (1), the proceedings be conducted and the evidence be given and taken in that language.

Application to
certain courts

(4) Subsections (1) and (3) do not apply to any court in which, under and by virtue of section 133 of *The British North America Act, 1867*, either of the official languages may be used by any person, and subsection (3) does not apply to the courts of any province until such time as a discretion in those courts or in the judges thereof is provided for by law as to the language in which, for general purposes in that province, proceedings may be conducted in civil causes or matters.

Authority to
make
implementing
rules

(5) The Governor in Council, in the case of any judicial or quasi-judicial body established by or pursuant to an Act of the Parliament of Canada, and the lieutenant governor in council of any province, in the case of any other court in that province, may make such rules governing the procedure in proceedings before such body or court, including rules respecting the giving of notice, as the Governor in Council or the lieutenant governor in council, as the case may be, deems necessary to enable such body or court to exercise or carry out any power or duty conferred or imposed upon it by this section. 1968-69, c. 54, s. 11.

FEDERAL BILINGUAL DISTRICTS

Establishment
of federal
bilingual
districts

12. In accordance with and subject to the provisions of this Act and the terms of any agreement that may be entered into by the Governor in Council with the government of a province as described in section 15, the Governor in Council may from time to time by proclamation establish one or more federal bilingual districts (hereinafter in this Act called "bilingual districts") in a province, and alter the limits of any bilingual districts so

pénales, une juridiction pénale qui lui a été conférée en vertu d'une loi du Parlement du Canada, tout tribunal au Canada peut, à sa discrétion, sur demande de l'accusé ou, lorsqu'il y a plus d'un accusé, sur demande de l'un ou plusieurs d'entre eux, ordonner que, sous toutes réserves prévues par le paragraphe (1), les procédures soient conduites et les témoignages fournis et recueillis en la langue officielle spécifiée dans la demande s'il lui paraît que les procédures peuvent être correctement conduites et les témoignages correctement fournis et recueillis, en totalité ou en majeure partie, dans cette langue.

Application à
certains
tribunaux

(4) Les paragraphes (1) et (3) ne s'appliquent pas à un tribunal devant lequel, en vertu de l'article 133 de l'*Acte de l'Amérique du Nord britannique, 1867*, quiconque peut utiliser l'une ou l'autre des langues officielles, et le paragraphe (3) ne s'applique pas aux tribunaux d'une province jusqu'à ce que la loi accorde à ces tribunaux ou aux juges de ces tribunaux la liberté de choisir la langue dans laquelle, de façon générale dans cette province, les procédures peuvent être conduites en matière civile.

Pouvoir
d'établir des
règles
d'application

(5) Le gouverneur en conseil, dans le cas d'un organisme judiciaire ou quasi-judiciaire créé en vertu d'une loi du Parlement du Canada, et le lieutenant-gouverneur en conseil d'une province, dans le cas de tout autre tribunal dans cette province, peut établir les règles régissant les procédures devant cet organisme ou ce tribunal, y compris les règles relatives aux notifications, que le gouverneur en conseil ou le lieutenant-gouverneur en conseil, selon le cas, estime nécessaires pour permettre à cet organisme ou à ce tribunal d'exercer toute fonction ou pouvoir qui lui est conféré ou imposé par le présent article. 1968-69, c. 54, art. 11.

DISTRICTS BILINGUES FÉDÉRAUX

Création de
districts
bilingues
fédéraux

12. En conformité des dispositions de la présente loi et des termes de tout accord que peut conclure le gouverneur en conseil avec le gouvernement d'une province, comme le mentionne l'article 15, le gouverneur en conseil peut, à l'occasion, par proclamation, créer dans une province un ou plusieurs districts bilingues fédéraux (ci-après appelés dans la présente loi «districts bilingues») et modifier les limites des districts bilingues

established. 1968-69, c. 54, s. 12.

ainsi créés. 1968-69, c. 54, art. 12.

Delineation of districts

13. (1) A bilingual district established under this Act shall be an area delineated by reference to the boundaries of any or all of the following, namely, a census district established pursuant to the *Statistics Act*, a local government or school district, or a federal or provincial electoral district or region.

13. (1) Un district bilingue créé en vertu de la présente loi est une subdivision administrative délimitée par référence aux limites de l'une, de plusieurs ou de l'ensemble des subdivisions administratives suivantes : un district de recensement créé en conformité de la *Loi sur la statistique*, un district municipal ou scolaire, une circonscription ou région électorale fédérale ou provinciale.

Délimitation des districts

Rules governing establishment of federal bilingual districts

(2) An area described in subsection (1) may be established as a bilingual district or be included in whole or in part within a bilingual district if

(2) Une subdivision visée au paragraphe (1) peut constituer un district bilingue ou être incluse totalement ou partiellement dans le périmètre d'un district bilingue, si

Règles gouvernant la création des districts bilingues fédéraux

(a) both of the official languages are spoken as a mother tongue by persons residing in the area ; and

a) les deux langues officielles sont les langues maternelles parlées par des résidents de la subdivision ; et si

(b) the number of persons who are in the linguistic minority in the area in respect of an official language spoken as a mother tongue is at least ten per cent of the total number of persons residing in the area.

b) au moins dix pour cent de l'ensemble des résidents de la subdivision parlent une langue maternelle qui est la langue officielle de la minorité linguistique dans la subdivision.

Where services customarily made available in both languages

(3) Notwithstanding subsection (2), where the number of persons in the linguistic minority in an area described in subsection (1) is less than the percentage required under subsection (2), the area may be established as a bilingual district if before the 7th day of September 1969 the services of departments and agencies of the Government of Canada were customarily made available to residents of the area in both official languages.

(3) Nonobstant le paragraphe (2), lorsque le nombre des personnes appartenant à la minorité linguistique, dans une subdivision visée au paragraphe (1), est inférieur au pourcentage requis en vertu du paragraphe (2), la subdivision peut constituer un district bilingue si, avant le 7 septembre 1969, les services des ministères, départements et organismes du gouvernement du Canada étaient couramment mis à la disposition des résidents de la subdivision dans les deux langues officielles.

Cas où les services sont couramment offerts dans les deux langues

Alterations of limits of districts

(4) No alteration of the limits of any bilingual district established under this Act shall be made unless such district would, if the proposed alteration of its limits were made, continue to comply with the requirements of this section respecting the establishment of bilingual districts under this Act.

(4) Aucune modification des limites d'un district bilingue créé en vertu de la présente loi ne sera faite à moins que ce district, en cas de réalisation de la modification proposée, ne continue à satisfaire aux exigences du présent article relatives à la constitution de districts bilingues en vertu de la présente loi.

Modifications des limites des districts

When proclamation may issue

(5) No proclamation establishing or altering the limits of any bilingual district shall be issued under this Act before such time as the Governor in Council has received from a Bilingual Districts Advisory Board appointed as described in section 14 a report setting out its findings and conclusions including its recommendations if any relating thereto and at least ninety days have elapsed from the day a copy of the report was laid before Parliament pursuant to section 17.

(5) Aucune proclamation, créant un district bilingue ou modifiant ses limites, ne sera émise en vertu de la présente loi avant que le gouverneur en conseil n'ait reçu du Conseil consultatif des districts bilingues, nommé comme l'indique l'article 14, un rapport énonçant ses constatations et conclusions, et notamment, le cas échéant, les recommandations y afférentes, ni pendant les quatre-vingt-dix jours qui suivent le dépôt d'un exemplaire du rapport devant le Parlement

Condition à remplir avant la proclamation

When
proclamation
effective

(6) A proclamation establishing or altering the limits of any bilingual district shall take effect in relation to any such district on such day, not later than twelve months after the issue of the proclamation, as may be fixed therein in relation to that district. 1968-69, c. 54, s. 13.

en conformité de l'article 17.

(6) Une proclamation créant un district bilingue ou modifiant ses limites prendra effet, pour ce district, dans les douze mois de l'émission de la proclamation, à la date fixée dans cette dernière. 1968-69, c. 54, art. 13.

Date d'effet de
la proclamation

Establishment
of Bilingual
Districts
Advisory Board

14. (1) As soon as possible following the completion of each decennial census, or, in the case of the decennial census taken in the year 1961, forthwith after the 6th day of September 1969, the Dominion Statistician shall prepare and send to the Clerk of the Privy Council a return certified by him showing the population of each of the provinces and census districts in Canada, categorized according to the official languages spoken as a mother tongue by persons resident therein as ascertained by that census, and as soon as possible thereafter the Governor in Council shall, pursuant to Part I of the *Inquiries Act*, appoint not less than five and not more than ten persons, selected as nearly as may be as being representative of residents of the several provinces or principal regions of Canada, as commissioners to constitute a Bilingual Districts Advisory Board for the purpose of conducting an inquiry as described in section 15.

14. (1) Dès que possible après chaque recensement décennal ou, dans le cas du recensement décennal de 1961, immédiatement après le 6 septembre 1969, le statisticien fédéral dressera et enverra au greffier du Conseil privé un état certifié par lui et indiquant la population de chaque province et district de recensement du Canada, classés d'après les langues officielles qui sont, selon les résultats du recensement, les langues maternelles parlées par les résidents. Dès que possible par la suite, le gouverneur en conseil, en conformité de la Partie I de la *Loi sur les enquêtes*, nommera de cinq à dix commissaires, choisis autant que possible de façon à représenter les résidents des diverses provinces ou des principales régions du Canada, pour constituer un Conseil consultatif des districts bilingues en vue d'effectuer l'enquête visée à l'article 15.

Création du
Conseil
consultatif des
districts
bilingues

Chairman

(2) One of the persons appointed as described in subsection (1) shall be designated in the instrument of appointment to act as chairman of the Board.

(2) L'une des personnes nommées comme l'indique le paragraphe (1) doit être désignée dans l'acte de nomination à titre de président du Conseil.

Président

Copy of return
to be sent to
chairman

(3) Forthwith upon the appointment of a Bilingual Districts Advisory Board, the Clerk of the Privy Council shall send a copy of the return referred to in subsection (1) to the chairman of the Board. 1968-69, c. 54, s. 14.

(3) Immédiatement après la nomination d'un Conseil consultatif des districts bilingues, le greffier du Conseil privé enverra au président du Conseil un exemplaire de l'état mentionné au paragraphe (1). 1968-69, c. 54, art. 14.

Envoi au
président d'un
exemplaire de
l'état

Inquiry and
report of
Advisory Board

15. (1) Upon receipt by the chairman of a Bilingual Districts Advisory Board of the copy of the return referred to in subsection 14(3), the Board shall, with all due dispatch, conduct an inquiry into and concerning the areas of Canada in which one of the official languages is spoken as a mother tongue by persons who are in the linguistic minority in those areas in respect of an official language, and after holding such public hearings, if any, as it considers necessary and after consultation with the government of each of

15. (1) Dès que son président aura reçu un exemplaire de l'état mentionné au paragraphe 14(3), le Conseil effectuera avec toute la diligence voulue, dans les subdivisions du Canada où l'une des langues officielles est la langue maternelle parlée par des personnes appartenant à la minorité linguistique de ces subdivisions, une enquête sur ces subdivisions et, après avoir tenu, le cas échéant, les audiences publiques qu'il estime nécessaires et après consultation avec le gouvernement de chacune des provinces comprenant de telles

Enquête et
rapport du
Conseil
consultatif

the provinces in which any such areas are located, prepare and submit to the Governor in Council a report setting out its findings and conclusions including its recommendations if any concerning the establishment of bilingual districts or the alteration of the limits of any existing bilingual districts in accordance with this Act.

Agreements to ensure districts conterminous with provincial districts

(2) In addition to its duties and powers under the *Inquiries Act* in respect of an inquiry as described in this section, a Bilingual Districts Advisory Board may be charged by the Governor in Council with the negotiation, on behalf of the Governor in Council, of a draft agreement with the government of a province for the purpose of ensuring that, to the greatest practical extent, the limits of any area that may be established as a bilingual district under this Act will be conterminous with any area similarly established or to be established in that province by such government.

Advisory Board to have regard to public convenience

(3) In carrying out its duties under this section, a Bilingual Districts Advisory Board shall have regard to the convenience of the public in a proposed bilingual district in respect of all the federal, provincial, municipal and educational services provided therein and where necessary recommend to the Governor in Council any administrative changes in federal services in the area that it considers necessary to adapt the area to a provincial or municipal bilingual area, for the greater public convenience of the area or to further the purposes of this Act. 1968-69, c. 54, s. 15.

Duty to assist Advisory Board

16. The Dominion Statistician and the Director of the Surveys and Mapping Branch of the Department of Energy, Mines and Resources shall make available their services and the facilities of their respective offices, and render all such other assistance to a Bilingual Districts Advisory Board as may be necessary, in order to enable that Board to discharge its duties under this Act. 1968-69, c. 54, s. 16.

Report of Advisory Board

17. Within fifteen days after the receipt by the Governor in Council of the report of a Bilingual Districts Advisory Board submitted by the chairman thereof pursuant to section

subdivisions, il dressera et soumettra au gouverneur en conseil un rapport énonçant ses constatations et conclusions et notamment, le cas échéant, ses recommandations relatives à la création de districts bilingues ou à la modification des limites de districts bilingues existants, conformément à la présente loi.

(2) Outre les fonctions et pouvoirs que lui confère la *Loi sur les enquêtes* relativement à une enquête visée au présent article, le Conseil consultatif des districts bilingues peut être chargé par le gouverneur en conseil de négocier, pour le compte de ce dernier, avec le gouvernement d'une province, un projet d'accord visant à faire coïncider, dans la mesure où cela ne présente pas trop de difficultés, les limites d'une subdivision pouvant constituer un district bilingue en vertu de la présente loi avec celles d'une subdivision dont ce gouvernement a fait ou doit faire un district bilingue dans cette province.

(3) Dans l'exercice de ses fonctions en vertu du présent article, le Conseil consultatif des districts bilingues tiendra compte, lorsque la création d'un district bilingue est proposée, de la commodité pour le public de tous les services fédéraux, provinciaux, municipaux et éducatifs qui y sont fournis. Au besoin, il recommandera au gouverneur en conseil les modifications administratives qu'il estime nécessaire d'apporter aux services fédéraux de la subdivision considérée pour les adapter à une subdivision provinciale ou municipale bilingue, afin que ces services soient plus commodes pour le public ou qu'ils contribuent davantage à la réalisation des objets de la présente loi. 1968-69, c. 54, art. 15.

16. Le statisticien fédéral et le directeur des levés et de la cartographie du ministère de l'Énergie, des Mines et des Ressources mettront leurs services et les facilités qu'offrent leurs bureaux respectifs à la disposition du Conseil consultatif des districts bilingues et lui fourniront par ailleurs toute l'aide nécessaire pour lui permettre de s'acquitter de ses fonctions en vertu de la présente loi. 1968-69, c. 54, art. 16.

17. Le gouverneur en conseil fera déposer devant le Parlement un exemplaire du rapport du Conseil consultatif des districts bilingues, soumis par son président en conformité de

Accords visant à faire coïncider des districts bilingues fédéraux et provinciaux

Le Conseil consultatif tiendra compte de la commodité du public

Obligation d'aider le Conseil consultatif

Rapport du Conseil consultatif

15, or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting, the Governor in Council shall cause a copy of the report to be laid before Parliament. 1968-69, c. 54, s. 17.

l'article 15, dans les quinze jours qui suivent sa réception ou, si le Parlement n'est pas alors en session, l'un des quinze premiers jours où il siège par la suite. 1968-69, c. 54, art. 17.

Preparation and
printing of maps

18. As soon as possible after the issue of any proclamation establishing or altering the limits of a bilingual district under this Act, the Director of the Surveys and Mapping Branch of the Department of Energy, Mines and Resources shall, in accordance with the descriptions and definitions set out in the proclamation, prepare and print

(a) individual maps of each bilingual district showing the boundaries of each such district;

(b) individual maps of each province showing the boundaries of each bilingual district therein; and

(c) individual maps of each local government or school district, portions of which are in more than one bilingual district. 1968-69, c. 54, s. 18.

18. Dès que possible après l'émission d'une proclamation créant un district bilingue ou modifiant ses limites en vertu de la présente loi, le directeur des levés et de la cartographie du ministère de l'Énergie, des Mines et des Ressources, conformément aux descriptions et aux définitions énoncées dans la proclamation, préparera et imprimera

a) des cartes distinctes de chaque district bilingue indiquant les limites de chacun de ces districts;

b) des cartes distinctes de chaque province, indiquant les limites de chacun des districts bilingues qui s'y trouvent; et

c) des cartes distinctes de chaque collectivité locale ou district scolaire qui s'étend sur plus d'un district bilingue. 1968-69, c. 54, art. 18.

Préparation et
impression des
cartes

COMMISSIONER OF OFFICIAL LANGUAGES

Commissioner of
Official
Languages

19. (1) There shall be a Commissioner of Official Languages for Canada, hereinafter in this Act called the Commissioner.

Appointment

(2) The Commissioner shall be appointed by commission under the Great Seal after approval of the appointment by resolution of the Senate and House of Commons.

Tenure of office
and removal

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

Further terms

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

Cessation of
term of office

(5) The term of office of the Commissioner ceases upon his attaining sixty-five years of age, but he shall continue in office thereafter until his successor is appointed notwithstanding the expiration of such term.

Appointment of
temporary
Commissioner

(6) In the event of the death or resignation

COMMISSAIRE DES LANGUES OFFICIELLES

19. (1) Est institué un poste de commissaire des langues officielles pour le Canada, dont le titulaire est ci-après appelé Commissaire.

Commissaire des
langues
officielles

(2) Le Commissaire est nommé par commission sous le grand sceau, après approbation de la nomination par résolution du Sénat et de la Chambre des communes.

Nomination

(3) Sous toutes réserves prévues par le présent article, le Commissaire est nommé pour un mandat de sept ans, pendant lequel il reste en fonctions tant qu'il en est digne; il peut, à tout moment, faire l'objet d'une révocation par le gouverneur en conseil, sur adresse du Sénat et de la Chambre des communes.

Durée du
mandat et
révocation

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

Mandats
subséquents

(5) Le mandat du Commissaire expire lorsque son titulaire atteint l'âge de soixante-cinq ans, mais le Commissaire demeure en fonctions jusqu'à la nomination de son successeur, nonobstant l'expiration de son mandat.

Expiration du
mandat

(6) En cas de décès ou de démission du

Nomination
d'un
commissaire
intérimaire

of the Commissioner while Parliament is not sitting or if he is unable or neglects to perform the duties of his office, the Governor in Council, after consultation by the Prime Minister with the Speaker of the Senate and the Speaker of the House of Commons, may appoint a temporary Commissioner, to hold office for a term not exceeding six months, who shall, while holding such office, have all of the powers and duties of the Commissioner under this Act and be paid such salary or other remuneration and expenses as may be fixed by the Governor in Council. 1968-69, c. 54, s. 19.

Commissaire alors que le Parlement n'est pas en session, ou si le Commissaire est incapable d'exercer les fonctions de sa charge ou les néglige, le gouverneur en conseil, après consultation du président du Sénat et de l'Orateur de la Chambre des communes par le Premier ministre, peut nommer pour six mois au plus un commissaire intérimaire qui aura tous les pouvoirs et fonctions du Commissaire en vertu de la présente loi et percevra le traitement, ou toute autre rémunération, et les frais que peut fixer le gouverneur en conseil. 1968-69, c. 54, art. 19.

Rank, powers
and duties
generally

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

20. (1) Le Commissaire aura le rang et tous les pouvoirs d'un sous-chef de ministère ou département. Il se consacrera exclusivement aux fonctions de sa charge et il n'occupera aucune autre charge au service de Sa Majesté ni aucun autre emploi.

Disposition
générale relative
aux rang,
pouvoirs et
fonctions

Salary and
expenses

(2) The Commissioner shall be paid a salary equal to the salary of a puisne judge of the Exchequer Court of Canada, including any additional salary authorized by section 20 of the *Judges Act*, and is entitled to be paid reasonable travelling and living expenses while absent from his ordinary place of residence in the course of his duties. 1968-69, c. 54, s. 20.

(2) Le Commissaire reçoit un traitement égal à celui d'un juge puîné de la Cour de l'Échiquier du Canada, y compris tout traitement supplémentaire qu'autorise l'article 20 de la *Loi sur les juges*, et il a droit de percevoir des frais raisonnables de voyage et de subsistance lorsqu'il exerce ses fonctions hors de son lieu ordinaire de résidence. 1968-69, c. 54, art. 20.

Traitement et
frais

Staff

21. Such officers and employees as are necessary for the proper conduct of the work of the office of the Commissioner shall be appointed in the manner authorized by law. 1968-69, c. 54, s. 21.

21. Les fonctionnaires et employés nécessaires au bon fonctionnement du service dirigé par le Commissaire sont nommés de la manière autorisée par la loi. 1968-69, c. 54, art. 21.

Personnel

Technical
assistance

22. 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 such persons. 1968-69, c. 54, s. 22.

22. Pour obtenir, dans l'exercice de ses fonctions, les conseils et l'aide de personnes ayant des connaissances techniques ou spécialisées sur toute question afférente à ses travaux, le Commissaire peut retenir temporairement leurs services et il peut, avec l'approbation du conseil du Trésor, fixer et payer leur rémunération et leurs frais. 1968-69, c. 54, art. 22.

Aide technique

Public Service
Superannuation
Act

23. The Commissioner and the officers and employees of the Commissioner appointed as provided in section 21 shall be deemed to be persons employed in the Public Service for the purposes of the *Public Service Superannuation Act*. 1968-69, c. 54, s. 23.

23. Le Commissaire et les fonctionnaires et employés nommés en vertu de l'article 21, sont censés être des employés de la Fonction publique aux fins de la *Loi sur la pension de la Fonction publique*. 1968-69, c. 54, art. 23.

Loi sur la
pension de la
Fonction
publique

Functions and
duties of
Commissioner

24. The Commissioner shall carry out such

24. Le Commissaire exerce les fonctions

Fonctions du
Commissaire

functions and duties as are assigned to him by this Act or any other Act of the Parliament of Canada, and may carry out or engage in such other related assignments or activities as may be authorized by the Governor in Council. 1968-69, c. 54, s. 24.

que lui confèrent la présente loi et toute autre loi du Parlement du Canada, et il peut accomplir ou entreprendre les autres tâches ou activités connexes que peut autoriser le gouverneur en conseil. 1968-69, c. 54, art. 24.

Duty of Commissioner under Act

25. It is the duty of the Commissioner to take all actions and measures within his authority 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 the institutions of the Parliament and Government of Canada and, for that purpose, to conduct and carry out investigations either on his own initiative or pursuant to any complaint made to him and to report and make recommendations with respect thereto as provided in this Act. 1968-69, c. 54, s. 25.

25. Il incombe au Commissaire de prendre, dans les limites de ses pouvoirs, toutes les mesures propres à faire reconnaître le statut de chacune des langues officielles et à faire respecter l'esprit de la présente loi et l'intention du législateur dans l'administration des affaires des institutions du Parlement et du gouvernement du Canada. A cette fin, il procédera à des instructions, soit de sa propre initiative, soit à la suite des plaintes reçues par lui et fera les rapports et recommandations prévus en l'occurrence par la présente loi. 1968-69, c. 54, art. 25.

Devoirs du Commissaire en vertu de la loi

Investigation of complaints

26. (1) Subject to this Act, the Commissioner shall investigate any complaint made to him to the effect that, in any particular instance or case,

26. (1) Sous toutes réserves prévues par la présente loi, le Commissaire instruira toute plainte reçue par lui et énonçant que, dans un cas particulier,

Instruction des plaintes

- (a) the status of an official language was not or is not being recognized, or
- (b) the spirit and intent of this Act was not or is not being complied with

- a) le statut d'une langue officielle n'a pas été ou n'est pas reconnu, ou
- b) l'esprit de la présente loi et l'intention du législateur n'ont pas été ou ne sont pas respectés

in the administration of the affairs of any of the institutions of the Parliament or Government of Canada.

dans l'administration des affaires de l'une des institutions du Parlement ou du gouvernement du Canada.

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.

(2) Une plainte peut être déposée devant le Commissaire par toute personne ou tout groupe de personnes, soit que ces personnes parlent ou non la langue officielle dont le statut ou l'emploi sont en cause, soit qu'elles représentent ou non un groupe parlant cette langue.

Qui peut déposer une plainte

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, he may in his discretion refuse to investigate the matter further.

(3) Si, au cours de l'instruction d'une plainte, le Commissaire estime, compte tenu de toutes les circonstances de l'affaire, qu'il n'est pas nécessaire de poursuivre l'instruction, il peut, à sa discrétion, refuser d'instruire l'affaire plus avant.

Arrêt de l'instruction

Right of Commissioner to refuse or cease investigation

(4) The Commissioner may, in his discretion, refuse to investigate or cease to investigate any complaint if in his opinion

(4) Le Commissaire peut, à sa discrétion, refuser ou cesser d'instruire une plainte si, à son avis,

Le Commissaire a le droit de refuser ou de cesser d'instruire

- (a) the subject-matter of the complaint is trivial,
- (b) the complaint is frivolous or vexatious or is not made in good faith, or

- a) l'objet de la plainte est sans importance,
- b) la plainte est futile ou vexatoire ou n'a pas été faite de bonne foi, ou
- c) l'objet de la plainte n'implique pas une

	(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 his authority under this Act.	contravention à la présente loi ou une chose contraire à son esprit et à l'intention du législateur ou, pour toute autre raison, ne relève pas de la compétence que lui confère la présente loi.	
Complainant to be notified	(5) Where the Commissioner decides to refuse to investigate or cease to investigate any complaint, he shall inform the complainant of his decision and shall give his reasons therefor. 1968-69, c. 54, s. 26.	(5) Si le Commissaire décide de refuser ou de cesser d'instruire une plainte, il informera le plaignant de sa décision et devra donner les raisons qui la motivent. 1968-69, c. 54, art. 26.	Avis au plaignant
Notice of intention to investigate	27. Before carrying out any investigation under this Act, the Commissioner shall inform the deputy head or other administrative head of any department or other institution concerned of his intention to carry out the investigation. 1968-69, c. 54, s. 27.	27. Avant de procéder à une instruction en vertu de la présente loi, le Commissaire fera connaître, au sous-chef ou autre chef administratif de tout ministère ou département ou de toute autre institution en cause, son intention de procéder à l'instruction. 1968-69, c. 54, art. 27.	Préavis de l'instruction
Investigation to be conducted in private	28. (1) Every investigation by the Commissioner under this Act shall be conducted in private.	28. (1) Toute instruction effectuée par le Commissaire en vertu de la présente loi sera secrète.	L'instruction est secrète
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 for his making a report or recommendation that may adversely affect any individual or any department or other institution, he shall, before completing the investigation, take every reasonable measure to give to that individual, department 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. 1968-69, c. 54, s. 28.	(2) Le Commissaire n'est pas obligé de tenir d'audience, et personne ne peut, de plein droit, exiger d'être entendu par lui. Toutefois, si au cours d'une instruction, le Commissaire estime qu'il peut y avoir des motifs suffisants pour faire un rapport ou une recommandation susceptibles de nuire à un particulier ou à un ministère, un département ou une autre institution, il prendra, avant de terminer l'instruction, toute mesure raisonnable pour donner à ce particulier, ce ministère, ce département ou cette institution pleine et entière possibilité de répondre aux allégations défavorables ou aux critiques et, à cette fin, de se faire assister ou représenter par un avocat. 1968-69, c. 54, art. 28.	Possibilité de répondre aux allégations et aux critiques
Regulation of procedure	29. (1) Subject to this Act, the Commissioner may regulate the procedure to be followed by him in carrying out any investigation under this Act.	29. (1) Sous toutes réserves prévues par la présente loi, le Commissaire peut établir les règles de procédure qu'il suivra lors de toute instruction faite en vertu de la présente loi.	Règles de procédure
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 Commissioner appointed as provided in section 21 and such 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 such information.	(2) Le Commissaire peut ordonner que les renseignements relatifs à une instruction faite en vertu de la présente loi soient reçus ou obtenus, en tout ou en partie, par un fonctionnaire nommé en vertu de l'article 21. Ce fonctionnaire aura, sous réserve des restrictions ou limitations que peut spécifier le Commissaire, toutes les attributions conférées au Commissaire par la présente loi en ce qui concerne la réception ou l'obtention de ces renseignements.	Réception et obtention de renseignements par un fonctionnaire désigné

Compliance
with security
requirements

(3) The Commissioner shall require every person employed in his office who is directed by him to receive or obtain information relating to any investigation under this Act to comply with any security requirements applicable to, and to take any oath of secrecy required to be taken by, persons employed in any department or other institution concerned in the matter of the investigation. 1968-69, c. 54, s. 29.

(3) Le Commissaire exigera que toute personne, employée dans son bureau et à laquelle il ordonne de recevoir ou d'obtenir des renseignements concernant une instruction faite en vertu de la présente loi, se conforme aux exigences de sécurité applicables aux personnes employées dans un ministère, un département ou une autre institution que l'objet de l'instruction concerne et prête tout serment professionnel qu'elle est tenue de prêter. 1968-69, c. 54, art. 29.

Exigences de
sécurité

Powers of
Commissioner in
carrying out
investigations

30. The Commissioner has, in relation to the carrying out of any investigation under this Act, 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 he sees fit, whether or not such evidence or information is or would be admissible in a court of law; and

(d) subject to such limitations as the Governor in Council in the interests of defence or security may prescribe, to enter any premises occupied by any department or other institution of the Parliament or Government of Canada and carry out therein such inquiries within his authority under this Act as he sees fit. 1968-69, c. 54, s. 30.

30. Lorsqu'il procède à une instruction en vertu de la présente loi, le Commissaire a le pouvoir

a) de convoquer des témoins et de les obliger à comparaître et à déposer sous serment ou à fournir sous serment des preuves écrites ainsi qu'à produire les documents et autres pièces qu'il estime indispensables pour instruire et examiner à fond toute question relevant de sa compétence en vertu de la présente loi, de la même manière et dans la même mesure qu'une cour supérieure d'archives;

b) de faire prêter serment;

c) de recevoir et d'accepter, dans la mesure où il le juge à propos, les dépositions faites et les preuves et autres renseignements fournis sous serment, par affidavit ou autrement, que ces dépositions, preuves ou renseignements soient admissibles ou non devant un tribunal judiciaire; et

d) sous réserve des restrictions que peut prescrire le gouverneur en conseil dans l'intérêt de la défense ou de la sécurité, de pénétrer en tout lieu occupé par un ministère, un département ou une autre institution du Parlement ou du gouvernement du Canada et d'y faire, dans les limites de la compétence que lui confère la présente loi, les enquêtes qu'il juge à propos. 1968-69, c. 54, art. 30.

Pouvoirs du
Commissaire
lorsqu'il procède
à une
instruction

Conclusion of
investigation

31. (1) This section applies where, after carrying out any investigation under this Act, the Commissioner is of the opinion that an act or omission that was the subject of the investigation is or was or appears to be or have been

(a) contrary to the provisions of this Act;

(b) contrary to the spirit and intent of this Act but in accordance with the provisions of any other Act of the Parliament of

31. (1) Le présent article s'applique lorsque, après avoir procédé à une instruction en vertu de la présente loi, le Commissaire est d'avis que l'acte ou l'omission qui ont fait l'objet de l'instruction sont, étaient ou paraissent être ou avoir été

a) contraires aux dispositions de la présente loi;

b) contraires à l'esprit de la présente loi et à l'intention du législateur mais conformes

Clôture de
l'instruction

Canada or any regulations thereunder, or in accordance with a practice that leads or is likely to lead to any involuntary contravention of this Act; or

(c) based wholly or partly on mistake or inadvertence.

Opinion and reasons to be reported

(2) Where the Commissioner is of opinion (a) that the act or omission that was the subject of the investigation should be referred to any department or other institution concerned for consideration and action if necessary,

(b) that any Act or regulations thereunder described in paragraph (1)(b) should be reconsidered or any practice described in that paragraph should be altered or discontinued, or

(c) that any other action should be taken, the Commissioner shall report his opinion and his reasons therefor to the Clerk of the Privy Council and the deputy head or other administrative head of any department or other institution concerned and may in his report make such recommendations with respect thereto as he thinks fit, and, in any such case, may request the department or other institution concerned to notify him within a specified time of the action, if any, that it proposes to take to give effect to his recommendations. 1968-69, c. 54, s. 31.

Where investigation carried out pursuant to complaint

32. In the case of an investigation carried out by the Commissioner pursuant to any complaint made to him, the Commissioner shall inform the complainant, and any individual, department or institution by whom or on whose behalf any answer relating to the complaint has been made pursuant to subsection 28(2), in such manner and at such time as he thinks proper, of the results of the investigation and, where any recommendations have been made by the Commissioner under section 31 but no action that seems to him to be adequate and appropriate is taken thereon within a reasonable time after the making of the recommendations, he may inform the complainant of his recommendations and make such comments thereon as he thinks proper and, in any such case, shall provide a copy of such recommendations and comments to any individual whom he is

aux dispositions de toute autre loi du Parlement du Canada ou de tout règlement y afférent, ou conformes à une pratique qui conduit ou risque de conduire à une contravention involontaire à la présente loi; ou

c) fondés en tout ou en partie sur l'erreur ou l'inattention.

(2) Si le Commissaire est d'avis

a) que la question soulevée par l'acte ou l'omission qui ont fait l'objet de l'instruction doit être renvoyée à un ministère, un département ou une autre institution en cause pour examen et suite à donner si nécessaire,

b) qu'une loi ou des règlements y afférents, visés à l'alinéa (1)b), doivent être reconsidérés ou qu'une pratique visée dans cet alinéa doit être modifiée ou abandonnée, ou

c) qu'une autre mesure doit être prise,

le Commissaire fera, au greffier du Conseil privé et au sous-chef ou autre chef administratif du ministère, du département ou de toute autre institution en cause, un rapport dans lequel il donnera son avis et les raisons qui le motivent. Il pourra y faire les recommandations qu'il juge appropriées et, en l'occurrence, demander au ministère, au département ou à toute autre institution en cause de l'aviser, dans un délai spécifié, des mesures qu'ils se proposent de prendre, le cas échéant, pour donner effet à ses recommandations. 1968-69, c. 54, art. 31.

Avis et raisons donnés dans un rapport

Instruction à la suite d'une plainte

32. Dans le cas d'une instruction à laquelle le Commissaire a procédé à la suite d'une plainte reçue par lui, le Commissaire communiquera au plaignant, et aux particuliers, ministères, départements ou institutions par lesquels ou pour lesquels une réponse relative à la plainte a été faite en conformité du paragraphe 28(2), les résultats de l'instruction, de la manière et au moment qu'il estime convenables et, lorsque des recommandations ont été faites par le Commissaire en vertu de l'article 31, mais qu'aucune mesure lui paraissant suffisante et appropriée n'est prise dans un délai raisonnable après la communication de ses recommandations, il peut communiquer au plaignant ses recommandations et faire à leur sujet les commentaires qu'il juge à propos et, en ce cas, il doit fournir une copie de ces recommandations et commentaires aux particuliers auxquels le présent

required by this section to inform of the results of the investigation. 1968-69, c. 54, s. 32.

article l'oblige à communiquer les résultats de l'instruction. 1968-69, c. 54, art. 32.

Report to Parliament where appropriate action not taken

33. (1) If within a reasonable time after the making of a report containing any recommendations under section 31, no action is taken thereon that seems to the Commissioner to be adequate and appropriate, the Commissioner, in his discretion and after considering any reply made by or on behalf of any department or other institution concerned, may transmit a copy of the report and recommendations to the Governor in Council and may thereafter make such report thereon to Parliament as he deems appropriate.

33. (1) Si aucune mesure lui paraissant suffisante et appropriée n'est prise dans un délai raisonnable après la communication d'un rapport contenant des recommandations faites en vertu de l'article 31, le Commissaire, à sa discrétion et après avoir examiné toute réponse faite par un ministère, un département ou une autre institution en cause, ou pour leur compte, peut transmettre au gouverneur en conseil, un exemplaire du rapport et des recommandations et il peut, par la suite, faire à ce sujet au Parlement le rapport qu'il juge approprié.

A défaut de mesures suffisantes, rapport au Parlement

Contents of report

(2) The Commissioner may disclose in any report made by him under this section such matters as in his opinion ought to be disclosed in order to establish the grounds for his conclusions and recommendations, 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.

(2) Le Commissaire peut divulguer, dans tout rapport établi par lui en vertu du présent article, ce qui, à son avis, doit être divulgué pour fonder ses conclusions et recommandations mais il doit, ce faisant, prendre toutes précautions raisonnables pour éviter toute divulgation qui porterait ou pourrait porter préjudice à la défense ou à la sécurité du Canada ou de tout État allié ou associé.

Contenu du rapport

Reply to be attached to report

(3) The Commissioner shall attach to every report made by him under this section a copy of any reply made by or on behalf of any department or other institution concerned. 1968-69, c. 54, s. 33.

(3) Le Commissaire joindra à tout rapport, établi par lui en vertu du présent article, une copie des réponses faites par un ministère, un département ou une autre institution en cause, ou pour leur compte. 1968-69, c. 54, art. 33.

Réponse à joindre au rapport

Annual report

34. (1) In addition to any report that may be made by him under section 33, the Commissioner shall each year prepare and submit to Parliament a statement 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 any proposed changes in this Act that he deems necessary or desirable in order that effect may be given to this Act according to its spirit and intent.

34. (1) Outre les rapports faits par lui en vertu de l'article 33, le Commissaire établira et soumettra chaque année au Parlement une déclaration relative à l'exercice de ses fonctions en vertu de la présente loi au cours de l'année précédente. Il inclura, le cas échéant, les recommandations par lesquelles il propose d'apporter à la présente loi les modifications qu'il estime nécessaires ou souhaitables pour permettre de donner effet à la présente loi conformément à son esprit et à l'intention du législateur.

Rapport annuel

Transmission of report

(2) Every report or statement to Parliament made by the Commissioner under section 33 or this section 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.

(2) La soumission des rapports et déclarations que le Commissaire fait au Parlement en vertu de l'article 33 ou du présent article, se fera par transmission au président du Sénat et à l'Orateur de la Chambre des communes qui les déposeront devant leurs Chambres respectives.

Transmission des rapports

Combining of reports

(3) The Commissioner may, instead of

(3) Au lieu de faire au Parlement, en vertu

Inclusion du rapport dans la déclaration annuelle

making a separate report to Parliament under section 33 on the matter of any investigation carried out by him under this Act, include such report in his annual statement to Parliament made under this section unless, in his opinion, the nature of the report is such that it ought to be brought to the attention of Parliament without delay. 1968-69, c. 54, s. 34.

de l'article 33, un rapport sur chaque instruction à laquelle il a procédé en vertu de la présente loi, le Commissaire peut inclure ce rapport dans la déclaration annuelle qu'il fait au Parlement en vertu du présent article, sauf si, à son avis, la nature du rapport est telle qu'il y a lieu de le porter sans retard à l'attention du Parlement. 1968-69, c. 54, art. 34.

GENERAL

Regulations

35. The Governor in Council may make such regulations as he deems necessary to effect compliance with this Act in the conduct of the affairs of the Government of Canada and departments and agencies of the Government of Canada. 1968-69, c. 54, s. 35.

DISPOSITIONS GÉNÉRALES

Règlements

35. Le gouverneur en conseil peut établir les règlements qu'il estime nécessaires pour assurer le respect de la présente loi dans la conduite des affaires du gouvernement du Canada et de ses ministères, départements et organismes. 1968-69, c. 54, art. 35.

INTERPRETATION

Definitions

36. (1) In this Act

"court of record"

"court of record" means any body that, under the Act by or pursuant to which it is established, is or is declared to be a court of record;

"Crown corporation"

"Crown corporation" means a Crown corporation as defined in Part VIII of the *Financial Administration Act*;

"enactment"

"enactment" means any Act of the Parliament of Canada including this Act and any rule, order, regulation, by-law or proclamation described in section 4;

"National Capital Region"

"National Capital Region" means the National Capital Region described in the schedule to the *National Capital Act*.

"Mother tongue"

(2) For the purposes of this Act, the "mother tongue" spoken by persons in any area of Canada means, in relation to any determination thereof required to be made under this Act, the language first learned in childhood by such persons and still understood by them, as ascertained by the decennial census taken immediately preceding the determination.

Reference to institutions

(3) For the purposes of this Act, a reference to the institutions or any of the institutions of the Parliament or Government of Canada shall be deemed to include the Canadian Forces and the Royal Canadian Mounted

INTERPRÉTATION

Définitions

36. (1) Dans la présente loi

«corporation de la Couronne» désigne une corporation de la Couronne définie à la Partie VIII de la *Loi sur l'administration financière*;

«cour d'archives» désigne un organisme qui, aux termes de la loi en vertu de laquelle il est créé, est, ou est déclaré être, une cour d'archives;

«région de la Capitale nationale» désigne la région de la Capitale nationale délimitée à l'annexe de la *Loi sur la Capitale nationale*;

«texte législatif» désigne toute loi du Parlement du Canada, y compris la présente loi, ainsi qu'une règle, une ordonnance, un décret, un règlement ou une proclamation visés à l'article 4.

«corporation de la Couronne»

«cour d'archives»

«région de la Capitale nationale»

«texte législatif»

(2) Aux fins de la présente loi, la «langue maternelle» parlée par des résidents d'une subdivision du Canada désigne, dans tous les cas où la présente loi exige qu'elle soit déterminée, la langue que ces personnes ont apprise en premier lieu dans leur enfance et qu'elles comprennent encore, selon les constatations faites à l'occasion du recensement décennal immédiatement antérieur à la détermination.

«Langue maternelle»

(3) Aux fins de la présente loi, la mention des institutions du Parlement ou du gouvernement du Canada est censée inclure les Forces canadiennes et la Gendarmerie royale du Canada.

Mention des institutions

Police.

S. 115 of
Criminal Code
not applicable

(4) For greater certainty it is hereby declared that section 115 of the *Criminal Code* does not apply to or in respect of any contravention or alleged contravention of any provision of this Act. 1968-69, c. 54, s. 36.

(4) Pour plus de certitude, il est par les présentes déclaré que l'article 115 du *Code criminel* ne s'applique pas en ce qui concerne une infraction ou une infraction alléguée à toute disposition de la présente loi. 1968-69, c. 54, art. 36.

L'art. 115 du
Code criminel ne
s'applique pas

References in
Acts of
Parliament to
the "official
languages"

37. In every Act of the Parliament of Canada, a reference to the "official languages" or the "official languages of Canada" shall be construed as a reference to the languages declared by section 2 of this Act to be the official languages of Canada for all purposes of the Parliament and Government of Canada. 1968-69, c. 54, s. 37.

37. Dans toutes les lois du Parlement du Canada, la mention des «langues officielles» ou des «langues officielles du Canada» sera interprétée comme une mention des langues que l'article 2 de la présente loi déclare être les langues officielles du Canada pour tout ce qui relève du Parlement et du gouvernement du Canada. 1968-69, c. 54, art. 37.

Mention des
«langues
officielles» dans
les lois du
Parlement

Rights and
privileges
respecting other
languages

38. Nothing in this Act shall be construed as derogating from or diminishing in any way any legal or customary right or privilege acquired or enjoyed either before or after the 7th day of September 1969 with respect to any language that is not an official language. 1968-69, c. 54, s. 38.

38. Aucune des dispositions de la présente loi ne sera interprétée comme affectant ou diminuant de quelque manière les droits ou privilèges acquis ou possédés en vertu de la loi ou de la coutume soit avant, soit après le 7 septembre 1969, en ce qui concerne les langues autres que les langues officielles. 1968-69, c. 54, art. 38.

Les droits et
privilèges
afférents aux
autres langues

ORDERLY ADAPTATION TO ACT

Authority to
defer or suspend
immediate
application of
Act

39. (1) Where upon the submission of any Minister it is established to the satisfaction of the Governor in Council that the immediate application of any provision of this Act to any department or other institution of the Parliament or Government of Canada (hereinafter in this section called an "authority") or in respect of any service provided or made available by it

(a) would unduly prejudice the interests of the public served by the authority, or

(b) would be seriously detrimental to the good government of the authority, employer and employee relations or the effective management of its affairs,

the Governor in Council may by order defer or suspend the application of any such provision to the authority or in respect of any such service for such period, not exceeding sixty months from the 6th day of September 1969, as the Governor in Council deems necessary or expedient.

Terms of order
and directions

(2) Any order made under this section may contain such directions and be subject to such terms and conditions as the Governor in Council deems appropriate to ensure the

ADAPTATION PROGRESSIVE À LA LOI

39. (1) Lorsque, à la suite des observations d'un ministre, il est établi à la satisfaction du gouverneur en conseil que l'application immédiate d'une disposition de la présente loi à un ministère, un département ou une autre institution du Parlement ou du gouvernement du Canada (que le présent article désigne ci-après sous le nom d'«autorité») ou à un service fourni ou offert par eux

a) nuirait indûment aux intérêts du public desservi par l'autorité, ou

b) nuirait sérieusement à l'administration de l'autorité, aux relations entre employeur et employés ou à la gestion de ses affaires,

le gouverneur en conseil peut, par décret, différer ou suspendre l'application d'une telle disposition à cette autorité ou à ce service pendant la période, comprise dans les soixante mois suivant le 6 septembre 1969, que le gouverneur en conseil juge nécessaire ou opportune.

Pouvoir de
différer ou
suspendre
l'application de
la loi

(2) Un décret rendu en vertu du présent article peut contenir les directives et être assujéti aux modalités que le gouverneur en conseil estime appropriées pour faire appliquer

Modalités et
directives du
décret

earliest possible application of any deferred or suspended provision provided for in the order, and in addition may prescribe different periods, not exceeding in any case the maximum period provided for under subsection (1), for different operations carried on or services performed or made available by the authority, to or in respect of which the application of any such provision is deferred or suspended.

Order to be laid
before
Parliament

(3) A copy of any order made under this section, together with a report thereon by the Governor in Council setting forth concisely the reasons for its making, shall be laid before Parliament within fifteen days after the making of the order or, if Parliament is not then sitting, on any of the first fifteen days next thereafter that Parliament is sitting.

Duty in relation
to appointment
and
advancement of
personnel

(4) In relation to the appointment and advancement in employment of personnel the duties of whose positions include duties relating to the provision of services by authorities to members of the public, it is the duty

(a) of the Public Service Commission, in cases where it has the authority to make appointments, and

(b) of the authority concerned, in all other cases,

to ensure that, in the exercise and performance of the powers, duties and functions conferred or imposed upon it by law, due account is taken of the purposes and provisions of this Act, subject always to the maintenance of the principle of selection of personnel according to merit as required by the *Public Service Employment Act*, 1968-69, c. 54, s. 40.

le plus rapidement possible toute disposition différée ou suspendue par le décret. Il peut en outre prescrire, sans jamais dépasser la période maximale prévue par le paragraphe (1), différentes périodes pour différentes opérations effectuées par l'autorité ou pour différents services rendus ou offerts par elle, lorsque l'application d'une telle disposition à ces opérations ou services est différée ou suspendue.

Dépôt du décret
au Parlement

(3) Un exemplaire d'un décret rendu en vertu du présent article, ainsi qu'un rapport du gouverneur en conseil relatif à ce décret et énonçant brièvement les raisons pour lesquelles il a été rendu, seront déposés au Parlement dans les quinze jours de la date du décret, ou, si le Parlement n'est pas alors en session, l'un des quinze premiers jours où il siégera par la suite.

Nomination et
avancement du
personnel

(4) En ce qui concerne la nomination et l'avancement du personnel dont les postes comportent des fonctions relatives à la fourniture de services au public par des autorités, il incombe

a) à la Commission de la Fonction publique, dans les cas où elle exerce l'autorité de faire des nominations, et,

b) dans tous les autres cas, à l'autorité intéressée,

de veiller à ce que, dans l'exercice des pouvoirs et fonctions qui lui sont imposés ou conférés par la loi, il est dûment tenu compte des objets et des dispositions de la présente loi, mais toujours sous réserve du maintien du principe de la sélection du personnel établie au mérite comme l'exige la *Loi sur l'emploi dans la Fonction publique*, 1968-69, c. 54, art. 40.



CANADA

CONSOLIDATION

CODIFICATION

Official Languages Act

Loi sur les langues officielles

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

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

NOTE

[1988, c. 38, assented to 28th July, 1988]

NOTE

[1988, ch. 38, sanctionné le 28 juillet 1988]

Current to March 18, 2018

À jour au 18 mars 2018

Last amended on September 21, 2017

Dernière modification le 21 septembre 2017

OFFICIAL STATUS OF CONSOLIDATIONS

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 18, 2018. The last amendments came into force on September 21, 2017. Any amendments that were not in force as of March 18, 2018 are set out at the end of this document under the heading “Amendments Not in Force”.

CARACTÈRE OFFICIEL DES CODIFICATIONS

Les paragraphes 31(1) et (2) de la *Loi sur la révision et la codification des textes législatifs*, en vigueur le 1^{er} 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 18 mars 2018. Les dernières modifications sont entrées en vigueur le 21 septembre 2017. Toutes modifications qui n'étaient pas en vigueur au 18 mars 2018 sont énoncées à la fin de ce document sous le titre « Modifications non en vigueur ».

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

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

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

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

Short title

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

Purpose of Act

Purpose

2 The purpose of this Act is to

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

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

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

Titre abrégé

Titre abrégé

1 *Loi sur les langues officielles*.

Objet

Objet

2 La présente loi a pour objet :

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

b) d'appuyer le développement des minorités francophones et anglophones et, d'une façon générale, de favoriser, au sein de la société canadienne, la progression vers l'égalité de statut et d'usage du français et de l'anglais;

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

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

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

Définitions

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; (*institutions fédérales*)

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.

R.S., 1985, c. 31 (4th Supp.), s. 3; 1993, c. 28, s. 78; 2002, c. 7, s. 224; 2004, c. 7, s. 26; 2006, c. 9, s. 20; 2014, c. 2, s. 39; 2015, c. 36, s. 144; 2017, c. 20, s. 179.

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.

Définition de *tribunal*

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

L.R. (1985), ch. 31 (4^e suppl.), art. 3; 1993, ch. 28, art. 78; 2002, ch. 7, art. 224; 2004, ch. 7, art. 26; 2006, ch. 9, art. 20; 2014, ch. 2, art. 39; 2015, ch. 36, art. 144; 2017, ch. 20, art. 179.

PARTIE I

Débats et travaux parlementaires

Langues officielles du Parlement

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

Interprétation simultanée

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

Journal des débats

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

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.

Prérogative

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

Exceptions

(3) Le paragraphe (1) ne s'applique pas aux textes suivants 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.

L.R. (1985), ch. 31 (4^e suppl.), art. 7; 1993, ch. 28, art. 78; 2002, ch. 7, art. 225; 2014, ch. 2, art. 40.

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 comparaît 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 (4^e 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 (4^e 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'établisse le caractère abusif du délai de l'avis l'informant de ce choix. Faute de choix ou d'accord entre les autres parties, elle utilise la langue officielle la plus justifiée dans les circonstances.

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

Décisions orales

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

Précision

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

PARTIE IV

Communications avec le public et prestation des services

Communications et services

Droits en matière de communication

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

Langues des communications et services

22 Il incombe aux institutions fédérales de veiller à ce que le public puisse communiquer avec leur siège ou leur administration centrale, et en recevoir les services, dans l'une ou l'autre des langues officielles. Cette obligation vaut également pour leurs bureaux — auxquels sont assimilés, pour l'application de la présente partie, tous autres lieux où ces institutions offrent des services — situés soit dans la région de la capitale nationale, soit là où, au Canada comme à l'étranger, l'emploi de cette langue fait l'objet d'une demande importante.

Voyageurs

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

Services conventionnés

(2) Il incombe aux institutions fédérales de veiller à ce que, dans les bureaux visés au paragraphe (1), les services réglementaires offerts aux voyageurs par des tiers

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

conventionnés par elles à cette fin le soient, dans les deux langues officielles, selon les modalités réglementaires.

Vocation du bureau

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

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

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 (4^e suppl.), art. 24; 2005, ch. 46, art. 56.5; 2006, ch. 9, art. 96 et 222.

(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

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

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 une 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.

R.S., 1985, c. 31 (4th Suppl.), s. 33; 2004, c. 7, s. 27; 2006, c. 9, s. 21; 2015, c. 36, s. 145; 2017, c. 20, s. 180.

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.

L.R. (1985), ch. 31 (4^e suppl.), art. 33; 2004, ch. 7, art. 27; 2006, ch. 9, art. 21; 2015, ch. 36, art. 145; 2017, ch. 20, art. 180.

PARTIE V**Langue de travail****Droits en matière de langue de travail**

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

Obligations des institutions fédérales

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

- a)** dans la région de la capitale nationale et dans les régions ou secteurs du Canada ou lieux à l'étranger désignés, leur milieu de travail soit propice à l'usage effectif des deux langues officielles tout en permettant à 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

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

Minimum duties in relation to prescribed regions

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

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

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

(ii) regularly and widely used 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

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

Obligations minimales dans les régions désignées

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

a) de fournir à 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 1^{er} janvier 1991 puissent être utilisés dans l’une ou l’autre des langues officielles;

c) de veiller à ce que, là où il est indiqué de le faire pour que le milieu de travail soit propice à l’usage effectif des deux langues officielles, les supérieurs 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

Autres obligations

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

Obligations particulières

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

Règlements

38 (1) Le gouverneur en conseil peut, par règlement visant les institutions fédérales autres que le Sénat, la Chambre des communes, la bibliothèque du Parlement, le bureau du conseiller sénatorial en éthique, le bureau du commissaire aux conflits d'intérêts et à l'éthique, le Service de protection parlementaire ou le bureau du directeur parlementaire du budget :

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

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

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

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 Suppl.), s. 38; 2004, c. 7, s. 28; 2006, c. 9, s. 22; 2015, c. 36, s. 146; 2017, c. 20, s. 181.

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

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

Idem

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

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

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

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

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

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

L.R. (1985), ch. 31 (4^e suppl.), art. 38; 2004, ch. 7, art. 28; 2006, ch. 9, art. 22; 2015, ch. 36, art. 146; 2017, ch. 20, art. 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 in respect of federal institutions, other than the Senate, House of Commons, Library of Parliament, office of the Senate Ethics Officer, office of the Conflict of Interest and Ethics Commissioner, Parliamentary Protective Service or office of the Parliamentary Budget Officer, prescribing the manner in which any duties of those institutions under this Part are to be carried out.

R.S., 1985, c. 31 (4th Suppl.), s. 41; 2005, c. 41, s. 1; 2006, c. 9, s. 23; 2015, c. 36, s. 147; 2017, c. 20, s. 182.

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.

R.S., 1985, c. 31 (4th Suppl.), s. 42; 1995, c. 11, s. 27.

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;

PARTIE VII

Promotion du français et de l'anglais

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.

L.R. (1985), ch. 31 (4^e suppl.), art. 41; 2005, ch. 41, art. 1; 2006, ch. 9, art. 23; 2015, ch. 36, art. 147; 2017, ch. 20, art. 182.

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.

L.R. (1985), ch. 31 (4^e suppl.), art. 42; 1995, ch. 11, art. 27.

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 (4^e 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 (4^e 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

services fédéraux, provinciaux, municipaux, ainsi que ceux liés à l'instruction, dans les deux langues officielles.

PARTIE VIII

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

Mission du Conseil du Trésor

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

Attributions

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

- a)** 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.

L.R. (1985), ch. 31 (4^e suppl.), art. 46; 2004, ch. 7, art. 29; 2006, ch. 9, art. 24; 2015, ch. 36, art. 148; 2017, ch. 20, art. 183.

(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 termination of each financial year, submit an annual report to Parliament on the status of programs relating to the official languages of Canada in the various federal institutions in respect of which it has responsibility under section 46.

PART IX

Commissioner of Official Languages

Office of the Commissioner

Appointment

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

Tenure

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

Further terms

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

Interim appointment

(4) In the event of the absence or incapacity of the Commissioner or if that office is vacant, the Governor in Council may appoint any qualified person to hold that

Rapport envoyé au commissaire

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

L.R. (1985), ch. 31 (4^e 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 exercice, 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 fédérales visées par sa mission.

PARTIE IX

Commissaire aux langues officielles

Commissariat

Nomination

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

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.

Salary and expenses

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

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

Staff

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

Technical assistance

52 The Commissioner may engage, on a temporary basis, the services of persons having technical or specialized knowledge of any matter relating to the work of the Commissioner to advise and assist the Commissioner in the performance of the duties of his office and, with the approval of the Treasury Board, may fix and pay the remuneration and expenses of those persons.

Public Service Superannuation Act

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

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'administrateur général de ministère; il se consacre à sa charge à l'exclusion de tout autre poste au service de Sa Majesté ou de tout autre emploi.

Traitement et indemnités

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

L.R. (1985), ch. 31 (4^e 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 commissariat 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 (4^e 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 administrateurs 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,

Mandat du commissaire

Fonctions du commissaire

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

Mission

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

Enquêtes

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

Examen des règlements et instructions

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

Plaintes et enquêtes

Plaintes

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

(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.

Dépôt d'une plainte

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

Interruption de l'instruction

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

Refus d'instruire

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

- a) elle est sans importance;
- b) elle est futile ou vexatoire ou n'est pas faite de bonne foi;
- c) son objet ne constitue pas une contravention à la présente loi ou une violation de son esprit et de l'intention du législateur ou, pour toute autre raison, ne relève pas de la compétence du commissaire.

Avis au plaignant

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

Préavis d'enquête

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

Secret des enquêtes

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

Opportunity to answer allegations and criticisms

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

Procedure

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

Receiving and obtaining of information by officer designated

(2) The Commissioner may direct that information relating to any investigation under this Act be received or obtained, in whole or in part, by any officer 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.

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

Droit de réponse

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

Procédure

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

Délégation pour la collecte de renseignements

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

Pouvoir d'enquête

62 (1) Pour les enquêtes, à l'exclusion de celles relatives à la partie III, qu'il mène en vertu de la présente loi, le commissaire a le pouvoir :

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

d'une institution fédérale et d'y procéder, dans le cadre de la compétence que lui confère la présente loi, aux enquêtes qu'il juge à propos.

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;

c) soit que d'autres mesures devraient être prises.

Facteurs additionnels

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

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

Suivi

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

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.

Divulgarion 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.

Divuligation

73 Le commissaire peut communiquer ou autoriser les personnes agissant en son nom ou sous son autorité à communiquer :

(a) that, in the opinion of the Commissioner, is necessary to carry out an investigation under this Act; or

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

No summons

74 The Commissioner or any person acting on behalf or under the direction of the Commissioner is not a compellable witness, in respect of any matter coming to the knowledge of the Commissioner or that person as a result of performing any duties or functions under this Act during an investigation, in any proceedings other than proceedings before the Federal Court under Part X or an appeal therefrom.

Protection of Commissioner

75 (1) No criminal or civil proceedings lie against the Commissioner, or against any person acting on behalf or under the direction of the Commissioner, for anything done, reported or said in good faith in the course of the exercise or performance or purported exercise or performance of any power, duty or function of the Commissioner under this Act.

Libel or slander

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

(a) anything said, any information supplied or any document or thing produced in good faith in the course of an investigation by or on behalf of the Commissioner under this Act is privileged; and

(b) any report made in good faith by the Commissioner under this Act and any fair and accurate account of the report made in good faith in a newspaper or any other periodical publication or in a broadcast is privileged.

PART X

Court Remedy

Definition of *Court*

76 In this Part, **Court** means the Federal Court.

R.S., 1985, c. 31 (4th Suppl.), s. 76; 2002, c. 8, s. 183.

Application for remedy

77 (1) 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

74 En ce qui concerne les questions venues à leur connaissance au cours d'une enquête, dans l'exercice de leurs attributions, le commissaire et les personnes qui agissent en son nom ou sous son autorité ont qualité pour témoigner, mais ne peuvent y être contraints que lors des circonstances visées à l'alinéa 73b).

Immunité

75 (1) Le commissaire — ou toute personne qui agit en son nom ou sous son autorité — bénéficie de l'immunité civile ou pénale pour les actes accomplis, les rapports ou comptes rendus établis et les paroles prononcées de bonne foi dans l'exercice effectif ou censé tel de ses attributions.

Diffamation

(2) Ne peuvent donner lieu à poursuite pour diffamation verbale ou écrite ni les paroles prononcées, les renseignements fournis ou les documents ou autres pièces produits de bonne foi au cours d'une enquête menée par le commissaire ou en son nom, ni les rapports ou comptes rendus établis de bonne foi par celui-ci dans le cadre de la présente loi. Sont également protégées les relations qui sont faites de bonne foi par la presse écrite ou audiovisuelle.

PARTIE X

Recours judiciaire

Définition de *tribunal*

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

L.R. (1985), ch. 31 (4^e suppl.), art. 76; 2002, ch. 8, art. 183.

Recours

77 (1) Quiconque a saisi le commissaire d'une plainte visant une obligation ou un droit prévus 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.

1985, c. 31 (4th Suppl.), s. 77; 2005, c. 41, s. 2.

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;

et 10 à 13 ou aux parties IV, V, ou VII, ou fondée sur l'article 91, peut former un recours devant le tribunal sous le régime de la présente partie.

Délai

(2) Sauf délai supérieur accordé par le tribunal sur demande présentée ou non avant l'expiration du délai normal, le recours est formé dans les soixante jours qui suivent la communication au plaignant des conclusions de l'enquête, des recommandations visées au paragraphe 64(2) ou de l'avis de refus d'ouverture ou de poursuite d'une enquête donné au titre du paragraphe 58(5).

Autre délai

(3) Si, dans les six mois suivant le dépôt d'une plainte, il n'est pas avisé des conclusions de l'enquête, des recommandations visées au paragraphe 64(2) ou du refus opposé au titre du paragraphe 58(5), le plaignant peut former le recours à l'expiration de ces six mois.

Ordonnance

(4) Le tribunal peut, s'il estime qu'une institution fédérale ne s'est pas conformée à la présente loi, accorder la réparation qu'il estime convenable et juste eu égard aux circonstances.

Précision

(5) Le présent article ne porte atteinte à aucun autre droit d'action.

1985, ch. 31 (4^e suppl.), art. 77; 2005, ch. 41, art. 2.

Exercice de recours par le commissaire

78 (1) Le commissaire peut selon le cas :

a) exercer lui-même le recours, dans les soixante jours qui suivent la communication au plaignant des conclusions de l'enquête ou des recommandations visées au paragraphe 64(2) ou dans le délai supérieur accordé au titre du paragraphe 77(2), si le plaignant y consent;

(b) 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*.

R.S., 1985, c. 31 (4th Supp.), s. 80; 2002, c. 8, s. 182.

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.

b) comparaître devant le tribunal pour le compte de l'auteur d'un recours;

c) comparaître, avec l'autorisation du tribunal, comme partie à une instance engagée sur le fondement de la présente partie.

Comparution de l'auteur du recours

(2) Dans le cas prévu à l'alinéa (1)a), le plaignant peut comparaître comme partie à l'instance.

Pouvoir d'intervenir

(3) Le présent article n'a pas pour effet de porter atteinte au pouvoir du commissaire de demander l'autorisation d'intervenir dans toute instance judiciaire relative au statut ou à l'usage du français ou de l'anglais.

Preuve — plainte de même nature

79 Sont recevables en preuve dans les recours les renseignements portant sur des plaintes de même nature concernant une même institution fédérale.

Procédure sommaire

80 Le recours est entendu et jugé en procédure sommaire, conformément aux règles de pratique spéciales adoptées à cet égard en vertu de l'article 46 de la *Loi sur les Cours fédérales*.

L.R. (1985), ch. 31 (4^e suppl.), art. 80; 2002, ch. 8, art. 182.

Frais et dépens

81 (1) Les frais et dépens sont laissés à l'appréciation du tribunal et suivent, sauf ordonnance contraire de celui-ci, le sort du principal.

Idem

(2) Cependant, dans les cas où il estime que l'objet du recours a soulevé un principe important et nouveau quant à la présente loi, le tribunal accorde les frais et dépens à l'auteur du recours, même s'il est débouté.

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.

Calcul de la période de trente jours

(2) Seuls les jours de séance de la Chambre des communes sont pris en compte pour le calcul de la période de trente jours visée au paragraphe (1).

Publication des projets de règlement

86 (1) Les 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 remise dans les vingt-cinq jours de séance suivant son dépôt au président de la chambre concernée, celui-ci met aux voix, dans les cinq jours de séance suivants et sans qu'il y ait débat ou modification, toute question nécessaire pour en décider.

Adoption

(3) Il ne peut être procédé à la prise du règlement ayant fait l'objet d'une motion adoptée par les deux chambres conformément au paragraphe (2).

Prorogation 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.

L.R. (1985), ch. 31 (4^e suppl.), art. 88; 1995, ch. 11, art. 30.

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.

Règlements

93 Le gouverneur en conseil peut prendre les règlements qu'il estime nécessaires pour assurer le respect de la présente loi dans le cadre des activités des institutions fédérales autres que le Sénat, la Chambre des communes, la bibliothèque du Parlement, le bureau du conseiller sénatorial en éthique, le bureau du commissaire aux conflits d'intérêts et à l'éthique, le Service de protection parlementaire ou le bureau du directeur parlementaire du budget. Il peut également prendre toute autre mesure réglementaire d'application de la présente loi.

L.R. (1985), ch. 31 (4^e suppl.), art. 93; 2004, ch. 7, art. 30; 2006, ch. 9, art. 25; 2015, ch. 36, art. 149; 2017, ch. 20, art. 184.

PARTIE XII

Modifications connexes

94 à 99 [Modifications]

PARTIE XIII

Modifications corrélatives

100 à 103 [Modifications]

PARTIE XIV

Dispositions transitoires, abrogation et entrée en vigueur

Dispositions transitoires

104 et 105 [Abrogés, L.R. (1985), ch. 31 (4^e suppl.), art. 106]

106 [Modification]

Maintien en poste

107 Le commissaire aux langues officielles en fonction lors de l'entrée en vigueur de la partie IX poursuit son mandat mais est réputé avoir été nommé sous le régime de la présente loi.

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'édicte par l'article 95, et les articles 96 et 98 à 109 en vigueur le 15 septembre 1988 et l'article 97 en vigueur le 1^{er} février 1989, voir TR/88-197; l'entrée en vigueur de l'article 530.1 du *Code criminel*, tel qu'édicte par l'article 94, est prévue par le paragraphe 534(2) du *Code criminel*, tel qu'édicte par l'article 95.]

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*;