

**THE GOVERNMENT OF QUEBEC'S PROPOSED AMENDMENTS TO BILL C-13,
AN ACT TO AMEND THE OFFICIAL LANGUAGES ACT, TO ENACT THE USE OF FRENCH IN FEDERALLY
REGULATED BUSINESSES ACT AND TO MAKE RELATED AMENDMENTS TO OTHER ACTS**

As part of the modernization of the *Official Languages Act* (OLA), the Minister of Official Languages, Ginette Petitpas Taylor, on March 1, 2022, tabled Bill C-13, *An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Businesses Act and to make related amendments to other Acts*.

Based on a differentiated approach adapted to and consistent with the realities of the status of French and English in Canada, [the Government of Quebec's orientations](#), conveyed to the Government of Canada in this document seek to recognize that French is the only minority official languages throughout Canada, to respect its specific responsibilities for the protection and promotion of French in Quebec and to take into account the specific needs of English-speaking Quebecers and its desire to exercise leadership with regard to French in Quebec and in support of Francophone and Acadian communities.

A letter detailing some of the issues with Bill C-13 was sent to Minister Petitpas Taylor on March 17, 2022. As a complement to that letter, what follows are the Government of Quebec's proposed amendments to Bill C-13 in light of the approach that the Government of Quebec has developed in this matter and its positions with respect to intergovernmental relations.

For ease of reading, the proposed amendments are shown in alphanumeric order by clause of the Bill. Each proposed amendment uses the amending formula from the Bill (e.g., "Paragraph 2(b) of the Act is replaced by the following:"). Everything in normal format is taken from the Bill or the current Act. The proposed additions are in bold italics and the proposed deletions are in ~~strikeout~~. The indication "Additions to the Bill" appears where Bill C-13 does not propose any legislative amendment.

Clauses 2(2) and 2(3) of the Bill (Preamble)

Proposed amendments

The seventh and eighth paragraphs of the Preamble to the Act are replaced by the following:

- ***AND WHEREAS the Government of Canada is committed to respecting Quebec's choices for its language management provided for in the Charter of the French Language;***

The 10th paragraph of the Preamble to the Act is replaced by the following:

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

[...]

- Quebec's *Charter of the French Language* provides that French is the official language ***and the common language*** of Quebec;

AND WHEREAS the Government of Canada recognizes the presence of English or French linguistic minority communities in each province and territory ***and that the Anglophone minority in Quebec and the Francophone minorities in the other provinces and territories have different needs;***

AND WHEREAS the Government of Canada recognizes that the existence of a majority French homeland in Quebec where the future of French is assured is a legitimate objective and a fundamental premise of the federal official languages regime.

COMMENTS

The amendments add elements to the Preamble to the OLA in order to better reflect Quebec's specific linguistic characteristics and the importance of respecting the language management provided for in the *Charter of the French Language*. They add references to the fact the French is the common language of Quebec, that Francophone minorities and Anglophone minorities have different needs and that the existence of a majority French homeland where the future of French is assured is a fundamental premise of the federal official languages regime. This last point echoes the statement in the White Paper *English and French: Towards a substantive equality of official languages in Canada*, February 2021 (p. 9). The motion adopted in the House of Commons on June 16, 2021, that the House "acknowledge the will of Quebec to enshrine in its constitution that Quebecers form a nation, that French is the only official language of Quebec and that it is also the common language of the Quebec nation."

Clause 3 of the Bill (Purpose)

Proposed amendment

Paragraph 2(b) of the Act is replaced by the following:

- **(b.1)** advance the equality of status and use of the English and French languages within Canadian society, taking into account that French is in a minority situation in Canada and North America due to the predominant use of English **and that the objective of the Charter of the French Language is to protect, bolster and promote that language.**

COMMENTS

This amendment adds a reference to the fact that Quebec's *Charter of the French Language* is designed to protect, strengthen and promote the French language and links that element to the OLA's objective to "advance the equality of status and use of the English and French languages within Canadian society." It reflects the remarks by the Quebec Court of Appeal in *Entreprises W.F.H. Ltée v. Québec (Procureure Générale du)*, 2001 CanLII 17598 [Quebec Court of Appeal; leave to appeal refused by the Supreme Court of Canada].

Clause 7 of the Bill (Interpretation)

Proposed amendment

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

- **3.1** For the purposes of this Act,
[...]

(d) language rights must be interpreted in a manner that takes into consideration the official languages dynamic in each province and territory.

COMMENTS

This amendment adds a fourth criteria for interpreting language rights that, like the other three, has been recognized by the Supreme Court of Canada. It would make it possible to take account of Quebec's specific and unique linguistic situation while taking account of the characteristics and situations specific to the various language communities, including the characteristics specific to the Francophone and Acadian communities and Quebec's English-speaking community. The amendment reflects the language used by the Supreme Court of Canada in *Nguyen v. Québec (Éducation, Loisir et Sport)*, [2009] 3 SCR 208, referenced in a number of rulings and supported by numerous constitutionalists.

Additions to the Bill (Language of services and communications)

Proposed amendments after clause 12 of the Bill

After section 31, add a new clause:

- ***Implementation of the provisions of this Part in Quebec must take account of the objective to ensure the protection and promotion of French.***

To section 32(2):

- In prescribing the circumstances under paragraph 1(a) or (b), the Governor in Council may have regard to [...] (c) any other factors that the Governor in Council considers appropriate, ***including the minority status of the French language in Canada due to the predominant use of English and Quebec's specific linguistic characteristics.***

COMMENTS

The first amendment adds a new section to Part IV of the OLA so that it can be implemented in Quebec in a manner that takes account of the objective to ensure the protection and promotion of French. This objective should be considered, including when third parties offer services for federal institutions, for active offer, and for display and communications considerations such as signage.

The second amendment adds a criterion that the Governor in Council must take into account when adopting a regulation regarding the language of services and communications. This criterion allows the Governor in Council to consider the minority status of the French language in Canada due to the predominant use of English and Quebec's specific linguistic characteristics.

Clause 13 of the Bill (Language of services and communications)

Proposed amendment

Section 33 of the French¹ version of the Act is replaced by the following:

- 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 [...] in both official languages, if those communications and services are required under this Part to be provided in both official languages. ***When doing so, the Governor in Council shall take into account the minority status of the French language in Canada due to the predominant use of English and Quebec's specific linguistic characteristics.***

COMMENTS

This amendment adds a criterion that the Governor in Council must take into account when adopting regulations concerning measures to actively promote communications and services in French and English, that is, the minority status of the French language in Canada due to the predominant use of English and Quebec specific linguistic characteristics. In concrete terms, this new criterion would allow the Governor in Council to encourage the predominant use of French for the delivery of services and communications in Quebec (example: bilingual signage with French predominant).

¹ The Government of Quebec's amendment would in fact make a substantive change to both versions of the Act.

Clause 14 of the Bill (Language of work)

Proposed amendment

Section 34 of the Act is replaced by the following:

- English and French are the languages of work in all federal institutions, and employees of all federal institutions have the right to use either official language in accordance with this Part. **Senior officials of federal institutions and companies subject to this Act under other federal Acts must be able to speak and understand clearly French.**

COMMENTS

This amendment would make it mandatory for senior officials of federal institutions and companies subject to the OLA to speak and understand French clearly. The phrase “be able to speak and understand clearly French” is taken from the *Language Skills Act*, (S.C. 2013, c. 36). The concept of “senior official” would have to be defined. The positions covered would have to be specified (members of boards of directors, presidents and vice-presidents, etc.).

Clause 15 of the Bill (Language of work)

Proposed amendment

Paragraph 35(1)(a) of the Act is replaced by the following:

- **(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 employees, **while taking account of the minority status of the French language in Canada due to the predominant use of English and Quebec’s specific linguistic characteristics; and**

COMMENTS

This amendment would add a criterion that federal institutions would have to take into account when monitoring the effective use of both languages in their workplace: the minority status of the French language in Canada due to the predominant use of English and Quebec’s specific language characteristics, with the corollary being the possibility and right of every individual in Quebec to work in French.

Clause 18(1) of the Bill (Language of work)

Proposed amendment

Paragraphs 38(1)(a) and (b) of the Act are replaced by the following:

[...]

(b) prescribing any other measures that are to be taken, within the National Capital Region and in any part or region of Canada, or in any place outside Canada, that is prescribed for the purpose of paragraph 35(1)(a), to establish and maintain work environments of those institutions that are conducive to the effective use of both official languages and accommodate the use of either official language by their employees, ***while taking account of the minority status of the French language in Canada due to the predominant use of English and Quebec's specific linguistic characteristics;***

COMMENTS

This amendment would add a criterion that the Governor in Council must take into account when adopting regulations concerning the language of work within federal institutions: the minority status of the French language in Canada due to the predominant use of English and Quebec's specific language characteristics.

Clause 21 of the Bill (Promotion of languages and vitality of minorities)

Proposed amendments

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

- Heading: Commitment — ***enhancing vitality of communities and fostering English and French*** [Also modify the title of Part VII by ***Advancement of French and vitality of minorities***].
- **41(2)** The Government of Canada, recognizing ***and taking into account*** that French is in a minority situation in Canada and North America due to the predominant use of English ***and that French is the official and common language of Quebec***, is committed to protecting and promoting the French language, ***while respecting Quebec's language management provided for in the Charter of the French language***.
- **41(4)** The Government of Canada is committed to contributing periodically to an estimate of the number of children whose parents have, under section 23 of the Canadian Charter of Rights and Freedoms, the right to have their children receive their instruction in the language of the English or French linguistic minority population of a province or territory, including the right to have them receive that instruction in minority language educational facilities (***subject to section 59 of the Constitution Act, 1982 in Quebec***).
- **41(5)** Every federal institution has the duty to ensure that the positive measures that it considers appropriate are taken for the implementation of the commitments under subsections (1) to (3). ***Such measures must respect Quebec's language management provided for in the Charter of the French Language***.
- **41(6)** Positive measures taken under subsection (5)
 - (b) shall respect
 - (i) the necessity of protecting and promoting the French language in each province and territory, taking into account that French is in a minority situation in Canada and North America due to the predominant use of English,
 - (ii) the necessity of considering the ***different*** needs of each of the two official language communities of Canada, and,
 - (iii) ***the need to protect and promote French in Quebec, given that it is the official and common language of Quebec; and***
- **41(11)** The Governor in Council may, on the recommendation of the Treasury Board made after consultation with the Minister of Canadian Heritage, make regulations in respect of federal institutions, [...] prescribing the manner in which any duties of those institutions under this Part are to be carried out. ***Treasury Board shall not make any recommendation before consulting the provincial and territorial governments on the matter***.

COMMENTS

The first amendment is designed to remove the promotion of English from the title of section 41 and to adjust the title of Part VII, since of the two official languages, it is French, because of its minority status, that must be promoted.

The second amendment provides that the federal government must meet its obligations while taking into account that French has minority status in Canada and adds a reference to the fact that French is the official and common language of Quebec. It provides that the federal government must meet its obligations under Part VII while respecting Quebec's language management provided for in the *Charter of the French Language*.

The third amendment adds a reference to section 59 of the *Constitution Act, 1982*, which enshrines an element specific to Quebec, that, subject to that section, the categories of English-educated constitutional rightsholders in Quebec do not include those in paragraph 23(1)(a) of the Canadian Charter.

The fourth amendment adds that the positive measures taken by federal institutions must respect Quebec's language management provided for in the *Charter of the French Language*.

The fifth amendments, in relation to positive measures, refers to the fact that French is the official and common language of Quebec and that Francophones and Anglophones, including the official language minority communities, have different needs due to French's minority status in Canada.

The sixth amendment provides that the Treasury Board cannot make a recommendation to the Governor in Council respecting regulations under Part VII before the provincial and territorial governments are consulted about it.

Clause 22(2) of the Bill (Consultation)

Proposed amendment

Subsection 43(2) of the Act is replaced by the following:

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

COMMENTS

These amendments add that consultation of the provincial and territorial governments is necessary when developing application principles and reviewing programs to promote greater equality and the status of English and French. This consultation must be distinct from the public consultations and adapted to the intergovernmental framework.

Clause 23 of the Bill (Policy on Francophone immigration)

Proposed amendment

The Act is amended by adding the following after section 44:

- **44.1 (1)** The Minister of Citizenship and Immigration shall adopt a policy on Francophone immigration to enhance the vitality of French linguistic minority communities in Canada. ***The policy must respect the intergovernmental agreements on immigration.***

COMMENTS

This amendment adds that the policy on Francophone immigration must respect the intergovernmental agreements on immigration, including existing and future agreements with Quebec.

Clause 24 of the Bill (Agreements and cooperation)

Proposed amendments

Section 45 of the Act is replaced by the following:

- 45. Any minister of the Crown designated by the Governor in Council may consult and may negotiate agreements with the provincial and territorial governments to ensure, to the greatest practical extent but subject to Part IV, that the provision of federal, provincial, territorial, municipal and education services in both official languages is coordinated and that regard is had to the needs of the recipients of those services. ***Implementation, within Quebec, of the measures contemplated by this part is conditional on the conclusion of a framework agreement with the Government of Quebec ensuring respect for Quebec's specific characteristics.***
- 45.1 (1) The Government of Canada recognizes the importance of cooperating with provincial and territorial governments in the implementation of this Part, taking into account the diversity of the provincial and territorial language regimes that contribute to the advancement of the equality of status and use of English and French in Canadian society, including that [...] (b) Quebec's *Charter of the French Language* provides that French is the official language ***and the common language*** of Quebec;

COMMENTS

The first amendment adds that a framework agreement for the implementation of measures under Part VII is needed, since this Part provides for the exercise, by the federal government, of its spending power in areas of provincial jurisdiction, on the one hand, and requiring, on the other, that this spending be consistent with Quebec laws and policies.

The second amendment adds that French is not only the official language of Quebec, but also the common language.

Additions to Bill (Part IX – Commissioner of Official Languages)

Proposed amendment

Section 56(1) of the Act is replaced by the following:

- **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, ***consistent with the federal, provincial and territorial measures to promote and protect French.***

COMMENTS

This amendment adds that the Commissioner of Official Languages must exercise their powers in a way consistent with the federal, provincial and territorial measures to promote and protect French. These include Quebec's *Charter of the French Language*. This addition would make it possible to take account not only of Quebec's language management, but also of the specific characteristics of French in the other provinces and territories. It is also consistent with the various amendments made to the OLA by C-13 to take into account that the French language is in the minority compared to English in Canada and that it must therefore benefit from specific protection measures to attain real equality between the two official languages in Canada.

Clause 44 of the Bill (provisions and application of the OLA)

Proposed amendment

Sections 83 and 84 of the Act are replaced by the following: [...]

- 84. If the Governor in Council proposes to make a regulation under a provision of this Act, the minister of the Crown who is responsible for the provision shall, at a time and in a manner appropriate to the circumstances, seek the views of members of the English and French linguistic minority communities and, if appropriate, members of the public generally on the proposed regulation. ***It shall consult the governments of the provinces and territories beforehand.***

COMMENTS

This amendment adds the need to consult the provincial and territorial governments, before consulting other stakeholders, if the Governor in Council intends to make regulations under a provision of the OLA.

Clause 50 of the Bill (Review of provisions and application of the OLA)

Proposed amendment

The Act is amended by adding the following after section 93:

- 93.1 (1) On the 10th anniversary of the day on which this section comes into force and every 10 years after that anniversary, the Minister of Canadian Heritage shall undertake a review of the provisions and operation of this Act. ***To that end, the Minister must consult the government of the provinces and territories in a timely manner.***

COMMENTS

This amendment adds that the provincial and territorial governments must be consulted during any review of the OLA.

Clause 54 of the Bill (Use of French in Federally Regulated Private Businesses Act)

Proposed amendments

Preamble

- **Whereas the Government of Canada respects Quebec's choices regarding its language management provided for in the Charter of the French Language.**
- Whereas the Government of Canada recognizes **and respects** the diversity of the provincial and territorial language regimes that contribute to the advancement of the equality of status and use of English and French in Canadian society, **including the fact that, under the Charter of the French Language, French is the official language and the common language of Quebec.**

Article 6

— ~~Charter of the French language~~

- ~~6 (1) In relation to communications with or services provided to consumers in Quebec or in relation to workplaces in Quebec, Quebec's Charter of the French language applies instead of this Act to a federally regulated private business if the federally regulated private business chooses to be subject to Quebec's Charter of the French language.~~

— ~~Notice~~

- ~~(2) A federally regulated private business must, in accordance with the regulations, give notice of the day on which it will become or cease to be subject to Quebec's Charter of the French language.~~

— ~~Agreement with Quebec~~

- ~~(3) The Minister may, on behalf of the Government of Canada and with the approval of the Governor in Council, enter into an agreement with the Government of Quebec for the purpose of giving effect to subsection (1).~~

- **Quebec's Charter of the French Language**

6 (1) Quebec's Charter of the French Language (CQLR, c. C-11) applies in its entirety to every federally regulated private business in Quebec instead of this Act.

(2) Within one year after the year in which this section comes into force, the Minister shall, on behalf of the Government of Canada and with the approval of the Governor in Council, enter into an agreement with the Government of Quebec for the purpose of giving effect to subsection (1).

(3) The Governor in Council may make regulations under section 33 respecting federally regulated private businesses in Quebec only if the Government of Canada enters into an agreement with the Government of Quebec specifying their content.

COMMENTS

This amendment provides that the *Charter of the French Language* applies in its entirety to every federally regulated private business in Quebec by replacing the federal Act and not simply to those businesses that choose to have it apply.

The objective is to offer a clear, predictable, consistent and uniform framework to all the companies concerned and their employees, allowing everyone to know their language rights and obligations within Quebec.