



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

February 7, 2024

# Content of presentation

1. Introduction to the *Official Languages Act* (OLA)
2. Overview of the modernization process
3. Modernization objectives
4. Other changes and observations made
5. Coordinating amendments, coming into force, and next steps

# Introduction to the *Official Languages Act*



- Statute adopted in 1969.
- Provided that Canadians could communicate with and receive services from the Government of Canada in the official language of their choice.
- Amended in 1988 (to reflect the *Canadian Charter of Rights and Freedoms*) and in 2005 (to reinforce the binding nature of Part VII).
- Provides a legal framework to support the official languages.
- The modernization and strengthening of the official language's regime is an opportunity to address a changing Canadian society.

# Overview of the modernization process

|                              |   |
|------------------------------|---|
| March to May 2019            | <b>Review of the OLA via a national dialogue</b> – 17 round tables and forums as well as a national symposium on the official languages   |
| February 2021                | <b>Release of public reform document</b> – <i>English and French: Towards a Substantive Equality of Official Languages in Canada</i>  |
| June 2021                    | <b>Introduction of Bill C-32</b> – An Act to amend the <i>Official Languages Act</i> and to make related and consequential amendments to other Acts. The Bill died on the order paper in August 2021. |
| November 2021                | <b>Speech from the Throne</b> – The Government reaffirms its commitment to introduce its proposed legislation for strengthening the OLA   |
| December 2021                | <b>Minister Petitpas Taylor's mandate letter</b> – Commitment to swiftly reintroduce the OLA modernization bill   |
| March 1 <sup>st</sup> , 2022 | <b>Introduction of Bill C-13</b> – <i>An Act for the Substantive Equality of Canada's Official Languages</i>  |
| June 20 <sup>th</sup> , 2023 | <b>Bill C-13 receives Royal Assent</b>  |

# Modernization objectives

The modernization seeks to achieve the following outcomes:

- English and French enjoy substantive equality of status in Canada.
- The French language enjoys greater support across Canada thanks to new rights in federally regulated private businesses, rights that promote and protect the use of French as a language of work and a language of service in Quebec and in regions with a strong Francophone presence.
  - *These measures do not prohibit the use of English or Indigenous languages.*
- There is stronger support for both official language minority communities and their institutions.
- Federal institutions demonstrate better compliance with their duties and respect the rights provided for thanks to enhanced oversight by a central agency and expanded powers for the Commissioner of Official Languages.



# Key measures in the modernization

## *In the Official Languages Act*

|           |  |
|-----------|--|
| Preamble  | <b>Recognizing the linguistic realities of provinces and territories</b>   |
| Purpose   | <b>Recognizing the role of the French language and the existence of a French society (“foyer francophone”) in Quebec</b> |
| Part III  | <b>Improving access to justice</b>   |
| Part IV   | <b>Communications with and services to the public</b>  |
| Part V    | <b>Language of work</b>  |
| Part VII  | <b>New commitments</b>   |
|           | <b>Positive measures</b>   |
|           | <b>Francophone immigration</b>   |
|           | <b>Role of the Minister of Canadian Heritage</b>   |
| Part VIII | <b>Role of the Treasury Board</b>  |
| Part IX   | <b>Expanding the powers of the Commissioner of Official Languages</b>  |

***Through An Act respecting the use of French in federally regulated private businesses (UFPBA) in Quebec and in regions with a strong francophone presence***

**Establishing new rights to work and receive services in French in federally regulated private businesses (FRPBs)**

# Recognizing the linguistic realities of provinces and territories in the preamble

- The *Act for the Substantive Equality of Canada's Official Languages* (the Act) modifies the OLA to recognize the specificity of the provincial and territorial language regimes and the importance of working with the provincial and territorial governments to achieve results in terms of promoting and protecting the official languages in Canadian society.
- The Act modifies the OLA to recognize the importance of the reclamation, revitalization and strengthening of Indigenous languages. The Act also changes the OLA so that the latter explicitly states that it shall in no way detract from the status, maintenance or enhancement of Indigenous languages.



# Recognizing, in the purpose of the OLA, the role of the French language and the existence of a French society in Quebec

- The OLA, as modernized by the Act:
  - recognizes the fact that French is in a minority situation in Canada and North America due to the predominant use of English and that there is a diversity of provincial and territorial language regimes that contribute to that advancement, including Quebec's *Charter of the French Language*, which provides that French is the official language of Quebec;
  - recognizes that Canada's English and French linguistic minority communities have different needs;
  - seeks to advance the existence of a majority-French society ("foyer francophone");
  - contains provisions that clearly recognize Quebec's English-speaking communities.

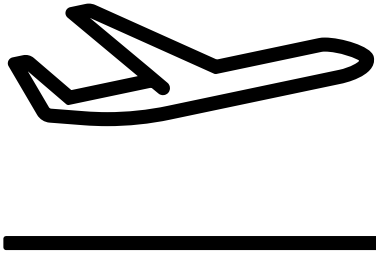
# Improving access to justice in Part III of the OLA

In order to ensure that Canadians have better access to justice in the official language of their choice before federal tribunals, the modernized OLA:



- indicates that the choice of either official language by a person appearing before a federal court shall not be prejudicial to that person;
- Indicates that the Supreme Court of Canada has a duty to ensure that the judges who hear proceedings are able to understand the official language chosen by the parties directly, without the assistance of an interpreter (just like other federal tribunals);
- strengthens the provisions on court decisions, making simultaneous translation a requirement for a greater number of federal court decisions (decisions that are precedent-setting).

# Communications with and services to the public in Part IV of the OLA



The modernized OLA:

- Clarifies the existing duties of federal institutions with respect to communications with and services to the **travelling public** through the addition of an explicit reference to section 22 in subsection 23(1). This implies that the duties concerning the head offices of federal institutions also apply to institutions that serve the travelling public (e.g. airport authorities).
- Adds clarifications for identifying services provided by a third party on “behalf of a federal institution”. This addition codifies the case law in *DesRochers v. Canada (Industry)*.



# Strengthening bilingual leadership in the public service in Part V of the OLA



Individuals who were on the job when the relevant provisions came into force may continue in office

Comes into force on the second anniversary of Royal Assent (2025)

## ***Deputy ministers and associate deputy ministers***

- Persons appointed to such positions or positions of equivalent rank are required to take language training in order to “be able to speak and understand clearly both official languages”

## ***Supervisory and management positions***

- In designated-bilingual regions, employees have the right to be supervised in the official language of their choice, regardless of the linguistic profile of their position

## ***Definition of “employee”***

- A technical change has been made to the definition of “employee” in order to exclude contractors.

# Strengthening Part VII of the OLA

## \*New commitments

- **Protecting and promoting French (41(2)):** Commitment to protecting and promoting the French language, recognizing that French is in a minority situation in Canada and North America due to the predominant use of English.
- **Learning in the minority language (41(3)):** Commitment to advancing opportunities for members of English and French linguistic minority communities to pursue quality learning in their own language throughout their lives, including from early childhood to post-secondary education.
  - The goal is to recognize the specificity and diversity of English and French, and to protect and promote French as a minority language in Canada and North America. Reflects a sociodemographic reality that was not directly reflected in the 1988 version of the OLA.
- **Periodically estimating the number of children of rights-holders (41(4)):** Commitment 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.
- The Minister of Canadian Heritage can support an **independent organization responsible** for administering a program whose purpose is to provide funding for test cases of national significance on language rights to be brought before the courts.

# Strengthening Part VII of the OLA

## \*Positive measures

Part VII is the part of the OLA that most directly impacts the development of official language minority communities and the advancement of the two official languages in Canadian society.

- Section 41 of the OLA has been amended to strengthen and clarify the duties of federal institutions to take **positive measures**.

### ***Consultation requirements***

- Additional details are provided on the consultation process for taking positive measures, without creating undue hardship for the federal institutions, among the 180, that were already fulfilling their duties. The OLA lists the requirements that federal institutions must meet in carrying out these dialogue and consultation activities in the lead-up to positive measures but without dictating how to go about this. The regulations on positive measures will also address specific consultation procedures in more detail than the OLA.

### ***Language clauses in F-P/T agreements***

- Clarifies the duty of federal institutions to take the necessary measures to promote the inclusion of language clauses in agreements with the provinces and territories. Federal institutions now have a duty to make the agreements public. They will also be subject to Treasury Board's enhanced oversight powers.

### ***Disposal strategy***

- Provides that when developing a disposal strategy for surplus federal real property (outside Quebec) or a surplus federal immovable (in Quebec), departments must take into account the needs and priorities of the English or French linguistic minority in the province or territory where the federal real property or immovable is located.

# Strengthening Part VII of the OLA

## \*Francophone immigration

- Recognizes the importance of addressing the demographic decline of French linguistic minority communities, including by restoring and increase of their demographic weight.
- Strengthening Francophone immigration is of critical importance to the future vitality of French linguistic minority communities in Canada.
- The modernized OLA now includes a requirement for the Minister of Citizenship and Immigration to adopt a policy on Francophone immigration and that this policy include objectives, targets and indicators
- The modernized OLA also included a definition of “restoration,” in connection with the demographic weight of French linguistic minority communities, as a return of that weight to the level reported in the 1971 Census of Canada, i.e. 6.1% of the population outside Quebec;

# Role of the Minister of Canadian Heritage\* including Part VII of the OLA

- The Minister of Canadian Heritage has the role of:
  - developing a government-wide strategy on official languages;
  - establishing a process to estimate 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 linguistic minority; and
  - undertaking a ten-year review of the OLA, in consultation with the President of the Treasury Board.
- In part VII:
  - Advance the equality of status and use of English and French in Canadian society; the minister can take measures to:
    - support the development and promotion of francophone culture;
    - encourage and assist provincial and territorial governments to offer provincial, territorial, and municipal services in both English and French;
    - encourage and assist providing opportunities for all Canadians to learn both English and French and to foster an acceptance and appreciation for both languages;
    - induce the business community, labour organizations, non-profit organizations and other organizations or institutions to provide services in both English and French; and
    - implement programs in support of official languages.
  - Inform Canadians (the public) on policies and programs relating to the promotion and the achievement of the equality of status and use of English and French in Canadian society

\*The responsibilities of the Minister of Canadian Heritage that relate specifically to official languages have been delegated to the Minister of Employment, Workforce Development and Official Languages.



# Role of the Treasury Board including Part VIII of the OLA

- The President of the Treasury Board is now responsible for exercising leadership in the implementation of the Act.
- The President is also responsible for coordinating the implementation – including with respect to the commitments set out in subsections 41(1) to (3) – and for ensuring good governance of the Act.
- Treasury Board is responsible for the general direction and coordination of the policies and programs of the Government of Canada relating to the implementation of Parts IV, V and VI, and subsection 41(5) and paragraph 41(7)(a.1), in federal institutions.
- In the modernized OLA, the **Treasury Board** is now required to:
  - establish policies and issue directives giving effect to the parts for which it is responsible: communications with and services to the public (Part IV), language of work (Part V), and equitable participation of English- and French-speaking Canadians (Part VI);
  - establish policies and issue directives with respect to positive measures and language clauses, in consultation with the Minister of Canadian Heritage;
  - monitor and audit federal institutions for their compliance with policies, directives and regulations;
  - evaluate the effectiveness and efficiency of policies and programs of federal institutions;
  - provide information to the public and to employees of federal institutions relating to the policies and directives giving effect to the parts for which it is responsible: communications with and services to the public (Part IV), language of work (Part V), and equitable participation of English- and French-speaking Canadians (Part VI); and
  - provide information to employees of federal institutions relating to the policies and directives giving effect to subsection 41(5) (positive measures) and paragraph 41(7)(a.1) (linguistic clauses).

# Expanding the powers of the Commissioner of Official Languages in Part IX of the OLA

- The modernized OLA gives the **Commissioner** more tools to ensure compliance with the OLA. These include being able to:
  - make his or her recommendations, findings or investigation summaries available to the public;
  - refuse to investigate repetitive complaints where the matter has already been investigated;
  - Use alternative dispute resolution mechanisms
  - enter into compliance agreements with a federal institution or other entity subject to the OLA;
  - issue orders in respect of Part IV or Part V of the OLA;
  - impose administrative monetary penalties on certain privatized entities and Crown corporations designated by regulation that operate in the transportation sector and that engage in communications with and provide services to the travelling public (comes into force by order-in-council).

# Establishing new rights and obligations in federally regulated private businesses (FRPBs) in a new statute

In an effort to normalize the situation of FRPBs in Quebec where the *Charter of the French Language* is in force and make it easier for Francophones to work in, and do business with, this sector in French outside Quebec:

- A new statute, the ***Use of French in Federally Regulated Private Businesses Act (UFPBA)*** (comes into force by order-in-council), creates new rights to work and obtain services in French in FRPBs in Quebec and in certain regions with a strong Francophone presence.
- In this way, the Government of Canada is creating a framework for supporting the French language in private businesses within its jurisdiction.
- The new statute does not, however, incorporate Quebec's *Charter of the French Language* into federal legislation.
- Section 68 of part 2 of C-13 is the only provision regarding the new UFPBA that comes into force upon Royal Assent. It immediately authorizes the Minister of Canadian Heritage to take measures for the administration and promotion of, and the provision of education and information in relation to, the UFPBA between Royal Assent of the Act and the issuance of the order-in-council bringing the UFPBA into force in Quebec (and, two years later, in regions with a strong Francophone presence).

# Establishing new rights and obligations in federally regulated private businesses (FRPBs) – Cont.

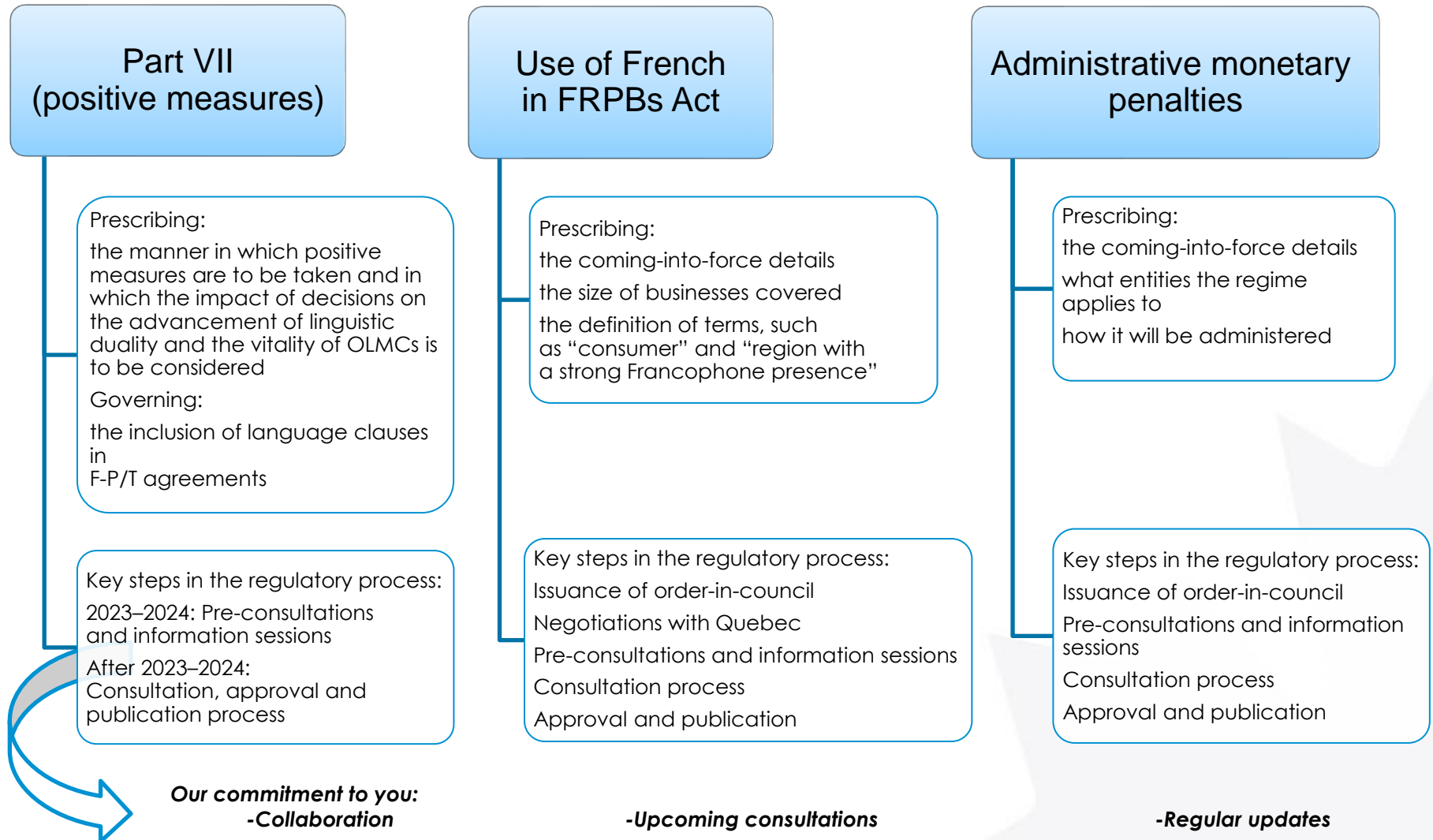
- **One set of regulations** will prescribe how the UFPBA is to be implemented, which will include fixing the size of FRPBs to which the new rights and duties will apply, defining regions with a strong Francophone presence, and setting out any exceptions.
- Examples of duties for FRPBs:
  - Requiring the business to prevent adverse treatment and make it cease.
  - Clarifying the provisions whereby FRPBs may communicate or provide documents in English or another language.
  - Extending the rights to former employees, current employees and applicants.
  - Giving trade unions representing FRPB employees the right to receive communications and documents in French.
- The **Commissioner of Official Languages** is responsible for investigating complaints, reporting, and making recommendations.
  - Language-of-work complaints: The Commissioner may, with the consent of the complainant, refer a complaint to the **Canada Industrial Relations Board**. The Board may reject the complaint, if warranted, or receive the complaint, summon witnesses, and receive evidence to inform its decision. If a complaint is well-founded, the Board may order the FRPB to permit the complainant to return to work or pay compensation.
- The mandate of the **Canada Industrial Relations Board** is to contribute to and promote a harmonious industrial relations climate in the federally regulated sector and contribute to health and safety and labour standards in the workplace through the impartial, effective and appropriate administration of the rules of conduct that govern employees, labour and management.

# Other changes and observations made

- Every 10 years, the Minister of Canadian Heritage, in consultation with the president of the Treasury Board, must undertake a **review** of the OLA that includes a comprehensive analysis, over the previous 10 years, of the enhancement of the vitality of the English and French linguistic minority communities and of the protection and promotion of the French language in Canada, as well as a series of qualitative and quantitative indicators.
- The third report of the Standing Senate Committee on Official Languages stresses the importance of devising an **effective and comprehensive mechanism for overseeing** the OLA's implementation that assesses compliance with its various provisions and includes indicators, particularly demographic weight and the estimation of the number of children of rights-holders. The Committee also mentioned that it will study the review exercise.
- The Commissioner of Official Languages supports an oversight mechanism to fully leverage the potential of the 10-year review.

# Coming into force and next steps

## Making regulations and issuing orders-in-council



# Administrative Measures

In its 2021 reform document, the Government proposed a series of administrative measures to complement legislative and regulatory changes. These include:

## Second Language Training Framework

- To foster an inclusive bilingual workplace, strengthen linguistic security and increase regular use of second official language skills, a new second language training framework is being developed
- This framework will provide guidance and tools to assist departments in their approach to language training
- Broad consultations were held with key stakeholders such as the National Joint Committee, the National Managers Community Human Resources Council and representatives of equity-seeking networks
- The framework will be launched in spring 2024

## OL Accountability and Reporting Framework

- The framework was proposed to orient federal measures on official languages and provide a framework for the application of the modernized OLA
- Among other things, it clarifies and reiterates the roles and responsibilities of key players in the governance of OL, both across government and within institutions, and articulates expectations with respect to accountability
- Based on and shall replace the 2003 Official Languages Accountability and Coordination Framework
- Will be a key step for TB President to demonstrate leadership in the coordination and good governance of the OLA
- Launch planned for June 2024

## Revise second language proficiency requirements for bilingual supervisory positions in designated bilingual regions

- *Directive on Official Languages for People Management* currently states that the minimum linguistic profile for bilingual positions involving supervision of employees is BBB
- Proposal: increase to CBC (or an equivalent second-language proficiency level for institutions that are not required to use the Qualification Standards in Relation to Official Languages) as the minimum for those positions, while protecting incumbents' rights.
- The implementation of this proposal is being examined in light of the coming into force of OLA section 36 amendments in 2025





