

English and French :

TOWARDS A SUBSTANTIVE EQUALITY OF OFFICIAL LANGUAGES IN CANADA

1. The recognition of linguistic dynamics in the provinces and territories and existing rights regarding Indigenous languages

Legislative proposals

- Recognize linguistic dynamics in the provinces and territories, that is, that French is the official language of Quebec; that New Brunswick is the only province where the equality of status of both official languages—as well as the related rights and privileges—is recognized in the Constitution as concerns their use in government institutions; that Manitoba and Quebec must respect certain protections provided by the Constitution for both official languages (legislatures and courts); and that Nunavut and the Northwest Territories officially recognize English and French as well as Indigenous languages as official languages. There are also many other governments with laws and policies that promote the equality of status of Canada’s official languages, such as Ontario through its *French Language Services Act*.
- Strengthen section 83, which indicates that nothing in the *Official Languages Act* (the Act) abrogates or derogates from the rights of other languages, by explicitly mentioning Indigenous languages.

2. The willingness to provide opportunities for learning both official languages

Legislative proposals

- Recognize, in the preamble of the Act, the importance of accessing opportunities to learn a second official language for all Canadians.

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- Recognize, in the preamble of the Act, the role played by Canadians who, by speaking both official languages, contribute to the mutual appreciation between the country's two major linguistic communities.
 - Strengthen the commitment under Part VII of the Act to reinforce the “learning, acceptance and appreciation” of both official languages, in collaboration with provincial and territorial governments. These efforts must not be conducted to the detriment of the French language, which is in a minority situation in Canada.
 - Replace the verb “encourage” (section 43 of Part VII) with verbs that are more active and engaging to describe the manner in which the Minister may act to ensure the progression of the equality of status of the two official languages.
 - Ensure that the preamble reflects the fact that CBC/Radio-Canada is an example of a flagship institution that, through its activities, participates in the promotion of both official languages in Canada by implementing measures that enhance the vitality of official language minority communities and that sustain and contribute to their development, as well as measures that foster the full recognition and use of both English and French in Canadian society. In accordance with its mandate stated in the *Broadcasting Act*, CBC/Radio-Canada's programming must be offered in English and in French, reflecting the different needs and circumstances of the two official language communities, including the particular needs and circumstances of the English and French linguistic minorities.
 - In the preamble and the text of the Act, insert the fact that CBC/Radio-Canada is a flagship institution that, through its activities, contributes to the promotion and sharing of both official languages in Canada.

Administrative proposals

- Encourage cooperation between federal, provincial and territorial governments with respect to the promotion, access and provision of quality programs for learning French as a second language under part VII.
- That the Minister of Immigration, Refugees and Citizenship:
 - Set up a new Francophone immigration corridor specifically aimed at recruiting Francophone and French-language teachers—for immersion and teaching of second language programs, and for French-language education—to address the shortage of French-language teachers in Canada, particularly outside of Quebec.
 - Recognize, in the next pan-Canadian strategy for official languages (the next Action Plan for Official Languages), the importance of supporting a training and recruitment strategy for Francophone and French-language teachers—for immersion and teaching of second language programs, and for French-language education—including through immigration initiatives.
 - Support and enhance opportunities for newcomers to learn French, while respecting the powers of other jurisdictions and existing agreements.

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- That the Government develop, with the provincial and territorial governments, a framework for the recognition of teaching diplomas for French immersion, French as a second language and French as a first language, that can be applied across the country.

3. Support for the institutions of official language minority communities

3.1) Strong institutions

Legislative proposals

- Recognize, in the preamble to the Act, that the Government must protect and support the key institutions of official language minority communities in order to support their vitality and fulfill commitments towards them as set out in Part VII of the Act.
- State the Government's commitment to strengthening the educational continuum from early childhood to post-secondary levels in the minority language.
- Make a commitment to support sectors key to the vitality of official language minority communities (for example, immigration, the educational continuum, school management by schools boards and councils, health, culture, justice and other services) to promote and protect the presence of strong institutions for official language minority communities, in collaboration with provincial and territorial governments.
- Reflect, in the Act, the fact that CBC/Radio-Canada is a flagship institution that, through its activities, contributes to the vitality of the English and French linguistic minority communities in Canada and to the protection and promotion of both official languages in Canada, in accordance with its mandate set out in the *Broadcasting Act* and according to the Canadian Radio-television and Telecommunications Commission's (CRTC) jurisdiction over its programming and operations.
- Include the obligation for the Government of Canada to adopt a policy on Francophone immigration to support the vitality of official language minority communities.

Administrative proposals

- Commit to fostering the use of accountability tools in federal-provincial/territorial agreements.
- In recognition of Ontario's *French Language Services Act* and the City of Ottawa's bilingualism policy, continue to support French and bilingualism in Ottawa.
- Support and strengthen French-language learning opportunities for newcomers to Canada in all provinces and territories while respecting the jurisdictions and agreements in place.
- Include robust funding for the Francophone immigration policy in the next *Action Plan for Official Languages*.

3.2) Data for action

Legislative proposal

- Provide for the Government of Canada's commitment to contribute to making data available to establish a comprehensive estimate of the children whose parents have the right, under section 23 of the Canadian Charter, to have them educated in the minority official language of their province or territory.

Administrative proposal

- Provide for the commitment by federal institutions and Statistics Canada to collaborate on the collection and production of data and public opinion research on official language minority communities and official languages. Additionally, federal institutions and Statistics Canada must commit to contributing to updating statistical and non-statistical data on multiple vitality indicators for official languages, such as the use of official languages at home and at work; the presence of institutions in official language minority communities; access to services in the minority language; access to official language learning opportunities; the level of knowledge of official languages; and the offering of cultural, media and digital products in both official languages.

3.3) Federal institutions that listen to communities and take into account linguistic duality

Legislative proposal

- Establish the power to enact policy instruments in support of regulations specifying the terms and conditions for the implementation of positive measures that federal institutions are obligated to take pursuant to Part VII of the Act.

Regulatory proposal

- Develop regulations that outline the terms and conditions of positive measures taken by federal institutions under Part VII of the Act that will target:
 - The development of guidelines for the existing requirement for all federal institutions to take positive measures;
 - An obligation for federal institutions to determine the impact of their key decisions on the development and vitality of official language minority communities and the promotion of the full recognition and use of English and French, and an obligation to account for this impact. This obligation would also be accompanied by mandatory consultations and measures to mitigate this impact when necessary; and
 - The accountability of departmental heads relative to the implementation of section 41 of the Act in their federal institution and responsibilities related to training and accountability.

4. The protection and promotion of French throughout Canada, including in Quebec

4.1) Progressing towards the equality of status of English and French

Legislative proposals

- Recognize the predominant use of English in Canada and North America and the fact that, given this context, it is imperative that French receive increased protection and promotion.
- Recognize that the Act's purpose is to promote the advancement of the substantive equality of status and use of English and French and to protect official language minority communities.

4.2) Measures to promote French

Legislative proposals

- List in the Act the areas in which the Government wishes to act to protect and promote French in Canada. For example:
 - The area of radio-television in which CBC/ Radio-Canada contributes to the protection and promotion of both official languages in Canada by implementing measures that enhance the vitality of official language minority communities and contribute to their development. CBC/Radio-Canada also implements measures that foster the full recognition and use of both English and French in Canadian society. In accordance with its mandate, set out in the *Broadcasting Act*, its programming must be offered in both English and French in order to reflect the particular needs and circumstances of the two official language communities, including those of the English and French linguistic minorities. In addition, due to the development and operation of the online training tool "*Mauril*," CBC/Radio-Canada is poised to play an important role in the learning of official languages and the maintenance of language skills by a wide audience. It is therefore proposed that CBC/Radio-Canada's role in protecting and promoting official languages be recognized and enshrined in the Act. It is also proposed to reflect in the Act the fact that CBC/Radio-Canada, in accordance with its mandate set out in the *Broadcasting Act* and in accordance with the CRTC's jurisdiction over its programming and operating conditions, is a flagship institution that, through its activities, contributes to the vitality of the English and French linguistic minority communities in Canada, as well as to the protection and promotion of both official languages in Canada.
 - The area of culture by supporting the development and promotion of Francophone culture through all agencies reporting to Canadian Heritage under initiatives related to support for culture and the media in Canada, such as Telefilm Canada, the NFB, national museums and other agencies.
 - The area of Canadian diplomacy by supporting its bilingualism, as well as encouraging it to make the protection and promotion of the French language and of its membership in the international Francophonie a priority.

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- The Government will implement measures targeting the promotion of French around the world, particularly within major international organizations and in Canadian embassies, high commissions and missions abroad.
 - Recognize the importance of the contribution of Francophone immigration to the vitality of French and Francophone minority communities in the preamble of the Act.
 - Include an obligation to adopt a Francophone immigration policy to support the vitality of official language minority communities.

Other legislative or administrative proposals

- Reaffirm the importance of membership in and support for the *Organisation internationale de la francophonie*.
- Create and maintain diplomatic, cultural and commercial ties with Francophone countries.
- Affirm the importance of the role of the CRTC and the *Broadcasting Act* to support the production, broadcasting and discoverability of Francophone content on air and in the digital space.
- Recognize the mandate, collaboration and action of the Ministerial Council on the Canadian Francophonie.
- Promote the creation and dissemination of scientific information in French.
- Recognize the importance of measures and strategies aimed at youth (including linguistic security, and linguistic and cultural exchanges).

4.3) Official languages and federally regulated private businesses

Legislative proposals

- Specify a power to encourage federally regulated private businesses to promote the equal status of the official languages in order to increase the use of French (active offer) as a language of service and work everywhere in the country.
- As concerns federally regulated private businesses:
 1. Give workers the right to carry out their activities in French in federally regulated private businesses established in Quebec and in other regions with a strong Francophone presence in the country.
 2. Oblige the employer to communicate with its employees in French in federally regulated private businesses established in Quebec and in other regions with a strong Francophone presence in the country. The employer may communicate with its employees in both official languages as long as the use of French is at least equivalent to the use of English. This is the basic principle of the relationship between employers and employees. The same applies to offers of employment, collective agreements and arbitral awards.

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3. Prohibit discrimination against an employee solely because he or she speaks only French or does not have sufficient knowledge of a language other than French in federally regulated private businesses established in Quebec and in other regions with a strong Francophone presence in the country.
- Exemptions or special rules may be provided, notably for small businesses; certain sectors (for example, broadcasting); governance activities of First Nations, Inuit and Métis; as well as the conduct of interprovincial or international affairs.
 - With respect to language of service, in federally regulated private businesses in Quebec and in other regions of the country where there is a strong Francophone presence, enact a right for consumers of goods and services to be informed and served in French.

5. The Government of Canada as an example through strengthening of the compliance of federal institutions

5.1) Bilingualism of the justice system

Legislative proposals

- Enshrine the existence of the Court Challenges Program in the Act.
- Provide in the Act a commitment with regard to simultaneous access—by the public and in both languages—to final decisions of public interest or precedential value rendered by federal courts.
- Take stock in the Act of the Government’s commitment to support, through an independent third party, a program that supports test cases on language rights before the courts.
- Remove the exception relative to the Supreme Court from section 16 of the Act. The Government will take into account the case law on the composition and eligibility criteria of the Supreme Court in developing this proposed legislative amendment.

5.2) Strengthening a central agency, internal levers of accountability and coordination

Legislative proposals

- Strengthen and expand the Treasury Board’s powers, notably the power to monitor compliance with Part VII of the Act as appropriate, by providing the Treasury Board Secretariat with the necessary resources so that it assumes the role of a central body responsible for ensuring the compliance of federal institutions and by examining cases where permissive provisions would be made mandatory.
- Assign the strategic role of horizontal coordination to a single minister in order to ensure effective governance and implementation.

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- Create the authority to enact policies, directives and other policy instruments to clarify guidelines on positive measures taken by federal institutions under Part VII, and as proposed in section 3.3 of this document.
 - Create an obligation for the Government to periodically prepare a government-wide federal strategy (action plan) on official languages that would set out the Government's main priorities and their funding, and that would promote a clearer overall direction.

Administrative proposals

- Create an accountability and reporting framework to orient federal measures on official languages and provide a framework for the application of the Act.
- Strengthen the analysis of the impact on official languages and official language minority communities of initiatives developed by federal institutions.
- Add requirements related to official languages specifically for emergency situations to Treasury Board policy instruments.

5.3) Bilingualism in the public service

Administrative proposals

- To improve the support offered to federal public servants for learning their second language and the recruitment efforts deployed to create a diverse public service, the Government will elaborate a new second-language training framework for the public service that will ensure quality instruction and be adapted to learners' specific needs. Notably, this framework will take into account the specific needs of Indigenous persons. It will also take into account the specific needs of persons with disabilities. Finally, it will also allow for distance learning.
- Revise the official languages qualification standards and the standards for second language evaluations and minimum second language requirements in the case of bilingual supervisory positions in designated bilingual regions.
- To support the recruitment and retention of public servants that reflect the diversity of the Canadian population, the Government will recognize a more inclusive application of official language requirements. This more inclusive application will take into account positions requiring Indigenous cultural or linguistic competencies. It will also take into account, in a more inclusive manner, the cases of public service employees with disabilities who do not allow them to learn a second language.
- Strengthen the role of translation and interpretation functions within the federal administrative apparatus, notably the Translation Bureau.

5.4) Strengthening the powers of the Commissioner of Official Languages

Legislative proposals

- Strengthen the powers of the Commissioner of Official Languages and expand the series of tools available to enforce compliance with the Act, notably by giving permission to issue recommendations during an investigation, the possibility of entering into binding agreements with federal institutions (including private entities subject to the Act, such as Air Canada), and the possibility of order-making powers related to Parts IV and V of the Act (limited to compliance on the basis of individual complaints, which includes changes to the language of service and language of work in federally regulated private businesses) and adapted to the unique characteristics of the official languages regime.
- Officially recognize the use of alternative dispute resolution methods (mediation, among others).
- Increase the latitude of the Commissioner of Official Languages by adding grounds on which the Commissioner may refuse or cease to investigate a complaint (for example, when the complaint is already under investigation).

6. An Act for the Canada of today and tomorrow: Regular review of the Act and its implementation

Legislative proposals

- Include a requirement to conduct a periodic review of the Act, its governance structure and regulations at least every 10 years.
- Include interpretation clauses on language rights in the Act itself.
- Correct discrepancies between the English and French versions of the Act and delete obsolete references in the text.