



## Legislative Summary

# BILL C-32: AN ACT TO AMEND THE OFFICIAL LANGUAGES ACT AND TO MAKE RELATED AND CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

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*Legislative Summary of Bill C-32*  
(Legislative Summary)

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# LEGISLATIVE SUMMARY OF BILL C-32: AN ACT TO AMEND THE OFFICIAL LANGUAGES ACT AND TO MAKE RELATED AND CONSEQUENTIAL AMENDMENTS TO OTHER ACTS

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## 1 BACKGROUND

Bill C-32, An Act to amend the Official Languages Act and to make related and consequential amendments to other Acts<sup>1</sup> (alternative title: An Act for the Substantive Equality of French and English and the Strengthening of the Official Languages Act), was introduced in the House of Commons by the Honourable Mélanie Joly, Minister of Economic Development and Official Languages, on 15 June 2021. The bill died on the *Order Paper* at first reading when the 43<sup>rd</sup> Parliament was dissolved on 15 August 2021.

The introduction of Bill C-32 was preceded by the release, on 19 February 2021, of a reform proposal entitled *English and French: Towards a Substantive Equality of Official Languages in Canada*.<sup>2</sup> The bill was also preceded by many calls from civil society, parliamentary committees and the Commissioner of Official Languages to modernize the *Official Languages Act*.<sup>3</sup>

### 1.1 THE OFFICIAL LANGUAGES ACT

The very first *Official Languages Act* was passed in 1969 in response to the recommendations of the Royal Commission on Bilingualism and Biculturalism. The purpose of the Act was to give equal status and equal rights to the use of English and French, not only in Parliament and in the federal courts, but throughout the federal public service.

In 1982, the *Canadian Charter of Rights and Freedoms* (the Charter) recognized certain constitutional rights respecting official languages, which forced Parliament to revise its official languages legislative framework. The *Official Languages Act* (the Act) of 1988 replaced the 1969 law in order to comply with the new constitutional provisions and expand its scope. This legislation is the cornerstone of Canada's language regime.

The courts have interpreted the Act on many occasions and confirmed its quasi-constitutional status, on the grounds that its main objectives are closely linked to the values and rights set out in the Constitution.<sup>4</sup> Likewise, the courts have confirmed the remedial nature of language rights and the principle of substantive equality of the two official languages.<sup>5</sup>

Since 1988, the Act has been amended substantively only once, in 2005, when parliamentarians decided to strengthen the binding nature of the obligations set out in Part VII of the Act.<sup>6</sup> As a result, federal institutions must take positive measures to enhance the vitality of official language minority communities and support and assist their development; and to foster the full recognition and use of both official languages in Canadian society. If federal institutions do not take such measures, they may be subject to complaints to the Commissioner of Official Languages and legal action.

## 1.2 MODERNIZATION OF THE *OFFICIAL LANGUAGES ACT*

Both before and after the 50<sup>th</sup> anniversary of the coming into force of the first *Official Languages Act*, calls to modernize the Act came from all sides.

In 2017, organizations such as the Fédération des communautés francophones et acadienne du Canada and the Association canadienne-française de l'Alberta highlighted the need to modernize the Act. The Quebec Community Groups Network and other official language minority groups joined the cause soon after. That same year, the Standing Senate Committee on Official Languages launched a two-year, five-part study of the issue. Additionally, the Office of the Commissioner of Official Languages made modernizing the Act the one and only recommendation of its annual report that year.<sup>7</sup> In 2018, the House of Commons Standing Committee on Official Languages followed suit by conducting its own study of the issue.

In 2019, these stakeholders announced recommendations for modernizing the Act.<sup>8</sup> The proposed amendments ranged from broad to targeted and addressed many aspects of the legislation. A consensus emerged among the stakeholders on the following proposals:

- clarify the scope of Part VII of the Act and making regulations for it;
- provide formal mechanisms for consulting official language minority communities;
- require the government to adopt a plan for official languages;
- entrench minority-language education rights, clarifying their scope across the education continuum (from early childhood to the post-secondary level) and specify who has the right to have their children attend minority-language schools under section 23 of the Charter;
- regulate the adoption, implementation and disclosure of federal–provincial/territorial agreements having an impact on official languages;
- make implementing and coordinating the Act the responsibility of a central agency;
- redefine the role and powers of the Commissioner of Official Languages;
- allow penalties to be imposed on those who breach the Act and create an official languages administrative tribunal;



- recognize the federal government's role in immigration, particularly in regard to the development and growth of official language minority communities;
- entrench recognized case law principles such as the quasi-constitutional status of the Act, the remedial nature of language rights and the substantive equality of the two official languages;
- acknowledge the constitutional uniqueness of New Brunswick with regards to the provision of services to the public (section 20(2) of the Charter) and recognition of the equality of the province's two linguistic communities (section 16.1 of the Charter);
- clarify the scope of making an active offer of services in both official languages;
- clarify the scope of the language-of-work rights of federal public servants;
- require Supreme Court of Canada judges to be bilingual; and
- ensure the Act is reviewed at regular intervals.

During the 42<sup>nd</sup> Parliament, the Minister of Tourism, Official Languages and La Francophonie was tasked with beginning a review of the Act in order to modernize it.<sup>9</sup> After holding consultations, the federal government released a summary of stakeholder proposals in June 2019.<sup>10</sup>

During the 43<sup>rd</sup> Parliament, the federal government committed to strengthening and modernizing the Act. This mandate was twice given to the Minister of Economic Development and Official Languages. The second time, the minister was asked to improve oversight and coordination of the implementation of the Act across government, with the support of the President of the Treasury Board.<sup>11</sup> In addition, the government promised to strengthen the Act in its Speech from the Throne to open the 2<sup>nd</sup> Session of the 43<sup>rd</sup> Parliament, on 23 September 2020.<sup>12</sup> Furthermore, Budget 2021 allocated funding of \$6.4 million and \$2.3 million over two years to Canadian Heritage and the Treasury Board of Canada Secretariat, respectively, to modernize the Act.<sup>13</sup>

In the winter of 2021, the Quebec government published its own position paper on the modernization of the Act.<sup>14</sup>

### 1.3 OFFICIAL-LANGUAGES REFORM PROPOSAL

On 19 February 2021, the Minister of Economic Development and Official Languages unveiled an official-languages reform proposal intended to “establish a new linguistic balance.”<sup>15</sup> The document, entitled *English and French: Towards a Substantive Equality of Official Languages in Canada*, outlines dozens of legislative, regulatory and administrative proposals based on the following guiding principles:

- the recognition of linguistic dynamics in the provinces and territories and of existing rights regarding Indigenous languages;
- the willingness to provide opportunities for learning both official languages;
- support for the institutions of official language minority communities;
- the protection and promotion of French throughout Canada, including in Quebec;
- the Government of Canada as an example through strengthening of the compliance of federal institutions; and
- an Act for the Canada of today and tomorrow: Regular review of the Act and its implementation.<sup>16</sup>

The Standing Senate Committee on Official Languages studied the reform proposal and released the key points of its study before Bill C-32 was introduced.<sup>17</sup> The Senate Committee pointed out that many of the commitments in the reform proposal addressed the recommendations contained in its final report of 2019. The Fédération des communautés francophones et acadienne du Canada and the Office of the Commissioner of Official Languages reacted positively to the reform proposal and also noted that a number of their recommendations from 2019 were reflected in the document.<sup>18</sup>

In general, the commitments to strengthening the provisions of the Act and better implementing it were applauded. A consensus formed about recognizing the unique reality of French and its vulnerable condition, as well as advancing substantive equality of both official languages. The idea of reconciling support for Indigenous languages with support for linguistic duality was well received. The federal government's commitment to making regulations specifically for Part VII of the Act was also met with enthusiasm.

However, the reform proposal did raise concerns among some stakeholders, including the Office of the Commissioner of Official Languages and the Quebec Community Groups Network.<sup>19</sup> Their fears related to introducing asymmetries into the Act, such as new duties that apply only to the French language in federally regulated private businesses, which could contravene the Charter principle of equal status for English and French.

Moreover, some expectations were unmet, in part because the reform proposal failed to include commitments to the following measures:

- creating an official languages administrative tribunal;
- giving the Commissioner of Official Languages the additional power to impose administrative monetary penalties and damages;
- clarifying the language rights of travellers in Part IV;



- making regulations for Part V on the language-of-work rights of federal public servants;
- strengthening the wording in Part VII concerning positive measures;
- including the remedial nature of language rights as one of the principles for interpreting the Act;
- strengthening the official languages obligations in the Act regarding federal–provincial/territorial agreements;
- confirming the Translation Bureau’s role in implementing the Act; and
- ensuring a French version of the Constitution is adopted, pursuant to section 55 of the *Constitution Act, 1982*.

As requested in her supplementary mandate letter of 15 January 2021, the Minister of Economic Development and Official Languages introduced Bill C-32 before the 43<sup>rd</sup> Parliament was dissolved. The bill includes the vast majority of the legislative changes set out in the reform proposal. Bill C-32 amends multiple aspects of the *Official Languages Act* and makes related and consequential amendments to five other federal Acts: *Canada Labour Code*, *Department of Canadian Heritage Act*, *Air Canada Public Participation Act*, *CN Commercialization Act* and *Civil Air Navigation Services Commercialization Act*.<sup>20</sup>

#### 1.4 LANGUAGE REFORMS UNDERWAY IN SOME PROVINCES

At the same time as the federal government was introducing Bill C-32, some provinces were in the process of amending their own language regimes.

On 13 May 2021, Bill 96, An Act respecting French, the official and common language of Québec, was introduced in the National Assembly of Québec.<sup>21</sup> Some of the bill’s provisions, which amend multiple sections of Québec’s *Charter of the French Language*, have a similar aim to some of the measures in Bill C-32, notably in areas such as the linguistic obligations of federally regulated private businesses. At the time of writing, Bill 96 was at the committee stage.

In New Brunswick, the province’s *Official Languages Act* provides for periodic review of its provisions.<sup>22</sup> The previous review took place in 2013, and the current one will conclude no later than 31 December 2021. To perform this review, the New Brunswick government appointed two commissioners to recommend improvements to second-language learning in the province.<sup>23</sup> If legislative amendments prove necessary, they will be introduced in the Legislative Assembly of New Brunswick sometime in 2022.

For its part, the Ontario government, in the fall of 2018, promised to study the modernization of the *French Language Services Act*.<sup>24</sup> As well, a number of private members' bills were introduced in the Legislative Assembly of Ontario during the 1<sup>st</sup> Session of the 42<sup>nd</sup> Parliament, but no concrete changes have resulted. In the spring of 2021, the Minister of Francophone Affairs of Ontario launched consultations on improving access to French-language services in the province and identifying any consequent legislative issues.<sup>25</sup> The minister will report on the results of these consultations in the fall of 2021.

## 2 DESCRIPTION AND ANALYSIS

Bill C-32 has 70 clauses. It amends every part of the *Official Languages Act* (the Act), except Part I, which deals with the proceedings of Parliament. The bill also adds two new parts to the Act, on the language of service and language of work of federally regulated private businesses in Quebec and in regions with a strong francophone presence.

### 2.1 PREAMBLE (CLAUSE 2)

Clause 2 amends the wording of certain paragraphs of the preamble to the Act to align the English and French versions and adds a reference to the territorial governments. In addition, it adds paragraphs to the preamble to expand its scope, including to set out the federal government's commitment to the following:

- protecting and promoting French by recognizing that it is a minority language (clause 2(2)), which fulfills the commitment made in the Throne Speech of September 2020 and relates to new provisions of the objective of the Act (clause 3(1)) and Part VII of the Act (clause 21);
- supporting official language learning for all Canadians and recognizing the contribution of those who speak both official languages to the appreciation each official language community has for the other (clause 2(3)), which encompasses existing measures in Part VII and strengthens them to promote bilingualism across Canada (clause 21);
- supporting sectors that are essential to enhancing the vitality of official language minority communities and promoting the presence of strong institutions to serve them (clause 2(3)), as it applies to:
  - new provisions in Part VII (clause 21);
  - the “by and for” principle, which enables communities to help implement the Act; and
  - the notion of institutional completeness, which holds that the presence of institutions (such as schools, universities, hospitals and theatres) supports the vitality of communities;

- specifying the role of the Canadian Broadcasting Corporation (CBC) in enhancing the vitality of official language minority communities and promoting English and French in Canada (clause 2(3)), as it applies to:
  - new provisions in Part VII (clause 22);
  - existing provisions of the *Broadcasting Act*;<sup>26</sup> and
  - the Federal Court of Canada's 2014 decision in *Canada (Commissioner of Official Languages) v. CBC*;<sup>27</sup>
- specifying the federal government's commitment to francophone immigration as a factor in the vitality of francophone minority communities (clause 2(3)), as it applies to:
  - new provisions of Part VII (clause 24);
  - objectives of the *Immigration and Refugee Protection Act*;<sup>28</sup> and
  - measures the federal government has taken to increase the proportion of francophone immigrants outside Quebec;<sup>29</sup>
- recognizing that official language minority communities exist throughout Canada (clause 2(3));
- recognizing the diversity of provincial and territorial language regimes (clause 2(3)), in particular:
  - the constitutional provisions that apply to Quebec (section 133 of the *Constitution Act, 1867*) and Manitoba (section 23 of the *Manitoba Act, 1870*);<sup>30</sup>
  - the legislative provisions in force in Quebec under the *Charter of the French Language*;<sup>31</sup> and
  - the constitutional provisions that apply to New Brunswick (sections 16(2), 16.1(1), 16.1(2), 17(2) and 18(2) of the Charter).<sup>32</sup>
- recognizing the laws, policies and programs in effect in each province and territory addressing services in the minority language or acknowledging the contribution of official language minority communities (clause 2(3));
- recognizing the importance of reclaiming, revitalizing and strengthening Indigenous languages (clause 2(3)), as a complement to the objectives of strengthening the status and use of the official languages, as related to:
  - the federal government's adoption of the *Indigenous Languages Act* in 2019;<sup>33</sup> and
  - the elements added to the general provisions of the Act (clause 51);
- recognizing, first, the public's right to communicate with and obtain services from federally regulated private businesses in French in Quebec and the right of these businesses' employees to work in French (clause 2(4)), as related to the provisions of the new parts VII.1 and X.1 of the Act (clauses 26 and 50); and

- recognizing, second, the public’s right to communicate with and obtain services from federally regulated private businesses in French in regions with a strong francophone presence and the right of these businesses’ employees to work in French (clause 2(5)), as related to the provisions of the new parts VII.1 and X.1 of the Act (clauses 27 to 32 and 50).

## 2.2 PURPOSE OF ACT (CLAUSES 3 AND 4)

Clause 3 amends one of the Act’s three objectives by adding a reference to the principle of protecting anglophone and francophone minorities and modifying the principle of advancing the equality of status and use of the official languages to recognize the unique reality of French (clause 3(1)). As a result, the purpose of the Act encompasses a constitutional principle recognized by the courts – that of minority protection<sup>34</sup> – and states that French is in a minority position relative to English in Canada and in North America, which gives the federal government reason to protect and promote its status and use.<sup>35</sup>

In addition, clause 3 adds an objective regarding promoting the use of French in federally regulated private businesses (clause 3(2)). This new objective will apply first to businesses in Quebec before being extended to those in regions with a strong francophone presence.

Clause 4 adds provisions on government-wide coordination of the Act and on the minister who will take the lead in implementing it, the Minister of Canadian Heritage. This minister, in consultation with the other federal ministers, must “promote and encourage” the implementation of the Act and the commitments set out in Part VII. The minister must also work with the other ministers to adopt a government-wide official languages strategy that sets out the broad priorities for this issue. In addition, a new provision concerning the duty to table this strategy in Parliament and make it public.

This amendment makes permanent the federal government’s practice, since 2003, of periodically developing an official languages strategy.<sup>36</sup> It also addresses the proposals made during the debate on modernizing the Act, when stakeholders requested that horizontal coordination of the Act be assigned to a central agency.<sup>37</sup> The February 2021 reform proposal set out the federal government’s intention to assign this role to a single minister to “ensure effective governance and implementation.”<sup>38</sup>

## 2.3 DEFINITIONS (CLAUSES 5 TO 7)

Clause 6 amends certain definitions in the Act to correct discrepancies between the English and French versions. In addition, it adds two definitions. The first is for “business day,” which relates to the new powers assigned to the Commissioner of Official Languages (clauses 43 and 48). The second is for “federally regulated private business,” which is a federal business as defined in section 2 of the *Canada Labour Code*,<sup>39</sup> but excludes the following:

- corporations that act on behalf of the federal government or are subject to the Act, such as Air Canada, CN, NAV CANADA, VIA Rail and Canada Post; and
- organizations of Indigenous peoples who hold rights under section 35 of the *Constitution Act, 1982*, similar to the way the current definition of “federal institution” excludes “a council, government, corporation or other entity that is authorized to act on behalf of an Indigenous group, community or people.”

Clause 7 adds two principles for interpreting the Act that are rooted in official languages case law:

- language rights should be interpreted broadly, liberally and purposively; and
- substantive equality should be the applicable standard in Canadian law and entails consideration of the specific circumstances and needs of each official language in drafting and implementing the Act and the option of using differentiated treatments to advance their equality of status and use.

## 2.4 PART II – LEGISLATIVE AND OTHER INSTRUMENTS (CLAUSES 8 TO 10)

Clauses 8 and 9 change the wording of the Act’s provisions dealing with legislative instruments, treaties and federal–provincial/territorial agreements, but do not make substantive changes. A new section 10(2) of the Act and the accompanying marginal note add an explicit reference to the territories (clauses 9(2) and 9(3)).

In the debate on modernizing the Act, stakeholders asked that obligations respecting the development, management and implementation of agreements between the federal and provincial and territorial governments, especially as regards education, be added to the Act. The reform proposal of February 2021 stated that administrative measures would be taken to improve transparency, accountability and consultation for these agreements.<sup>40</sup>

Clause 10 adds the option of bilingual publications to the Act’s provisions governing federal institutions’ publishing of notices and announcements aimed at the public. In addition, it specifies that these requirements apply to electronic versions.

## 2.5 PART III – ADMINISTRATION OF JUSTICE (CLAUSES 11 AND 12)

Clause 11 amends section 16 of the Act to remove the exception for the Supreme Court of Canada. As a result, the court will be required to be institutionally bilingual, but not every one of its judges will need to be bilingual.<sup>41</sup> In other words, the Supreme Court judges hearing a case will now need to understand English and French without the assistance of an interpreter, as is already the case for the other federal courts. The Supreme Court may form panels of five, seven or nine judges to hear its cases.<sup>42</sup>

During the debate on modernizing the Act, stakeholders unanimously called on the federal government to pass legislation requiring Supreme Court judges to be bilingual. The official-languages reform proposal confirmed that the pool of potential judges who are fluent in both official languages has grown since the Act was passed in 1988 and that recognizing the equal status of English and French in all federal courts is important.<sup>43</sup> The proposal also acknowledged the need to ensure representation of Indigenous peoples in the country's most powerful institutions, including the Supreme Court. As a result, it stated that the federal government “will take into account the case law on the composition and eligibility criteria of the Supreme Court in developing this proposed legislative amendment.”<sup>44</sup>

In addition, since the five-year period provided in section 16(3) to enable some courts to comply with the duty to ensure understanding of the official languages has already expired, clause 11 removes the provision allowing gradual implementation of this duty.

Clause 12 adds a requirement respecting the simultaneous publication of federal courts' final decisions in both official languages to include those with “precedential value.” In the reform proposal of February 2021, the federal government acknowledged that access to federal court decisions in both official languages is not guaranteed, in part because of the time it takes for translation.<sup>45</sup> A commitment to limiting the timelines for translating decisions was one of the changes called for during the debate on modernizing the Act.<sup>46</sup>

## 2.6 PART IV – COMMUNICATIONS WITH AND SERVICES TO THE PUBLIC (CLAUSE 13)

Bill C-32 provides for only a single change to Part IV of the Act in order to align the English and French versions of section 33 of the Act, which concerns the making of regulations (clause 13).

The COVID-19 pandemic has highlighted the challenges federal institutions face in fulfilling their obligations respecting communications with and services to the public, leading the Commissioner of Official Languages to make recommendations on this matter.<sup>47</sup> In the February 2021 reform proposal, the government stated that it would take administrative measures to help federal institutions meet their obligations during emergencies.<sup>48</sup>



## 2.7 PART V – LANGUAGE OF WORK (CLAUSES 14 TO 18)

Clauses 14 to 18 amend the wording of sections 34 to 38 of the Act, sometimes in one language and sometimes in both, concerning the language of work. As a result, the amended provisions better correspond to the wording in the other language or use contemporary terms (e.g., the English version of clause 16(2) refers to “computer systems” rather than “automated systems”).<sup>49</sup> In the English version, the term “officers” is entirely dropped from Part V of the Act.

The only notable change to the wording of the provisions on language of work is the one to section 36(1)(c) of the Act concerning the minimum obligations in designated regions in order to clarify that they apply to “managers and supervisors” (clause 16(3)).

In the official-languages reform proposal, the government stated that administrative measures would be taken to enhance the status of both official languages in the federal public service in order to achieve the following:

- improve the second-language training provided to public servants, including distance learning, while accounting for the specific needs of Indigenous persons and persons with disabilities;
- review second-language qualification standards, evaluation standards and minimum requirements for supervisory positions;
- apply official languages requirements for recruitment and retention in a more inclusive manner, while accounting for the specific needs of Indigenous persons and persons with disabilities; and
- strengthen the Translation Bureau’s role as the provider of translation and interpretation services.<sup>50</sup>

These changes stem in part from the findings of a 2017 report prepared for the Clerk of the Privy Council that set out proposals for improving the standing of both official languages in the federal public service.<sup>51</sup>

## 2.8 PART VI – PARTICIPATION OF ENGLISH-SPEAKING AND FRENCH-SPEAKING CANADIANS (CLAUSES 19 AND 20)

Clause 19 amends section 39(2) of the Act to refer to the Act as a whole rather than specific parts of it, which could expand its scope.

Clause 20 amends the wording of section 40, which concerns the making of regulations implementing Part VI, to better align it with language used elsewhere in the Act.

2.9 PART VII – ADVANCEMENT OF ENGLISH AND FRENCH  
(CLAUSES 21 TO 25)

Clause 21 adds new commitments to those set out in section 41(1) of the Act. As a result, in addition to enhancing the vitality and supporting and assisting the development of official language minority communities, as well as fostering the full recognition and use of both official languages, the federal government commits to the following:

- protecting and promoting French, given its minority status (new section 41(1.1)), in connection with the new provisions in the Act's preamble and purpose;
- contributing to the enumeration of rights-holders whose children can attend minority schools pursuant to section 23 of the Charter (new section 41(1.2));<sup>52</sup> and
- advancing opportunities for equal-quality learning in the minority language across the education continuum, from early childhood to post-secondary education (new section 41(1.3)).<sup>53</sup>

Clause 21 also adds provisions to section 41(2), which addresses the positive measures to be taken by federal institutions. It specifies the scope of these measures by emphasizing the expansion of bilingualism across Canada and by giving specific examples of areas that require support, notably:

- official language learning (previously in section 43(1) of the Act);
- public acceptance and appreciation of official languages (previously in section 43(1));
- the promotion of Canada's bilingual character, both domestically and abroad (previously in section 43(1));<sup>54</sup>
- the creation and dissemination of scientific knowledge in French (new); and
- support for sectors essential to the vitality of official language minority communities – including culture, education, health, justice and immigration – and the promotion of strong institutions to serve them (new).

A new section, 41(2.1), states that the positive measures must be consistent with the principle of protecting and promoting French.

Section 41(3) currently sets out the role of the President of the Treasury Board and the Minister of Canadian Heritage in recommending regulations for the implementation of Part VII. In the debate on modernizing the Act, stakeholders unanimously called for specifying positive measures in legislation and regulations. In 2018, the Federal Court condemned the lack of implementing regulations for Part VII.<sup>55</sup> The February 2021 reform proposal suggested developing regulations that set out the terms and conditions for positive measures.<sup>56</sup> Accordingly, the government plans to:

- regulate the implementation of positive measures;
- require federal institutions to determine the impact of their decisions on the development and vitality of communities and on the fostering of the full recognition and use of both official languages, to take this impact into account and to take measures to mitigate it, if necessary;
- make consultation mandatory in some circumstances; and
- make deputy heads accountable for implementing Part VII.<sup>57</sup>

The new section 41(4) clarifies that all federal institutions have a duty to implement Part VII.<sup>58</sup>

Clause 22 adds to section 42 of the Act the government's commitment to advancing the use of both official languages and promoting French abroad and makes the Minister of Foreign Affairs responsible for implementing this commitment. Note that the coordination role assigned to the Minister of Canadian Heritage originally found in section 42 now appears in the purpose of the Act, in new section 2.1(2), and extends beyond Part VII (clause 4).

Clause 22 also adds section 42.1 to the Act to recognize the CBC's role in enhancing the vitality of official language minority communities and in protecting and promoting both official languages, in the context of its programming independence. This addition relates to the new reference to the CBC in the preamble to the Act. In the official-languages reform proposal, the government confirmed that it would strengthen the public broadcaster's role as a cultural institution and its contribution to protecting and promoting French in the Act.<sup>59</sup>

Clause 23(1) amends section 43(1) of the Act by replacing the measures set out in paragraphs (b) to (g) with the following:

- new measures relating to francophone culture to ensure Canadian cultural policies are consistent with the purpose of the Act;
- new measures to protect and fund the language rights component of the Court Challenges Program (the human rights component of this program is protected in related legislation) (clause 64);
- adjustments to the wording for other measures to include the territorial governments, non-profit organizations and the objective of public acceptance and appreciation of both official languages; and
- new measures to implement official languages support programs, the main mechanism Canadian Heritage uses to deliver official languages funding.<sup>60</sup>

Clause 23(2) amends section 43(1)(f) of the Act to add a reference to federally regulated private businesses. This amendment is to come into force at the same time as the new Part VII.1, which applies to federally regulated private businesses.

Clause 23(3) amends the wording of section 43(2) to specify the Minister of Canadian Heritage's obligation to inform the public through consultations on policies and programs to advance the equality of status and use of English and French in Canadian society.

Clause 24 adds a new section, 44.1, to the Act to specify the Minister of Citizenship and Immigration's obligation to adopt a francophone immigration policy that enhances the vitality of francophone minority communities. As explained in the official-languages reform proposal, the goal is to maintain the demographic weight of francophones outside Quebec, which is consistent with the federal government's objective of ensuring 4.4% of immigrants outside Quebec are francophones by 2023.<sup>61</sup> Clause 24 will come into force on a date set by order of the Governor in Council (clause 70(3)).

The reform proposal of February 2021 stated that administrative measures will be taken to:

- set up a new francophone immigration corridor to address the shortage of French teachers in Canada; and
- support opportunities for newcomers to learn French.<sup>62</sup>

These measures follow on those already outlined in the current federal official languages strategy to enhance the vitality of francophone minority communities through immigration.<sup>63</sup> Bill C-32 does not provide a similar right for Quebec's English-speaking communities because of an agreement between the governments of Canada and Quebec, one of whose goals is to promote French in that province.<sup>64</sup>

Clause 25 amends the wording of section 45 of the Act to add a reference to the territorial governments. In addition, it adds section 45.1 in order to achieve the following:

- recognize the importance of cooperation with the provinces and territories in the implementation of Part VII;
- acknowledge the diversity of provincial and territorial language regimes, in relation to new wording in the preamble to the Act (clause 2(3)); and
- recognize that the implementation of Part VII, and not simply the taking of positive measures, must be done while respecting the jurisdiction and powers of the provinces and territories (previously in section 41(2) of the Act).

In sum, the amendments to Part VII assign specific duties to two new ministers (Foreign Affairs and Citizenship and Immigration) and one new institution (the CBC). They also add numerous responsibilities to those already assigned to the Minister of Canadian Heritage.

2.10 PART VII.1 – FEDERALLY REGULATED PRIVATE BUSINESSES IN QUEBEC AND IN REGIONS WITH A STRONG FRANCOPHONE PRESENCE (CLAUSES 26 TO 32)

Bill C-32 adds a new Part VII.1 to the Act, which concerns federally regulated private businesses. The amendments to the Act will be implemented in two phases:

- first, they will apply to federally regulated private businesses in Quebec;<sup>65</sup> and
- second, they will apply to federally regulated private businesses in regions with a strong francophone presence, two years after the initial changes come into force.<sup>66</sup>

2.10.1 Amendments Applicable to Quebec (Clause 26)<sup>67</sup>

Clause 26 provides that the number of employees that triggers the application of the new Part VII.1 will be specified by regulation.

The new section 45.21 sets out rights respecting communications and services in French for consumers in Quebec who do business with federally regulated private businesses in that province and confirms that these businesses have a duty to ensure consumers can exercise these rights. These provisions are similar to those that apply to federal institutions set out in sections 21 and 22 of the Act. While the obligation provided in new section 45.21 applies in Quebec only and to French alone, the new section 45.21(3) stipulates that English-speaking consumers may communicate with these businesses in English if they wish and if the businesses can do so.

The new section 45.22 sets out the language of work rights for employees of federally regulated private businesses in Quebec and confirms that it is the responsibility of these businesses to ensure their employees can exercise these rights. This obligation is similar to the minimum obligations set out in section 36 that apply to federal institutions in designated regions. The rights of employees include the following:

- the right to work and be supervised in French;
- the right to receive communications and documentation in French; and
- the right to use work instruments in French.

While the duty in new section 45.22 applies in Quebec only and to French alone, section 45.22(3) states that employees can be given communications and documentation in English, provided that the use of French is at least equivalent to the use of English.

New section 45.23 sets out the duty of every federally regulated private business with workplaces in Quebec to foster the use of French in these workplaces, by informing employees of their rights and of the business's obligations in this regard and by establishing a committee to support senior management with this mandate. To fulfill their obligations, businesses must account for exceptional cases, such as employees nearing retirement, having many years of service or having conditions that could impede their ability to learn French.<sup>68</sup>

New section 45.24 specifies that employees of federally regulated private businesses may not be treated adversely because they do not have sufficient knowledge of a language other than French or they made a complaint to the Office of the Commissioner of Official Languages. In addition, it includes an "acquired rights" clause for employees of businesses in Quebec who have insufficient knowledge of French at the time these provisions take effect. These employees cannot be treated adversely for this reason. If necessary, businesses must demonstrate that knowledge of a language other than French is objectively required because of the nature of the work to be performed.

New section 45.25 stipulates that the duties in new Part VII.1 do not apply to the broadcasting sector.

New section 45.26 provides that the obligations in the new Part VII.1 do not apply to federally regulated private businesses that choose to be subject to Quebec's *Charter of the French Language*.<sup>69</sup> In effect, in Quebec, businesses may elect to comply with the provisions of the provincial law or the new sections of the federal Act.<sup>70</sup> Businesses must give notice that they are choosing to be subject to the provincial legislation. The Minister of Canadian Heritage may enter into an agreement with the Government of Quebec to give effect to this provision and exempt the business from the Act.

New section 45.27 confirms that the obligations in new Part VII.1 relating to communications and services apply to both oral and written communications.

New section 45.28 specifies that the Minister of Canadian Heritage is responsible for implementing the obligations set out in sections 45.21(1) and 45.22(1). The minister must also inform federally regulated private businesses about the rights these sections provide.

The new section 45.29 enables the Governor in Council to make regulations to:

- specify the number of employees referred to in new section 45.2, which may vary depending on whether or not the business is located in Quebec;



- define the scope of new Part VII.1, including the terms “close to retirement,” “condition that could impede the learning of French,” “consumer,” “employee,” “many years of service” and “treat adversely”;
- exempt businesses from the application of the Act;
- determine factors relating to the volume of communications or services, the type of services, the mandate of the business and the nature of its activities; and
- govern the notices respecting the application of the *Charter of the French Language*.

No time frame for making regulations respecting federally regulated private businesses is provided. The February 2021 reform proposal included a number of details on the forthcoming legislative amendments while noting that no requirements regarding the use of the official languages as languages of service and work at these businesses currently exist.<sup>71</sup> In March 2021, the federal government appointed an expert panel to study criteria for inclusion in future legislation and regulations.<sup>72</sup> The expert panel’s findings were not made public.

The provisions of clause 26 will come into force by order of the Governor in Council (clause 70(1)).

2.10.2 Amendments Applicable to Quebec  
and Regions with a Strong Francophone Presence  
(Clauses 27 to 32)

Clauses 27 to 31 make subsequent amendments to sections 45.21(1), 45.22(1), 45.23(1) and 45.24(1) of new Part VII.1 to extend their application to regions outside Quebec with a strong francophone presence. These subsequent amendments come into force two years after Part VII.1 does, by order of the Governor in Council, which gives affected businesses more time to comply with the new provisions.

In addition, clause 31(2) adds section 45.24(2.1) to the Act. This section includes an acquired rights clause for employees of businesses in a region with a strong francophone presence who have insufficient knowledge of French at the time these provisions take effect. These employees cannot be treated adversely for their insufficient knowledge.

Clause 32 expands the scope of section 45.29(1)(b) to enable the Governor in Council to designate regions with a strong francophone presence. It also adds section 45.29(2.1) to provide that a “region with a strong francophone presence” is defined by regulation based on quantitative (e.g., the number of francophones in a region or as a proportion of the region’s total population) and qualitative (e.g., the vitality and specificity of francophone minority communities) criteria. These provisions are similar to those concerning the regulations that may be made to set out the obligations of federal institutions regarding communications and services, which are found in section 32(2) of the Act.

2.11 PART VIII – RESPONSIBILITIES AND OBLIGATIONS OF  
TREASURY BOARD IN RELATION TO OFFICIAL LANGUAGES  
(CLAUSES 33 AND 34)

Clause 33 adds additional responsibilities to those already assigned to the Treasury Board pursuant to parts IV, V and VI of the Act. Clause 33(1) adds a new obligation to section 46(1) respecting the coordination of the policies and programs set out in section 41(2). Note that this responsibility does not apply to all of Part VII, only what is set out in section 41(2) – the obligation of federal institutions to take positive measures.

Clauses 33(2) and 33(3) amend the measures the Treasury Board may take to carry out its responsibilities by adding a reference to section 41(2) and by specifying that these measures must be taken in consultation with the Minister of Canadian Heritage.

Sections 46(2)(d) to 46(2)(f) are moved to new section 46(3) (clauses 33(3) and 33(4)). As a result, the provisions on monitoring, evaluating and informing the public and employees about the implementation of parts IV, V and VI become duties rather than powers. In addition, the Treasury Board is required to inform employees of federal institutions about the policies and programs that give effect to section 41(2).

Clause 34 amends the wording of section 47 to refer to new section 46(3)(a). It adds to section 48 an obligation for Treasury Board to report annually on the exercise of its duties and functions set out in Part VII rather than simply on the status of programs in federal institutions.

2.12 PART IX – COMMISSIONER OF OFFICIAL LANGUAGES  
(CLAUSES 35 TO 45)

Clauses 35 and 36 correct the French versions of sections 51 and 53 of the Act to better match the English wording.

Clause 37 adds a new component to the duties of the Commissioner of Official Languages set out in section 56(1). As a result, the Commissioner must ensure recognition of the rights concerning communications with the public and language of work at federally regulated private businesses. Section 56(2), which sets out the Commissioner's investigative powers, excludes from the scope of these powers cases relating to language-of-work rights in federally regulated private businesses. These provisions will come into force by order of the Governor in Council (clause 70(1)).

Clause 38 amends the heading preceding section 58 to add compliance agreements and orders. Note that the reference to complaints is no longer in the heading.

Clause 39 corrects the English wording of section 58(2) to better match the French wording. It adds to section 58(4) four situations in which the Commissioner may refuse or cease to investigate a complaint, including where a compliance agreement has been reached.

Clause 40 adjusts the wording of section 61(2) to align the English and French versions.

Clause 41 adds alternative dispute resolution as another way of resolving a complaint. It excludes arbitration, which uses an adversarial model similar to a trial, consistent with the provisions of new Part X.1, which grants the Canada Industrial Relations Board the role of adjudicator of complaints respecting language of work in the private sector (clause 50). In addition, it adjusts the wording of section 62(2) to align the English and French versions.

Clause 42 adds section 63.1 to the Act to authorize the publication of portions of the Commissioner's investigation reports – namely, the summary, findings and recommendations – while keeping the identity of complainants confidential. The Commissioner must give at least 30 business days' notice to the deputy head of the federal institution concerned of the Commissioner's intention to make this information public.

Clause 43 adds sections to the Act respecting compliance agreements and orders. New section 64.1 grants the Commissioner the ability to enter into a compliance agreement containing any terms necessary with a federal institution that is under investigation. New section 64.2 stipulates that entering into such an agreement precludes the Commissioner from taking other types of measures (e.g., orders, court remedies) and the complainant from pursuing court remedies.

New section 64.3 of the Act provides that compliance with a compliance agreement will result in the withdrawal of any pending court applications. New section 64.4 provides that in the case of failure to comply with a compliance agreement, the Commissioner can apply to the Federal Court for an order requiring the federal institution to comply with the agreement, a remedy or a reinstatement of proceedings. In addition, this new section authorizes the federal institution and the complainant to appear as parties to the proceedings, allows the complainant to apply for a remedy and specifies that an application to the Federal Court must be made within one year of the notice given by the Commissioner or any longer period the court allows.

New section 64.5 grants the Commissioner the ability to make an order, including after an investigation concerning parts IV and V of the Act or if the Commissioner has made recommendations regarding an identical contravention in the past to no effect. This section also provides that the Commissioner must first invite the federal institution concerned to enter into a compliance agreement. It stipulates that the order may include any conditions the Commissioner deems appropriate and requires the Commissioner to notify the federal institution before making the order and allow it 20 days to respond. The institution concerned may either indicate the action taken or the reasons why no action has been taken, or enter into a compliance agreement with the Commissioner. The latter must give a notice when issuing the order and inform the parties of their

recourse rights. The order takes effect on the 31<sup>st</sup> business day after receipt of the notice, which is deemed to have taken place on the 5<sup>th</sup> business day after the date of the notice.

New section 64.6 specifies that the order made by the Commissioner may, if necessary, be filed with the Federal Court and that, once it is filed, it carries the same weight as though it had been made by a Federal Court judge. The Commissioner therefore has the same remedies as the court would have to enforce the order should the federal institution not comply with it.

Clause 44 adds section 66(2) to the Act to specify that the Commissioner must include information on complaints, alternative dispute resolution processes, compliance agreements and orders in their annual report.

Clause 45 adds section 75.1 to the Act, which extends the Commissioner's powers to address complaints and launch investigations on the Commissioner's own initiative in federally regulated private businesses. In investigations dealing with such a business, the Commissioner makes a report solely to the business's chief executive officer or the person designated by the latter. This report is not tabled in Parliament. This new section will come into force by order of the Governor in Council (clause 70(1)).

In sum, the amendments to Part IX of the Act provide for a set of gradually increasing powers for the Commissioner and extend their scope to federally regulated private businesses under certain circumstances. These changes address a proposal from the Commissioner dating back to 2016, when the then Commissioner called for expanding the range of tools at their disposal to enforce the Act.<sup>73</sup>

## 2.13 PART X – COURT REMEDY (CLAUSES 46 TO 50)

Clause 46 makes multiple amendments to section 77, concerning the right to court remedies. It adds sections 45.21 to 45.24, which deal with federally regulated private businesses, to the list of rights that may give rise to a court remedy. This provision will come into force by order of the Governor in Council (clause 70(1)). This clause also amends the wording of section 77(2) to align the English and French versions. Finally, it adds sections 77(4.1) and 77(4.2) to the Act to set out the two options in case of conflict between different orders:

- in a situation where the Federal Court has ordered a remedy but, at the Commissioner's request, has also made an order requiring the institution to comply with a compliance agreement, the remedy order will prevail if the institution cannot comply with both orders simultaneously; and
- in a situation where the Commissioner has also made an order and filed it with the Federal Court, this order will prevail if some aspects of it contradict the remedy granted by the court.

Clause 47 adds section 78(1.1) to the Act to deny the Commissioner a court remedy in cases where the Commissioner makes an order. This clause also amends the English wording of section 78(3) to match the French wording.

Clause 48 adds several new sections after section 78 of the Act. Section 78.1 allows both the complainant (new section 78.1(1)) and the federal institution concerned (new section 78.1(2)) to apply for judicial review of an order by the Commissioner.

New section 78.2 concerns the staying of an order by the Commissioner. If a review is applied for, the order is automatically stayed (new section 78.2(1)). However, it is up to the court to lift the stay of the order (new section 78.2(2)). Any part of the order that is not under review becomes operative (new section 78.2(3)).

New section 78.3 sets out the right of the federal institution (new section 78.3(1)) and of the complainant (new section 78.3(2)) to be parties to the review. If the federal institution applied for the review, the complainant that filed notice of their intent to appear may ask the court to determine any matter they could have brought for review (new section 78.3(3)). In other words, a complainant seeking to be a party to a review may raise matters for review even if it was the federal institution that applied for the review.

New section 78.4 confirms that the Commissioner may appear on behalf of the complainant or be a party to the review.

New section 78.5 of the Act provides that a complainant making an application for a review must notify the federal institution concerned (new section 78.5(1)). Likewise, a federal institution making an application for a review must inform the Commissioner (new section 78.5(2)).

New section 78.6 stipulates that the application for a review is to be heard and determined as a new proceeding, with new evidence and new arguments, without being limited by what was raised in the initial complaint.

Pursuant to new section 78.7, the court may make an order setting out which provisions the federal institution is required to comply with or any other order that it considers appropriate.

New section 78.8 concerns a situation where the court's and the Commissioner's orders cannot be complied with simultaneously. In this situation, the court's order takes precedence, and the incompatible provisions of the Commissioner's order are rescinded (new section 78.8(1)). The court must specify which provisions of the Commissioner's order are to be rescinded because they are incompatible (new section 78.8(2)).

Clause 49 adjusts the English version of section 81(2), which concerns costs, to refer to the right to apply for judicial review provided in new section 78.1. Note that, currently, the English version of this section lists the sections to which the costs provision applies, while the French version does not.

Clause 50 adds section 81.1 to the Act to specify that Part X applies to federally regulated private businesses. These provisions will come into force by order of the Governor in Council (clause 70(1)).

In summary, the amendments to Part X provide for new recourse rights under the Act.

2.14 PART X.1 – COMPLAINTS IN RELATION  
TO LANGUAGE OF WORK IN THE PRIVATE SECTOR  
(CLAUSE 50)

Clause 50 adds new Part X.1 to the Act and several new sections, described below. This part concerns complaints regarding language of work in the private sector, further to the new provisions on federally regulated private businesses. These provisions will come into force by order of the Governor in Council (clause 70(1)).

New section 81.2 of the Act includes two new definitions that apply only to Part X.1. The first is for “board,” which refers to the Canada Industrial Relations Board. The second is for “parties,” which refers to the complainant, the federally regulated private business and any other person. The second section of this provision specifies which members of the board are required to implement new Part X.1.

New section 81.3 of the Act limits the right to make a complaint to the Commissioner to within 90 days of the date when, in the Commissioner’s opinion, the employee ought to have become aware of the act or omission. The Commissioner may extend this period in certain circumstances. This section prohibits the Commissioner from conducting an investigation on their own initiative respecting the language-of-work rights of employees of federally regulated private businesses set out in new Part VII.1.

New section 81.4 provides that:

- Part IX applies to complaints made under section 81.3 as though the federally regulated private business concerned were a federal institution;
- references to the chief executive officer of a federally regulated private business are to be read as references to a deputy head or other administrative head of a federal institution;
- the Commissioner’s report on a complaint must be provided to the chief executive officer of the federally regulated private business;
- references to parts IV and V in the provision about the Commissioner’s order-making power are to be read as references to the language-of-work rights of employees of federally regulated private businesses set out in new Part VII.1;



- no complaint may be discussed in a report to Parliament and that the institution's replies cannot be part of such a report, consistent with the provisions of new section 75.1; and
- a special report may be tabled only after the Canada Industrial Relations Board has decided whether a complaint is well-founded.

New section 81.5 specifies that, except where a compliance agreement has been reached, the Commissioner may, after giving notice, refer a complaint to the Canada Industrial Relations Board because of its nature or complexity, or the seriousness of the misconduct, along with the relevant evidence. Part X of the Act no longer applies once the board has taken on the complaint.

New section 81.6 stipulates that the Canada Industrial Relations Board is responsible for deciding whether a complaint the Commissioner has referred to it is well-founded. The complaint is subsequently dealt with by one or more members of the board or an adjudicator.

New section 81.7 provides that the Canada Industrial Relations Board must deal with complaints informally and expeditiously. The board is not bound by legal rules or technical rules of evidence.

New section 81.8 grants the Canada Industrial Relations Board many powers, including summoning witnesses, producing documents, receiving evidence, adjourning or postponing the proceedings, handling complaints and making decisions. The board may delegate to any person some of its powers, merge complaints that relate to the same subject, and review, rescind or alter any of its orders or decisions. The list of these powers is similar to the one in section 16 of the *Canada Labour Code*.

New section 81.9 enables members of the Canada Industrial Relations Board and external adjudicators to consult with any member of the board or any employee of the Administrative Tribunals Support Service of Canada regarding any complaint referred to the board.

New section 81.91 provides that the Canada Industrial Relations Board may make regulations defining its powers, duties and functions under new Part X.1 and that the Commissioner may not review them. The list of powers, duties and functions that may be the subject of regulations is partially based on the one in section 15 of the *Canada Labour Code*.

New section 81.92 sets out the seven situations in which the Canada Industrial Relations Board may reject a complaint, in whole or in part. The board must notify the parties of the reasons for rejecting the complaint.

New section 81.93 stipulates that the Canada Industrial Relations Board may make an order to require a federally regulated private business to comply with the Act. Depending on the circumstances, the board may order the business to permit the complainant to return to the duties of their employment or reinstate their employment, pay them compensation or do any other thing to counteract the effects of the failure to comply with the Act.

New section 81.94 of the Act specifies that the Canada Industrial Relations Board must provide a copy of its decision on the merits of a complaint and any order, with reasons, to the parties and the Commissioner.

New section 81.95 provides that an order by the board may be filed with the Federal Court of Appeal in the 14 days following the date it is made or its implementation date. The order is registered in the court, meaning that all proceedings may be taken in respect of it as though it were a judgment of that court.

New section 81.96 specifies that the provisions in new Part X.1 do not prevent an employee from seeking a civil remedy against an employer.

New section 81.97 grants the Governor in Council the power to make regulations for the purposes of new Part X.1.

In sum, Bill C-32 provides for a different approach to receiving, dealing with and resolving complaints regarding language of work in federally regulated private businesses from that for complaints about the communications of and services provided by these businesses.

## 2.15 PART XI – GENERAL (CLAUSES 51 TO 56)

Clause 51 amends section 83 of the Act to recognize the importance of maintaining and enhancing Indigenous languages and to ensure the Act does not abrogate or derogate from Indigenous language rights, as it already provides for languages other than English and French. The official-languages reform proposal distinguished between the framework for official languages and the one for Indigenous languages, which is governed by the *Indigenous Languages Act* of 2019, while noting the complementary visions of both.<sup>74</sup>

Clause 52 amends the wording of the English version of section 86(3) to align it with the French version, while clause 53 amends the French version of section 87(5) to better match the English version.

Clause 54 specifies that the *Criminal Code* provision respecting contraventions of a federal Act also does not apply to the Act's implementing regulations.<sup>75</sup>

Clause 55 adjusts the wording of section 91 of the Act, which concerns staffing, to refer to the Act in general rather than specific parts of it. In November 2020, the Commissioner of Official Languages published a report on the implementation of section 91 after finding systemic problems with its implementation and a high number of complaints to that effect.<sup>76</sup> The Commissioner recommended reviewing federal institutions' staffing practices and policies after finding that managers had trouble objectively setting the language requirements of positions reporting to them. Nearly 52% of complaints the Commissioner received in 2020–2021 related to section 91.<sup>77</sup>

Clause 56 adds section 93.1 to the Act to require the Minister of Canadian Heritage to review the provisions and operation of the Act every 10 years and to table a report on the review in Parliament within 30 sitting days of the report's completion. During the debate on modernizing the Act, stakeholders unanimously called for periodic review of the Act. They referred to similar provisions in effect in some provinces and territories.<sup>78</sup>

2.16 PART XIV – TRANSITIONAL PROVISIONS,  
REPEAL AND COMING INTO FORCE  
(CLAUSES 57 TO 70)

Clause 57 specifies in section 104 of the Act that the powers of the Commissioner of Official Languages to enter into compliance agreements with and make orders respecting federally regulated private businesses in Quebec will apply on a date fixed by order of the Governor in Council. Clause 58 adds similar provisions to section 105 for regions with a strong francophone presence. The provisions of section 105 will come into force two years after those of section 104.

Clause 59 repeals sections 107 and 108 of the Act, as these provisions are no longer needed.

Clauses 60 to 63 provide for related amendments to the *Canada Labour Code* in order to:<sup>79</sup>

- add to the list of members of the Canada Industrial Relations Board in section 9(2) of the *Canada Labour Code* to account for the Act's new language-of-work duties for federally regulated private businesses (clause 60);
- include in sections 10(3) and 10(3.1) of the *Canada Labour Code* the requirement for these new members to have experience and expertise in official language rights (clause 61);
- amend section 11(2) of the *Canada Labour Code* to account for these new provisions and the application of the Act (clause 62); and
- add to section 12.02 of the *Canada Labour Code* a clarification that the members referred to in new section 9(2)(f) of the *Canada Labour Code* are not allowed to vote on the making of regulations of general application respecting the Canada Industrial Relations Board (clause 63).

The provisions of clauses 60 to 63 will come into force by order of the Governor in Council (clause 70(1)).

Clause 64 adds section 7.1 to the *Department of Canadian Heritage Act* to specify that the Minister of Canadian Heritage may take measures to protect and fund the human rights component of the Court Challenges Program.<sup>80</sup> The language rights component of the program is already covered by the Act itself (clause 23(1)).

Clause 65 makes a related amendment to section 10(1) of the *Air Canada Public Participation Act* to specify that new Part VII.1 of the Act respecting federally regulated private businesses does not apply to Air Canada.<sup>81</sup>

Clause 66 provides for a related amendment to section 15 of the *CN Commercialization Act* to specify that new Part VII.1 respecting federally regulated private businesses does not apply to CN.<sup>82</sup>

Clause 67 makes a related amendment to section 96 of the *Civil Air Navigation Services Commercialization Act* to specify that new Part VII.1 respecting federally regulated private businesses does not apply to NAV CANADA.<sup>83</sup>

The provisions of clauses 65 to 67 will come into force by order of the Governor in Council (clause 70(1)). The affected businesses fall under the definition of “federally regulated private business” set out in clause 6(3), which excludes corporations subject to the Act.

Clause 68 enables the Governor in Council to repeal the *C.N.R. Company Exemption Order*, which exempted CN from section 10(2) of the *Official Languages Act* of 1969.<sup>84</sup> This order concerned services to the public, other than the travelling public, provided outside of Canada. The Act of 1988 repealed the Act of 1969, but the order, made on 11 July 1969, was never amended, even after the federal government enacted legislation to privatize this former Crown corporation in 1995.<sup>85</sup>

Clause 69 provides for a coordinating amendment relating to Bill C-10, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts.<sup>86</sup> This bill died at the Senate committee stage and therefore did not receive Royal Assent during the 2<sup>nd</sup> Session of the 43<sup>rd</sup> Parliament. If that bill had been passed, new section 42.1 of the Act, which recognizes the role of the CBC, would have taken effect the day on which both clause 22 of Bill C-32 and clause 45 of Bill C-10 had come into force.

Clause 70 provides for a phased coming into force of the clauses respecting federally regulated private businesses. The provisions relating to Quebec will take effect by order of the Governor in Council. The provisions relating to regions with a strong francophone presence will come into force two years later. In addition, this clause specifies that the provision on the duty to adopt a francophone immigration policy will come into force by order of the Governor in Council.

### 3 COMMENTARY

#### 3.1 REACTIONS TO BILL C-32

Most organizations representing francophone minority communities welcomed the legislation introduced in response to the official-languages reform proposal. The primary voice for these communities, the Fédération des communautés francophones et acadienne du Canada, called Bill C-32 a “substantial step forward ... that will truly give life to Canada’s official languages.”<sup>87</sup> The organization published a table comparing the contents of Bill C-32 with the demands of francophone and Acadian communities during the debate on modernizing the Act.<sup>88</sup> The table lists a series of items that require clarification before the bill is passed. These items include:

- the inclusion of robust language clauses in federal funding transfer agreements;
- the assignment of the role of coordinating and implementing the Act to a central agency;
- the adoption of a francophone immigration policy that will restore the demographic weight of francophone minority communities;
- the creation of an administrative tribunal;
- effective consultation with official language minority communities;
- the linguistic obligations that apply when powers are devolved to other orders of government or third parties; and
- the creation of an official languages promotion fund, financed through monetary penalties on federal institutions for breaches of their official languages obligations.

However, organizations representing Quebec’s English-speaking communities were less enthusiastic about the bill. The primary voice of these communities, the Quebec Community Groups Network, applauded the measures to support the development of communities and of the institutions that serve them, but criticized the following:

- the provisions that apply only to French or to Quebec, as is the case for those concerning federally regulated private businesses;
- the potential violations of the principle of equality of status of English and French recognized in the Act and by the Constitution; and
- the lack of measures addressing long-standing concerns, such as the underrepresentation of English-speaking Canadians in the federal public service in regions outside the Greater Montréal area.<sup>89</sup>

After Bill C-32 was introduced, the English-speaking organization released a preliminary analysis in which it highlighted the following:

- the provisions to protect and promote the French language could affect the interpretation of the rights of Quebec’s English-speaking communities, including those in Part VII of the Act;

- the *Charter of the French Language* is the only provincial legislation named in the Act;
- the clause stipulating that the positive measures of Part VII must be taken while upholding the principles of protecting and promoting French could affect the vitality of Quebec’s English-speaking communities;
- the lack of provisions ensuring the transparency of federal–provincial/territorial agreements;
- the rights provided in new parts VII.1 and X.1 of the Act are similar to those in the *Charter of the French Language*;
- the roles of the Minister of Canadian Heritage and the President of the Treasury Board are strengthened, but no central agency is responsible for implementing the Act as a whole; and
- no parliamentary process is provided for the periodic review of the Act.<sup>90</sup>

After Bill C-32 was introduced, the Commissioner of Official Languages promised to carefully follow it through the legislative process. In his 2020–2021 annual report, he called on “all members of Parliament to work together to pass legislation that benefits all Canadians.”<sup>91</sup>

On 15 June 2021, the House of Commons Standing Committee on Official Languages presented a report to Parliament on the COVID-19 pandemic’s impact on the federal government’s ability to communicate with the public in both official languages. While Bill C-32 was not directly discussed, the report added new recommendations for modernizing the Act, including the following:

- giving the Act precedence in emergency situations;
- subjecting social media and other electronic means of communication to the Act;
- requiring federal institutions to have plans for communications with and services to employees and the public in emergency situations; and
- strengthening the obligations set out in Part V to take into account emergency situations.<sup>92</sup>

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## NOTES

1. [Bill C-32, An Act to amend the Official Languages Act and to make related and consequential amendments to other Acts](#), 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session.
2. Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#), 2021.



3. [Official Languages Act](#), R.S.C. 1985, c. 31 (4<sup>th</sup> Supp.).
4. [Lavigne v. Canada \(Office of the Commissioner of Official Languages\)](#), 2002 SCC 53, para. 23; and [Thibodeau v. Air Canada](#), 2014 SCC 67, paras. 12 and 112.
5. [Mahe v. Alberta](#), [1990] 1 S.C.R. 342; [R. v. Beaulac](#), [1999] 1 S.C.R. 768, paras. 22–24; [Arseneault-Cameron v. Prince Edward Island](#), 2000 SCC 1, paras. 26–31; [Association des parents de l'école Rose-des-vents v. British Columbia \(Education\)](#), 2015 SCC 21; [DesRochers v. Canada \(Industry\)](#), 2009 SCC 8, paras. 31 and 51; and [Conseil scolaire francophone de la Colombie-Britannique v. British Columbia](#), 2020 SCC 13.
6. [An Act to amend the Official Languages Act \(promotion of English and French\)](#), S.C. 2005, c. 41.
7. Office of the Commissioner of Official Languages (OCOL), [2016–2017 Annual Report](#), 2017, p. 10.
8. Senate, Standing Committee on Official Languages (OLLO), [Modernizing the Official Languages Act: The Views of Federal Institutions and Recommendations](#), Final report, June 2019; OCOL, [1969–2019: Modernizing the Official Languages Act – The Commissioner of Official Languages' Recommendations for an Act that is Relevant, Dynamic and Strong](#), May 2019; House of Commons, Standing Committee on Official Languages (LANG), [Modernization of the Official Languages Act](#), Seventeenth report, June 2019; Fédération des communautés francophones et acadienne du Canada (FCFA), [Time for Action: The FCFA Proposes a new Wording of the Official Languages Act](#), 5 March 2019; and Quebec Community Groups Network (QCGN), [English-speaking Quebec and the Modernization of the Official Languages Act](#), Brief submitted to OLLO, 28 May 2018.
9. Prime Minister of Canada, Justin Trudeau, [Minister of Tourism, Official Languages and La Francophonie Mandate Letter](#), 28 August 2018.
10. Government of Canada, [Summary Document: Engaging Canadians as a Step Towards Modernizing the Official Languages Act](#), 2019.
11. Prime Minister of Canada, Justin Trudeau, [Minister of Economic Development and Official Languages Mandate Letter](#), 13 December 2019; and Prime Minister of Canada, Justin Trudeau, [Minister of Economic Development and Official Languages Supplementary Mandate Letter](#), 15 January 2021.
12. Government of Canada, [A Stronger and More Resilient Canada: Speech from the Throne to Open the Second Session of the Forty-Third Parliament of Canada](#), 23 September 2020, pp. 28–29:  
  

The Government of Canada must also recognize that the situation of French is unique. There are almost 8 million Francophones in Canada within a region of over 360 million inhabitants who are almost exclusively Anglophone. The Government therefore has the responsibility to protect and promote French not only outside of Quebec, but also within Quebec.

In this vein, 51 years after the passage of the *Official Languages Act*, the Government is committed to strengthening this legislation among other things, taking into consideration the unique reality of French.
13. Government of Canada, ["Part 3: A Resilient and Inclusive Recovery – Promoting Official Languages," A Recovery Plan for Jobs, Growth, and Resilience](#), Budget 2021.
14. Quebec, [Position du gouvernement du Québec – Modernisation de la Loi sur les langues officielles](#) [AVAILABLE IN FRENCH ONLY].
15. Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#), 2021.
16. Ibid.
17. OLLO, [Study on the proposed Official Languages reform](#).
18. FCFA, [FCFA Welcomes Minister Joly's Blueprint for Official Languages Overhaul](#), News release, 19 February 2021; and OCOL, [Statement from the Commissioner of Official Languages on the Government of Canada's reform document, English and French: Towards a Substantive Equality of Official Languages in Canada](#), News release, 19 February 2021.
19. OCOL, [Statement by the Commissioner of Official Languages of Canada on the government of Canada's reform document, French and English: Towards Substantive Equality of Official Languages in Canada](#), News release, 10 May 2021; and QCGN, [QCGN Cautiously Optimistic About Ottawa's Plan to Overhaul the Official Languages Act](#), News release, 19 February 2021.

20. [Canada Labour Code](#), R.S.C. 1985, c. L-2; [Department of Canadian Heritage Act](#), S.C. 1995, c. 11; [Air Canada Public Participation Act](#), R.S.C. 1985, c. 35 (4<sup>th</sup> Supp.); [CN Commercialization Act](#), S.C. 1995, c. 24; and [Civil Air Navigation Services Commercialization Act](#), S.C. 1996, c. 20.
21. Quebec, National Assembly, [Bill 96, An Act respecting French, the official and common language of Québec](#), 42<sup>nd</sup> Legislature, 1<sup>st</sup> Session.
22. New Brunswick, [Official Languages Act](#), c. O-0.5, s. 42(1):  
  
The Premier shall initiate a review of this Act, and the review shall be completed no later than December 31, 2021.
23. New Brunswick, [Review of the Official Languages Act and improving second language learning in New Brunswick](#), 2021.
24. Ontario, Legislative Assembly, “[Services en français](#),” House Hansard, 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session, 25 September 2018, 1100 (Caroline Mulroney) [AVAILABLE IN FRENCH ONLY].
25. Government of Ontario, [Ontario Seeks Input from the Francophone Community](#), News release, 3 June 2021.
26. [Broadcasting Act](#), S.C. 1991, c. 11. Pursuant to sections 3(1)(m)(iv) and 3(1)(m)(v) of this legislation, Canadian Broadcasting Corporation programming should “be in English and in French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities” and “strive to be of equivalent quality in English and in French.”
27. [Canada \(Commissioner of Official Languages\) v. CBC](#), 2014 FC 849, para. 33:  
  
In the final judgment that follows, the Court declares that the Corporation is subject to the [Official Languages Act], in particular Part VII (sections 41 to 45). It has an obligation to take positive measures to enhance the vitality and support and assist the development of [official language minority communities] under Part VII of the [Official Languages Act], specifically 41, which imposes an obligation to act in a manner that does not hinder the development and vitality of Canada's Anglophone and Francophone minorities.
28. [Immigration and Refugee Protection Act](#), S.C. 2001, c. 27. Pursuant to section 3(3)(e), this legislation is to be construed and applied in a way that “supports the commitment of the Government of Canada to enhance the vitality of the English and French linguistic minority communities in Canada.”
29. The federal government set a target to increase the proportion of francophone immigrants who settle outside Quebec to 4.4% by 2023. In addition, the latest five-year federal official languages strategy contains commitments to strengthen the vitality of francophone minority communities through immigration. See Government of Canada, “[Enhancing the vitality of Francophone minority communities through immigration: A national strategy](#),” *Action Plan for Official Languages – 2018–2023: Investing in Our Future*.
30. [Constitution Act, 1867](#), 30 & 31 Victoria, c. 3 (U.K.), s. 133:  
  
Either the English or the French Language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.  
  
The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages.  
  
[Manitoba Act, 1870](#), 33 Vict., c. 3, s. 23:  
  
Either the English or the French language may be used by any person in the debates of the Houses of the Legislature, and both those languages shall be used in the respective Records and Journals of those Houses; and either of those languages may be used by any person, or in any Pleading or Process, in or issuing from any Court of Canada established under the British North America Act, 1867, or in or from all or any of the Courts of the Province. The Acts of the Legislature shall be printed and published in both those languages.
31. Quebec, [Charter of the French Language](#), c. C-11. On 13 May 2021, [Bill 96, An Act respecting French, the official and common language of Québec](#), was introduced in the National Assembly of Québec in order to make a number of amendments to the *Charter of the French Language*.

32. [Canadian Charter of Rights and Freedoms](#), Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act, 1982* (U.K.), 1982, c. 11, ss. 16(2), 16.1(1), 16.1(2), 17(2) and 18(2):

16(2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick.

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

16.1(2) The role of the legislature and government of New Brunswick to preserve and promote the status, rights and privileges referred to in subsection (1) is affirmed.

17(2) Everyone has the right to use English or French in any debates and other proceedings of the legislature of New Brunswick.

18(2) The statutes, records and journals of the legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative.

Note that Bill C-32 does not refer to ss. 19(2) and 20(2) of the *Canadian Charter of Rights and Freedoms* (Charter), which apply to New Brunswick.
33. [Indigenous Languages Act](#), S.C. 2019, c. 23.
34. [Reference re Secession of Quebec](#), [1998] 2 S.C.R. 217, paras. 79–82; and [Lalonde v. Ontario \(Commission de restructuration des services de santé\)](#), [2001] 56 O.R. (3d) 505 (CanLII), paras. 111–125.
35. For example, since 1951, the percentage of the population of Canada and Quebec with French as a mother tongue has been declining steadily. See [The Evolution of Language Populations in Canada, by Mother tongue, from 1901 to 2016](#), Canadian Megatrends, Statistics Canada, 21 February 2018, pp. 3–4. Language projections show that this downward trend will continue over the next 15 years. See René Houle and Jean-Pierre Corbeil, [Language Projections for Canada, 2011 to 2036](#), Ethnicity, Language and Immigration Thematic Series, Statistics Canada, 25 January 2017, p. 14.
36. In 2003, the federal government adopted its first five-year official languages plan, the Action Plan for Official Languages (2003–2008). Others followed:
  - the Roadmap for Canada's Linguistic Duality (2008–2013);
  - the Roadmap for Canada's Official Languages (2013–2018); and
  - the [Action Plan for Official Languages](#) (2018–2023).

In the debate on modernizing the Act, all stakeholders called for entrenching this mechanism in the Act.
37. The OLLO, the FCFA and the QCGN took a position on which central agency should be given this role – the Treasury Board – and they asked for more binding obligations, but Bill C-32 does not address these requests. See OLLO, [Modernizing the Official Languages Act: The Views of Federal Institutions and Recommendations](#), Final report, June 2019, pp. 49–50; FCFA, [Time for Action: The FCFA Proposes a new Wording of the Official Languages Act](#), 5 March 2019, pp. 12–14; and QCGN, [English-speaking Quebec and the Modernization of the Official Languages Act](#), Brief submitted to OLLO, 28 May 2018, p. 34.
38. Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#), 2021.

39. [Canada Labour Code](#), R.S.C. 1985, c. L-2, s. 2:

*federal work, undertaking or business* means any work, undertaking or business that is within the legislative authority of Parliament, including, without restricting the generality of the foregoing,

(a) a work, undertaking or business operated or carried on for or in connection with navigation and shipping, whether inland or maritime, including the operation of ships and transportation by ship anywhere in Canada,

(b) a railway, canal, telegraph or other work or undertaking connecting any province with any other province, or extending beyond the limits of a province,

(c) a line of ships connecting a province with any other province, or extending beyond the limits of a province,

(d) a ferry between any province and any other province or between any province and any country other than Canada,

(e) aerodromes, aircraft or a line of air transportation,

(f) a radio broadcasting station,

(g) a bank or an authorized foreign bank within the meaning of section 2 of the *Bank Act*,

(h) a work or undertaking that, although wholly situated within a province, is before or after its execution declared by Parliament to be for the general advantage of Canada or for the advantage of two or more of the provinces,

(i) a work, undertaking or business outside the exclusive legislative authority of the legislatures of the provinces, and

(j) a work, undertaking or activity in respect of which federal laws within the meaning of section 2 of the *Oceans Act* apply pursuant to section 20 of that Act and any regulations made pursuant to paragraph 26(1)(k) of that Act.

40. Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#), 2021.
41. Private members' bills were previously introduced in Parliament to amend the [Supreme Court Act](#) to require that all Supreme Court judges be able to understand English and French without the aid of an interpreter at the time of their appointment. Such an amendment would require each individual judge to be bilingual rather than the court as a whole, as proposed in Bill C-32.
42. Supreme Court of Canada, "[9. How many judges are assigned to hear an appeal?](#)," *Frequently Asked Questions (FAQ)*.
43. Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#), 2021.
44. Ibid. On the eligibility requirements for appointment to the Supreme Court of Canada, see [Reference re Supreme Court Act, ss. 5 and 6](#), 2014 SCC 21.
45. Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#), 2021.
46. In 2018, a case was brought before the Federal Court regarding the publication times and translation quality of federal court decisions, but it did not proceed because of the applicant's death. See *Pierre Devinat v. Courts Administration Service*, File T-1296-18 before the Federal Court of Canada. See also Marie-Ève Hudon, [Bilingualism in Canada's Court System: The Role of the Federal Government](#), Publication no. 2017-33-E, Library of Parliament, 26 November 2020, pp. 7–9.
47. OCOL, [A Matter of Respect and Safety: The Impact of Emergency Situations on Official Languages](#), October 2020.
48. Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#), 2021.
49. Clause 16 makes minor amendments to sections 36(1)(a), 36(1)(b) and 36(2) of the Act. In the summer of 2021, the Federal Court of Appeal interpreted the minimum duties set out in these three provisions and confirmed that federal institutions must create mechanisms to ensure these duties are fulfilled. See [Canada \(Commissioner of Official Languages\) v. Office of the Superintendent of Financial Institutions](#), 2021 FCA 159.

50. Government of Canada, [\*English and French: Towards a Substantive Equality of Official Languages in Canada\*](#), 2021.
51. Patrick Borbey and Matthew Mendelsohn, [\*The Next Level: Normalizing a Culture of Inclusive Linguistic Duality in the Federal Public Service Workplace\*](#).
52. In response to pressure from official language minority school boards and parliamentary committees, the federal government committed to taking measures to enumerate the three categories of rights-holders described in section 23 of the Charter for the first time in Census 2021. See LANG, [\*The Enumeration of Rights-Holders Under Section 23 of the Canadian Charter of Rights and Freedoms: Toward a Census that Supports the Charter\*](#), Fifth report, May 2017, pp. 9–13; OLLO, [\*Horizon 2018: Toward Stronger Support of French-Language Learning in British Columbia\*](#), May 2017, pp. 57–58; and Prime Minister of Canada, Justin Trudeau, [\*Minister of Economic Development and Official Languages Mandate Letter\*](#), 13 December 2019.
53. In 2020, the Supreme Court of Canada confirmed that section 23 of the Charter grants official language minority communities the right to education of equal quality to that received by the majority. The Supreme Court noted that a truly equivalent educational experience is possible only if teachers are properly trained. In a minority-language school, that means teachers need adequate language and pedagogical skills to meet the needs of minority-language students. See [\*Conseil scolaire francophone de la Colombie-Britannique v. British Columbia\*](#), 2020 SCC 13.
54. During the debate on modernizing the Act, the LANG committee recommended that the updated Act promote French in Canada and abroad. See LANG, [\*Modernization of the Official Languages Act\*](#), Seventeenth report, June 2019, p. 69.
55. [\*Fédération des francophones de la Colombie-Britannique v. Canada \(Employment and Social Development\)\*](#), 2018 FC 530, para. 293:
- It is undeniable, in my opinion, that the scope of the duty contained in section 41 is hamstrung by the absence of regulations. And, it must be said, this regulatory silence and the resulting vagueness are probably detrimental to the linguistic minorities in Canada, who may be losing a potential benefit under Part VII.
- At the time of writing, the Federal Court of Appeal is preparing to hear an appeal of this decision.
56. Government of Canada, [\*English and French: Towards a Substantive Equality of Official Languages in Canada\*](#), 2021.
57. These measures draw on item 17 of the Official Languages Accountability and Coordination Framework, which was appended to the 2003 Action Plan for Official Languages. See Government of Canada, [\*The Next Act: New Momentum for Canada's Linguistic Duality – The Action Plan for Official Languages\*](#), 2003, p. 66.
58. Although a [\*guide on Part VII\*](#) sets out the duties of all federal institutions, the implementation of this part of the Act remains a challenge for a number of these institutions.
59. Government of Canada, [\*English and French: Towards a Substantive Equality of Official Languages in Canada\*](#), 2021.
60. Government of Canada, [\*Official Languages Support Programs\*](#).
61. Government of Canada, [\*English and French: Towards a Substantive Equality of Official Languages in Canada\*](#), 2021; and Immigration, Refugees and Citizenship Canada, [\*Meeting Our Objectives: Francophone Immigration Strategy\*](#), 2019, p. 2.
62. Government of Canada, [\*English and French: Towards a Substantive Equality of Official Languages in Canada\*](#), 2021.
63. Government of Canada, [\*Action Plan for Official Languages – 2018–2023: Investing in Our Future\*](#), 2018.
64. Government of Canada, [\*Canada–Québec Accord Relating to Immigration and Temporary Admission of Aliens\*](#), 5 February 1991.
65. The official-languages reform proposal stated that this measure could affect some 73,500 people working in this type of business in Quebec, or 1.7% of the province's workforce. See Government of Canada, [\*English and French: Towards a Substantive Equality of Official Languages in Canada\*](#), 2021.
- In 2013, the federal government released a detailed account of the language-of-work situation in federally regulated private businesses in Quebec. This report showed that employees of these businesses could generally work in French and have access to tools in French. It did not show a need to subject existing businesses to either the federal or provincial language regimes. That said, employees who are not covered by either language regime but wish to assert their right to work in French currently have no legal basis to do so. See Government of Canada, [\*Language of Work in Federally Regulated Private Businesses in Quebec Not Subject to the Official Languages Act\*](#).

66. According to the official-languages reform proposal, about 815,000 people in Canada work for federally regulated private businesses, making up 6.6% of the country's private-sector workforce. However, it is unclear how many of these businesses operate in regions with a strong francophone presence. See Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#), 2021.
67. A number of the duties set out in new Part VII.1 of the Act are similar to those provided by Quebec's *Charter of the French Language*. See Quebec, [Charter of the French Language](#), c. C-11.
68. In Quebec, the *Charter of the French Language* provides for establishing a francization committee in businesses with 100 or more employees. This committee manages the business's francization programs, taking into account specific situations such as employees on the verge of retirement.
69. Quebec, [Charter of the French Language](#), c. C-11.
- In Quebec, businesses can voluntarily obtain a francization certificate from the Office québécois de la langue française. The official-languages reform proposal noted that nearly 40% of businesses with 50 or more employees hold such a certificate. These businesses include some of the major banks (e.g., National Bank, Royal Bank and Scotiabank) and large telecommunications companies (e.g., Bell Canada, Videotron and Rogers). Some financial institutions with headquarters in Quebec, such as the Bank of Montreal, do not hold a francization certificate.
70. If passed, [Bill 96, An Act respecting French, the official and common language of Québec](#), introduced in the National Assembly of Québec on 13 May 2021, would subject businesses with 25 or more employees to Quebec's legislation. See Langlois Lawyers, [The bill to amend the Charter of the French Language: expected impacts for employers in Quebec](#), 27 May 2021.
71. Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#), 2021.
- Private members' bills to amend the [Canada Labour Code](#), the [Official Languages Act](#) or the [Canada Business Corporations Act](#) were previously introduced in Parliament to specify the language requirements for federally regulated private businesses. During the 2<sup>nd</sup> Session of the 43<sup>rd</sup> Parliament, [Bill C-254, An Act to amend the Canada Labour Code, the Official Languages Act and the Canada Business Corporations Act](#), sought to stipulate that the *Charter of the French Language* applies in Quebec, including for businesses operating there. This bill died on the *Order Paper* at the committee stage.
72. Canadian Heritage, [Modernization of Official Languages Act: Appointment of Expert Panel on Language of Work and Service in Federally Regulated Private Businesses](#), News release, 5 March 2021. The expert panel was mandated to recommend to the Minister of Economic Development and Official Languages the criteria for determining remedies for potential language-of-service and language-of-work rights violations in federally regulated private businesses and for designating regions with a strong francophone presence outside Quebec.
73. OCOL, [Special Report to Parliament – Air Canada: On the Road to Increased Compliance Through an Effective Enforcement Regime](#), June 2016, pp. 24–27.
74. Government of Canada, [English and French: Towards a Substantive Equality of Official Languages in Canada](#), 2021; and [Indigenous Languages Act](#), S.C. 2019, c. 23.
75. [Criminal Code](#), R.S.C. 1985, c. C-46, s. 126:
- (1) Every person who, without lawful excuse, contravenes an Act of Parliament by intentionally doing anything that it forbids or by intentionally omitting to do anything that it requires to be done is, unless a punishment is expressly provided by law, guilty of
- (a) an indictable offence and liable to imprisonment for a term of not more than two years; or
- (b) an offence punishable on summary conviction.
- (2) Any proceedings in respect of a contravention of or conspiracy to contravene an Act mentioned in subsection (1), other than this Act, may be instituted at the instance of the Government of Canada and conducted by or on behalf of that Government.
76. OCOL, [Implementing Section 91 of the Official Languages Act: A Systemic Problem](#), November 2020.
77. OCOL, [Annual Report 2020–2021](#), 2021, p. 24.
78. New section 93.1 of the Act does not refer to amendments, recommendations of amendments or referral to a review committee as is the case in New Brunswick and Nunavut. See New Brunswick, [Official Languages Act](#), S.N.B. 2002, c. O-0.5, s. 42(1); and Nunavut, [Consolidation of Official Languages Act](#), S.Nu. 2008, c. 10, s. 37.



79. [Canada Labour Code](#), R.S.C. 1985, c. L-2.
80. [Department of Canadian Heritage Act](#), S.C. 1995, c. 11.
81. [Air Canada Public Participation Act](#), R.S.C. 1985, c. 35 (4<sup>th</sup> Supp.).
82. [CN Commercialization Act](#), S.C. 1995, c. 24.
83. [Civil Air Navigation Services Commercialization Act](#), S.C. 1996, c. 20.
84. [C.N.R. Company Exemption Order](#), C.R.C., c. 1244.
85. [CN Commercialization Act](#), S.C. 1995, c. 24.
86. [Bill C-10, An Act to amend the Broadcasting Act and to make related and consequential amendments to other Acts](#), 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session.
87. FCFA, [Bill C-32: A Substantial Step Forward for French and for Canada](#), 15 June 2021.
88. FCFA, [Modernization of the Official Languages Act: Bill C-32 at a Glance](#).
89. QCGN, [QCGN Statement on Government of Canada's Proposed Changes to the Official Languages Act](#), News release, 15 June 2021; and QCGN, "[The Federal Government's Proposal to Modernize the Official Languages Act](#)," *Federal Proposal*.
90. QCGN, [Preliminary Analysis of Bill C-32, An Act to amend the Official Languages Act and to make related and consequential amendments to other Acts](#), 25 June 2021.
91. OCOL, [Annual Report 2020–2021](#), 2021, p. 26.
92. LANG, [Impact of the COVID-19 Pandemic on the Government's Ability to Deliver Information and Services in Both Official Languages](#), Fifth report, June 2021.