



Department of the Secretary
of State of Canada

Secrétariat d'État
du Canada

Department of Justice
Canada

Ministère de la Justice
Canada

OFFICIAL LANGUAGES ACT



IN BRIEF

Canada

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General of Canada.

OVERVIEW

This document was prepared to explain the purpose and provisions of the 1988 *Official Languages Act*, which reflects and implements the language rights recognized by the Constitution and, in particular, by the *Canadian Charter of Rights and Freedoms*. The Act guarantees the official-language rights of Canadians in their dealings with federal institutions and sets out the corresponding duties of those institutions.

Three major objectives are reflected in the 1988 *Official Languages Act*:

- ▶ to ensure respect for English and French as the official languages of Canada, and equal status, rights and privileges for these languages in federal institutions;
- ▶ to support the development of English- and French-language minority communities and to encourage the acceptance and use of both English and French in Canadian society; and
- ▶ to set out the powers and duties of federal institutions in the area of the official languages.

The provisions of the 1988 *Official Languages Act* are based on the language rights enshrined in the Constitution. In the event of any inconsistency, Parts I to V of the *Official Languages Act* prevail over all other federal legislation except the *Canadian Human Rights Act*. The *Official Languages Act* also recognizes the importance of maintaining and encouraging the use of other languages.

PROCEEDINGS OF PARLIAMENT

English and French are the official languages of Parliament. Anyone may use either language — or both languages — in parliamentary debates and proceedings and everything that is said will be interpreted simultaneously into the other language.

Official reports of the debates must be published in both languages.

These requirements flow from the Constitution of Canada.

LAWS AND OTHER FORMAL DOCUMENTS

Acts of Parliament and ensuing regulations must be printed and published in both official languages. The records and journals of Parliament must also be printed and published in both languages.

The Act also requires that certain other government instruments or documents be made in both languages. These include documents tabled in Parliament, rules governing the practices of federal courts, international treaties or conventions, and certain federal-provincial agreements.

The Act sets out rules for the publication in both English and French of public notices and formal advertisements issued by the federal government under a law (such as notices of expropriation).

The English and French versions of all Acts, regulations and other formal instruments have equal authority.

THE COURTS

Every person has the right to use either English or French, orally or in writing, in proceedings before federal courts and adjudicative bodies (for example, the Canadian Human Rights Tribunal). To accommodate the exercise of this right, every federal court has the duty to make sure that the judges assigned to the case are able to understand the proceedings in the official language chosen by the parties without the assistance of interpreters. This does not mean that all judges must be bilingual, but rather that judges be assigned to cases based in part on their ability to understand the particular official language or languages to be used during the hearing.

The Federal Court and the Tax Court already respect this duty. Other federal courts have until September 15, 1993 to comply with this requirement.

Federal courts must provide simultaneous interpretation where necessary so that witnesses are heard in the official language of their choice. Federal courts also provide simultaneous interpretation if a party to the proceedings requests it or for proceedings of general public interest.

When the federal government is a party to civil proceedings before a federal court, it must use the official language chosen by the other parties.

Final judgments issued by the federal courts must be made available to the public in both official languages.

The Supreme Court of Canada is exempted from the statutory requirement that judges be able to understand the proceedings without the use of an interpreter. If all nine justices, who usually sit together, were required to be bilingual at the time of their appointment, it would risk depriving the country's highest court of candidates from various regions of Canada. However, most of the Supreme Court judges are already bilingual, while the others are perfecting their knowledge of the other official language.

The *Criminal Code* gives the accused the right to be tried in a criminal court before a judge (or judge and jury) who speaks the official language of the accused. The *Official Languages Act* has added a series of related official-language rights to the Code, including the right to have both the justice who presides over the preliminary inquiry and a prosecutor who speak the official language of the accused, as well as the right to have the judgement made available in that language. The required forms, such as summonses and warrants, must be printed in both official languages.

GOVERNMENT SERVICES

The Act, like the *Canadian Charter of Rights and Freedoms*, gives members of the public the right to communicate with and to receive services from the institutions of Parliament and of the federal government in the official language of their choice, in accordance with the duties set out in the Act. Federal institutions also have a duty to offer their services actively in both official languages by making sure that the public is fully aware that a given office provides services in both English and French.

These duties apply to all head or central offices of federal institutions and to federal offices in the National Capital Region. They also apply to federal offices in any part of the country or abroad if there is a significant demand for services in either official language, or if the nature of the office makes it reasonable that services be available in English and French.

In situations where third-party persons or organizations (mostly in the private sector) provide services to the public under federal jurisdiction in the areas of health, safety or security, the government must ensure that the public can communicate with and obtain services from these persons or organizations in both official languages wherever it is reasonable.

Furthermore, in cases where third-party persons or organizations provide services to the public on behalf of federal institutions, these institutions must ensure that their obligations are respected by the third-parties.

The Regulations concerning the right of members of the public to communicate with and receive services from federal offices in both official languages have been gradually implemented since December 16, 1992 and will be completely in force by December 16, 1994. The purpose of the Regulations is to apply the Act's provisions on **significant demand, nature of the office, and services** provided by third-party persons or organizations.

The provisions of the Regulations on significant demand consist of general rules — called demographic rules — based mainly on the size and proportion of the official-language minority in the region being served. They also contain specific rules on situations where the use of the demographic rules would be impractical or inappropriate.

Certain federal offices are, because of their nature, required to offer services in both languages — for example, national parks, embassies and consulates, and signage related to the safety and security of the public. The Regulations also cover services offered to the travelling public by retail concessions in certain airports, train stations and other facilities under federal jurisdiction.

EMPLOYMENT IN THE FEDERAL PUBLIC SERVICE

The employees of federal institutions in designated regions of the country may work in the official language of their choice. However, the employee's choice of working language is subordinate to the duty to communicate with members of the public in the language of the public's choice.

The federal government has designated certain regions of Canada as areas where its employees should be encouraged to work in their own language: the National Capital Region, certain regions in northern and eastern Ontario, the Montréal region, certain parts of the Eastern Townships, the Gaspé and Western Quebec, and New Brunswick. The Act confirms these designations.

The Act reflects a long-standing objective of enabling both English-speaking Canadians and French-speaking Canadians to participate fully in federal institutions, including the federal Public Service. English-speaking Canadians and French-speaking Canadians should have equal opportunities for employment and advancement in federal institutions, without regard to their ethnic origin or first language learned.

As well, the Act sets out the government's commitment to equitable participation. The government must make sure that the proportion of English-speaking employees and French-speaking employees in federal institutions generally reflects the presence and relative size of both official-language communities in Canada. Of course, the exact proportions in various institutions will vary, depending on their mandate, location and individual characteristics.

Hiring and advancement in the federal Public Service will continue to respect the merit principle — that is, the principle of selecting employees based on their qualifications. In other words, hiring quotas based on the official language of the applicants are not permitted.

ADVANCEMENT OF OFFICIAL LANGUAGES AND THE DEVELOPMENT OF OFFICIAL-LANGUAGE COMMUNITIES

The Act sets out the commitment of the federal government to helping English and French minority communities develop and flourish. The government is also committed to encouraging the acceptance and the use of both English and French by the Canadian public. This means that the government seeks to cooperate with other organizations in advancing the official languages in Canadian society.

The Act confers on the Secretary of State the responsibility of promoting a coordinated approach to the implementation of the federal government's commitment in consultation with other federal institutions, other levels of government and organizations representing various sectors of society.

FEDERAL AUTHORITIES RESPONSIBLE FOR IMPLEMENTATION OF THE ACT

DEPARTMENT OF JUSTICE

The Department of Justice was responsible for developing the 1988 *Official Languages Act*. The Minister of Justice retains general responsibility for the Act. As it did when drafting the legislation, the Department of Justice continues to work closely with the Treasury Board Secretariat and the Department of the Secretary of State. The major role of the Department of Justice is to advise the government on official-language issues relating to law, legislation and legal policy, and to prepare the government's position in litigation involving official-language rights. The Department also has special responsibilities with respect to the administration of justice in both official languages.

TREASURY BOARD

The Treasury Board is responsible for providing general direction and coordination of policies and programs applying to federal institutions in the areas of communications with and services to the public, language of work and equitable participation.

DEPARTMENTS, AGENCIES AND CROWN CORPORATIONS

All departments, agencies, Crown corporations and other federal government institutions are subject to the Act, and in particular to those parts dealing with services to the public, language of work and equitable participation. They must implement the official languages policies and programs of the Treasury Board. Each department signs an agreement with the Treasury Board on the planning and management of its responsibilities pertaining to official languages.

THE DEPARTMENT OF THE SECRETARY OF STATE

The Department of the Secretary of State has been given responsibility for coordinating the federal government's commitment to helping official-language minority communities by supporting various groups working for these communities, and by facilitating the contributions of other federal departments and agencies to their development.

The Department also concludes official-language agreements with the provinces and territories to provide schooling to members of the official-language minority communities in their own language, increased opportunities for everyone to learn English or French as a second language, and services in English and French in regions of Canada where these minorities are found.

The Department of the Secretary of State helps promote English and French in Canadian society by providing support to various groups that help recognize and put into practice the use of both official languages or create understanding and dialogue between the English- and French-speaking communities of Canada.

COMMISSIONER OF OFFICIAL LANGUAGES

It is the duty of the Commissioner of Official Languages to ensure that federal institutions comply with the spirit and intent of the Act. The Commissioner's main role is that of a linguistic ombudsman — assigned to the task of receiving and investigating complaints against federal institutions about their duties in the area of official languages. The Commissioner may also take action on his or her own initiative.

The Commissioner regularly conducts investigations within federal institutions and makes reports and recommendations to them as well as to the government and to Parliament.

FEDERAL COURT OF CANADA

The Act provides the public with a right to seek a remedy before the Federal Court of Canada if federal institutions do not comply with certain rights and duties, including those concerning service to the public. A complaint is first filed with the Commissioner of Official Languages. If the complainant is not satisfied with the results of the Commissioner's investigation, or if the results of the Commissioner's investigation are not communicated within six months of filing the complaint, he or she may then apply to the Federal Court for a remedy.

With the complainant's consent, the Commissioner may apply to the Federal Court for a remedy, appear before the Court on behalf of the complainant, or, with the Court's permission, intervene as a party.

If, after having heard the case, the Court rules that the federal institution concerned has not complied with the Act, the Court may order whatever remedy it considers appropriate and just in the circumstances.

PARLIAMENTARY COMMITTEE ON OFFICIAL LANGUAGES

This committee meets to monitor the administration of the *Official Languages Act*, and any regulations and directives that it gives rise to. The Committee also follows up on the annual reports — or other reports — of the Commissioner of Official Languages, the President of the Treasury Board and the Secretary of State.

FOR FURTHER INFORMATION

Various federal institutions have specific responsibilities in official languages, and will be pleased to answer your questions.

The Commissioner of Official Languages — responsible for promoting and ensuring compliance with the *Official Languages Act*. He closely monitors progress in the federal government. He is also an ombudsman and citizen's advocate to whom you may appeal if you feel your language rights have not been respected.

Commissioner of Official Languages
110 O'Connor Street
Ottawa, Ontario
K1A 0T8
(613) 996-6368

Treasury Board — central agency responsible for developing and coordinating federal policies and programs regarding service to the public, language of work and equitable participation of English-speaking Canadians and French-speaking Canadians in federal institutions.

Treasury Board
L'Esplanade Laurier Building
140 O'Connor Street
Ottawa, Ontario
K1A 0R5
(613) 957-2400

Department of Justice Canada — responsible for advising the government on legal issues respecting the status and use of the official languages in federal institutions and advising on the legal position of the government in language rights matters brought before the courts.

Department of Justice Canada
Justice Building
239 Wellington Street
Ottawa, Ontario
K1A 0H8
(613) 957-4222

Department of the Secretary of State of Canada — encourages Canadians to take advantage of the presence of English and French in Canadian society, and supports the minority official-language communities and voluntary organizations dedicated to promoting the official languages. It also cooperates with the provincial and territorial governments in promoting the two official languages.

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