



BRIEF OF THE COMMISSIONER
OF OFFICIAL LANGUAGES

**SEIZING A HISTORIC
OPPORTUNITY:
FOR A COMPLETE
MODERNIZATION OF
THE OLA**



In his brief, the Commissioner of Official Languages presents his position on Bill C-13, *An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts.*

This brief proposes a series of amendments to clarify and strengthen the measures that are proposed in Bill C-13.

**OFFICIAL LANGUAGES GOVERNANCE: ENSURING
A ROBUST AND EFFECTIVE APPROACH**

Strict adherence to the *Official Languages Act* (OLA) starts with effective governance. Governance refers to the way the federal government goes about implementing the OLA.

Bill C-13 makes some improvements in this regard by reinforcing the Treasury Board's obligations and assigning concrete responsibilities to some key federal institutions. However, these improvements cannot address the many governance issues that have long undermined the full implementation of the OLA.

**THE COMMISSIONER'S PROPOSED AMENDMENTS TO
THE BILL IN TERMS OF GOVERNANCE HAVE THE
FOLLOWING OBJECTIVES:**

- A central agency must coordinate the implementation of the OLA and ensure its results.
- The agency in charge of implementation must have clearly defined obligations.
- The governance structure must be effective and transparent.
- The Treasury Board should be given enhanced powers.

COMMISSIONER'S RECOMMENDATIONS

**MODERNIZATION'S OVERLOOKED ELEMENTS:
FEDERAL INSTITUTIONS THAT PROMOTE OFFICIAL
LANGUAGES AMONG THEIR EMPLOYEES AND
TOWARD THE PUBLIC**

The OLA is more than the sum of its parts. It should be thought of as a whole whose parts reinforce each other. The lack of key provisions in Bill C-13 that would enhance the obligations of institutions when communicating with and providing services to the public, and that would strengthen institutions' obligations toward their employees, is a stumbling block to the success of the bill as a whole.

**THE COMMISSIONER'S PROPOSED AMENDMENTS TO THE BILL
IN ORDER TO RECTIFY THE LACK OF KEY PROVISIONS HAVE THE
FOLLOWING OBJECTIVES:**

- The right to communicate with federal institutions and receive services in the official language of one's choice must be respected.
- The designated bilingual regions must be renewed and the rights of employees working in those regions must be strengthened.
- Legal obligations in emergencies must be binding.
- Language requirements for federal-provincial-territorial agreements must be enshrined in the OLA.
- The OLA must remain relevant in the context of changing technologies.

COMMISSIONER'S RECOMMENDATIONS



SUPPORT FOR COMMUNITIES AND ADVANCEMENT OF OFFICIAL LANGUAGES: PRESERVING GAINS AND PROVIDING A FRAMEWORK FOR OBLIGATIONS

Over the years, the provisions of the OLA regarding the advancement of English and French and support for the development and vitality of communities (the Part VII provisions) have led to a great deal of misunderstanding and inaction by federal institutions. It is true that the leadership of some federal institutions has made it possible to advance major community development initiatives and to promote the richness of the two official languages across the country. However, there have been too many missed opportunities for action, not to mention measures that have had detrimental effects. This is why a modernized OLA must firmly clarify and improve federal institutions' obligations.

The Commissioner's proposed amendments to Bill C-13 would enshrine in the OLA the principles set out in the Federal Court of Appeal's decision in the FFCB case in order to preserve the gains that have been made.

THE COMMISSIONER'S PROPOSED AMENDMENTS TO THE BILL IN TERMS OF SUPPORTING COMMUNITIES AND ADVANCING OFFICIAL LANGUAGES ALSO HAVE THE FOLLOWING OBJECTIVES:

- Federal institutions' discretion to take positive measures must be clarified.
- Federal institutions must mitigate the negative impacts of their decisions.
- Regulations clarifying Part VII must not be delayed.
- The Minister of Citizenship and Immigration needs more direction.
- Estimating the number of rights-holder children must go beyond a process.

COMMISSIONER'S RECOMMENDATIONS

COMMISSIONER'S NEW ROLES AND POWERS: PROVISIONS TO BE FINE-TUNED

Bill C-13 greatly improves the Commissioner's ability to bring federal institutions into compliance with the OLA. Compliance agreements, orders and administrative monetary penalties, in addition to increased flexibility in investigations as well as the ability to make certain parts of these public, are all useful and necessary powers given to the Commissioner for this purpose.

THE COMMISSIONER'S PROPOSED AMENDMENTS TO THE BILL IN TERMS OF NEW POWERS FOR THE COMMISSIONER HAVE THE FOLLOWING OBJECTIVES:

- The power to make orders must be more flexible.
- The scope of the monetary penalty regime must be reviewed and expanded.
- Ensure better access to justice.

COMMISSIONER'S RECOMMENDATIONS

FEDERALLY REGULATED PRIVATE BUSINESSES: ENSURING CONSISTENCY

Bill C-13 enacts the *Use of French in Federally Regulated Private Businesses Act* ("UFA"). Federally regulated private businesses (FRPBs) include banks, air and marine transportation services, and telecommunications companies. The bill extends language rights to more Canadians by creating new obligations for such businesses toward consumers and employees.

THE COMMISSIONER'S PROPOSED AMENDMENTS TO THE BILL IN TERMS OF FRPBs HAVE THE FOLLOWING OBJECTIVES:

- The UFA and OLA regimes must be consistent.
- Key concepts remain to be clarified:
 - Rights of "consumers"
 - Rights of "employees"
 - "Regions with a strong Francophone presence" and "number of employees"
 - Exemption of selected FRPBs by regulation
 - Rights of travelling employees

COMMISSIONER'S RECOMMENDATIONS