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IN BRIEF

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Official Languages in the Public Service

The *Official Languages Act*,⁽¹⁾ which came into force on 15 September 1988, sets out three broad principles with respect to official languages in the public service. Over the years, the federal government has implemented various policies to apply these principles in federal institutions.

COMMUNICATIONS WITH AND SERVICES TO THE PUBLIC

The first principle is the public's right to communicate with and be served by federal institutions in the language of its choice. This right is enshrined in section 20 of the *Canadian Charter of Rights and Freedoms*⁽²⁾ and in Part IV of the *Official Languages Act*. It implies that the government must adjust to the linguistic needs of the people, and not the other way around.

Not all offices of federal institutions are required to provide service in both official languages. The *Official Languages (Communications with and Services to the Public) Regulations*⁽³⁾ set out the criteria for determining the offices and service points that are to provide bilingual services, including:

- the head or central office of a federal institution;
- offices located in the National Capital Region;
- offices of Parliamentary Officers (e.g., the Office of the Auditor General of Canada);
- offices located where there is a significant demand, according to demographic and other specific predetermined criteria;
- offices of a nature justifying bilingual services (e.g., public health and safety);
- offices providing services to the travelling public; and
- third parties providing services to the public on behalf of federal institutions.

Offices and points of service covered by the *Official Languages Regulations* must actively provide their services in both official languages and so inform the public by means of appropriate signage, notices or other relevant information. Communication with the public must take place using media that will ensure the effective delivery of the information to the intended language client.

LANGUAGE OF WORK

The second principle is the right of the employees of federal institutions to work in the official language of their choice. This right is set out in Part V of the *Official Languages Act*. It applies to regions designated bilingual, including the National Capital Region, some parts of northern and eastern Ontario, the region of Montréal, parts of the Eastern Townships, the Gaspé region and western Quebec, and New Brunswick.⁽⁴⁾

Federal institutions must promote an environment conducive to the use of both English and French as languages of work in regions designated bilingual. Public servants working in these regions must have the following available to them:

- supervision of employees in bilingual positions in the language of the employee;
- regularly and widely used work instruments available in both official languages;
- regularly and widely used computer equipment available in both official languages;
- central (finance, administration, etc.) and personnel (health, compensation, etc.) services provided in both official languages;
- senior management capable of functioning in both languages;

- use of both official languages encouraged in meetings; and
- training and development in the language of the employee's choice.

The federal public service designates a certain percentage of its positions bilingual by taking into account obligations with respect to services to the public and language of work. Where the provisions on language of work (Part V) are incompatible with the provisions on services to the public (Part IV), the latter prevail. Not all public service employees need be bilingual. The linguistic profile of bilingual positions is determined according to the duties and responsibilities of the position.⁽⁵⁾

Some 38% of the positions in the public service are designated bilingual. The greatest concentrations of bilingual positions are in the National Capital Region (63.1%), Quebec (58.1%) and New Brunswick (48.2%). In 2002-2003, 84% of the incumbents of bilingual positions met the language requirements of their positions. As of 31 March 2003, all assistant deputy ministers at the EX-04 and EX-05 levels must meet the language requirements of their positions.

EQUITABLE PARTICIPATION BY ENGLISH- AND FRENCH-SPEAKING CANADIANS

The third principle is the government's commitment to provide equal opportunities to English-speaking and French-speaking Canadians in federal institutions. This commitment is set out in Part VI of the *Official Languages Act*. The public service must reflect the presence of the anglophone and francophone communities in the population as a whole. The rates of participation of these communities vary with the mandate of the institutions, the public they serve, the location of the offices and the categories of employment. Federal institutions may not promote the employment of members of one language group in particular and must apply the merit principle in staffing matters.

RESPONSIBILITIES, COMPLAINTS AND LEGAL RECOURSE

Since 12 December 2003, the Public Service Human Resources Management Agency of Canada has overseen the implementation of Parts IV, V and VI of the *Official Languages Act*. The Agency reports annually to Parliament on the performance of federal institutions in official languages matters.⁽⁶⁾

All federal institutions are subject to the provisions of the Act regarding official languages in the public service. The institutions must comply with the federal government's official languages policies or be guided by them.

Parts IV, V and VI of the *Official Languages Act* may give rise to complaints to the Office of the Commissioner of Official Languages. However, only Parts IV and V provide for legal recourse to the Federal Court.

Of the 1,021 complaints received by the Commissioner of Official Languages that were deemed admissible in 2002-2003, 76% concerned language of service, 12% concerned language of work, 6% concerned language requirements of positions and 2% concerned equitable participation.

RECENT DEVELOPMENTS

Every 10 years, the federal government reviews the application of the *Official Languages Regulations*. The review is used to determine where services are to be provided in both official languages under the criterion of significant demand. It is based on data on official languages obtained through the census and on the volume of services delivered to the public. The most recent review began in 2002 and should be finished by 2005.

Over the years, the federal government has implemented a variety of policies and guidelines in order to apply the three principles set out in the *Official*

Languages Act. A new official languages policy framework came into effect on 1 April 2004.⁽⁷⁾ It provides that positions designated bilingual must be staffed by candidates meeting the language requirements of the position. This requirement will apply to positions at the EX levels as follows: EX-03 by 2005 and EX-02 by 2007. Exceptions may be made for positions open to the public and positions at the EX-01 level or below. Language training is considered a genuine instrument of professional development available to all employees in the public service.

A number of recent reports indicate that French remains underused and that the organizational culture of the federal public service is predominantly English.⁽⁸⁾ Improved employee language skills, strengthened official language capabilities among federal institutions, and clear and sustained leadership are some of the ways envisaged by the authors of these reports to ensure equitable treatment of the two official languages in the workplace. The Action Plan for Official Languages announced in March 2003 provides for measures in this regard in order to make the public service exemplary in the area of official languages.⁽⁹⁾

The Action Plan for Official Languages provides for an investment of \$64.6 million in the public service over five years, to:

- implement innovative projects in federal institutions in order to promote better management of official languages, changes to organizational culture, new ways of delivering services and language training in the workplace;
- strengthen the monitoring and evaluation of federal institutions' official language activities; and
- rebuild the bilingual capability of the public service (by recruiting bilingual personnel and improving the content of, and access to, language training).

(3) *Official Languages (Communications with and Service to the Public) Regulations*, SOR/92-48, <http://laws.justice.gc.ca/en/O-3.01/SOR-92-48/index.html>.

(4) Public Service Human Resources Management Agency of Canada, *List of Bilingual Regions of Canada for Language-of-Work Purposes*, http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/OffLang/CHAP5_1_e.asp.

(5) Public Service Commission of Canada, *Determining the Linguistic Profile for Bilingual Positions*, http://www.psc-cfp.gc.ca/ppc/sle_pg_06_e.htm.

(6) To consult the most recent annual report, see: Treasury Board Secretariat, *Annual Report on Official Languages, 2002-03*, Ottawa, 2003, http://www.tbs-sct.gc.ca/report/OfLang/2003/dwnld/arol-ralo_e.pdf.

(7) Public Service Human Resources Management Agency of Canada, *Official Languages Policy Framework*, http://www.tbs-sct.gc.ca/pubs_pol/hrpubs/OffLang/olpf-cplo_e.asp.

(8) Office of the Commissioner of Official Languages, *Walking the Talk: Language of Work in the Federal Public Service*, March 2004,

http://www.ocol.gc.ca/archives/sst_es/2004/work_travail/work_travail_2004_e.htm; Canadian Centre for Management Development, Action-Research Roundtable on Official Languages in the Workplace, *French to Follow? Revitalizing Official Languages in the Workplace*, Canadian Centre for Management Development, 2003, www.myschool-monecole.gc.ca/Research/publications/pdfs/OL_e.pdf;

Sylvie Mattar, *A Senior Public Service that Reflects Canada's Linguistic Duality*, Office of the Commissioner of Official Languages, June 2002,

http://www.ocol.gc.ca/archives/sst_es/2002/senior_ps/seniorps_hautefp_e.pdf; NFO CF group, *Attitudes towards the Use of Both Official Languages Within the Public Service of Canada*, study submitted to the Treasury Board Secretariat, the Office of the Commissioner of Official Languages and the Department of Canadian Heritage, August 2002, http://www.tbs-sct.gc.ca/ollo/or-ar/study-étude/index_e.asp.

(9) Government of Canada, *The Next Act: New Momentum for Canada's Linguistic Duality. The Action Plan for Official Languages*, Ottawa, 2003, http://www.pco-bcp.gc.ca/aia/docs/ActionPlan/ActionPlan_e.pdf.

(1) *Official Languages Act*, R.S., 1985, c. 31 (4th Supp.), <http://laws.justice.gc.ca/en/O-3.01/89243.html>.

(2) *Canadian Charter of Rights and Freedoms*, <http://laws.justice.gc.ca/en/charter/index.html>.