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Bill 135

An Act to promote the maintenance and development of La Francophonie of Ontario

Mr. J. Fraser

Private Member's Bill

1st Reading October 28, 2019

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill replaces the *French Language Services Act* with a new *La Francophonie Act, 2019*. Here are some highlights of the Bill.

The Legislative Assembly shall operate bilingually. Regulations shall be bilingual.

Courts and tribunals shall all be able to operate in French and important decisions shall be published bilingually.

Government entities shall actively offer services bilingually, including bilingual signage.

Municipalities may opt to operate bilingually. Ottawa's bilingual character is recognized.

Universities may be designated to operate bilingually, and a procedure is set out to make such universities' establishing legislation bilingual.

French-language services plans must be made by government agencies and public institutions.

The Francophonie of Ontario must be maintained and developed.

There are established or continued an Office de la francophonie, an Advisory Council on La Francophonie, a Commissioner of La Francophonie as an officer of the Legislative Assembly, a system of French Language Services Coordinators throughout government entities, a language rights support program and a Fund for the Promotion of La Francophonie, all to be funded out of money appropriated for these purposes by the Legislature.

An Act to promote the maintenance and development of La Francophonie of Ontario

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Preamble

The “Francophonie,” including the French-speaking Métis, has played a historic and honourable role in Ontario since the 17th century.

The Constitution recognized French as an official language in Canada.

French is an official language of education and justice in Ontario.

The Legislative Assembly recognizes the contribution of the cultural heritage of La Francophonie and wishes to preserve it for future generations.

The Legislative Assembly commits itself to fostering the maintenance and development of La Francophonie.

The Legislative Assembly undertakes to guarantee the use of French in government agencies and institutions of the Legislature, as provided for in this Act.

Therefore, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

DEFINITIONS

Definitions

1 In this Act,

“active offer” means a set of measures taken to ensure that services in French are clearly advertised, visible, readily available and of equal quality to the services offered in English, and may include communication measures such as digital communication, signage, notices and other service information, as well as first contact with customers, and “offered actively” has a corresponding meaning; (“offre active”)

“Board of Internal Economy” means the Board of Internal Economy established by section 87 of the *Legislative Assembly Act*; (“Commission de régie interne”)

“Commissioner” means the Commissioner of La Francophonie of Ontario; (“commissaire”)

“French Language Services Coordinator” means a French Language Services Coordinator appointed in accordance with subsection 47 (1); (“coordonnateur des services en français”)

“French-language services plan” means a plan established by government agencies or public institutions and approved by the Minister under sections 23 and 24; (“plan de services en français”)

“government agency” means,

- (a) any agency, commission, office or board whose mandate is to perform government functions or to provide government services under provincial law or under the powers of the Lieutenant Governor in Council,
- (b) the ministries of the Government of Ontario, Crown corporations established under provincial law and any other agency designated as an agent of Her Majesty in right of Ontario or under the control of the Lieutenant Governor in Council or Minister,
- (c) municipalities and local boards within the meaning of the *Municipal Affairs Act* that have passed a by-law under subsection 17 (1) of this Act,
- (d) a not-for-profit corporation or similar organization that provides a service to the public, receives a grant that is levied in whole or in part out of the public purse and is designated by the regulations as an agency providing public services, including universities and colleges of applied arts and technology,

but does not include, unless the regulations designate them as bodies providing public services,

- (e) a psychiatric institution,
- (f) a long-term care home as defined in the *Long-Term Care Homes Act, 2007*,
- (g) a municipal home or a joint home under Part VIII of the *Long-Term Care Homes Act, 2007*,
- (h) a home for special care under the *Homes for Special Care Act*,
- (i) a service provider within the meaning of the *Child, Youth and Family Services Act, 2017* or a board within the meaning of the *District Social Services Administration Boards Act*; (“organisme gouvernemental”)

“La Francophonie” means the community of people whose mother tongue is French and those who, although it is not their mother tongue, have a special affinity with French; (“la francophonie”)

“Minister” means the Minister of Francophone Affairs or such other member of the Executive Council as may be assigned the administration of this Act under the *Executive Council Act*; (“ministre”)

“prescribed” means prescribed by or in the regulations; (“prescrit”)

“public institution” means an institution mandated by an Act of the Legislative Assembly to exercise legislative, executive or judicial powers in the public interest, including professional regulators, officers of the Legislative Assembly and court administration; (“institution publique”)

“regulations” means the regulations made under this Act; (“règlements”)

“service” means a service or procedure that a government agency or public institution provides to the public, and includes communications made to provide the service; (“service”)

“third party” means a person or entity that provides a service on behalf of a government agency. (“tiers”)

PURPOSES AND PRINCIPLES

Purposes

2 The purposes of this Act are to,

- (a) ensure the protection of French and Francophone cultures;
- (b) foster the preservation and development of La Francophonie;
- (c) contribute to progress towards the equality of French and English in access to services;
- (d) specify the obligations of government agencies and public institutions with respect to La Francophonie; and
- (e) require the services of government agencies and public institutions to be offered actively and equally in French and English.

Principles

3 The following principles guide the administration of this Act:

1. Collaboration and dialogue between representatives of government agencies and public institutions and representatives of La Francophonie promote the maintenance and development of this community.
2. In order to promote the maintenance and development of La Francophonie of Ontario, the provision of services in French may, depending on the nature of the service offered, require content that is distinct from the service offered in English.
3. The concept of active offer is one of the cornerstones underlying the supply and delivery of services in French.

Government of Ontario responsible

4 The Government of Ontario is responsible for the application and enforcement of this Act.

LEGISLATIVE DEBATES, WORK AND ACTS

Right to use French or English in the Legislative Assembly

5 (1) Everyone has the right to use French or English in debates and other proceedings of the Legislative Assembly.

Bills and Acts of the Legislative Assembly

(2) Bills of the Legislative Assembly shall be introduced and passed in both French and English.

Records and minutes

(3) The records and minutes of the Legislative Assembly shall be kept in both French and English.

Translation of regulations

6 The Attorney General shall cause to be translated into French the regulations made in Ontario after the day this Act receives Royal Assent and shall recommend the translations to the Executive Council or other regulation-making authority for adoption.

Equal authority

7 The French and English versions of Acts and regulations are that are enacted or made in both languages are equally authoritative.

ADMINISTRATION OF JUSTICE

Official languages

8 (1) The official languages of courts and tribunals are French and English.

Right to use French and English

(2) Everyone has the right to use French or English in all matters before courts or tribunals, including written proceedings, oral pleadings, written pleadings and other documents.

No disadvantage

(3) No person shall be disadvantaged because of a decision to use French or English in a matter before a court or tribunal.

Hearings in English unless otherwise stated

(4) Unless the use of French is otherwise provided for,

- (a) hearings of courts and tribunals shall be conducted in English and evidence in another language shall be translated into English; and
- (b) documents filed in courts and tribunals shall be in English or accompanied by an English translation certified as true by an affidavit of the translator.

Bilingual proceedings

9 (1) A party to a proceeding who speaks French has the right to require that the proceeding be tried as a bilingual proceeding.

Rules for bilingual proceedings

(2) The following rules apply to bilingual oral and written proceedings before courts and tribunals:

1. Bilingual oral proceedings shall be heard by individuals who understand French without the assistance of an interpreter or of any technique of simultaneous interpretation or consecutive interpretation.
2. Written bilingual proceedings shall be held by individuals who read French and English.
3. If a bilingual hearing is held before a judge and jury, the jury shall be made up of people who speak French and English. If a bilingual hearing is held without a jury, or in front of a jury, testimony and statements in French or in English shall be received, recorded and transcribed in the language in which they are presented.
4. Oral testimony given in French or in English during an examination outside of court shall be received, recorded and transcribed in the language in which it is given.
5. At the request of a party or lawyer who speaks French, but not English, or vice versa, the court shall provide the interpretation of anything given orally in the other language at the hearings and examinations out of court, as well as the translation of the reasons for a decision written in the other language.

Prosecutions

(3) In the case of a prosecution instituted under the *Provincial Offences Act* by the Crown in right of Ontario, by a government agency or by a public institution, the prosecutor assigned to the case must be a person who speaks French and English.

Civil proceedings

(4) In the case of a civil proceeding brought by or against the Crown in right of Ontario, a government agency or a public institution, the language chosen by the other party that is not the Crown in right of Ontario, a government agency or a public institution is the language for both oral and written proceedings.

Same

(5) In a case referred to in subsection (4) in which the parties that are not the Crown in right of Ontario, a government agency or a public institution cannot agree on the choice of language or fail to make a choice, the Crown, agency or institution shall use the most appropriate official language in the circumstances.

Appeal

(6) In the case of an appeal brought in a proceeding that is being tried as a bilingual proceeding, a party who speaks French has the right to require the appeal to be heard by a judge or judges who speak, read and understand French and English without the assistance of an interpreter or of any technique of simultaneous translation or consecutive interpretation, and subsection (2) applies, with necessary modifications, to the appeal.

Translation

(7) At the request of a party, the court shall provide for the translation into French or English of the documents or pleadings in a criminal proceeding or in a proceeding before the Family Court of the Superior Court of Justice, the Ontario Court of Justice or the Small Claims Court written in the other language.

Interpretation

(8) If, in a hearing to which paragraph 4 of subsection (2) does not apply, a party acting on its own behalf makes representations in French or if a witness gives oral testimony in French, the court shall provide interpretation in English.

Parties who are not natural persons

(9) A corporation, a partnership or a sole proprietorship may exercise the rights conferred by this section on the same basis as a natural person, unless the court orders otherwise.

Decisions

10 (1) The decisions or orders of courts and tribunals, including reasons and summaries, shall be published in French and in English, if,

- (a) the point of law in issue is of interest or importance to the public; or
- (b) the proceedings were conducted in French or in both languages, in whole or in part.

Delay

(2) In the cases referred to in subsection (1), if the publication of a bilingual version would result in a delay that would be prejudicial to the public interest or that would cause an injustice or serious inconvenience to one of the parties to the dispute, the decision, including any explanatory memorandum, shall be published first in one of the languages and then as soon as possible in the other language.

Decisions of the Court of Appeal

11 The decisions of the Court of Appeal are deemed to satisfy the criteria in subsection 10 (1).

Oral decisions

12 Sections 10 and 11 do not have the effect of prohibiting the oral pronouncement in one language of a decision or reasons, and such a decision is not invalid.

SERVICES**Right to French-language services**

13 (1) Every person is entitled to use French or English, in accordance with this Act, to communicate with and receive services of a government agency or public institution.

Active offer

(2) Every government agency and every public institution shall ensure that its French and English services are offered actively to the public.

Exemption

(3) A government agency or public institution is exempt from its obligations under subsection (1) if all reasonable steps have been taken and all reasonable proposals have been made to comply with that subsection.

Condition for exemption

(4) A government agency or public institution that intends to avail itself of an exemption under subsection (3) shall show reasonable steps and proposals that have been made to comply with this Act in its French-language services plan.

Written communications to the public

(5) Written communications to the public by or on behalf of a government agency or public institution shall be made in French and English.

Services offered by a third party

(6) Every government agency and public institution shall ensure that all services that a third party provides to the public on its behalf are provided in accordance with this Act.

Bilingual signage

14 (1) Subject to the regulations, government agencies and public institutions shall,

- (a) display their public signs, including emergency and exit signs, in French and English;
- (b) display and distribute their posters and advertisements, if any, in both French and English; and
- (c) ensure that the French text of their public signs, other signs, posters and commercial advertising is as prominent as the English text.

Regulations

(2) The Lieutenant Governor in Council may make regulations providing for the gradual replacement of public signs and other signs referred to in subsection (1) that, at the time of the coming into force of this Act, do not comply with the requirements of this Act.

DESIGNATION**Restricted designation of government agency providing public services**

15 (1) A regulation designating a government agency that provides public services may restrict the scope of the designation so that it relates only to specific services that the agency provides, or specify the services that are excluded from the designation.

Extension of designation

(2) A government agency that was, before this Act came into force, the subject of a designation regulation as a body providing public services is deemed to have been designated for the purposes of this Act.

Opinions and comments on the exemption regulation

16 (1) This section applies to a regulation to,

- (a) restrict the scope of the designation of a government agency that provides public services that will have the effect of excluding services from the designation;
- (b) revoke the designation of a government agency that provides public services; or
- (c) amend a regulation that designates a government agency that provides public services to exclude or remove a service from the scope of the designation.

Notice

(2) A regulation that this section applies to may be made only after the expiry of a period of not less than 45 days after publication, in the Ontario Gazette and a media service generally read in Ontario, of a notice setting out the substance of the proposed regulation and inviting the Commissioner and the public to address their comments to the Minister.

Consideration

(3) Before making a regulation described in subsection (1), the Lieutenant Governor in Council shall consider the comments of the Commissioner and the public.

Changes without further notice

(4) After the expiry of the 45-day period, the Lieutenant Governor in Council may, without further notice, make any amendment to the regulation that contains any changes that the Lieutenant Governor in Council considers desirable.

MUNICIPALITIES**By-laws concerning the status of French and English**

17 (1) The council of a municipality may pass a by-law providing that the administration of the municipality shall be in both French and English and that the municipal services to the public, or a specified part of those services, shall be provided in those two languages.

Right to services in French and English

- (2) Where a by-law under subsection (1) is in effect, every person is entitled to,
- (a) communicate in English or French with any office of the municipality; and
 - (b) receive available services to which the by-law applies in English or French.

Reduction of services in French

(3) A by-law revoking or amending a by-law described in subsection (1) that would reduce the supply of municipal services in French or restrict the status or use of French in the administration of the municipality shall be adopted only after the expiry of a period of not less than 45 days after the publication of a notice setting out the substance of the proposed by-law and inviting the Commissioner and the public to submit their comments to the council of the municipality and to the Minister.

Consideration

(4) Before passing a by-law under subsection (1), the council shall consider the comments of the Commissioner and the public.

City of Ottawa

18 (1) The bilingual character of the City of Ottawa is recognized.

Existing by-law

(2) Regulation 2001-170 (Bilingualism) of the City of Ottawa is deemed to be a by-law made under subsection 17 (1) of this Act.

Advancement of equality of status

19 Sections 17 and 18 do not limit the power of the City of Ottawa or other municipalities to promote the advancement of equality of status and use of French and English.

UNIVERSITIES

Consent of the university

20 A regulation designating a university as a government agency has no effect without the consent of the university.

Enabling statutes

21 (1) The Attorney General shall cause to be translated into French the enabling statutes of any university that is the subject of a regulation referred to in section 20 within 365 days after the designation takes effect.

Tabling

(2) As soon as reasonably possible, the Attorney General shall table the translation referred to in subsection (1) in the Legislative Assembly for adoption by resolution within 30 days after the tabling.

Sitting days

(3) Only sitting days of the Legislative Assembly shall be taken into account for the calculation of the 30-day period referred to in subsection (2).

Progress towards equality

22 Sections 20 and 21 do not limit the power of universities to promote progress towards the equality of status and use of French and English.

FRENCH-LANGUAGE SERVICES PLANS

French-language services plans

23 (1) Within 365 days after this Act receives Royal Assent, every government agency and every public institution shall prepare and submit to the Minister and the Commissioner a proposed French-language services plan covering a period of two to five years.

Content of French-language services plans

- (2) Each government agency and public institution shall set out in their proposed French-language services plan,
- (a) the priorities of La Francophonie with respect to the French-language services it provides;
 - (b) its ability to provide French-language services;
 - (c) the French-language services that it intends to provide, particularly in the case of services provided by third parties on its behalf;
 - (d) the other measures it intends to take to promote the preservation and development of La Francophonie and to support its development;

- (e) whether reasonable steps have been taken and reasonable proposals have been made to take advantage of the exemption under subsection 13 (3); and
- (f) any other prescribed subject.

Format of French-language services plans

(3) The Commissioner may establish the format of the French-language services plans.

Consultation

(4) Government agencies and public institutions shall consult La Francophonie and develop their French-language services plans according to the needs of La Francophonie.

Ministerial approval

24 If the Minister considers the plan satisfactory, the Minister shall approve a French-language services plan submitted by a government agency or public institution. If he or she does not, he or she shall send it back so that the government agency or public institution may modify it according to his or her instructions.

Periodic report

25 At the request of the Minister, a government agency or public institution shall provide the Minister and the Commissioner with a periodic report on the implementation of its approved French-language services plan and the progress made in this regard. The government agency or public institution shall in this respect comply with the time limits and other conditions set by the Minister.

PROMOTION OF FRENCH

Commitment

26 (1) The Legislative Assembly and the Government of Ontario shall,

- (a) promote the maintenance and development of La Francophonie and support its development; and
- (b) promote the full recognition and use of French in Ontario society.

Obligation

(2) It is the responsibility of government agencies and public institutions to ensure that steps are taken to implement this commitment.

Coordination

27 The Minister, in consultation with other ministers and the Commissioner, shall encourage the co-ordination of the implementation by government agencies and public institutions of the commitment and obligation under section 26.

Implementation

28 The Minister shall take such measures as he or she considers advisable to promote progress toward the equality of status and use of French and English in Ontario society and, in particular, any measure to,

- (a) promote the vitality of La Francophonie and to support its development;
- (b) encourage and support the learning of French;
- (c) encourage the public to better accept and appreciate French;
- (d) encourage businesses, employers and workers' organizations, voluntary organizations and others to provide their services in French and to promote the recognition and use of French, and to ensure collaboration with them for these purposes; and
- (e) encourage and assist organizations and associations to reflect and promote the status of French.

Consultation

29 (1) La Francophonie has the right to be consulted on the development of the principles of and the application and the revision of programs promoting the advancement of the equality of status and use of French in Ontario society in an open and participative manner.

Minister's action

(2) The Minister shall take any action that the Minister considers appropriate to provide for the public consultation referred to in subsection (1).

MINISTER AND EMPLOYEES

Minister

30 (1) The Minister is responsible for the administration of this Act.

Treasury Board

(2) The Minister shall be appointed to the Treasury Board under subsection 1.0.2 (1) of the *Financial Administration Act*.

Functions

(3) The Minister shall develop a provincial strategy to promote the active offer of French-language services by government agencies and public institutions.

Same

(4) The Minister shall develop and co-ordinate the policy and programs of the Government of Ontario with respect to La Francophonie and the provision of services in French. For these purposes, he or she may,

- (a) act as an advocate to ensure that the policies, programs and services of government agencies and public institutions take into account the needs of La Francophonie and that adequate resources are allocated to these needs;
- (b) prepare and recommend government projects, policies and priorities for the delivery of French-language services;
- (c) co-ordinate, monitor and supervise the establishment of government programs for the provision of French-language services by government agencies and public institutions and of programs concerning the use of French;
- (d) make recommendations regarding the funding of government programs for the delivery of French-language services;
- (e) require government projects for the implementation of this Act to be developed and filed and set deadlines for their development and presentation; and
- (f) encourage the representation of La Francophonie in the governing bodies of government agencies and public institutions.

Same

(5) The Minister shall also perform the duties assigned to him or her by order of the Lieutenant Governor in Council or by another Act.

Promotion

(6) The Minister has the mandate to develop policies or programs to promote,

- (a) the use and development of French in all sectors of Ontario society;
- (b) increased learning, mastery and vitality of French;
- (c) public awareness and appreciation of the history, use, status, importance and diversity of French;
- (d) the increase in French productions and the use of this language by all types of media in all sectors of Ontario society;
- (e) the public's understanding of this Act and the regulations made under it; and
- (f) the recognition and support of French on the national and international scenes, as well as by the private sector, including its legal recognition.

Annual report

(7) At the end of each fiscal year, the Minister shall submit to the Lieutenant Governor in Council a report on the activities of the Office de la francophonie and the Advisory Council of La Francophonie, and shall then submit the report to the Legislative Assembly if it is sitting, and if not, at the next session.

Office de la francophonie

31 (1) The employees deemed necessary to perform the duties of the Minister shall be appointed under Part III of the *Public Service of Ontario Act, 2006*. These employees together constitute the Office de la francophonie.

Deputy Minister

(2) The Deputy Minister of the Office de la francophonie shall be an Associate Secretary of the Cabinet Office.

Functions of the Office de la francophonie

(3) The Office de la francophonie may,

- (a) review the availability and quality of services in French and make recommendations for their improvement;
- (b) recommend the designation of agencies providing public services;

- (c) require not-for-profit corporations and similar organizations and institutions, homes and colleges referred to in the definition of “government agency” in section 1 to provide information that may be relevant to the making of recommendations on their designation as public service bodies;
- (d) make recommendations with respect to the exemption of a service under subsection 13 (3);
- (e) assist and advise government agencies and public institutions on the development of their French-language services plans and co-ordinate the approval of such plans; and
- (f) where applicable, recommend changes to the French-language services plans of government agencies and public institutions.

Same

(4) The Office de la francophonie shall ensure that government agencies and public institutions hire the necessary personnel to meet their obligations under this Act and the needs of La Francophonie, including by notifying the Treasury Board for this purpose.

Support to Advisory Council on La Francophonie

(5) The Office de la francophonie shall provide the Advisory Council on La Francophonie with the operational and administrative support it requires.

Other duties

(6) The Office de la francophonie shall also perform the duties assigned to it by the Minister, the Lieutenant Governor in Council or the Legislative Assembly.

Advisory Council on La Francophonie

32 (1) The Advisory Council on La Francophonie is hereby established.

Composition

- (2) The Advisory Council on La Francophonie is composed of,
- (a) the Minister or his or her Deputy Minister, as chair;
 - (b) the Assistant Deputy Minister of the Office de la francophonie;
 - (c) the Clerk of the Executive Council;
 - (d) Deputy Ministers or French Language Services Coordinators from,
 - (i) the Ministry of the Attorney General,
 - (ii) the Ministry of Government and Consumer Services,
 - (iii) Treasury Board, and
 - (iv) the Ministry of Education;
 - (e) a Deputy Minister or French Language Services Coordinator appointed by the Minister; and
 - (f) at least five members of La Francophonie recognized for their commitment to the fulfilment of the purposes of this Act and appointed by the Minister.

Mandate

(3) The Advisory Council on La Francophonie shall provide advice and recommendations on measures to promote the maintenance and development of La Francophonie to the Minister.

Same

- (4) The Advisory Council on La Francophonie may, at the request of the Minister,
- (a) review and make recommendations with respect to this Act;
 - (b) review and make recommendations on French-language services plans;
 - (c) review and make recommendations on the French Language Communications Directive with respect to its implementation;
 - (d) develop recommendations on the measures to be taken to encourage the representation of La Francophonie in the governing bodies of government agencies and public institutions; and
 - (e) provide advice and recommendations to the Minister on any other matter.

Meetings

(5) The Advisory Council on La Francophonie shall meet at least twice a year.

COMMISSIONER OF LA FRANCOPHONIE

Commissioner of La Francophonie

33 (1) There is hereby created a position called in French Commissaire à la francophonie and, in English, Commissioner of La Francophonie, the incumbent of which is an officer of the Legislative Assembly.

Officer of the Legislative Assembly

(2) The Commissioner is an officer of the Legislative Assembly.

Nomination

(3) The Lieutenant Governor in Council shall appoint the Commissioner on the address of the Legislative Assembly, but only if the person he or she appoints has been chosen by a panel consisting of a member of the Legislative Assembly from the party from which the Government is chosen, a member of the Legislative Assembly from the party recognized as the Official Opposition and another member of the Legislative Assembly elected to the panel by the Legislative Assembly.

Chair of panel

(4) The panel described in subsection (3) shall be chaired by the Speaker who is a member of the Panel without voting rights.

Duration of office

(5) The Commissioner holds office for a five-year term, renewable once.

Continuation of office

(6) The Commissioner continues to hold office after the expiry of his or her term until reappointed or until the appointment of his or her successor.

Revocation

(7) The Lieutenant Governor in Council may, on the address of the Legislative Assembly, dismiss the Commissioner for cause.

Delegation

(8) The Commissioner may delegate in writing the power to exercise his or her functions or powers to any person employed by the Office of the Commissioner of La Francophonie, subject to the conditions provided in the delegation.

Temporary commissioner

(9) If, while the Legislative Assembly is not sitting, the Commissioner is unable to perform the duties of his or her office for any reason or the office becomes vacant, the Lieutenant Governor in Council shall appoint a temporary commissioner whose duties terminate when the Commissioner is again capable of performing his or her duties or when a new Commissioner is appointed under subsection (3), as the case may be.

Choice made by a special group

(10) The Lieutenant Governor in Council may appoint a temporary commissioner under subsection (9) only if the person he or she appoints has been chosen by a panel consisting of a member of the Legislative Assembly from the party from which the Government is chosen, a member of the Legislative Assembly from the party recognized as the Official Opposition and another member of the Legislative Assembly elected to the panel by the Legislative Assembly

Chair of panel

(11) The panel described in subsection (10) shall be chaired by the Speaker who is a member of the Panel without voting rights.

Powers and duties

(12) The temporary commissioner shall exercise the powers and perform the duties of the Commissioner.

Nature of employment

34 (1) The Commissioner shall devote himself or herself exclusively to his or her duties. He or she cannot hold any other position for the Crown or accept any other employment.

Not a public servant

(2) The Commissioner is not a public servant within the meaning of the *Public Service of Ontario Act, 2006*.

Remuneration and benefits

35 (1) The Commissioner and a temporary commissioner appointed under subsection 33 (9) shall be paid a salary determined by the Board of Internal Economy that is comparable to that paid to other officers of the Legislative Assembly.

Same

(2) The salary of the Commissioner may be reduced only on the address of the Legislative Assembly.

Allowances

(3) The Commissioner is entitled to reasonable travel and living expenses while performing the duties assigned to him or her under this Act elsewhere than at his or her place of ordinary residence.

Pension plan

(4) The Commissioner shall participate in the Public Service Pension Plan.

Office of the Commissioner of La Francophonie

36 (1) The portion of the Office of the Ombudsman that was previously the Office of the French Language Services Commissioner is continued under the name Commissariat à la Francophonie in French and Office of the Commissioner of La Francophonie in English.

Budget

(2) The sums necessary for the administration of the Office of the Commissioner of La Francophonie shall be paid out of the appropriations allocated for those purposes by the Legislature.

Instructions

(3) The Board of Internal Economy may direct the Commissioner with respect to expenses and the Commissioner shall comply with the directions.

Estimates

(4) The Commissioner shall, each year, submit to the Board of Internal Economy the estimates of the sums of money required to perform the duties assigned to him or her by this Act.

Review

(5) The Board of Internal Economy shall review the estimates and may vary them as it considers appropriate.

Verification

(6) The accounts and financial operations of the Office of the Commissioner of La Francophonie shall be audited annually by the Auditor General.

Employees

37 (1) Subject to the approval of the Board of Internal Economy, the Commissioner may employ such persons as he or she considers necessary for the proper functioning of the Office of the Commissioner of La Francophonie and he or she may fix their wages or their salaries and their conditions of employment.

Salaries or wages

(2) Salaries or wages determined under subsection (1) shall be comparable to those of employees employed under Part III of the *Public Service of Ontario Act, 2006* to work in similar positions.

Benefits

(3) The employees of the Office of the Commissioner of La Francophonie shall have benefits comparable to those of employees employed under Part III of the *Public Service of Ontario Act, 2006* who work in similar positions, with respect to,

- (a) cumulative vacation and sick leave credits and related payments;
- (b) group life insurance, medical and surgical expense insurance or long-term income protection plans; and
- (c) the granting of leave.

Same

(4) For the purposes of subsection (3), if benefits to an employee of the Office of the Commissioner of La Francophonie are conditional on the exercise of a power or discretionary function, that power or function may be exercised by the Commissioner or by any person he or she authorizes in writing.

Premises and supplies

38 The Commissioner may lease the premises and acquire the equipment and supplies necessary for the proper functioning of the Office of the Commissioner of La Francophonie.

Immunity

39 (1) No proceeding shall be commenced against the Commissioner or an employee of the Office of the Commissioner of La Francophonie for any act done or omitted in good faith in the performance or purported performance of his or her duties under this Act.

Testimony

(2) Neither the Commissioner nor an employee of the Office of the Commissioner of La Francophonie is a compellable witness in a civil proceeding outside the Legislative Assembly in respect of any act done under this or any other Act.

Mandate

40 (1) It is the duty of the Commissioner to take, within the scope of his or her powers under subsection (2), measures to ensure compliance with this Act, the promotion of French and the maintenance and development of La Francophonie.

Same

(2) To fulfil its mandate, the Commissioner may,

- (a) conduct inquiries into the extent to which this Act is being observed and the quality of the compliance, whether as a result of complaints about French-language services and the French-language services plans of any person or on its own initiative;
- (b) prepare reports on investigations, including recommendations to improve the delivery of French-language services and French-language services plans;
- (c) monitor the progress of government agencies, public institutions, municipalities and universities in the provision of French-language services;
- (d) advise the Minister on matters related to the application of this Act, the promotion of French and the maintenance and development of La Francophonie;
- (e) advise the Minister respecting French-language services plans;
- (f) provide training to government agencies and public institutions regarding the administration of this Act;
- (g) make the public aware of the application of this Act;
- (h) institute, appear in or intervene in legal proceedings in accordance with section 43; and
- (i) exercise any other powers and duties that the Lieutenant Governor in Council assigns to him or her.

Complaint investigations at the discretion of the Commissioner

41 (1) The Commissioner may, at his or her discretion, decide not to take any action as a result of a complaint about the administration of this Act, including refusing or discontinuing a complaint, if,

- (a) the complaint is futile;
- (b) the complaint is frivolous, vexatious or made in bad faith;
- (c) the subject matter of the complaint has already been investigated and has been settled; or
- (d) the subject matter of the complaint does not relate to a contravention or failure to comply with this Act or, for any other reason, does not fall within the Commissioner's jurisdiction under this Act.

Notice given to the author of the complaint

(2) If the Commissioner decides not to take any action as a result of a complaint or to take any other action in respect of the complaint, the Commissioner shall give written notice of the decision to the person making the complaint.

Investigations

42 (1) Subject to this Act, the Commissioner may determine the procedure to be followed in conducting an investigation.

Duty to notify the deputy head

(2) Before commencing an investigation, the Commissioner shall notify the deputy head or another chief administrator of the government agency, public institution, municipality or university of his or her intention to investigate.

Application of the *Public Inquiries Act, 2009*

(3) Section 33 of the *Public Inquiries Act, 2009* applies to an investigation conducted by the Commissioner.

Confidentiality

(4) Information disclosed to the Commissioner under this Act is confidential and may not be disclosed to anyone except,

- (a) by the person the information concerns or with his or her consent;

- (b) in the course of a criminal proceeding according to rules of law; or
- (c) in accordance with this Act.

Relation to other Acts

(5) Subsection (4) prevails over the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act*.

Report on the outcome of an investigation

- (6) The Commissioner shall report the result of an investigation,
 - (a) in the case of an investigation resulting from a complaint, to the complainant, to the deputy head or to another chief administrator of the government agency, public institution, municipality or university concerned and to the Speaker of the Legislative Assembly; and
 - (b) in the case of an investigation on his or her own initiative, to the deputy head or other chief administrator of the government agency, public institution, municipality or university and to the Speaker of the Legislative Assembly.

Involvement in litigation

43 The Commissioner may,

- (a) bring an action within 60 days of the communication to the complainant of the findings of the investigation or the recommendations;
- (b) appear on behalf of a person bringing an appeal under section 48;
- (c) apply to the Superior Court of Justice to answer a question relating to the interpretation of this Act; and
- (d) intervene in any judicial proceeding.

Annual report

44 (1) On or before July 31 in each year, the Commissioner shall prepare and submit to the Speaker of the Legislative Assembly an annual report on his or her activities that may include recommendations to improve the delivery of services in French.

Copy of the report

(2) In submitting an annual report, the Commissioner shall give a copy to the Minister.

Tabling of report

(3) On receiving an annual report, the Speaker shall lay the report before the Legislative Assembly as soon as reasonably possible.

Minister's response

(4) The Minister, with the advice of the Advisory Council on La Francophonie, shall file with the Legislative Assembly a response to the Commissioner's annual report within 90 days after its being tabled in the Legislative Assembly.

Other reports

45 (1) The Commissioner may, at any time, prepare and present to the Speaker of the Legislative Assembly such other report as he or she considers appropriate on any matter relating to this Act.

Delivery of a copy of the report prior to its presentation

(2) Before submitting a report under subsection (1), the Commissioner shall provide a copy of the report to any member of the Executive Council who heads and is responsible for a relevant office or to the head of any public entity concerned.

Interpretation: head of a public entity

(3) The reference in subsection (2) to the head of a public entity shall be read as a reference to the Chief Executive Officer or a person who holds a similar position with respect to the entity.

Copy of the report

(4) When submitting a report under subsection (1), the Commissioner shall provide a copy to the Minister and may deliver a copy to any person he or she considers appropriate.

Tabling of report

(5) On receiving a report under subsection (1), the Speaker shall lay the report before the Legislative Assembly as soon as reasonably possible.

Publication of reports

46 The Commissioner may, in such manner as he or she considers appropriate, publish his or her reports 30 days after their presentation, unless the Speaker consents to their publication on an earlier date.

FRENCH LANGUAGE SERVICES COORDINATORS

French Language Services Coordinators

47 (1) A French Language Services Coordinator shall be appointed in each government agency and public institution.

Committee

(2) There shall be a committee consisting of the French Language Services Coordinators, chaired by the senior official of the Office de la francophonie.

Functions

(3) A French Language Services Coordinator shall,

- (a) establish a process to consult La Francophonie;
- (b) identify the priorities of his or her government agency or public institution as and when required; and
- (c) establish the French-language services plan of his or her government agency or public institution in accordance with established needs.

Communication

(4) Each French Language Services Coordinator may communicate directly with his or her Deputy Minister or, in the case of an officer of the Legislative Assembly, with the officer.

Deputy Minister

(5) Each Deputy Minister shall report to the Executive Council on the implementation of this Act and the quality of French-language services in his or her government agency.

GENERAL

Appeals

48 (1) A person who has made a complaint to the Commissioner under this Act may appeal under this section.

Limitation

(2) Unless the Superior Court of Justice grants an extension to file the appeal on an application made before or after the expiry of the normal time limit, the appeal shall be filed within 60 days after the complainant has been informed of the findings of the investigation or the recommendations or the refusal to commence or continue an investigation.

Other delay

(3) If, within six months after the filing of a complaint, the person is not notified of the findings of the investigation, the recommendations or the refusal, the complainant may appeal on the expiry of those six months.

Order

(4) The Superior Court of Justice may, if it determines that a government agency or public institution has not complied with this Act, give such remedy as it considers appropriate and just in the circumstances.

Clarification

(5) Nothing in this section affects any other right of action.

Costs and disbursements

49 (1) Subject to subsection (2), an award of costs and disbursements for an appeal shall be at the discretion of the Superior Court of Justice or the Court of Appeal.

Public interest

(2) In any case where the Superior Court of Justice or the Court of Appeal considers that the subject matter of the appeal has raised an important and new point of law respecting this Act, it shall award the costs and disbursements to the appellant even if the appeal is dismissed.

Language rights support program

50 (1) Within 180 days after this Act receives Royal Assent, the Lieutenant Governor in Council shall make a regulation establishing a language rights support program.

Purpose

(2) The purpose of the program referred to in subsection (1) is to provide financial support for judicial remedies that allow for the advancement and clarification of the language rights provided for under this Act and the regulations made under it and under the *Canadian Charter of Rights and Freedoms*.

Terms

(3) The terms of the financial assistance and the process for determining whether a remedy meets the criteria set out in subsection (2) shall be determined by regulation.

Suspension of limitation period

(4) If an application for financial support is submitted to the language rights support program, the time limits set out in subsections 48 (2) and (3) shall be suspended until the day following the communication to the applicant of the final decision of the language rights support program on the application.

Fund for the Promotion of La Francophonie

51 (1) The Fund for the Promotion of La Francophonie is established as a special account in the Consolidated Revenue Fund.

Objects

(2) The assets of the Fund for the Promotion of La Francophonie must be used only to,

- (a) recognize and promote the status, rights and privileges of the French language;
- (b) strengthen cultural and linguistic expression in the French language through the media;
- (c) improve French language literacy and proficiency, and reverse the process of language loss and language assimilation;
- (d) value or revitalize the French language and support its current use as the language of education, work and daily life; and
- (e) strengthen the vitality of La Francophonie and create a favourable environment for its cultural expression and community life.

Money appropriated by the Legislature

52 The money required for the purposes of this Act shall be paid out of the money appropriated for these purposes by the Legislature.

Other languages

53 Nothing in this Act affects the use of other languages that are outside the scope of this Act.

Conflict with other Acts

54 (1) This Act prevails over the inconsistent provisions of any other Act or regulation.

Exception

(2) Subsection (1) does not apply to the *Human Rights Code* or its regulations.

Regulations

55 The Lieutenant Governor in Council may make regulations,

- (a) designating bodies for the purpose of the definition of “government agency” in section 1;
- (b) exempting services if, in the opinion of the Lieutenant Governor in Council, the measure is reasonable and necessary and does not affect the general purposes of this Act;
- (c) establishing any measure relating to the active offer of services that may be offered in French by a government agency or public institution;
- (d) governing French-language services plans, including,
 - (i) setting their content,
 - (ii) requiring government agencies and public institutions to consult with individuals and entities about their French-language services plans,
 - (iii) requiring government agencies and public institutions to provide certain types of information on the implementation of their approved French-language services plans and progress made in this regard,
 - (iv) requiring French-language services plans to be reviewed and modified in certain cases,
 - (v) prescribing additional subjects that must be included in a French-language services plan;
- (e) governing the procedure for bilingual proceedings under section 9;
- (f) identifying decisions to which clause 10 (1) (a) applies;
- (g) prescribing terms and conditions for bilingual signage under section 14;
- (h) governing the publication of documents in French of a government agency or public institution;

- (i) governing the operation of the Fund for the Promotion of La Francophonie;
- (j) providing for any other measure necessary for the application of this Act.

REPEAL OF AND AMENDMENTS TO OTHER ACTS

French Language Services Act

56 The *French Language Services Act* is repealed.

City of Ottawa Act, 1999

57 Subsection 11.1 (2) of the *City of Ottawa Act, 1999* is amended by striking out “subsection 14 (1) of the *French Language Services Act*” at the end and substituting “subsection 17 (1) of the *La Francophonie Act, 2019*”.

Connecting Care Act, 2019

58 Clause 6 (h) of the *Connecting Care Act, 2019* is amended by striking out “*French Language Services Act*” and substituting “*La Francophonie Act, 2019*”.

Farm Products Payments Act

59 Subsection 13 (2) of the *Farm Products Payments Act* is amended by striking out “*French Language Services Act*” and substituting “*La Francophonie Act, 2019*”.

Farm Registration and Farm Organizations Funding Act, 1993

60 Subsection 31.5 (2) of the *Farm Registration and Farm Organizations Funding Act, 1993* is amended by striking out “*French Language Services Act*” and substituting “*La Francophonie Act, 2019*”.

Housing Services Act, 2011

61 (1) Subsection 18 (1) of the *Housing Services Act, 2011* is amended by striking out “the *French Language Services Act*” at the end and substituting “the *French Language Services Act*, as it read immediately before it was repealed”.

(2) Clause 18 (3) (a) of the Act is amended by striking out “the *French Language Services Act*” and substituting “the *French Language Services Act*, as it read immediately before it was repealed”.

(3) Section 31 of the Act is amended by striking out “the *French Language Services Act*” at the end and substituting “the *French Language Services Act*, as it read immediately before it was repealed”.

Local Health System Integration Act, 2006

62 (1) Clause 5 (e.1) of the *Local Health System Integration Act, 2006* is amended by striking out “*French Language Services Act*” and substituting “*La Francophonie Act, 2019*”.

(2) Subsection 14 (5) of the Act is amended by striking out “*French Language Services Act*” at the end and substituting “*La Francophonie Act, 2019*”.

COMMENCEMENT AND SHORT TITLE

Commencement

63 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) Section 59 comes into force on the later of the day section 6 of Schedule 22 to the *Protecting What Matters Most Act (Budget Measures), 2019* comes into force and the day this Act receives Royal Assent.

(3) Section 60 comes into force on the later of the day section 10 of Schedule 1 to the *Restoring Ontario’s Competitiveness Act, 2019* comes into force and the day this Act receives Royal Assent.

Short title

64 The short title of this Act is the *La Francophonie Act, 2019*.