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Bill 36

An Act to promote the preservation, growth and vitality of the Franco-Ontarian Community

Mr. G. Bourgouin

Private Member's Bill

1st Reading October 28, 2021

2nd Reading

3rd Reading

Royal Assent



EXPLANATORY NOTE

The Bill replaces the *French Language Services Act* with a new *Franco-Ontarian Community Act, 2021*. Here are some highlights of the Bill:

Proceedings in the Legislative Assembly may be in English or in French and legislation shall be introduced and enacted in both languages. Regulations shall be made in both languages.

Courts and tribunals shall all be able to carry out proceedings in French and important decisions shall be published in both French and English.

Government agencies and public institutions, as defined in the Act, shall actively offer services in both French and English, and shall only use bilingual signage.

Municipalities may pass a by-law electing to provide services in French. Ottawa's bilingual character is recognized.

Universities may be designated as government agencies that are required to operate bilingually, and a procedure is set out to ensure that the enabling statutes of such universities are translated into French.

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

The Act establishes or continues, as the case may be, an Office of the Franco-Ontarian Community, an Advisory Council on the Franco-Ontarian Community, a French Language Services Commissioner as an officer of the Assembly, a system of French Language Services Coordinators throughout government agencies and public institutions, a language rights support program and a Fund for the Promotion of the Franco-Ontarian Community, all to be funded out of money appropriated for these purposes by the Legislature.

An Act to promote the preservation, growth and vitality of the Franco-Ontarian Community

Preamble

The Franco-Ontarian community, including the French-speaking Métis, has played a historic and honourable role in Ontario since the 17th century.

The Constitution recognizes French as an official language in Canada.

In 2016 the Province of Ontario apologized to the Franco-Ontarian community for the adoption in 1912 of Regulation 17, a policy of the Ministry of Education that almost completely banned the use of French in the Province's elementary schools and was intended to assimilate the Franco-Ontarian minority into the English majority. The policy remained in effect for over a decade. This is one reason why governance by Franco-Ontarians of their educational institutions, at every level including post-secondary, remains of vital importance to the Franco-Ontarian community.

Although French has now been recognized for many years in Ontario as an official language in education, in the courts and in the Legislature, the Province of Ontario wishes to provide concrete measures to make amends for the wrongs resulting from the implementation of Regulation 17 and to offer legislative protections to the Franco-Ontarian community.

Today's Franco-Ontarian community is a rich, diverse, multicultural community that contributes to Ontario's cultural heritage and that should be preserved for future generations.

The Province of Ontario recognizes that the Franco-Ontarian community plays an important role in the French international community, commercially and otherwise. It has been recognized by the International Organisation of La Francophonie and is a place of destination for francophone immigrants who arrive in Ontario and help make it a better place to live. Welcoming these francophone immigrants to Ontario, a place where they can work and live in French, is important to the preservation, growth and vitality of the Franco-Ontarians community.

The Province of Ontario undertakes to guarantee the use of French in government agencies and public institutions in accordance with this Act.

The Province of Ontario commits itself to remembering the historic role of the Franco-Ontarian community and to fostering the preservation, growth and vitality of the Franco-Ontarian community.

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, in relation to the supply and delivery of services in French, an active offer as defined in subsection 3 (2) 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 French Language Services Commissioner appointed under section 33; (“commissaire”)

“Franco-Ontarian community” means the community of individuals residing in Ontario whose mother tongue is French and of individuals,

- (a) whose mother tongue is neither French nor English and who,
 - (i) speak French but not English, or
 - (ii) although they may speak English, speak French, alone or in combination with languages other than English, in the household,
- (b) whose mother tongue is not French but who speak French fluently, and

(c) who meet any prescribed criteria; (“communauté franco-ontarienne”)

“French-language services plan” means a plan established by government agencies or public institutions 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 18 (1),
- (d) an agency that provides services to the public, is paid by the government to do so and is designated by the regulations as a government agency for the purposes of this Act,
- (e) any of the following entities that have been designated by the regulations as government agencies for the purposes of this Act:
 - (i) a not-for-profit corporation or similar organization that provides services to the public and receives a grant that is levied in whole or in part out of the public purse,
 - (ii) a university or a college of applied arts and technology that receives a grant that is levied in whole or in part out of the public purse,
 - (iii) a psychiatric institution,
 - (iv) a long-term care home as defined in the *Long-Term Care Homes Act, 2007*,
 - (v) a municipal home or a joint home under Part VIII of the *Long-Term Care Homes Act, 2007*,
 - (vi) a home for special care under the *Homes for Special Care Act*,
 - (vii) 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”)

“Minister” means the Minister of Francophone Affairs; (“ministre”)

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

“service”, with respect to a service that a government agency or public institution provides to the public, includes a procedure and any communications made to provide the service. (“service”)

PURPOSES AND PRINCIPLES

Purposes

2 The purposes of this Act are to,

- (a) protect and preserve the French language in Ontario and to preserve and enhance the vitality of the Franco-Ontarian community;
- (b) protect and preserve the cultural diversity that exists within the Franco-Ontarian community;
- (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 the Franco-Ontarian community; and
- (e) require the services of government agencies and public institutions to be offered actively and equally in French and English.

Principles

3 (1) The following principles guide the administration of this Act:

- 1. Collaboration and dialogue between representatives of government agencies and public institutions and representatives of the Franco-Ontarian community to promote the preservation, growth and vitality of this community.

2. In order to promote the preservation, growth and vitality of the Franco-Ontarian community, 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.

Definition

(2) In this section,

“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.

LEGISLATIVE DEBATES, WORK AND ACTS

Right to use French or English in the Assembly

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

Bills and Acts of the Assembly

(2) All Bills of the Legislative Assembly shall be introduced and enacted 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.

Bilingual regulations

5 (1) Every regulation made after the day this Act comes into force shall be made in both French and English.

Translation of unilingual regulations

(2) Before the prescribed date, the Attorney General shall cause to be translated into French all regulations that were made in English only and are in force on that day and shall recommend the translations to the Executive Council or other regulation-making authority for adoption.

Equal authority

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

ADMINISTRATION OF JUSTICE

Application

7 Sections 8 to 12 apply to every level of court in Ontario and every administrative tribunal established by or under an Act of the Province of Ontario, subject to the regulations.

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 in a proceeding before a court or tribunal because of the election made under subsection (2).

Hearings in English unless otherwise stated

(4) Subject to any requirement under this Act or any other Act or other requirement respecting the use of French in hearings by a court or tribunal,

- (a) hearings by 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 before a court or a tribunal who speaks French has the right to require that the proceeding be tried as a bilingual proceeding in accordance with this section.

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 is made up of individuals 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 are 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 referred to in paragraphs 3 and 4, 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 in which the defendant has elected to be tried in a bilingual proceeding, the prosecutor assigned to the case must be an individual who speaks French and English.

Civil cases

(4) In the case of a civil case 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 actively offer its services in French and English.

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 this Act.

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 in 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) 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, posters and advertisements 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 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

15 (1) A regulation designating a government agency for the purposes of this Act made under clause 55 (a) may restrict the scope of the designation so that it relates only to specific services that the agency provides or may specify the services that are excluded from the designation.

Transition, extension of previous designation

(2) Any entity that was designated as a public service agency under the *French Language Services Act* before the day this Act comes into force is deemed, on and after that day, to be a government agency designated for the purposes of this Act.

Changes to designated government agency

16 If a government agency that provides services to the public in French merges with another entity, changes its name or governing structure or undergoes another prescribed type of change, the new or changed entity shall continue to provide the services to the public in French until,

- (a) the new or changed entity, or another entity, is designated as a government agency under this Act for the purposes of providing the services to the public in French; or
- (b) it receives a notice from the Ministry advising that it is no longer required to provide services to the public in French.

Comments on the exemption regulation

17 (1) This section applies to a regulation that,

- (a) designates a government agency and excludes or removes a service from the scope of the designation;
- (b) revokes the designation of a government agency; or
- (c) amends a regulation designating a government agency so as to exclude or remove a service from the scope of the designation.

Notice

(2) A regulation described in subsection (1) may be made only after the expiry of a period of 45 days that begins when notice of the proposed regulation is published in the Ontario Gazette and either in a newspaper of general circulation in Ontario or in a news service generally accessible throughout Ontario on the internet.

Same

(3) A notice under subsection (2) shall set out the substance of the proposed regulation and invite the Commissioner and the public to address their comments with respect to the proposed regulation to the Minister.

Consideration

(4) Before making a regulation under this section, the Lieutenant Governor in Council shall consider the comments of the Commissioner and the public.

Changes without further notice

(5) 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

18 (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 force, every person is entitled to use French or English to communicate with any office of the municipality and to receive the services referred to in the by-law.

Reduction of services in French

(3) A by-law revoking or amending a by-law under subsection (1) so as to reduce the supply of municipal services in French or to restrict the status or use of French in the administration of the municipality shall be adopted only after the expiry of a period of 45 days that begins when notice of the proposed by-law is published either in a newspaper of general circulation in the municipality or in a news service generally accessible in the municipality on the internet.

Notice

(4) A notice under subsection (3) shall set out the substance of the proposed by-law and invite the Commissioner and the public to submit their comments to the council of the municipality and to the Minister.

Consideration

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

City of Ottawa

19 (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 18 (1) of this Act.

Progress towards equality

20 Sections 18 and 19 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

21 A regulation made under this Act designating a university as a government agency has no effect without the consent of the university.

Enabling statute

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

Tabling

(2) As soon as reasonably possible, the Attorney General shall table a translation referred to in subsection (1) in the Legislative Assembly for adoption by resolution as soon as practicable thereafter.

FRENCH-LANGUAGE SERVICES PLANS

French-language services plans

23 (1) Within 365 days after this Act comes into force, 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.

Collection of data

(2) In order to properly prepare a French-language services plan, every government agency and public institution shall collect data relevant to the needs of the part of the Franco-Ontarian community to which it provides services.

Content of French-language services plans

- (3) Each government agency and public institution shall set out in their proposed French-language services plan,
- (a) the priorities of the Franco-Ontarian community with respect to the French-language services it provides, based on the data collected under subsection (2);
 - (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, growth and vitality of the Franco-Ontarian community 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 subject prescribed by regulation.

Format of French-language services plans

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

Consultation

(5) Government agencies and public institutions shall consult the Franco-Ontarian community and develop their French-language services plans according to the needs of the Franco-Ontarian community.

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 Government of Ontario is committed to promoting and supporting the preservation, growth and vitality of the Franco-Ontarian community and promoting 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 the commitment described in subsection (1).

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 the Franco-Ontarian community 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) The Franco-Ontarian community has the right to be consulted on the development of the principles of the application of 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).

Duty to consult

(3) A government agency or public institution shall consult with representatives of the Franco-Ontarian community if the government agency or public institution intends to develop and implement a new policy, program, service or activity that directly or indirectly impacts or is relevant to the Franco-Ontarian community.

Same

(4) Consultations under subsection (3) shall include consultations with the Assemblée de la francophonie de l'Ontario and with the Association des communautés francophones de l'Ontario for each region where the new policy, program, service or activity is likely to be implemented or carried out.

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 coordinate the policy and programs of the Government of Ontario with respect to the Franco-Ontarian community 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 the Franco-Ontarian community 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) coordinate, 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 made available to the public and set deadlines for doing so; and
- (f) encourage the representation of the Franco-Ontarian community 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 growth 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 the Franco-Ontarian community at the national and international levels of government, as well as by the private sector.

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 of the Franco-Ontarian Community and the Advisory Council on the Franco-Ontarian Community, and shall then submit the report to the Assembly if it is sitting, and if not, at the next session.

Office of the Franco-Ontarian community

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 of the Franco-Ontarian Community.

Deputy Minister

(2) The Deputy Minister of the Office of the Franco-Ontarian Community shall be an Associate Secretary of Cabinet.

Functions of the Office

- (3) The Office of the Franco-Ontarian Community may,
 - (a) review the availability and quality of services in French and make recommendations for their improvement;
 - (b) recommend the designation of government agencies;
 - (c) require not-for-profit corporations and similar organizations and universities, colleges, other entities referred to in clause (e) of the definition of "government agency" in section 1 to provide information that may be relevant to the making of recommendations on their designation as government agencies;
 - (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 coordinate 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 of the Franco-Ontarian Community shall ensure that government agencies and public institutions hire the necessary personnel to meet their obligations under this Act and the needs of the Franco-Ontarian community, including by notifying the Treasury Board for this purpose.

Support to Advisory Council

(5) The Office of the Franco-Ontarian Community shall provide the Advisory Council on the Franco-Ontarian Community with the operational and administrative support it requires.

Other duties

(6) The Office of the Franco-Ontarian Community shall also perform the duties assigned to it by the Minister or the Lieutenant Governor in Council.

Advisory Council on the Franco-Ontarian Community

32 (1) The Advisory Council on the Franco-Ontarian Community is hereby established.

Composition

- (2) The Advisory Council on the Franco-Ontarian Community is composed of,
- (a) the Minister or his or her Deputy Minister, as chair;
 - (b) the Assistant Deputy Minister of the Office of the Franco-Ontarian Community;
 - (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) the 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 the Franco-Ontarian community recognized for their commitment to the fulfilment of the purposes of this Act and appointed by the Minister.

Mandate

(3) The Advisory Council on the Franco-Ontarian Community shall provide advice and recommendations on measures to promote the preservation, growth and vitality of the Franco-Ontarian community to the Minister.

Same

- (4) The Advisory Council on the Franco-Ontarian Community 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 the Franco-Ontarian community 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 chair shall call the Advisory Council on the Franco-Ontarian Community at least twice a year.

FRENCH LANGUAGE SERVICES COMMISSIONER

Commissioner

33 (1) There shall be an officer of the Assembly who is known as Commissaire aux services en français in French and as French Language Services Commissioner in English.

Nomination

- (2) The Lieutenant Governor in Council shall appoint the Commissioner on the address of the Assembly, but only if the person to be appointed has been chosen by a panel that,
- (a) consists of a Member of the government caucus, a Member of the Official Opposition and a Member elected by the Assembly; and
 - (b) is chaired by the Speaker who is a non-voting member of the panel.

Duration of office

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

Continuation of office

(4) 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

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

Delegation

(6) 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 French Language Services Commissioner, subject to the conditions provided in the delegation.

Vacancy

(7) If, while the 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 (2), as the case may be.

Choice made by a special group

(8) The Lieutenant Governor in Council may appoint a temporary commissioner under subsection (7) only if the person he or she appoints has been chosen by a panel consisting of a Member of the government caucus, a Member of the Official Opposition and a Member elected by the Assembly chaired by the Speaker who is a member without voting rights.

Powers and duties

(9) 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 (7) shall be paid a salary determined by the Board of Internal Economy that is comparable to that paid to other officers of the Assembly.

Same

(2) The salary of the Commissioner may be reduced only on the address of the 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 French Language Services Commissioner

36 (1) There shall be an office known as Commissariat aux service en français in French and Office of the French Language Services Commissioner in English.

Budget

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

Directives

(3) The Board of Internal Economy may issue directives to the Commissioner with respect to expenditures from sums received under subsection (2) and the Commissioner shall comply with the directives.

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 French Language Services Commissioner 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 French Language Services Commissioner. 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* who work in similar positions.

Benefits

(3) The employees of the Office of the French Language Services Commissioner 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 French Language Services Commissioner are conditional on the exercise of a power or discretionary function, that power of 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 French Language Services Commissioner.

Immunity

39 (1) No proceeding shall be commenced against the Commissioner or an employee of the Office of the French Language Services Commissioner 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 French Language Services Commissioner is a compellable witness in a civil proceeding outside the 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 such measures as are within the scope of his or her powers and duties set out in subsection (2) to ensure compliance with this Act, the promotion of French and the preservation, growth and vitality of the Franco-Ontarian community.

Powers and duties

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

- (a) conduct investigations into the extent to which this Act is being observed and the quality of the compliance, whether on his or her own initiative or as a result of complaints about French-language services and the French-language services plans of any entity;
- (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 preservation, growth and vitality of the Franco-Ontarian community;
- (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 legal proceedings in accordance with section 43; and
- (i) exercise any other powers and duties as may be prescribed by regulation.

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 failure of a government agency or public institution to comply with this Act or the provision of French language services under this Act, and may refuse or discontinue 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) Whether the Commissioner decides not to take any action as a result of a complaint or decides to take 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 chief administrator

(2) Before commencing an investigation, the Commissioner shall notify the chief administrator of the government agency or public institution 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 to,

- (a) in the case of an investigation resulting from a complaint,
 - (i) the complainant,
 - (ii) the chief administrator of the government agency or public institution, and
 - (iii) the Speaker of the Assembly; and
- (b) in the case of an investigation on his or her own initiative,
 - (i) the chief administrator of the government agency or public institution, and
 - (ii) the Speaker of the 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 the 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 of each year, the Commissioner shall prepare and submit to the Speaker of the 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 Assembly as soon as reasonably possible.

Minister's response

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

Other reports

45 (1) The Commissioner may, at any time, prepare and present to the Speaker of the 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 is responsible for a relevant office or to the chief administrator of any public entity concerned.

Copy of the report

(3) 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

(4) On receiving a report under subsection (1), the Speaker shall lay the report before the 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 for each government ministry, chaired by the senior official of the Office of the Franco-Ontarian Community.

Functions

(3) A French Language Services Coordinator shall,

- (a) establish a process of consultation with the Franco-Ontarian community;
- (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 in a government agency public institution that is not itself a ministry but for which a particular ministry is responsible may communicate directly with the French Language Service Coordinator for that ministry.

Same, ministries

(5) The French Language Services Coordinator appointed for a ministry may communicate directly with the Deputy Minister.

Deputy Minister

(6) Each Deputy Minister shall report to the Executive Council on the implementation of this Act and the quality of French-language services provided in his or her ministry and in any government agency or public institution for which the ministry is responsible.

GENERAL

Appeals

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

Limitation

(2) An appeal under this section 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, unless the Superior Court of Justice grants an extension of the 60-day appeal period, whether the extension is granted before or after the expiry of the 60-day period.

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 considers 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) 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) Despite subsection (1), 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 the Franco-Ontarian Community

51 (1) The Fund for the Promotion of the Franco-Ontarian Community is established as a special account in the Consolidated Revenue Fund.

Objects

(2) The assets of the Fund for the Promotion of the Franco-Ontarian Community must be used only to,

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

Money appropriated by the Legislation

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 not-for-profit corporations, similar organizations, universities, colleges and other entities as government agencies for the purposes of this Act;
- (b) exempting services from the application of all or part of this Act 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, or
 - (iv) requiring French-language services plans to be reviewed and modified in certain cases;
- (e) governing the courts and administrative tribunals to which sections 8 to 12 apply and prescribing 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 consultations that are required under subsection 29 (3) including respecting the manner in which consultations shall be carried out;
- (i) prescribing additional powers and duties of the Commissioner for the purposes of clause 40 (2) (i);
- (j) governing the publication of documents prepared in French by a government agency or public institution;
- (k) governing the operation of the Fund for the Promotion of the Franco-Ontarian Community;
- (l) providing for any other measure necessary for the application of this Act.

REPEAL, AMENDMENTS TO OTHER ACTS, COMMENCEMENT AND SHORT TITLE

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 18 (1) of the *Franco-Ontarian Community Act, 2021*”.

Connecting Care Act, 2019

58 (1) The Preamble to the *Connecting Care Act, 2019* is amended by striking out “*French Language Services Act*” and substituting “*Franco-Ontarian Community Act, 2021*”.

(2) Clause 6 (h) of the Act is amended by striking out “*French Language Services Act*” and substituting “*Franco-Ontarian Community Act, 2021*”.

Farm Products Payments Act

59 Subsection 13 (2) of the *Farm Products Payment Act* is amended by striking out “*French Language Services Act*” and substituting “*Franco-Ontarian Community Act, 2021*”.

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 “*Franco-Ontarian Community Act, 2021*”.

Franco-Ontarian Emblem Act, 2001

61 The Preamble to the *Franco-Ontarian Emblem Act, 2001* is amended by striking out “the present section 5 of the *French Language Services Act*” and substituting “section 5 of the *French Language Services Act*”.

Housing Services Act, 2011

62 (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”.

Commencement

63 This Act comes into force on the day it receives Royal Assent.

Short title

64 The short title of this Act is the *Franco-Ontarian Community Act, 2021*.