

**Report of the Select Committee
on the Revision of
*the Official Languages Act***

APRIL 2013 - DRAFT

**LEGISLATIVE ASSEMBLY
OF NEW BRUNSWICK**



**ASSEMBLÉE LÉGISLATIVE
DU NOUVEAU-BRUNSWICK**

**Report of the Select Committee on the Revision of
the *Official Languages Act***

Spring 2013

Published by:

Legislative Assembly
P.O. Box 6000
Fredericton NB E3B 5H1
CANADA

Printed in New Brunswick

ISBN 978-1-4605-0084-2

9198

Report of the Select Committee on the Revision of *the Official Languages Act*

APRIL 2013 - DRAFT

**LEGISLATIVE ASSEMBLY
OF NEW BRUNSWICK**



**ASSEMBLÉE LÉGISLATIVE
DU NOUVEAU-BRUNSWICK**

Table of Contents

Background	1
Official languages in New Brunswick	1
Mandate of the Select Committee on the Revision of the <i>Official Languages Act</i>	2
Methodology	3
Consultation mechanisms.....	3
Analysis and study of submissions	3
What we heard	3
Question 1	4
Question 2	9
Question 3	10
Question 4	11
Other	12
Recommended amendments to the <i>Official Languages Act</i>	15
Other recommendations.....	23
Appendix A - Motion	27
Appendix B - <i>Official Languages Act</i>	28
Appendix C - <i>An Act recognizing the Equality of the two Official Linguistic Communities in New Brunswick</i>	42

Background

New Brunswick plays a leadership role in Canada as the only officially bilingual province in the country. Language rights in New Brunswick are based on sections 16 to 20 of the *Canadian Charter of Rights and Freedoms*, as well as on the *Official Languages Act* of New Brunswick, which in 2002 replaced the *Official Languages of New Brunswick Act* passed in 1969 and revised in 2002, and *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick*.

Under the *Official Languages Act*, the Premier must initiate a review of this Act before December 31, 2012, in the form and manner prescribed by regulation. In recognition of the positive influence of official bilingualism on the development of New Brunswick, the Premier proposed the creation of a nonpartisan select committee of the Legislative Assembly to carry out this review. The select committee of the Legislative Assembly received support from an interdepartmental working group to do the necessary research and analysis of proposals received in order to stimulate reflection and help committee members make recommendations.

In preparation for the review of the Act, the government also developed an overall plan to meet its linguistic obligations for Part I of the civil service. This plan sets out strategic actions for the 2011-2013 period to enable departments and agencies to meet their official language obligations and propose positive actions to develop the linguistic communities.

Official languages in New Brunswick

The first *Official Languages Act* was passed in 1969. This Act created official bilingualism in New Brunswick. Basically, since 1973, the Act provides that New Brunswick Acts must be drafted in both official languages.

On July 17, 1981, the Legislative Assembly passed *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick*. More commonly known as Bill 88, this Act affirms, among other things, the equality of status and equal rights and privileges of the two linguistic communities. It also confers upon the two communities the right to distinct institutions within which cultural, educational, and social activities may be carried on.

In 1982, the *Canadian Charter of Rights and Freedoms* of the Canadian Constitution came into force. Sections 16 to 20 of the charter enshrine official bilingualism in the Constitution, thereby providing a constitutional basis and value for linguistic rights in New Brunswick.

The *Canadian Charter of Rights and Freedoms* was amended in 1993 to include section 16.1, which gives constitutional status to the equality of the Anglophone and Francophone communities in New Brunswick, a status already recognized by Bill 88.

The province's new *Official Languages Act* came into force in August 2002. Its main objective is to ensure the provincial Act, which involves constitutional guarantees, remains current. The Act also sets out a roadmap to guide the delivery of services provided to the public in both official languages.

Mandate of the Select Committee on the Revision of the *Official Languages Act*

On June 8, 2011, the Premier moved a motion, seconded by the Leader of the Official Opposition, creating the Select Committee on the Revision of the *Official Languages Act*. The committee, which is made up of government and official opposition members, is mandated to undertake a review of the *Official Languages Act* and to conduct consultations. The select committee also has a mandate to review legal decisions on linguistic rights issues, recommendations from the Commissioner of Official Languages for New Brunswick, and suggestions and recommendations from New Brunswickers. The committee must present a report with recommendations to the Legislative Assembly.

The members of the committee are: Hon. Marie-Claude Blais, Q.C., Chair; Mr. Hédard Albert, Vice-Chair; Mr. Carl Killen; Ms. Pam Lynch; Mr. Ryan Riordon; Mr. Yvon Bonenfant; Mr. Greg Davis; Mr. Chris Collins; Mr. Roland Haché; and Mr. Claude Landry.

Methodology

Consultation mechanisms

To enable as many people as possible to take part in the review process, the committee issued a public invitation, through the press and the government's Internet site, to respond to four questions and send the committee comments and suggestions by brief, letter, e-mail, or the Legislative Assembly Internet site.

The committee invited certain groups to present briefs and invited interest groups and experts, as well as those who presented briefs, to meet with the committee to dialogue and hold more in-depth discussions. In order to ensure a frank and open discussion with participants, the committee held these meetings in camera.

The committee received submissions from 1 022 individuals, of which 788 were in French and 334 were in English. The committee also received 29 briefs, of which 20 were in French, 7 were in English, and 2 were bilingual. The committee met with 17 interest groups and individuals and held a round table.

Analysis and study of submissions

The committee held 23 meetings to review legal decisions, suggestions from the Commissioner of Official Languages, briefs that had been submitted, and proposals and recommendations from civil society.

The interdepartmental working group, made up of representatives from Intergovernmental Affairs, the Department of Justice and Attorney General, and the Executive Council Office, monitored all the work carried out by the committee and performed the research and analysis needed for assessing the proposals that were received.

What we heard

The comments, suggestions, and recommendations received are presented with the four questions asked by the committee.

Question 1

The Official Languages Act provides for the delivery of services in both official languages by government institutions. It establishes the criteria for areas to which the Act applies, such as policing services, health services, and municipalities.

In your opinion, what services should be specified in the Official Languages Act?

While the majority of respondents proposed that all services be subject to the *Official Languages Act*, some people would like emergency services, like policing, ambulance, and fire services, to be priorities.

Duality means that consideration is given to the fact that there are two communities to serve and that, when a program is implemented or an Act adopted, how it will be applied to both linguistic communities is considered. It may be the same way, and it may be a different way.

Michel Bastarache

With regard to the offer of service in the official language of choice, most respondents stressed that people should always be able to access the same services of equal quality in the language of their choice. However, some people noted that it is important to understand the concept of duality, which must be integrated into the planning process right from the start so that the needs and priorities of each linguistic community can be taken into account. They indicated that this is an administrative issue and pointed out that service must be provided as efficiently in one language as in the other, without necessarily being the same. Some respondents also indicated that active offer means that both linguistic communities are effectively informed of the nature of a service, its availability, and the way it will be provided. Others noted that the notion of services in the language of choice cannot be implemented throughout the province and proposed a regional approach and the creation of linguistic units.

Administration of justice

With regard to the administration of justice, some people maintain that the current section on the publication of decisions in both official languages is too restrictive and would like it to be clarified so that it provides that all decisions are of public interest and must be published simultaneously in both official languages, unless a court rules otherwise. It was also suggested that costs be covered that are incurred by a person who brings suit when this raises an important new principle and that Provincial Court judges have the right to rule on language rights under the *Official Languages Act*. Finally, it was proposed that the Act confirm the current practice of co-drafting Acts and regulations in both official languages.

Language of work

The language of work issue was the subject of many submissions. While some people would like the language of work to be included in the *Official Languages Act*, others instead suggested including provisions in the Act to oblige an institution to put in place measures to help create a work environment conducive to the actual use of both official languages.

Government offices should not be places for assimilation, and mechanisms should be applied to promote a more bilingual civil service.

Michel Carrier

Some respondents criticized the current language of work policy and considered it to be an accommodation that does not meet the obligations set out in subsection 16(2) of the *Canadian Charter of Rights and Freedoms*. The policy and the toolbox for its implementation were found inefficient, and the policy was considered virtually impossible to implement. Other respondents noted that it is difficult to assess how effective the policy is, because no assessment or performance report mechanism is provided.

Some respondents maintained that working in one's own language leads to enhanced efficiency and performance. They pointed out that the federal *Official Languages Act* includes provisions that guarantee the right to work in the language of one's choice.

A willingness to compromise had to be developed, as well as a culture based on mutual respect; mechanisms for awareness and education also had to be established, so that all these things become customary.

Edouard Allain, Ronald LeBreton

It was noted, however, that it would be a mistake to imitate federal institutions and that a properly structured working team approach may help ensure adequate representation of both linguistic communities and promote the use of the language of choice at work. It was noted, though, that it is necessary to establish departmental guiding principles, strategies, and plans to promote a philosophy of bilingualism. It was also stressed that centralized coordination is necessary to ensure the implementation and assessment of these strategies and action plans.

Other respondents pointed out the high cost of language training, from the point of view of both efficiency and finances. They recommended that bilingualism be considered an essential skill for certain positions.

A number of administrative proposals were made, from the designation of bilingual upper management positions to decentralizing departments in order to bring them closer to the people and thereby promote the recruitment of people with skills and expertise who speak the language of the people they serve.

Other respondents criticized the current policy on language of work, saying that it gives preferential treatment to one community and

hinders access to positions in the provincial civil service. They found language assessments too strict and the required competence level too high. These respondents felt that the bilingualism rate of young people registered in immersion is inadequate and shows that the immersion system does not seem to be working. They also referred to the fact that immersion is not available in every part of the province. Finally, some people indicated that most Francophones are bilingual, but that Anglophones are not, which makes it harder for them to access civil service positions.

Policing services

The main proposal dealing with policing services is to replace the words “within a reasonable time” in section 31 of the Act by “immediately”, to ensure that services in the language of choice are provided immediately. While some people referred to this as an issue of administration and workforce organization, others pointed out that replacing “within a reasonable time” by “immediately” would require all police officers to be bilingual so that they could provide immediate service in the person’s language of choice. Finally, some people believed that the word “immediately” may also be subject to interpretation by the courts.

Another proposal that was received by the committee was to add a subsection to the *Official Languages Act* stipulating that it is for the judge to determine whether a time frame is reasonable by assessing the efforts made by the police force to meet its linguistic obligations. They maintained that this approach would require the Crown to provide a complete description of the actions taken to meet linguistic obligations and would help avoid the more subjective interpretations of the words “within a reasonable time”.

Health services

Health services were also the subject of various proposals, including one to review the current provisions of the *Official Languages Act* to take into account changes made to the health system in 2008. Some respondents suggested clarifying in the Act the obligation of health establishments, facilities, and programs under the jurisdiction of the Department of Health or the regional health authorities to provide their services in both official languages. They also proposed including in the *Official Languages Act* the linguistic obligations of the New Brunswick Health Council and FacilicorpNB and designating under the Act the linguistic status of certain institutions.

Some people deplored the lack of representation of Francophones within the Horizon Health Network, while others would like to see the current dual-network system abolished and replaced by a single bilingual administration.

Services to seniors

Respondents noted that being able to use one's own language and receive services in that language is an essential part of aging with dignity. They recognized that it would be unrealistic to build nursing homes all over the province on a strictly linguistic basis if the numbers are not there to justify it. However, they recommended that nursing homes, special care homes, and agencies providing services to seniors have linguistic obligations. Different ways were suggested to promote service provision and the establishment of mechanisms to promote access to social and cultural activities in the language of choice within establishments that accommodate people from both official linguistic communities. Respondents pointed out that demographic changes and the aging population will require new strategies and new approaches for the provision of services to seniors and that these services go far beyond nursing homes.

Research, field experiments, and life stories all demonstrate how the path of institutional duality with regard to education and early childhood provides the strongest platform for celebrating well-established bilingualism.

AEFNB

Early childhood

Some respondents stressed the importance for a community living in a minority situation of having access from a very early age to education in one's own language. It was recommended that early childhood education services be provided on a duality basis. Others pointed out that day cares are private sector businesses that had no educational mandate until very recently but are now being called upon to play an educational role and be "transmitters of culture", without the vision and mission of the day care system, as well as its role regarding early childhood, having been defined. Respondents also noted that few day cares provide services in both languages.

In our collective desire to create an early childhood system designed to meet the needs of our communities, have we not forgotten to clearly define the mission and mandates of child care services and to specify the role they play in providing quality service?

Early Childhood Care and Education New Brunswick

Some potential solutions were suggested for fostering appreciation, early in children's lives, of the unique advantages of living in an officially bilingual province where languages and cultures live side by side. It was proposed, for instance, that the unique status of New Brunswick be promoted and communicated to young people from kindergarten to Grade 12, that the history of the founding peoples be communicated to young people, that training in early childhood education include the bilingual nature of the province and the reality of the linguistic minority, and that teachers be supported in developing instructional directions that foster harmony between

cultures. Finally, respondents noted the need for a strategy on Francophone spaces, especially in minority situations.

Professional associations

The majority of respondents proposed that a provision be added to the *Official Languages Act* to impose linguistic obligations on professional associations that are established under an Act of the Legislative Assembly and have a mandate to regulate a profession. Some respondents noted, however, that the range of services to be provided in both official languages must be established according to criteria such as the number of members in an association or its revenues. It was also emphasized that a transition period might be necessary to meet this new obligation.

Signage

The committee noted that the signage issue was the subject of much discussion and the source of many differing opinions. A number of people emphasized that signage is an important and indispensable part of the survival of a language, and the fact that a language that is never or rarely used in daily life or signage reinforces the impression it is a second-class language, which contributes to assimilation. They also pointed out that, in order to flourish, people have to see their language in everyday use in all sorts of fields of endeavour. It was therefore proposed to add provisions to the *Official Languages Act* that would require the private sector to post signs in both official languages when the number of members of an official linguistic community comprises 20% of the population of the municipality.

However, other respondents thought the opposite, noting the rules of supply and demand, and suggested that a better alternative would be mechanisms and strategies to promote private-sector signage in both official languages.

Yet others noted that it is not up to the government to dictate the language to be used on signage in the private sector; this is, rather, a municipal responsibility, and it is up to municipalities to pass bylaws in this regard. They therefore recommended that the power of municipalities to pass bylaws on bilingual signage within municipal boundaries be confirmed.

With regard to government signage, most respondents were of the opinion that the government must take the community's linguistic reality into account for its policies on signage and suggested that a provision to that effect be added to the Act.

Bilingual signage enables both rights—the individual and the collective—to be respected.

Michel Doucet

Commerce and business

Most respondents felt that a lot of progress has been made regarding access to documents in the language of choice in the private sector. However, some pointed out that there are still a few gaps and suggested including provisions in the *Official Languages Act* to require private sector organizations to provide documents such as mortgages, deeds, leases, and standard contracts in the official language chosen by the person for whom they are intended. They emphasized that most of these documents are already provided in both official languages and that private businesses can easily access them on the Internet.

Some respondents referred to the unions and stressed that most of the large ones provide services in both official languages.

Services provided by third parties

There is a section in the *Official Languages Act* that requires the province and its institutions to ensure that services offered by third parties on their behalf are delivered in the official language of the person's choice. Some respondents indicated that this section does not clearly define a government service to the public and that it needs to be clarified.

Several people would like this section to be strengthened to require government to ensure that services offered to the public by third parties meet the linguistic obligations of the province. They also suggested that language provisions be added in contracts between the province and a third party.

Question 2

The Official Languages Act does not provide for any mechanism to ensure that the obligations of the government with regard to official languages are carried out.

In your opinion, how can we ensure compliance with the Official Languages Act?

Several respondents noted that government must ensure that the *Official Languages Act* is complied with, as it does for other Acts. They emphasized that compliance with the Act is dependent upon the

It is difficult for an Anglophone to understand what it means to face the possibility of losing one's language and culture.

Carl Killen

good will of government departments and institutions and that this provides no guarantee that government's linguistic obligations will be met. Some people also indicated that one of the problems related to ensuring compliance with the Act is that it was passed before a policy on ensuring compliance, with clear objectives and deadlines, was developed.

Several recommendations were brought forward by respondents to help ensure that linguistic obligations are met within government institutions. It was suggested that the obligation of the government and its institutions to develop a strategy and action plans to ensure their obligations are met be included in the *Official Languages Act*. The following suggestions were also made: that a standing committee of the Legislative Assembly on official languages be set up; that the Act include an obligation for the government to establish a mechanism within government for coordinating and assessing results with regard to official languages that would apply to government departments and institutions; that a committee of deputy ministers on official languages be created; and that a provision be added to require departments and institutions to table their action plan and submit annual reports on the progress made with their plan.

Some respondents also recommended that an arm's-length council for linguistic development be created and mandated to receive public comments, do research, and perform analysis in order to advise the Premier.

Finally, several respondents suggested that a review of the *Official Languages Act* every 10 years be made mandatory and that a time frame be established for the review period.

Question 3

The Official Languages Act specifies that the role of the Commissioner of Official Languages is to investigate, report on, and make recommendations with regard to compliance with the Act and to promote the advancement of both official languages.

In your opinion, how does the Commissioner of Official Languages, in performing his duties, contribute to ensuring compliance with the Official Languages Act?

While some respondents questioned the need for a Commissioner of Official Languages, a number of them recognized the work he does and believed that his powers should be expanded and that he should be able to access a broader range of tools to enable him to fully perform his duties and influence the public. Many respondents proposed various measures to broaden the commissioner's mandate, such as adding a provision requiring a written response to the commissioner's recommendations after an enquiry, adding a provision protecting complainants against reprisals, adding a provision empowering the commissioner to proceed with investigations regarding any issues relating to linguistic rights that are not included under the *Official Languages Act*, and adding a provision empowering the commissioner to appear before the courts.

Some respondents are of the opinion that the provincial commissioner should have the same powers as the federal Commissioner of Official Languages, while others feel that he should have the same powers as the New Brunswick Ombudsman.

Some people would like the commissioner to do more to promote his role and the fact that he represents both official linguistic communities. Others believe he should do more promotion of official bilingualism in the schools and to the general public.

Question 4

The status of New Brunswick as an officially bilingual province is enshrined in the Canadian Constitution.

In your opinion, how can New Brunswickers be better informed about this?

Young people, communication, and cultural exchanges are the keys to success and to bringing both communities closer together.

Round Table (Dialogue NB)

For a number of respondents, the key to success is to expose young people to the other culture and to encourage exchanges in order to foster better understanding, greater open-mindedness, and greater respect for others. They stressed that schools and education programs put very little emphasis on the province's bilingual nature, its distinctiveness, and what differentiates us from other provinces. They therefore recommended to government that components on the bilingual status of the province and its enshrinement in the Canadian Constitution be added to both Anglophone and

The current debates are regrettable and are the proof that we must move forward and demonstrate the benefits of bilingualism.

*Fédération des
jeunes francophones du
Nouveau-Brunswick*

Linguistic opportunities must be coupled with cultural opportunities. Students need to spend time throughout their linguistic studies in the other linguistic culture.

Stan Choptiany

The government of the only officially bilingual province has the responsibility to promote and maintain the province's biggest asset, bilingualism.

Canadian Parents for French

Francophone school curricula, as well as components highlighting New Brunswick's distinctiveness.

Some respondents felt that current debates are regrettable and demonstrate the need for better promotion of the advantages of bilingualism. They believed that efforts should be made to raise awareness in the schools and gave as an example the recycling concept, which started in the schools and enabled the population as a whole to be made aware of its importance.

Other respondents noted that second-language learning is of primary importance and that the government should encourage and promote it from a very young age. They indicated that it is also necessary to establish mechanisms to make it easier for all residents to access second-language training. However, some people stressed that the ability to speak a language does not mean one is familiar with a culture. They also emphasized the importance of setting up initiatives to help foster a greater knowledge and greater appreciation of the other culture.

Some respondents mentioned that cultural sharing is a source of pride to which bilingualism is a response. They feel it is essential for the government to work with various organizations, such as Dialogue New Brunswick, Canadian Parents for French, and the Office of the Commissioner of Official Languages, to help change negative perceptions and foster a greater knowledge of our shared history and of the road we have travelled together. They also noted that it is important for the government to promote greater awareness of the benefits of bilingualism at the social, economic, tourism, and cultural levels.

Other

Combining the *Official Languages Act* and *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick*

Language rights in New Brunswick are supported by three different statutes: the *Official Languages Act*, *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick* (Bill 88), and the *Canadian Charter of Rights and Freedoms*. The *Official Languages Act* dictates the practical implementation of the obligations of the New Brunswick government defined in the *Canadian Charter of Rights and Freedoms*.

I intend to make an overview of the constitutional and legislative framework that must guide your discussions. This framework constitutes the social contract on which is based the cohabitation of the two official linguistic communities of the province.

Michel Doucet

Several respondents indicated that *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick* is poorly understood and that people are quite confused. The respondents feel it is necessary to combine the two Acts and change the title of the *Official Languages Act* in order to better reflect New Brunswick reality and enable all residents to recognize our social contract. They emphasized that combining the two Acts would allow for greater recognition of the substantive equality of the linguistic communities and would also enable conflicting interpretations to be avoided.

These respondents also noted that the *Official Languages Act* deals with individual rights, while *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick* deals with collective rights, and that combining the two Acts would enable individual and collective rights to be dealt with under the same Act.

However, some respondents pointed out that *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick* and the *Official Languages Act* exist for different reasons but must be interpreted together when government obligations are being assessed. These respondents noted that *An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick* is enshrined in the Canadian Constitution and obliges the government to ensure the protection of the equality of status and the equal rights and privileges of the official linguistic communities.

Finally, other respondents stressed that combining the two Acts would not strengthen language rights and that, while these Acts are complementary, they both exist for different reasons. They indicated that introducing government programs based on the two linguistic communities to be served may help ensure recognition of the minority community.

Adding a purpose clause

Several respondents explained that a purpose clause helps define the legislative intent and defines the objectives and general principles set out in an Act. They pointed out that such a clause may be helpful in interpreting the Act and that the federal *Official Languages Act* includes a purpose clause.

Respondents suggested certain principles to be observed when drafting a purpose clause, including the following: ensuring respect for English and French as the official languages of New Brunswick; ensuring equality of status and equal rights and privileges; supporting the sustainable development and vitality of both official linguistic communities; advancing the substantive equality of both official linguistic communities; and specifying the powers, duties, and functions of government institutions.

A new social contract

Some respondents suggested repealing the *Official Languages Act*, while others suggested holding a referendum on any changes to be made to it and developing a social contract that should, in their opinion, be less costly and more inclusive.

First Nations

Respondents drew attention to the role of First Nations in the development of present-day New Brunswick and pointed out that, without them, French would probably no longer be spoken in New Brunswick. They emphasized the importance of aboriginal languages in safeguarding First Nations culture and hoped that renewed efforts would be made to help revitalize the Maliseet and Micmac languages.

Recommended amendments to the *Official Languages Act*

Canada is among the great democratic societies that have established protections for minorities, including linguistic protections. In New Brunswick, official bilingualism is a social contract that underpins the cohabitation of the two linguistic communities. The work of the committee was guided by compliance with the constitutional obligations of New Brunswick with regard to official languages and the advancement of substantive equality for both official linguistic communities in the province.

The committee took into consideration the asymmetry principle, which is defined as access to services that are tailored to the specific needs of each linguistic community.

The committee emphasizes that, in an ideal world, equal service means service that is available and provided in the same way throughout the province. However, the committee acknowledges that we do not live in an ideal world and that it is necessary to reflect what is realistic and feasible while continuing to move toward substantive equality.

Policing services

With regard to policing services, the committee feels that it is unrealistic to replace the words “within a reasonable time” by “immediately”, since this might require all police officers to be bilingual in order to meet the obligations under the Act. Although a completely bilingual police force is a worthy objective, it would be very hard to implement and practically impossible to meet. Also, the committee stresses that the expression “reasonable time” has already been defined on the basis of the circumstances of a specific situation. However, the committee believes that the expression “reasonable time” can be further clarified in order to make it easier to interpret.

The committee recommends

- **that a subsection be added to define “reasonable time” with reference to the efforts made by the police force to meet its linguistic obligations.**

The committee is of the opinion that such a clause would require the Crown to give in evidence a comprehensive description of the measures taken by the police force to meet its obligations.

Combining An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick and the Official Languages Act

The committee stresses the importance of recognizing the rights of the linguistic communities in New Brunswick. However, the committee believes that, although the two Acts are complementary and are interpreted in reference to each other, they exist for different reasons. The committee is of the opinion that the *Official Languages Act* dictates the practical implementation of the government's obligations as defined in the *Canadian Charter of Rights and Freedoms*, referred to at the beginning of the current Act, go further than the obligation to provide services in the official language of choice and must be considered when assessing the obligations of the province.

For these reasons, the committee recommends

- **that the two Acts be maintained in their current form.**

Adding a purpose clause

In the light of the various submissions received, the committee is of the opinion that a provision could be added to the *Official Languages Act* in order to better define the principles and objectives of the Act, which would help make it easier to interpret.

The committee recommends

- **that a purpose clause be added, specifying the legislative intentions and stating the principles of the Act.**

The committee proposes that the following principles guide the drafting of the clause:

- ensuring respect for English and French as the official languages of New Brunswick;
- ensuring their equality of status and equal rights and privileges as to the use of both official languages in all provincial institutions;

- guaranteeing the public's right to use either of these two languages to communicate with or receive services from government institutions;
- supporting the sustainable development and vitality of both linguistic communities;
- advancing the substantive equality of both linguistic communities;
- setting out the powers, duties, and functions of government institutions with respect to the official languages.

Municipalities and private-sector signage

There is considerable public discussion about private-sector signage as well as the issue of a municipality's power to make signage bylaws. Although a Supreme Court of Canada decision empowers Ontario municipalities to make such bylaws, some people believe this power is not clearly defined in New Brunswick legislation. The committee feels that it is necessary to clarify that municipalities are entitled to adopt bylaws regarding signage on their territory.

Therefore, the committee recommends

- **that the *Official Languages Act* be amended by adding a provision that clearly empowers municipalities to make bylaws regarding signage on their territory and**
- **that the necessary amendments be made to the related regulations.**

Public signage

Government signage for the general public must be in both official languages. This signage generally complies with the *Official Languages Act*. Also, the government action plan for meeting its linguistic obligations provides for the development of a comprehensive government signage policy. However, the committee noted that different government departments have different signage policies and that these policies and practices do not reflect the linguistic reality of the various regions. The committee stressed the need for a comprehensive policy that fully respects the principle of equality of the two official languages and that reflects the reality of the official linguistic communities in the regions.

The committee recommends

- **that provisions regarding government signage be included in the *Official Languages Act* to oblige the government and its institutions to take into account the official linguistic communities and the linguistic reality of a region in the government's public signage policy.**

Professional associations

The committee recognizes that several professional associations are able to offer services in both official languages. However, the committee feels that private associations that were created by an Act of the Legislative Assembly and were mandated by government to regulate a profession act almost like administrative tribunals. The committee is of the opinion that these associations should be subject to the *Official Languages Act*.

The committee recommends

- **that professional associations created by an Act of the Legislative Assembly and mandated to regulate a profession be brought under the *Official Languages Act* and**
- **that the range of services to be provided in both official languages be determined by regulation on the basis of the association's nature or activities.**

The committee realizes that this recommendation may present challenges to certain associations and that a transition period may be needed. The committee also proposes certain criteria to be considered in determining which associations will be brought under the Act.

The committee recommends that associations that meet the following criteria be brought under the *Official Languages Act*:

- **the association was created by an Act of the Legislative Assembly;**
- **the association regulates and monitors professional activities;**
- **the association has the power to withdraw a professional licensure or licence;**
- **the members must pay membership fees.**

Third parties

The committee's discussions and exchanges with various people led to the conclusion that the current section of the Act regarding services offered to the public by third parties on behalf of the province or its institutions may be confusing and is variously interpreted from one government department to the next.

The committee recommends

- **that the *Official Languages Act* be amended in order to clarify section 30 by more clearly defining a government service offered to the public by a third party.**

Health services

The committee recognizes that everyone is entitled to receive services in the language of his or her choice at all hospitals in the province. However, the committee notes that the *Official Languages Act* has not been amended to reflect the changes made to the *Regional Health Authorities Act* following the health system reform.

The committee recommends

- **that the *Official Languages Act* be amended to bring it in line with the *Regional Health Authorities Act*.**

Administration of justice

In New Brunswick, the English and French versions of legislation are equally authoritative, and the Acts and regulations are drafted jointly in both English and French. However, this practice is not enshrined in the *Official Languages Act* and deserves to be. The following recommendation is made to ensure that Charter provisions regarding the equal authority of both versions of Acts are observed.

The committee recommends

- **that the practice of co-drafting the Acts and regulations in English and in French be confirmed in the *Official Languages Act*.**

Commissioner of Official Languages

The New Brunswick Commissioner of Official Languages makes a significant contribution to the protection of language rights and the promotion of official languages in the province. In fact, the committee wishes to thank the commissioner for his contribution to New Brunswick society and to the advancement of both official languages in the province.

However, it became apparent during the consultation process that the role of the Commissioner of Official Languages is not well known or is poorly perceived by some people. Therefore, the committee would like the commissioner to make greater efforts to improve public awareness of his role.

The committee feels that the commissioner should have more tools at his disposal to help him fulfil his mandate.

The committee recommends that the *Official Languages Act* be amended to:

- **enable the commissioner to publicly condemn situations that have been under investigation and are considered to involve the public interest;**
- **enable the commissioner to informally resolve minor complaints;**
- **require a government department or institution that has been the focus of an investigation to provide a formal written response;**
- **protect the commissioner and his staff against lawsuits arising from the performance of their duties, unless it can be demonstrated that they acted in bad faith; and**
- **protect a complainant who has acted in good faith against any reprisal.**

Ensuring compliance with the *Official Languages Act*

The government has adopted an initial comprehensive plan entitled *Official Bilingualism – A Strength for 2011-2013*. This plan is aimed at collaborative and coordinated action by government departments and agencies in meeting their linguistic obligations.

Unlike the federal *Official Languages Act*, the New Brunswick *Official Languages Act* does not provide for any measures to meet the linguistic obligations of government departments and institutions. The committee notes that many of the difficulties that have arisen seem to be related to ensuring compliance with the Act.

The committee believes that it is important to confirm in the Act the government's obligation to provide itself with a comprehensive plan for ensuring compliance with the *Official Languages Act*. This plan should present a variety of ways to meet challenges and contain innovative actions to promote the creation of a bilingual culture within the civil service and to advance the substantive equality of both official linguistic communities. This comprehensive plan should also identify mechanisms to put in place so that government can reflect the specific reality of each linguistic community when developing its programs and policies.

The committee recommends

- **that provisions be added in the *Official Languages Act* that require government to develop and implement a comprehensive plan, with clear objectives and time frames, for meeting its linguistic obligations.**

The committee also recommends that the planning include:

- **developing departmental and institutional action plans to meet the objectives of the comprehensive plan;**
- **including the language of work when identifying working teams and developing linguistic profiles;**
- **assessment measures;**
- **measures to improve the bilingual capacity of the senior civil service; and**
- **mechanisms to advance the substantive equality of both linguistic communities in the province.**

The committee is of the opinion that follow-up and coordination of government efforts are crucial to ensure the successful implementation of the comprehensive plan and the departmental action plans.

Therefore, the committee recommends the addition of provisions in the Act to:

- **create centralized coordination for implementing the comprehensive plan and departmental action plans;**
- **require government departments and institutions to prepare annual reports on the implementation of their action plans; and**
- **require the preparation of an annual progress report on the comprehensive plan, to be submitted to the Premier and the Legislative Assembly.**

The committee recognizes that the government has an obligation to constantly advance the substantive equality of the official linguistic communities in the province and recommends

- **that the next review of the *Official Languages Act* be completed in eight years.**

Other recommendations

Promotion

The committee notes the comments and proposals received regarding the promotion of bilingualism in New Brunswick. It stresses that there must be greater public awareness of the province's bilingual status and greater knowledge about the resulting social, economic, and cultural benefits in order to continue enhancing collaboration between the linguistic communities, openness toward others, and respect for differences. The committee acknowledges the work done by various organizations to this end and notes that greater collaboration between the government and these organizations would be conducive to cultural sharing and pride in living in a bilingual province.

The committee recommends that the government

- **develop strategies to promote both official linguistic communities and strengthen ties between them in partnership with various organizations, such as Dialogue New Brunswick, Canadian Parents for French, and the Commissioner of Official Languages, and**
- **add to school curricula components on the historical evolution of official bilingualism in New Brunswick and its social, economic, and cultural benefits.**

Early childhood

The committee recognizes the government's efforts to put in place structures that will enable it to move toward duality in early childhood education services. The committee also recognizes the importance for the minority community of having access to education services in its own language from early childhood onward in order to prevent the negative effects of assimilation.

The committee recommends

- **that early childhood education services be brought under the *Education Act*.**

However, the committee recognizes that a reasonable transition period is necessary before this provision comes into force.

Services to seniors

The committee noted that senior citizens have a right to receive services in the language of their choice and that it is important that the departments responsible for developing and implementing these services be reminded of this right. The committee stressed that the issue of services to seniors is constantly evolving and is much broader than the nursing home issue. The committee is of the opinion that any new strategy must consider all services on the basis of current and future needs.

The committee recommends that the government:

- **identify the needs of seniors for the next few years, taking into consideration the specific needs of the linguistic communities;**
- **review the relevant Acts and regulations to take into account the needs identified;**
- **develop the necessary policies and strategies to meet these needs; and**
- **establish an action plan that will enable seniors to get the services they need in the official language of their choice.**

Language training

The committee stresses that it is important and vital for New Brunswick, as the only officially bilingual province, to foster second-language learning, to be innovative, and to play a leadership role in this area. The committee also points out that, although it is of primary importance to learn the second language from a very early age, it is equally important to foster second-language learning by adults.

The committee believes that efforts should be made to create an environment that promotes second-language learning and provides opportunities to celebrate bilingualism in New Brunswick.

The committee recommends that the government:

- **foster second-language learning by all students in the education system from a very early age;**
- **highlight the advantages of speaking a second language; and**
- **promote second-language training programs that are available and easily accessible to adults.**

The committee also stresses the importance of a bilingual civil service that is better equipped to provide residents with services in the language of their choice. The committee also feels that a bilingual civil service is better equipped to ensure the development of government policies and programs that reflect the distinctive characteristics of each linguistic community.

The committee recognizes that not everyone needs to be bilingual but that a language training program for civil servants is necessary to enable the government to meet its linguistic obligations.

The committee recommends that the government ensure that the review of its language training program for the provincial civil service

- **draws inspiration from both proven and new teaching approaches to learning a second language in order to improve long-term results and**
- **maximizes the use of online technologies and learning opportunities to make the program more efficient and accessible.**

First Nations

The committee emphasizes the First Nations' role in the economic, social, and cultural development of present-day New Brunswick and wishes to highlight the importance of safeguarding Aboriginal languages and culture in New Brunswick.

The committee recommends that the government consider possibilities for promoting the First Nations' contribution to the New Brunswick mosaic.

Immigration

New Brunswick is making considerable efforts to attract new citizens and immigrants. The committee is aware of the importance of maintaining linguistic balance for the development of the official linguistic communities and feels that measures should be identified in the government's immigration and recruitment strategies to ensure that linguistic balance is maintained.

The committee recommends that the government

- **set targets in its immigration strategy in order to ensure the necessary recruitment to maintain linguistic balance and**
- **develop tools and implement mechanisms and procedures that promote the integration of newcomers within the Acadian and Francophone community.**

Appendix A - Motion



Form A1
NOTICE OF MOTION 95

Formule A1
AVIS DE MOTION 95

With leave of the House to dispense with notice,

Dispense d'avis ayant été accordée par la Chambre,

I move the following resolution, seconded by:

je propose,

the Leader of the Opposition :

appuyé/appuyée par le chef de l'opposition,

ce qui suit :

WHEREAS New Brunswick took on a leadership role within Confederation by becoming the only officially bilingual province in Canada;

attendu que le Nouveau-Brunswick a assumé un rôle de leadership au sein de la confédération en devenant la seule province officiellement bilingue du Canada ;

WHEREAS official bilingualism has had a profound and positive influence on New Brunswick's development and has guided our province's cultural, social and political growth;

attendu que le bilinguisme officiel a eu une influence profonde et positive sur le développement du Nouveau-Brunswick et a guidé la croissance culturelle, sociale et politique de notre province ;

WHEREAS the government remains committed to official bilingualism and the development of the two official linguistic communities of New Brunswick, as well as to the principles and objectives of the *Official Languages Act*;

attendu que le gouvernement demeure engagé à l'égard du bilinguisme officiel et de l'épanouissement des deux communautés linguistiques officielles du Nouveau-Brunswick ainsi qu'à l'égard des principes et des buts de la *Loi sur les langues officielles* ;

WHEREAS the government wants to provide an opportunity for all New Brunswickers to give their views and provide comments during the revision process of the *Official Languages Act*;

attendu que le gouvernement veut donner aux gens du Nouveau-Brunswick l'occasion de s'exprimer et de faire des observations pendant le processus de révision de la *Loi sur les langues officielles* ;

BE IT THEREFORE RESOLVED that this House appoint a Select Committee on the Revision of the *Official Languages Act*, to oversee the examination of and consultation on the Act, to review legal decisions, recommendations of the Office of the Commissioner of Official Languages as well as suggestions and recommendations from civil society and New Brunswickers, and to file with the Legislative Assembly an interim report and a final report with recommendations.

qu'il soit à ces causes résolu que la Chambre constitue le Comité spécial de révision de la *Loi sur les langues officielles*, chargé de mener un examen de la loi et une consultation à cet égard, de revoir les décisions judiciaires, les recommandations du bureau du commissaire aux langues officielles ainsi que les suggestions et recommandations de la société civile et des Néo-Brunswickois et Néo-Brunswickoises, et de déposer à l'Assemblée législative un rapport provisoire et un rapport final avec recommandations ;

In addition to the powers traditionally conferred upon the said committee by the Standing Rules, the Committee shall have the following additional powers:

que, investi des pouvoirs traditionnellement conférés en vertu du Règlement, le comité soit aussi habilité :

- to meet during sittings of the House and during the recess after prorogation until the next following session;
- to adjourn from place to place as may be convenient;
- to conduct consultations as it sees fit;
- to retain such personnel as may be required to assist the committee;

- à se réunir pendant les séances de la Chambre et après la prorogation, jusqu'à la session suivante ;
- à tenir séance à divers endroits, au besoin ;
- à tenir des consultations comme il juge bon de le faire ;
- à s'adjoindre le personnel qu'il requiert ;

BE IT FURTHER RESOLVED that, during a period when the Legislative Assembly is adjourned or prorogued, the Committee may release a report by depositing a copy with the Clerk of the Legislative Assembly, and upon the resumption of the sittings of the House, the Chair shall present the report to the Legislative Assembly;

que le comité, si l'Assemblée législative est ajournée ou prorogée, soit habilité à rendre public un rapport par le dépôt d'un exemplaire au bureau du greffier de l'Assemblée législative, lequel rapport, après la rentrée parlementaire, sera présenté à l'Assemblée législative par la présidence du comité

BE IT FURTHER RESOLVED that the said Committee be comprised of Hon. Ms. Blais, Hon. Ms. Blaney, Mr. Riordon, Ms. Lynch, Mr. McLean, Mr. Bonenfant, Mr. Davis, Mr. C. Landry, Mr. Albert, Mr. Collins, and Mr. Haché.

et que le comité soit composé de l'hon. M^{me} Blais, de l'hon. M^{me} Blaney, de M. Riordon, de M^{me} Lynch, de M. McLean, de M. Bonenfant, de M. Davis, de M. C. Landry, de M. Albert, de M. Collins et de M. Haché.

Appendix B - *Official Languages Act*



CHAPTER O-0.5

CHAPITRE O-0.5

Official Languages Act

Loi sur les langues officielles

Assented to June 7, 2002

Sanctionnée le 7 juin 2002

Chapter Outline

Sommaire

Definitions.	1
city — cité	
communication and communicate — communication et communiquer	
court — tribunaux	
Crown corporation — sociétés de la Couronne	
department — ministère	
institution — institution	
linguistic community — communauté linguistique	
municipality — municipalité	
official languages — langues officielles	
peace officer — agent de la paix	
publication and published — publication et publier	
Interpretation	
Minister responsible.	2
Act prevails.	3(1)
Exception.	3(2)
Distinct institutions.	4
Authority of Legislature.	5
Proceedings of the Legislative Assembly	
Language of the Legislature.	6
Interpretation of proceedings of the Legislative Assembly.	7
Records and journals of the Legislative Assembly.	8
Legislative and other instruments	
Language of legislation.	9
Equal authority of both language versions.	10
Introduction of bills.	11
Acts of the Legislature.	12
Required publication in <i>The Royal Gazette</i>	13
Official documents.	14
Documents published under an Act of the Province.	15
The administration of justice	
Language of the courts.	16
Right to use language of choice.	17

Définitions.	1
agent de la paix — peace officer	
cité — city	
communauté linguistique — linguistic community	
communication et communiquer — communication and communicate	
institution — institution	
langues officielles — official languages	
ministère — department	
municipalité — municipality	
publication et publier — publication and publish	
sociétés de la Couronne — Crown Corporation	
tribunaux — court	
Interprétation	
Ministre responsable.	2
Primauté de la Loi.	3(1)
Cas d'exception.	3(2)
Institutions distinctes.	4
Pouvoir de la Législature.	5
Débats et travaux de l'Assemblée législative	
Langues de la Législature.	6
Interprétation des débats et travaux.	7
Procès-verbaux et autres documents de l'Assemblée législative.	8
Actes législatifs et autres	
Langues de la législation.	9
Authenticité des deux versions.	10
Adoption des projets de lois.	11
Lois de la Législature.	12
Publication obligatoire dans la <i>Gazette royale</i>	13
Documents officiels.	14
Documents publiés en vertu d'une loi de la Province.	15
L'administration de la justice	
Langues des tribunaux.	16
Droit de choisir.	17

Ch. O-0.5

Loi sur les langues officielles

Person not to be disadvantaged by choice.	18	Interdiction de désavantager l'utilisateur.	18
Obligation placed on the court to understand language chosen.	19	Obligation du tribunal de comprendre sans interprète.	19
Accused's right to be heard in the language of choice.	20	Droit de l'accusé au déroulement des procédures dans sa langue.	20
Rights of the witness.	21	Droit du témoin.	21
Obligation on Her Majesty to use language of the parties.	22	Obligation de Sa Majesté d'utiliser la langue des parties.	22
Disagreement between parties as to language of use.	23	Désaccord des parties quant à la langue d'usage.	23
Publication of decisions.	24	Publication des décisions.	24
Publication of Court of Appeal decisions.	25	Publication des décisions de la Cour d'appel.	25
Rendering of a judgment.	26	Le prononcé d'une décision.	26
Communication with the public		Communication avec le public	
Communications with government and its institutions.	27	Communication avec le gouvernement et ses institutions.	27
Obligations of institutions.	28	Obligation des institutions.	28
Posting of signs and publications intended for the public.	29	Affichage et publication à l'intention du public.	29
Services rendered on behalf of the Province.	30	Prestation de services pour le compte de la province.	30
Policing services		Services de police	
Services provided by a peace officer.	31	Prestation de services par un agent de la paix.	31
Application of section 31.	32	Application de l'article 31.	32
Health services		Services de santé	
Health services.	33	Services de santé.	33
Effect of section 33.	34	Effet de l'article 33.	34
Municipalities		Municipalités	
Municipalities bound by the Act.	35(1)	Municipalités visées.	35(1)
Cities bound by the Act.	35(2)	Cités visées.	35(2)
Adoption of new by-laws.	35(3)	Adoption de nouveaux arrêtés.	35(3)
Deadline.	35(4)	Échéance.	35(4)
Minutes of Council.	35(5)	Procès-verbaux.	35(5)
Communications and services.	36	Communications et services.	36
Opting-in by municipalities.	37	Option d'une municipalité de se lier.	37
Effect of opting-in.	38	Effet de l'option.	38
Planning Commissions and Solid Waste Commissions		Commissions d'aménagement et Commissions de gestion des déchets solides	
Planning Commissions and Solid Waste Commissions.	39	Commissions d'aménagement et Commissions de gestion des déchets solides.	39
Cities and Municipalities.	40	Cités et municipalités.	40
Communications and services.	41	Communications et services.	41
Review of Act		Révision de la Loi	
Review of Act.	42	Révision de la Loi.	42
Commissioner of Official Languages		Commissaire aux langues officielles	
Mandate and responsibilities of Commissioner.	43	Mandat, responsabilités du commissaire et plaintes.	43
Appointment of Official Translators		Nomination de traducteurs officiels	
Appointment of Official Translators.	44	Nomination de traducteurs officiels.	44
Regulation-making authority		Réglementation	
Regulation-making authority.	45	Pouvoir de réglementation.	45
Repeal		Abrogation	
Repeal.	46	Abrogation.	46
Commencement		Entrée en vigueur	
Commencement.	47	Entrée en vigueur.	47

Official Languages Act

Chap. O-0.5

WHEREAS the Constitution of Canada provides that English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the Legislature and Government of New Brunswick;

AND WHEREAS the Constitution of Canada confers upon the public, in New Brunswick, the right to use English or French in the Legislature and in the courts of New Brunswick, as well as to have access to the laws of New Brunswick in both official languages;

AND WHEREAS the Constitution of Canada also provides for the right of any member of the public to communicate with and to receive available services from any office of an institution of the Legislature or Government of New Brunswick in either official language;

AND WHEREAS the Constitution of Canada also recognizes that the English linguistic community and the French linguistic community in New Brunswick have equality of status and equal rights and privileges, including the right to distinct educational institutions and such distinct cultural institutions as are necessary for the preservation and promotion of those communities;

AND WHEREAS the Constitution of Canada affirms, with respect to both official languages, the authority of the Legislature and Government of New Brunswick to advance the status, rights and privileges set out therein;

AND WHEREAS New Brunswick is committed to enacting an Official Languages Act that respects the rights conferred by the *Canadian Charter of Rights and Freedoms* and allows the Legislature and the Government to fulfill their obligations under the *Charter*;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Legislative Assembly, enacts as follows:

Definitions**1** In this Act

“city” means a city within the meaning of section 16 of the *Municipalities Act*; (*cit *)

“communication” and “communicate” mean any form of communication whether spoken, written or electronic; (*communication*) (*communiquer*)

ATTENDU QUE la Constitution canadienne dispose que le franais et l’anglais sont les langues officielles du Nouveau-Brunswick et qu’ils ont un statut et des droits et priviles  gaux quant   leur usage dans toutes les institutions de la L gislation et du gouvernement du Nouveau-Brunswick;

Qu’elle conf re au public, au Nouveau-Brunswick, le droit   l’usage du franais et de l’anglais   la L gislation et devant les tribunaux au Nouveau-Brunswick ainsi que l’acc s aux lois de la province dans les langues officielles;

Qu’elle pr voit, en outre, que le public a droit   l’emploi de l’une ou l’autre des langues officielles pour communiquer avec tout bureau des institutions de la L gislation ou du gouvernement du Nouveau-Brunswick ou pour en recevoir les services;

Qu’elle reconna t  galement que la communaut  linguistique franaise et que la communaut  linguistique anglaise du Nouveau-Brunswick ont un statut et des droits et priviles  gaux dont notamment le droit   des institutions d’enseignement distinctes et aux institutions culturelles distinctes n cessaires   leur protection et   leur promotion;

Qu’elle confirme, en mati re de langues officielles, le pouvoir de la L gislation et du gouvernement du Nouveau-Brunswick de favoriser la progression vers l’ galit  du statut, des droits et des priviles qui y sont  nonc s;

Il convient donc que le Nouveau-Brunswick adopte une *Loi sur les langues officielles* qui respecte les droits conf r s par la *Charte canadienne des droits et libert s* et qui permet   la L gislation et au gouvernement de r aliser leurs obligations au sens de la *Charte*;

  CES CAUSES, Sa Majest , de l’avis et du consentement de l’Assembl e l gislative du Nouveau-Brunswick, d cr te :

D finitions**1** Dans la pr sente loi

« agent de la paix » s’entend d’un agent de la paix, au sens de l’article 1 de la *Loi sur la proc dure applicable aux infractions provinciales*, qui dessert le public que ce soit pour le compte de la Province, d’une municipalit  ou en vertu d’un contrat pour la prestation de services de police conclu avec la Province ou une de ses institutions

Ch. O-0.5

Loi sur les langues officielles

“court” means any court or administrative tribunal in the Province (*tribunaux*)

“Crown corporation” means a corporation that is accountable, through a Minister, to the Legislative Assembly for the conduct of its affairs, and includes a parent Crown corporation or a wholly-owned subsidiary; (*sociétés de la Couronne*)

“department” means a department as defined in section 1 of the *Financial Administration Act*; (*ministère*)

“institution” means an institution of the Legislative Assembly or the Government of New Brunswick, the courts, any board, commission or council, or other body or office, established to perform a governmental function by or pursuant to an Act of the Legislature or by or under the authority of the Lieutenant-Governor in Council, a department of the Government of New Brunswick, a Crown corporation established by or pursuant to an Act of the Legislature or any other body that is specified by an Act of the Legislature to be an agent of Her Majesty in right of the Province or to be subject to the direction of the Lieutenant-Governor in Council or a minister of the Crown; (*institution*)

“linguistic community” means either of the English linguistic community or the French linguistic community of New Brunswick within the meaning of section 16.1 of the *Canadian Charter of Rights and Freedoms*; (*communauté linguistique*)

“municipality” means a municipality within the meaning of section 1 of the *Municipalities Act*; (*municipalité*)

“official languages” means the official languages of New Brunswick within the meaning of subsection 16(2) of the *Canadian Charter of Rights and Freedoms*; (*langues officielles*)

“peace officer” means a peace officer as defined under section 1 of the *Provincial Offences Procedure Act* who serves the public, whether on behalf of the Province, a municipality or under a contract for the delivery of policing services with the Province or its institutions and includes a police officer as defined under that Act; (*agent de la paix*)

“publication” and “published” mean all forms of publication, whether paper or electronic. (*publication*) (*publier*)

2011, c.20, s.11.

et comprend un agent de police au sens de cette même loi; (*peace officer*)

« cité » désigne une cité au sens de l'article 16 de la *Loi sur les municipalités*; (*city*)

« communauté linguistique » s'entend de l'une ou l'autre de la communauté linguistique française et de la communauté linguistique anglaise du Nouveau-Brunswick au sens de l'article 16.1 de la *Charte canadienne des droits et libertés*; (*linguistic community*)

« communication » et « communiquer » visent toute forme de communication orale, écrite ou électronique; (*communication*) (*communicate*)

« institution » désigne les institutions de l'Assemblée législative et du gouvernement du Nouveau-Brunswick, les tribunaux, tout organisme, bureau, commission, conseil, office ou autre créés afin d'exercer des fonctions de l'État sous le régime d'une loi provinciale ou en vertu des attributions du lieutenant gouverneur en conseil, les ministères, les Sociétés de la Couronne créées sous le régime d'une loi provinciale et tout autre organisme désigné à titre de mandataire de Sa Majesté du chef du Nouveau-Brunswick ou placé sous le contrôle du lieutenant-gouverneur en conseil ou d'un ministre provincial; (*institution*)

« langues officielles » désigne les langues officielles du Nouveau-Brunswick au sens du paragraphe 16(2) de la *Charte canadienne des droits et libertés*; (*official languages*)

« ministère » désigne un ministère au sens de la définition à l'article 1 de la *Loi sur l'administration financière*; (*department*)

« municipalité » désigne une municipalité au sens de l'article 1 de la *Loi sur les municipalités*; (*municipality*)

« publication » et « publier » désigne toute forme de publication, sur papier ou électronique; (*publication*) (*publish*)

« sociétés de la Couronne » désigne les personnes morales tenues de rendre compte à l'Assemblée législative de leurs activités par l'intermédiaire d'un ministre ainsi que les sociétés de la Couronne mères et leurs filiales à cent pour cent; (*Crown Corporation*)

Official Languages Act

Chap. O-0.5

Interpretation

2 The Premier is responsible for the administration of this Act.

3(1) No act, or regulation under it, other than this Act, shall be interpreted so as to repeal, limit or contravene a provision of this Act and, in case of conflict, this Act prevails.

3(2) Subsection (1) does not apply to the *Education Act* or any other act, legislative provision or measure which promotes the equality of the two linguistic communities or establishes distinct educational institutions or distinct cultural institutions.

4 Distinct educational institutions and distinct cultural institutions and, without limiting the generality of the foregoing, the school system in New Brunswick including the English and French sections of the Department of Education and Early Childhood Development including schools and their committees, councils and boards, community centres and universities and, where applicable, community colleges are not included in the definition of “institution” in section 1.

2010, c.31, s.100.

5 Nothing in this Act limits the authority of the Legislature or the Government to advance the equality of status and use of English and French.

Proceedings of the Legislative Assembly

6 English and French are the official languages of the Legislature and everyone has the right to use either language in any debate and other proceeding of the Legislative Assembly or its committees.

7 Simultaneous interpretation of the debates and other proceedings of the Legislative Assembly shall be made available by the Legislature.

8 The records, journals and reports of the Legislative Assembly and its committees shall be printed and pub-

« tribunaux » désigne les cours et les tribunaux administratifs dans la province. (*court*)

2011, c.20, art.11.

Interprétation

2 Le Premier ministre est responsable de l'application de la présente loi.

3(1) Toute loi ou ses règlements d'application, autre que la présente loi, ne peuvent être interprétés de manière à supprimer, restreindre ou enfreindre une disposition de la présente loi et, en cas de conflit, la présente loi l'emporte.

3(2) Le paragraphe (1) ne s'applique pas à la *Loi sur l'éducation* et toute autre loi, disposition législative ou mesure visant à promouvoir l'égalité des deux communautés linguistiques ou visant l'établissement d'institutions d'enseignement distinctes ou d'institutions culturelles distinctes.

4 Ne sont pas visés par la définition d'institution à l'article 1, les institutions d'enseignement distinctes et les institutions culturelles distinctes et, sans limiter la portée générale de ce qui précède, le système scolaire de la province, dont les sections française et anglaise du ministère de l'Éducation et du Développement de la petite enfance, y compris les écoles et leurs comités, les conseils et administrations, les centres communautaires, les universités et, le cas échéant, les collèges communautaires.

2010, c.31, art.100.

5 Rien dans la présente loi ne limite le pouvoir de la Législature et du gouvernement de favoriser la progression vers l'égalité de statut ou d'usage du français et de l'anglais.

Débats et travaux de l'Assemblée législative

6 Le français et l'anglais sont les langues officielles de la Législature et chacun a le droit d'employer la langue officielle de son choix dans les débats et les travaux de l'Assemblée législative et de ses comités.

7 L'Assemblée législative doit pourvoir à l'interprétation simultanée de ses débats et autres travaux.

8 Les archives, les comptes-rendus, les procès-verbaux et les rapports de l'Assemblée législative et de ses comi-

Ch. O-0.5

Loi sur les langues officielles

lished in English and French and both language versions are equally authoritative.

Legislative and other instruments

9 English and French are the official languages of legislation.

10 The English and French versions of legislation are equally authoritative.

11 Bills shall be simultaneously introduced in both official languages before the Legislative Assembly and shall be simultaneously adopted and assented to in both official languages.

12 The Acts of the Legislature shall be printed and published in both official languages.

13 Rules, orders, Orders-in-Council and proclamations required to be published in *The Royal Gazette* shall be printed and published in both official languages.

14 Notices, advertisements and other announcements of an official nature, whether required to be published in *The Royal Gazette* or not, shall be printed and published in both official languages.

15 Notices, announcements and other documents required to be published under this Act or any other Act by the Province or its institutions shall be printed and published in both official languages.

The administration of justice

16 English and French are the official languages of the courts.

17 Every person has the right to use the official language of his or her choice in any matter before the courts, including all proceedings, or in any pleading or process issuing from a court.

18 No person shall be placed at a disadvantage by reason of the choice made under section 17.

19(1) A court before which a matter is pending must understand, without the assistance of an interpreter or any process of simultaneous translation or consecutive interpretation, the official language chosen under section 17 by a party to the matter.

tés sont imprimés et publiés dans les deux langues officielles, les deux versions ayant même valeur.

Actes législatifs et autres

9 Le français et l'anglais sont les langues officielles de la législation.

10 La version française et la version anglaise des lois du Nouveau-Brunswick ont également force de loi.

11 Les projets de lois sont déposés à l'Assemblée législative simultanément dans les deux langues officielles et ils sont aussi adoptés et sanctionnés dans les deux langues officielles.

12 Les lois de la Législature sont imprimées et publiées dans les deux langues officielles.

13 Les règles, ordonnances, décrets en conseil et proclamations dont la publication dans la *Gazette royale* sont requise sont imprimés et publiés dans les deux langues officielles.

14 Les avis, annonces et autres pièces à caractère officiel devant paraître ou non dans la *Gazette royale* sont imprimés et publiés dans les deux langues officielles.

15 Les avis, pièces ou documents dont la présente loi ou toute autre loi exige la publication par la province ou ses institutions sont imprimés et publiés dans les deux langues officielles.

L'administration de la justice

16 Le français et l'anglais sont les langues officielles des tribunaux.

17 Chacun a le droit d'employer la langue officielle de son choix dans toutes les affaires dont sont saisis les tribunaux, y compris toute procédure, pour les plaidoiries et dans les actes de procédure qui en découlent.

18 Nul ne peut être défavorisé en raison du choix fait en vertu de l'article 17.

19(1) Il incombe au tribunal saisi d'une affaire de comprendre, sans l'aide d'un interprète ou de toute technique de traduction simultanée ou d'interprétation consécutive, la langue officielle choisie en vertu de l'article 17 par une partie à cette affaire.

*Official Languages Act**Chap. O-0.5*

19(2) A court before which a matter is pending must understand both official languages, without the assistance of an interpreter or any process of simultaneous translation or consecutive interpretation, if both English and French are the languages chosen by the parties to the proceedings.

20(1) A person who is alleged to have committed an offence under an Act or a regulation of the Province or under a municipal by-law has the right to have the proceedings conducted in the language of his or her choice and shall be informed of that right by the presiding judge before entering a plea.

20(2) A person who is alleged to have committed an offence within the meaning of subsection (1), has the right to be understood by the court, without the assistance of an interpreter or any process of simultaneous translation or consecutive interpretation, in the official language chosen by the person.

21 Every court has the duty to ensure that any witness appearing before it can be heard in the official language of his or her choice and upon the request of one of the parties or the witness, the court has the duty to ensure that services of simultaneous translation or consecutive interpretation are available to the person who made the request.

22 Where Her Majesty in right of the Province or an institution is a party to civil proceedings before a court, Her Majesty or the institution concerned shall use, in any oral or written pleadings or any process issuing from a court, the official language chosen by the other party.

23 Where the parties to civil proceedings, other than Her Majesty in right of the Province or an institution, do not choose or fail to agree on the official language to be used in the proceedings, Her Majesty or the institution concerned shall use such official language as is reasonable, having regard to the circumstances.

24(1) Any final decision, order or judgment of any court, including any reasons given therefore and summaries, shall be published in both official languages where

(a) it determines a question of law of interest or importance to the general public, or

(b) the proceedings leading to its issuance were conducted in whole or in part in both official languages.

19(2) Il incombe également au tribunal saisi d'une affaire de comprendre, sans l'aide d'un interprète ou de toute technique de traduction simultanée ou d'interprétation consécutive, les deux langues officielles lorsque les parties ont opté pour que l'affaire soit entendue dans les deux langues officielles.

20(1) Une personne accusée d'une infraction à une loi ou à un règlement de la province, ou à un arrêté municipal, a droit au déroulement des procédures dans la langue officielle de son choix, et elle doit être informée de ce droit par le juge qui préside avant d'enregistrer son plaidoyer.

20(2) La personne accusée au sens de l'article (1), a le droit lorsqu'elle a fait son choix de langue, de se faire comprendre par le tribunal, sans l'aide d'un interprète ou de toute technique de traduction simultanée ou d'interprétation consécutive.

21 Il incombe au tribunal de veiller à ce que tout témoin qui comparaît devant lui puisse être entendu dans la langue officielle de son choix et sur demande d'une partie ou du témoin, à ce que soit offert des services de traduction simultanée ou d'interprétation consécutive, le cas échéant.

22 Dans une affaire civile dont est saisi un tribunal et à laquelle est partie Sa Majesté du chef du Nouveau-Brunswick ou une institution, Sa Majesté ou l'institution utilise, pour les plaidoiries orales et écrites et pour les actes de procédure qui en découlent, la langue officielle choisie par la partie civile.

23 Lorsque les parties à une affaire civile, autre que Sa Majesté du chef du Nouveau-Brunswick ou une institution, ne peuvent s'accorder sur le choix de la langue ou qu'elles omettent de faire un choix, Sa Majesté ou l'institution concernée utilise la langue officielle la plus justifiée dans les circonstances.

24(1) Les décisions ou ordonnances définitives des tribunaux, exposés des motifs et sommaires compris, sont publiés dans les deux langues officielles

a) si le point de droit en litige présente de l'intérêt ou de l'importance pour le public; ou

b) lorsque les procédures se sont déroulées, en tout ou en partie, dans les deux langues officielles.

*Ch. O-0.5**Loi sur les langues officielles*

24(2) Where a final decision, order or judgment is required to be published under subsection (1), but it is determined that to do so would result in a delay or injustice or hardship to a party to the proceedings, the decision, order or judgment, including any reasons given, shall be published in the first instance in one official language and, thereafter, at the earliest possible time, in the other official language.

25 All decisions of the Court of Appeal are deemed to fall within the scope of section 24.

26 Sections 24 and 25 shall not be construed so as to prevent the pronouncement of a judgment, including the reasons in support of the judgment, in either official language and in such a case, the judgment is not invalid by reason only that it was pronounced in one official language.

Communication with the public

27 Members of the public have the right to communicate with any institution and to receive its services in the official language of their choice.

28 An institution shall ensure that members of the public are able to communicate with and to receive its services in the official language of their choice.

28.1 An institution shall ensure that appropriate measures are taken to make it known to members of the public that its services are available in the official language of their choice.

29 Institutions shall publish all postings, publications and documents intended for the general public in both official languages.

30 The Province and its institutions are responsible for ensuring that all services offered to the public by third parties on their behalf are delivered in both official languages.

Policing services

31(1) Members of the public have the right, when communicating with a peace officer, to receive service in the official language of their choice and must be informed of that right.

31(2) If a peace officer is unable to provide service in the language chosen under subsection (1), the peace officer shall take whatever measures are necessary, within a

24(2) Dans les cas visés par le paragraphe (1) ou lorsque la publication d'une version bilingue entraînerait un retard qui serait préjudiciable à l'intérêt public ou qui causerait une injustice ou un inconvénient grave à une des parties au litige, la décision, l'exposé des motifs compris, est publiée d'abord dans l'une des langues officielles, puis dans les meilleurs délais, dans l'autre langue officielle.

25 Les décisions de la Cour d'appel sont réputées satisfaire aux critères de l'article 24.

26 Les articles 24 et 25 n'ont pas pour effet d'interdire le prononcé, dans une seule langue officielle, d'une décision ou de l'exposé des motifs auquel cas la décision n'est pas invalide pour autant.

Communication avec le public

27 Le public a le droit de communiquer avec toute institution et d'en recevoir les services dans la langue officielle de son choix.

28 Il incombe aux institutions de veiller à ce que le public puisse communiquer avec elles et en recevoir les services dans la langue officielle de son choix.

28.1 Il incombe aux institutions de veiller à ce que les mesures voulues soient prises pour informer le public que leurs services lui sont offerts dans la langue officielle de son choix.

29 Tout affichage public et autres publications et communications destinés au grand public et émanant d'une institution sont publiés dans les deux langues officielles.

30 Il incombe à la province et à ses institutions de veiller à ce que les services offerts au public par des tiers pour le compte de la province ou ses institutions le soient dans l'une et l'autre des langues officielles.

Services de police

31(1) Tout membre du public a le droit, lorsqu'il communique avec un agent de la paix, de se faire servir dans la langue officielle de son choix et il doit être informé de ce choix.

31(2) Lorsque l'agent de la paix n'est pas en mesure d'assurer la prestation des services dans la langue officielle choisie en vertu du paragraphe (1), il doit prendre les mesures nécessaires et ce dans un délai raisonnable

Official Languages Act

Chap. O-0.5

reasonable time, to ensure compliance with the choice made under subsection (1).

31(3) A police force or agency, as the case may be, shall ensure the availability of the means necessary to respond to the choice made by a member of the public under subsection (1) and to support the obligation placed on a peace officer under subsection (2).

32 Section 31 does not limit the obligations placed on peace officers under any other Act or law to deliver services to the public in both official languages.

Health services

33(1) For the purposes of the provision of health services in the Province and notwithstanding the definition of “institution” in section 1, an institution in sections 27 and 28 refers to the network of health establishments, facilities and programs under the jurisdiction of the Department of Health or the regional health authorities under the *Regional Health Authorities Act*.

33(2) When establishing a provincial health plan under the *Regional Health Authorities Act*, the Minister of Health shall

(a) ensure that the principles upon which the provision of health services are to be based include the delivery of health services in both official languages in the Province, and

(b) consider the language of daily operations under section 34.

2006, c.16, s.128.

34 Subject to the obligation to serve members of the public in the official language of their choice, section 33 does not limit the use of one official language in the daily operations of a hospital or other facility as defined in the *Regional Health Authorities Act*.

Municipalities

35(1) A municipality whose official language minority population represents at least 20% of its total population is required to adopt and publish its by-laws in both official languages.

pour lui permettre de répondre au choix fait par le membre du public au paragraphe (1).

31(3) Il incombe aux agences responsables ou aux corps policiers, le cas échéant, de veiller à mettre en œuvre les mesures nécessaires pour répondre au choix fait par un membre du public en vertu du paragraphe (1) et pour appuyer l’obligation de l’agent de la paix au sens du paragraphe (2).

32 L’article 31 n’a pas pour effet de porter atteinte aux obligations imposées aux agents de la paix visés en vertu de toute autre loi ou par l’application du droit, de dispenser des services au public dans les deux langues officielles.

Services de santé

33(1) Aux fins de la prestation des soins de santé dans la province et malgré la définition du mot « institution » à l’article 1, une institution au sens des articles 27 et 28 s’entend du réseau des établissements, installations et programmes de santé relevant du ministère de la Santé ou des régies régionales de la santé établies en vertu de la *Loi sur les régies régionales de la santé*.

33(2) Lorsque le ministre de la Santé établit un plan provincial de la santé en vertu de la *Loi sur les régies régionales de la santé*,

a) il veille à ce que les principes sur lesquels sont basés la fourniture des services tiennent compte de la prestation, dans les deux langues officielles, des services de santé dans la province, et

b) il considère la langue de fonctionnement habituelle en vertu de l’article 34.

2006, c.16, art.128.

34 Sous réserve de l’obligation de servir le public dans la langue officielle de son choix, l’article 33 n’a pas pour effet de limiter l’usage d’une seule langue officielle par un hôpital ou par un autre établissement tel que défini dans la *Loi sur les régies régionales de la santé* lorsque la langue utilisée est celle dans laquelle hôpital ou l’établissement fonctionne habituellement.

Municipalités

35(1) Une municipalité dont la population de langue officielle minoritaire atteint au moins 20 % de la population totale est tenue d’adopter et de publier ses arrêtés dans les deux langues officielles.

*Ch. O-0.5**Loi sur les langues officielles*

35(2) A city is required to adopt and publish its by-laws in both official languages irrespective of the percentage required under subsection (1).

35(3) A municipality or city to which subsection (1) or (2) applies that adopts a new by-law or amends an existing by-law after December 31, 2002, shall do so in both official languages.

35(4) Except in the case of a by-law referred to in subsection (3), a municipality or city to which subsection (1) or (2) applies, other than Moncton, shall adopt and publish its by-laws in both official languages on or before December 31, 2005.

35(5) Subsection (3) applies, with the necessary modifications, to the minutes of council proceedings.

36 A municipality or city to which subsection 35(1), (2) or section 37 applies shall offer the services and communications prescribed by regulation in both official languages.

37 A municipality may, by by-law of its municipal council, declare itself bound by the provisions of this Act and nothing in this Act shall be interpreted so as to limit the authority of municipalities to promote the equality of status and use of English and French.

38 The provisions of subsections 35(3), (4) and (5) apply, with the necessary modifications, to a municipality under section 37.

Planning Commissions and Solid Waste Commissions

39 A Planning Commission or a Solid Waste Commission covering a geographical area with an official language minority population of at least 20% of the total population is subject to the obligations imposed by section 41.

40 Where the geographical area of a Planning Commission or of a Solid Waste Commission includes a municipality or a city to which subsection 35(1) or (2) applies, the Planning Commission or the Solid Waste Commission, as the case may be, is subject to the obligations imposed by section 41 irrespective of the percentage required under section 39.

35(2) Les cités sont également tenues d'adopter et de publier leurs arrêtés dans les deux langues officielles sans égard au pourcentage prévu au paragraphe (1).

35(3) Tout nouvel arrêté ou toute modification à un arrêté existant, adopté après le 31 décembre 2002 par une municipalité ou une cité auxquelles les paragraphes (1) et (2) s'appliquent, doit être adopté et publié dans les deux langues officielles.

35(4) Sauf en ce qui concerne un arrêté visé au paragraphe (3), les municipalités et les cités auxquelles s'appliquent les paragraphes (1) et (2), autre que Moncton, doivent adopter et publier leurs arrêtés dans les deux langues officielles au plus tard le 31 décembre 2005.

35(5) Le paragraphe (3) s'applique, avec les modifications nécessaires, aux procès-verbaux des séances du conseil municipal;

36 Les municipalités et les cités visées aux paragraphes 35(1), (2) ainsi qu'à l'article 37 sont tenues d'offrir, dans les deux langues officielles, les services et les communications prescrits par règlement.

37 Toute municipalité peut, par arrêté de son conseil municipal, se déclarer liée par les dispositions de la présente loi et rien à la présente loi ne porte atteinte ou ne limite le pouvoir des municipalités de favoriser la progression vers l'égalité de statut ou d'usage du français et de l'anglais.

38 Les dispositions des paragraphes 35(3), (4) et (5) s'appliquent, avec les modifications nécessaires, à toute municipalité visée à l'article 37.

Commissions d'aménagement et Commissions de gestion des déchets solides

39 Les Commissions d'aménagement ainsi que les Commissions de gestion des déchets solides desservant un territoire dont la population de langue minoritaire atteint au moins 20 % de la population totale sont assujetties aux obligations de l'article 41.

40 Une commission d'aménagement ou une commission de gestion des déchets solides dont le territoire comprend une cité ou une municipalité à laquelle s'appliquent les paragraphes 35(1) ou (2), le cas échéant, est assujettie aux obligations de l'article 41 sans égard au pourcentage visé à l'article 39.

*Official Languages Act**Chap. O-0.5*

41 A Planning Commission or a Solid Waste Commission to which section 39 or 40 applies shall offer the services and communications prescribed by regulation in both official languages.

Review of Act

42(1) The Premier shall initiate a review of this Act before December 31, 2012.

42(2) A review under subsection (1) shall be in the form and manner prescribed by regulation.

Commissioner of Official Languages

43(1) There shall be an Office of the Commissioner of Official Languages for New Brunswick, as well as a Commissioner of Official Languages for New Brunswick.

43(2) The Commissioner shall be appointed by the Lieutenant-Governor in Council on the recommendation of the Legislative Assembly, shall rank as and have all the powers of a deputy head of a department, shall engage exclusively in the duties of the office of the Commissioner and shall not hold any other office under Her Majesty or engage in any other employment.

43(3) The Commissioner shall hold office during good behaviour for a term of five years.

43(4) The Commissioner, on the expiration of a first or any subsequent term, may be reappointed for a further five year term.

43(5) In the event of the absence or incapacity of the Commissioner, or if the office of the Commissioner is vacant, the Lieutenant-Governor in Council may appoint another qualified person to hold office during the absence or incapacity of the Commissioner, or until the end of the Commissioner's mandate, and may fix the remuneration and expenses to which the person shall be entitled.

43(6) Notwithstanding the *Civil Service Act*, the Commissioner may appoint such persons to positions in the Office of the Commissioner as he or she considers necessary to enable the fulfillment of the Commissioner's responsibilities under this Act.

43(7) The *Public Service Superannuation Act* applies to the Commissioner and the employees of the Office of the Commissioner.

41 Les commissions d'aménagement et les commissions de gestion des déchets solides auxquelles s'appliquent les articles 39 et 40, sont tenues d'offrir, dans les deux langues officielles, les services et les communications prescrits par règlement.

Révision de la Loi

42(1) Le Premier ministre doit, au plus tard le 31 décembre 2012, entamer une révision de la présente loi.

42(2) Une révision visée au paragraphe (1) s'effectue en la forme et de la manière prescrites par règlement.

Commissaire aux langues officielles

43(1) Est institué le commissariat aux langues officielles du Nouveau-Brunswick ainsi que le poste de commissaire aux langues officielles du Nouveau-Brunswick.

43(2) Le commissaire est nommé par le lieutenant-gouverneur en conseil sur la recommandation de l'Assemblée législative et a rang et pouvoirs d'administrateur général et se consacre à sa charge à l'exclusion de tout autre poste au service de Sa Majesté ou de tout autre emploi.

43(3) Le commissaire est nommé à titre inamovible pour un mandat de cinq ans.

43(4) Le mandat du commissaire est renouvelable pour des périodes de cinq ans.

43(5) En cas d'absence ou d'empêchement du commissaire ou de vacance de son poste, le lieutenant-gouverneur en conseil peut confier les responsabilités de commissaire à une autre personne compétente pour une période allant jusqu'à la fin du mandat du commissaire et fixer la rémunération et les frais auxquels elle a droit.

43(6) Nonobstant la *Loi sur la Fonction publique*, le commissaire peut, lorsqu'il l'estime nécessaire à l'exercice de ses fonctions, nommer des personnes aux postes au sein du commissariat en vertu de la présente loi.

43(7) La *Loi sur la pension de retraite dans les services publics* s'applique au commissaire ainsi qu'aux employés du commissariat.

Ch. O-0.5

Loi sur les langues officielles

43(8) The Commissioner may contract for such professional services, for limited periods of time or in respect of particular matters, as he or she considers necessary to enable the fulfillment of the Commissioner's responsibilities under this Act.

43(9) In accordance with the authority provided to the Commissioner under this Act, it is the role of the Commissioner to investigate, report on and make recommendations with regard to compliance with this Act and to promote the advancement of both official languages in the Province.

43(10) In order to fulfill the role under subsection (9), the Commissioner shall conduct and carry out investigations either pursuant to any complaint made to the Commissioner or on his or her own initiative and shall, as provided in this Act, report and make recommendations with respect to such investigations.

43(11) The Commissioner may refuse to investigate or cease to investigate any complaint if, in the opinion of the Commissioner,

- (a) the subject-matter of the complaint is trivial,
- (b) the complaint is frivolous or vexatious or is not made in good faith, or
- (c) the subject-matter of the complaint does not involve a contravention or failure to comply with this Act or, for any other reason, does not come within the authority of the Commissioner under this Act.

43(12) If the Commissioner refuses to investigate or ceases to investigate any complaint, the Commissioner shall inform the complainant and provide reasons for the decision to do so.

43(13) Before commencing an investigation under this Act, the Commissioner shall inform the deputy head or other administrative head of the institution concerned of his or her intention to carry out the investigation.

43(14) Subject to this Act, the Commissioner may determine the procedure to be followed in carrying out an investigation under this Act.

43(15) For the purposes of this Act, the Commissioner is a commissioner under the *Inquiries Act*.

43(8) Le commissaire peut conclure des contrats de services professionnels pour des périodes de temps limitées ou dans des domaines particuliers, s'il l'estime nécessaire à l'exercice de ses fonctions en vertu de la présente loi.

43(9) Conformément aux pouvoirs qui lui sont conférés en vertu de la présente loi, le rôle du commissaire est d'enquêter, présenter des rapports et de faire des recommandations visant le respect de la présente loi et de promouvoir l'avancement des deux langues officielles dans la province.

43(10) Pour remplir son rôle au sens du paragraphe (9), le commissaire procède à des enquêtes, soit à la suite des plaintes qu'il reçoit, soit de sa propre initiative, et présente les rapports et recommandations émanant de ces enquêtes conformément à la présente loi.

43(11) Le commissaire peut, à son appréciation, refuser ou cesser d'instruire une plainte dans l'un ou l'autre des cas suivants :

- a) elle est sans importance;
- b) elle est frivole ou vexatoire ou n'est pas faite de bonne foi;
- c) son objet ne constitue pas une contravention à la présente loi ou, pour toute autre raison, ne relève pas de la compétence du commissaire en vertu de la présente loi.

43(12) En cas de refus d'instruire une plainte ou de la poursuivre, le commissaire donne au plaignant un avis motivé.

43(13) Le commissaire donne un préavis à l'administrateur général de l'institution concernée de son intention d'enquêter en vertu de la présente loi.

43(14) Sous réserve des dispositions de la présente loi, le commissaire peut établir la procédure à suivre pour ses enquêtes en vertu de la présente loi.

43(15) Pour l'application de la présente loi, le commissaire a la qualité d'un commissaire selon la *Loi sur les enquêtes*.

*Official Languages Act**Chap. O-0.5*

43(16) After carrying out an investigation pursuant to a complaint under this Act, the Commissioner shall communicate the results of the investigation and any recommendations, including any opinion and the reasons for the recommendations, only to the Premier, the deputy head or other administrative head of the institution concerned and the complainant.

43(17) After carrying out an investigation on his or her own initiative, the Commissioner shall communicate the results of the investigation and any recommendations, including any opinion and the reasons for the recommendations, only to the Premier and the deputy head or other administrative head of the institution concerned.

43(18) If a complainant is not satisfied with the conclusions of the Commissioner received under subsection (16) or with the resolution of the complaint, the complainant may apply to The Court of Queen's Bench of New Brunswick for a remedy.

43(19) The judge of a court referred to in subsection (18) may grant such remedy as he or she considers appropriate and just in the circumstances.

43(20) This section does not affect any other right of action that a person may have.

43(21) The Commissioner shall, within such time as is reasonably practicable after the end of each year, prepare and submit to the Legislative Assembly, a report concerning the activities of the Office of the Commissioner in the preceding year.

Appointment of Official Translators

44 The Lieutenant-Governor in Council may appoint such Official Translators as are necessary to enable a court to discharge the duties conferred on it by this Act.

Regulation-making authority

45 The Lieutenant-Governor in Council may make regulations

(a) prescribing circumstances not otherwise provided for under this Act in which institutions have the duty to ensure that any member of the public can communicate with and obtain available services from the institutions in either official language;

(b) respecting the procedure, as it concerns official languages, before any court, including

43(16) Au terme d'une enquête effectuée suite à une plainte qu'il reçoit en vertu de la présente loi, le commissaire transmet les résultats de son enquête ainsi que toute recommandation, y compris toute opinion ou motifs qui ont mené à cette recommandation, uniquement au Premier ministre, à l'administrateur général de l'institution concernée et au plaignant.

43(17) Au terme d'une enquête effectuée de sa propre initiative, le commissaire transmet les résultats de son enquête ainsi que toute recommandation, y compris toute opinion ou motifs qui ont mené à cette recommandation, uniquement au Premier ministre et à l'administrateur général de l'institution concernée.

43(18) Le plaignant qui n'est pas satisfait des conclusions du commissaire reçues au terme de l'enquête en vertu du paragraphe (16) ou de la suite donnée à sa plainte, peut former un recours devant la Cour du Banc de la Reine du Nouveau-Brunswick.

43(19) Le juge de la cour visée au paragraphe (18) rend la réparation qu'il estime juste et convenable eu égard aux circonstances.

43(20) Le présent article ne porte atteinte à aucun autre droit d'action.

43(21) Dans les meilleurs délais après la fin de chaque année, le commissaire présente à l'Assemblée législative, le rapport d'activité du commissariat pour l'année précédente.

Nomination de traducteurs officiels

44 Le lieutenant-gouverneur en conseil peut nommer les traducteurs officiels nécessaires afin qu'un tribunal puisse s'acquitter des responsabilités qui lui ont été confiées en vertu de la présente loi.

Réglementation

45 Le lieutenant-gouverneur en conseil peut établir des règlements

a) en cas de silence de la présente loi, déterminant les circonstances dans lesquelles il incombe aux institutions de veiller à ce que le public puisse communiquer avec elles ou en recevoir les services dans l'une ou l'autre des deux langues officielles;

b) concernant la procédure de tout tribunal, y compris

Ch. O-0.5

Loi sur les langues officielles

(i) the giving of notice as is necessary to enable the court to discharge the duty conferred upon it by section 21, and

(ii) the swearing or affirming of interpreters;

(c) respecting services and communications to be provided under sections 36 and 41 and the manner in which they are to be provided;

(d) identifying measures required to foster effective communications with and services from institutions in both official languages;

(e) respecting the form and manner of a review under section 42;

(f) respecting the functions of persons appointed under section 44 and the status and admissibility into evidence of translations prepared by them;

(g) establishing any other measure necessary for the better administration of this Act.

Repeal

46 *The Official Languages of New Brunswick Act, chapter O-1 of the Revised Statutes, 1973, is repealed.*

Commencement

47(1) *This Act, except for section 43, comes into force on August 5, 2002.*

47(2) *Section 43 comes into force on April 1, 2003.*

N.B. This Act is consolidated to September 1, 2011.

(i) l'établissement d'un avis nécessaire afin que le tribunal puisse s'acquitter de ses responsabilités, en matière de langues officielles, en vertu de l'article 21; et

(ii) l'assermentation ou l'affirmation solennelle d'un interprète;

c) concernant les services et les communications visés aux articles 36 et 41 et les modalités de leur fourniture;

d) identifiant les mesures d'incitation pour que soient effectivement assurés dans les deux langues officielles les communications et les services que les institutions sont tenues de fournir au sens de la présente loi;

e) concernant la forme et la manière selon laquelle une révision de la présente loi doit s'effectuer en vertu de l'article 42;

f) concernant les responsabilités des personnes nommées en vertu de l'article 44 et le statut et l'admissibilité en preuve des traductions faites par les personnes nommées en vertu de l'article 44;

g) concernant la prise de toute autre mesure nécessaire à l'application de la présente loi.

Abrogation

46 *La Loi sur les langues officielles, chapitre O-1 des Lois révisées de 1973, est abrogée.*

Entrée en vigueur

47(1) *La présente loi, à l'exception de l'article 43, entre en vigueur le 5 août 2002.*

47(2) *L'article 43 entre en vigueur le 1^{er} avril 2003.*

N.B. La présente loi est refondue au 1^{er} septembre 2011.

Appendix C - *An Act recognizing the Equality of the two Official Linguistic Communities in New Brunswick*



CHAPTER 198

CHAPITRE 198

An Act Recognizing the Equality of the Two Official Linguistic Communities in New Brunswick

Loi reconnaissant l'égalité des deux communautés linguistiques officielles au Nouveau-Brunswick

Deposited May 13, 2011

Déposée le 13 mai 2011

Table of Contents

Table des matières

Preamble	
1	Recognition of English linguistic community and French linguistic community and affirmation of equality of status and equal rights and privileges of each
2	Protection of the equality of status and equal rights and privileges of official linguistic communities
3	Promotion of cultural, economic, educational and social development

Préambule	
1	Reconnaissance de la communauté linguistique française et de la communauté linguistique anglaise et affirmation de l'égalité de statut et de l'égalité des droits et privilèges de chacune
2	Protection de l'égalité de statut et de l'égalité des droits et privilèges des communautés linguistiques officielles
3	Promotion du développement culturel, économique, éducationnel et social

2011, ch. 198 *Loi reconnaissant l'égalité des deux communautés linguistiques officielles au Nouveau-Brunswick*

Preamble

WHEREAS the Legislative Assembly of New Brunswick acknowledges the existence of two official linguistic communities within New Brunswick whose values and heritages emanate from and are expressed through the two official languages of New Brunswick; and

WHEREAS the Legislative Assembly of New Brunswick desires to recognize the equality of these official linguistic communities; and

WHEREAS the Legislative Assembly of New Brunswick seeks to enhance the capacity of each official linguistic community to enjoy and safeguard its heritage for succeeding generations; and

WHEREAS the Legislative Assembly of New Brunswick desires to affirm and protect in its laws the equality of status and the equal rights and privileges of the official linguistic communities; and

WHEREAS the Legislative Assembly of New Brunswick desires to enshrine in its laws a declaration of principles relating to this equality of status and these equal rights and privileges which shall provide a framework for action on the part of public institutions and an example to private institutions;

THEREFORE, Her Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick, enacts as follows:

1981, c.O-1.1, Preamble.

Recognition of English linguistic community and French linguistic community and affirmation of equality of status and equal rights and privileges of each

1 Acknowledging the unique character of New Brunswick, the English linguistic community and the French linguistic community are officially recognized within the context of one province for all purposes to which the authority of the Legislature of New Brunswick extends, and the equality of status and the equal rights and privileges of these two communities are affirmed.

1981, c.O-1.1, s.1.

Préambule

Attendu :

que l'Assemblée législative du Nouveau-Brunswick reconnaît l'existence de deux communautés linguistiques officielles au Nouveau-Brunswick dont les valeurs et les héritages culturels émanent des deux langues officielles du Nouveau-Brunswick et s'expriment par celles-ci;

que l'Assemblée législative du Nouveau-Brunswick désire reconnaître l'égalité de ces communautés linguistiques officielles;

que l'Assemblée législative du Nouveau-Brunswick cherche à accroître les possibilités de chaque communauté linguistique officielle de profiter de son héritage culturel et de le sauvegarder pour les générations à venir;

que l'Assemblée législative du Nouveau-Brunswick désire affirmer et protéger dans ses lois l'égalité de statut et l'égalité des droits et privilèges des communautés linguistiques officielles;

que l'Assemblée législative du Nouveau-Brunswick désire consacrer dans ses lois une déclaration de principes relative à cette égalité de statut et à cette égalité des droits et privilèges et ainsi fournir un cadre d'action aux institutions publiques et un exemple aux institutions privées;

Sa Majesté, sur l'avis et avec le consentement de l'Assemblée législative du Nouveau-Brunswick, édicte :

1981, ch. O-1.1, préambule.

Reconnaissance de la communauté linguistique française et de la communauté linguistique anglaise et affirmation de l'égalité de statut et de l'égalité des droits et privilèges de chacune

1 Reconnaisant le caractère unique du Nouveau-Brunswick, la communauté linguistique française et la communauté linguistique anglaise sont officiellement reconnues dans le contexte d'une seule province à toutes fins auxquelles s'étend l'autorité de la Législature du Nouveau-Brunswick et l'égalité de statut et l'égalité des droits et privilèges de ces deux communautés sont affirmées.

1981, ch. O-1.1, art. 1.

*An Act Recognizing the Equality of the Two Official Linguistic Communities
in New Brunswick*

2011, c.198

**Protection of the equality of status and equal rights
and privileges of official linguistic communities**

2 The Government of New Brunswick shall ensure protection of the equality of status and the equal rights and privileges of the official linguistic communities and in particular their right to distinct institutions within which cultural, educational and social activities may be carried on.

1981, c.O-1.1, s.2.

**Promotion of cultural, economic, educational and
social development**

3 The Government of New Brunswick, in its proposed laws, in the allocation of public resources and in its policies and programs, shall take positive actions to promote the cultural, economic, educational and social development of the official linguistic communities.

1981, c.O-1.1, s.3.

**Protection de l'égalité de statut et de l'égalité des
droits et privilèges des communautés linguistiques
officielles**

2 Le gouvernement du Nouveau-Brunswick assure la protection de l'égalité de statut et de l'égalité des droits et privilèges des communautés linguistiques officielles et en particulier de leurs droits à des institutions distinctes où peuvent se dérouler des activités culturelles, éducationnelles et sociales.

1981, ch. O-1.1, art. 2.

**Promotion du développement culturel, économique,
éducatif et social**

3 Le gouvernement du Nouveau-Brunswick, dans les mesures législatives qu'il propose, dans la répartition qu'il fait des ressources publiques et dans ses politiques et programmes encourage, par des mesures positives, le développement culturel, économique, éducatif et social des communautés linguistiques officielles.

1981, ch. O-1.1, art. 3.