

A Look At Bill C-13: What Federal Jurisdiction Employers Need To Know



On March 1, 2022, the Federal Minister of Official Languages presented Bill C-13, *An Act to amend the Official Languages Act, to enact the Use of French in Federally Regulated Private Businesses Act and to make related amendments to other Acts (Bill C-13)*. Bill C-13 proposes in particular the adoption of a new law which would provide a framework for the use of French in federally regulated private businesses in Québec and other regions with a strong francophone presence¹ (the **applicable regions**), namely the *Use of French in Federally Regulated Private Businesses Act* (the **proposed Act**).

The provisions of the proposed Act will come into force on a day to be fixed by order of the Governor in Council with respect to employers under federal jurisdiction located in Québec, then two years later for employers under federal jurisdiction located in regions with a strong francophone presence. Moreover, the obligations provided for by the proposed Act will apply only to businesses that employ a number of employees equal to or greater than the threshold that will subsequently be provided for by regulation.

Voluntary subjection to the Québec's Charter of the French Language

A private company under federal jurisdiction may voluntarily choose to be subject to the Québec's *Charter of the French Language* (the **Charter**) instead of being subject to the provisions of the proposed Act, with respect to its workplaces located in Québec.

The presentation of the proposed Act follows the Government of Québec's announcement of its intention to subject companies under federal jurisdiction located in Québec to the provisions of the *Charter of the French language* within the framework of the adoption of Bill 96, *An Act respecting French, the official and common Language of Québec*.

In this context, we can anticipate that the constitutional debate about the right of each level of government to legislate on the language of work applicable to employers under federal jurisdiction located in Québec will potentially be brought before the courts.

Language of work rights

Employees of an employer under federal jurisdiction occupying a position in a workplace located in the applicable regions or whose position is attached to such a workplace will have the following rights:

- The right to perform their work and be supervised in French² ;
- The right to receive all communications and documentation from the employer under federal jurisdiction, including offers of employment or promotion, notices of termination, collective agreements and grievances, in French;
- The right to use regularly and widely used work instruments and computer systems in French.

Promoting French

In addition to having to allow their employees to work in French, employers under federal jurisdiction with workplaces located in the applicable regions will have to implement measures to promote the use of French in these workplaces, in particular:

- Inform employees that the employer is subject to the proposed Act;
- Inform employees of their language of work rights and of the remedies available in the event of non-compliance with these rights;
- Establish a committee with the mandate to support the management group of the employer under federal jurisdiction in the promotion and use of French within its business.

Unfavourable treatment

Bill C-13 will prohibit federal jurisdiction employers who have workplaces located in the applicable regions from treating unfavourably any employee who:

- Does not have sufficient knowledge of a language other than French;
- Has exercised the rights provided under the proposed Act;
- Filed a complaint with the Commissioner of Official Languages of Canada (the **Commissioner**);
- Is already working in the workplaces³ when this subsection of the proposed Act comes into force, and who does not have sufficient knowledge of French.

However, the proposed Act provides that requiring an employee to know a language other than French will not constitute unfavourable treatment insofar as the employer is able to demonstrate that knowledge of this language is objectively required due to the nature of the work to be performed by the employee.

Commissioner's powers

According to the proposed Act, it will be up to the Commissioner to take all measures to ensure compliance with its provisions. Consequently, Bill C-13 provides that the Commissioner may receive complaints from employees who believe that their employer has contravened the provisions of the proposed Act relating to the language of work and that he has investigative powers enabling him to prepare reports and make recommendations.

Furthermore, Bill C-13 provides that the Commissioner may, henceforth, with the consent of the complainant employee, refer the complaint to the Canada Industrial Relations Board (the **CIRB**) if he has attempted to resolve it, and is of the opinion that he will not be able to do so within a reasonable timeframe and that the CIRB is in a better position to handle the complaint in light of its nature and complexity or

the seriousness of the alleged contravention.

If it decides that the complaint is well-founded, the CIRB may order the federal jurisdiction employer that is the subject of the complaint to comply with the section which it contravened and, if necessary, to take either of the following measures:

- Permit the employee who filed a complaint to return to the duties of their employment;
- Reinstatement in their job;
- Pay them a compensation not exceeding the sum which, in the opinion of the CIRB, would have been paid to them in the absence of the contravention;
- Pay them a compensation not exceeding the financial or other penalty which, in the opinion of the CIRB, was imposed on them by the offending employer;
- Any other measure they deem equitable to impose on the employer and likely to counteract or remedy the effects of the contravention.

Conclusion

Since Bill C-13 is currently in the first stage of the legislative adoption process, it is important to note that its contents could be modified before the final text is adopted. We can, however, expect that the key objectives it underpins will be maintained. Additionally, it is currently not possible to predict when it will be adopted.

Footnotes

1 The term “regions with a strong francophone presence” will subsequently be defined by regulation.

2 This right does not prevent the employer from communicating or providing documentation in both official languages, provided that the use of French in the communication or documentation is at least equivalent to that of English.

3 Or whose position is already attached to the workplaces

Source: [Dentons](#)

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