

## Quebec Community Groups Network Preliminary Analysis of Bill 96, *An Act respecting French, the official and common language of Québec*

May 31, 2021

### Overview of Bill 96

---

Bill 96 is a wide-ranging and complex piece of legislation. It represents a significant overhaul of Québec's legal system. It amends the *Charter of the French Language* ("CFL"), 24 other provincial statutes, one regulation, and the *Constitution Act, 1867*.

The following is an overview of some key aspects of Bill 96 (the "Bill"):

#### 1) Constitutional

- A purported unilateral amendment to the *Constitution Act, 1867* to recognize that "Quebecers form a nation", that "French shall be the only official language of Quebec" and that French is "also the common language of the Quebec nation."<sup>1</sup>
- A sweeping use of overrides for both the *Canadian Charter of Rights and Freedoms* and of Québec's *Charter of Human Rights and Freedoms* for both the CFL and the entire Bill.<sup>2</sup>
- The creation of several new "fundamental language rights" with respect to French.<sup>3</sup>
- A suite of amendments to key provisions of fundamental provincial statutes including Québec *Charter*, the *Civil Code of Quebec*, the *Code of Civil Procedure*, and the *Interpretation Act*.<sup>4</sup>
- An attempt to apply the CFL to "any enterprise or employer carrying on its activities in Québec".<sup>5</sup>

#### 2) Justice

- **Pleadings:** A new requirement for "legal person" litigants to attach a certified French translation to any pleadings drawn up in English, at the litigant's expense.<sup>6</sup>

---

<sup>1</sup> Bill s 159.

<sup>2</sup> Bill ss 118, 199, 200.

<sup>3</sup> Bill ss 3-4, MCFL ss 2, 6.1, 6.2.

<sup>4</sup> Bill ss 1, 3, 4, 63, 120, 133-136, 138, 146, 148.

<sup>5</sup> Bill s 65, adding MCFL s 89.1.

<sup>6</sup> Bill s 5, MCFL s 9.

- **Judgments:** A new requirement for certain judgments rendered in English to be immediately accompanied by a French version.<sup>7</sup>
- **Bilingual judges:** A new requirement for the Minister of Justice and Minister of the French Language to approve any requirement for a judge or adjudicator to have working knowledge of a language other than French.<sup>8</sup>

### 3) Public Sector, Services and Professional Orders

- **Civil administration:** A new overriding obligation for agencies of the civil administration to use French in an “exemplary manner”.<sup>9</sup> This essentially entails the exclusive use of French in written and oral communications within the civil administration and with the public, except in defined/permitted situations. The reach of this obligation is potentially very broad, as the Bill also expands the definition of “civil administration”.<sup>10</sup>
- **Language Policy of the State:** The requirement for the Minister of the French Language to develop a Language Policy of the State, which will further define the use of French and the permitted uses of English, with the possibility of narrowing the use of English beyond what is permitted in the Bill.<sup>11</sup>
- **Non-recognized agencies:** For non-recognized agencies (the default),<sup>12</sup> a narrowing of the ability of members of the public to communicate with these agencies in English.
- **Recognized (“bilingual”) bodies:** For some recognized bodies (also called “bilingual” bodies) including some municipalities, an ability to depart from the obligation to use French in an “exemplary manner”.<sup>13</sup>
- **Municipalities:** A change in the process for withdrawing recognized (“bilingual”) status for municipalities: for municipalities that no longer meet the threshold (more than half of residents having English as their mother tongue), their recognition will be withdrawn unless the municipality adopts a resolution to maintain recognition.<sup>14</sup>
- **Professional orders:** Changes to the rules on professional orders to somewhat restrict the use of English by those professional orders.<sup>15</sup>

---

<sup>7</sup> Bill s 5, MCFL ss 10-11.

<sup>8</sup> Bill s 5, MCFL ss 12-13.

<sup>9</sup> Bill s 6, MCFL ss 13.1-13.2.

<sup>10</sup> Bill s 18, new Schedule 1.

<sup>11</sup> Bill s 19, s 29.9 MCFL.

<sup>12</sup> The CFL distinguishes between “recognized” and “non-recognized” bodies. “Recognized” bodies—commonly known as “bilingual” bodies—are subject to more relaxed rules regarding the use of a language other than French.

<sup>13</sup> MCFL ss 13.1, 29.14-29.23.

<sup>14</sup> Bill s 19, MCFL ss 29.2-29.4.

<sup>15</sup> Bill s 21-23, MCFL ss 32-35.2.

#### 4) Commerce and Labour Relations

- **Signage:** Narrowing the use of non-French trademarks on signs: only registered non-French trademarks can be used.<sup>16</sup> Where a non-French trademark is used, the additional French-language signage required to describe the business must now be “markedly predominant” in relation to the trademark.<sup>17</sup>
- **Francization:** Significant changes to the requirements and characteristics of francization programs. Lower threshold for francization requirements and registration (25 employees rather than 50).<sup>18</sup> Strengthened role of francization committees. Increased role of the Office Québécois de la langue française in monitoring francization programs, with new penalties for non-compliance.<sup>19</sup>
- **Services:** A new requirement that all consumers have the right to be served in French (although a bilingual offer is still permitted).<sup>20</sup> A further new requirement that businesses offering services to the public other than consumers must serve them in French.<sup>21</sup>
- **Labour relations:** More specificity around when an employer must communicate with employees in French.<sup>22</sup> A new requirement that an employer must take “all reasonable means” to avoid imposing a requirement for knowledge of a language other than French in hiring and promotion.<sup>23</sup> An expanded protection against discipline (reprisal) regarding language requirements and regarding disclosures to the Office.<sup>24</sup>

#### 5) Education

- **Primary/secondary:** There are new 3-year limits on permits for students temporarily in Quebec to attend school in English.<sup>25</sup> There is also a substantive right for students attending English-language schools to receive instruction that will enable the student to interact, participate and thrive within Quebec society.<sup>26</sup>

---

<sup>16</sup> Bill s 47, MCFL s 58.1.

<sup>17</sup> Bill s 47, MCFL s 58.1.

<sup>18</sup> Bill s 81, MCFL s 139.

<sup>19</sup> Bill ss 80-93.

<sup>20</sup> Bill s 41, MCFL s 50.2.

<sup>21</sup> *Ibid.*

<sup>22</sup> Bill ss 29, 40.

<sup>23</sup> Bill s 36, MCFL s 46.1.

<sup>24</sup> Bill ss 33, 107.

<sup>25</sup> Bill ss 56, 160.

<sup>26</sup> See Bill 96, s 4, MCFL s 6.1; and Bill s 62, MCFL s 88.12.

- **CEGEPs:** A new designation of college institutions as either French-language or English-language institutions.<sup>27</sup> An enrollment cap for English-language institutions, with English-eligible students to be given “priority” in CEGEP admissions policies.<sup>28</sup> New language of instruction requirements at both English- and French-language institutions.<sup>29</sup>
- **Language policies (CEGEP and university):** Added requirements for college and university language policies, differentiated between English-language and French-language institutions.<sup>30</sup>

## 6) State Apparatus

- **Language Policy of the State:** The main component of implementation within the civil administration is “Language Policy of the State”.<sup>31</sup> The Bill contemplates a far-reaching, comprehensive and mandatory language policy, developed by the Minister.<sup>32</sup> The Policy applies to government departments, government bodies, municipal bodies and parliamentary institutions.<sup>33</sup> Individual agencies must then develop directives, also approved by the Minister.<sup>34</sup> The Policy and directives could narrow the use of English beyond what is permitted under the CFL.<sup>35</sup>
- **Minister and Ministry of the French Language:** A new Minister of the French Language and associated Ministry, responsible for the promotion of the French language, and the administration of the entire CFL (which is made paramount to all other provincial statutes).<sup>36</sup> The Minister may make regulations to “restrict” the option to use a language other than French in certain circumstances.<sup>37</sup>

---

<sup>27</sup> Colleges are automatically French-language unless designated as English-language by the Minister of Higher Education, Research, Science and Technology and the Minister of the French Language: Bill s. 58, MCFL s 88.0.1. Colleges to be designated English-language are: Colleges: John Abbot College, Champlain Regional college, Centennial College, Dawson College, Heritage College, Marianopolis College, TAV College, Vanier College (Bill s 179).

<sup>28</sup> Bill ss 58, 62. “English-eligible” means students who are declared eligible to receive primary/secondary instruction in English under the CFL.

<sup>29</sup> Bill s 58.

<sup>30</sup> Bill ss 59-62, 179. Universities to be designated English-language are McGill University, Bishop’s University, and Concordia University.

<sup>31</sup> See Bill s 19, creating new Division IV in Chapter IV.

<sup>32</sup> Bill s 19, MCFL s 29.9-29.10. To contrast with current policy, see *Politique gouvernementale relative à l’emploi et à la qualité de la Langue française dans l’administration* <https://cdn-contenu.quebec.ca/cdn-contenu/adm/min/justice/publications-adm/spvlf/politique-gouvernementale-langue-francaise.pdf?1618843058>.

<sup>33</sup> Within the meaning of Schedule I: Bill s 19, s 29.9 MCFL.

<sup>34</sup> Bill s 19, MCFL s29.14, 29.16.

<sup>35</sup> See for e.g. MCFL s 29.10(1)(a): the Policy must establish rules to govern when an agency can use a language other than French where an agency has the option to do so under the Act.

<sup>36</sup> Bill s 117.

<sup>37</sup> Bill s 19, MCFL s 29.22.

- **Francisation Québec:** A new agency for French instruction: Francisation Québec.<sup>38</sup> This agency is housed within the Ministère de l'Immigration, de la Francisation et de l'Intégration.<sup>39</sup>
- **Office Québécois de la langue française:** The Office is given an expanded mission, greatly expanded powers of investigation and search, and an expanded reporting role.<sup>40</sup> The Bill includes new and strong disclosure protections for disclosures to the Office.<sup>41</sup> The Bill creates new remedial and compliance powers for the Office.<sup>42</sup>
- **French Language Commissioner:** The Bill creates a new French Language Commissioner with a monitoring, investigating and reporting role.<sup>43</sup>
- **Penal provisions and sanctions :** The Bill greatly expands the CFL's penalties. While the current CFL has 9 penal provisions, the Bill adds some 25 new civil sanctions, administrative penalties and penal provisions.<sup>44</sup>

## 7) French instruction and Francophonie

- **French instruction:** A new right to receive French language instruction in both within and outside the school system.<sup>45</sup>
- **Francophonie:** The Bill positions Quebec as a leader within the Canadian (and International) Francophonie. The Bill includes a number of new measures to promote Quebec's role in this respect.<sup>46</sup>

### Potential impacts on Quebec's English-speaking minority

---

It is too early to understand the full impact of Bill 96 on Quebec's English-speaking communities. For example, the legal impact of the constitutional amendment may be far-reaching and unpredictable. However, the following are the most apparent impacts discerned thus far:

#### 1) Expanded use of the "English-eligible" concept

- The Bill makes use of the concept of eligibility for English primary/secondary instruction in two new areas:

---

<sup>38</sup> See Bill s 94, new Title II.2.

<sup>39</sup> See Bill s 148.

<sup>40</sup> Bill ss 97-107.

<sup>41</sup> Bill s 107, MCFL s 165.22-165.23

<sup>42</sup> Bill s 113, MCFL ss 177-179.

<sup>43</sup> Bill s 113.

<sup>44</sup> Bill s 114.

<sup>45</sup> Bill s 4, MCFL s 6.1; Bill s 62, MCFL s 88.12.

<sup>46</sup> See for e.g. Bill ss 1, 19, 96.

- i. English CEGEPs are to give admissions priority to students who are English-eligible;
- ii. A new requirement for many civil administration agencies to communicate in writing in English *only* with a person who is declared English-eligible<sup>47</sup>

## **2) Access to justice and the right to use English in the courts**

- The justice provisions may increase the cost of using English in courts, may cause delays in receiving judgments or in being able to be heard before an English-speaking judge, and/or may lead litigants to avoid using English.

## **3) Primary/secondary schools**

- The new temporary permit restrictions may lead to a further decline in enrollment in some English schools.

## **4) CEGEPs**

- For the first time, CEGEPs will be designated by language. The impact of the enrollment caps for English CEGEPs is not known and may be different at different institutions.

## **5) Services**

- The new rules and the yet-to-be-revealed Language Policy of the State will introduce complicated constraints on when an agency can communicate with the public (and therefore offer services) in English.
- Many municipalities will lose their designated (“bilingual”) status if they do not pass a resolution to maintain it.

## **6) Language of Work and Employment**

- The Bill is aimed at establishing French as the language of work in both the public and private sectors, and attempts to extend the application of the CFL to all employers operating in Quebec. The constraints on hiring employees with knowledge of a language other than French in both the public and private sectors will likely not improve the unemployment levels of English-speakers.

## **State Configuration**

---

The following elements, taken together, merit attention:

### **1) Unilateral constitutional amendment that recognizes a collective “nation” of Quebecers as distinct from the provincial entity of Quebec**

Clause 90Q.1, which states that “Quebecers form a nation”, may introduce a novel collective entity, distinct from the provincial and federal governments, into the Canadian constitution. The makeup of this nation may not be coextensive with residency in the province of Quebec. Clause 90Q.1 recognizes that

---

<sup>47</sup> Bill s 15, MCFL s 22.2.

“Quebecers” (“les Québécoises et Québécois”) form a nation but does not say who falls within this category. The inference that the nation may be only a subset of the provincial population is strengthened by clause 90Q.2, which suggests membership is defined, at least in part, by the commonality of the French language. Constitutionally entrenching recognition of a sub-provincial, rights-holding nation within Quebec is a significant change to Canada’s constitutional architecture.

## **2) The most sweeping use of human rights overrides in Quebec’s history**

Bill 96 ousts the application of both the Quebec *Charter* and the Canadian *Charter*. In so doing, Bill 96 follows the path of Bill 21 (the *Act Respecting Laicity of the State*).<sup>48</sup> In the Superior Court decision in the constitutional challenge to Bill 21, Blanchard J criticized this use of the notwithstanding clauses.<sup>49</sup> He noted that Bill 21 was the first time the notwithstanding clauses had been used to suspend all provisions in both the Canadian and Quebec *Charters*.<sup>50</sup> Bill 96 is the second. Further, because of the sheer size and reach of the CFL and Bill 96 itself, the legal effects of the overrides in Bill 96 are more far-reaching than those of Bill 21.

Because this is done in such wide-ranging and omnibus legislation, and in the CFL as a paramount statute (see below), it effectively creates a *Charter*-free zone with respect to a wide range of interactions between individuals and the state in Quebec. This is particularly so given that the Bill affects so many aspects of life within the province, such as commerce, employment, education, access to public services, expression in a range of contexts, and the operation of the legal system. Where rights that would otherwise be protected are infringed, either by operation of the CFL or the other amendments found in the Bill, the courts will not be able to review and remedy the rights-violating conduct under either the Canadian or Quebec *Charters*.

## **3) Legislative power: Establishment of parliamentary supremacy in balancing the collective rights of the nation against individual human rights**

The Bill positions the Quebec nation as holding collective rights, although these rights are not defined. The Bill also places the National Assembly of Quebec in the role of ensuring the paramountcy of the French language in Quebec’s legal order. The use of the human rights overrides removes to the greatest extent possible any constraints on the National Assembly to legislate as it sees fit and advance the interests of the nation. This can be seen from section 1 of the Bill, which adds the following clause to the preamble of the CFL:

*Whereas, in accordance with parliamentary sovereignty, it is incumbent on the Parliament of Québec to confirm the status of French as the official language and the common language and to enshrine the paramountcy of that status in Québec’s legal order, while ensuring a balance between the collective rights of the Québec nation and human rights and freedoms.*<sup>51</sup>

---

<sup>48</sup> CQLR c L-0.3, see ss 33-34.

<sup>49</sup> [Hak c Procureur general du Québec](#), 2021 QCCS 1466 at paras 753-780.

<sup>50</sup> *Ibid* at paras 767-768.

<sup>51</sup> Bill 96, s 1, amending the preamble to the CFL.

#### **4) A constellation of amendments to provincial legislation to establish the paramountcy of the *Charter of the French Language* in Quebec's legal order**

The Bill contains a suite of changes to provincial legislation. There are changes to key provisions in four other important provincial statutes, namely the Quebec *Charter* (preamble, fundamental rights, and justification clause),<sup>52</sup> the *Civil Code of Quebec* (preliminary provision),<sup>53</sup> the *Code of Civil Procedure* (preliminary provision),<sup>54</sup> and the *Interpretation Act*.<sup>55</sup> This suite of changes effectively implements the legal order described in the new preamble of the CFL, namely to establish the primacy in Quebec's legal order of French as the common language of the Quebec nation and the primacy of the CFL in the hierarchy of statutes.

#### **5) Extension of Quebec's jurisdiction**

The Bill adds a new clause to the CFL, stating that the Act should be interpreted to apply to "any enterprise or employer carrying on its activities in Québec".<sup>56</sup> This appears to attempt to apply the CFL to federally regulated entities, including potentially to federal institutions already subject to the *Official Languages Act*.

#### **6) Judicial power: Decreased role, independence, and accessibility of the judiciary**

As discussed above, the sweeping use of human rights overrides means that the National Assembly becomes the sole arbiter of balancing individual rights against collective interests with respect to the CFL. The role of the Courts in this regard is removed. Further, the Bill may infringe judicial independence by requiring approval of the Minister of Justice and Minister of the French Language regarding the language proficiency requirements of judges. Finally, the access to justice barriers described above may make the courts less accessible for many litigants.

#### **7) Executive power: New and expanded**

##### **a. Minister**

The Bill creates and empowers a new Minister of the French Language. The mission of the Minister is to "promote, assert the value of and protect the French language and its status [...]".<sup>57</sup> The Minister is responsible for the administration of the CFL, the paramount statute in Quebec.<sup>58</sup> New ministerial powers include the following:

---

<sup>52</sup> Bill ss 133-136.

<sup>53</sup> Bill s 120.

<sup>54</sup> Bill s 128.

<sup>55</sup> Bill s 146.

<sup>56</sup> Bill s 65, adding MCFL s 89.1.

<sup>57</sup> Bill s 94, MCFL s 155.

<sup>58</sup> Bill s 117, MCFL s 212. The Minister has responsibility for the entire CFL, except for Francisation Quebec. Francisation Quebec is administered by the Ministère de l'Immigration, Francisation et Intégration.



- Developing the Language Policy of the State.<sup>59</sup>
- Broad coordination and oversight responsibilities across the civil administration, exercised on the Minister’s own initiative.<sup>60</sup>
- Broad and strong powers to intervene and obtain information across the civil administration.<sup>61</sup>
- Power to require the Office to inspect or verify compliance in the bodies to which the Language Policy of the State applies.<sup>62</sup>
- Power to make regulations to “restrict” the option to use a language other than French in certain circumstances.<sup>63</sup>
- Power to intervene in court proceedings that “could impact the status or use of French in Québec”.<sup>64</sup>
- Power to approve language criteria for judges and administrative adjudicators.<sup>65</sup>
- Power to revoke the permit or authorization of an enterprise that “repeatedly” contravenes the CFL, after an opinion from the Office.<sup>66</sup>

Taken together with the Government’s new regulation-making power,<sup>67</sup> these powers confer upon the Minister broad and strong executive powers touching on the entire civil administration, and indeed the entire CFL.

#### **b. Office Québécois de la langue française**

The leadership of the Office is appointed by the Government,<sup>68</sup> and the Deputy Minister for the French Language becomes a permanent non-voting member.<sup>69</sup> The Office is given an expanded mandate and reporting role. The Office’s expanded inspection and search powers are discussed below. In addition, the Office’s remedial power is expanded as follows:

- Under the current CFL, the Office has the power to issue “formal notice to comply” to remedy a contravention of the CFL.<sup>70</sup> Under the Bill, the Office can issue an “order” to comply regarding any contravention of the Act within the time the Office specifies.<sup>71</sup>
- Under the current CFL, where a person fails to comply after a “notice to comply,” the Office can refer the matter to the Director of Criminal and Penal Prosecutions for penal proceedings.<sup>72</sup> In

---

<sup>59</sup> Bill s 19, creating MCFL s 29.9.

<sup>60</sup> Bill s 94, MCFL s 156. The Minister approves or makes the language directives of civil administration bodies and municipalities: Bill s 19, MCFL s 29.16, 29.17.

<sup>61</sup> Bill s 94, MCFL s 156.3.

<sup>62</sup> Bill s 94, MCFL s 156.7.

<sup>63</sup> Bill s 19, MCFL s 29.22.

<sup>64</sup> Bill s 94, MCFL s 156.3(6).

<sup>65</sup> Bill s 5, MCFL ss 12 and 13.

<sup>66</sup> Bill s 114, MCFL s 204.27.

<sup>67</sup> Bill s 19, MCFL s 29.13.

<sup>68</sup> Bill s 101, MCFL s 165.

<sup>69</sup> Bill s 101, MCFL s 165.

<sup>70</sup> Current CFL s 177.

<sup>71</sup> Bill s 113, MCFL ss 177-179.

<sup>72</sup> Current CFL s 177.

Bill 96, rather than referring to the matter for Penal Prosecution, the Office is given new powers to seek injunctions and court orders itself.<sup>73</sup>

## **8) Control of language in public sector**

By way of the expanded obligation to use French in an exemplary manner, and the forthcoming comprehensive Language Policy of the State and associated directives (all approved or imposed by the Minister),<sup>74</sup> the regime created in the CFL increases the centralization of control over the use of language in the civil administration.

The Bill also sets out a long list of requirements for the content of this Language Policy. Some required content includes:

- Rules to govern when an agency can use a language other than French (which might narrow the permitted use of English).<sup>75</sup>
- Provisions concerning “the implementation of a French-language environment, in particular with regard to vocal music”.<sup>76</sup>
- Provisions concerning “the implementation of means to control the quality of the French used within an agency.”<sup>77</sup>

Further, the Bill adds disciplinary measures for public servants who contravene the CFL.<sup>78</sup>

## **9) Extension of language monitoring in private sector**

The francization requirements are broadened and expanded. They will apply more broadly (to enterprises of 25 employees or more),<sup>79</sup> and they are expanded. Francization committees take on a greater role, and the Office takes an increased role in monitoring. For example:

- The Office can order the creation of a francization committee for enterprises with 25 or more employees if “the Office considers that the use of French is not generalized at all levels of the enterprise”.<sup>80</sup>
- Francization committees must meet at least every 6 months, and the minutes must be sent to the Office.<sup>81</sup>
- An Office staff member may attend any francization committee meeting and may communicate with the committee “to obtain information it considers necessary.” It may also investigate “the

---

<sup>73</sup> Bill s 113, MCFL ss 183-184.

<sup>74</sup> Bill s 19, MCFL s 29.14, 29.16.

<sup>75</sup> See MCFL s 29.10(1)(a).

<sup>76</sup> See MCFL s 29.10(1)(f).

<sup>77</sup> See MCFL s 29.10(1)(c).

<sup>78</sup> Bill s 114, MCFL s 204.30.

<sup>79</sup> Bill s 81, MCFL s 139.

<sup>80</sup> Bill ss 76, 83.

<sup>81</sup> Bill s 80, MCFL s 138.3.

reasons for which members of the committee have not signed a document.”<sup>82</sup> The committee is required to cooperate with the Office.<sup>83</sup> The Bill includes no limits or constraints on these powers and requirements. For example, the Office is not required to give notice that it intends to attend a francization committee meeting.

- The Bill introduces new penalties for non-compliance.<sup>84</sup> The Office is required to publish a list of non-compliant businesses and the civil administration cannot contract with such businesses, nor can these businesses receive public grants or subsidies.<sup>85</sup>

## 10) Enhanced search powers and disclosure protections, shielded from *Charter* scrutiny

### a. Search powers

The Bill also enhances the Office’s powers to investigate and inspect most entities subject to the CFL.<sup>86</sup> For example, the hours the Office can enter premises, the range of places they can enter, the ability to access electronic devices and “any related document” for an investigation, are all enhanced.<sup>87</sup> Two of these powers are worth reproducing. Under the Bill, an Office inspector may:

(3) cause any person present who has access to any computer, equipment or other thing that is on the premises to use it to access data contained in an electronic device, computer system or other medium or to verify, examine, process, copy or print out such data; and

(4) require any information relating to the application of this Act or the regulations as well as the communication, for examination or reproduction, of any related document. Any person who has custody, possession or control of documents referred to in this section must communicate them to the person making an inspection and facilitate their examination by that person.<sup>88</sup>

Further, by way of a notice, an inspector can require “any person” to communicate “any information or document relating to the carrying out of this Act”, in the time “determined by that notice”.<sup>89</sup> The Bill does not seem to include any “reasonable grounds” requirement for any of these steps. Nor is there a judicial pre-authorization (warrant) requirement.

### b. Disclosure protections

The Bill adds a very strong disclosure protection. Any person who wants to make a disclosure to the Office may do so by communicating “any information [...] that the person believes could show that a

---

<sup>82</sup> MCFL s 138.4.

<sup>83</sup> MCFL s 138.4.

<sup>84</sup> Bill ss 80-93.

<sup>85</sup> Bill s 93, MCFL s 152.1.

<sup>86</sup> The Office maintains its broad power to make inspections and inquiries “for the purposes of this Charter”, except for parliamentary institutions, or in the absence of a complaint, disclosure, or request from the Minister regarding an agency of the civil administration: Bill s 108, MCFL s 166.

<sup>87</sup> See Bill s 111, MCFL s 174.

<sup>88</sup> Bill s 111, MCFL s 174.

<sup>89</sup> Bill s 112, MCFL s 175.

failure to comply with this Act has occurred or is about to occur".<sup>90</sup> A person can make this disclosure despite a number of privacy statutes, contractual provisions, and any duties of loyalty, or confidentiality or professional secrecy, except solicitor-client secrecy.<sup>91</sup> The Office must take all reasonable measures to protect the identity of the person who makes the disclosure.<sup>92</sup>

### 11) Penal provisions and sanctions

The penalties and sanctions are greatly expanded. For example:

- A person whose fundamental language rights (as expanded in the Bill) have been violated can obtain a civil remedy. The new civil sanctions include the broad power for a Court to "make any order it sees fit",<sup>93</sup> and specifically include the ability for a Court to annul provisions of a contract that does not comply with the CFL.<sup>94</sup>
- The Minister can revoke the permit or authorization of an enterprise that "repeatedly" contravenes the CFL, after an opinion from the Office.<sup>95</sup>
- There are new disciplinary measures for public servants who contravene the CFL.<sup>96</sup>
- The fine amounts for offences are increased; there are escalating fines for subsequent offences; and each day the offence continues constitutes a new offence.<sup>97</sup>

### 12) Combined effect with Bill 21

Bill 21 and Bill 96 both employ the same sweeping human rights overrides, thus placing them both ahead of the Quebec *Charter* in the hierarchy of statutes in Quebec. Thus, Laicity and the French Language take moral and legal precedence over individual human rights.

Both Bill 21 and Bill 96 apply in the public service; thus, their combined effect is to fashion a uniformly "Laïc" (as defined in that Act) and French-speaking public service.

Bill 96 places constraints on services in English to newcomers<sup>98</sup> and encourages newcomers to learn and integrate into French-speaking society. In addition, Bill 96 re-names the *Act Respecting the Ministère de l'Immigration, de la Diversité et de l'Inclusion* to the *Ministère de l'Immigration, de la Francisation et de l'Intégration*.<sup>99</sup>

---

<sup>90</sup> MCFL 165.22.

<sup>91</sup> *Ibid.*

<sup>92</sup> MCFL s 165.23.

<sup>93</sup> Bill s 114, MCFL s 204.21.

<sup>94</sup> Bill s 114, MCFL ss 204.17-204.26.

<sup>95</sup> Bill s 114, MCFL s 204.27.

<sup>96</sup> Bill s 114, MCFL s 204.30.

<sup>97</sup> Bill s 114, MCFL ss 205-208.

<sup>98</sup> Bill s 15, MCFL s 22.3(1), (2)(a), (c), (e), (f). With respect to immigrants, see also MCFL s 22.4, which states that where an agency uses English or another language to provide welcome services to immigrants, they must implement measures to ensure that communications with immigrants will be exclusively in French at the end of 6 months.

<sup>99</sup> Bill s 148.