

## Policy Matters Blog #19 – Bill 96

### FRENCH LANGUAGE MINISTER TABLES SIX NEW AMENDMENTS TO BILL 96 REGARDING ONLINE BUSINESS TRANSACTIONS, COMMISSIONER OBLIGATIONS, AND ENFORCEABILITY OF CONTRACTS

**April 6, 2022** – The National Assembly’s [Committee on Culture and Education](#) yesterday resumed its clause-by-clause analysis of Bill 96, [An Act respecting French, the Official and Common Language of Québec](#). Members discussed clauses 113 and 114 of the bill. Minister of Justice and Minister Responsible for the French Language Simon Jolin-Barrette added a half-dozen new amendments to the soon-to-be modified [Charter of the French Language](#).

First, the Minister introduced an amendment further modifying Art. 177 of the Charter. This amendment would require online businesses outside of Quebec wishing to sell their products within the province to comply with the Charter. Liberal MNA Hélène David noted the difficulty of enforcing this newly amended rule with regard to international businesses. The amendment could potentially further deter international business interests, large or small, from Quebec’s commercial activities, she stated. After MNA David’s brief commentary, the amendment was adopted.

Articles 178 through 188 were adopted with little to no discussion.

Next, the Minister introduced the legislative creation of the Commissioner of the French Language. The Commissioner’s duties would include monitoring the activities of the Office Québécois de la langue française (OQLF). As examples, he gave the OQLF’s complaints process and how the body would collect data on the use and status of the French language in Quebec. The Minister then proposed an amendment to Art. 191 to specify that the Commissioner can use powers otherwise granted to the OQLF when dealing with Charter violations committed by parliamentary institutions (such as the Quebec ombudsman, Elections Quebec, etc.). This amendment was also adopted with little feedback.

Articles 192 through 196 were adopted with little to no discussion.

Minister Jolin-Barrette then introduced an amendment to Art. 197. This modification requires the Commissioner’s annual report to include the number of English- and French-speaking students enrolled in English CEGEPs, whether in Diplôme d’études collégiales or Attestation d’études collégiales programs. This amendment was adopted with opposition from MNA David. The Minister introduced a further amendment, adding Art. 197.1 to the Charter. This new article requires the Commissioner to produce a second report, following the tabling of the annual report to the National Assembly, recommending measures to contribute to the evolution of French as the official and common language of Quebec. The amendment was adopted with no commentary.

Articles 198 to 204.4 were adopted with little to no discussion.

The Minister then read out Art. 204.5, which gives the Commissioner the right to intervene in proceedings (such as litigation) that “could impact the status or use of French in Quebec.” MNA David asked for

examples of situations in which the Commissioner may intervene. Examples were not clearly provided. In addition, she asked whether the proceedings in which the Commissioner intervenes need to precisely deal with the rules of the Charter. The Minister replied that no, under 204.5 the Commissioner is allowed to intervene in any legal matter that involves “status and use” of French, and is not restricted to provisions outlined in the Charter. This grants the Commissioner broad intervention authority. This expansive power could possibly give the Commissioner the right to intervene in court cases filed by private citizens alleging that Bill 96 or changes in language policies violate their constitutional rights. The article was adopted.

Articles 204.6 to 204.14 were adopted with little to no discussion. Clause 113 was then adopted.

The committee then began its analysis of clause 114, which delineates the civil sanctions and other punitive measures imposed on persons and institutions found to be in contravention of rights and rules provided in the Charter. The first two elements, 204.15 and 204.16, were adopted without commentary.

Minister Jolin-Barrette then introduced an amendment to Art. 204.17. This modification would specify that any contracts entered into by government institutions that are not drawn up exclusively in French are absolutely null (to be treated as if the contract never legally existed). Contracts that violate this rule would be null regardless of whether they caused injury to the contracting party. The amendment was adopted with no debate.

Finally, the Minister introduced a fresh amendment to Art. 204.18. It specifies that courts are obliged to terminate a contract entered into by a government institution when the plaintiff (the Attorney General) can show that such contractual termination would be in the “interest of the public” in maintaining the status of French in Quebec. Québec Solidaire MNA Ruba Ghazal asked what the precise difference was between the terms “public interest” and “interest of the public.” Minister Jolin-Barrette responded that “interest of the public,” the terminology in the amendment, includes any matter that may be interesting to the public, and not just a matter of the “common good” (*bien commun*). A subtle yet important distinction, this term could imply that any matter where the French language is directly or incidentally concerned could be interesting to the Quebec public. This broad interpretation could therefore significantly lower the burden of proof on the Quebec government to demonstrate that a given contract is in violation of the Charter. The amendment was adopted shortly after MNA Ghazal’s questioning.

Articles 204.19 through 204.26 were adopted with no discussion.

The committee adjourned thereafter. Members will reconvene later today.