Chapter 13: Yukon

Yukon – Main Language Laws

Languages Act, R.S.Y. 2002, c. 133

1. Purpose

1. (1) The Yukon accepts that English and French are the official languages of Canada and also accepts that measures set out in this Act constitute important steps towards implementation of the equality of status of English and French in the Yukon.

1. (2) The Yukon wishes to extend the recognition of French and the provision of services in French in the Yukon.

1. (3) The Yukon recognizes the significance of aboriginal languages in the Yukon and wishes to take appropriate measures to preserve, develop, and enhance those languages in the Yukon.

S.Y. 2002, c.133, s.1

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Discussion and Analysis

1. Should the *Languages Act* be given a large, liberal and purposive interpretation in accordance with Canada's commitment to the protection of minority language rights?

[47] The *Languages Act* represents a historic compromise between the governments of the Yukon and Canada to ensure the official recognition of Canada's bilingualism in governmental institutions. And while Parliament has excluded the Yukon Territory from the application of the federal *Official Languages Act*, the *Yukon Act* requires Parliament's consent to any change to the *Languages Act*. This requirement creates quasi-constitutional obligations. (See the discussion of "manner and form" requirements in *Mercure*, *supra* at 276-279 and *Reference Re Canada Assistance Plan (B.C.)*, 1991 CanLII 74 (SCC), [1991] 2 S.C.R. 525 at 561). Arguably, this renders the *Languages Act* more akin to a constitutional obligation than either the federal *Official Languages Act* or the New Brunswick *Official Languages Act*, S.N.B. 2002, c. O-0.5 (the "New Brunswick Official Languages Act"), both of which have been described as quasi-constitutional by the Supreme Court of Canada, despite being capable of amendment by their respective enacting body. (See *Lavigne v. Canada (Office of the Commissioner of Official Languages)*, 2002 SCC 53 (CanLII), [2002] 2 S.C.R. 773 at para. 23 and *Charlebois v. Saint John (City)*, 2005 SCC 74 (CanLII), [2005] 3 S.C.R. 563 at para. 30 ("*Charlebois*")).

[48] In my view, the purpose of the *Languages Act* is to commit the Yukon to official bilingualism. As well as being apparent from its legislative history, this purpose is explicit in s. 1 which states that the Yukon accepts that "English and French are the official languages of Canada" and sets down as objects the "implementation of the equality of status of English and French in the Yukon" and the "recognition of French and the provision of services in French in the Yukon". While the *Yukon Act* does not declare French an official language of the Yukon, its impact in the legislative, central government and judicial spheres is the same.

[49] The final and perhaps strongest indicator of the object and purpose of the *Languages Act* is its virtual identity with the language of the guarantees enshrined in ss. 16 to 22 of the *Charter*. The appellant does not press this Court to decide whether those provisions of the *Charter* are applicable to the Yukon government. Regardless, the two cover the same terrain. To give but one example, s. 5 of the *Language Act* states:

> 5 Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by the Legislative Assembly.
>
> 5 Chacun a le droit d'employer le français ou l'anglais dans toutes les affaires dont sont saisis les tribunaux établis par l'Assemblée législative et dans tous les actes de procédure qui en découlent.

[50] Section 19 of the *Charter* reads:

> 19. (1) Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by Parliament.
>
> 19. (1) Chacun a le droit d'employer le français ou l'anglais dans toutes les affaires dont sont saisis les tribunaux établis par le Parlement et dans tous les actes de procédure qui en découlent.

[51] I would, however, add one cautionary note arising from the respondent's submission and the majority opinion in *Charlebois*, *supra*, where the Supreme Court of Canada held that a broad, purposive interpretation does not permit the court to disregard the ordinary rules of statutory interpretation. That case concerned the meaning of the word "institution" in the New Brunswick *Official Languages Act*. The respondent City had filed pleadings in English, which, the appellant argued, contravened that Act. Section 22 required Her Majesty or an "institution," when a party to a civil matter, to use the official language chosen by the other party. The question was whether municipalities fell within the meaning of the term institution. In dismissing the appeal, Charron J. (for the majority) (at para. 23) referred to the continued salience of *Bell ExpressVu Limited Partnership v. Rex*, 2002 SCC 42 (CanLII), [2002] 2 S.C.R. 559 and cautioned against interpretations that would eschew the ordinary approach to statutory interpretation:

> In the context of this case, resorting to this tool [*Charter* values] exemplifies how its misuse can effectively pre-empt the judicial review of the constitutional validity of the statutory provision. It risks distorting the Legislature's intent and depriving it of the opportunity to justify any breach, if so found, as a reasonable limit under s. 1 of the *Charter*. …

[52] As Charron J. suggests, this Court must be mindful of the limits of the *Languages Act* and avoid pre-empting judicial review of the constitutional status of language rights in the Yukon Territory. This is particularly so where, as in the present case, the Yukon government has not been given the opportunity to justify an alleged breach in accordance with s. 1 of the *Charter*.

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2. Advancement of status and use

2. Nothing in this Act limits the authority of the Legislative Assembly to advance the equality of status of English, French, or a Yukon aboriginal language.

S.Y. 2002, c.133, s.2

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3. Proceedings of the Legislative Assembly

3. (1) Everyone has the right to use English, French, or a Yukon aboriginal language in any debates and other proceedings of the Legislative Assembly.

3. (2) The Legislative Assembly or a committee of the Assembly, when authorized by resolution of the Assembly, may make orders in relation to the translation of records and Journals of the Assembly, Hansard, Standing Orders, and all other proceedings of the Legislative Assembly.

S.Y. 2016, c.5, s.31; S.Y. 2002, c.133, s.3

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4. Acts and regulations

4. Acts of the Legislature and regulations made thereunder shall be printed and published in English and French and both language versions are equally authoritative.

S.Y. 2016, c.5, s.31; S.Y. 2002, c.133, s.4

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3. Does the phrase "Acts of the Legislative Assembly and regulations made thereunder" in s. 4 of the *Languages Act* include the Rules of Court, forms, practice directives, and notices to the profession such that they must be published in both official languages?

[55] The appellant's primary submission on this issue is that s. 4 of the *Languages Act* requires the Yukon government to publish the Rules of Court in French. His argument turns on three central premises: (1) that the *Languages Act* imposes the requirement to publish all "regulations" in French; (2) that the term "regulation" includes the Rules of Court; and (3) that because the Rules of Court are amended and evolve by practice directives and associated court communications, they also fall within the meaning of "regulation" and must likewise be published in French. I do not agree.

[56] Nor do I agree with the intervenor's response that s. 4 does not require the printing and publication of the Rules of Court in French because they are excluded by the definition of "regulation" in the *Regulations Act*, R.S.Y. 2002, c. 195 (the "*Regulations Act*"). I consider the Rules of Court must be published in English and French because they are established by the *Judicature Act* and their publication is necessary to give meaning and effect to ss. 4 and 5 of the *Languages Act*.

[57] Most of the difficulty with this issue arises from the manner and form in which the Rules of Court are made and published. The rest derives from the lack of a consistent meaning for the word "regulation" in the Yukon statute book.

[58] The establishment of the rules of court is governed by s. 38 of the *Judicature Act*, R.S.Y. 2002, c. 128. It provides:

> 38. Subject to this and any other Act, the Rules of the Supreme Court of British Columbia in force from time to time shall, mutatis mutandis, be followed in all causes, matters, and proceedings, but the judges of the Court may make rules of practice and procedure, including tariffs of fees and costs in civil matters and fees and expenses of witnesses and interpreters in criminal matters, adding to or deleting from those rules, or substituting other rules in their stead.

[59] There seems to be no legislative provision for their publication. The *B.C. Supreme Court Rules*, B.C. Reg. 221/90 (the "*B.C. Rules*") are available to the public in the Yukon, as in British Columbia, because

they have been made by the Lieutenant Governor in Council under the authority of s. 2 of the *Court Rules Act*, R.S.B.C.1996, c. 77 and are published officially in the British Columbia Gazette. Because the Yukon Rules of Court are not included in the definition of "regulation" under the *Regulations Act*, there is no comparable requirement for their publication in the Yukon Gazette.

[60] To date, the judges of the Yukon Supreme Court have not made rules that substitute entirely for the B.C. Rules. They have instead amended those rules from time to time and published the amendments in the form of practice directives. In the absence of an official publication, it seems likely counsel and litigants most often use the internet or commercial services to obtain copies of those practice directives, as well as the B.C. Rules as needed.

[61] Questions regarding the scope of statutory provisions comparable to s. 4 of the *Languages Act* have arisen in both Quebec and Manitoba, and were also touched upon by La Forest J. for the majority in *Mercure*, *supra*. The *locus classicus* for the discussion of this issue is *Blaikie (No. 2)*, *supra*. In that case, the Supreme Court held that the duty of the Legislature of Quebec to print and publish its "Acts" in English pursuant to s. 133 of the *Constitution Act, 1867* included regulations and the rules of practice of court. The obligation was seen to be a necessary incident of the right to use either French or English in a Quebec court, as the majority explained at 332-3:

> Rules of practice are not expressly referred to in s. 133 of the *B.N.A. Act*. Given the circumstances described above, they are unlikely to have been overlooked but in our view the draftsmen must have thought that they were subject to the section by necessary intendment.
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> The point is not so much that rules of practice partake of the legislative nature of the Code of which they are the complement. A more compelling reason is the judicial character of their subject-matter for which s. 133 makes special provision. Rules of practice may regulate not only the proper manner to address the court orally and in writing, but all proceedings, processes, certificates, styles of cause and the form of court records, books, indexes, rolls, registers, each of which may under s. 133, be written in either language. Rules of practice may also prescribe and do prescribe specific forms for proceedings and processes, such for instance as the motion for authorization to institute a class action or a judgment in a class action (*Rules of Practice of the Superior Court of the Province of Quebec in civil matters*, November 10, 1978, ss. 49 to 56), a proceeding in the Superior Court, a process of the Superior Court. <u>All litigants have the fundamental right to choose either French or English and would be deprived of this freedom of choice should such rules and compulsory forms be couched in one language only.</u>
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> Furthermore, and as was noted by Deschênes C.J.S.C., (at p. 49 of his reasons), this fundamental right is also guaranteed to judges who are at liberty to address themselves to litigants in the language of their choice. When they so address themselves collectively to litigants as they peremptorily do in rules of practice, they must necessarily use both languages if they wish to safeguard the freedom of each judge.
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> We accordingly reach the conclusion that, given the nature of their subject-matter, rules of court stand apart and are governed by s. 133 of the *B.N.A. Act*.
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> [Emphasis added.]

[62] As this passage indicates, the obligation imposed by s. 133 does not flow from a strict reading of the provision, but from the spirit of the Constitution and the view that the absence of the rules of court would deprive litigants of their fundamental right to use either French or English in the court's processes.

[63] Because the Legislative Assembly chose to use language in s. 4 of the *Languages Act* that tracks that in s. 18 of the *Charter*, s. 133 of the *Constitution Act, 1867* (*Société des Acadiens*, *supra* at 573), s. 23 of the *Manitoba Act, 1870*, and s. 110 of the *North-West Territories Act*, I am persuaded it should be read as imposing the same obligation on the Yukon government. (See *Re Manitoba Language Rights*,

supra at 744 and *Mercure*, *supra* at 273). In my view, all enactments, including delegated legislation, are to be published in both languages; so, too, are the rules of court made by judges.

[64] In reaching that conclusion, I have considered the submissions of the intervenor and the respondent that despite the afore-mentioned case law, the ordinary meaning of s. 4 excludes the requirement to publish the Yukon Rules of Court in French.

[65] The main submission on this point turns on the application of the definitions of "regulation" in the *Interpretation Act*, R.S.Y. 2002, c. 125 (the "*Interpretation Act*") and the *Regulations Act*. As I see it, neither can be determinative of the interpretation of the same word in the *Languages Act*, nor is particularly helpful in discerning the intention of the Legislative Assembly in adopting s. 4 of that Act.

[66] In my view, each definition applies only for the purposes of the Act that includes it, and neither Act purports to make its definition apply to every other enactment. The *Interpretation Act* acknowledges the definitions are different by using the phrase "a regulation as defined in the *Regulations Act*" in s. 17(3). One of the differences relates to Rules of Court. The *Interpretation Act* includes "rules of court" in its definition of regulation, whereas the *Regulations Act* excludes them. Section 21(1) of the *Interpretation Act* applies to other enactments. It defines an "Act" as "an ordinance of the Yukon enacted pursuant to the *Yukon Act* (Canada)" and "Rules of Court" as "the Rules of Court established under the *Judicature Act*," but does not include a definition of "regulation".

[67] Furthermore, s. 27 of the *Yukon Act* prohibits the Legislature from limiting the scope of application of the *Languages Act* unless it has "the concurrence of Parliament by way of an amendment to this [Yukon] Act". To interpret "regulation" as excluding the Rules of Court from the French publication requirement would be to limit the reach of s. 4 of the *Languages Act*. That cannot have been the Legislature's intention as neither the Commissioner nor the Legislative Assembly sought the consent of Parliament to so. The definition in the *Interpretation Act* better suits the *Languages Act*, or, at the very least, is not inconsistent with it.

[68] In any event, it is not evident that the Rules of Court are a "regulation" however defined. On my reading of s. 38 of the *Judicature Act*, the Legislative Assembly chose to incorporate the *B.C. Rules* directly into that statute. Thus, for example, Rule 18A, under which the summary trial was conducted, takes its effect directly from the *Judicature Act*. Referential incorporation in itself does not affect the Yukon government's obligations: *Re Manitoba Language (No. 2)*, 1992 CanLII 115 (SCC), [1992] 1 S.C.R. 212 at 229-30. The Yukon government could have left the rules to the judges of the Supreme Court or given the authority to establish rules by regulation (as defined in the *Regulations Act*) to the Commissioner in Executive Council or some other body or person, but the Legislature chose to require that *B.C. Rules* be followed, subject to any variations the judges of the Yukon Supreme Court might make under the authority delegated to them in s. 38 of the *Judicature Act*. Parliament granted that power to the Legislature in s. 18(1)(k) of the *Yukon Act*.

[69] In my view, as a result of the method the Legislature used to establish them, the Rules of Court are statutory in effect. They are legislative acts that must be printed and published in both French and English and include the forms prescribed by those rules and all practice directives issued by the judges of the Supreme Court to amend the *B.C. Rules* as permitted by s. 38 of the *Judicature Act*, all of which have the force of law and are effectively delegated legislation. That variations in the Rules of Court are made by practice directive is a question of form, not substance.

[70] I wish to make clear that the obligation to publish the Rules of Court in French includes only those instruments that are of a legislative nature and compulsory character, and that are made by virtue of s. 38 of the *Judicature Act* (see *Re Manitoba Language (No. 2)*, *supra*).

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5. Proceedings in court

5. Either English or French may be used by any person in, or in any pleading in or process issuing from, any court established by the Legislature.

S.Y. 2016, c.5, s.31; S.Y. 2002, c.133, s.5

ANNOTATIONS

R. v. T.D.M., 2008 YKCA 16 (CanLII)

Effect of the *Languages Act*

[24] The Crown raised the issue of the applicability of the *Languages Act* to criminal proceedings for the first time on appeal. The history of that statute is discussed in detail by Madam Justice Huddart in *Kilrich Industries Ltd. v. Halotier*, 2007 YKCA 12 (CanLII), 246 B.C.A.C. 159, and need not be repeated here. Suffice it to say, the Act resulted from a compromise reached by the governments of Canada and Yukon in 1988, which avoided the *Official Languages Act*, S.C. 1988, c. 38, being made applicable to Yukon: paras. 28 - 32, 47. While French was not made an official language of Yukon, its importance and status was nonetheless recognized. As Huddart J.A. stated:

> [48] In my view, the purpose of the *Languages Act* is to commit the Yukon to official bilingualism. As well as being apparent from its legislative history, this purpose is explicit in s. 1 which states that the Yukon accepts that "English and French are the official languages of Canada" and sets down as objects the "implementation of the equality of status of English and French in the Yukon" and the "recognition of French and the provision of services in French in the Yukon". While the Yukon Act does not declare French an official language of the Yukon, its impact in the legislative, central government and judicial spheres is the same.
>
> [Emphasis added.]

[25] To begin, it is necessary to determine the effect of s. 5 of the *Languages Act*. To do so, regard must be had to both the English and French versions of this provision. Both versions have equal status and it is their shared, or common, meaning that governs: *R. v. Mac*, [2002] 1 S.C.R. 856, 2002 SCC 24 (CanLII) at para. 5; *Schreiber v. Canada (Attorney General)*, [2002] 3 S.C.R. 269, 2002 SCC 62 (CanLII) at paras. 54 - 56; *R. v. Abel*, 2008 BCCA 54 (CanLII), 229 C.C.C. (3d) 465 at para. 56.

[26] The English version of s. 5 uses the expression "may be used", which could be interpreted as permissive only. However, when read together with the French version – "chacun a le droit d'employer" – it is clear that the legislature intended to confer, amongst other things, a "right" to testify in either official language. Although in *Kilrich Industries Ltd.*, Huddart J.A. does not discuss interpreting bilingual legislation, it is evident that she concluded that s. 5 of the *Languages Act* confers certain rights with respect to the use of English and French: paras. 71, 72. Also of note is the fact that the words used in both versions of s. 5 are identical to those used in s. 19 of the *Charter*, which deals with the right to use English and French in courts established by Parliament and by New Brunswick.

[27] *Kilrich Industries Ltd.* deals with the application of the *Languages Act* to a civil action. T.D.M. argues that "language rights in a criminal trial, in terms of deciding which official language will be used at the trial, belong to the accused". In this regard he points to Part XVII of the *Criminal Code* – "Language of Accused" – which provides that an accused can elect to be tried by a court (including a jury) that speaks one or both official languages: ss. 530 - 533. In discussing the interpretation and application of these provisions in *R. v. Beaulac*, 1999 CanLII 684 (SCC), [1999] 1 S.C.R. 768, Mr. Justice Bastarache stated that their "object … is to provide an absolute right to a trial in [the accused's] official language, providing the application is timely": para. 31.

[28] There is no specific constitutional head of power dealing with language rights. Rather, the power to enact language laws is ancillary to the legislative authority otherwise assigned to Parliament and the provincial legislatures by the Constitution Act, 1867: *Beaulac* at para. 14. In *Devine v. Quebec (Attorney General)*, 1988 CanLII 20 (SCC), [1988] 2 S.C.R. 790 at 808, the Court stated that "in order to be valid, provincial legislation with respect to language must be truly in relation to an institution or activity that is otherwise within provincial legislative jurisdiction".

[29] In enacting s. 18 of the *Yukon Act*, Parliament delegated to the Legislative Assembly law-making powers akin to the provincial heads of power enumerated in s. 92 of the *Constitution Act, 1867*. In this case, the validity of s. 5 of the *Languages Act* has not been challenged. Accordingly, its applicability to federal criminal proceedings is to be determined on the basis that it is within the legislative competence of the Legislative Assembly to provide that any person has the right to use either of Canada's official languages in a Yukon court. This being so, the question becomes whether a territorial (or provincial) law dealing with language rights in a court established by a territorial (or provincial) legislature, can apply to proceedings relating to an offence enacted by Parliament in the exercise of its jurisdiction under s. 91(27) of the *Constitution Act, 1867*, i.e., the Criminal Law head of power.

[30] The answer to this question is found in *Jones v. Attorney General of New Brunswick*, 1974 CanLII 164 (SCC), [1975] 2 S.C.R. 182. That case involved a reference taken to the New Brunswick Supreme Court, Appeal Division, on questions relating to the validity and effect of language rights legislation enacted by Parliament and by the New Brunswick Legislature. The federal legislation in issue was then ss. 11(1), (3) and (4) of the *Official Languages Act*, R.S.C. 1970, c. O-2, which provided, amongst other things, that a witness in a criminal matter had the right to testify in either French or English. Those provisions read:

> 11(1) Every judicial or quasi-judicial body established by or pursuant to an Act of the Parliament of Canada has, in any proceedings brought or taken before it, and every court in Canada has, in exercising in any proceedings in a criminal matter any criminal jurisdiction conferred upon it by or pursuant to an Act of the Parliament of Canada, the duty to ensure that any person giving evidence before it may be heard in the official language of his choice, and that in being so heard he will not be placed at a disadvantage by not being or being unable to be heard in the other official language.
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> ...
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> (3) In exercising in any proceedings in a criminal matter any criminal jurisdiction conferred upon it by or pursuant to an Act of the Parliament of Canada, any court in Canada may in its discretion, at the request of the accused or any of them if there is more than one accused, and if it appears to the court that the proceedings can effectively be conducted and the evidence can effectively be given and taken wholly or mainly in one of the official languages as specified in the request, order that, subject to subsection (1), the proceedings be conducted and the evidence be given and taken in that language.
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> (4) Subsections (1) and (3) do not apply to any court in which, under and by virtue of section 133 of the *British North America Act, 1867*, either of the official languages may be used by any person, and subsection (3) does not apply to the courts of any province until such time as a discretion in those courts or in the judges thereof is provided for by law as to the language in which, for general purposes in that province, proceedings may be conducted in civil causes or matters.

[31] Also in issue in *Jones* were two provincial statutes dealing with the use of language in New Brunswick courts. The first was s. 23C of the *Evidence Act*, R.S.N.B. 1952, c. 74, as enacted by S.N.B. 1967, c. 37, which vested a discretion in judges to direct the language of the proceedings in certain circumstances:

> In any proceeding in any court in the Province, at the request of any party, and if all the parties to the action or proceedings and their counsel have sufficient knowledge of any language, the Judge may order that the proceedings be conducted and the evidence given and taken in that language.

[32] The second provincial statute in issue was s. 14 of the *Official Languages Act* of New Brunswick, S.N.B. 1969, c. 14, which, like s. 5 of the *Yukon Languages Act*, allowed a witness the choice of testifying in English or French:

> 14(1) Subject to section 16, in any proceeding before a court, any person appearing or giving evidence may be heard in the official language of his choice and such choice is not to place that person at any disadvantage.
>
> (2) Subject to subsection (1), where
>
> (a) requested by any party, and
>
> (b) the court agrees that the proceedings can effectively be thus conducted;
>
> the court may order that the proceedings be conducted totally or partially in one of the official languages.

Section 16 empowered the Lieutenant Governor in Council to make regulations with respect to the application of s. 14(1).

[33] In *Jones*, the Supreme Court upheld the validity of both the federal and the provincial legislation. In so doing, Chief Justice Laskin opined that both Parliament and the provincial legislatures have authority to legislate with respect to the language of criminal proceedings, subject to the doctrine of federal paramountcy: at: 191. In answering the questions dealing with the validity of the provincial enactments, the Chief Justice stated (at 197):

> Question 2, respecting the validity of s. 23C of the provincial *Evidence Act* should also be answered in the affirmative. In my view, in the absence of federal legislation competently dealing with the language of proceedings or matters before provincial Courts which fall within exclusive federal legislative authority, it was open to the Legislature of New Brunswick to legislate respecting the languages in which proceedings in Courts established by that Legislature might be conducted. This includes the languages in which evidence in those Courts may be given. Section 92(14) of the *British North America Act, 1867* is ample authority for such legislation. For the same reason, I would answer question 3, respecting the validity of s. 14 of the *Official Languages of New Brunswick Act*, in the affirmative.
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> [Emphasis added.]

[34] The Chief Justice's treatment of *R. v. Murphy, ex parte Belisle and Morneau* (1968), 1968 CanLII 732 (NB CA), 69 D.L.R. (2d) 530 (N.B.S.C. (A.D.)), in *Jones* is particularly germane. In that case, the Appeal Division held that s. 23C of the *Evidence Act* (N.B.) could not apply to federal criminal proceedings, as the use of language in the courts is a matter of procedure, and exclusive jurisdiction over criminal procedure rests with Parliament. In disagreeing with this reasoning, Laskin C.J. held that, subject to the paramountcy doctrine, it is open to a provincial legislature to enact laws dealing with the language of criminal proceedings (at 197):

> In *Regina v. Murphy, ex parte Belisle and Moreau*, the New Brunswick Supreme Court, Appeal Division, held that s. 23C could not have any application to criminal proceedings in a provincial Court, in the absence of federal legislation making it applicable. The holding was that it could not apply of its own force despite its general wording ("In any proceeding in any Court in the Province"), and was not made applicable by s. 36 of the *Canada Evidence Act*, R.S.C. 1952, c. 307 because it was not a law of evidence within that provision. What the New Brunswick Supreme Court, Appeal Division, did in effect was to limit the scope of s. 23C to civil and penal matters within provincial legislative jurisdiction, in accordance with the principle expressed by this Court in *McKay v. The Queen* [1965 CanLII 3 (SCC), [1965] S.C.R. 798]. I do not think that there is the same antinomy in the present case as existed in the

> *McKay* case; rather, the situation here is one for the application of a doctrine of concurrency of legislative authority subject to the paramountcy of federal legislation.

[35] In my view, *Jones* stands for the proposition that, subject to the paramountcy doctrine, the authority to enact legislation with respect to the "administration of justice" vested by s. 92(14) of the *Constitution Act, 1867*, confers on the provinces the power to enact legislation giving a witness the right to use either French or English in a criminal proceeding. This proposition also holds true for language rights legislation enacted by Yukon in the exercise of the authority delegated to it by Parliament through s. 18(1)(k) of the *Yukon Act*.

[36] As recently discussed in *Canadian Western Bank v. Alberta*, [2007] 2 S.C.R. 3, 2007 SCC 22 (CanLII), under the paramountcy doctrine, "when the operational effects of provincial legislation are incompatible with federal legislation, the federal legislation must prevail and the provincial legislation is rendered inoperative to the extent of the incompatibility": para. 69. Further, for the doctrine to apply, "the onus is on the party relying on the doctrine of federal paramountcy to demonstrate that the federal and provincial laws are in fact incompatible by establishing either that it is impossible to comply with both laws or that to apply the provincial law would frustrate the purpose of the federal law": para. 75.

[37] Part XVII of the Code is the only federal statute dealing with language rights in the context of criminal proceedings before provincial and territorial courts. As T.D.M. did not invoke those provisions, they did not apply at his trial. Accordingly, there is no conflict or incompatibility in this case between the language rights conferred by Part XVII and those conferred by s. 5 of the Languages Act. However, even if Part XVII had applied to T.D.M.'s trial, the paramountcy doctrine would not have rendered s. 5 inoperative.

[38] Part XVII of the Code focuses on the language rights of an accused. Nothing in these provisions restricts the language rights of witnesses. I cannot find any operational incompatibility between federal legislation permitting an accused to choose the official language of criminal proceedings and territorial (or provincial) legislation permitting a witness in such proceedings to choose the language in which he or she will testify. The witness's choice can be respected without interfering with the accused's choice. If the accused or others are unable to understand the official language chosen by a witness then, as occurs whenever a witness testifies in a language different from that in which proceedings are being conducted, an interpreter can be used. It is not a matter of one provision saying "yes" while the other says no", or that "compliance with one is defiance of the other": *Canadian Western Bank* at para. 99, quoting from *Multiple Access Ltd. v. McCutcheon*, 1982 CanLII 55 (SCC), [1982] 2 S.C.R. 161.

[39] Nor can it be said that permitting a witness to testify in the official language of his or her choice would frustrate Parliament's purpose in enacting Part XVII of the Code. As discussed by Bastarache J. in *Beaulac* (at para. 34), Part XVII was enacted "to provide equal access to the courts to accused persons speaking one of the official languages of Canada in order to assist official language minorities in preserving their cultural identity". This is because "the language of an accused is very personal in nature; [and] is an important part of his or her cultural identity". Providing a witness with the right to choose in which official language to testify only serves to strengthen this purpose, as it increases the number of persons able to assert which official language is their own in the context of a criminal proceeding. Choice of language is as important to the cultural identity of a witness, as it is to the cultural identity of an accused.

[40] Indeed, Parliament has accepted that when an accused has elected to have criminal proceedings in one official language, a witness is entitled to testify in the other. Section 530.1(c) of the Code provides:

> any witness may give evidence in either official language during the preliminary inquiry or trial.

Once again, when regard is had to the French version, it is apparent that what is being conferred is a right to use either official language:

> les témoins ont le droit de témoigner dans l'une ou l'autre langue officielle à l'enquête préliminaire et au procès.

[41] Further, Parliament has acknowledged that the provinces and territories have authority to legislate with respect to language rights in criminal proceedings, provided those laws are not inconsistent with federal legislation. This can be seen in s. 532 of the Code, which reads:

> Nothing in this Part or the *Official Languages Act* derogates from or otherwise adversely affects any right afforded by a law of a province in force on the coming into force of this Part in that province or thereafter coming into force relating to the language of proceedings or testimony in criminal matters that is not inconsistent with this Part or that Act.

"Province" includes Yukon: *Interpretation Act*, R.S.C. 1985, c. I-21, s. 35.

[42] Lastly, although not relevant to this appeal, I note that several amendments to Part XVII of the Code recently came into force: see *An Act to amend the Criminal Code (criminal procedure, language of accused, sentencing and other amendments)*, S.C. 2008, c. 18, ss. 18 - 21, proclaimed in force, October 1, 2008, by SI/2008-71, Canada Gazette Part II, Vol. 142, No. 13, p. 1621. I do not see anything in these changes that would render s. 5 of the *Languages Act* incompatible with Part XVII.

[43] To summarize, I have reached the following conclusions:

> (a) s. 5 of the *Languages Act* gives a witness a right to testify in either English or French in federal criminal proceedings before Yukon courts;
>
> (b) there is no conflict or incompatibility between s. 5 and Part XVII of the *Criminal Code*; and
>
> (c) the trial judge erred in denying G.A. his statutory right to testify in French.

Kilrich Industries Ltd. v. Halotier, 2007 YKCA 12 (CanLII)

Discussion and Analysis

4. What rights flow from s. 5 of the *Languages Act*?

[71] The appellant next asserts that s. 5 of the *Languages Act* imposes positive obligations on the government to communicate and understand M. Halotier in either official language. Section 5 permits "any person" to use English or French "in any pleading in or process issuing from" the Yukon Supreme Court—a court established by the Legislative Assembly in the *Supreme Court Act*, R.S.Y. 2002, c. 211.

[72] Consideration of some of the claimed rights is straight-forward. The right to file documents with the registry in French and the right to use French in communicating orally or in writing with the registry flow naturally from the language of s. 5 of the *Languages Act*. When proceedings are required by law to be recorded, a person using either French or English has the right to have his words recorded in that language (*Mercure*, *supra* at 275-6). It follows that any transcript of such a proceeding should include testimony in the language (if French or English) in which it was given. Otherwise, as La Forest J. noted in *Mercure*, the right to use one's chosen language would be seriously truncated, particularly if the proceedings continued on to the Court of Appeal. And consistent with my view of s. 4, for the right to use English or French in a court proceeding to have any meaning, the court must make its rules (including forms and practice) available to the public in French in the same way it does in English.

[73] The other rights the appellant claims are more difficult of analysis, particularly those that imply a positive obligation on the court, such as the obligation to provide a bilingual judge, clerk or officer of the court, or an interpreter. However desirable these services may be, I am not persuaded s. 5 imposes an obligation to provide them.

[74] To begin, the Supreme Court of Canada has refused to find the imposition of any positive duty in the comparable language of s. 133 of the *Constitution, 1867*, or s. 19(2) of the *Charter*. In *Société des Acadiens*, *supra*, Beetz J. (for the majority) explained at 574:

> It is my view that the rights guaranteed by s. 19(2) of the *Charter* are of the same nature and scope as those guaranteed by s. 133 of the *Constitution Act, 1867* with respect to the courts of Canada and the courts of Quebec. As was held by the majority at pp. 498 to 501 in *MacDonald*, these are essentially language rights unrelated to and not to be confused with the requirements of natural justice. These language rights are the same as those which are guaranteed by s. 17 of the *Charter* with respect to parliamentary debates. They vest in the speaker or in the writer or issuer of court processes and give the speaker or the writer the constitutionally protected power to speak or to write in the official language of his choice. And there is no language guarantee, either under s. 133 of the *Constitution Act, 1867*, or s. 19 of the *Charter*, any more than under s. 17 of the *Charter*, that the speaker will be heard or understood, or that he has the right to be heard or understood in the language of his choice.
>
> [Emphasis added.]

[75] Counsel for the appellant acknowledged his claims clash with *Société des Acadiens* and *MacDonald*, *supra*, but suggests that these decisions have been over-taken by more recent decisions, particularly *Beaulac*, *supra*, and that on its purposive approach to language rights, positive obligations should be imposed as necessary to give meaning to his statutory right to use French in court proceedings. The appellant also says that this interpretation of s. 5 recognizes not only his language rights, but also with the aspirations of the Yukon francophone community to develop and expand.

[76] I am not prepared on the record in this case to attempt to distinguish considered decisions of the Supreme Court of Canada. Furthermore, there are good reasons to support the view that s. 19 of the *Charter* and s. 5 of the *Languages Act* impose few positive obligations on the court or government.

[77] First, s. 6 of the *Languages Act*, like the parallel provisions of s. 20 of the *Charter*, provides for the "right to communicate with, and to receive available services from … the central office of an institution of the Legislative Assembly or of the Government of the Yukon in English or French", and the same right with respect to any other office of any such institution when certain numerical or qualitative conditions are met. While I appreciate that this provision is not determinative of the scope of s. 5, it does provide strong support for a more limited reading than that suggested by the appellant. So does the absence of a provision comparable to those found in other legislative schemes that specifically address the language capacities of a judge (See s. 19(2) of the New Brunswick *Official Languages Act*; s. 16 of the federal *Official Languages Act*; and s. 530 of the *Criminal Code of Canada*, R.S.C. 1985, c. C-46).

[78] Second, s. 5 of the *Languages Act*, like s. 19 of the *Charter*, uses the presumptively permissive term "may". This term does not normally connote a positive obligation to act and contrasts with the mandatory "shall" used in s. 4 (*Re Manitoba Language Rights*, *supra* at 742).

[79] A third reason to reject an interpretation that requires a bilingual judge or interpreter, or imposes some other positive obligation is that it may have constitutional implications as Beetz, J. suggested in *Société des Acadiens*, when he explained (for the majority) at 580:

> Before I leave this question of equality however, I wish to indicate that if one should hold that the right to be understood in the official language used in court is a language right governed by the equality provision of s. 16, one would have gone a considerable distance towards the adoption of a constitutional requirement which could not be met except by a bilingual judiciary. Such a requirement would have far reaching consequences and would constitute a surprisingly roundabout and implicit way of amending the judicature provisions of the Constitution of Canada.

[80] Almost inevitably, the implication of construing s. 5 as including positive obligations would be to pre-empt constitutional review and the opportunity for the government to justify its decision under s. 1 of the *Charter*—something which Charron J. warned against in *Charlebois*, *supra*.

[81] A final reason for rejecting a more expansive interpretation of s. 5 is that courts have unequivocally recognized that the right to speak and be understood is protected by the requirements of natural justice

and the right to a fair hearing. Important for the Yukon, in particular, is the explanation offered by Bastarache J. at para. 41 of *Beaulac*:

> …The right to full answer and defence is linked with linguistic abilities only in the sense that the accused must be able to understand and must be understood at his trial. But this is already guaranteed by s. 14 of the *Charter*, a section providing for the right to an interpreter. The right to a fair trial is universal and cannot be greater for members of official language communities than for persons speaking other languages. Language rights have a totally distinct origin and role. They are meant to protect official language minorities in this country and to insure the equality of status of French and English. This Court has already tried to dissipate this confusion on several occasions. Thus, in *MacDonald v. City of Montreal*, supra, Beetz J., at pp. 500-501, states that:
>
> > It would constitute an error either to import the requirements of natural justice into . . . language rights . . . or vice versa, or to relate one type of right to the other. . . . Both types of rights are conceptually different. . . . To link these two types of rights is to risk distorting both rather than reenforcing either.

[82] On this point, reference can also be made to the recent dissenting reasons of Bastarache J. in *Charlebois*, *supra*, where he wrote (at para. 54):

> Although the quasi-constitutional status of the *OLA* requires a purposeful and generous interpretation, there is here no basis for imputing to the Legislature the intention to extend the definition of the terms used in furtherance of s. 16(3) of the *Charter*. On the contrary, there is every reason to believe that the Legislature was conscious of the distinction between language rights and the right to a fair trial, and the distinction noted earlier in these reasons between the use of one's official language in pleadings on one part, and communications with government offices under s. 20(1) of the *Charter* on the other. ...

[83] In summary, as I see it, the right to registry services in French and English is to be considered under s. 6 of the *Languages Act*. The right to be understood directly or through an interpreter, and the right to a transcript that includes interpretation of the original French or English voices are left to the discretion of the trial judge who is obliged to conduct a fair trial, with full regard for the right of every person in a Yukon court to speak and produce documents in French or English and to other rights guaranteed by the *Charter*, including the right to an interpreter under s. 14, and the need to give "true meaning" to the principle of equality which Bastarache J. noted in *Beaulac* (at para. 22).

5. In the alternative, is the Senior Judge required to assign a judge who speaks and understands French to preside at a trial where a litigant wishes to speak in French?

[84] The essence of the appellant's argument on this issue is that the unwritten constitutional principle of the protection of minorities requires the Senior Judge, in his or her administrative capacity, to assign a bilingual judge to preside at a settlement conference or a trial when a party expresses an intention to speak French. He says this duty comes not by way of a right, but from the duty of administrative decision-makers to exercise their discretion in conformity with the constitution, including its unwritten principles. (See *Lalonde v. Ontario (Commission de restructuration des services de santé)* (2001), 2001 CanLII 21164 (ON CA), 56 O.R. (3d) 505 (C.A.)). The result, he submits, is that the Senior Judge must assign a French-speaking judge if a party chooses to use French at a hearing.

[85] For the reasons I rejected the submission that s. 5 of the *Languages Act* imposes such an obligation, I do not accept this submission. It seems to me that this is another way of seeking to impose an obligation to communicate or be understood in French, which, as I have said, does not follow from the language of s. 5.

[86] Moreover, as McLachlin J. (as she then was) noted in *MacKeigan v. Hickman*, 1989 CanLII 40 (SCC), [1989] 2 S.C.R. 796 at paras. 69 to 71, the exclusive control over the assignment of judges is central to the institutional independence of the judiciary. (See also *R. v. Valente*, 1985 CanLII 25 (SCC), [1985] 2 S.C.R. 673 and Provincial Judges Reference, 1997 CanLII 317 (SCC), [1997] 3 S.C.R. 3). While

the assignment of judges may be seen as an administrative function, it is not so by statutory delegation and is a function that directly affects adjudication. The exercise of that power by the Chief Justice or Senior Judge on behalf of the court is an implicit institutional requirement flowing from ss. 96 to 100 of the Constitution, 1867. It follows that a Chief Justice or Senior Judge, when in the performance of that task, enjoys immunity from compulsion by Parliament or the Executive (or I would add, another court by way of judicial review).

[87] In any case, the very essence of a judge's institutional role is to exercise authority in conformity with the written and unwritten principles of the constitution, which include the protection of linguistic minorities (*Re Quebec Secession*, *supra* at para. 80). The Senior Judge, no less than any other judge, will endeavour to fulfil that obligation to the best of his or her ability. If the result of an assignment is an unfair trial, that error will be remedied as any other error of a judge in the performance of a duty: by way of appeal.

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6. Communication by public with institutions of the Government of the Yukon

6. (1) Any member of the public in the Yukon has the right to communicate with, and to receive available services from, any head or central office of an institution of the Legislative Assembly or of the Government of Yukon in English or French, and has the same right with respect to any other office of any such institution if

> **(a) there is significant demand for communications with and services from that office in both English and French; or**
>
> **(b) due to the nature of the office, it is reasonable that communications with and services from that office be in both English and French.**

6. (2) The Commissioner in Executive Council may make regulations prescribing circumstances in which for the purposes of subsection (1) significant demand shall be deemed to exist or in which the nature of the office is such that it is reasonable that communications with and services from that office be in English and French.

S.Y. 2002, c.133, s.6

ANNOTATIONS

Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General), [2015] 2 S.C.R. 282, 2015 SCC 25 (CanLII)

[3] In 2009, the Board sued the Yukon government for what it claimed were deficiencies in the provision of minority language education. The trial took place in two phases. A number of incidents occurred during the trial which set the stage for the bias argument in the Court of Appeal. It is worth noting that, even during the course of the trial, the Yukon was concerned about bias and brought a recusal motion on the ground that certain comments and decisions by the trial judge, as well as his involvement in the francophone community in Alberta both before and during his time as a judge, gave rise to a reasonable apprehension of bias. The trial judge dismissed the motion, finding that many of the acts complained of by the Yukon were procedural in nature and involved decisions of a discretionary nature. He also concluded that his involvement in the francophone community created no reasonable apprehension of bias, observing that counsel for the Yukon did not raise the issue when the case was assigned nor at an earlier point in the proceedings.

[4] The trial judge's decision on the merits touched on a number of issues, only two of which remain relevant in this appeal. He concluded that the Yukon had failed to give the Board adequate management and control of French-language education in accordance with s. 23 of the *Charter* and the *Education Act*,

and that the Board had the authority to determine which students would be admitted to the French school, including those not expressly contemplated by s. 23 of the *Charter*. He also ordered the Yukon to communicate with and provide services to the Board in French, in compliance with s. 6 of the *Languages Act*, R.S.Y. 2002, c. 133. The Yukon government appealed.

[…]

[74] In this case, however, the Yukon has not delegated the function of setting admission criteria for children of non-rights holders to the Board. In the absence of any such delegation, there is no authority for the Board to unilaterally set admission criteria which are different from what is set out in the Regulation. This does not preclude the Board from claiming that the Yukon has insufficiently ensured compliance with s. 23, and nothing stops the Board from arguing that the Yukon's approach to admissions prevents the realization of s. 23's purpose: see *Mahe*, at pp. 362-65. But that is a different issue from whether the Board has, in the absence of delegation from the Yukon, the unilateral right to decide to admit children other than those who are covered by s. 23 or the Regulation.

[75] This bring us to the second issue decided by the Court of Appeal, namely, whether the Yukon is required, by virtue of s. 6(1) of the *Languages Act*, to communicate with and provide services to the Board and its employees in French. Section 6(1) provides:

> 6(1) Any member of the public in the Yukon has the right to communicate with, and to receive available services from, any head or central office of an institution of the Legislative Assembly or of the Government of the Yukon in English or French, and has the same right with respect to any other office of any such institution if
>
> (a) there is a significant demand for communications with and services from that office in both English and French; or
>
> (b) due to the nature of the office, it is reasonable that communications with and services from that office be in both English and French.

[76] The Court of Appeal decided that this case was not a suitable vehicle for the determination of rights under s. 6 of the *Languages Act*. In my respectful view, it is unclear to me why this should be so. The Board's Languages Act claims raise significant factual issues that may well lead to a finding that parts of the claims were justified. Whether a particular communication is covered by s. 6(1) may depend both on the nature of the communication and the capacity in which it is communicated. As the Court of Appeal observed, it is unlikely that the question has a simple answer given that the Board and its personnel engage in various types of communications with the government. This argues, it seems to me, for a determination at the new trial with the benefit of a full evidentiary record, not for a dismissal of the claims.

[77] The appeal from the Court of Appeal's conclusion that there was a reasonable apprehension of bias requiring a new trial is accordingly dismissed, but the *Languages Act* claims are to be joined with the other issues remitted by the Court of Appeal for determination at the new trial.

Kilrich Industries Ltd. v. Halotier, 2007 YKCA 12 (CanLII)

4. What rights flow from s. 5 of the *Languages Act*?

[83] In summary, as I see it, the right to registry services in French and English is to be considered under s. 6 of the *Languages Act*. The right to be understood directly or through an interpreter, and the right to a transcript that includes interpretation of the original French or English voices are left to the discretion of the trial judge who is obliged to conduct a fair trial, with full regard for the right of every person in a Yukon court to speak and produce documents in French or English and to other rights guaranteed by the *Charter*, including the right to an interpreter under s. 14, and the need to give "true meaning" to the principle of equality which Bastarache J. noted in *Beaulac* (at para. 22).

[…]

6. Does s. 6 of the *Languages Act* apply to the Yukon Supreme Court as the central office of an institution of the Yukon Legislative Assembly or the Government of the Yukon?

[92] M. Halotier's concern is that he could not communicate in French with the trial co-ordinator who arranged both the settlement conference and the summary trial or with the clerk present in court on those two occasions, as well as with a more general sense that his language is not respected in the provision of telephone services, the provision of signs, and the design of the court's official seal and website.

[93] While I conclude that s. 6(1) of the *Languages Act* applies to the court registry in Whitehorse, the record of this case does not lend itself to the setting of a precise standard for the provision in French of each administrative service. Although communication with a central office of a governmental institution under s. 6(1) is not subject to the same qualitative and quantitative indicators as ss. 6(1) (a) or (b) of the *Languages Act*, human and financial resources are not unlimited. The question of resources is particularly troublesome when it comes to the needs of self-represented litigants. Whatever their language of choice, self-represented litigants face challenges in coping with an adversarial system of justice; they, in turn, pose challenges to the court clerks and judges who do their best to provide services in a system that depends heavily on counsel for its efficient operation. Among those challenges is being even-handed as between opposing parties.

[94] Because all service-providing systems will be imperfect in the eyes of someone, it seems to me that any analysis of the requirements of the obligations under s. 6(1) can only be by way of comparison to services provided in comparable circumstances. The record in this case permits only a limited analysis. Indeed, M. Halotier was able to communicate orally with the bilingual deputy court clerk on most occasions when he attended the court registry in Whitehorse and, at times, by telephone. He was thus able to navigate some of the court's processes. Nevertheless, his participation was limited and subject to misunderstandings, particularly as to the extent to which he could engage with the registry and courts in French.

[95] In my view, s. 6 of the *Languages Act*, when read with its object and purpose, requires the registry to provide the same assistance to self-represented French-speaking litigants as it provides to self-represented English speaking litigants. A simple example of a comparable service would be to answer the telephone with a bilingual greeting ("Bonjour/Hello"), followed by a transfer to the bilingual counter clerk if the caller responds in French.

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7. Continuation of rights and privileges

7. Nothing in this Act abrogates or derogates from any legal or customary right or privilege acquired or enjoyed either before or after the coming into force of this Act with respect to any language that is not English or French.

S.Y. 2002, c.133, s.7

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8. Rights and services not affected

8. Nothing in this Act shall be construed as preventing the Legislative Assembly or the Government of the Yukon from granting rights in respect of, or providing services in, English and French or any Yukon aboriginal language in addition to the rights and services provided in this Act.

S.Y. 2002, c.133, s.8

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9. Enforcement

9. Anyone whose rights under this Act have been infringed or denied may apply to a court of competent jurisdiction to obtain any remedy the court considers appropriate and just in the circumstances.

S.Y. 2002, c.133, s.9

ANNOTATIONS

Kilrich Industries Ltd. v. Halotier, 2007 YKCA 12 (CanLII)

Application to this proceeding

[96] In my view, M. Halotier has established a breach of his language rights that entitles him to a remedy under s. 9 of the *Languages Act*: […]

[97] Without the ability to obtain a complete and current copy the *Rules of Court* in French, M. Halotier could not effectively exercise the right granted him by s. 5 of the *Languages Act* and use French throughout this proceeding, in pleadings, at the settlement conference, and at the summary trial. For this reason alone, I would allow the appeal, set aside the order of Gower J. and remit the matter for a new trial. Although I note this remedy typically follows from a breach of procedural fairness, (see *Bilodeau* and *Mercure*, *supra*), it is appropriate in light of the overall circumstances of this case and the language of s. 9.

[98] The only inference possible from what occurred from the beginning of this case is that neither the Minister of Justice nor the Yukon Supreme Court fully appreciated that M. Halotier had a statutory right to use French in this proceeding. Indeed, the fact that the bilingual registry clerk was unaware of the translation of the *1994 B.C. Rules* speaks loudly of a general lack of appreciation of the *Languages Act*. The same can be said of the Transcript Precedent Manual, which makes no provision for a trial where a participant chooses to use French. From the delay in receiving a proper transcript of the summary trial, it appears the transcription services contract may also need revision. Happily, the Yukon Government seems on the track to fulfilment of its obligations and the situation in which the parties now find themselves is unlikely to recur.

[99] The failure of the judicial system to appreciate M. Halotier's rights is best illustrated by two comments at the summary trial. The first was to the effect that M. Halotier could have fulfilled his obligation to understand the process if he had sought the assistance of an English-speaking lawyer and used an interpreter to deal with that lawyer, rather than taking the risk of representing himself when he could not find a bilingual lawyer willing to advise him. The second was that M. Halotier ought to have made an application for a bilingual trial if he wished to use French. Nothing in the *Rules of Court* or practice directives, if they had been available in French, would have suggested that this was required. In any event, M. Halotier had written a formal letter requesting a hearing in French when he filed his Statement of Defence and he did not receive a reply.

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10. Agreement for implementation of this Act

10. The Government of the Yukon may enter into agreements with the Government of Canada or any person or body respecting the implementation of the provisions of this Act or any matter related to this Act.

S.Y. 2002, c.133, s.10

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11. Services in aboriginal languages

11. The Commissioner in Executive Council may make regulations in relation to the provision of services of the Government of the Yukon in one or more of the aboriginal languages of the Yukon.

S.Y. 2002, c.133, s.11

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12. Regulations

12. The Commissioner in Executive Council may make regulations

(a) respecting any matter that the Commissioner in Executive Council considers necessary to implement section 5;

(b) as the Commissioner in Executive Council considers necessary for carrying out the provisions of this Act.

S.Y. 2002, c.133, s.12

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13. Orderly adaptation to this Act

13. (1) No Act or regulation made after December 31, 1990, will be of any force or effect if it has not already been published in English and French at the time of its coming into force.

13. (2) No act or regulation made before December 31, 1990, will be of any force or effect if it has not been published in English and French before January 1, 1994.

S.Y. 2002, c.133, s.13

Prescribed Offices Regulation – Languages Act, Y.O.I.C. 2003/79

1. The following offices of the Government of Yukon are prescribed as offices whose nature is such that it is reasonable that communications with and services from that office be in English or French

(a) Department of Energy, Mines and Resources,

(i) Client Services and Inspection Branch;

(ii) Forestry Branch;

(iii) Lands Branch;

(iv) Mining Lands Unit;

(v) Yukon Geological Survey;

(b) Department of Environment, Water Resources Branch

(c) Yukon Water Board.

Yukon – Other Language laws

Business Corporations Act, R.S.Y. 2002, c. 20

Part 2 – Incorporation

12. Corporate name

12. (1) The word "Limited", "Incorporated", or "Corporation" or the corresponding abbreviation "Ltd.", "Inc." or "Corp.", or the French language equivalent of those words and abbreviations, shall be part of the name of every corporation and shall not be used only in a figurative or descriptive sense, but a corporation may use and may be legally designated by either the full or the abbreviated form even though the full or abbreviated form appears on its certificate of incorporation.

12. (2) The name of every professional corporation shall

(a) contain any word or expression required by or under an enactment governing the profession;

(b) include the word "Profession" or "Professional" or the abbreviation "Prof." or the French language equivalent of those words and abbreviation; and

(c) be approved by or on behalf of the governing body or licensing agency of the appropriate profession.

12. (3) No person shall carry on business in the Yukon under any name or title that contains the word "Limited", "Incorporated", or "Corporation", or the abbreviation "Ltd.", "Inc." or "Corp." or the French language equivalent of those words and abbreviations, other than

(a) a body corporate that complies with this Act;

(b) in the case of "limited"

(i) a limited partnership within the meaning of the *Partnership and Business Names Act*,

(ii) an LLP within the meaning of the *Partnership and Business Names Act*, or

(iii) an association within the meaning of the *Cooperative Associations Act*; or

(c) a member of a class of persons prescribed in the regulations for the purposes of this subsection.

12. (5) Subject to subsection 14(1), a corporation may set out its name in its articles in an English form or a French form or an English and French form or in a combined English and French form and the corporation may use and may be legally designated by any of those forms.

12. (6) Subject to subsection 14(1), a corporation may, outside Canada, use and may be legally designated by a name in any language form.

Part 21 – Extra-territorial Corporations

278. Application for registration

278. (1) An extra-territorial body corporate shall apply for registration by sending to the registrar a statement in the prescribed form and any further information and documents the registrar requires.

278. (2) The statement shall be accompanied by the appointment of its attorney for service, in the prescribed form.

278. (3) If all or any part of a document is not in the English language, the registrar may require the submission of a translation of the document or that part of the document, verified in a satisfactory manner, before registering the extra-territorial body corporate.

S.Y. 2010, c.8, s.177; S.Y. 2002, c.20, s.278

Naming Regulation – Business Corporations Act / Cooperative Associations Act / Partnership and Business Names Act / Societies Act, Y.O.I.C. 2015/07

2. Definitions

2. In this Regulation

[…]

"legal element" means in relation to the name of an organization

(a) in the case of a corporation, a word or abbreviation required by subsection 12(1) of the *Business Corporations Act*,

(b) in the case of an extra-territorial corporation,

(i) the word "Limited", "Incorporated", or "Corporation" or the corresponding abbreviation "Ltd.", "Inc." or "Corp." or the French language equivalent of those words and abbreviations, and

(ii) any other word or abbreviation in any language, including those listed in Schedule A, if, in the registrar's opinion, the word or abbreviation is a required element of the name under the law of the jurisdiction that governs the incorporation of the extraterritorial corporation,

(c) in the case of an extra-territorial business entity, the phrase "limited liability company" or the abbreviation "LLC",

(d) in the case of a cooperative association, a word or abbreviation required by subsection 7(1) or (2) of the *Cooperative Associations Act*,

(e) in the case of an extra-territorial cooperative association, the word "Cooperative", "coopérative", "Limited" or "limitée", or the abbreviation "Ltd." or "Ltée",

(f) in the case of a limited partnership formed under section 50 of the *Partnership and Business Names Act*, the words required by subsection 52(1) of the *Partnership and Business Names Act*,

(g) in the case of a limited partnership registered under section 79 of the *Partnership and Business Names Act*, the words "Limited Partnership" or the French language equivalent,

(h) in the case of a partnership that is registered as an LLP, the phrase or abbreviation required by subsection 99(1) of the *Partnership and Business Names Act*,

(i) in the case of a society, a word or abbreviation listed in Schedule B, and

(j) in the case of an extra-territorial society,

(i) a word or abbreviation listed in Schedule B, and

(ii) any other word or abbreviation in any language if, in the registrar's opinion, the word or abbreviation is a required element of the name under the law of the jurisdiction that governs the incorporation of the extraterritorial society; « *désignation légale* »

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4. Maximum length of name

4. (1) No organization shall have a name that exceeds 120 characters in length, including spaces.

4. (2) If an organization has both an English form of its name and a French form of its name, the limit of 120 characters applies to the total length of both forms of name.

4. (3) If an organization has a name that is a combined English and French form, the 120 character limit applies to the name in its combined form.

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5. Legal element for combined English and French name of a corporation

5. For the purposes of subsection 12(5) of the *Business Corporations Act*, a combined English and French form of the name of a corporation shall use as its legal element only the abbreviation "Inc.".

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22. Name approval process

22. (1) A person may submit to the registrar an application for name reservation in Form 1 together with the fee in schedule F.

[…]

22. (6) Where a proposed name is in an English form and a French form, separate applications under subsection (1) must be made for the English form of the name and the French form of the name.

Care Consent Act, S.Y. 2003, c. 21, Sch. B

21. Emergency health care

21. (1) A health care provider may provide health care to a person without the person's consent if

[…]

(b) the communication required in order for the person to give or refuse consent to the health care cannot take place

[…]

(ii) because of a language barrier or because the person has a disability that prevents the communication from taking place;

Schedule B or S.Y. 2003, c.21, s.21

Child and Family Services Act, S.Y. 2008, c. 1

4. Best interests of the child

4. (1) In determining the best interests of the child all relevant factors shall be considered, including

[…]

(f) the child's cultural, linguistic, religious and spiritual upbringing and heritage;

[…]

4. (2) If a child is a member of a First Nation, the importance of preserving the child's cultural identity shall also be considered in determining the best interests of the child.

S.Y. 2008, c.1, s.4

Cooperative Associations Act, R.S.Y. 2002, c. 43

1. Interpretation

1. In this Act,

[…]

"extra-territorial association" means a corporation incorporated or continued under the laws of another jurisdiction that has as part of its name the word "Cooperative" or "coopérative" or any word, expression or abbreviation, whether in an English form or a French form, that indicates or implies that the corporation is a cooperative or an association organized or operated on a cooperative basis. « *association extra-territoriale* »

7. Name

7. (3) Despite paragraph 30(2)(b), an association may set out its name in its memorandum of association in an English form or a French form or an English and French form or in a combined English and French form and may use and may be legally designated by any of those forms.

30. Documents submitted for registration

30. (1) The registrar may, if of the opinion that any document submitted

(a) contains matter contrary to law;

(b) because of any omission or mis-description, has not been duly completed;

(c) does not comply with the requirements of this Act; or

(d) contains any error, alteration or erasure,

refuse to receive or register the document and request that the document be appropriately amended or completed and re-submitted, or that a new document be submitted in its place.

30. (2) Every document required by this Act to be filed or registered with the registrar

(a) shall be in typed or printed form, and, in the opinion of the registrar, legible and sufficiently permanent for the registrar's records; and

(b) shall be in the English language, or accompanied by a notarially certified English translation of it.

S.Y. 2002, c.43, s.30

Coroners Act, R.S.Y. 2002, c. 44

23. Record of evidence

23. (1) Subject to subsection (2), the coroner shall put into writing the evidence of each witness, or so much thereof as the coroner considers material and each deposition shall be signed by the witness concerned and by the coroner.

23. (2) With the consent of the chief coroner, a judge or counsel representing Her Majesty, the evidence or any part thereof may be taken in shorthand by a stenographer appointed for that purpose by the coroner and duly sworn to truly and faithfully report the evidence, and, if so taken, the signatures of the witnesses are unnecessary but the transcript shall be signed by the coroner and certified by the stenographer that it is a true report of the evidence.

23. (3) Shorthand evidence need not be transcribed into English unless the chief coroner, a judge or counsel representing Her Majesty so directs or any person requests a transcript and pays the stenographer therefor. S.Y. 2002, c.44, s.23

Decision-Making Support and Protection to Adults Act, S.Y. 2003, c. 21

Part 3 – Court-appointed Guardians

Division 1 – Appointment of Guardians

30. Documents to be filed and served

30. (1) The application for the appointment of a guardian must be filed with the Supreme Court and be accompanied by the following:

(a) a report of an assessment by an assessor stating

(i) that the adult is incapable of managing some or all of their affairs,

(ii) the likelihood of change respecting the adult's incapability to manage their affairs,

(iii) that some or all of the adult's affairs need to be managed by a guardian, and

(iv) that the adult will benefit from the appointment of a guardian;

(b) a statement by the proposed guardian setting out the information required by the regulations;

(c) a guardianship plan prepared by the proposed guardian in the form prescribed by the regulations;

(d) a copy of any document in which the adult's wishes respecting the choice of a guardian are expressed; and

(e) such further information or documents as may be required by the regulations.

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31. The hearing

31. (5) Where the adult does not read, speak, or understand the language in which the documents in subsection 30(1) are written, the applicant shall, before the hearing, arrange for a suitable interpreter to provide an interpretation of them to the adult.

Education Act, R.S.Y. 2002, c. 61

Preamble

[…]

Recognizing that the Yukon curriculum must include the cultural and linguistic heritage of Yukon aboriginal people and the multicultural heritage of Canada; and

Recognizing that rights and privileges enjoyed by minorities as enshrined in the law shall be respected.

[…]

Part 1 – Interpretation

1. Definitions

1. In this Act,

[…]

"teacher" means a person holding a valid and subsisting teaching certificate, or a letter of permission, issued pursuant to the regulations who is appointed or employed pursuant to this Act to give instruction or to administer or supervise instructional service in a school but does not include an aboriginal language teacher; « *enseignant* » or « *enseignante* »

[…]

S.Y. 2015, c.9, s.2; S.Y. 2002, c.61, s.1

Part 2 – Territorial Administration

4. Goals and objectives

4. The Minister shall establish and communicate for the Yukon education system goals and objectives, which are

(a) to encourage the development of students' basic skills, including

[…]

(iv) knowledge of at least one language other than English;

[…]

[…]

(g) to promote the understanding of the history, language, culture, rights and values of Yukon First Nations and their changing role in contemporary society;

[…]

S.Y. 2002, c.61, s.4

Part 4 – School Operation

42. Language of instruction

42. Every student is entitled to receive an educational program in the English language.

S.Y. 2002, c.61, s. 42

Part 5 – Yukon First Nations

50. Language of instruction

50. (1) The Minister may authorize an educational program or part of an educational program to be provided in an aboriginal language after receiving a request to do so from a School Board, Council, school committee, Local Indian Education Authority or, if there is no Local Indian Education Authority, from a Yukon First Nation.

50. (2) In deciding whether to authorize instruction in an aboriginal language, the Minister shall consider

(a) the number of students to be enrolled in the instruction;

(b) the availability of resources and personnel for the instruction;

(c) the educational feasibility of providing the instruction; and

(d) the effect of the instruction on students who receive their instruction in English.

S.Y. 2002, c.61, s.50

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51. Yukon heritage and environment

51. The Minister shall include in courses of study prescribed for use in schools studies respecting the cultural, linguistic and historical heritage of the Yukon and its aboriginal people, and the Yukon environment.

S.Y. 2002, c.61, s.51

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52. Aboriginal languages

52. (1) The Minister shall provide for the development of instructional materials for the teaching of aboriginal languages and the training of aboriginal language teachers.

52. (2) The Minister shall employ aboriginal language teachers to provide aboriginal language instruction in schools in the Yukon.

52. (3) An aboriginal language teacher shall be under the supervision of the principal of the school where the aboriginal language teacher is providing instruction.

52. (4) An aboriginal language teacher when providing aboriginal language instruction shall be deemed to be a teacher for the purposes of section 166 of this Act.

52. (5) The Minister shall establish policies and guidelines on the amount of instruction and the timetabling for the instruction of aboriginal languages in consultation with appropriate Local Indian Education Authorities, School Boards and Councils.

52. (6) The Minister shall meet on an annual basis with the Central Indian Education Authority to review the status of aboriginal language instruction in Yukon schools and shall make appropriate modifications if necessary.

S.Y. 2002, c.61, s.52

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54. Central Indian Education Authority

54. (1) On the establishment of a Central Indian Education Authority by the Council for Yukon First Nations, the Minister shall consult with the Central Indian Education Authority on any matter affecting the education and language of instruction of aboriginal people.

54. (2) The Minister and the Central Indian Education Authority may participate in joint evaluations of specific education programs, services and activities for aboriginal people, the terms of reference for which shall be approved by the Minister and the Central Indian Education Authority.

54. (3). The cost of any evaluation conducted in accordance with subsection (2) shall be paid by the Minister.

54. (4) The Minister shall table in the Legislative Assembly the report and recommendations from any evaluation conducted pursuant to subsection (2) within 30 days of receipt of the report and recommendation or at the next sitting of the Legislative Assembly.

54. (5) The Minister shall respond to the recommendations referred to in subsection (4) and shall report to the Legislative Assembly the modifications to the education and language of instruction of aboriginal people in Yukon schools which resulted from those recommendations within six months of receipt by the Minister of the report and recommendations.

54. (6) The Minister may enter into an agreement with and provide grants to the Central Indian Education Authority for the performance by it of any matter pertaining to aboriginal education including the development and preservation of aboriginal languages.

S.Y. 2002, c.61, s.54

Part 6 – French Language and Separate School Rights

56. French language

56. Students whose parents have a right under section 23 of the *Canadian Charter of Rights and Freedoms* to have their children receive an educational program in the French language are entitled to receive that program in accordance with the regulations.

S.Y. 2002, c.61, s.56

ANNOTATIONS

Yukon Francophone School Board, Education Area #23 v. Yukon (Attorney General), [2015] 2 S.C.R. 282, 2015 SCC 25 (CanLII)

[3] In 2009, the Board sued the Yukon government for what it claimed were deficiencies in the provision of minority language education. The trial took place in two phases. A number of incidents occurred during the trial which set the stage for the bias argument in the Court of Appeal. It is worth noting that, even

during the course of the trial, the Yukon was concerned about bias and brought a recusal motion on the ground that certain comments and decisions by the trial judge, as well as his involvement in the francophone community in Alberta both before and during his time as a judge, gave rise to a reasonable apprehension of bias. The trial judge dismissed the motion, finding that many of the acts complained of by the Yukon were procedural in nature and involved decisions of a discretionary nature. He also concluded that his involvement in the francophone community created no reasonable apprehension of bias, observing that counsel for the Yukon did not raise the issue when the case was assigned nor at an earlier point in the proceedings.

[4] The trial judge's decision on the merits touched on a number of issues, only two of which remain relevant in this appeal. He concluded that the Yukon had failed to give the Board adequate management and control of French-language education in accordance with s. 23 of the *Charter* and the *Education Act*, and that the Board had the authority to determine which students would be admitted to the French school, including those not expressly contemplated by s. 23 of the *Charter*. He also ordered the Yukon to communicate with and provide services to the Board in French, in compliance with s. 6 of the *Languages Act*, R.S.Y. 2002, c. 133. The Yukon government appealed.

[…]

[69] There is no doubt that a province or territory can delegate the function of setting admission criteria for children of non-rights holders to a school board. This delegation can include granting a minority language school board wide discretion to admit the children of non-rights holders.

[70] There is also no doubt that a province or territory may pass legislation which offers protections higher than those protected by the *Charter*. Section 23 establishes a constitutional minimum: *Mahe*, at p. 379. Two important corollaries flow from this. First, because the *Charter* sets out minimum standards with which legislation must comply, any legislation which falls below these standards contravenes the *Charter* and is presumptively unconstitutional. Second, because the *Charter* sets out only minimum standards, it does not preclude legislation from going beyond the basic rights recognized in the *Charter* to offer additional protections. This fact was recognized by Dickson C.J. in *Mahe*, where he explained that s. 23 establishes "a minimum level of management and control in a given situation; it does not set a ceiling": p. 379. Provincial and territorial governments are permitted to "give minority groups a greater degree of management and control" than that set out in the provision: p. 379.

[71] Some provinces have accepted this invitation and granted school boards wide discretion to admit the children of non-rights holders. In Ontario, for example, s. 293 of the *Education Act*, R.S.O. 1990, c. E.2, provides in part that a French-language school board may admit the child of a non-rights holder if the admission is approved by a majority vote of an admissions committee. In Manitoba, s. 21.15(5) of the *Public Schools Act*, R.S.M. 1987, c. P250, allows the francophone school board to admit any other child beyond those entitled to admission under the act upon written request for admission to the board.

[72] Other provinces have given minority language school boards generous authority over admissions, but imposed specific limitations on the exercise of the power. In Prince Edward Island, for example, the French-language school board may admit children whose parents are not s. 23 rights holders, but any such child must first be released by the English-language board: *French First Language Instruction Regulations*, P.E.I. Reg. EC480/98, s. 10. A similar regime exists in Saskatchewan: *The Education Act*, 1995, S.S. 1995, c. E-0.2, s. 144.

[73] Still other provinces have given limited authority to minority language school boards to admit the children of non-rights holders. In British Columbia, the French-language school board has the discretion to admit the child of an immigrant who, if the parent were a Canadian citizen, would be a s. 23 rights holder: *School Act*, R.S.B.C. 1996, c. 412, s. 166.24.

[74] In this case, however, the Yukon has not delegated the function of setting admission criteria for children of non-rights holders to the Board. In the absence of any such delegation, there is no authority for the Board to unilaterally set admission criteria which are different from what is set out in the

Regulation. This does not preclude the Board from claiming that the Yukon has insufficiently ensured compliance with s. 23, and nothing stops the Board from arguing that the Yukon's approach to admissions prevents the realization of s. 23's purpose: see *Mahe*, at pp. 362-65. But that is a different issue from whether the Board has, in the absence of delegation from the Yukon, the unilateral right to decide to admit children other than those who are covered by s. 23 or the Regulation.

Part 7 – School Committees, Councils and School Boards

62. Residents

62. (1) The Minister shall designate the category of residents for whom the education area and attendance area is established.

62. (2) A designation of residency may be made based on geographic, language or religious criteria.

62. (3) In the designation of residency, the Minister shall ensure that the rights of separate schools referred to in the *Yukon Act* (Canada) are guaranteed.

S.Y. 2002, c.61, s.62

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76. Ministerial authority to combine

76. (1) Subject to subsection (2), the Minister may at any time combine two or more School Boards, two or more Councils, or one or more School Boards with one or more Councils.

76. (2) The Minister shall not combine a School Board or Council that is established on the basis of religion or language with a School Board or Council that is not established on the basis of that religion or language, unless requested to do so in accordance with section 73, 74 or 75.

S.Y. 2002, c.61, s.76

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82. Qualifications of electors

82. (4) For the election of trustees of a School Board or members of a Council that is established on the basis of language pursuant to the rights referred to in section 23 of the *Canadian Charter of Rights and Freedoms*, only those persons who possess the rights referred to in section 23 of the *Canadian Charter of Rights and Freedoms* may vote in the election.

S.Y. 2002, c.61, s.82

Part 11 – General

185. Regulations

185. The Commissioner in Executive Council may make regulations

[…]

(c) respecting anything that may be required to give effect to the French language rights referred to in this Act and required by section 23 of the *Canadian Charter of Rights and Freedoms*;

[…]

S.Y. 2002, c.61, s.185

French as a First Language Instruction Regulation – Education Act, Y.O.I.C. 2016/156

1. Definitions

1. In this Regulation

"admissions committee" means the admissions committee established by the school board; « *comité d'admission* »

"authorized non-rights holder" means a non-rights holder whose child is authorized under section 5 to receive a French language instruction program; « *nonayant droit autorisé* »

"*Charter right*" means a person's right under section 23 of the *Canadian Charter of Rights and Freedoms* to have their child receive a French language instruction program; « *droit garanti par la Charte* »

"education area" means the education area established under section 2; « *zone de fréquentation* »

"eligible student" means

(a) a child of a rights holder, or

(b) a child of an authorized non-rights holder;

« *élève admissible* »

"French language instruction program" means a school or an educational program, including a home education program or a distance education course or program, for which the primary language of instruction is French and does not include a French language immersion program or a program for the purpose of learning French as a second language; « *instruction en français* »

"immediate area" of a French language instruction program means the area within which a student could be reasonably expected to, on a daily basis, travel to and from their home for the purpose of attending the school or educational program; « *secteur immédiat* »

"non-rights holder" means a person who is not a rights holder; « *non-ayant droit* »

"rights holder" means a person who has a *Charter* right; « *ayant droit* »

"school board" means the Yukon Francophone School Board. « *commission scolaire* »

2. Education area established

2. The whole of Yukon is established as an education area to be known as education area No. 23 for the purpose of establishing and providing French language instruction programs.

---

3. Right to receive French language instruction program

3. A person has a right to have their child receive a French language instruction program that is under the administration, management and control of the school board if

(a) the person is a rights holder; and

(b) their child is entitled under section 10 of the Act to receive an educational program.

---

4. Establishing right (rights holder)

4. (1) For the purpose of establishing their right under section 3, a rights holder (referred to in this section as a "declarant") must file a declaration, in a form approved by the Minister, with the admissions committee.

4. (2) On receiving a declaration under subsection (1), the admissions committee must, within a reasonable time, determine whether the declarant meets the requirements under

(a) section 3; and

(b) any relevant policy established by the school board under paragraph 116(1)(d) of the Act.

4. (3) The admissions committee may request from the declarant any information that it determines is necessary to make a determination under subsection (2).

4. (4) A declarant must, as soon as practicable after receiving a request under subsection (3), provide the admissions committee with any of the information requested

(a) that is reasonably within their custody or control; or

(b) that they may be reasonably able to obtain.

4. (5) If the admissions committee determines that a declarant meets the requirements referred to in subsection (2), it must, as soon as practicable, provide written notice to the declarant stating that the declarant has established their right to have their child receive a French language instruction program.

4. (6) If the declarant does not comply with a request under subsection (3) or if the admissions committee determines that the declarant has not sufficiently established their right to have their child receive a French language instruction program, the admissions committee must, as soon as practicable, provide written notice to the declarant stating that the declarant has not sufficiently established their right.

---

5. Authorization to receive French language instruction program (non-rights holder)

5. (1) A non-rights holder (referred to in this section as an "applicant") may apply to the Minister to have their child authorized to receive a French language instruction program by submitting an application, in the form approved by the Minister, to the Minister.

5. (2) On receiving an application under subsection (1), the Minister may authorize the applicant's child to receive a French language instruction program only if

> **(a) the Minister is satisfied that by providing the authorization the cultural or linguistic integrity of the French language instruction program to which the application relates will not be adversely affected; and**
>
> **(b) the authorization is consistent with**
>
> > **(i) any relevant policy established by the Minister under subsection 186(1) of the Act, and**
> >
> > **(ii) a guideline made under section 14.**

5. (3) The Minister may request from an applicant any information that they require to make a decision in respect of the applicant's application.

5. (4) An applicant must, as soon as practicable after receiving a request under subsection (3), provide the Minister with any of the information requested

> **(a) that is reasonably within their custody or control; or**
>
> **(b) that they may be reasonably able to obtain.**

5. (5) If the Minister decides to authorize an applicant's child to receive a French language instruction program, the Minister must, as soon as practicable, provide written notice of their decision to the applicant.

5. (6) If an applicant does not comply with a request under subsection (3) or if the Minister decides not to authorize the applicant's child based on their application, the Minister must, as soon as practicable, provide written notice to the applicant that their child has not been authorized to receive a French language instruction program.

---

6. Minister's delegation of authority

6. (1) The Minister may delegate, in writing, the exercise of their powers and duties under section 5 to the admissions committee.

6. (2) The Minister may, in respect of a delegation under this section

> **(a) include any limitation, term or condition that the Minister considers appropriate; and**
>
> **(b) modify or revoke any part, or the whole of, the delegation.**

6. (3) If the Minister delegates their authority in accordance with subsection (1), the admissions committee must exercise its delegated authority

(a) in a manner that maintains the cultural and linguistic integrity of French language instruction programs; and

(b) in accordance with any relevant guideline issued by the Minister under section 14.

---

7. Appeal of determination

7. A person may make an appeal

(a) to the school board in respect of

(i) a decision under subsection 4(6), or

(ii) a decision made by the admissions committee (acting pursuant to its delegated authority under section 6) under subsection 5(6) to not authorize their child to receive a French language instruction program; or

(b) to the Minister in respect of a decision made by the Minister under subsection 5(6) not to authorize the person's child to receive a French language instruction program only if

(i) the person has information to present to the Minister that was not originally included in their application under subsection 5(1), and

(ii) at the time of their application

(A) the information was not reasonably within the person's custody or control, and

(B) the person was not reasonably able to obtain it.

---

8. School board authority

8. (1) The school board has administration, management and control over every French language instruction program that is or will be provided within the education area.

8. (2) The school board must consist of at least five persons, each of whom is to be known as a trustee of the school board.

8. (3) All information and communication by the school board in respect of its administrative, management and operational work must, except when it is necessary to do otherwise, be in French.

---

9. French as language of instruction

9. A French language instruction program under the administration, management and control of the school board must provide the following in French

(a) all educational and instructional material developed for or provided to students at the school; and

(b) all administrative and communication materials that are developed and distributed by the school's administration.

---

10. Establishment of school

10. (1) The Minister may establish a school for which the school board has administration, management and control.

10. (2) If, in the Minister's opinion, the number of eligible students at a school referred to in subsection (1) does not warrant

(a) its continued operation, the Minister may close the school; or

(b) its continued operation at a particular building or location, the Minister may relocate the school.

10. (3) In deciding whether to close or relocate a school under subsection (2), the Minister must, in accordance with *Charter* rights, consider

(a) the proximity of comparable French language instruction programs within the immediate area of the school;

(b) the number of eligible students within the immediate area of the school;

(c) the potential for the admission of new eligible students at the school during any continuous three-year period;

(d) the distance for which current or future eligible students must be transported for the purpose of attending the school;

(e) any relevant guideline referred to in paragraph 6(1)(a) of the Act.

---

11. Duty to offer program outside Whitehorse

11. (1) The school board must, if it determines that the number of eligible students warrants it, establish a French language instruction program in an area outside the City of Whitehorse by offering a French language instruction program that is suitable for that purpose.

11. (2) Before the school board establishes a program referred to under subsection (1), it must conduct a preliminary assessment that considers

(a) the proximity of comparable French language instruction programs within the immediate area of the proposed program;

(b) the number of eligible students within the immediate area of the proposed program; and

(c) any other relevant factors that it considers are necessary for the purpose of determining a suitable program under subsection (1).

11. (3) On completion of a preliminary assessment conducted under subsection (2), the school board must publish a written report summarizing its findings in respect of the assessment.

11. (4) For the purpose of assisting it in making a determination under subsection (1), the school board may conduct a pre-registration process of eligible students within the immediate area of the proposed program that was subject to a preliminary assessment under subsection (2).

11. (5) Before establishing a program under subsection (1)

(a) the school board must consult with each other school board that administers a school or educational program within the immediate area of the proposed program; and

(b) the Minister must approve the school board's assessment of

(i) the projected eligible students who would attend the proposed program, and

(ii) the ability of eligible students to reasonably assemble within the immediate area of the proposed program.

11. (6) For the purpose of deciding whether to approve the school board's assessment under subparagraph 5(b)(ii), the Minister may assess whether the eligible students within an immediate area of the proposed program are sufficiently concentrated geographically and by grade level by considering

(a) the proximity of comparable French language instruction programs within the immediate area of the proposed program;

(b) the number of eligible students that reside within the immediate area of the proposed program;

(c) the potential for the admission of new eligible students to the proposed program during any continuous three-year period;

(d) the distance for which current or future eligible students must be transported for the purpose of attending the proposed program;

(e) the ages of eligible students who would attend the proposed program; and

(f) any other factor that the Minister considers relevant to their assessment under this section.

11. (7) If the school board decides to establish a program referred to under subsection (1), the school board must

(a) continue operation of the program for a minimum of three years unless extraordinary circumstances make it impractical to do so; and

(b) no later than May 1st in the year in which the program is to be established, provide a written list of the names of all eligible students that have registered for the program to every other school board and school council that administers or has responsibility for a school or educational program within the immediate area of the proposed program.

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12. Hiring criteria

12. For the purposes of exercising its authority under paragraph 116(1)(a) of the Act, the school board may establish any criteria in respect of the hiring of its staff that it considers necessary to ensure the integrity of French language instruction programs.

13. Reporting and accountability

13. The school board must provide to the Minister, on an annual basis, a written report that sets out the following information in respect of each French language instruction program that it administers

(a) the number of students having, at the time of their admission, at least one parent who was a rights holder;

(b) the number of students who, at the time of their admission, were authorized under section 5 to receive a French language instruction program;

(c) the total number of students in each school administered by the school board; and

(d) any other information required under a guideline made under section 14.

14. Ministerial guidelines

14. The Minister may establish guidelines

(a) specifying the criteria to be applied in making an authorization under section 5;

(b) specifying the information to be included in an annual report required under section 13; or

(c) respecting any other matter for which the Minister determines a guideline is necessary for the purpose of administering this Regulation.

School Board Election Regulations – Education Act, Y.O.I.C. 1995/146

1. Interpretation

1. In these regulations

[…]

"interpreter" means a person appointed pursuant to section 16 to assist electors whose first language is not English or French; « *interprète* »

16. Interpreter

16. (1) A returning officer may appoint an interpreter, who is familiar with the language some electors use in the education area, to assist electors who do not understand English or French.

16. (2) The interpreter shall take the attached oath.

Student Transportation Regulations – Education Act, Y.O.I.C. 1991/69

1. Interpretation

1. In these regulations,

"eligible student" means

[…]

(ii) a student who resides more than 3.2 kilometres by the nearest passable road from the school where the student is attending a second language or other specialized program approved by a superintendent or director;

[…]

(« *élève admissible* »)

Teacher Certification Regulations – Education Act, Y.O.I.C. 1993/46

6. Certificates: Cultural

6. (1) The registrar may issue a cultural certificate to a person who has:

(Subsection 6(1) amended by O.I.C. 2010/1167)

(a) fluency in one or more of Gwich'in, Han, Kaska, Tagish, Tlingit, Northern Tutchone, Southern Tutchone and Upper Tanana;

(b) a Native Language Instructor's Certificate from the Yukon Native Language Centre or an equivalent program from a recognized university, college or institute; and

(c) a knowledge of the history and culture of Yukon First Nations and First Nations in general.

6. (2) An applicant for a cultural certificate who meets the requirements of paragraph 6(1)(a) and holds a language instructor's certificate from a jurisdiction outside the Yukon that does not meet all the requirements of paragraph 6(1)(b) may be granted a cultural certificate on an interim basis, for a period not exceeding two years, pending the completion of either

(a) a program of pedagogical studies, equivalent to one course, jointly arranged or sponsored by the Department of Education, First Nations Education Commission, Yukon College and the Yukon Teachers' Association; or,

(b) one course of university or college studies, acceptable to the registrar, in English, Communications or Education.

8. Certificates: Entitlement

8. (2) A teacher issued a cultural certificate may offer instruction in aboriginal languages and First Nations culture at any grade level from kindergarten to grade 12 inclusive.

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10. Certificates: Application

10. (1) Application for a certificate must be made in writing to the registrar on forms provided by the registrar and must be accompanied by all the relevant and applicable documents necessary to evaluate the application.

10. (3) An applicant may be required to provide

> **[…]**
>
> **(b) evidence of both oral and written proficiency in one of the two official languages of Canada;**

Temporary Employees Regulation – Education Act, YOIC 2001/123

1. Definitions

1. In this regulation,

> **"temporary employee" includes any teacher, aboriginal language teacher, educational assistant and remedial tutor who is not an employee within the meaning of subsection 195(1) of the *Education Act*, and who is not a substitute teacher within the meaning of Order-in-Council 1991/185. « *employé à titre temporaire* »**

Elections Act, R.S.Y 2002, c. 63

11.02 Appointment – other election officers

11.02 (1) Where an election is to be held in an electoral district and two or more candidates are nominated in accordance with this Act

> **[…]**
>
> **(b) the returning officer may at any time appoint in the prescribed form**
>
> > **[…]**
> >
> > **(iv) if the returning officer believes that there will be electors voting at a polling station who do not understand English (or neither English nor French, in the case of a polling station at which services are provided in both of those languages), an interpreter for the polling station who is familiar with English (or with French, where applicable) and with a language with which those electors will be familiar, or**
> >
> > **[…]**

11.02 (2) If a deputy returning officer does not understand the language spoken by an elector, the deputy returning officer may request any available person who does understand that language and who makes a declaration in the prescribed form to be the means of communication between the deputy returning officer and the elector with reference to all matters required to enable the elector to vote.

S.Y. 2015, c.11, s.9

Foreign Arbitral Awards Act, R.S.Y. 2002, c. 93

Schedule – Convention on the Recognition and Enforcement of Foreign Arbitral Awards

Article 4

1. To obtain the recognition and enforcement mentioned in the proceding article, the party applying for recognition and enforcement shall, at the time of the application, supply:

a) the duly authenticated original award or a duly certified copy thereof;

b) the original agreement referred to in article 2 or a duly certified copy thereof.

2. If the said award or agreement is not made in an official language of the country in which the award is relied on, the party applying for recognition and enforcement of the award shall produce a translation of these documents into such language. The translation shall be certified by an official or sworn translator or by a diplomatic or consular agent.

Article 16

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.

Health Information Privacy and Management Act, S.Y. 2013, c. 16

Part 4 – Consent, Capacity and Substitute Decision-making

41. Notice and knowledgeable consent

41. (1) Except as provided in subsection (2), a custodian is entitled to assume that an individual's consent to the collection, use or disclosure of the individual's personal health information is knowledgeable if the custodian has posted, in a place where it is likely to come to the individual's attention, or makes readily available to the individual, a notice that meets the prescribed requirements, if any, and that

(a) describes the purpose of the collection, use or disclosure;

(b) advises that the individual may, with respect to the collection, use or disclosure of their personal health information for the purpose of providing health care to them, give or withhold consent and having once given consent, may withdraw that consent;

(c) confirms that without the individual's consent the personal health information can be collected, used or disclosed only in accordance with the provisions of this Act and the regulations; and

(d) advises that if the personal health information is disclosed outside Yukon, the law of the jurisdiction to which it is disclosed will govern its use, collection and disclosure in that jurisdiction.

41. (2) A custodian cannot rely on the assumption referred to in subsection (1) in respect of any individual whom the custodian has reasonable grounds to believe has a limited or impaired ability to understand the language in which the notice is written, or to read or understand any of the information contained in the notice.

41. (3) A custodian must make reasonable efforts to assist an individual described to in subsection (2) in understanding the purpose of the collection, use and disclosure of the individual's personal health information.

S.Y. 2013, c.16, s.41

Health Information General Regulation – Health Information Privacy and Management Act, Y.O.I.C. 2016/159

Part 4 – Consent

17. Notice

17. A notice described in subsection 41(1) of the Act

(a) must be in writing;

(b) must be in English or French (and may also be in any other language);

(c) must be expressed in plain language; and

(d) must generally describe the custodian's record retention schedule.

---

20. Withdrawal of consent

20. (1) An individual who wishes to withdraw their consent to a custodian's collection, use or disclosure of their personal health information must do so clearly and unambiguously, in writing in English or French.

20. (2) A withdrawal in accordance with subsection (1) must be delivered to the custodian or the custodian's agent.

Historic Resources Act, R.S.Y. 2002, c. 109

Part 2 – Educational Programs and Financial Assistance

8. Informational and educational programs

8. The Minister may

[…]

(e) promote the recording and preservation of traditional languages, beliefs, and histories, legends, and cultural knowledge of Yukon Indian People.

S.Y. 2002, c.109, s.8

Part 7 – General

75. Translation services

75. If a person wants to speak during a hearing before Yukon Historic Resources Appeal Board and is able to speak only in a Yukon aboriginal language, the Board shall permit that person to speak through an interpreter and the Minister shall supply the necessary services for interpreting.

S.Y. 2002, c.109, s.75

Human Rights Act, R.S.Y. 2002, c. 116

Part 2 – Discriminatory Practices

7. Prohibited grounds

7. It is discrimination to treat any individual or group unfavourably on any of the following grounds

[…]

(c) ethnic or linguistic background or origin;

[…]

S.Y. 2002, c.116, s.7

Interjurisdictional Support Orders Act, S.Y. 2001, c. 19

Part 2 – Registration and Enforcement of Orders Made Outside the Yukon

22. Foreign document not in English or French

22. (1) If a foreign order or other document is written in a language other than English or French, the order or document must be accompanied by a translation of the order or document into the English or French language.

22. (2) A translation required under subsection (1) must be authenticated as being accurate by a certificate of the translator.

S.Y. 2001, c.19, s.22

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38. Transmission of documents

38. (1) On receipt of an order or document for transmission under this Act to a reciprocating jurisdiction, the designated authority must transmit the order or document to the appropriate authority of the reciprocating jurisdiction.

38. (2) If the reciprocating jurisdiction requires an order or document to be translated into a language other than English or French, the applicant or claimant must either provide the required translation together with a certificate of the translator authenticating the accuracy of the translation or bear the costs of the required translation.

S.Y. 2001, c.19, s.38

International Child Abduction (Hague Convention) Act, S.Y. 2008, c. 5

Schedule – Convention on the Civil Aspects of International Child Abduction

Chapter V – General Provisions

Article 24

Any application, communication or other document sent to the Central Authority of the requested State shall be in the original language, and shall be accompanied by a translation into the official language or one of the official languages of the requested State or, where that is not feasible, a translation into French or English. However, a Contracting State may, by making a reservation in accordance with Article 42, object to the use of either French or English, but not both, in any application, communication or other document sent to its Central Authority.

Chapter VI – Final Clauses

[…]

Done at The Hague, on the 25th day of October, 1980 in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of Netherlands, and of which a certified copy shall be sent, through diplomatic channels, to each of the States Members of the Hague Conference on Private International Law at the date of its Fourteenth Session.

International Commercial Arbitration Act, R.S.Y. 2002, c. 123

Schedule

UNCITRAL Model Law on International Commercial Arbitration

Chapter V – Conduct of Arbitral Proceedings

Article 22. Language

1. The parties are free to agree on the language or languages to be used in the arbitral proceedings. Failing such agreement, the arbitral tribunal shall determine the language or languages to be used in the proceedings. This agreement or determination, unless otherwise specified therein, shall apply to any written statement by a party, any hearing and any award, decision or other communication by the arbitral tribunal.

2. The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed on by the parties or determined by the arbitral tribunal.

Chapter VIII – Recognition and Enforcement of Awards

Article 35. Recognition and enforcement

1. An arbitral award, irrespective of the country in which it was made, shall be recognized as binding and, on application in writing to the competent court, shall be enforced subject to the provisions of this article and of article 36.

2. The party relying on an award or applying for its enforcement shall supply the duly authenticated original award or a duly certified copy thereof, and the original arbitration agreement referred to in article 7 or a duly certified copy thereof. If the award or agreement is not made in an official language of this State, the party shall supply a duly certified translation thereof into such language.

International Sale of Goods Act, R.S.Y. 2002, c. 124

Schedule – United Nations Convention on Contracts for the International Sale of Goods

Part IV – Final Provisions

[…]

DONE at Vienna, this day of the eleventh day of April, one thousand nine hundred and eighty, in a single original, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic.]

Jury Act, R.S.Y. 2002, c. 129

4. Persons qualified to service as jurors

4. Subject to this Act, every person who

(a) has reached the age of majority;

(b) is a Canadian citizen; and

(c) is able to speak and understand whichever of the English language or the French language the trial is being conducted in

Is qualified to serve as a juror in any action or proceeding that may be tried by a jury in the Yukon.

S.Y. 2005, c.11, s.6; S.Y. 2002, c.129, s.4

Marriage Act, R.S.Y. 2002, c. 146

5. Marriage commissioners

5. (1) The Minister may, by order, appoint a person as a marriage commissioner with authority to solemnize civil marriages under this Act, or renew an appointment or a renewal under this subsection, if the person

a) applies in the form, if any, and with the information required by the Minister;

(b) pays the applicable prescribed fee; and

(c) satisfies the Minister that the person

[…]

(iii) is proficient in English, French or both, and

[…]

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12. If party does not understand language used

12. No cleric or marriage commissioner shall solemnize a marriage if either of the contracting parties does not speak or understand the language in which the ceremony is to be performed unless an independent interpreter is present to interpret and convey clearly to that party the meaning of the ceremony.

S.Y. 2002, c.146, s.12

31. Issuer to read licence to parties

31. (1) The issuer shall satisfy themselves that both parties to the intended marriage fully understand the contents of a licence and shall read over the form of licence to each of the parties separately.

31. (2) If either of the parties to the intended marriage does not understand the English language an independent interpreter shall be employed to explain the contents of the licence to that party.

S.Y. 2002, c.146, s.31

Mental Health Act, R.S.Y. 2002, c. 150

Part 6 – Patient's Rights

40. Protection and preservation of human and civil rights

40. (2) Everyone who is required to inform a person of their rights under this Act or who is required to provide a person with a service under this Act shall ensure, to the extent that it is practicable to do so, that the person is advised of their rights or receives the service in the language in which the person is most proficient.

Partnership and Business Names Act, R.S.Y. 2002, c. 166

Part 3 – Limited Partnerships

52. Name of limited partnership

52. (1) The business name of each limited partnership shall end with the words "Limited Partnership" in full or the French language equivalent.

S.Y. 2002, c.166, s.52

Part 4 – Registration

88. Prohibited business names

88. (1) The registrar shall not register a certificate under section 50, an amended certificate under subsection 69(2), an application under paragraph 79(2)(b), a declaration under section 80 or 87, or a notice of change under section 82 or 87(1.2), that contains a business name

> **(a) that is prohibited by the regulations or contains a word or expression prohibited by the regulations; or**
>
> **(b) that does not meet the requirements prescribed by the regulations.**

88. (2) A firm or person may set out their business name in a certificate or declaration in an English form or a French form or an English and French form or in a combined English and French form and the firm or person may use and may be legally designated by any of those forms.

S.Y. 2010, c.13, s.12; S.Y. 2002, c.166, s.88

Part 5 – Limited Liability Partnerships

99. Partnership name

99. (1) The business name of a partnership registered as an LLP shall include the phrase "Limited Liability Partnership" or its abbreviation "LLP" or "L.L.P.", or the French language equivalents.

S.Y. 2010, c.13, s.18

Part 6 – Offences and Regulations

111. Offences and penalties

111. (3) Any person or firm that practices a profession or otherwise carries on business in the Yukon under any name or title that contains the words "limited liability partnership" or the abbreviation "LLP" or "L.L.P.", or the French language equivalents, without being registered under Part 5 commits an offence and is liable on summary conviction to a fine of not more than the prescribed amount.

111. (4) Subsection (3) does not apply in respect of a partnership

> **(a) that has the status of a limited liability partnership under the laws of a jurisdiction other than the Yukon; and**
>
> **(b) has filed a declaration of partnership in respect of the name before the coming into force of Part 5 and the declaration has not expired,**

if, within 60 days after the coming into force of Part 5, the partnership registers as an LLP under Part 5 or files a notice to change its name.

S.Y. 2010, c.13, s.18

Placer Mining Act, S.Y. 2003, c. 13

Part 2 – Land Use and Reclamation

120. (1) Any notice or advertisement or other matter that is required or authorized by this Act to be published by or under the authority of the Government of the Yukon or a public officer primarily for the information of the public shall

> **(a) wherever possible, be printed in English in at least one publication in general circulation within each region where the matter applies that appears wholly or mainly in English, and be printed in French in at least one publication in general circulation within each region where**

the matter applies that appears wholly or mainly in French, equal prominence being given to each version; and

(b) where there is no publication in general circulation within a region where the matter applies that appears wholly or mainly in French, be printed in both English and French in at least one publication in general circulation within that region, equal prominence being given to each version.

120. (2) Any instrument directed to or intended for the notice of the public, purporting to be made or issued by or under the authority of the Government of the Yukon or a public officer pursuant to this Act, shall be made or issued in both English and French.

S.Y. 2003, c.13, s.120

Quartz Mining Act, S.Y. 2003, c. 14

Part 2 – Land Use and Reclamation

153. (1) Any notice or advertisement or other matter that is required or authorized by this Act to be published by or under the authority of the Government of the Yukon or a public officer primarily for the information of the public shall

(a) wherever possible, be printed in English in at least one publication in general circulation within each region where the matter applies that appears wholly or mainly in English, and be printed in French in at least one publication in general circulation within each region where the matter applies that appears wholly or mainly in French, equal prominence being given to each version; and

(b) where there is no publication in general circulation within a region where the matter applies that appears wholly or mainly in French, be printed in both English and French in at least one publication in general circulation within that region, equal prominence being given to each version.

153. (2) Any instrument directed to or intended for the notice of the public, purporting to be made or issued by or under the authority of the Government of the Yukon or a public officer pursuant to this Act, shall be made or issued in both English and French.

S.Y. 2003, c.14, s.153

Reciprocal Enforcement of Judgments Act, R.S.Y. 2002, c. 189

5. Judgments in language other than English

5. When a judgment sought to be registered under this Act is in a language other than the English language, the judgment or the exemplification or certified copy thereof, as the case may be, shall have attached thereto for all purposes of this Act a translation in the English language approved by the Supreme Court, and on that approval being given the judgment shall be deemed to be in the English language.

S.Y. 2002, c.189, s.5

Reciprocal Enforcement of Judgments (U.K.) Act, R.S.Y. 2002, c. 190

Schedule – Convention Between Canada and the United Kingdom of Great Britain and Northern Ireland Providing for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters

Part IV – Procedures

Article VI

4. The registering court may require than an application for registration be accompanied by

[…]

(b) a certified translation of the judgment, if given in a language other than the language of the territory of the registering court;

Regulations Act, R.S.Y. 2002, c. 195

7.1 Miscellaneous corrections to regulations

7.1 The Commissioner in Executive Council may, by regulation, do any of the following in respect of a regulation that it or a member of the Executive Council made under an enactment

(a) correct an error in spelling, punctuation, syntax or grammar;

(b) correct an error in respect of a reference, cross-reference, date or numbering;

(c) alter the style or presentation of text or graphics in order to

(i) be consistent with the Government of Yukon's editorial or drafting practices for legislation, or

(ii) improve electronic or print presentation;

(d) make minor changes as may be required to

(i) ensure a consistent form of expression,

(ii) make the form of expression in French or English more compatible with its form of expression in the other language, or

(iii) achieve gender-neutral language;

(e) revise language or a reference that is outdated or archaic to make it current and accurate;

(f) repeal a provision that is obsolete, spent or has no legal effect; and

(g) repeal a regulation for which the statutory authority to make the regulation has been repealed, has expired or is spent.

S.Y. 2013, c.15, s.17

Societies Act, R.S.Y. 2002, c. 206

Part 2 – Incorporation of societies

10. Name of society

10. (1) A society may set out its name in an English form or a French form or an English and French form or in a combined English and French form and the society may use and may be legally designated by any of those forms.

10. (2) A society may change its name by special resolution but the change is not effective until filed with and approved by the registrar.

S.Y. 2010, c.17, s.6

Part 4 – Extra-territorial Societies

28. Application for registration

28. (1) An extra-territorial society shall apply for registration by sending to the registrar a statement in the prescribed form, together with the prescribed fee, and any further information and documents the registrar requires.

28. (2) The statement shall be accompanied by the appointment of its attorney for service, in the prescribed form.

28. (3) If all or any part of a document is not in the English language, the registrar may require the submission of a translation of the document or that part of the document, verified in a satisfactory manner, before registering the extra-territorial society.

S.Y. 2010, c.17, s.10

Teaching Profession Act, R.S.Y. 2002, c. 215

5. Membership

5. (4) Any person who is employed as a teacher aide, remedial tutor, or aboriginal language teacher in or for a school that is operated by the Minister or by a school board or who is employed pursuant to the *Education Act* shall be eligible to be a member of the teachers association as prescribed by the bylaws.

Territorial Lands (Yukon) Act, S.Y. 2003, c 17

32. Language

32. (1) Any notice or advertisement or other matter that is required or authorized by this Act to be published by or under the authority of the Government of the Yukon or a public officer primarily for the information of the public shall

> **(a) wherever possible, be printed in English in at least one publication in general circulation within each region where the matter applies that appears wholly or mainly in English, and be printed in French in at least one publication in general circulation within each region where the matter applies that appears wholly or mainly in French, equal prominence being given to each version; and**
>
> **(b) where there is no publication in general circulation within a region where the matter applies that appears wholly or mainly in French, be printed in both English and French in at least one publication in general circulation within that region, equal prominence being given to each version.**

32. (2) Any instrument directed to or intended for the notice of the public, purporting to be made or issued by or under the authority of the Government of the Yukon or a public officer pursuant to this Act, shall be made or issued in both English and French.

S.Y. 2003, c.17, s.32

Waters Act, S.Y. 2003, c. 19

45. Languages

45. (1) Any notice or advertisement or other matter that is required or authorized by this Act to be published by or under the authority of the Government of the Yukon or a public officer primarily for the information of the public shall

> **(a) wherever possible, be printed in English in at least one publication in general circulation within each region where the matter applies that appears wholly or mainly in English, and be printed in French in at least one publication in general circulation within each region where the matter applies that appears wholly or mainly in French, equal prominence being given to each version; and**
>
> **(b) where there is no publication in general circulation within a region where the matter applies that appears wholly or mainly in French, be printed in both English and French in at least one publication in general circulation within that region, equal prominence being given to each version.**

45. (2) Any instrument directed to or intended for the notice of the public, purporting to be made or issued by or under the authority of the Government of the Yukon or a public officer pursuant to this Act, shall be made or issued in both English and French.

S.Y. 2003, c.19, s.45

Yukon – Other Regulations

The Ministers presiding over the several departments of the government are assigned administration of the enactments as listed in the attached Schedule – Government Organisation Act, Y.O.I.C. 2014/174

Schedule

NOTE: Where administration of an enactment, or portion of an enactment, is shared by Ministers, this is indicated for each Minister that shares administration. Where the sharing of administration of an enactment, or portion of an enactment, has been mandated by an Order-in-Council (O.I.C.) other than this Order, the O.I.C. number is also indicated. Only those enactments that are in force are included in this Schedule.

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6. The Minister responsible for the Executive Council Office is assigned administration of the following Acts

[…]

***Languages Act* (shared with the French Language Services Directorate)**

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11. The Minister responsible for the French Language Services Directorate is assigned administration of the following Act

***Languages Act* (shared with the Executive Council Office)**

Amendment to Champagne and Aishihik First Nations Final Agreement – An Act Approving Yukon Land Claims Final Agreements, Y.O.I.C. 2006/66

8.0 Heritage Resources

8.4 Government agrees that the Southern Tutchone language shall be included in any interpretive displays and signage that may be erected in the CAFN [Champagne and Aishihik First Nations] Region related to the history and culture of the Champagne and Aishihik First Nations.

N.B. -- There are eleven Yukon First Nation Final Agreements each signed by the particular Yukon First Nation, Yukon and Canada that contain provisions related to language: the Carcross/Tagish First Nation Final Agreement, the Champagne and Aishihik First Nations Final Agreement, the Kluane First Nation Final Agreement, the Kwanlin Dün First Nation Final Agreement, the Little Salmon/Carmacks First Nation Final Agreement, the First Nation of Na-Cho Nyäk Dun Final Agreement, the Selkirk First Nation Final Agreement, the Ta'an Kwäch'än Council Final Agreement, the Teslin Tlingit Council Final Agreement, the Tr'ondëk Hwëch'in Final Agreement and the Vuntut Gwitchin First Nation Final Agreement. These land claims agreements are treaties for the purposes of section 35 of the *Constitution Act, 1982* and have been brought into law under *An Act Approving Yukon Land Claim Final Agreements*, RSY 2002, c.240 and *Yukon First Nations Land Claims Settlement Act*, SC 1994, c.34. The texts of the Agreements are available here: http://www.eco.gov.yk.ca/aboriginalrelations/agreements.html. Amendments to the agreements by Yukon and Canada are evidenced by Orders in Council and Privy Council Orders made under the respective settlement land legislation.

Each settled First Nation in Yukon has also entered into a self-government agreement with Yukon and Canada which gives the First Nation the power to enact laws in the Yukon in relation to the provision of services to their citizens in relation to aboriginal languages. (clause 13.2.2 of each self-government agreement).

Apprentice Training and Tradesperson's Qualifications Regulations – Apprentice Training Act, Y.O.I.C. 2003/241

Schedule A, Part 03

4. Specific Trade Schedule for Heavy Duty Equipment Technician (Off Road)

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(b) minimum education academic, grade 11 Mathematics, English and a grade 11 Science or equivalent, or acceptable results on an entrance examination as required by the Director.

Schedule A, Part 05

4. Specific Trade Schedule for Industrial Electrician

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(b) minimum education – complete grade 12 Mathematics, Science, and English, or

(c) their equivalent, and acceptable results on an entrance examination required by the Director;

(d) or successful completion of an entrance examination as required by the Director;

Schedule A, Part 10

4. Specific Trade Schedule for Motor Vehicle Body Repairer (Metal and Paint)

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(b) minimum education academic, grade 10 Mathematics, English and Science or equivalent, or acceptable results on an entrance examination as required by the Director.

Schedule "A", Part 14

4. Specific Trade Schedule for Construction Electrician

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(b) minimum education – complete grade 12 Mathematics, Science, and English, or their equivalence, and acceptable results on an entrance examination required by the Director; or

(c) successful completion of an entrance examination as required by the Director;

Schedule "A", Part 31

4. Specific Trade Schedule for Gasfitter, First Class, Second Class

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(b) minimum education – academic grade 10 Mathematics, English and Science and acceptable results on an entrance examination as required by the Director.

Schedule "A", Part 33

4. Specific Trade Schedule for Sprinkler System Installer

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(b) minimum education – Successful completion of Grade 10 Mathematics, Science, and English, or their equivalent, and acceptable results on any entrance examination required by the Director; or

(c) successful completion of an entrance examination as required by the Director.

Schedule "A", Part 34

4. Specific Trade Schedule for Sawfitter/filer

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(b) minimum education – complete grade 10 Mathematics and English, or their equivalents, and acceptable results on an entrance examination required by the Director; or

(c) Successful completion of an entrance examination as required by the Director.

Schedule "A", Part 40

4. Specific Trade Schedule for Truck and Transport Technician

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(b) minimum education academic, grade 11 Mathematics, English and a grade 11 Science or equivalent, or acceptable results on an entrance examination as required by the Director.

Schedule "A", Part 41

4. Specific Trade Schedule for Power System Electrician

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(b) minimum education – academic grade 12 Mathematics, English and a minimum grade 10 Science or equivalent, and acceptable results on an entrance examination as required by the Director.

Schedule "A", Part 42

4. Specific Trade Schedule for Transport Trailer Technician

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(b) minimum education academic, grade 11 Mathematics, English and a grade 11 Science or equivalent, or acceptable results on an entrance examination as required by the Director.

Schedule "A", Part 43

4. Specific Trade Schedule for Automotive Painter

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(b) minimum education: academic, grade 10 Mathematics, English and Science or equivalent, or acceptable results on an entrance examination as required by the Director.

Schedule “A”, Part 44

4. Specific Trade Schedule for Community Antenna Television Technician

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(c) minimum education – complete Grade 12 Mathematics, Science and English or equivalent acceptable results on an entrance examination required by the Director.

Schedule “A”, Part 45

4. Specific Trade Schedule for Floor Covering Installer

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(b) minimum education – academic grade 10 Mathematics and English or equivalent, or acceptable results on an entrance examination as required by the Director.

Schedule “A”, Part 47

4. Specific Trade Schedule for Heavy Equipment and Truck and Transport Technician

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(b) minimum education academic, grade 11 Mathematics, English and a grade 11 Science or equivalent, or acceptable results on an entrance examination as required by the Director.

Schedule A, Part 48

4. Specific Trade Schedule for Motor Vehicle Body Prepper

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(b) Minimum education: academic, grade 10 Mathematics, English and Science or equivalent, or acceptable results on an entrance examination as required by the Director.

Schedule A, Part 49

4. Specific Trade Schedule for Motor Vehicle Body Repairer

4. Eligibility for apprenticeship (section 12 of this Regulation)

[…]

(b) Minimum education: academic, grade 10 Mathematics, English and Science or equivalent, or acceptable results on an entrance examination as required by the Director.

Boilers and Pressure Vessels Act Regulations – Boiler and Pressure Vessels Act, Y.O.I.C. 1980/303

Qualifications and Examinations

Qualifications for first class engineers certificate of competency examinations

10. Minimum educational requirements

10. (3) The minimum education requirements to qualify for a First Class Engineer's Certificate of Competency examination are at least 50% standing in Physics (Grade 12), Mathematics (Grade 11) and English (Grade 11) or equivalent or a pass in Part "A" of a First Class Course in Power Engineering satisfactory to the chief inspector.

Qualifications for second class engineer's certificate of competency examination

11. Minimum educational requirements

11. (3) The minimum requirements to take a Second Class Engineer's Certificate of Competency examination are at least a 50% standing in Science of Physics (Grade 11), Mathematics (Grade 11) and English (Grade 11), or equivalent, or a pass in Part "A" of a Second Class Course in power engineering, satisfactory to the chief inspector.

Qualifications for third class engineer's certificate of competency examinations

12. Minimum educational requirements

12. (3) The minimum educational requirements to qualify to take a Third Class Engineer's Certificate of Competency examination are at least a 50% standing in Science or Physics (Grade 10), Mathematics (Grade 10) and English (Grade 10) or equivalent, or a pass in Part "A" of a Third Class Course in power engineering satisfactory to the chief inspector.

Building Standards Regulation, 2015 – Building Standards Act, Y.O.I.C. 2015/250

44. Access to National Building Code

44. The Director must ensure that English and French versions of the National Building Code are available for public reference.

Electrical Protection Regulation, 1992 – Electrical Protection Act, Y.O.I.C. 1992/017

19. Access to electrical code

19. The chief inspector shall ensure that English and French versions of the electrical code are available for public reference.

Fees – Occupational Training Act, Y.O.I.C. 1988/152

Yukon College – Fee Schedule

Waiving of fees

1. With exception of specifically required fees (eg. Elderhostel, textbooks, activity fees), application and tuition fees are waived for senior citizens aged 65 or over.

2. English As A Second Language. Fees are waived.

3. Tuition fees may be waived or reduced for employers or course participants who assist the College in kind to deliver a course (eg. facility and equipment loans, administrative or instructional assistance, etc.)

Fire Safety Regulation, 2015 – Fire Prevention Act, Y.O.I.C. 2015/252

5. Access to National Fire Code

5. The fire marshal must ensure that English and French versions of the National Fire Code are available for public reference.

Medical Profession Registration and Fees Regulation – Medical Profession Act, Y.O.I.C. 2011/128

Part 2 – Individuals

4. General

4. An individual who wishes to be included in a register (other than the Courtesy Register or the Emergency Register) must

[…]

(c) establish to the satisfaction of the council that the individual

[…]

(iii) is reasonably able to converse, read and write in at least one of the official languages of Canada,

Movable Soccer Goal Safety Regulation – Movable Soccer Goal Safety Act, Y.O.I.C. 2016/72

3. Safety labelling

3. (1) A regulated goal must bear permanently affixed labelling that

(a) warns against children climbing or hanging on the goal;

(b) indicates that the goal must be anchored at all times while in use;

(c) warns that if the goal is not secured it may tip over causing injury or death.

3. (2) The labelling described in subsection (1) must be

(a) clearly visible when a regulated goal is positioned for use; and

(b) in both the French and English languages.

Oil and Gas Drilling and Production Regulations – Oil and Gas Act, Y.O.I.C. 2004/158

156. General safety of operations

156. (1) The licensee of a well or of any field facility associated with the well shall ensure that

[…]

(d) differences in language or other obstacles to effective communication do not jeopardize the safety of operations.

Personal Property Security Regulation – Personal Property Security Act, Y.O.I.C. 2016/86

21. If debtor is body corporate (enterprise)

21. (1) Subject to subsection (2), if a debtor is a body corporate, the registrant

(a) must enter through the field provided for the entering of an enterprise name that is located under the heading "Debtor (Enterprise)", the name of the body corporate; and

(b) may, to the extent it applies to the name of the body corporate, use one of the following abbreviations as a part of the name entered in accordance with paragraph (a)

(i) "Ltd", "Ltee", "Ltée", "mc", "Incorp", "Corp", "Co" or "Cie", or

(ii) "Limited", "Limitee", "Limitée", "Incorporated", "Incorporee", "Incorporée", "Corporation", "Company" or "Compagnie".

21. (2) If the name of a body corporate referred to in subsection (1) is in more than one of the following forms, the registrant must enter each form of the name (as if each form represented a separate and distinct debtor)

(a) an English form;

(b) a French form;

(c) a combined English-French form.

Real Estate Agents' Licensing Regulations – Real Estate Agents Act, Y.C.O. 1977/158

Part I – Qualifications and Procedure

4. (1) Where section 4.1 does not apply, every individual who applies for a licence as an agent shall satisfy the Superintendent that he possesses the following qualifications as a condition to the issuing to him of a licence;

[…]

(b) that he can read, write and has a good working knowledge of the English language,

[…]

4.1 (1) In individual is entitled to receive a licence as a real estate agent under this Regulation if the individual

[…]

(c) can read, write and has a good working knowledge of the English language;

[…]

4.1 (2) The superintendent may impose additional training, experience, examinations or assessments as a condition of the issuance of a licence under this section where an individual who applies for a licence under subsection (1) has not worked as a real estate agent within the period of two years immediately preceding the date when the individual's application is received by the superintendent.

Part II – Application for Licence as a Salesman

5. (1) Where section 5.1 does not apply, every applicant for a licence as a salesman shall satisfy the Superintendent that he possesses the following qualifications as a condition to the issuing to him of a licence:

[…]

(b) that he can read, write and has good working knowledge of the English language,

---

5.1 (1) An individual is entitled to receive a licence as a real estate salesperson under this Regulation if the individual

[…]

(b) can read, write and has a good working knowledge of the English language;

[…]

5.1 (2) The superintendent may impose additional training, experience, examinations or assessments as a condition of the issuance of a licence under this section where an individual who applies for registration under this section has not worked as a real estate salesperson within the period of two years immediately preceding the date when the individual's application is received by the superintendent.

Registered Nurses Profession Regulation, YOIC 2012/198

Part 2 – Membership, Registration and Licensing

Division 2 – Registration

4. Eligibility for registration

4. (1) An applicant for registration in any class of membership, other than honourary, must provide to the registrar

[…]

(e) in the case of an applicant for registration as a registered nurse or a nurse practitioner, evidence satisfactory to the registrar of the person's proficiency in the English language; and

Rules of Court – Judicature Act, Y.O.I.C. 2009/65

Rule 4 – Forms and Address for Delivery

Documents

(2) Unless the nature of the document renders it impracticable, every document prepared for use in the court shall be in the English or French language, legibly printed, typewritten, written or reproduced on 8 1/2 inch x 11 inch (126 mm x 279 mm) durable white paper or durable off-white recycled paper.

(3) Transcripts of oral evidence shall conform to subrule (2).

Rule 40 - Depositions

Letter of request

(8) Where an order is made under subrule (7), the letter of request shall be sent by the party obtaining the order to the Under Secretary of State for External Affairs of Canada (or, if the evidence is to be taken in Canada, to the Deputy Minister of Justice for Yukon), and shall have attached to it

> **(a) any interrogatories to be put to the witness,**
>
> **(b) a list of the names, addresses and telephone numbers of the lawyers or agents of the parties, both in Yukon and in the other jurisdiction, and**
>
> **(c) a copy of the letter of request and any interrogatories translated into the appropriate official language of the jurisdiction where the examination is to take place and bearing the certificate of the translator that it is a true translation and giving his or her full name and address.**

Rule 49 - Affidavits

Interpretation to deponent who does not understand English

(7) Where it appears to a person before whom an affidavit is to be sworn that the deponent does not understand the English language, the affidavit shall be interpreted to the deponent by a competent interpreter who shall swear by affidavit in Form 60 that he or she has interpreted the affidavit to the deponent.

Rules of Procedure for Proceedings – Workers' Compensation Act, Y.W.C.H.S.B.O. 2001/01

Appendix "A"

Rules of Procedure for the proceedings before the Workers' Compensation Health and Safety Board

Interpreters

17) Interpreters will be provided as required in legislation. Interpreters may be provided for additional languages as may be available, and requests for these interpretation services must be made at least 30 days before the hearing.

Appendix "B" – For proceedings before the Hearing Officer Workers' Compensation Health and Safety Board

Interpreters

16) Interpreters will be provided as required in legislation. Interpreters may be provided for additional languages as may be available, and requests for these interpretation services must be made at least 30 days before the hearing.

Small Claims Court Regulations – Small Claims Court Act, Y.O.I.C. 1995/152

78. Translation of documents

78. Upon a request, a translation in French/English shall be made available by the party that served the form.

Travel for Medical Treatment Regulations – Travel for Medical Treatment Act, Y.O.I.C. 1995/116

1. Interpretation

1. In these regulations

[…]

"lay escort" means any person accompanying a patient on travel for medical treatment whose presence is required due to frailty, debility, handicap, age or language barrier. Escorts whose presence is required for nursing, medical or other professional supervision are excluded;
« *accompagnateur non spécialisé* »

[…]

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7. Escorts

7. (1) Travel expenses of escorts may be paid when the authorized practitioner requests an escort and provides justification for its provision and shall be dealt with as provided for in sections 4 and 5.

7. (2) The factors which shall be considered in the requesting and approving of an escort are:

> **[…]**
>
> **(d) lack of knowledge of the English language or some other impediment to communication; and**

Unincorporated Community Liquor Plebiscite Regulation – Liquor Act, Y.O.I.C. 1994/105

10. Content of ballot

10. (1) The ballot must contain only the question to be voted on followed by the word "Yes", with a boxed space for a voter to make a mark, and the word "No" with a boxed space for a voter to make a mark.

10. (2) All wording on the ballot shall be written in English and French.