



Standing Committee on Legislation

Report on the Review of Nunavut's Language Legislation: Official Languages Act and Inuit Language Protection Act

**2nd Session of the 6th Legislative Assembly of Nunavut
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Introduction

In 2008, the Legislative Assembly of Nunavut passed two language statutes, the *Official Languages Act* and the *Inuit Language Protection Act*, which came into force in stages, by 2017 and 2020 respectively. Both statutes mandate that a review be conducted by the Legislative Assembly of Nunavut.

Section 37 of the *Official Languages Act* provides that:

37. (1) After every five years of operation, commencing with a first review in the year following September 18, 2014, or such earlier time after this Act comes into force as the Legislative Assembly may direct, the Legislative Assembly or a committee of the Legislative Assembly shall review the provisions and operation of this Act, and such other legislation, policies, guidelines, plans or directives as the Legislative Assembly or committee of the Legislative Assembly may direct.

(2) The review shall include an examination of the administration and implementation of this Act, the effectiveness of its provisions and the achievement of its objectives and may include recommendations for changes to this Act.

Section 43 of the *Inuit Language Protection Act* provides that:

43. (1) Except as directed by motion of the Legislative Assembly, section 37 of the *Official Languages Act* governs the review of this Act.

(2) A review under subsection (1) shall include a review of the status of the Inuit Uqausinginnik Taiguusiliuqtiit, and whether or not administrative independence is necessary for its work.

On November 7, 2022, the Legislative Assembly approved a motion for the Standing Committee on Legislation to conduct the review of the legislation and to report back to the House. The committee's review was initiated in January of 2023 with invitations to key stakeholders and a callout to members of the public for submissions on the legislation.

The Standing Committee carefully reviewed the *Official Languages Act* and the *Inuit Language Protection Act*, giving full consideration to the provisions, operation, administration and implementation of the legislation. The committee also reviewed the status of the Inuit Uqausinginnik Taiguusiliuqtiit.

As part of its review to determine the effectiveness of the provisions in the legislation and how successful the legislation has been to date in achieving its objectives, the Standing Committee considered a number of reports and policy documents including the Government of Nunavut's Uqausivut language plans, the Minister of Languages' Annual Reports, and Annual Reports from the Office of Nunavut's Languages Commissioner and the Inuit Uqausinginnik

Taiguusiliuqtiit. The committee also reviewed federal legislation and policy documents relating to the use of official languages and indigenous languages in Canada.

A number of submissions relating to Nunavut's language legislation were received by the June 2023 deadline and copies were tabled in the Legislative Assembly on October 19, 2023 (TD 165-6(2)). Standing Committee members were impressed with the level of thought and detail reflected in the submissions.

From September 25 to 29, 2023, hearings held in the Legislative Assembly chamber provided an opportunity for in-depth discussions on the submissions and many related issues.

Members wish to thank the Minister of Languages, Nunavut Tunngavik Incorporated, the Languages Commissioner of Nunavut, the Inuit Uqausinginnik Taiguusiliuqtiit and the Association des francophones du Nunavut for their contributions and participation in the review process.

With respect to the **provisions** of the legislation:

The Standing Committee noted that a number of definitions and terms used in the statutes could be updated or re-defined to improve interpretation and application of the Acts' provisions as well as ensuring that the legislation keeps pace with current norms and practice.

The Standing Committee recommends that the term "Inuit Language" be replaced with the term "Inuktut" to more closely align with current government policy as well as policies and approaches adopted by Inuit-centered non-government organizations. The committee further recommends that the definition of "Inuinnaqtun" be revised to provide greater support for the revitalization of Inuinnaqtun and to ensure ongoing access to services and resources in Inuinnaqtun.

The Standing Committee supports the autonomy of Nunavut's French language-speaking population to identify themselves and recommends that the term "francophone" be replaced with a term selected by the French language-speaking community of Nunavut.

The Standing Committee recommends that the term "concern" be replaced with the term "complaint" in order to strengthen the legislation and bring it in line with other statutes that address the infringement of specific rights.

While the term "significant demand" and how it is used to determine the delivery of federal services to the Canadian public is explicitly defined by regulation within the context of federal language legislation, the Standing Committee noted that the concept of "significant demand" within the context of Nunavut's legislation is not defined in either of Nunavut's language-specific statutes. Defining the principle of "significant demand" within Nunavut's legislative framework could serve to strengthen the implementation of the legislation with respect to the delivery of public services in Nunavut.

The Standing Committee recommends that the term “significant demand” be defined in the legislation or by regulation in accordance with the legislation.

Concerns were raised regarding the rights of language-speakers not being fully respected within Nunavut’s justice system. It was further noted that some quasi-judicial bodies with adjudicative functions may not be covered by the legislation.

The Standing Committee recommends that provisions of the *Official Languages Act* which relate to the administration of justice be revised to ensure equality of language rights with respect to consecutive or simultaneous interpretation during proceedings and the timely dissemination of any notices, decisions, orders and judgements. Members recognize that it may take some time for judicial and quasi-judicial entities to develop the capacity to meet enhanced legislated requirements in this area.

Section 3 of the *Inuit Language Protection Act* provides for the obligations of “every organization” with respect to Inuit language services and use in Nunavut, with some accommodation for private sector bodies. The definitions of “public agency” and “public sector body” in section 1 of the *Inuit Language Protection Act* explicitly include federal departments, agencies and institutions. However, the Standing Committee has noted an ongoing concern that many federal public services provided in Nunavut do not comply with the *Inuit Language Protection Act*. Although the federal *Indigenous Languages Act* and *Inuit Nunangat Policy* do provide that agreements may be made to ensure the delivery of services in Inuktitut, the Standing Committee is of the view that the provisions of the *Inuit Language Protection Act* could be strengthened in this area.

The Standing Committee recommends that the *Inuit Language Protection Act* be amended to clarify the definitions of “public agency” and “public sector body”. The committee further recommends that regulations be developed to clarify how the legislation applies to federal departments, agencies and institutions and to identify specific entities which are obligated to provide Inuit language services in Nunavut.

Section 38 of the *Official Languages Act* and section 44 of the *Inuit Language Protection Act* provide for the making of regulations to guide the interpretation and implementation of the legislation. To date, no regulations have been developed for either of Nunavut’s language laws.

The Standing Committee recommends that regulations be developed as soon as practicable to guide the interpretation, application and implementation of the *Official Languages Act* and the *Inuit Language Protection Act*.

With respect to the **administration** and **implementation** of the legislation:

Nunavut's *Official Languages Act* provides for two entities which have different roles and responsibilities with respect to implementing the legislation: the Minister of Languages and the Languages Commissioner.

Section 13 (3) of the *Official Languages Act* provides that the Minister of Languages shall develop a plan for the implementation of language obligations, policies, programs and services in accordance with the legislation. Section 25(1) of the *Inuit Language Protection Act* provides that a separate comprehensive plan be included in the plan to ensure a coordinated implementation of the statutes. To date, two such plans, *Uqausivut* and *Uqausivut 2.0*, have been introduced by the Government of Nunavut with the latter expired in 2023. Upon review of the relevant documents, the Standing Committee concluded that the implementation plans did not provide strong enough direction to government organizations and other entities. Members felt that the plans should require greater commitment on the part of government departments and public agencies to implement and promote the objectives of the *Official Languages Act* and the *Inuit Language Protection Act*.

The committee noted that the Minister of Languages' Annual Reports provide comprehensive overviews of activities and initiatives undertaken to enhance and support language rights across Nunavut. Members were of the view that the information in these reports could be enhanced with the inclusion of key indicators to help measure the progress and success of departmental and public agency performance in promoting language use, delivering language services and protecting language rights.

The Standing Committee recommends that the Minister of Languages' next implementation plan provide stronger direction to departments and public agencies to implement and promote the objectives of Nunavut's language legislation.

Section 13.1 of the *Official Languages Act* provides for the establishment of the Official Languages Promotion Fund as an account to collect funds in accordance with subsection 13.1(3). Since its establishment, the Fund has not collected any monies other than one donation and is steadily approaching a deficit balance. While considering the possibility of providing for financial penalties for violations of the legislation, the Standing Committee was of the view that any monies collected with respect to the enforcement or implementation of the legislation could be submitted directly to the government's general revenue fund.

The Standing Committee recommends that the *Official Languages Act* be amended to delete section 13.1, which provides for the establishment of the Official Languages Promotion Fund. The committee further recommends that the legislation be amended to delete section 15 (2.1) which provides that the Minister of Languages' Annual Report address the Official Languages Promotion Fund.

The *Official Languages Act* provides for the appointment of Nunavut's Languages Commissioner and, in conjunction with provisions of the *Inuit Language Protection Act*, establishes the roles, responsibilities and duties of this office.

The Standing Committee noted that the legislative provisions governing when and how the Languages Commissioner conducts investigations into concerns or complaints is not clear and straightforward. The lack of a formal process for departments, agencies and other entities to respond to recommendations made by the Languages Commissioner with respect to implementing or complying with the legislation was also noted as an issue of concern.

The Standing Committee recommends that the process by which the Languages Commissioner conducts investigations be clarified through regulation or legislative amendment.

The Standing Committee recommends that the Languages Commissioner's Annual Reports provide updates on the status of recommendations made by the office and what, if any, activities have been undertaken by departments, agencies and other entities in response to recommendations made by the Languages Commissioner. The committee further recommends that a timeline of 90 days be established for departments, agencies and other entities to respond to recommendations made by the Languages Commissioner.

The Standing Committee considered the issue of enforcing the legislation and, more specifically, the option of administering fines and penalties for violations or non-compliance. Subsection 27(2) of the *Official Languages Act* and subsection 33(2) of the *Inuit Language Protection Act* are the only provisions which allow for financial penalties to be imposed, and only then in cases where a person is found to have retaliated or discriminated against an individual who has brought forward or been involved in bringing forward a concern or complaint to the Languages Commissioner. The legislation does not provide for any other penalties for non-compliance or violation of the provisions of Nunavut's language legislation. While the Standing Committee supported the concept of imposing financial penalties to encourage compliance and to support enforcement of the legislation, it was felt that more time may be required by the private sector to develop capacity to meet those requirements of the legislation which only recently came into force. It was further noted that the Office of the Languages Commissioner would also need time to enhance its ability to implement any such enforcement activities should they be included in the legislation.

The Standing Committee recommends that the issue of imposing fines and penalties for non-compliance, infractions or violations of the legislation be considered at the next mandated review of the *Official Languages Act* and the *Inuit Language Protection Act*.

Section 15 of the *Inuit Language Protection Act* provides for the establishment of the Inuit Uqausinginnik Taigusiliuqtiit. The Standing Committee recognizes that since its inception, the Inuit Uqausinginnik Taigusiliuqtiit has struggled to function independently. Members appreciate that the Department of Culture and Heritage has provided ongoing and significant administrative support to enable this body to continue its operations.

The Standing Committee is of the view that administrative independence is important and necessary for the Inuit Uqausinginnik Taigusiliuqtiit to continue doing its work and that, despite past struggles, it should be given the chance to fully function given the recent staffing of key positions within the organization. Members acknowledged that provisions relating to the membership of the Inuit Uqausinginnik Taigusiliuqtiit board and the staffing structure of its office should be revised to ensure greater stability of the organization.

The Standing Committee recommends that section 20 of the *Inuit Language Protection Act* be amended to address issues related to the appointment of board members, the filling of vacant positions, and the revocation of an appointment after the expiry of a member's term.

The Standing Committee recommends that section 22 of the *Inuit Language Protection Act* be amended to address staffing of the Inuit Uqausinginnik Taigusiliuqtiit office by more closely aligning its provisions to similar provisions in section 20 of the *Official Languages Act* and to ensure compliance with the *Public Service Act*.

Conclusion

The Standing Committee on Legislation has completed its review of Nunavut's *Official Languages Act* and the *Inuit Language Protection Act*. The committee has determined that both statutes are strong and straightforward in their current form. The Standing Committee notes that improving awareness of Nunavut's language legislation will be a key factor in achieving its objectives in the years to come.

The committee has identified areas of possible amendment to the legislation for the government's consideration and made a number of recommendations. The submissions received and testimony from the hearings addressed several additional issues and provided many suggestions which the government may also wish to consider in bringing forward legislative amendments to support and enhance language rights in Nunavut.