

AR #4389

September 10, 2013

The Honourable Catherine A. Fraser
Chief Justice of Alberta
The Court of Appeal of Alberta
5th Floor South, Law Courts Building
1A Sir Winston Churchill Square
Edmonton, AB T5J 0R2

The Honourable Neil C. Wittmann
Chief Justice
The Court of Queen's Bench of Alberta
2401-N, Calgary Courts Centre
601 – 5th Street S.W.
Calgary, AB T2P 5P7

Honourable Terrence J. Matchett
Chief Judge
Provincial Court of Alberta
6th Floor North, Law Courts Building
1A Sir Winston Churchill Square
Edmonton, AB T5J 0R2

Dear Chief Justice Fraser, Chief Justice Wittmann and Chief Judge Matchett:

RE: *Languages in the Courts Regulation* (AR 158/2013)

I am attaching, for your information, a copy of Order in Council 254/2013 making the *Languages in the Courts Regulation* (AR 158/2013) effective September 6, 2013. The Regulation can also be viewed online at:

http://www.qp.alberta.ca/documents/orders/orders_in_council/2013/913/2013_254.html

This regulation is made under s. 4(2) of the *Languages Act* and clarifies the use of French in proceedings under the *Provincial Offences Procedure Act*. The regulation provides that in provincial offence matters:

- Where the defendant or counsel wishes to use French in oral communications in a proceeding, the defendant must give reasonable notice of that fact to the prosecutor and the Court, and the Crown will arrange for an interpreter.
- Where the defendant wishes to have their proceeding held in French, and provided the prosecutor consents, the judge may conduct the proceeding in French.

- For French proceedings, unless the parties agree otherwise, the Crown must pay to translate any of its written evidence to French, and the Defendant must pay to translate any of its written evidence to French.
- Where the defendant wishes to have their proceeding held in English and French, and provided the prosecutor consents, the judge may conduct the proceeding in English and French. If the parties cannot agree on the circumstances in which, or extent to which, the parties may use each language in a bilingual proceeding, the judge may
 - at the request of the parties, provide directions regarding the use of either language, or
 - direct the Crown to arrange an interpreter for the proceeding (as if the defendant had provided notice of a wish to use French in oral communication).
- Transcripts of proceedings to which the regulation applies shall include both the English and French spoken during the proceeding.

In large part, the regulation incorporates existing practices which have developed over time to permit French-speaking Albertans to exercise their right to use French in oral communication with the Court under s. 4(1) of the *Languages Act*. As a result, the Ministry does not anticipate an increased demand for French or bilingual proceedings as a result of this regulation.

This letter is provided for information purposes only.

Yours truly,



Lynn Varty
Assistant Deputy Minister

Attachment

cc: The Honourable John D. Rooke, Associate Chief Justice
Court of Queen's Bench of Alberta

The Honourable A.H. Lefever, Deputy Chief Judge
Provincial Court of Alberta



Province of Alberta
Order in Council

O.C. 254 /2013

SEP 06 2013

ORDER IN COUNCIL

Approved and ordered:

Lieutenant Governor

The Lieutenant Governor in Council makes the Languages in the Courts Regulation set out in the attached Appendix.

CHAIR

AR 158/2013
Filed September 6, 2013

September 6, 2013

Clara Cerminara
O.C. File
Central Filing

For Information only

Recommended by: Minister of Justice and Solicitor General

Authority: Languages Act; Loi Linguistique
(section 4)

APPENDIX

Languages Act Loi Linguistique

LANGUAGES IN THE COURTS REGULATION

Table of Contents

- 1 Definitions
- 2 Where defendant wishes to use French
- 3 Holding proceeding in French
- 4 Holding proceeding in English and French
- 5 Transcripts

Definitions

1 In this Regulation,

- (a) “Crown” means the Crown in right of Alberta;
- (b) “defendant” means a person who is charged with or convicted of an offence under an enactment;
- (c) “enactment” has the meaning given to it in the *Provincial Offences Procedure Act*;
- (d) “judge” means,
 - (i) in relation to a proceeding before the Court of Appeal of Alberta, a judge of that court or, if more than one judge is hearing the proceeding, the judges,
 - (ii) in relation to a proceeding before the Court of Queen’s Bench of Alberta, a judge of that court, and
 - (iii) in relation to a proceeding before the Provincial Court of Alberta,
 - (A) a judge as defined in the *Provincial Court Act*,
or
 - (B) a person appointed under the *Justice of the Peace Act* as a justice of the peace;
- (e) “proceeding” means a proceeding before
 - (i) the Court of Appeal of Alberta,
 - (ii) the Court of Queen’s Bench of Alberta, or



(iii) the Provincial Court of Alberta

to which the *Provincial Offences Procedure Act* applies.

Where defendant wishes to use French

2(1) Where a defendant wishes to use French, or wishes to have the defendant's counsel use French, in oral communications in a proceeding, the defendant shall give reasonable notice of that fact to the prosecutor and to the court in which the proceeding is to be heard.

(2) Where a defendant gives notice in accordance with subsection (1), the Crown shall arrange for an interpreter for the proceeding.

Holding proceeding in French

3(1) A judge may, at the request of a defendant and with the consent of the prosecutor, conduct a proceeding in French.

(2) Where, under subsection (1), a proceeding is conducted in French,

- (a)** the prosecutor shall arrange and pay for translation into French of any written evidence adduced in English by the prosecutor in the proceeding, and
- (b)** the defendant shall arrange and pay for translation into French of any written evidence adduced in English by or on behalf of the defendant in the proceeding

unless the parties agree on other arrangements to pay for translation.

Holding proceeding in English and French

4(1) A judge may, at the request of a defendant and with the consent of the prosecutor, conduct a proceeding in both English and French.

(2) If the parties are unable to agree respecting the circumstances in which, and the extent to which, the parties may use each language in a proceeding referred to in subsection (1), the judge may

- (a)** at the request of the parties, provide further directions for conducting the proceeding in both English and French, or

- (b) direct the Crown to arrange for an interpreter for the proceeding as if the defendant had given notice in accordance with section 2(1).

Transcripts

5 Any transcript of a proceeding to which this Regulation applies must include everything said in English or French during the proceeding in the language in which it was said.