The Regulation respecting the language of commerce and business in Québec: Contracts of adhesion

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This article is part of a three-part-series on the final version of the regulation respecting the language of commerce and business in Québec.

Markings on products

Public signs, posters and commercial advertising

On June 26, the Québec government published the final version of the *Regulation to amend mainly the Regulation respecting the Language of Commerce and Business* (the Regulation), under its authority to do so as per the Québec *Charter of the French Language* (the Charter).

The new Regulation is set to come into force on June 1, 2025, apart from its provisions related to contracts of adhesion, which have already come into effect.

The Regulation will also enact new rules related to the use of French, and on the use of languages other than French, in the context of products, contracts and public signs, posters and commercial advertising.

This Bulletin discusses more specifically how the Regulation impacts the rules governing the use of French in the context of contracts, as the changes in this regard are already into effect.

Contracts of adhesion

As a general rule, the Charter requires contracts of adhesion to be drafted in French unless the other party, known as the “adhering party”, expressly requests and consents to entering into a version of the contract solely drawn up in a language other than French after having received the French version of the contract.

A contract of adhesion is a contract for which the essential stipulations are imposed or drawn up by one of the parties, on their behalf or upon their instructions, and are not negotiable (e.g., most online terms and conditions used in an e-commerce context).

Where a contract of adhesion has been entered into by the parties exclusively in another language than French, the Charter allows the contract's related documents to also be drawn up exclusively in that language, if the parties so agree.

The Regulation attempts to further clarify which documents can be classified as "related documents" to a contract of adhesion, by stating that the following are deemed as such:

- Documents "attesting to the existence of the contract" such as an insurance certificate.
- Documents required by law to be attached to the contract, such as a reciliation or resolution form (e.g., a cancellation form that must, as per applicable law, be attached to the contract); and
- Documents that "otherwise constitute an ancillary document"; however, the Regulation does not provide examples as to what the government considers an "ancillary document" to a contract.

Additional rules pertaining to contracts of adhesion entered into over the phone or by technological means (e.g., online) are set forth in the Regulation.

More specifically, the Regulation provides that when an adhering party has expressed their wish to enter into a contract of adhesion in a language other than French over the phone, the adhering party will be considered as having received a French version of the contract, when either (1) the adhering party has been explicitly invited to consult the applicable standard clauses in French using a technological means (e.g., by sending an email with them); or (2) the contract is to take effect immediately and the adhering party does not have the technological means to access the applicable standard clauses in the contract (e.g., the adhering party does not have access to the internet in order to consult the clauses).

In addition, the Regulation also clarifies that, when a contract of adhesion is entered into by technological means (e.g., using a mobile app), the requirement to remit the French version of the contract will be deemed to have been satisfied when the standard applicable clauses of the French version of the contract are given to the adhering party.

Therefore, the Regulation clarifies that, in the context of e-signatures, the French version of the contract does not need to have all fields filled in before being remitted to an adhering party wishing to enter into a version of the contract drawn up solely in English or in any language other than French, provided that those fields are not "standard clauses. For example, the fields for inputting the customer's name and address could be left blank in the French version remitted to a customer, when this customer wants to enter into the English version of the contract.

Lastly, the Regulation provides that despite the additional rules pertaining to the use of French in the context of contracts of adhesion entered into by telephone or by technological means, if the adhering party notes discrepancies between the French language contract and the version in another language they were given or subsequently consulted, the adhering party to the contract may, when a discrepancy exists between

the French version of the contract and the version in another language, invoke any version.

BLG's Intellectual Property Group has knowledge and experience in all matters related to contracts of adhesion. If you have any questions related to the Regulation respecting the language of commerce and business, please reach out to any of the authors or key contacts below.

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