Linguistics 101: Our take on language reform in Québec's Bill 96

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The Caquist government has been discussing its plan to amend the *Charter of the French Language* for several months now. On May 13, 2021, Simon Jolin-Barette, the Minister responsible for the French language, put an end to the suspense by tabling his reform of Bill 101, Bill 96, to the Québec National Assembly, sending shockwaves throughout the province. The Bill is entitled *An Act respecting French, the official and common language of Q*uébec. Without a doubt, this new edition of the Charter will affect business and workplace environments as it expands the status of the French language in the province.

The Bill proposes new obligations concerning the language of work, commerce and business, contracts, signs and communications between the State and businesses, as well as education (particularly relevant to CEGEPs). It also calls for the creation of a Ministry of French, a French Language Commissioner and an administrative unit, known as *Francisation Québec*. The latter's function will be to offer French language learning services to businesses.

The amendments included in the Bill suggest, among other things, that institutional bilingualism will give way to unilingual French in regards to communications between the State and businesses and between professional orders and their members. To achieve the desired result, the Bill also seeks to amend several other Québec statutes and regulations, albeit to a lesser degree than the proposed amendments to the Charter. These changes include two additional provisions to the *Constitution Act, 1867* relating to the status of Québec as a nation.

Here are some highlights of the most important linguistic reforms since the adoption of the *Charter of the French Language* in 1977:

Workplace

- Federally regulated businesses, such as banks, airports, trucking and shipping companies, will be required to comply with the Charter's provisions, including the provisions relating to francization.

- Under the Bill, businesses with 25 to 49 employees will be subject to the same francization rules as those with 50 to 99 employees. These businesses will have to generalize the use of French across all levels of their enterprise.
- Businesses employing between 25 and 100 persons will also have to set up a francization committee if required by the *Office québécois de la langue française*.
- The *Office* will be able to impose French language learning services to businesses that have five or more employees.
- The requirement to possess knowledge of a language other than French to obtain a promotion or maintain a position will be more strictly regulated

Business Matters

Civil Administration

- All contracts entered into by the civil administration must be drafted exclusively in French. The Bill establishes certain cases where a version in another language may be attached to the French version (notably, in certain Aboriginal agreements, intergovernmental or international agreements, etc.). Contracts entered into by the civil administration may be drafted exclusively in a language other than French in prescribed and limited circumstances.
- In addition, any communication between a business and an agency of the civil administration concerning a permit, subsidy or other authorization or financial assistance of a similar nature will need to be made exclusively in French, with a few exceptions.
- Any business providing services to the civil administration intended for the public will also be subject to Act's provisions relating to the civil administration.

Commerce and Business

- The Bill reinforces the obligation of businesses offering goods and services to consumers to respect their right to be served in French. Businesses offering goods and services to a public other than consumers will also be required to inform and serve that public in French by default.
- Under the Bill, any business entering into contracts of adhesion or contracts containing standard clauses in their relations with clients and suppliers will have to ensure they provide the latter with the French version of such documents before they can express their wish to be bound by versions written in another language. This requirement also extends to any document related to such contracts but excludes employment contracts.
- As for real estate transactions, contracts of sale or exchange respecting part or all of residential buildings with less than five dwellings as well as certain other documents related to the sale of real estate will need to be drafted in French, unless the parties expressly indicate their wish to draft them in another language.

Public Signs and Advertising

- As for public signs and commercial advertising, using a trademark in a language other than French will still be permitted when no French version of the trademark is registered in Canada and when a French generic description or slogan is

added. However, French will need to be markedly predominant in the exterior signage.
- In addition, the French language will need to be markedly predominant in exterior signage when expressions from another language appear in the business name found on an exterior sign.

Sanctions

Civil Sanctions

- Under the Bill, a contract, judgment or any other act containing a provision that contravenes the Charter may be nullified at the request of the person who suffers the damage. The latter may also request a reduction in his or her obligations under the act. The nullity will be deemed absolute if an agency of the civil administration is a party to the act, even without prejudice.
- Upon application for the imposition of a sanction, the court may make any order as it sees fit.
- In an adhesion or consumer contract, any clause not written in French will be deemed unintelligible unless the adhering party expressly requests the contract to be written in that other language.

Administrative Sanctions

- The Minister may suspend or revoke a permit or authorization for contravention of the Charter.

Penal Sanctions

- The fines for contravening the Charter will range between $700 and $7,000 for individuals and between $3,000 and $30,000 in other cases. These amounts will be doubled for a first offence and tripled for any additional offence. For each day that the offence continues, fines are apply. In addition, directors and executive officers of a company will have their fines doubled.

Coming into Force

- The amendments proposed in the Bill will come into force gradually and will extend up to three years after the Bill receives Royal Assent. Therefore, it is important to inquire about your particular situation to assess how much time will be needed to comply with the new Charter provisions once sanctioned.

Be sure to read our upcoming newsletters, which will discuss some of the Bill's proposed changes in more detail. In the meantime, if you would like to know more about the Bill and the impact it could have on your business, please contact one of the BLG team members.

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