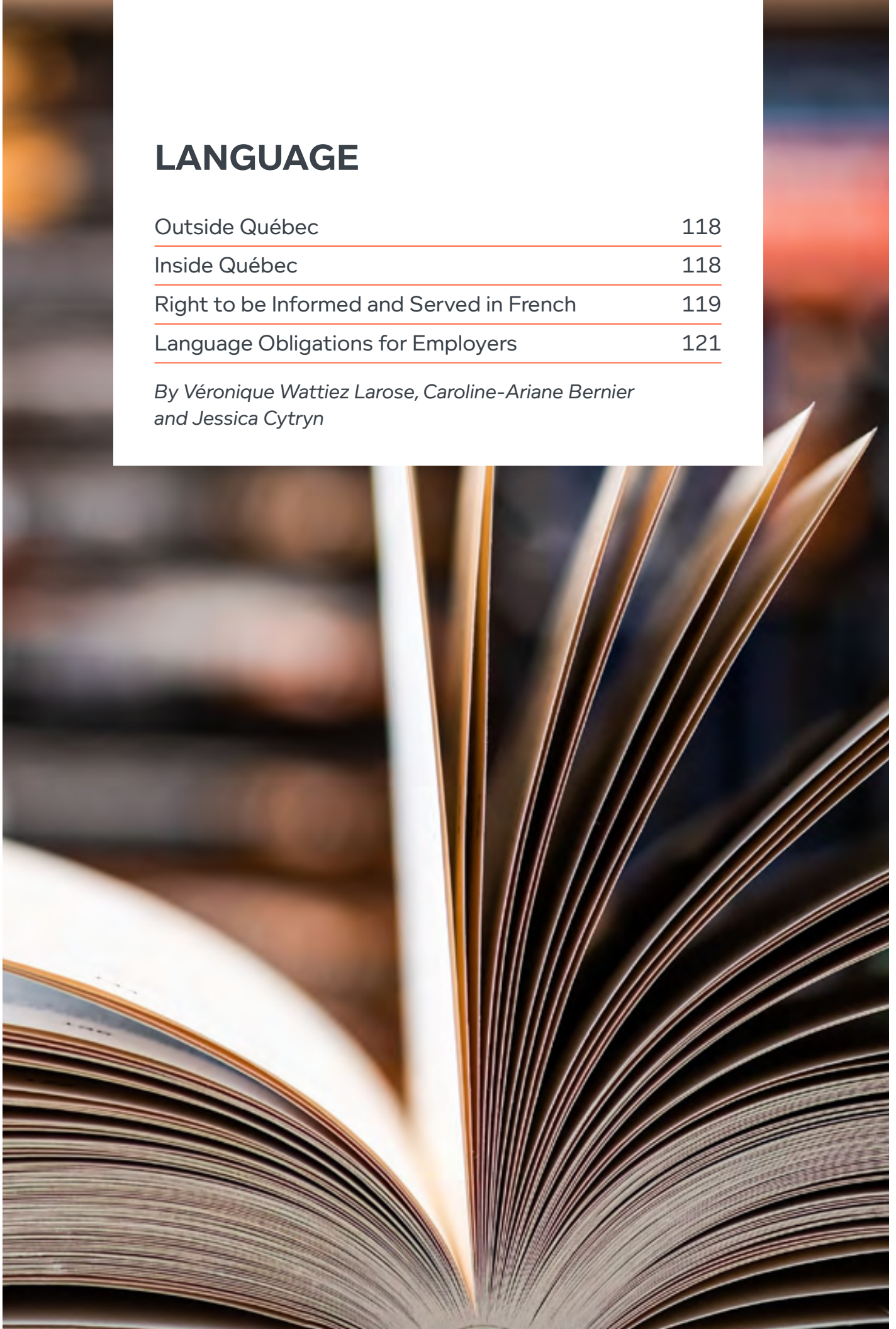


# LANGUAGE

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## LANGUAGE

Language rules in most of Canada apply primarily to government institutions, not private businesses. Canada's Constitution grants English and French equal status in Canada's Parliament and federal courts. Every law must be published in both English and French in some provinces, including Québec. The federal *Official Languages Act*, given additional profile by the *Canadian Charter of Rights and Freedoms*, requires that all federal institutions provide services in either language wherever there is demand for it, or wherever the travelling public is served. Public education is available in either official language, where numbers warrant.

CANADA'S  
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GRANTS ENGLISH  
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FEDERAL COURTS.

### Outside Québec

Outside Québec, the main exception to this focus on the public sector is consumer packaging. Regulations under the federal *Consumer Packaging & Labelling Act* identify specific information with which prepackaged consumer products sold in Canada must be labelled. That information must be set out in both English and French. Exceptions include religious, specialty-market and test products, and language-sensitive products, such as books and greeting cards. Products that do not meet the guidelines established by law may be seized and potentially destroyed by federal authorities.

Although Canada is bilingual at the federal level, other governments in Canada may apply their own language policies to matters within their jurisdiction. New Brunswick and the three northern territories are officially bilingual. Several provinces have adopted legislation to ensure that public services are available in French where warranted; but only Québec's language legislation regulates how businesses operate.

### Inside Québec

Québec's *Charter of the French Language* (Charter) affirms French as that province's official language, the only language of the Québec nation and one of the foundations of its identity and distinct culture. The Charter grants French-language rights to everyone in Québec, both as workers and as consumers of goods and services. Anyone who carries on

activities in Québec is therefore subject to rules about how they interact with the public and how they operate internally inside the province.

On June 1, 2022, significant amendments to the Charter, introduced by Bill 96, *An Act Respecting French, the Official and Common Language of Québec* came into force in Québec. These amendments affect both the public and private sector. Bill 96 aims to clarify and reinforce the provisions of the Charter, introduce new requirements and restrictions, and strengthen the role of the Office québécois de la langue française (OQLF), the governmental body responsible for ensuring compliance with the Charter. Some provisions come into force gradually over a period of three years. Some amendments to the *Regulation respecting the language of commerce and business* (the Regulation) are also to be expected.

### **Right to be Informed and Served in French**

The Charter provides for a consumer’s right to be informed and served in French, but this requirement also extends to non-consumer clients and agencies of the civil administration by requiring businesses to offer goods and services in French. This obligation is further broken down through various specific obligations of how businesses and their customers interact.

**Every inscription on a product** on its container or on its wrapping — or on a document or object supplied with it, including the directions for use and the warranty certificates — must be drafted in French. The French inscription may be accompanied with a translation or translations, but no inscription in another language may be given greater prominence than that in French or be available on more favourable terms. Pursuant to the regulation, certain terms are allowed to appear in English only, such as trademarks. While this exception is currently available to trademarks that are “recognized” under Canadian trademark law (arguably including both trademarks for which an application is pending and common law trademarks), Bill 96 has narrowed the existing trademark exception, and starting on June 1, 2025, it will only be available for registered trademarks, provided that no corresponding French version appears in the Canadian Trademarks

**RULES ABOUT HOW BUSINESSES COMMUNICATE IN QUÉBEC’S MARKETPLACE DIFFER ACCORDING TO WHETHER THE COMMUNICATION IS IN A PUBLIC OR PRIVATE PLACE.**





Database. Furthermore, from that same date, if a generic term or a description of the product is included in the mark, then that word will also need to appear in French on the product or on a medium that is permanently attached to it.

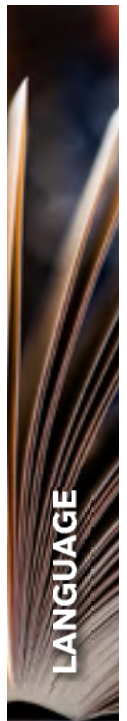
In the case of software products, if a French-language version of the software exists and has been made commercially available, then non-French versions may be sold in Québec only if a functionally equivalent French-language version is simultaneously made available in Québec on terms and conditions that are equally attractive to those applicable to the non-French version.

Even though the products may be manufactured or developed outside Québec, anyone who distributes, sells retail, rents, offers for sale or rental or otherwise markets — for consideration or free of charge, or possesses for such purposes — a non-compliant product in Québec may be subject to a non-compliance order, and eventually a fine, under the Charter.

Concerning marketing documents and communications, catalogues, brochures, folders, commercial directories and any similar publications have to be in French, and such a document may not be made available to the public in a language other than French if the French version is not available on terms that are at least as favourable. This rule applies to websites and social media as well.

Public signage is also subject to particular linguistic requirements. As a rule, public signs, posters and commercial advertising may include other languages, but the French text must predominate to the extent provided for in the Regulation (approximately twice as big). Similarly to the exception available to products, a trademark recognized under Canadian trademark legislation may appear on public signs and posters exclusively in a language other than French, as long as the French version is not registered. This exception is also being narrowed by Bill 96, and starting on June 1, 2025, it will only be available to registered trademarks.

That said, if an English-language-only trademark appears in public signs and posters displayed outside immovable property, a sufficient presence of French is required (on June 1, 2025, this threshold will be increased to French predominance, i.e. having the French subject matter be two times the size of the trademark). These requirements can be achieved by having one of the following three elements in French: (i) a generic



term or a description of the products or services concerned; (ii) a slogan; or (iii) any other term or indication favouring the display of information pertaining to the products or services to the benefit of consumers or persons frequenting the site. This requirement is intended to address concerns expressed by certain francophone consumers in Québec to the effect that English-language trademarks were dominating the urban commercial landscape in some cities.

These rules may differ according to whether the communication is in a public or private place. Billboards and signs visible from a public highway, on a public transport vehicle, or in a bus shelter must be exclusively in French.

Lastly, standard form contracts (including website terms of use and privacy policies) must now be presented in French to the adhering party before that party can agree to sign the English-only version of same. This rule does not apply to contracts that are negotiated between the contracting parties, nor to contracts used in relations outside of Québec.

### **Language Obligations for Employers<sup>1</sup>**

Employers must ensure that the workers' right to carry on their activities in French is respected and that the work environment is free from discrimination or harassment related to the use of French or from claiming a right arising from the Charter. An employee can file a complaint with the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST) if an employer fails to comply with its obligations.

Offers of employment, employment agreements and promotion letters must be provided in French first and it is only after the candidate or employee has examined the French version that the candidate or employee may elect to be bound by an English version. All other documentation relating to conditions of employment, including documentation relating to group benefits and employer policies, as well as training documents, must be drafted in French or, if drafted in another language, must be made available in French on terms that are at least as favourable. An employer advertising a job offer in a language other than French must ensure that the non-French job offer is simultaneously advertised with the French

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1 <https://www.mccarthy.ca/en/insights/blogs/canadian-employer-advisor/Quebecs-bill-96-impacts-employers>; <https://www.mccarthy.ca/en/insights/blogs/consumer-markets-perspectives/Quebecs-bill-96-amending-french-language-legislation-how-will-your-business-be-affected>.



offer, using transmission means of the same nature, and that such job offer reaches a target audience of a proportionally comparable size. Moreover, the knowledge of a language other than French is permitted only if the employer first took all reasonable means to avoid imposing such a requirement, and the reasons for the requirement must be stated in the job offer.

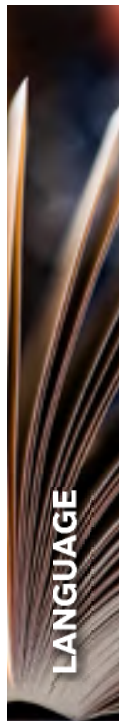
Bill 96 has also introduced the requirement that written communications to employees from their employer (i.e., top down and not peer-to-peer communications) be in French, unless the employee requests that they be in English. While verbal communications are not explicitly addressed by the Charter, it is recommended that employers take particular care in ensuring that French speaking employees feel that their right to work in French is respected and that they are not disadvantaged vis-à-vis other employees as a result of such verbal communications being in English only.

### ***Francization***

Once businesses in Québec have had more than 50 employees for a period of six months (this threshold is being lowered to 25 employees on June 1, 2025), they must register with the OQLF. They are also required, within three months of receiving their certificate of registration, to transmit an analysis of its linguistic situation to the OQLF. If the OQLF considers, after examining the analysis of the business's linguistic situation, that the use of French is generalized at all levels of the enterprise according to the parameters of the Charter, the OQLF issues a francization certificate; if not, the business must adopt a francization program to achieve that goal. Obligations in respect of francization depends on the number of employees in Québec in the business, and it may require setting up a francization committee that monitors the use of French in the workplace. Bill 96 also created an administrative unit, "Francisation Québec," responsible for providing French language learning services to persons who are unable to communicate in French and who are employed by a business with fewer than five employees.

### ***Interacting with the Québec government***

With some exceptions, written communications of business operators in Québec with the civil administration must be in French. Moreover, all documents entered into the civil administration of Québec, such as contracts, and also documents sent in the context of a contract or in view



of its conclusion, must be written exclusively in French. Similar to the rule that already applies, exceptions may be raised depending on whether the business operates in Québec or not, thus allowing documents to be drafted in another language.

### **Non-compliance**

Non-compliance of the Charter requirements may result in fines, as well as the potential suspension or withdrawal of the francization certificate (which is often a requirement in public procurement contexts) in cases of repeated contraventions of the Charter.

Moreover, Bill 96 allows for a civil action to be brought by individuals who feel the rights under the Charter have been violated. Lastly, the provisions of a contract, decision or other act that cause injury by contravening the provisions of the Charter, may be annulled on the application of the person who suffers the injury.

The fines for non-compliance with the Charter may range from C\$3,000 to C\$30,000 for businesses. It provides for the doubling of fines for a second offence and tripling for a subsequent offence and considers each day an offence persists as a separate offence. Finally, Bill 96 gives the OQLF the ability to request an injunction to force compliance with the requirements of the Charter, or a court order for the removal or destruction of posters, signs or advertisements that contravene the Charter, at the expense of the offending business.

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