

Draft Regulations

Draft Regulations

Charter of the French language
(chapter C-11)

Language of commerce and business — Amendment

Charter of the French language — Scope of the expression “markedly predominant” — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the following regulations, appearing below, may be made by the Government on the expiry of 45 days following this publication:

— the Regulation to amend the Regulation respecting the language of commerce and business;

— the Regulation to amend the Regulation defining the scope of the expression “markedly predominant” for the purposes of the Charter of the French language.

The proposed amendments to the Regulation respecting the language of commerce and business (chapter C-11, r. 9) concern signs and posters outside immovables. The purpose of the amendments is to ensure the presence of French when a trade mark in a language other than French is displayed outside. The draft Regulation provides for terms for implementing the new requirement to ensure the presence of French. Existing signs and posters must conform to the Regulation within a 3-year period.

As a consequence to those measures, an amendment to the Regulation defining the scope of the expression “markedly predominant” for the purposes of the Charter of the French language (chapter C-11, r. 11) is proposed to confirm the current scope of the exceptions provided for in the regulations and to avoid ambiguity in connection with the new requirement to ensure the presence of French.

The impact on enterprises remains moderate. Only a limited group of enterprises is affected by the new regulatory measures, some enterprises having already chosen to include French on their signs and posters. The regulations add no new administrative formalities. Adhering to the new regulations and making existing signs and posters compliant with the regulations could be, in a number of cases, of little cost.

The regulations respond to one of the characteristics of result-based regulations by providing enterprises with a large selection of choices to render themselves compliant. As a result of the latitude which is afforded, the measures are evidence of a balance between the primary objective, which is to counter the pressure against the use of French in commercial signs and posters in the North-American environment, and minimizing the costs incurred to comply with the Regulations. The proposed solution preserves the integrity of trade marks, thereby responding favorably to the concern expressed by a number of persons.

Further information may be obtained by contacting Sonia Pratte, Secrétariat à la politique linguistique, Ministère de la Culture et des Communications, 225, Grande Allée Est, 4^e étage, Québec (Québec) G1R 5G5; telephone: 418 643-4248, extension 7429; email: sonia.pratte@spl.gouv.qc.ca

Any person wishing to comment on the draft Regulations is requested to submit written comments within the 45-day period to the Minister of Culture and Communications and Minister responsible for the Protection and Promotion of the French Language, 225, Grande Allée Est, 1^{er} étage, Québec (Québec) G1R 5G5.

LUC FORTIN,
*Minister of Culture and Communications and
Minister responsible for the Protection and
Promotion of the French Language*

Regulation to amend the Regulation respecting the language of commerce and business

Charter of the French language
(chapter C-11, ss. 58 and 93)

1. The Regulation respecting the language of commerce and business (chapter C-11, r. 9) is amended by inserting the following after section 25:

“**25.1.** Where a trade mark is displayed outside an immovable only in a language other than French under paragraph 4 of section 25, a sufficient presence of French must also be ensured on the site, in accordance with this Regulation.

For the purposes of the first paragraph, the presence of French refers to a sign or poster with

- (1) a generic term or a description of the products or services concerned;
- (2) a slogan;
- (3) 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.

25.2. For the purposes of sections 25.1 to 25.5,

(1) trade mark signs or posters outside an immovable means the signs or posters related or attached to an immovable, including its roof, regardless of the materials or method of attachment used; the signs or posters include, in particular, projecting or perpendicular signs, and signs or posters on a bollard or other independent structure.

The following signs and posters are considered to be outside an immovable:

- (a) signs or posters outside premises situated in an immovable or a larger property complex. Signs or posters outside premises situated in a mall or a shopping centre, underground or not, are included;
- (b) signs or posters inside an immovable or premises, if their installation or characteristics are intended to be seen from the outside.

Trade mark signs or posters appearing on a bollard or other independent structure, including a totem type structure, near an immovable or premises are concerned only if there is no other outside sign or poster on which the trade mark appears.

In the case of a totem type structure, signs or posters on the structure are also excluded if more than 2 trade marks appear on the structure;

- (2) “immovable” means a building and any structure intended to receive at least 1 person for the carrying on of activities, regardless of the materials used, excluding a temporary or seasonal facility;
- (3) “premises” means a space, closed or not, devoted to an activity, in particular a stand or counter intended for the sale of products in a mall, excluding a temporary or seasonal facility.

25.3. Within the meaning of section 25.1, the sufficient presence of French means signs or posters whose qualities

- (1) give French permanent visibility, similar to that of the trade mark displayed; and
- (2) ensure its legibility in the same visual field as that mainly covered by the trade mark signs or posters.

Signs or posters in French that, in relation to the trade mark signs or posters, are designed, lighted and situated so as to make them easy to read, both at the same time, at all times when the trade mark is legible, without the signs or posters being necessarily present in the same place, in the same number, in the same materials or in the same size are considered to meet those requirements.

25.4. Despite subparagraph 2 of the first paragraph of section 25.3, legibility of a sign or poster in French must be evaluated,

- (1) in the case of a sign or poster outside an immovable situated on a street bordered by a sidewalk, from the sidewalk along the façade on which the trade mark sign or poster appears;
- (2) in the case of a sign or poster outside premises situated in an immovable or a larger property complex such as a mall, from the centre of the corridor or space facing the premises;
- (3) in the case of a trade mark sign or poster visible from a highway, from the highway.

25.5. For the purposes of sections 25.1 to 25.4,

(1) the following signs or posters in French are not taken into account:

- (a) business hours, telephone numbers and addresses;
- (b) numbers and percentages;
- (c) definite, indefinite and partitive articles;
- (d) a term requiring for its legibility to be within a radius of less than 1 metre, except if the legibility of the trade mark also requires it;

(2) signs or posters that are of a precarious nature—through their materials or the manner in which the sign or poster is attached—, in particular signs or posters in French likely to be easily removed or tore off, are not considered to ensure permanent visibility of French, unless the display system is the subject of measures for guaranteeing the presence or replacement of the sign or poster, the proof of which lies with the person who wishes to claim the benefit of the sign or poster.”

2. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

The Regulation applies in particular as of that date to the installation of new trade mark signs or posters and to the replacement of existing signs or posters.

Signs or posters existing on the date of coming into force of this Regulation must, not later than 3 years after that date, be brought into conformity with its provisions.

The 3-year period provided for in the third paragraph also applies in the following situations, the proof of which lies with the person wishing to benefit from it:

(1) the same trade mark is already used on signs or posters elsewhere in Québec, as part of a franchise system or otherwise;

(2) the new installation or the replacement of the sign or poster concerned has been the subject, in the 6 months preceding the date of publication of this Regulation in the *Gazette officielle du Québec*, of the issue of or an application for a municipal permit or other form of government authorization.

Regulation to amend the Regulation defining the scope of the expression “markedly predominant” for the purposes of the Charter of the French language

Charter of the French language
(chapter C-11, s. 93)

1. The Regulation defining the scope of the expression “markedly predominant” for the purposes of the Charter of the French language (chapter C-11, r. 11) is amended in section 1 by adding the following paragraph after the first paragraph:

“In assessing the visual impact, a family name, a place name, a trade mark or other terms in a language other than French are not considered where their presence is specifically allowed under an exception provided for in the Charter of the French language (chapter C-11) or its regulations.”

2. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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Draft Regulation

An Act respecting the conservation and development of wildlife
(chapter C-61.1)

Aquaculture and sale of fish —Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Regulation respecting aquaculture and the sale of fish, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation adds two aquatic species to the list of species whose possession is prohibited to various extents, provides for restrictions applying to the sale of live or dead baitfish and corrects clerical errors.

Study of the matter has shown no negative impact on enterprises, including small and medium-sized businesses.

Further information concerning the draft Regulation may be obtained by contacting Stéphane Blanchet, Direction des affaires législatives et des permis, Ministère des Forêts, de la Faune et des Parcs, 880, chemin Sainte-Foy, 2^e étage, Québec (Québec) G1S 4X4; telephone: 418 521-3888, extension 7393; fax: 418 646-5179; email: stephane.blanchet@mffp.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Julie Grignon, Associate Deputy Minister for Wildlife and Parks, Ministère des Forêts, de la Faune et des Parcs, 880, chemin Sainte-Foy, RC-120, Québec (Québec) G1S 4X4.

LAURENT LESSARD,
Minister of Forests, Wildlife and Parks

Regulation to amend the Regulation respecting aquaculture and the sale of fish

An Act respecting the conservation and development of wildlife
(chapter C-61.1, ss. 70, 73 and 162)

1. The Regulation respecting aquaculture and the sale of fish (chapter C-61.1, r. 7) is amended in section 4:

(1) by inserting “live” before “fish” in the first paragraph;

(2) by replacing “Rainbow trout” in the second paragraph by “Live rainbow trout”;