

French first – Québec law places primacy on French language contracts

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In June, Québec's new language act, Bill 96, received royal assent. Titled "An Act respecting French, the official common language of Québec", the new law reforms multiple areas of Québec law, including the Charter of the French Language ("the Charter").

Overview of changes

Section 55 of the Charter originally stated that certain contracts, including contracts containing printed standard clauses and related documents, must be drafted in French unless prior consent has been given by the 'adhering party'.

Bill 96 modifies section 55 so that the above-mentioned contracts must always be drafted in French and the adhering party may only request the documents in another language after first being given the French version.

Perhaps most importantly, section 55 now also states that parties to the contract may only be bound by a version in a language other than French if, after having examined the French version, it is the express wish of the adhering party. The adhering party may only be sent further documents in a language other than French once this has happened.

Insurer considerations

Whilst insurers operating in Québec are likely to already have French versions of their policy documents, they must be aware that future policyholders must first be given documents in French before the customer can opt to receive a version in a different language (usually English) and to be bound by that version.

This amendment to section 55 presents challenges not only around resource and expense, but also translation. Much case law revolves around the nuances between different words in the English language, such that a direct translation to French may not have the same meaning legally.

Non-compliance with Bill 96 may result in fines of up to \$30,000, contract rescission or administrative sanctions such as revoking of permits. With contracts of adhesion, the burden of proof rests with the insurer to show that the insured suffered no prejudice as a result of non-compliance. Damages may also be awarded.

Exceptions

The amended section 55 does have some exceptions. Insurers that have no French-language equivalent in Québec and come from outside Québec or are not used widely in Québec will not be bound by the new law.

Insurers who do not meet these conditions are advised to review their product offering and ensure that French versions are available for all products.

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