

# Canada: Languages of Business Overview

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General .....	2
Packaging .....	2
Quebec's Charter of the French Language.....	2
General .....	2
Packaging .....	3
Business Names .....	3
Language of the Workplace.....	4
Language of Contracts.....	4
Language of Software and Certain Other Products.....	4
Application of the Quebec Charter to Non-Quebec Corporations .....	4

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# Canada: Languages of Business Overview

## General

Canada's official languages are English and French. The Governments of Canada and New Brunswick are constitutionally bilingual with respect to nearly all of their operations, while the Governments of Quebec, Manitoba and Ontario also provide many of their services in both languages. Approximately 20% of Canadians speak French as a first language, including about 80% of the population of Quebec and nearly 35% of the population of New Brunswick. Anyone doing business in Canada must take into account federal laws aimed at promoting bilingualism and, if doing business that relates to Quebec, must also be aware of Quebec laws that are generally more specifically designed to protect and promote that province's mainly francophone character.

## Packaging

Regulations under the federal *Consumer Packaging and Labelling Act* require, as a general rule, that product identity and the net quantity identification be in both French and English. The dealer identification declaration may be in either English or French but – again as a general rule – if the product is being sold in Quebec, both languages must appear (subject to limited exceptions). It is, therefore, usually easier to provide all of this information in both languages. Under federal law, optional information, such as a trademark of the product, is not required information and, therefore, does not have to be marked in French (subject, however, to Quebec legislation for products sold in Quebec). The federal requirements apply to all consumer products marketed and sold in Canada, whether locally manufactured or imported, with very limited exceptions (e.g. products that are both manufactured and sold in a limited area). Goods marketed or sold in contravention of such requirements are subject to seizure and potentially to destruction by federal authorities.

## Quebec's Charter of the French Language

### General

When doing business in Quebec, it is necessary to consider the requirements of Quebec's *Charter of the French Language* (the "Quebec Charter"), which is designed to make French the everyday language of work, instruction, communication, commerce and business in Quebec. The Quebec Charter generally requires that all public signs, posters and commercial advertising in Quebec be in French, although another language is permitted subject to certain requirements respecting the prominence of the French. There are a number of exceptions to this requirement in the regulations, as set out below. The website of a firm that has an address or

establishment in Quebec and is offering its goods and/or services to Quebec residents is considered to be commercial advertising subject to the Quebec Charter. Therefore, everything on the website (subject to limited exceptions such as recognized trademarks) must be presented in French or in French and another language or languages, and the other languages must not be more prominent than the French text. Rather than having a bilingual or trilingual website, a business may also satisfy Quebec language requirements by having a French version of its website and a version or versions in other languages and allowing users to choose their preferred language. The French version, however, must be equal in terms of content and prominence to any version in another language.

### **Packaging**

The Quebec Charter also requires that every inscription on a product, container, wrapping and documents or objects supplied with the product, such as a warranty or directions for use, be in French. These may be accompanied by a translation as long as the French version is equally prominent. As a general rule, all catalogues, brochures and similar promotional materials distributed in Quebec must be in French, but may be distributed in English or in another language as long as a French version is equally available and of comparable quality. There are various exceptions to the French labelling, inscription and signage requirements, including: (i) products intended for use exclusively for a market outside Quebec; (ii) recognized English-only trademarks; (iii) educational and cultural materials; and (iv) greeting cards, calendars and agenda, if not used for the purposes of advertising.

### **Business Names**

When an enterprise registers to do business in Quebec, the Quebec Charter requires that it register a French version of its name for use in Quebec, unless the statute under which it is incorporated does not permit such registration. The requirement may also be met by having a French business name. The general rule is that the French version of the firm name is to be used in Quebec. The French version of the firm name may include certain listed non-French elements and, therefore, it is common to register a business name consisting of an English-only trademark together with a generic French word indicating the type of business. A version of the firm name in another language may also be used following the general rules for advertising and thus, the English version of the name can be used in documents permitted to be in English-only. Federally incorporated companies are likely permitted, as of right, to use the English version of their names anywhere in Canada, including Quebec, although they generally do register a French business name for use in Quebec.

Many firms have English business names that are recognized trademarks. Firms typically use these solely English trademarks on signs and in advertising on the basis that trademarks enjoy an exemption from the French requirements under the

Quebec Charter. However, there is currently some controversy as to whether a trademark on store signage qualifies as a trademark use, or is simply a trade name use (requiring that a generic French word appear alongside the English name).

### **Language of the Workplace**

Under the Quebec Charter, it is mandatory for business firms with 50 or more employees in Quebec to obtain a francization certificate in respect of their Quebec operations attesting to the fact that the firm has properly implemented a francization program at each level of the organization (“francization” refers to the process of enhancing the status of French as the everyday language of one’s workplace). In addition, the Quebec Charter provides that, as a general principle, businesses operating in Quebec should communicate with Quebec customers in French unless a customer requests otherwise.

### **Language of Contracts**

Under the Quebec Charter, Quebec contracts containing printed standard clauses or that are predetermined by one party must be in French unless the parties expressly request that they be in another language. Quebec consumer protection legislation similarly requires that consumer contracts be drawn up in French unless the parties agree to use another language. Parties wishing to contract in English may do so by including a clause expressly stating their consent to do so. Contracts with the Government of Quebec or its agencies must be in French if the contract is concluded in Quebec.

### **Language of Software and Certain Other Products**

There are special rules in Quebec respecting the sale of certain products such as games, toys and software. In particular, if a French version of a software product exists, the English (or other non-French) version can only be sold in Quebec if the French version is equally available in the Quebec market. Games and toys (other than game software) requiring the use of a non-French vocabulary cannot be sold in Quebec unless a French version of the toy or game is available on the Quebec market on comparable terms as the English version.

### **Application of the Quebec Charter to Non-Quebec Corporations**

Absent a relevant exemption, all corporations, including non-Quebec corporations that do business in Quebec and offer their products and/or services to Quebec residents must comply with the provisions of the Quebec Charter as set out above.

# About the Firm

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When Heward Stikeman and Fraser Elliott first opened the firm's doors in 1952, they were united in their pledge to do things differently to help clients meet their business objectives.

In fact, they made it their mission to deliver only the highest quality counsel as well as the most efficient and innovative services in order to steadily advance client goals.

Stikeman Elliott's leadership, prominence and recognition have continued to grow both in Canada and around the globe. However, we have remained true to our core values.

These values are what guide us every day and they include:

- Partnering with clients – mutual goals ensure mutual success.
- Finding original solutions where others can't – but they must also be grounded in business realities.
- Providing clients with a deep bench of legal expertise – for clear, proactive counsel.
- Remaining passionate about what we do – we relish the process and the performance that results from teamwork.

A commitment to the pursuit of excellence – today, tomorrow and in the decades to come – is what distinguishes Stikeman Elliott when it comes to forging a workable path through complex issues. Our duty and dedication never waver.

This is what makes Stikeman Elliott the firm the world comes to when it counts the most.

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