

Client Advisory

Major amendments to the Québec Charter of the French Language now adopted

June 27, 2022

Summary

Bill 96, *An Act respecting French, the official and common language of Québec*, amending the *Charter of the French Language*, was adopted by the National Assembly on May 24, and received assent on June 1, 2022. Many of the provisions of Bill 96 came into force on June 1, 2022. Some others will gradually come into force over the next few years.

The purpose of this Advisory is to inform employers and administrators of pension and benefit plans of the potential impact of Bill 96 on documents and employee communications relating to benefits.

Introduction

Bill 96, *An Act respecting French, the official and common language of Québec*, amending the *Charter of the French Language* (Charter), was adopted by the National Assembly on May 24, and received assent on June 1, 2022. Many of the provisions of Bill 96 came into force on June 1, 2022. Some others will gradually come into force over the next few years. This Client Advisory focuses on the potential impact of Bill 96 on documents and employee communications relating to pension and benefit plans, outlining issues that need to be considered by employers and plan administrators.

Situation prior to Bill 96

Before June 1, 2022, the Charter basically provided that workers have the right to carry out their activities in French. It specified Québec employers' obligations regarding the use of French in written communications with their staff.

Changes resulting from Bill 96

The changes set out below apply to employers with employees in Québec. Federally regulated employers (e.g., banks, telecommunication, and air transportation businesses) could also be subject to these changes. It should be noted that the federal government recently introduced similar

legislation ([Bill C-13](#), *An Act for the Substantive Equality of Canada's Official Languages*) that has not yet been adopted. How Bill 96 and Bill C-13 will interact is still to be determined.

Documents and communications relating to employee benefits

From June 1, 2022, the legislation requires that documents relating to conditions of employment and employer written communications with staff (whether as a whole or individually) be made available in French to Québec employees. Previously, documents relating to conditions of employment were not specifically mentioned by the Charter but written employer communications to staff (as a whole) were specifically covered. Charter provisions had been interpreted as either requiring the employer to provide such documents and written communications to employees in French up front or as entitling an employee to request the document or communication in French, depending on the nature or scope of the document.

The full impact of these changes is still to be determined. Notably, it remains to be seen whether pension plan texts and their amendments (for registered plans or supplemental arrangements) need to be made available to Québec employees or members in French. Whether some documents relating to benefit plans actually qualify as “documents relating to conditions of employment” is also open to discussion.

That being said, employee communications related to benefit programs, not currently available in French, would need to be made available in French. This could include, for example, communications related to retirement savings programs, group benefits, employee incentive programs, leave and time off policies, wellbeing initiatives and programs.

Retraite Québec, CNESST, RAMQ and Revenu Québec have not confirmed whether future correspondence with them should be in French only. We expect that they will coordinate and develop a language of communication policy over the coming months.

A new provision is also added to the Charter to specify that, with respect to group insurance or group annuity contracts, the insurer must give the contract holder a copy of the contract written in French; the same applies to insurance certificates and individual annuity certificates to be distributed to employees.

In the event of a discrepancy between the French version of the policy, insurance certificate, annuity contract or annuity certificate and the version in another language, a worker may invoke one version or the other, according to their interests.

Transitional provisions apply to the translation of existing documents and contracts.

Administrative penalties and fines

On June 1, 2022, the investigation powers of the Office québécois de la langue française (OQLF) and the applicable fines were increased. The applicable fines for a business who contravenes an order of the OQLF range from \$3,000 to \$30,000. The minimum and maximum fine amounts are doubled for a second offence and tripled for any additional subsequent offence. This rule applies to the extent that the previous conviction was made within the two years preceding the time the subsequent offence was committed.

An offence mentioned above that continues for more than one day is considered a separate offence for each day on which it continues. The above-mentioned fines therefore apply on a daily basis.

Next steps

Businesses operating in Québec will need to review, among other things, their employee benefit communications and benefit contracts and documents to make sure they comply with the requirements set out above. Where the obligation to provide the French version of a document or communication falls to a service provider (e.g., for a group insurance policy), businesses should contact their service provider. New communications or documents may need to be issued in French from June 1, 2022. Transitional rules apply to certain pre-existing documents that are not already available in French. Employers should review their specific circumstances with their advisors when assessing the impact of Bill 96.

For more information

This Advisory is not intended to constitute or serve as a substitute for legal, accounting, actuarial or other professional advice. For information on how this issue may affect your organization, please contact your WTW consultant, or:

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