

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 torn 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.

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