



LAPOINTE ROSENSTEIN  
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# AVOIDING LEGAL PITFALLS: COMMON MISTAKES FOR NEW BUSINESSES IN QUEBEC

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**Christophe El-Hamaoui**

Lawyer

*Commercial team*

Starting a business in Quebec is a tremendous opportunity for you to connect with an active economy, a diverse customer base and friendly entrepreneurial ecosystems. However, Quebec's legal landscape is unique, shaped by its civil law tradition, unique provincial regulations and emphasis on the French language. Navigating these complexities can be daunting, especially for new entrepreneurs.

This article aims to highlight some of the most frequent legal mistakes made by new business owners and provide practical advice on how to avoid them. From selecting the right business structure to complying with language laws and drafting contracts efficiently, each decision can have long-term implications for a business's success. By understanding and preparing for these potential pitfalls, entrepreneurs can focus on growth and innovation, while protecting their business from avoidable legal headaches.

Whether you're launching a small local business or laying the groundwork for future expansion, having the right legal foundation is essential. This guide provides a roadmap to help new business owners in Quebec make informed decisions and set their business on the road to success.

## Selecting the Right Business Structure

One of the first and most crucial decisions an entrepreneur must make when setting up a business in Quebec is choosing the right legal structure. This choice affects every aspect of the business, from liability and taxation to operational flexibility and growth potential. While many business owners are eager to get started, making this decision hastily, without proper advice, can lead to costly complications.

### Understanding Your Options

Quebec offers several business structures, including sole proprietorships, partnerships, and corporations. Each has its own advantages and risks:

- ❖ **Sole Proprietorship:** Simple to set up and affordable, but the owner assumes full personal responsibility for the business's debts and obligations.
- ❖ **Partnership:** Shares responsibility between partners but requires clear agreements to avoid disputes.

- ❖ **Corporation:** Offers liability protection and tax advantages but involves greater administrative complexity.

The Quebec *Business Corporations Act*<sup>1</sup> (QBCA) makes incorporating a company in Quebec particularly attractive for small and medium-sized businesses. Unlike federal corporations, corporations governed by the QBCA are not subject to residency requirements for directors, giving them greater flexibility.

### Avoid Common Mistakes

1. **Ignoring Personal Liability:** Many entrepreneurs opt for sole proprietorships for the sake of saving money, but they underestimate the financial risks associated with personal liability for business debts. A single lawsuit or debt can place personal assets at risk.
2. **Federal Incorporation Without Considering Local Registration:** While federal incorporation allows businesses to operate nationwide, it requires additional registration with the *Registraire des entreprises du Québec*. If this step is not taken, penalties may be imposed, and the company's activities may be restricted in the province.
3. **Choosing a Structure Without Considering Future Growth:** Some business owners overlook the long-term consequences of the structure they have chosen. For example, a sole proprietorship may not scale well as the business grows.

### Why Legal Advice Matters

Choosing the right structure requires more than simply completing the necessary paperwork; it also requires a clear understanding of how each option aligns with your business's specific objectives, business sector and risk profile. A poorly chosen structure can lead to significant difficulties, such as unexpected tax liabilities, operational inefficiencies or disputes between stakeholders.

For example, incorporating under the QBCA may offer advantages such as the absence of residency requirements for directors, but it also requires careful planning with regard to governance and compliance. Likewise, partnerships must be subject to clear agreements to prevent potential conflicts over roles, responsibilities and profit-sharing. Without professional advice, these essential elements can be overlooked, exposing your business to avoidable risks.

By taking the time to evaluate your options and tailor your structure to your needs, you ensure not only compliance, but also the flexibility to successfully scale your business as it grows.

### Complying with Language Laws

Operating a business in Quebec means navigating one of the province's most defining regulatory frameworks: the *Charter of the French Language*<sup>2</sup> (Bill 101). French is more than a cultural cornerstone; it is the province's official language, and businesses are obliged to ensure its predominance in all aspects of their activities. Failure to comply with these laws can result in fines, reputational damage and even legal action.

### French Language Requirements

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<sup>1</sup> *Business Corporations Act*, CQLR c S-31.1.

<sup>2</sup> *Charter of the French Language*, CQLR c C-11.

The Charter stipulates that French must be the predominant language in the workplace, on public signage and in all business documents. The main requirements are as follows:

- ❖ **Corporate Names and Signage:** Business names must be written in French or accompanied by an equally prominent French version<sup>3</sup>. Signage displaying a non-French name must include a markedly predominant French equivalent<sup>4</sup>.
- ❖ **Contracts and Customer Relations:** Any contract offered to a consumer or employee must be drafted in French. If a customer or employee wishes to receive the contract in another language, they must explicitly request it, and this preference should be documented<sup>5</sup>.
- ❖ **Language in the Workplace:** Employers with 50 or more employees must implement a francization program certified by the *Office Québécois de la langue française* (OQLF) to ensure that French is the language of work and is integrated into daily operations<sup>6</sup>.

### Avoid Common Mistakes

1. **English-Only Branding and Materials:** Businesses often overlook the need to translate or prioritize French in marketing materials, websites, or customer documents<sup>7</sup>.
2. **Delaying Francization Efforts:** Companies nearing the 50-employee threshold often neglect to prepare for mandatory francization, resulting in rushed and incomplete programs.
3. **Assuming Minimal Compliance is Sufficient:** Treating language requirements as a simple checkbox rather than integrating French into daily operations can lead to a loss of customer confidence and employee commitment.

### Practical Tips for Compliance

- ❖ **Proactive Planning:** Make sure your business name, signage and marketing materials meet French language requirements right from the start. Registering a corporate name with the *Registraire des entreprises du Québec* ensures compliance with Quebec's language norms.
- ❖ **Documentation Audits:** Periodically review contracts, forms and customer documents to ensure they align with language laws.
- ❖ **Francization Programs:** If your company is growing rapidly, establish a francization plan well before you reach the 50-employee mark. This includes developing policies, training employees and creating internal tools in French.

Integrating French into your business operations isn't just about avoiding penalties; it's also an opportunity to build trust and strengthen relationships with your customers and workforce in Quebec's

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<sup>3</sup> *Ibid.*, Sections 63 and 68.

<sup>4</sup> *Ibid.*, Section 58.

<sup>5</sup> *Ibid.*, Section 55.

<sup>6</sup> *Ibid.*, Sections 139 to 151.

<sup>7</sup> *Ibid.*, Sections 51 and 52.

unique market. Proper planning and implementation will ensure your business's long-term success, while respecting the province's linguistic and cultural framework.

## Drafting Contracts Efficiently

Contracts are the foundation of all business relationships, whether they be partnerships, supplier agreements, terms and conditions of sale to customers or employment contracts. However, poorly drafted or incomplete contracts are a frequent source of disputes and financial losses for new businesses. Clear, enforceable agreements are essential to protect your interests and maintain professional relationships.

### Why Contracts Matter

In Quebec's civil law system, contracts are not mere formalities; they are binding agreements governing the rights and obligations of the parties. A well-drafted contract minimizes ambiguity, reduces the risk of litigation and ensures compliance with local laws. Whether you're negotiating terms with suppliers or hiring your first employees, accurate legal documentation is essential.

### Avoid Common Mistakes

1. **Relying on Templates or Verbal Agreements:** Many entrepreneurs rely on generic online templates or informal verbal agreements, which often don't meet specific business needs or take legal nuances into account.
2. **Missing Key Clauses:** Omitting clauses relating to termination, liability, or dispute resolution can leave businesses vulnerable in the event of disagreements.
3. **Failing to Adapt Contracts to Quebec's Legal Framework:** Contracts drafted without regard to Quebec's civil law system may contain unenforceable provisions or lack necessary elements.

### How to Draft Solid Contracts

- ❖ **Tailor Contracts to Specific Needs:** Customize contracts for each situation, ensuring that they reflect the unique aspects of your business and industry.
- ❖ **Include Clear Terms:** Define essential terms like payment schedules, delivery timelines, and performance standards. Specify remedies for breaches of contract to avoid ambiguity.
- ❖ **Anticipate Disputes:** Provide for dispute resolution mechanisms, such as mediation or arbitration, to offer an efficient and cost-effective way to resolve conflicts.
- ❖ **Ensure Compliance:** Contracts involving employees, consumers or suppliers must comply with Quebec's legal standards, including language laws requiring contracts to be available in French.

### A Proactive Approach

Investing in well-drafted contracts not only reduces risks, it also builds trust with customers, suppliers, and employees. Clear, professional agreements set the tone for long-term relationships and provide a roadmap for resolving problems before they escalate. By addressing potential roadblocks early on, new businesses can focus on growth and innovation with confidence.

## Conclusion

Starting a business in Quebec is both rewarding and challenging. The decisions you make from the outset, such as choosing the right business structure, complying with language laws and drafting strong contracts, lay the foundations for long-term success. By proactively addressing these legal considerations, you not only protect your business, but also position your company for growth and sustainability.

While entrepreneurs manage many responsibilities, legal issues require special attention because of their potential impact. Taking the time to navigate Quebec's unique regulatory environment allows you to build trust with stakeholders, mitigate risk and focus on business development.

At LRMM, our commercial team is ready to assist you in navigating the legal complexities of starting and running a business in Quebec. If you have questions or need legal assistance, contact **Christophe El-Hamaoui** at **(514) 925-6404** or email [christophe.el-hamaoui@lrmm.com](mailto:christophe.el-hamaoui@lrmm.com). Together, we can help you make informed decisions and achieve your business goals with confidence.

*\* The use of the masculine gender has been adopted to facilitate reading and has no discriminatory intent.*

*\* The contents of this document provide only an overview of the subject matter and should not be construed as legal advice. The reader should not rely solely on this document to make a decision but should consult his own legal advisors.*