

FOCUS ON LABOUR RELATIONS AND EMPLOYMENT LAW

## *The Accessibility for Ontarians with Disabilities Act:*

### *Will your organization be compliant with the standards required by January, 2012?*



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*The Accessibility for Ontarians with Disabilities Act, 2005* ("AODA") allows the government

to develop specific standards of accessibility and to enforce them.

Designated public sector organizations have been required to be compliant with the Accessibility Standards for Customer Service -- which is the first accessibility standard created under the AODA -- since January 1, 2011. By January 1, 2012, all private businesses, non-profit organizations and other service providers in Ontario with at least one employee must also be compliant.

Additionally, on June 3, 2011, the Ontario government enacted the Integrated Accessibility Standards Regulation. The Regulation comes into force July 1, 2011, establishing three additional standards in the areas of Employment, Information and Communication and Transportation. Under this Regulation, requirements are phased in between July 1, 2011 and January 1, 2017.

This Bulletin will highlight the standards requiring compliance by January 1, 2012.

#### **AODA and other legislation**

There are other laws in Ontario related to accessibility that may apply to organizations covered by the AODA, such as the *Ontario Building Code Act, 1992*, and the Ontario Human Rights Code. The AODA is clear that it in no way replaces or alters obligations under these pieces of legislation or any other laws. For example, a provider must comply with the rules under the Ontario Human Rights Code in addition to any new rules under the AODA. In the event of a conflict between laws, the AODA specifically provides that the higher level of accessibility is the law that governs.

#### **Enforcement under the AODA**

Enforcement of the accessibility standards will be carried out through inspections, compliance orders and administrative penalties. The AODA allows the government to assign monetary penalties to organizations that persist in not meeting their obligations.

The penalties are substantial. For each day or part-day on which an offence occurs, corporations may

be liable to fines of \$100,000 and individuals to a fine of \$50,000 (including directors and officers who fail to prevent the corporation from committing an offence).

The AODA designates the Licence Appeal Tribunal to hear appeals from organizations on compliance matters. It will not hear complaints from individuals. Individuals are directed to file an application with the Ontario Human Rights Tribunal if they feel that they have been discriminated against on the grounds of disability.

#### **The Integrated Accessibility Standards**

The Transportation Standards apply to transportation service providers, including hospitals, taxis, public school boards, colleges and universities. Requirements phase in between July 1, 2011 and January 1, 2017.

Generally, obligated organizations must comply with the Employment Standard and Information and Communications Standard between 2013 and 2017, depending on the type and size of the organization as defined by the Regulation.

By January 1, 2012, however, every employer must provide employees with disabilities with emergency

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response information that is tailored to the employee's needs, if the employee requires it, and as soon as is practicable after the employer becomes aware of the need. With the employee's consent, the emergency response information must be provided to the person designated to provide assistance to the employee. The emergency response information must then be reviewed at specified times under the AODA.

Similarly, by January 1, 2012, every obligated organization that prepares emergency procedures, plans or public safety information and makes that information available to the public must provide that information in an accessible format or with appropriate communication supports, as soon as is practicable, upon request.

### **The Accessibility Standards for Customer Service**

By January 1, 2012, all employers must comply with 11 detailed customer service requirements that fall within the following categories:

- Establishing policies, practices and procedures
- Permitting use of personal assistive devices (and other measures)
- Communication strategies
- Permitting use of service animals and support persons
- Notice of admission fees for support persons
- Notice of temporary disruption to services

- Training for members of the organization interacting with the public or third parties
- Establishment of a feedback procedure

Designated public sector organizations and other providers with 20 or more employees have additional requirements to meet:

- All policies, practices and procedures for providing accessible customer service must be documented and notification must be made to customers that the documents are available upon request, and provided in an accessible format.
- All training provided, including the dates it was provided and to whom, must be documented
- Annual accessibility reports must be filed with the Ministry.

### **Get started now**

With less than six months left before compliance is required by law, all employers must take steps now.

All existing practices, policies and procedures should be reviewed to determine whether new policies or amendments are required.

Scheduling time to train all staff, volunteers, contractors and any other people who interact with the public or other third parties on your behalf should also be scheduled in the coming months.

If you do not know whether or how your organization is impacted by this legislation, please contact a member of our Labour and Employment Group.

A Guide to the AODA is also available on the Ministry of Community and Social Services website at <http://www.mcscs.gov.on.ca>.

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