



February 2011

Ontario Announces New Obligations for Meeting the Needs of People with Disabilities

The *Accessibility for Ontarians with Disabilities Act*, which has been quietly in force since 2005, will now begin to have a practical impact on how business operates in Ontario.

Starting January 1, 2012, private sector employers in Ontario must comply with the first of what will ultimately be five standards to be developed under the AODA.

This first standard – called “Accessibility Standards for Customer Service” – will require businesses in the “customer service sector” to develop accessibility standards, and to develop and implement training to reduce barriers faced by disabled customers.

The remaining four standards, including one targeting the employment relationship, are expected to be released this year. Once developed and adopted, these standards will be enforceable by inspectors with the power to issue administrative monetary penalties between \$500 and \$15,000 *per day* for failing to comply.

THE ACCESSIBILITY STANDARDS FOR CUSTOMER SERVICE: COMPLIANCE

The *Accessibility Standards for Customer Service Regulation* under the AODA will require that businesses that provide goods or services to the public must:

- Develop policies, practices and procedures about how the business will provide goods and services to the disabled;
- Provide “accessibility” training to staff that deals with the public as well as to internal policy makers who participate in developing the business’ policies regarding access to the goods and services by the public;
- Allow disabled persons who are accompanied by service animals (e.g. a guide dog) or a support person to have access to the premises of the business; and
- Provide a public notice of any temporary disruptions that affect access to goods or services by disabled persons.

Private sector businesses with twenty or more employees face *additional* requirements, on reporting, avenues for feedback from disabled persons, and proof of compliance.



FURTHER REGULATIONS ON THE HORIZON

In the fall of 2010, the Ontario Ministry of Community and Social Services released a draft of its “Integrated Accessibility Regulation”, which aims to combine the standards relating to information and communications, employment and transportation.

Many of the duties set out in the employment related standards of the proposed Integrated Accessibility Regulation are not new. However, the proposed regulation requires employers to go further, by formalizing a *proactive* approach to recruiting and employing disabled individuals. For example, employers would have to notify successful employment candidates of the organization’s accommodation procedures and to develop individualized accommodation plans for disabled employees upon request.

Employers would also have to:

- Deliver “accessibility awareness” training to employees.
- Deliver individualized workplace emergency information to disabled employees.
- Take into account the accommodation needs of disabled employees in performance management, career development and redeployment.
- Develop procedures for returning employees to work who are absent due to a non-workplace injury or illness, using individual accommodation plans, where appropriate.

WHAT IS THE *ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT*?

The Act was enacted in 2005 with a mandate to develop, implement and enforce standards for the purpose of improving access for persons with disabilities. Standards are developed through committees that include people with disabilities, private sector representatives, and government representatives.

CONCLUSION

Most employers already comply with many of the accommodation duties raised by the Act and its proposed regulations. However, unlike the human rights process, larger employers will be required to prove these efforts through detailed plans and reporting requirements.

Employers should act early to ensure compliance with the Accessibility Standards for Customer Service before January 1, 2012. Updates will be provided as other standards are finalized and come into force. ■



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