

What's New in HR Law

UPCOMING COMPLIANCE DEADLINES UNDER THE *ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT*

Is Your Organization Compliant?

The deadline for compliance with certain provisions of the *Accessibility for Ontarians with Disabilities Act, 2005* (the "AODA") and its regulations has passed. Are you compliant? As of January 1, 2017, private sector business owners in Ontario with 1-49 employees must be compliant with several new provisions related to Employment Standards, as well as Information Communication Standards.

Employment Standards

With respect to these Employment Standards, small organizations now have significant obligations related to ensuring accessibility and reducing barriers in the workplace in both the pre-employment and employment stages.

When recruiting new employees, an employer must take the following steps to ensure compliance with the *AODA*:

- Notify its employees and the public about the availability of accommodation for applicants with disabilities in its recruitment process;
- Notify applicants that accommodations are available upon request in relation to the materials or processes to be used during recruitment;
- Consult with applicants who request accommodation and provide or arrange for the provision of a suitable accommodation in a manner that takes into account the applicant's accessibility needs due to his or her disability; and,
- When making offers of employment, notify the successful applicant of the employer's policies for accommodating employees with disabilities.

An employer's obligations under the *AODA* continue during the course of an employee's employment. An employer must take the following steps to meet the requirements of the *AODA*:

- Inform its employees of its policies used to support its employees with disabilities;
- Provide such information to new employees as soon as practicable after they begin their employment;

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- Provide updated information to its employees whenever there is a change to existing policies on the provision of job accommodations that take into account an employee's accessibility needs due to disability;
- Where an employee with a disability requests it, consult with the employee to provide or arrange for the provision of accessible formats and communication supports for information that is needed in order to perform the employee's job and information that is generally available to employees in the workplace;
- Where such a request is made, consult with the employee making the request in determining the suitability of an accessible format or communication support; and,
- Provide individualized workplace emergency response information to an employee who has a disability, if the disability is such that the individualized information is necessary and the employer is aware of the need for accommodation. This should be provided as soon as is practicable.

If such processes exist, an employer is obligated to ensure that it takes into account the accessibility needs of employees with disabilities regarding performance management, career development, and redeployment.

Information and Communication Standards

As of January 1, 2017, organizations with 1-49 employees must ensure compliance by taking the following steps related to the communication of information to the public:

- Notify the public about the availability of accessible formats and communication supports;
- If your organization provides processes for receiving and responding to feedback, ensure that such processes are accessible to persons with disabilities by providing or arranging for the provision of accessible formats and communications supports;
- Upon request, provide or arrange for the provision of accessible formats and communication supports for persons with disabilities. This must be done in a timely manner and at no additional cost than the regular cost charged to other persons;
- Consult with the person making such a request to determine the suitability of an accessible format or communication support; and,
- If your organization prepares emergency procedures, plans or public safety information and makes the information available to the public, the organization must provide the information in an accessible format or with appropriate communication supports, as soon as practicable, upon request.

Next Steps

Organizations with 20-49 employees are required to file a compliance report by December 31, 2017. Organizations with fewer than 20 employees are exempt from this requirement.

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It is important to ensure compliance with the *AODA*, as a failure to do so can result in substantial penalties. Every individual who is guilty of an offence under the *AODA* may be liable to a fine of up to \$50,000 for each day on which the offence occurs. If the person is a corporation, it may be liable to a fine of up to \$100,000 for each day on which the offence occurs.

Should you have any questions relating to your obligations under the AODA and its regulations, please contact Jane M. Gooding at jgooding@filion.on.ca, or your regular lawyer at Filion Wakely Thorup Angeletti LLP.