



Lancaster, Brooks & Welch LLP

BARRISTERS AND SOLICITORS

Accessibility for Ontarians with Disabilities Act, 2005

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Corporate Bulletin for March 2010

The Ontario Government plans to make the Province fully accessible by 2025. It has introduced a phased-in approach to the implementation of new provisions under the *Accessibility for Ontarians with Disabilities Act, 2005* (AODA). The AODA requires organizations, including employers and trade unions, to comply with certain Accessibility Standards in such areas as employment, delivery of goods and services, transportation and communications with an aim to removing barriers to accessibility.

The Accessibility Standards impose significant obligations on public and private sector employers which reach well beyond and are in addition to, the existing accommodation requirements of the Ontario *Human Rights Code*.

The AODA will be phased in over time. Phase one requires the implementation of a *Customer Service Accessibility Standard*. Affected organizations must develop comprehensive policies and practices and conduct training regarding the delivery of goods and services to people with disabilities. Public sector employers must be in full compliance with these requirements by January 1, 2010. Private sector organizations (including unions) must be in full compliance by January 1, 2012.

The *Customer Service Accessibility Standard* applies to all organizations, both public and private, that provide goods and services to the public in Ontario and that have one or more employees in Ontario.

The AODA Regulations require that all service providers comply with certain minimum requirements summarized as follows:

- Establish policies, practices and procedures on the provision of goods and services to people with disabilities.
- Make reasonable efforts to ensure that policies, practices and procedures are consistent with certain core principles in the AODA, namely, the principles of independence, dignity, integration and equality of opportunity.
- Establish policies on allowing disabled people to use personal assistive devices, to be accompanied by a support person, guide dog or other service animal.
- Communicate with disabled persons in a manner that takes into account their disability.
- Provide advance notice to the public when there is going to be a temporary disruption in services or facilities used by persons with disabilities.
- Train all people who interact with the public on the organization's behalf, as well as those persons who are involved in developing the organization's policies and procedures on a number of topics including:
 - ◆ How to interact and communicate with a disabled person.
 - ◆ How to interact with disabled persons who use an assistive device or require the assistance of a guide dog, service animal or support person.
 - ◆ How to use available equipment or devices that may help with the provision of goods and services to a person with a disability, and
 - ◆ What to do if a disabled person is having difficulty accessing the organization's goods or services.

- Establish a process for people to provide feedback, including a complaints' mechanism and make information about the feedback process readily available to the public.
- Maintain documents containing the general policies, feedback processes and training materials (including policies and records) developed pursuant to the requirements of the Accessibility Standards for Customer Service, as well as provide such documents to any person upon request.

Public Sector organizations and providers with 20 or more employees are subject to additional obligations summarized as follows:

- Document in writing all policies, practices and procedures.
- Notify customers that documents required by the Regulations are available upon request.
- When providing documents required under the Regulations to a person with a disability, provide the information in a format that takes into account the person's disability.

Training with respect to how to provide goods and services to people with disabilities is mandatory (for all employees, volunteers and contractors who deal with members of the public) and there are additional training requirements for management employees involved in developing policies, practices and procedures on the provision of goods and services.

The cost to business of compliance is unknown at present; however, if the penalties set out in the AODA and its Regulations are an indication, it will certainly be extensive. Anyone guilty of an offence under the AODA faces fines on conviction of up to \$50,000 per day on which an offence occurs or continues to occur. Directors and officers who fail to live up to the duty imposed by the AODA to take reasonable care to prevent the corporation from committing an offence are also liable for fines of up to \$50,000 per day.

As a final comment, while common sense would have dictated that businesses implement many of the above steps in recognition of the special needs of persons with disabilities it is now a legal requirement to do so. Businesses should review with their legal advisors their existing practices and policies regarding serving people with disabilities to determine what changes may be necessary to comply with the above requirements. For organizations that currently do not have written policies in place, a good starting point is the customer service policy template contained in the compliance manual for the customer service standard. The manual is available at www.AccessON.ca, a web site set up by the Ministry of Community and Social Services to educate Ontarians about the AODA.

***The foregoing information is provided to you for information purposes only.
We caution you to obtain legal advice specific to your situation in all circumstances***

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