FTR Now

Just in Time for the New Year: The *AODA* and its January 1, 2014 Deadlines

Date: December 18, 2013

The January 1, 2014 deadline to comply with a number of standards in the Integrated Accessibility Standards regulation (the "IAS Regulation") under the *Accessibility for Ontarians with Disabilities Act, 2005* (the "AODA") is fast approaching for many organizations. In this *FTR Now*, we provide a brief overview of some key obligations required by that date.

COMPLIANCE DEADLINES

As described in greater detail in our *FTR Now* of June 9, 2011, "Ontario Government Releases Final Integrated Accessibility Standards Regulation Under the AODA," the IAS Regulation phases in its obligations over a number of years. Specific deadlines are determined by whether an employer is a designated public sector employer or otherwise, and whether the employer is large (50 or more employees) or small (less than 50 employees).

For organizations in the designated public sector, especially large employers, many of the requirements of the IAS Regulation are already in force. **Indeed, all designated public sector organizations must file their first accessibility report under the IAS Regulation by December 31, 2013.**

The following sections summarize standards about to come into effect January 1, 2014 for various organizations.

PART I: GENERAL STANDARDS

THE ESTABLISHMENT OF ACCESSIBILITY POLICIES

Small designated public sector organizations and large organizations in the private, not-for-profit and non-designated public sectors must have developed and implemented an accessibility policy. For large organizations, the policy must include a statement of commitment to meet the accessibility needs of persons with disabilities in a timely manner.

Small designated public sector organizations must also prepare written documents describing their policies and have these documents publicly available and provided in an accessible format upon request.

THE ESTABLISHMENT OF A MULTI-YEAR ACCESSIBILITY PLAN

Small designated public sector organizations and large organizations in the private, not-for-profit and non-designated public sectors must have prepared, documented and posted on their website, if any, a multi-year accessibility plan on how the organization intends to prevent and remove barriers to accessibility. They must also able to provide this information in an accessible format upon request.

PROCUREMENT

Small designated public sector organizations must incorporate accessibility criteria when procuring or acquiring goods, services or facilities, except where it is not practicable to do so.

SELF-SERVICE KIOSKS

Small designated public sector organizations and large organizations in the private, not-for-profit and non-designated public sectors must have regard for accessibility criteria when designing, procuring or acquiring self-service kiosks.

TRAINING

Large designated public sector organizations should have provided training on the requirements of the IAS Regulation and on the *Human Rights Code* (as it pertains to persons with disabilities) to employees, volunteers, persons who participate in developing the organization's policies, and "all other persons" who provide goods, services or facilities on behalf of the organization, and should make and maintain records of the training provided.

PART II: INFORMATION AND COMMUNICATION STANDARDS

FEEDBACK PROCESSES

Large designated public sector organizations will need to ensure that any existing feedback processes are accessible by allowing for the provision of accessible formats and communications support upon request. They must also notify the public about the availability of accessible formats and communication supports.

ACCESSIBLE WEBSITES AND WEB CONTENT

All designated public sector organizations and large organizations in the private, not-for-profit and non-designated public sectors must ensure that all new internet websites and web content on those sites (published after January 1, 2012) conform with Wide Web Consortium Web Content Accessibility Guidelines ("WCAG") 2.0, Level A. A "new" website includes one that undergoes a significant refresh.

PART III: EMPLOYMENT ACCESSIBILITY STANDARDS

The employment accessibility standards come into effect on January 1, 2014 for large designated public sector employers, and include:

- incorporating notifications about the availability of accommodation in recruitment and job applicant assessment processes, and providing suitable accommodations in consultation with the individual;
- notifying successful applicants of the employer's policies for accommodating employees with disabilities;
- informing all employees of the employer's policies used to support employees with disabilities, including information on accommodation;
- upon request, arranging for the provision of accessible formats and communication supports for information needed by an employee to perform his or her job or provided to employees generally (in consultation with the individual);
- having in place a written process to develop documented individual accommodation plans for employees with disabilities;
- having in place and documenting a return-to-work process for employees with disabilities; and
- ensuring that accessibility needs of employees are taken into account in performance management, career development and advancement, and redeployment processes.

PART IV: TRANSPORTATION STANDARDS

For conventional and specialized transportation service providers, several obligations come into force on January 1, 2014. Key among those is a requirement for transportation-specific accessibility training for employees and volunteers.

As of January 1, 2014, school boards must identify students with disabilities before the commencement of each school year

or during the school year, develop individual school transportation plans for each student with a disability, and identify and communicate to the appropriate parties the roles and responsibilities of the transportation provider, the parents or guardians of the student with the disability, the operator of the vehicle used to transport the student, appropriate school staff and the student with the disability.

CONCLUDING COMMENTS

The Accessibility Directorate has been active in encouraging compliance with the accessibility standards under the AODA, and has begun to publish materials online to assist with compliance with the IAS Regulation. The Directorate has also begun using enforcement measures with those organizations that are not in compliance with the standards. Due to the significant administrative penalties under the AODA, all organizations are encouraged to comply with the AODA and its accessibility standards in a timely fashion.

For assistance or advice regarding compliance with the IAS Regulation or any other aspect of the AODA, please contact Paul E. Broad, Andrew N. Zabrovsky or your regular Hicks Morley lawyer.

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