

Transcript for The Accessibility for Ontarians with Disabilities Act, 2005, also known as the AODA.

The Human Resources Professionals Association is pleased to present the webinar series:

We are proud to introduce the first in a series of webinars related to the topic of the AODA and its regulations.

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The purpose of this webinar

To provide an understanding of the Accessibility for Ontarians with Disabilities Act, 2005 , or AODA, its purpose and goals.

The origins of the AODA, how Standards Development Committees work, obligations for compliance with AODA standards, process checks and balances and the future of the legislation and also, what you can do to be proactive.

Section 1: Accessibility for all Ontarians

Accessibility for all Ontarians.

People with disabilities deserve respect and equal opportunity.

Besides the AODA, there are other laws on providing access to people with disabilities.

Statistics show that people with disabilities are a significant segment of the population. Accessibility benefits all of society.

Today parents benefit from universal washrooms. Ramps are regularly used by everyone to move children, suitcases, furniture, equipment and food. Everyone benefits from automatic doors that open and close either by sensor or the push of a button.

An accessible environment is also a safer environment that may reduce accidents.

The Accessibility for Ontarians with Disabilities Act, 2005, also known as the AODA became law on June 13, 2005.

The purpose of the AODA is to develop, implement and enforce mandatory accessibility standards in key areas of daily living.

Standards are being developed in Customer Service; Information and Communications; Employment; Transportation; and Built Environment.

The accessibility standards will apply to private and public sector organizations across Ontario.

The goal of the AODA is an accessible Ontario by 2025.

In developing accessibility standards, the AODA provides for the involvement of persons with disabilities; representatives of industries and of various sectors of the economy; and the Government of Ontario.

It also provides for broad public consultation.

What is the history of the Accessibility for Ontarians with Disabilities Act, 2005?

The AODA builds on progress made under earlier legislation known as the Ontarians with Disabilities Act, 2001 (or the ODA).

The ODA requires the Ontario government and broader public sector organizations, which includes municipalities, public transportation organizations, colleges, universities, hospitals and school boards, to develop annual accessibility plans.

The ODA does not set standards and has limited enforcement.

These obligations under the ODA remain in effect as accessibility standards are developed under the AODA.

Important Statistics

Statistics can help us understand that people with disabilities are a significant segment of the population in Ontario.

According to Statistics Canada

More than one in seven (1.85 million) people in Ontario have a disability.

1.03 million Ontarians with disabilities can work.

It is estimated that one in five Ontarians will be 65 or older by the year 2025.

As the population ages, the need for accessibility will increase.

Benefits of Accessible Business.

Why hire someone with a disability? There are many valid reasons.

People with visible and non-visible disabilities are an untapped labour market.

The unemployment rate for people with disabilities is five times as high as for any other identified group.

Many people think that hiring someone with a disability will have significant costs.

Some people with disabilities do not require any accommodation while others may require minor expenditure to alter the environment. Some may need flexible schedules.

Life can change in a moment, and an employee may suddenly need accommodation.

Today, employers regularly provide accommodation for employees with disabilities of all types.

Diversity and inclusion in the workplace has many advantages.

People with disabilities have valuable skills and knowledge to contribute.

Why have accessible businesses?

People with disabilities eat out, work, travel, shop and do business, and they have spending power!

A Royal Bank study released in the year 2000, estimated the spending power of people with disabilities to be 25 billion dollars a year in Canada.

The legal definition of disability

under the AODA, it is the same as the definition of disability in the Ontario Human Rights Code.

The legal definition of disability under the AODA Section 2 is:

In this Act,

“disability” means,

(a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or reliance on a wheelchair or other remedial appliance or device,

(b) a condition of mental impairment or a developmental disability,

(c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,

(d) a mental disorder, or

(e) an injury or disability for which benefits were claimed or received under the insurance plan established under the Workplace Safety and Insurance Act, 1997;”

The legal definition of disability is in the AODA, 2005, Part 1, Definitions.

Broad Range of Disabilities.

The legal definition of disability includes a broad range of disabilities and recognizes visible and non-visible disabilities.

The range includes physical disabilities, vision loss, sensory, intellectual or developmental, learning and mental health disabilities.
People with disabilities may also have multiple disabilities.
Some disabilities like arthritis are episodic, with effects that can come and go.

Analyzing Barriers.

The goal of the AODA is to identify, eliminate and prevent barriers to accessibility. We need to actively think about accessibility and inclusion.
In the future, accessibility and inclusion will be part of our regular business planning and decision making process.
Also important is ensuring that new barriers are not created.

What is the legal definition of a barrier?

The accessibility standards developed under the AODA address barriers identified in the legal definition of a barrier. The Accessibility for Ontarians with Disabilities Act defines a barrier as anything that stops a person with a disability from fully taking part in society because of that disability, including: a physical barrier, an architectural barrier, an information or communications barrier, an attitudinal barrier, a technological barrier, a policy or a practice.

Section 1 Summary

In this section, we covered that the Accessibility for Ontarians with Disabilities Act became law on June 13, 2005.

The purpose of the AODA is to develop mandatory accessibility standards that will identify, remove and prevent barriers for people with disabilities in key areas of daily living .

The standards will apply to private and public sector organizations across Ontario. The goal is an Accessible Ontario by 2025.

We also learned that statistics help us understand that people with disabilities are a significant segment of the population in Ontario.

More than one in seven people in Ontario have a disability, this equals 1.85 million people.

1.03 million Ontarians with disabilities can work, and we discussed that people with disabilities have spending power!

Additionally, we learned that the legal definition of disability under the AODA is the same as the definition of disability in the Ontario Human Rights Code.

We also provided the legal definition of a barrier which includes anything that stops a person from fully taking part in society because of their disability.

Section 2: Developing Accessibility Standards Under the AODA

Achieving accessibility under the AODA.

The AODA is about developing and enforcing accessibility standards. Standards foster integrating accessibility into regular business and capital planning.

Standards help everyone identify barriers.

Organizations, public and private, will file accessibility reports if the standard applies to them. The reports are public information.

The AODA has enforcement mechanisms. Further detail on enforcement will be provided later in this presentation so that organizations can be fully aware of the potential costly implications if this law is purposely disregarded.

There are five standards being developed under the AODA

They are: Customer Service, Information and Communications, Employment, Transportation, and the Built Environment.

The Customer Service standard addresses business practices and training needed to provide better customer service to people with disabilities. This is the first standard developed to become a regulation. It came into effect January 1, 2008.

The Information and Communications standard addresses the removal of barriers in access to information and communications.

The Employment standard addresses paid employment practices relating to employee-employer relationships, which may include recruitment, hiring, retention policies and practices.

The Transportation standard addresses access to public transportation that is needed for aspects of daily living.

And finally, the Built Environment standard addresses access into and within buildings and outdoor spaces. Clauses are expected to build primarily on Ontario's Building Code.

Standards Development Committees.

Standards development committees are responsible for developing proposed standards that could become regulations under the AODA.

Each standard is developed by a separate standards development committee.

As required under the AODA, each committee includes people with disabilities or their representatives, as well as representatives from the business community, the broader public sector and the Ontario government.

Standard development committee representatives are selected through a public recruitment process.

Each committee is composed of 50% of representatives from the disability community, and 50% of representatives from private, broader public sectors, non-profit sectors and Ontario government ministries affected by the standard.

For example, the Human Resources Professionals Association was represented on the Employment standards development committee.

The standards development committee works together to:

- Draft and submit an initial proposed standard for public review
- Revise the proposed standard to incorporate public input, and
- Submit a final proposed standard to the government for consideration as law.

The government then decides what will become law and when.

Once developed and made into law, these standards will include the steps and timelines that businesses and organizations will have to follow.

What is common in the standards?

The AODA provides for standards to be developed so that organizations, both public and private, can spread out their accessibility investments over time to incorporate capital expenditures into their normal business plans and strategies.

Individuals or organizations must meet the compliance timelines in each standard that applies to them.

They have to file accessibility reports for each standard if it applies.

Section 2 Summary

In this section, we covered the standards development process.

The AODA involves the development and enforcement of accessibility standards.

Standards development committees are responsible for developing proposed standards that could become regulations under the AODA.

Five standards are being developed: Customer Service, Information and Communications, Employment, Transportation, and the Built Environment.

Each standard is developed by a standards development committee.

Standards development committees are comprised of representatives from the disability community and from private, broader public sectors, non-profit sectors and Ontario government ministries affected by the standard.

The committee members work together through the standards development process which includes a public review, and submits a final proposed standard to the government.

The government decides what will become law and when.

Standards have some common elements. Standards foster integrating accessibility into regular business and capital planning.

As well, individuals and organizations must meet the compliance timelines in each standard that apply to them, and they have to file accessibility reports for each standard if it applies.

Section 3: Duties, Compliance, Reporting and Enforcement

Duty of Directors or Officers of a Corporation.

Regarding the Duty of Directors or Officers of a Corporation, the AODA clause 11, section 37, subsection (4) states:

Every director or officer of a corporation has a duty to take all reasonable care to prevent the corporation from committing an offence under this section.

Also on the Duty of Directors or Officers of a Corporation, the AODA clause 11, section 37, subsection (5) states:

Every director or officer of a corporation who has a duty under subsection (4) and who fails to carry out that duty is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 for each day or part of a day on which the offence occurs or continues to occur.

Compliance and Improvement.

A progressive approach to compliance will be used.

The government will identify organizations that require compliance improvement based on reports and risk assessment

Non-compliance will be addressed proportionately, depending on the violation. For example, compliance assistance materials will be sent as a first step. If this is not effective, then compliance tools will be used as required.

Compliance Framework.

The compliance framework will be supported through public education and awareness. Also, there will be the provision of compliance resources. Approximately 360,000 organizations will be required to comply with the standards. Approximately 60,000 organizations are required to file a report.

Organizations that require compliance improvement are to be identified based on non-compliant reports, non-filers, risk assessment, and patterns of complaints. Orders and penalties are to be based on risk and severity of the violation.

Accessibility Reporting.

Under the AODA, businesses and organizations covered by a standard will be required to file an accessibility report unless they are specifically exempted by regulation from filing a report.

The process for filing an accessibility report is intended to simplify the compliance process. Reports will be filed online, and in a simple checklist format. There will be links to compliance materials to be included in the online report to help the organization.

The process also includes automated assessment of the reports.

There are also proposed plans for integrated reporting across standards so that organizations file one report on all standards which apply to them.

The AODA requires obligated organizations to make accessibility reports available to the public.

Enforcement

The AODA provides for inspection and enforcement mechanisms. Compliance may be encouraged with positive incentives. Negative incentives include a maximum \$50,000 fine per day for a person and a maximum \$100,000 fine per day for a corporation.

What this means for your organization.

Once standards are in force as regulations and if they apply to your organization, your organization will file an accessibility report within the dates stated.

The Accessibility Standards for Customer Service, also known as the Customer Service Standard, came into force January 1, 2008 and is now the law.

Designated public sector organizations must comply by January 1, 2010 and file a report in 2010.

Organizations in the private sector, including non-profit, with 20 or more employees must comply by January 1, 2012, and file a report in 2012.

Organizations in the private sector, including non-profit, with one to nineteen employees must comply by January 1, 2012, but are exempted from reporting.

Section 3 Summary

In this section, we covered duties of directors or officers of corporations under the AODA, the compliance and reporting framework and enforcement of accessibility standards.

The AODA states that Directors or Officers of a corporation have a duty to ensure the corporation complies with the requirements or face fines if found guilty of an offence.

A progressive approach to compliance will be used. Non-compliance will be addressed proportionately, depending on the violation. Compliance assistance will be supported through education and awareness. Also, there will be the provision of compliance resources.

Businesses and organizations covered by a standard will be required to file an accessibility report, unless they are specifically exempted by regulation from filing a report. The AODA requires obligated organizations to make accessibility reports available to the public.

On the topic of enforcement there will be positive and negative incentives.

Compliance fines include a maximum \$50,000 fine per day for an individual and a maximum \$100,000 fine per day for a corporation.

The Accessibility Standards for Customer Service, also known as the customer service standard, is now in force and organizations must comply within the dates stated in the standard.

Section 4: The Future of the Accessibility for Ontarians with Disabilities Act

Development of Subsequent Proposed Standards

Because the AODA has long term objectives, within five years after a standard becomes a regulation or earlier upon the request of the Minister, the standards development committee will re-examine the long-term accessibility objectives of the standard, and if required, revise the requirements and the time-frame to achieve accessibility, on or before January 1, 2025.

In the future, another proposed accessibility standard may be developed with the additions or changes to the existing regulation. Then the proposed standard will be submitted to the Minister to make the document open for public review. Based on the comments received, the committee will make changes it considers advisable and submit to the Minister the subsequent proposed accessibility standard. See the AODA 2005, clause 11, section 9, subsection (9). When the time arises for the Minister to seek members to comprise a standard review committee, human resource professionals may consider seeking a position as a voting member.

Are there any more checks and balances? The answer is yes.

The Review of Act section 41. (1) states:

Within four years after this section comes into force, the Lieutenant Governor in Council shall, after consultation with the Minister, appoint a person who shall undertake a comprehensive review of the effectiveness of this Act and the regulations and report on his or her findings to the Minister. See the AODA 2005, clause 11, section 41, subsection (1).

The independent review of the AODA was undertaken in 2009 and included public consultations.

After the first review, there are continuing checks and balances written in the AODA.

The AODA states there will be further reviews. Within three years after the Minister submits the report to the Lieutenant Governor in Council, and before the Assembly, and every three years thereafter, a further comprehensive review of the effectiveness of this Act and regulations will be submitted. See the AODA 2005, clause 11, section 41, subsection (5).

The AODA and other Legislation.

The Accessibility for Ontarians with Disabilities Act, 2005 is clear that nothing in the Act or its regulations diminishes existing legal obligations under any other Act, and that the Act or regulation providing the highest level of accessibility for people with disabilities prevails.

Part 1, Section 3 of the AODA states:

Nothing in this Act or in the regulations diminishes in any way the legal obligations of the Government of Ontario or of any person or organization, with respect to persons with disabilities that are imposed under any other Act or otherwise imposed by law.

2005, clause 11, section 3.

The AODA, Part ten, Section 38 states:

If a provision of this Act, of an accessibility standard, or of any other regulation conflicts with a provision of any other Act or regulation, the provision that provides the highest level of accessibility for persons with disabilities, with respect to goods, services, facilities, employment, accommodation, buildings, structures or premises shall prevail. 2005, clause 11, section 38.

Examples of laws that already state people with disabilities deserve respect and equal opportunity are: the Canadian Charter of Rights and Freedoms, 1982; the Canadian Human Rights Act, 1985; the Ontario Human Rights Code, 1992; and the Supreme Court of Canada case, *Eldridge v. British Columbia (Attorney General)*, 1997.

Section 4 Summary

In this section we discussed that the AODA has long term objectives.

Within five years after a standard becomes a regulation, or earlier, the standard will be re-examined for its long-term accessibility objectives, and if necessary, may be revised to achieve accessibility on or before January 1, 2025.

The AODA has more checks and balances. Section 41 of the AODA requires that an independent review of the Act commence within four years of coming into force.

This review was undertaken in 2009.

After the first comprehensive review, the AODA states there will be further reviews every three years thereafter.

We also covered the relationship of the AODA to other legislation. The AODA is clear, nothing in the Act or its regulations diminishes existing legal obligations under any other Act, and that the Act or regulation providing the highest level of accessibility for people with disabilities prevails.

Section 5: What You Can Do

What you can do now, is be alert to barriers!

When you think about accessibility it is important to be alert to visible and invisible barriers.

Systemic barriers are sometimes created accidentally through policies. As you work through your learning related to the AODA, be sure to think about the policies you have in place and those in development. Determine whether they could be unintentionally creating barriers to accessibility.

Attitude is one of the most difficult barriers to overcome. Some people don't know how to communicate with a person with a disability or they discriminate against them because of stereotypes. Some people may avoid people with disabilities due to anxiety or lack of knowledge about how to communicate effectively in a positive manner.

Raising awareness and providing education to your employees will help eliminate barriers to improve accessibility for all Ontarians.

Thank you for participating in this webinar.

You are now on your way to understanding the Accessibility for Ontarians with Disabilities Act, and what you can do to help Ontario to become accessible to people with disabilities by the year 2025.

Don't forget to Download the attached resources.

Please watch for additional webinars in this series on the accessibility standards under the AODA.

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