

KEEPING CURRENT

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AODA requirements for Websites

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Founded in the 1920s, Gardiner Roberts LLP has grown to become a strategically placed mid-sized business law firm with a diverse client base which includes several of Canada's largest banks, public companies including mining, high tech and software companies, real estate enterprises, lenders and investors.

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What is the AODA?

The Accessibility for Ontarians with Disabilities Act (the “**AODA**”) is a legislative framework intended to reduce and remove barriers for people with disabilities and sets out a process for developing, implementing and enforcing accessibility standards for businesses, non-profits and public sector organizations. AODA has been in effect since 2005, making Ontario the first Canadian province to pass legislation to improve accessibility in areas that affect the daily lives of people with disabilities.

AODA imposed requirements for Ontario websites as part of its effort to achieve accessibility for Ontarians with disabilities by January 1, 2025.

Ontario public and private organizations must make their websites, including web-based apps, accessible and compliant with accessibility guidelines in order to facilitate access to computer users with disabilities.

Who must comply with the website accessibility requirements?

The AODA has different requirements for different kinds of workplaces, depending on whether they are public or private and how many workers they have.

Public Sector Organizations

Since January 1, 2012, public sector organizations with 1-49 workers and public sector organizations with 50+ workers (the “**Public Sector Organizations**”) are required to make their websites accessible, and ensure that their website complies with WCAG 2.0 guidelines. This rule applies to (i) new websites (ii) old websites that are being updated significantly and (iii) new web content.

In addition, Public Sector Organizations must comply with Level A guidelines since January 1st, 2014, and with Level AA guidelines since January 1st, 2021.

Private Sector and Non-Profit Businesses

For private and non-profit businesses with 50+ workers (the “**Private Sector Organizations**”), the AODA requirements are the same as listed above for the Public Sector Organizations.

Additionally, since December 31st, 2014, businesses have to file accessibility compliance reports confirming that they have fulfilled all accessibility requirements under the AODA. Private Organizations must submit the report every three years.

Furthermore, since January 1, 2016, all information available to the public must be offered in an accessible format. Public and Private Sector Organizations should consult with the party requesting the information on how to provide the information in an accessible format.

Moreover, the AODA requirements are also applicable to the organizations that control the website. This means, having control over the website’s appearance, functionality and content.

What are the requirements for websites?

The terms of the requirements include compliance with the Web Content Accessibility Guidelines (“**WCAG 2.0**”), an internationally accepted standard for web accessibility developed by the World Wide Web Consortium (“**W3C**”), an international team of experts.

Each guideline has three levels of accessibility: A, AA, and AAA. Newly created or refreshed websites must meet level A, which is the minimum level of conformance, meaning that the web page satisfies all level A success criteria, or a conforming alternate version is provided. The requirement to meet level AA

occurs after meeting level A, and level AAA is not yet required.

“New website” means a website that has a new web address or a significantly new look and feel, whereas a significantly refreshed website keeps the same web address but has significant changes to its content, how its looks and feels, and how users navigate the site.

What are the deadlines?

WCAG Level A and AA for Public and Private Sector Organization

Since January 1, 2014, new public websites, significantly refreshed websites and any web content posted after January 1, 2012 must meet WCAG 2.0 Level A.

By January 1, 2021, all public websites and web content posted after January 1, 2012, must meet WCAG 2.0 Level AA requirements other than criteria 1.2.4 (live captions) and 1.2.5. (pre-recorded audio descriptions).

*Accessibility Compliance Report (“**Report**”)*

In addition to meeting the WCAG level A and AA for websites and other applicable accessibility requirements, business and non-profit organizations with 20+ workers also have to complete a report every 3 years. The deadline for business and non-profit organizations with 20+ workers in Ontario, received a six-month deadline extension, and the last deadline was June 30, 2021. Public Sector Organizations’ deadline is every 2 years and the next Report due date is December 31, 2021.

If organizations fail to meet the deadlines for filing the Report, they can face enforcement



measures, including monetary penalties. Furthermore, failure to submit the Report will also increase the likelihood of flagging the company for an internal audit.

Conclusion

Keeping up to date with the AODA requirements for websites and the timely filing of reports, ensures that Public and Private Sector Organizations are able to certify full compliance with AODA requirements.

Some business may not be able to meet the deadline under certain circumstances. As such, they are also able to circumvent this by indicating in the accessibility compliance report that certain requirements have yet to be met. This is a prudent option for organizations to mitigate any potential flags for audit inquiries or significant monetary penalties.

Improving accessibility by ensuring compliance with AODA requirements is not simply the right thing to do – it is a strategic business decision to help Ontarians navigate websites without any unintentional barriers.

For more information about the requirements please see: <https://www.ontario.ca/page/how-make-websites-accessible>.

Contact us

If you have a corporate matter and are in need of legal advice, please contact Eliane Leal da Silva at 416.865.325, elealdasilva@grllp.com.

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