

# Updates on Provincial Government Enforcement

Anneli LeGault

06 November 2015

- Ontario Government takes proactive enforcement action (even where no complaints filed) under these statutes:
  - Accessibility for Ontarians with Disabilities Act (AODA)
  - Employment Standards Act
  - Pay Equity Act

# AODA

## Failure to File

- Organizations with 50+ employees:
  - File on-line accessibility report – December 31, 2012 (Customer Service)
  - File on-line accessibility report – December 31, 2014 (General Requirements)
  - Further reports due 2017, 2020 and 2023
- Organizations with 20-49 employees
  - File on-line accessibility report – December 31, 2012 (Customer Service)
  - File on-line accessibility report – December 31, 2014 (Customer Service)
  - Further reports due 2017, 2020 and 2023

# AODA Failure to File

Ministry of  
Economic Development,  
Trade and Employment

Ministry of  
Research and Innovation

Standards, Policy and  
Compliance Branch  
Accessibility Directorate  
of Ontario

6<sup>th</sup> floor, Suite 601a & 601b  
777 Bay Street  
Toronto ON M7A 2J4  
Fax: 416-325-8620

Ministère du  
Développement économique,  
du Commerce et de l'Emploi

Ministère de  
la Recherche et de l'Innovation

Direction des normes, des  
politiques et de la conformité  
Direction générale de  
l'accessibilité  
pour l'Ontario

6<sup>e</sup> étage, bureaux 601a & 601b  
777, rue Bay  
Toronto ON M7A 2J4  
Télécopieur: 416-325-8620



Attention: Owner / President / Executive Director / CEO

## NOTICE OF PROPOSED ORDER

As of **March 10, 2014**, our records show that your organization has not filed an Accessibility Compliance Report with the Ontario government under section 14 of the *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, c.11 (the Act), relating to compliance with the Accessibility Standards for Customer Service.

Under section 21(3) of the Act I have the power to order your organization to file an accessibility report that complies with the requirements of the Act and to issue an administrative monetary penalty against your organization for failing to do so.

Before issuing an order I am required by section 22 of the Act to give notice of the order to the person or organization that is the subject of the proposed order, and to give the person or organization an opportunity to make submissions with respect to the proposed order. Such notice is required by section 22 to inform the person or organization of

- the nature of the order that the director proposes to make;
- the steps that the person or organization must take in order to comply with the proposed order;
- the right of the person or organization to make written submissions explaining the organization's alleged failure to comply with the Act; and
- the time within which submissions must be made.

**Accordingly please be advised that unless you take corrective action, a director's order will be issued against your organization under section 21 of the Act requiring you, in accordance with section 14 of the Act, to file an accessibility report and to pay an administrative penalty for failing to file an accessibility report. The administrative penalty will be in an amount, in the case of an individual or unincorporated organization, no less than \$200 and no greater than \$2,000, and, in the case of an incorporated organization, no less than \$500 and no greater than \$15,000.**

To prevent issuance of the director's order against your organization, **your organization must, in accordance with section 14 of the Act, file its overdue accessibility compliance report within 30 days** of your organization receiving this notice.

## OPTION TO PROVIDE WRITTEN SUBMISSIONS

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Your organization is entitled under section 22(3) of the Act to provide written submissions to the director to explain its alleged failure to submit an accessibility report. If your written submissions justify your organization's non-submission of an accessibility report, as determined by the director, the proposed order may not be issued against your organization. Written submissions must be received by the director within **30 days** of your organization receiving this notice. If you choose to provide written submissions, please submit them to the email/mailling address indicated below.

## FILING YOUR ACCESSIBILITY REPORT

To file your accessibility report:

- Please go to [ontario.ca/onesource](http://ontario.ca/onesource).
- Select the "Sign Up" option to create an online account with the Government of Ontario.
- Once you have your account, click on "Accessibility Reporting" and follow the prompts to file your report.

You will be required to reference the Business Number (BN9) listed above when you file your accessibility report. Your BN9 is typically used when filing business-related taxes with the Canada Revenue Agency. If you have more than one BN9 associated with your organization, you must file an accessibility report for each BN9 with 20 or more employees.

All information you provide is subject to the *Freedom of Information and Protection of Privacy Act*.

## QUESTIONS

If you have any questions regarding this notice of proposed order, please contact the AODA Inspector at the following address:

Attention: AODA Inspector  
Accessibility Directorate of Ontario  
777 Bay Street, Suite 601A  
Toronto, Ontario M7A 2J4  
Phone: 416-212-9519  
E-mail: [AODA.Inspections@ontario.ca](mailto:AODA.Inspections@ontario.ca)

# AODA

## Failure to File

- Ministry of Economic Development, Employment & Infrastructure issues Notice of Proposed Order
- typically 30 days to respond
- if failure to respond, a Director's Order issued
- may include a penalty of \$200-\$15,000
- can appeal to Licence Appeal Tribunal
- to date LAT is reviewing failure to file on-line report charges
- usual penalty is \$2,000
- LAT has reduced penalties to \$250-\$500

# AODA

## Ministry Audits

- Ministry does not receive complaints
- Complainants are encouraged to contact Human Rights Commission or Human Rights Tribunal of Ontario
- Ministry will audit organizations that do not file on-line report, answered “No” in compliance report, and random audits

# AODA Ministry Audits

- first targeted audit blitz
- October - December 2015
- retailers with 500+ employees
- focus of audits - individualized emergency response plans, proof that multi-year accessibility plan is posted, available in accessible format, updated every 5 years

# Employment Standards Act

- In addition to investigating complaints (17,453 complaints reviewed in 2014-2015):
  - “proactive inspections”
  - order to pay - \$10,000 cap removed and 2 year limitation period as of February 2015;
  - compliance order
  - tickets
  - notice of contravention
  - self-audits as of May 2015
  - education - new poster as of May 2015

# Employment Standards Act

## Proactive Inspections

- usually targeted on high-risk sectors, repeat violators
- 2,477 inspections completed in 2014-5
- top 5 violations: holidays, record keeping, overtime pay, vacation, excess daily or weekly hours of work

# Employment Standards Act Self-Audit

- ESO can give written notice to require self-audit
- employer must report results
- will set out time period to be covered, provisions of ESA covered, deadline
- preparation: focus on the top 5 trouble spots in previous slide
- obtain Workbook from Ministry website; it covers 11 standards and has checklists

# Employment Standards Act Poster

- new poster, version 6.0
- available at <http://www.labour.gov.on.ca/english/es/pubs/poster.php>
- post in workplace(s)
- all current employees to get new poster by June 19, 2015
- new hires get poster within 30 days of hire
- can be hard copy, email, link

## Employment Standards in Ontario

The Employment Standards Act, 2000 (ESA) sets minimum standards for most workplaces in Ontario. Special rules and exemptions apply to certain employees.

## What you need to know

Employers are prohibited from penalizing employees in any way for exercising **ESA** rights.

**Hours of Work and Eating Periods:** There are daily and weekly limits on hours of work. Employees may work more if certain conditions are met. Employees must not work more than 5 consecutive hours without a 30-minute meal break. Learn more at [Ontario.ca/hoursofwork](http://Ontario.ca/hoursofwork).

**Overtime Pay:** Overtime is payable after 44 hours of work in a week for most jobs. The overtime rate must be at least 1½ times the regular rate of pay.

**Minimum Wage:** Most employees are entitled to be paid at least the minimum wage. For current rates visit [Ontario.ca/minimumwage](http://Ontario.ca/minimumwage).

**Payday:** Employees must be paid on a regular payday and receive a wage statement.

**Vacation Time and Pay:** Most employees earn at least 2 weeks of vacation time after every 12 months. They must be paid at least 4% of the total wages they earned as vacation pay.

**Public Holidays:** Ontario has 9 public holidays each year. Most employees are entitled to take these days off work and be paid public holiday pay.

**Leaves of Absence:** There are a number of job-protected unpaid leaves of absence including pregnancy, parental, family caregiver, and personal emergency leave.

**Termination Notice and Pay:** In most cases, employers must give advance written notice when terminating employment and/or termination pay instead of notice. Learn more at [Ontario.ca/terminationofemployment](http://Ontario.ca/terminationofemployment).

**Other ESA Rights and Special Rules:** There are other rights as well as special rules not listed on this poster including rights to severance pay and special rules for assignment employees of temporary help agencies.

### Contact the Ministry of Labour for more information

Call us at 416-326-7160, 1-800-531-5551, TTY 1-866-567-8893, or visit our website at [Ontario.ca/employmentstandards](http://Ontario.ca/employmentstandards). Information is available in multiple languages.

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# Pay Equity Act

- Employees or unions may file complaints

Note: retroactive pay awards can go back to 1990 (500+ employees) – 1993 (10-50 employees) or to date after 1990 that 10<sup>th</sup> employee was hired

- no limitation period for complaints
- no pay caps

# Pay Equity Act Wage Gap Program

- Since 2011, 516 workplaces with >100 employees have been reviewed:
  - employers contacted by letter
  - Pilot Program is complete and results are being compiled

# Pay Equity Act Monitoring Programs

- Service industry Monitoring Program covering 4,000 employers in retail, wholesale, hospitality
- 2007 – 2010
- led to assignment of Review Officers to investigate, \$2 million in pay increases to 12,000 employees

# Pay Equity Act Monitoring Programs

- 2012 program used Dunn & Bradstreet listings to canvas companies with 250+ employees
- 2014 Program targeted employers whose Wage Gap Program data raised questions
- approx. 150 private sector employers contacted
- Review Officers require 3 years of compensation data covering male/female job classes, job values, comparison of pay rates

# Thank you

The logo for Dentons, featuring the word "DENTONS" in white, uppercase letters inside a purple arrow-shaped box pointing to the right.

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