

Accessibility with a plan: new accessibility regulations in British Columbia and Manitoba

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Following the lead of the federal and Ontario governments, British Columbia and Manitoba have introduced expanded accessibility requirements for organizations operating in those provinces. While human rights legislation in these jurisdictions already prohibit discrimination in employment and services on the basis of disability, accessibility requirements go further by reducing barriers to access and promoting equal participation with respect to public services and employment for individuals with disabilities.

British Columbia

B.C. Regulation

Previously, the *Accessible British Columbia Act* (B.C. Act) placed limited obligations on organizations to address accessibility issues. However, on April 14, 2022, the provincial government filed the *Accessible British Columbia Regulation* (B.C. Regulation), which provides much needed clarity by prescribing which types of organizations will be subject to accessibility requirements under the B.C. Act. This list includes school districts, schools and other educational institutions, municipalities and municipal departments, and health authorities, among other public-sector organizations (covered organizations).

Accessibility requirements

Effective September 1, 2022, the B.C. Act will require covered organizations to establish their own accessibility committees comprised of individuals from diverse backgrounds (including Indigenous peoples), no less than half of whom must either be persons with disabilities or persons representing a disability-serving organization. Accessibility committees will be responsible for the development of accessibility plans for the identification, removal and prevention of barriers for individuals seeking access to their services. Accessibility plans will need to be made available to the public and should incorporate the principles of inclusion, adaptability, diversity, collaboration, self-determination and universal design. The B.C. Act will also require covered organizations to implement processes for receiving feedback from the public on their accessibility plans and any barriers to accessibility.

All covered organizations have been given a grace period of one or two years (depending on the type of organization) to achieve compliance with these new accessibility requirements. Those organizations in the first phase will be required to comply by September 1, 2023, and the remaining organizations will be required to do so by September 1, 2024. The B.C. Act will include stringent compliance and enforcement mechanisms, which will be phased in

gradually to allow organizations time to learn how best to implement the new accessibility requirements. Ultimately, directors so designated by the Minister will have broad powers to investigate non-compliance and levy monetary penalties against organizations for non-compliance.

Impact on private-sector organizations

The B.C. government has taken a deliberate phased approach to the implementation of the B.C. Act. During the first stage, prior to the enactment of the B.C. Regulations, the B.C. Act applied only to the government. It now applies to a broader range of public-sector organizations. Although the requirements of the B.C. Act do not yet apply to private-sector organizations, it is anticipated that similar requirements will be put in place for them in the future.

Manitoba

Manitoba has recently published the *Accessible Information and Communication Standard Regulation* (Manitoba Regulation) under the *Accessibility for Manitobans Act* (Manitoba Act), which came into force on May 1, 2022. The Manitoba Regulation introduces more extensive accessibility requirements for all private-sector employers operating in Manitoba, effective May 1, 2025.

Current requirements as of May 1, 2022

Previously, private-sector employers in Manitoba have only been required to comply with certain workplace emergency requirements pursuant to the Manitoba Act and the *Accessible Employment Standard Regulation* issued thereunder in 2019. However, effective May 1, 2022, all businesses and non-profit organizations with at least one employee in Manitoba are required, among other things, to

- offer reasonable accommodations when recruiting new employees
- inform candidates of available accommodation policies and practices when making an offer of employment
- establish policies and processes for determining reasonable workplace accommodations for employees
- develop and implement individual accommodation plans for employees and policies setting out the process by which employees can request such plans
- develop and implement policies on the return-to-work process for employees who have been off work due to disability
- provide appropriate training about accessible recruitment and employment, accommodation policies and practices, and related legislation to Human Resources staff

New requirements effective May 1, 2025

Building on the existing accessibility requirements described above, the Manitoba Regulation introduces further accessibility requirements for Manitoba's private-sector employers specifically with respect to accessible information and communication. In particular, effective May 1, 2025, all businesses and non-profit organizations with at least one employee in Manitoba will be required, among other things, to

- establish and implement measures, policies and practices respecting accessible communication
- provide accessible communication training to staff in public-facing and/or communication-based roles, including with respect to (i) the identification, prevention, and removal of barriers to accessible communication, (ii) the provision of information through a communication support or accessible format, and (iii) the Manitoba Act and provincial human rights legislation
- offer to provide information, on request, through a communication support or accessible format as part of providing reasonable accommodations, to the point of undue hardship
- inform the public and employees that information may be provided through a communication support or accessible format
- develop and implement measures, policies and practices for receiving and responding to feedback about accessible communication and for documenting same

Large employers

The Manitoba Regulation imposes additional accessibility requirements on those private-sector employers who qualify as “large employers” (i.e., those with 50 or more employees in Manitoba). Effective May 1, 2025, Manitoba’s large employers will, in addition to those requirements applicable to all Manitoba employers, be required to keep written records of their accessible communication training policies, including summaries of related training content and records of when the training has been provided. Large employers will also need to ensure that their accessible communication policies and practices are available to the public and in accessible formats.

Other provinces

In 2005, Ontario introduced the *Accessibility for Ontarians with Disabilities Act* (AODA), which requires that both public- and private-sector organizations in Ontario take steps to remove barriers for individuals with disabilities. While it took British Columbia and Manitoba several years to introduce comparable legislation, we will see if this becomes the impetus for other provinces to follow suit.