MANAGEMENT COUNSEL
Employment and Labour Law Update

SHERRARD KUZZ LLP
Employment & Labour Lawyers

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AODA Compliance Reports: The 2026 Deadline Is Fast Approaching

A **mandatory** accessibility compliance report under the *Accessibility for Ontarians with Disabilities Act, 2005* ("AODA") is **due December 31, 2026.** Now is the time to take stock of your workplace, create and execute an action plan, and file before the deadline. Here's what you need to know…

Purpose of the AODA

The purpose of the AODA is to make Ontario accessible for all Ontarians. To this end, the Integrated Accessibility Standards Regulation ("IASR") under the AODA establishes specific requirements regarding five accessibility standards: customer service, information and communications, **employment**, transportation, and design of public spaces.

Who needs to file?

Every provincially regulated Ontario business or non-profit organization with 20 or more employees, other than a "designated public sector organization," must complete a mandatory, self-assessment, accessibility compliance report by December 31, 2026. Missing the deadline may result in an audit, compliance order, or administrative penalty.

Employee count is based on the peak number of employees at any time during the previous 12 months. It includes all full-time, part-time, seasonal, and contract employees in Ontario, but excludes any volunteer, independent contractor, and employee outside Ontario. An organization or business with fewer than 20 employees in Ontario need not file a report.



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Note: Even if an employer has fewer than 20 employees in Ontario, if it has at least one employee in Ontario or engages volunteers, independent contractors or employees outside of Ontario, it may still have obligations under the AODA and IASR. To learn more, contact Sherrard Kuzz LLP.

Reporting cycle

Not every organization is on the same reporting cycle. Reporting frequency depends on the sector and type of organization:

- A business or not-for-profit organization must file every three years. The last deadline was December 31, 2023.
- A designated public-sector organization must file every two years. The last deadline was December 31, 2025.

If an organization has missed a deadline, it is still required to file.

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Tips to complete the compliance report

Consider the following tips and best practices:

1. **Don't wait until the deadline.** If you have not already started, now is the time. Give your organization time to identify and address any compliance gap well before the deadline.
2. **Confirm your organization category and size.** This will determine whether your organization must file a report, and any other accessibility obligation that applies. An organization with 50 or more employees generally has additional AODA requirements.
3. **Identify your business number and senior official**. You will need your organization's nine-digit business number, and a senior official with authority to bind the organization to certify the report is complete and accurate.
4. **Read every question carefully.** Although AODA and IASR requirements have not changed since the 2023 reporting deadline, the questions have changed, so it is important to read them carefully. Questions are worded more broadly than before and require knowledge of the requirements under each accessibility standard. If you do not fully understand a question, there are linked resources in the reporting form, or you can contact Sherrard Kuzz LLP for assistance.
5. **Create an action plan**. When answering questions, you may identify potential compliance gaps. Starting early allows time to address and close those gaps. If you cannot address a gap before the deadline, answer honestly. Knowingly submitting false or misleading information is an offence subject to a fine of up to $50,000 for an individual and $100,000 for a corporation for each day or part-day the offence continues.

   Each question includes a comment box to provide additional details in support of your answer. As a best practice, a non-compliant organization may use the comment box to outline its action plan to address a gap. This can be helpful if your organization is audited.

Questions are worded more broadly than before and require knowledge of the requirements under each accessibility standard.

6. **Cooperate with any audit.** Ontario's Ministry for Seniors and Accessibility oversees AODA compliance using a model that emphasizes education and outreach before sanctions. That said, the Ministry may take proactive steps if an organization is non-compliant, unresponsive, or does not file. The Ministry continues to expand its auditing activities; in 2024-25, it completed 1,855 audits.

   Although an administrative penalty may be imposed under the IASR, typically an organization is first given an opportunity to comply and a Ministry compliance officer will work with the organization to develop a plan. An organization that cooperates and achieves compliance generally avoids sanction. Of the 1,855 completed audits in 2024, 99.8% were resolved as compliant.
7. **Document everything.** Keep accurate and up-to-date records to meet your legal requirements and be prepared in the event of an audit. Even if not legally required, it is a best practice to keep records. For example, an organization with 49 or fewer employees need not retain training records, but it may be prudent to do so in the event the workforce grows.

To help you understand and meet your obligations under the AODA, or complete a compliance report, contact your Sherrard Kuzz LLP lawyer, the authors of this article, or info@sherrardkuzz.com.

DID YOU KNOW?

In every Canadian province and territory, a settlement and release may, in some cases, not be sufficient to bar a worker from pursing a claim through the workers' compensation regime. To learn more or for assistance contact your Sherrard Kuzz LLP lawyer or info@sherrardkuzz.com



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Former employee ordered to repay settlement funds after breaching settlement agreement

We are often asked, "what happens if a former employee breaches a settlement agreement; say, they breach a confidentiality or non-disparagement covenant, or an agreement not to bring a future claim against the employer?" Is there any remedy for the employer? The answer is 'yes,' particularly if the breach is serious, and the parties were clear about the remedy when they entered into the settlement agreement. Bottom line – don't waste the opportunity to design the settlement you need.

An adjudicator will generally enforce a specific penalty set out in a settlement agreement if the penalty is clearly stated and not punitive, and the breach is proven.

The Human Rights Tribunal of Ontario ("HRTO"), Grievance Settlement Board, and labour arbitrators all take a similar approach when an employee (or former employee) has breached settlement terms and the employer has sought repayment of settlement amounts; the employee must fulfil its obligations under a settlement, so long as the remedy is not 'punitive.'

Take the well-known case of former Globe and Mail columnist Jan Wong.[1] Following termination of her employment, Wong (with the assistance of her union) entered into a settlement with the Globe under which Wong received more than $200,000. Because the Globe knew Wong intended to publish a book, it insisted the settlement contain strict confidentiality language under which Wong could not "disclose the terms of this settlement." If Wong breached the confidentiality obligation, she would be required to return the full settlement payment. Fast forward and that's exactly what happened. An arbitrator found Wong violated the confidentiality term by writing about the settlement in her book, including "I'd just been paid a pile of money to go away" and "Two weeks later a big fat check landed in my account." She was ordered to repay the settlement funds.

The HRTO has similarly enforced repayment of settlement amounts when the terms of a settlement agreement are clear, include agreed-to consequences for a breach, and the violation is proven.[2]

An adjudicator will generally enforce a specific penalty set out in a settlement agreement if the penalty is clearly stated and not punitive, and the breach is proven.

Will a court enforce an employee's repayment obligation?

Recently, the Ontario Superior Court (Divisional Court) confirmed a former employee must repay $70,000 paid to her in settlement of a claim against her former employer.[3]

Maya Knauth was a unionized worker who went on sick leave following allegations she made of harassment and discrimination. She filed a grievance as well as an application before the HRTO. Knauth (through her union) and the employer, Independent Electricity System Operator ("IESO"), entered into a termination/settlement agreement which stated Knauth had resigned and would receive a settlement payment of $70,000. In exchange, Knauth agreed to withdraw her HRTO application and not commence or threaten to commence any legal action against IESO related to her employment. If she breached the settlement, Knauth would forthwith consent to a default judgment to repay IESO the $70,000 plus legal fees.

Fourteen years later, Knauth filed a complaint with the Ontario Labour Relations Board ("OLRB") seeking to have the settlement set aside. As part of her claim, she alleged she did not understand the agreement when she signed it, was coerced into signing it, and was forced to resign. She claimed she was entitled to additional severance pay on top of the $70,000 which she described as "hush money." The OLRB dismissed her application because it was not filed within a reasonable time and, even if all the allegations were accepted as true, there was no breach of the *Labour Relations Act.*

The IESO then successfully filed a grievance claiming Knauth violated the settlement by bringing the OLRB application. The arbitrator ordered Knauth to repay all of the settlement funds, plus the IESO's legal fees.[4]

Knauth also applied to the HRTO to have the settlement set aside on the same grounds she raised before the OLRB. The HRTO dismissed the application, and Knauth sought judicial review of that decision by the Divisional Court, which similarly dismissed her challenge.

What does this mean for employers?

The opportunity to negotiate a settlement gives to an employer important leverage to secure the terms it considers important to protect its interests. Don't waste this opportunity.

As with so many things, careful planning and clarity are key.

First, if, during negotiations, an employee is represented by a trade union or counsel or is given the opportunity to seek legal advice, expressly state that in the settlement agreement, as this will increase the chances an adjudicator will be willing to enforce the settlement terms.

Second, specifically define the agreement, including the limits or prohibitions on the former employee. For example, is the employee prohibited from disclosing the terms of a settlement, the amount paid under the settlement, or even the existence of the settlement itself?

Third, don't leave the remedy up to an adjudicator. Expressly set out the consequences if the settlement is breached, including the amount to be repaid, and that an appropriate adjudicator has jurisdiction to make an order for payment.

To learn more and for assistance, contact your Sherrard Kuzz LLP lawyer, or info@sherrardkuzz.com.

[1] *Jan Wong v The Globe and Mail Inc.,* 2014 ONSC 6372 (Div Ct).

[2] See our article: A Dead is a Deal. A forfeiture clause is enforceable – says Human Rights Tribunal of Ontario.

[3] *Knauth v The Independent Electricity System Operator et al.,* 2026 ONSC 2769 (Div Ct).

[4] A grievance filed by an employer is an unusual enough scenario on its own, but one seeking an order against an individual employee (rather than a trade union) is extremely rare.

MANAGEMENT COUNSEL

Please join us at our next HReview Seminar:

HReview
Seminar Series

2026 Year In Review ~ What's changed, what's next, and how employers can prepare for 2027

2026 has been a very busy year! From key new caselaw – some of it good for employers, for a change – to new legislation, there is a lot to discuss. Join us as we examine:

1. Key new caselaw

- **Employment agreements:** Ontario courts more willing to uphold termination provisions.
- **Bonus and equity compensation:** Contractual language that mitigates risk, post termination.
- **Mitigation earnings:** How new caselaw can impact litigation strategy.
- **Remote work:** B.C. Court of Appeal says remote work can become a term of employment.
- **And more…**

2. New and upcoming legislation across Canada

- **Employment Insurance:** Tariff relief and special measures across Canada.
- **Employment standards legislation:** Amendments in Saskatchewan, Nova Scotia, and PEI.
- **Federal:** Substantial changes to the *Canada Labour Code* impacting federally regulated collective bargaining
- ***Protecting Ontario's Workers and Economic Resilience Act, 2026***: Proposed changes to the *Employment Standards Act, Labour Relations Act, Occupational Health and Safety Act and Workplace Safety and Insurance Act.*

3. Trends for 2027

- **Workplace investigations under scrutiny:** Increased focus on the investigation process.
- **Unprecedented damage awards**
- **Restructuring in an uncertain economy:** Government programs including work-sharing, funding, etc.
- **Pay transparency and the impact on recruitment:** Risks and best practices regarding human rights and equal pay, employee morale ("why am I at the bottom of the range?"), and more.
- **Artificial Intelligence:** Risks and liabilities (follow-up from our September *HReview*).

DATE: **Wednesday, December 9, 2026: 9:00 a.m. – 10:30 a.m. EST**
WEBINAR: **Via Zoom** (registrants will receive a Zoom link the day before the webinar)
COST: Complimentary
REGISTER: **By Wednesday, December 2, 2026 here.**

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