

The New Brunswick Accessibility Act: Potential Responsibilities For Employers

written by Haley O'Halloran | November 19, 2024



Earlier this year, new legislation was introduced into New Brunswick which recognizes the barriers to accessibility and the impact this has on persons with disabilities. The *Accessibility Act*¹ strives to achieve a more accessible New Brunswick by 2040. The purpose of the legislation is to identify, prevent, and remove barriers to accessibility by creating accessibility standards in the areas of:

- government services;
- transportation;
- education;
- employment;
- the built environment (i.e. buildings and infrastructure);
- housing;
- information and communications; and
- sports and recreation.

The accessibility standards have not been established yet, but the legislation provides for the creation of an accessibility office and an advisory committee to assist in the creation and implementation of the accessibility standards, which will also include consultation with persons with disabilities and stakeholder groups.

Once these accessibility standards have been created, employers will be required to abide by them. An organization that fails to comply with the *Act* will be required to remedy the failure within a specific time, failing which they may receive an administrative penalty.

Accessibility Standards for Employment in Other Jurisdictions

Although the accessibility standards for employment have not been created yet, we can look to equivalent legislation in other provinces for some insight as to what we may eventually see in New Brunswick.

Some examples of accessibility standards in employment can be found in Ontario's *Accessibility for Ontarians with Disabilities Act, 2005*². This legislation requires that employers notify job applicants about available accommodations for applicants with disabilities and employers must provide suitable accommodation for applicants with accessibility needs. The employer must also inform employees about workplace policies for accommodating employees with disabilities, provide an employee with communications in an accessible format, provide an individualized accommodation plan for employees with disabilities and develop a return-to-work process for

employees that require disability-related accommodations.

Similarly, accessibility standards in employment can be found in *The Accessibility for Manitobans Act*³, which require employers to establish policies respecting reasonable accommodation of employees, to inform potential applications of the availability of accommodations in the recruitment process and to provide these accommodations. An employer must also provide accommodation training to specific employees and ensure that performance management or internal advancement accounts for an employee's potential barriers in the workplace. An employer must, on request, provide an individualized accommodation plan to employees with a disability.

Like New Brunswick, Nova Scotia has not yet developed accessibility standards under their *Accessibility Act*⁴; however their provincial Accessibility Advisory Board has made recommendations respecting employment.⁵ They recommend that employers have a workplace accessibility policy to ensure recruiting practices are accessible, an evacuation plan to ensure employees with disabilities are safe during emergencies and reasonable workplace accommodations for employees with disabilities.

Conclusion

The *Accessibility Act* appears to be a codification of the duty to accommodate, as it applies to persons with disabilities. Even without the introduction of this legislation, employers in New Brunswick had a legal obligation to accommodate employees with disabilities up to the point of undue hardship. As the accessibility standards in New Brunswick have not yet been established, it remains to be seen as what those accessibility standards will be and the timeframe for implementation. While the accessibility standards applicable to employers have not yet been determined, we anticipate that they will be required to take active steps to ensure a more accessible New Brunswick.

Footnotes

1. *Accessibility Act*, SNB 2024, c 27

2. *Accessibility for Ontarians with Disabilities Act*, 2005, SO 2005, c 11

3. *The Accessibility for Manitobans Act*, CCSM c A1.7.

4. *Accessibility Act*, SNS 2017, c 2.

5. Government of Nova Scotia, News Release, "Improving Accessibility in Workplaces" (25 October 2024).

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Author: [Jenna Smith](#)

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