

Canada Without Barriers to Accessibility by 2040

Date : July 22, 2019

On November 27, 2018, the House of Commons passed Bill C-81, *An Act to ensure a barrier-free Canada*, also known as the *Accessible Canada Act* (the “*Act*”). The *Act* received Royal Assent on June 21, 2019 and will come into force on a day to be fixed by order of the Governor in Council.

Purpose

The *Act* is intended to provide a proactive and systemic approach to the identification, removal and prevention of barriers to accessibility for persons with disabilities in relation to the following areas:

- employment;
- the built environment;
- communication, including use of American, Quebec, and Indigenous sign languages;
- information and communication technologies;
- the procurement of goods, services and facilities;
- the design and delivery of programs and services;
- transportation; and
- other areas as prescribed by regulation.

The Minister of Sport and Persons with Disabilities is the Minister responsible for the *Act*. The Minister’s mandate is the realization of a Canada without barriers by January 1, 2040.

Obligations of Regulated Entities

The *Act* will apply to the federal public service and Crown corporations, the Canadian Forces, the RCMP and the federal private sector. Parliamentary entities are also covered, though parliamentary power, privilege and immunity still apply. The *Act* includes specific provisions that apply to the broadcasting, telecommunications and transportation industries.

Regulated entities under the *Act* will be responsible for creating, publishing and updating accessibility plans. They have a duty to consult with persons with disabilities while creating and updating their plans. The initial plans will be required within one year after a date to be set by regulation and will have to be updated at least every three years.

Regulated entities will be required to establish processes to receive feedback relating to the

manner in which the accessibility plan is being implemented, and barriers encountered by persons dealing with the entity, including the entity's employees. They will be required to publish a description of their feedback process. Regulated entities will also be required to prepare and publish progress reports relating to the implementation of the entity's accessibility plan.

Regulations

The regulations applicable to regulated entities will come from different sources. The Canadian Radio-Television and Telecommunications Commission can make regulations with respect to the duties of entities carrying on broadcasting undertakings or telecommunications services. The Canadian Transportation Agency may make regulations with respect to the duties of entities in the transportation network. The Canadian Transportation Agency [proposed regulatory language](#) complementary to Bill C-81 in February 2019. Other entities will be subject to regulations made by the Governor in Council.

Accessibility Commissioner, Violations, Complaints, and Penalties

The *Act* creates an Accessibility Commissioner who provides advice or information to the Minister regarding the administration and enforcement of the *Act*. The Commissioner is responsible for reporting its activities to the Minister on an annual basis.

The Commissioner is given inspection and audit powers in order to assist with the administration and enforcement of the *Act*. The Commissioner can make a compliance order outlining steps that must be taken to ensure that a contravention does not continue or reoccur. Contraventions will be subject to a warning or a monetary penalty. Specific penalties will be determined by regulation, to a maximum amount of \$250,000.

Regulated entities may request a review of any compliance order, notice of violation or penalty amount. They may also enter into a compliance agreement with the Commissioner which can include the deposit of reasonable security as a guarantee of compliance, as well as a reduction of the penalty, in whole or in part.

Regulated entities or persons named in a notice of violation will not be able to rely on due diligence or reasonable and honest belief of certain facts in defence of a violation. Where an entity is found to have committed a violation, the Accessibility Commissioner may make public the name of the entity, the nature of the violation and the amount of the penalty.

The Commissioner will be able to investigate complaints filed by individuals who have suffered

physical or psychological harm, property damage, economic loss, or been otherwise adversely affected by a regulated entity's contravention of the regulations made under the *Act*. There are certain exceptions where other complaint procedures exist. Substantiated complaints may result in the ordering of corrective measures and/or compensation.

Chief Accessibility Officer

The Governor in Council may appoint a Chief Accessibility Officer to serve as a special advisor to the Minister with respect to systemic or emerging accessibility issues.

Canadian Accessibility Standards Development Organization

The *Act* creates the Canadian Accessibility Standards Development Organization, responsible for the following:

- developing and revising accessibility standards;
- recommending accessibility standards to the Minister;
- providing information, products and services relating to developed or revised accessibility standards;
- promoting, supporting and conducting research into the identification, removal and prevention of barriers to accessibility; and
- disseminating information relating to the identification, removal and prevention of barriers to accessibility.

In Our View

The *Act* creates new obligations for regulated entities to proactively identify, remove and prevent barriers to accessibility for persons with disabilities. However, a great deal of the substance of those obligations will be subject to future regulation by different regulatory bodies. We will continue to provide information as it develops.

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