

BC Accessibility Legislation Now In Force



On June 17, 2021, the BC Legislature passed the *Accessible British Columbia Act* (the "Act") into law. The Act will create new responsibilities for organizations.

What Does the Act Do?

The Act allows the provincial government to establish "accessibility standards" aimed at identifying, removing and preventing barriers to accessibility and inclusion. A "barrier" is defined as "anything that hinders the full and equal participation in society of a person with an impairment".

Development of Accessibility Standards

An accessibility standard is a rule that government and organizations must follow to remove barriers in a specific sector.

The government may establish accessibility standards in a range of sectors, including employment, delivery of services, the built environment, information and communications, transportation, health, education, and procurement, among others.

The government will establish a Provincial Accessibility Committee to assist with developing accessibility standards. The Provincial Accessibility Committee will consist of up to 11 members appointed by the Minister of Social Development and Poverty Reduction, at least half of which will be persons with disabilities or disability advocates. The Provincial Accessibility Committee may also receive assistance from a "technical committee" composed of experts in a particular sector. For example, a technical committee analyzing accessibility standards for buildings may be composed of builders or engineers.

In developing an accessibility standard, the Provincial Accessibility Committee is required to consult persons with disabilities, individuals and organizations that support persons with disabilities, Indigenous peoples, and any organizations and government ministries that might be affected by the standard. The Provincial Accessibility Committee is also required to consider relevant laws and standards and the rights of Indigenous Peoples, including the United Nations Convention on the Rights of Persons with Disabilities and the United Nations Declaration on the Rights of Indigenous Peoples.

Upon development of an accessibility standard, the government can make it law through regulation.

Who Does the Act Apply To?

The Act applies to the provincial government and any prescribed organizations, to be established through regulation.

If the Act applies to an organization, then the organization is required to establish an “accessibility committee” to assist with identifying barriers to individuals in or interacting with the organization, and to advise on how to remove and prevent such barriers. If possible, at least half of an accessibility committee’s members must be persons with disabilities or disability advocates, and at least one member must be an Indigenous person.

An organization is also required to develop an “accessibility plan” to identify, remove and prevent barriers. The plan must take into account the principles of inclusion, adaptability, diversity, collaboration, self-determination and universal design, and it must be reviewed and updated every three years.

Finally, an organization must establish a process for receiving public feedback on its accessibility plan and any barriers to individuals in or interacting with the organization.

What Happens if an Organization Does Not Comply With the Act?

The government may hire inspectors to ensure that organizations comply with their obligations under the Act. Inspectors will have the power to, among other things, enter land or premises at any reasonable time. An organization must not obstruct an inspector or provide false or misleading information to an inspector.

If an organization fails to comply with the Act, they may be subject to a fine of up to \$250,000. The government may also require an offending organization to enter into a “compliance agreement” to rectify any contraventions of the Act.

If an organization fails to comply with a compliance agreement, they may be subject to a fine equal to twice the original fine.

An organization may seek reconsideration of a fine under the Act. Subsequently, a fine may be appealed to an administrative tribunal, to be established by regulation.

When Does the Act Come Into Force?

The majority of the Act comes into force on the date of Royal Assent. The Act’s provisions regarding compliance and enforcement come into force by regulation.

The government has indicated that, to begin, the Act will only apply to the government. This will allow the government to “build momentum, share lessons learned and ensure organizations are supported to follow the law”. It is expected that the government will engage organizations based on the government’s experience before passing regulations to expand the Act’s reach to organizations.

Takeaways for Organizations

Organizations should take note of the existence of the Act and that it may apply to their operations in the near future. At the time of writing, it is unknown when the government will pass regulations extending the application of the Act to organizations.

In the meantime, organizations should begin to consider what barriers exist to individuals within their organization (employees, etc.) and to those who interact

with it (customers, suppliers, etc.), and what steps it may need to take to eliminate these barriers. From a human resources perspective, organizations should consider how it will staff a future accessibility committee and what actions the committee might take upon its creation.

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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.

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