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LEGISLATIVE SUMMARY



Bill C-81: An Act to ensure a barrier-free Canada

Publication No. 42-1-C81-E
12 December 2018
Revised 27 June 2019

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Parliamentary Information and Research Service

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Any substantive changes in this Legislative Summary that have been made since the preceding issue are indicated in **bold print**.

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Legislative Summary of Bill C-81
(Legislative Summary)

Publication No. 42-1-C81-E

Ce document est également publié en français.

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LEGISLATIVE SUMMARY OF BILL C-81: AN ACT TO ENSURE A BARRIER-FREE CANADA

1 BACKGROUND

Bill C-81, An Act to ensure a barrier-free Canada (short title: *Accessible Canada Act*),¹ was introduced in the House of Commons on 20 June 2018 by the Honourable Kirsty Duncan, then Minister of Science and Minister of Sport and Persons with Disabilities.

As indicated by its short title, the bill enacts the *Accessible Canada Act*, with the stated objective of enhancing the “full and equal” participation of all individuals (especially those living with disabilities) in society, through the identification, removal and prevention of barriers in areas under federal jurisdiction.

The bill also makes related amendments to a number of other Acts: the *Canadian Radio-television and Telecommunications Commission Act*;² the *Canadian Human Rights Act* (CHRA);³ the *Parliamentary Employment and Staff Relations Act* (PESRA);⁴ the *Broadcasting Act*;⁵ the *Telecommunications Act*;⁶ the *Canada Transportation Act* (CTA);⁷ the *Federal Public Sector Labour Relations Act* (FPSLRA);⁸ and the *Public Service Employment Act* (PSEA).⁹

The bill was referred to the House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA) on 26 September 2018. HUMA reported the bill with amendments on 19 November 2018, and the House concurred in that report two days later.¹⁰

HUMA amended the bill to, among other things, expand the areas of focus for the prevention, identification and removal of barriers. It also set various time limits, including a deadline for the making of regulations in relation to the duties of regulated entities and time limits for the application of exemption orders. HUMA also made changes to the process for appealing a decision of or an order from the Accessibility Commissioner.

Bill C-81 was referred to the Standing Senate Committee on Social Affairs, Science and Technology (SOCI) on 21 March 2019. **SOCI reported the bill with amendments on 7 May 2019.¹¹ The Senate concurred in that report and sent a message to the House of Commons on 13 May 2019.**

Notably, SOCI amended the bill to add a deadline by which Canada must be barrier-free; recognize American Sign Language, Quebec Sign Language and Indigenous sign languages as “the primary languages for communication by deaf persons in Canada”; as well as provide that any relevant laws, policies, programs, services and structures must also take multiple and intersecting forms of marginalization and discrimination into account. SOCI also clarified that nothing in the *Accessible Canada Act* justified any delays in the prevention or removal of barriers or limited a regulated entity’s duty to

accommodate under any other Act of Parliament. Finally, SOCI added that simple compliance with regulations made under the *Canada Transportation Act* for the removal of barriers does not preclude the Canadian Transportation Agency from determining that undue barriers to accessibility continue to exist.

In its report, SOCI also included observations for further governmental action with respect to federal contracts, so that public money is not used to create or perpetuate disability-related barriers, and regarding training of front-line personnel.

The House of Commons considered the Senate amendments and, on 29 May 2019, voted in their favour. Bill C-81 received Royal Assent on 21 June 2019.

1.1 CURRENT FEDERAL LEGISLATIVE FRAMEWORK

In Canada, for the most part, the current federal legislative framework regarding accessibility is complaints-based. As a result, people with disabilities often have to wage separate legal battles in order to have their rights recognized. In a speech delivered before the House of Commons during the second reading of the bill, the Honourable Carla Qualtrough, Minister of Public Services and Procurement and Accessibility, indicated the following in this regard:

[A]nti-discrimination laws, while important, are by design reactive. We have to wait until individuals are denied a service, a job, a program, and then the system kicks in to determine if that denial was discriminatory. We literally have to wait until people are discriminated against before we can help them. These laws place the burden of advancing human rights on individuals.¹²

At the federal level, two important laws prohibit discrimination against a person on the basis of disability: the *Canadian Charter of Rights and Freedoms*¹³ (the Charter), which is embedded in the *Constitution Act, 1982*, and the CHRA.

Under its equality rights provision (section 15), the Charter guarantees “equal protection and equal benefit of the law without discrimination” based on a series of enumerated grounds, including mental or physical disability. As the Charter applies to all government actions across all Canadian jurisdictions, governments are prohibited from discriminating based on any of these enumerated grounds through their laws and/or programs, to such “reasonable limits” as can be justified in a free and democratic society (section 1 of the Charter). At the same time as it protects equality, section 15 of the Charter also permits proactive measures aimed at ameliorating the conditions of disadvantaged individuals or groups, including those with mental or physical disabilities.

The Department of Justice has released a Charter Statement in relation to Bill C-81, in which it analyzes how various provisions in the new legislation might engage Charter rights (specifically, section 8, the right to be secure against unreasonable search or seizure, and section 11, the legal rights applying to those charged with an offence). The Charter Statement indicates that, considered as a whole, the bill is

consistent with sections 8 and 11 while promoting the aims and values of the equality rights provision.¹⁴

The CHRA also protects people in Canada from discrimination when they are employed by or receive services from entities under federal jurisdiction, based on a series of enumerated grounds. One such ground is disability, defined under section 25 of the legislation as “any previous or existing mental or physical disability and includes disfigurement and previous or existing dependence on alcohol or a drug.” Employers and service providers have a duty to accommodate individuals or a class of individuals protected under the CHRA from discriminatory practices unless, for example, there is a *bona fide* (good faith) occupational requirement or justification. In this case, it must be established that accommodation would impose undue hardship on the employer or service provider, considering factors such as health, safety and cost (section 15(2) of the CHRA).

In addition to the Charter and the CHRA, there is a patchwork of federal legislation aimed at protecting the rights of persons with disabilities across several policy areas, such as employment, income security, health, transportation, broadcasting and telecommunications. Notably, the *Employment Equity Act*¹⁵ requires federally regulated employers to identify and eliminate barriers to employment; establish positive policies and practices; and ensure reasonable accommodations in relation to persons in the four designated groups, one of which is persons with disabilities.¹⁶

At the international level, Canada ratified the United Nations *Convention on the Rights of Persons with Disabilities*¹⁷ (UN Convention) in 2010. The UN Convention protects the rights to equality and non-discrimination of persons with disabilities; outlines key steps and actions that States Parties should take to ensure rights are enjoyed by persons with disabilities on an equal basis with others; and calls on States Parties to ensure non-discrimination for persons with disabilities in a number of areas. On 3 December 2018, Canada, with the support of all provinces and territories, acceded to the *Optional Protocol to the Convention on the Rights of Persons with Disabilities*,¹⁸ which establishes procedures to strengthen the implementation of the UN Convention.¹⁹

1.2 RECENT FEDERAL GOVERNMENT INITIATIVES

It was announced in Budget 2016 that,

[t]o eliminate systemic barriers and deliver equality of opportunity to all Canadians living with disabilities, the Government [would] consult with provinces, territories, municipalities and stakeholders to introduce a Canadians with Disabilities Act.²⁰

The consultation process began in June 2016 and concluded in February 2017, with more than 6,000 individuals participating online and in person.

The report on the consultations, entitled *Accessible Canada – Creating new federal accessibility legislation: What we learned from Canadians*,²¹ was published on 29 May 2017. The report identified several key messages that came out of the consultations: the new federal accessibility legislation should be “ambitious and bold”; it should apply to all areas under federal jurisdiction; and it should lead to more

consistent experiences for persons with disabilities across the country. Notably, it was suggested that the new legislation should lead to the development of accessibility standards that other governments in Canada could adopt.

Participants also recommended that the Government of Canada be a leader in accessibility by, among other things, hiring and supporting employees with disabilities, ensuring that all federal services and programs are accessible, and establishing a process to review federal laws and policies in order to take into account persons with disabilities.

While there was no consensus on a single area of accessibility being more important than another, the report highlighted several future areas of focus:

- employment;
- access to buildings and other public spaces through a built environment;
- transportation by air, train, ferry and buses;
- program and service delivery;
- information and communications; and
- procurement of goods and services.

Participants in the consultations also agreed that the new legislation should be strongly enforced and contain penalties. The report also indicated that participants were not only eager to help develop the new legislation, they also wanted to help implement it.²²

2 DESCRIPTION AND ANALYSIS

Bill C-81 contains a total of 206 clauses in 12 parts. This Legislative Summary addresses key provisions of the bill but does not review every clause.

2.1 GENERAL MATTERS RELATING TO THE BILL

2.1.1 PREAMBLE

The preamble to the bill sets out the legislation's justification, placing emphasis on the impact that barriers to accessibility can have on all persons in Canada, particularly those with disabilities and their families. The preamble indicates that ensuring the "economic, social and civic participation of all persons in Canada, regardless of their disabilities," and allowing them to fully exercise their rights and responsibilities in a barrier-free Canada, is essential.²³

According to the preamble, the legislation adds to the rights and protections currently available to people with disabilities, including those set out under the Charter, the CHRA and the UN Convention.

2.1.2 DEFINITIONS
(CLAUSE 2)

Clause 2 of the bill outlines the interpretation provision of the new piece of legislation. Notably, the terms “barrier” and “disability” are defined as follows:

[B]arrier means anything – including anything physical, architectural, technological or attitudinal, anything that is based on information or communications or anything that is the result of a policy or a practice – that hinders the full and equal participation in society of persons with an impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment or a functional limitation.

[D]isability means any impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment – or a functional limitation – whether permanent, temporary or episodic in nature, or evident or not, that, in interaction with a barrier, hinders a person’s full and equal participation in society.²⁴

2.1.3 PURPOSE AND PRINCIPLES
(CLAUSES 5 AND 6)

Clause 5 of the bill states the purpose of the bill, which is to benefit all persons, particularly those with disabilities, through the realization of a barrier-free Canada in areas under federal jurisdiction **on or before 1 January 2040**.²⁵ This is to be accomplished by identifying and removing barriers, and by preventing new barriers, in the following areas:

- employment;
- the built environment;
- information and communication technologies;
- communication, other than information and communication technologies;
- the procurement of goods, services and facilities;
- the design and delivery of programs and services;
- transportation; and
- areas designated under regulations made by the Governor in Council.²⁶

Clause 5.1 of the bill clarifies that the area of communication, other than information and communication technologies, does not include broadcasting or telecommunications as defined in the *Broadcasting Act* or the *Telecommunications Act*. **However, it does include the use of American Sign Language, Quebec Sign Language and Indigenous sign languages, all of which are recognized in the bill as “the primary languages for communication by deaf persons in Canada.”** The bill further clarifies at clause 5.2 that nothing in the *Accessible Canada Act* should be interpreted as requiring or authorizing any delays in the prevention or removal of barriers.²⁷

Clause 6 of the bill sets out the principles that are to be recognized in the application and administration of the *Accessible Canada Act*. This provision states that all persons, regardless of their disabilities, must be treated with dignity, enjoy equality of

opportunity, be able to fully and equally participate in society without barriers, have autonomy, as well as be involved in the development and design of laws, policies, programs, services and structures. In turn, these laws, policies, programs, services and structures must take into account the range of disabilities, the various ways people interact with their environments, **along with the multiple and intersecting forms of marginalization and discrimination faced by them.**²⁸ Finally, the development and revision of accessibility standards, along with the making of regulations, must be done with the goal of achieving “the highest level of accessibility for persons with disabilities.”²⁹

2.1.4 APPLICATION (CLAUSES 7 TO 10)

Clauses 7 to 10 of the bill establish the application of the *Accessible Canada Act*. According to these provisions, the legislation broadly applies to entities and persons under federal jurisdiction, including

- parliamentary entities (including the Senate, the House of Commons, the Library of Parliament, the Office of the Senate Ethics Officer, the Office of the Conflict of Interest and Ethics Commissioner, the Office of the Parliamentary Budget Officer and the Parliamentary Protective Service). The application to these entities is subject to certain modifications in relation to compliance and enforcement mechanisms to ensure parliamentary privilege is respected;
- the Government of Canada, including federal departments, agencies and Crown corporations;
- the federally regulated private sector, including organizations in the transportation, broadcasting and telecommunications, and banking and financial sectors; and
- the Canadian Armed Forces and the Royal Canadian Mounted Police, while allowing for considerations related to *bona fide* occupational requirements, including certain physical requirements necessary to carry out certain functions and duties.³⁰

2.2 PART 1: MINISTER’S POWERS, DUTIES AND FUNCTIONS (CLAUSES 4 AND 11 TO 16)

Under clause 4, the bill allows the Governor in Council to designate a minister to be responsible for the *Accessible Canada Act*. This minister is mandated under clause 11 with the realization of a barrier-free Canada **on or before 1 January 2040**.

The powers, duties and functions of the designated minister under the *Accessible Canada Act* are outlined under clauses 11 to 16 of the bill. They extend to all matters related to accessibility under federal jurisdiction, provided these are not already assigned to another minister or federal department, board or agency. Under these provisions, the minister may, among other things,

- promote, support and conduct research into the identification and removal of barriers and the prevention of new barriers;

- initiate, recommend, implement and promote policies, programs and projects related to accessibility matters;
- make grants and contributions in support of the minister's programs and projects related to accessibility matters; and
- collect, analyze, interpret, publish and distribute information related to accessibility matters.

In addition, the minister must "make every reasonable effort" to work with provincial or territorial authorities to coordinate efforts in relation to accessibility issues.³¹

2.3 PART 2: CANADIAN ACCESSIBILITY STANDARDS DEVELOPMENT ORGANIZATION (CLAUSES 17 TO 36)

2.3.1 MANDATE, POWERS AND DUTIES (CLAUSES 17 TO 21 AND 34 TO 36)

Clause 17 of the bill establishes the Canadian Accessibility Standards Development Organization (CASDO).³²

CASDO is mandated under clause 18 of the bill to contribute to the realization of a barrier-free Canada **on or before 1 January 2040** by, among other things,

- developing and revising accessibility standards;
- recommending accessibility standards to the minister (they must be made available to the public pursuant to clause 34 of the bill);
- providing information, products and services in relation to the accessibility standards that it has developed or revised;
- promoting, supporting and conducting research into the identification and removal of barriers and the prevention of new barriers; and
- disseminating information with respect to the identification and removal of barriers as well as the prevention of new barriers.

To carry out its mandate, CASDO has been given a series of powers under clauses 19 and 20 of the bill, although the minister reserves the authority to issue general directions in this regard under clause 21. Notably, CASDO may develop accessibility standards for (or provide any information, product or service related to these standards to) any person or entity, including any Canadian or foreign government. CASDO may also make grants and contributions and charge a fee for any accessibility standard it develops or revises and for any information, product or service it provides.

With respect to intellectual property rights, clause 19 of the bill further provides that CASDO may register its own marks under the *Trade-marks Act*³³ and regulate their use under that Act, and licence, sell or make available any patent, copyright, industrial design, trade-mark or other property that it holds, controls or administers. In addition, pursuant to clause 35 of the bill, the administration and control of any invention made by an employee of CASDO and vested in Her Majesty by the

Trade-marks Act, along with any patent issued with respect to that invention, are vested in CASDO despite section 9 of the *Public Servants Inventions Act*.³⁴

Under clause 36 of the bill, CASDO is required to submit an annual report of its activities to the minister. This annual report must be tabled before each house of Parliament within 15 sitting days of its receipt by the minister.

2.3.2 ORGANIZATIONAL STRUCTURE (CLAUSES 22 TO 33)

The bill also sets out the organizational structure of CASDO. Notably, CASDO is to have a Chief Executive Officer (CEO) (clauses 30 to 32); a board of directors (clauses 22 to 29); and any officers and employees necessary to conduct the work of the organization, who are to be appointed in accordance with the PSEA (clause 33).

Specifically, CASDO's board of directors, consisting of a maximum of 11 directors (including a Chair and a Vice-Chair), will be responsible for setting the organization's strategic direction, supervising and managing the organization's activities and affairs, and advising the CEO on matters relating to the organization's mandate. The board of directors may also make by-laws about its own activities and affairs and appoint advisory or other committees.

The majority of directors at all times should be, as far as possible, persons with disabilities. The directors should also reflect the diversity of Canadian society and of disabilities faced by persons in Canada.³⁵ Directors must also hold Canadian citizenship or be permanent residents. However, they must not be members of the Senate or the House of Commons or of a provincial or territorial legislature, or be full-time employees of the federal, provincial or territorial public service. Directors are to be appointed by the Governor in Council to hold office on a part-time basis for a maximum of four years, with the possibility of reappointment.

In turn, the CEO of CASDO is responsible for the organization's day-to-day operations and may establish committees to assist in the development and revision of accessibility standards. The CEO is to be appointed by the Governor in Council to hold office on a full-time basis for up to five years, with the possibility of reappointment.

In the event of absence or incapacity of the Chair and Vice-Chair of the board of directors or of the CEO of CASDO, or if any of these offices are vacant, the minister may authorize someone to act for them for a term of up to 90 days, after which point the Governor in Council's approval must be sought. The bill also provides details with respect to the benefits, remuneration, as well as reasonable travel and living expenses incurred in the performance of duties under the *Accessible Canada Act*, of the members of the board of directors and the CEO.

2.4 PART 3: ACCESSIBILITY COMMISSIONER (CLAUSES 37 TO 41)

Clause 37 of the bill establishes the office of the Accessibility Commissioner, who is a full-time member of the Canadian Human Rights Commission, as discussed in section 2.11.4 of this Legislative Summary. The Accessibility Commissioner is

authorized to provide information or advice to the minister on issues arising from the administration and enforcement of the *Accessible Canada Act*.

Clauses 38 and 39 of the bill set out the reporting responsibilities of the Accessibility Commissioner. Specifically, while the Accessibility Commissioner may submit a special report to the minister regarding issues arising from the administration and enforcement of the *Accessible Canada Act*, the Accessibility Commissioner is required to submit an annual report to the minister of the Commissioner's activities under the Act and provide a copy of it to the Minister of Justice. This annual report must be tabled before each house of Parliament within 15 sitting days of its receipt by the minister.

The annual report must include information about any inspections, production orders, compliance orders, notices of violation and complaints filed with the Accessibility Commissioner. It must also contain the Accessibility Commissioner's observations about whether this information discloses any systemic or emerging accessibility issues, and about information prescribed in the regulations made by the Governor in Council.

Clause 40 of the bill allows the Accessibility Commissioner to delegate certain powers, duties and functions prescribed to the Commissioner under the *Accessible Canada Act* to any person or to any member or staff of the Canadian Human Rights Commission, except for the Chief Commissioner. The Chief Commissioner must nevertheless be consulted before any power, duty or function is delegated to a member of the Canadian Human Rights Commission. In any event, a certificate of delegation must be provided to the person to whom the powers, duties or functions are being delegated. This certificate must be produced, upon request, whenever someone enters any place to conduct an inspection or investigation.

Clause 41 of the bill provides the Accessibility Commissioner, along with any person acting on the Commissioner's behalf or under the Commissioner's direction, with immunity in relation to any civil action or other proceeding filed against them, provided this action or proceeding is in respect of "anything that is done or omitted to be done in good faith while exercising their powers or performing their duties and functions under this Act."

2.5 PART 4: DUTIES OF REGULATED ENTITIES (CLAUSES 42 TO 72)

Part 4 of the bill sets out the duties of entities regulated under the *Broadcasting Act*, the *Telecommunications Act* and the CTA, and other entities regulated under the *Accessible Canada Act*. These duties, which are explained below, include preparing accessibility plans, providing feedback processes and preparing progress reports.

The bill further provides under this part that the Canadian Radio-television and Telecommunications Commission (CRTC) and the Canadian Transportation Agency, as applicable, may make regulations indicating, among other things, how and when the regulated entities falling under their purview must implement these duties. These regulations may also distinguish among different classes of regulated entities (clauses 45, 54 and 63). The Governor in Council has similar regulation-making

powers regarding the duties of entities regulated under the *Accessible Canada Act*, as stipulated under Part 8 of the bill.

The CRTC and the Canadian Transportation Agency, as well as the Governor in Council as discussed in section 2.9.1 of this Legislative Summary, must make at least one such regulation within two years from the day the relevant provisions of the bill come into force.³⁶

2.5.1 ACCESSIBILITY PLANS (CLAUSES 42, 47, 51, 56, 60, 65 AND 69)

Under clauses 42, 47, 51, 56, 60, 65 and 69 of the bill, regulated entities are required to prepare and publish an accessibility plan respecting, among other things, the regulated entity's policies, programs, practices and services in relation to the identification and removal of barriers, and the prevention of new barriers, in the specified areas under federal jurisdiction. These accessibility plans must be prepared no later than one year from the day that is fixed by regulation, and they must be updated no later than three years from the last publication or sooner if prescribed by regulation.

Regulated entities are also required under the bill to consult with persons with disabilities in the preparation of their accessibility plans and every updated version, and to set out in their plans the manner in which consultation was carried out. These accessibility plans must be available upon request in a format that is prescribed by regulation.

In addition, in preparing and updating their accessibility plans, regulated entities must take into account the principles that are to be recognized in the application and administration of the *Accessible Canada Act*. These principles are set out under clause 6 of the bill and are discussed in section 2.1.3 of this Legislative Summary.³⁷

The CRTC, the Accessibility Commissioner and the Canadian Transportation Agency, as the case may be, must be notified of the publication of every version of the accessibility plan within the time and in the manner prescribed by regulation.

2.5.2 FEEDBACK PROCESSES (CLAUSES 43, 48, 52, 57, 61, 66 AND 70)

In accordance with clauses 43, 48, 52, 57, 61, 66 and 70 of the bill, regulated entities must establish a process for receiving feedback about the following points and for dealing with that feedback:

- the manner in which the regulated entity is implementing its accessibility plan; and
- the barriers encountered by the regulated entity's employees and/or by persons that deal with the regulated entity, as applicable.

Regulated entities are also required to publish a description of their processes established in this regard. The CRTC, the Accessibility Commissioner and the

Canadian Transportation Agency, as the case may be, must be notified of the publication of this description within the time and in the manner prescribed by regulation.

2.5.3 PROGRESS REPORTS
(CLAUSES 44, 49, 53, 58, 62, 67 AND 71)

Under clauses 44, 49, 53, 58, 62, 67 and 71 of the bill, regulated entities are required to prepare and publish a progress report respecting the implementation of their accessibility plans. The progress report must be made available upon request in a format prescribed by regulation and it must be prepared in consultation with persons with disabilities.

Specifically, the progress report must indicate the manner in which persons with disabilities were consulted regarding the preparation of the report, provide information about the feedback received through the feedback process, and specify how that feedback was taken into account.

The CRTC, the Accessibility Commissioner, and the Canadian Transportation Agency, as the case may be, must be notified of the publication of the progress report within the time and in the manner prescribed by regulation.

2.5.4 EXEMPTIONS
(CLAUSES 46, 50, 55, 59, 64, 68 AND 72)

Clauses 46, 50, 55, 59, 64, 68 and 72 of the bill stipulate that the CRTC, the minister responsible for the *Accessible Canada Act* and the Canadian Transportation Agency, as applicable, may, by order, exempt any regulated entity or class of regulated entities falling under their purview from the application of any or all of the above-noted duties, on any terms they consider necessary. This order must be published in the *Canada Gazette*, and the reasons for making the order must be made available to the public.³⁸

The order exempting a regulated entity or class of regulated entities ceases to have effect three years after the day on which the order is made or at the end of any shorter period specified in the order.³⁹

2.6 PART 5: ADMINISTRATION AND ENFORCEMENT
(CLAUSES 73 TO 93)

Part 5 of the bill sets out the compliance and enforcement powers of the Accessibility Commissioner with respect to those regulated entities to which this Act applies and that do not fall under the purview of the CRTC or the Canadian Transportation Agency. As explained below, this includes the power to conduct inspections, make production and compliance orders, and impose administrative monetary penalties.

For its part, the CRTC is responsible for compliance and enforcement measures with respect to broadcasting and telecommunications services using its existing powers, while the Canadian Transportation Agency is responsible for compliance and

enforcement within the transportation sector with enhanced powers, as provided under Part 10 of the bill.⁴⁰

2.6.1 INSPECTIONS (CLAUSE 73)

Clause 73 of the bill allows the Accessibility Commissioner to enter any place in which the Commissioner has reasonable grounds to believe that there is information that is relevant to verifying compliance, or preventing non-compliance, with respect to the above-noted duties or regulations made under the *Accessible Canada Act*.

The Accessibility Commissioner is also provided with a series of powers, including the power to examine and copy anything found in the place being inspected, such as any record or electronic data, and to request the assistance of the owner or other relevant person for the purpose of the inspection. The Accessibility Commissioner may be accompanied by anyone the Commissioner believes can assist with the inspection.

Clause 73 also provides that the Accessibility Commissioner will be considered to have entered a place when accessing it remotely, through telecommunication means. Where, however, this place is not accessible to the public, the Accessibility Commissioner must only be able to access it with the knowledge of the owner or person in charge, and only for the period of time necessary to carry out the inspection.

Clause 73 further stipulates that, while the Accessibility Commissioner and any accompanying person may enter and pass through private property in order to conduct an inspection without being liable for doing so, they must nevertheless seek the consent of an occupant before entering a dwelling-house located on that private property.

2.6.2 PRODUCTION ORDERS (CLAUSE 74)

Clause 74 of the bill allows the Accessibility Commissioner to require a regulated entity to produce, for examination or copying, any document or electronic data for which the Commissioner has reasonable grounds to believe contains information that is relevant to verifying compliance, or preventing non-compliance, with respect to the above-noted duties or regulations made under the *Accessible Canada Act*. This provision also authorizes the Accessibility Commissioner to copy or take extracts from any documents, or reproduce any documents from electronic data, that were obtained through the production order.

2.6.3 COMPLIANCE ORDERS (CLAUSES 75 AND 76)

When the Accessibility Commissioner has reasonable grounds to believe that a regulated entity is contravening, or has contravened, any of the above-noted duties or regulations made under the *Accessible Canada Act*, the Commissioner may make a compliance order under clause 75 of the bill. This compliance order requires the

regulated entity to terminate the contravention within a specified time or to take any steps to ensure that the contravention does not continue or reoccur. The regulated entity must be served with a copy of the compliance order.

Under clause 76 of the bill, a regulated entity may request a review of a compliance order by the Accessibility Commissioner, within the time and in the manner specified in the order. Notably, the request must state the grounds for review and set out the evidence supporting those grounds. The order, however, will continue to apply during the review process unless the Accessibility Commissioner decides otherwise. On completion of the review, the Accessibility Commissioner must confirm, amend, revoke or cancel the order, and the regulated entity must be served with a notice setting out the decision and the reasons for it.

2.6.4 ADMINISTRATIVE MONETARY PENALTIES (CLAUSES 77 TO 93)

Clauses 77 to 93 of the bill establish the procedure in relation to administrative monetary penalties, which are intended to promote compliance with the *Accessible Canada Act* rather than to punish (clause 78). They also set out the powers of the Governor in Council to make regulations in this regard.

2.6.4.1 COMMITTING A VIOLATION (CLAUSES 77, 86 TO 88, 90 AND 93)

Clause 77 of the bill stipulates that every regulated entity that contravenes any of the following commits a violation and is liable to a warning or penalty:

- the above-noted duties of regulated entities;
- a request for reasonable assistance and information during an inspection;
- the requirement not to obstruct the Accessibility Commissioner or the Commissioner's delegates during the exercise of their powers, duties or functions;
- the requirement not to knowingly make a false or misleading statement to the Accessibility Commissioner or the Commissioner's delegate or in any document or electronic data that the regulated entity is required to prepare, retain or provide;
- a production order;
- a compliance order or an amended compliance order; and
- the regulations made under the *Accessible Canada Act*.

Clause 77 further stipulates that persons who fail to provide reasonable assistance and information during an inspection, obstruct the Accessibility Commissioner or the Commissioner's delegates, or provide them with false or misleading information, commit a violation and are liable to a warning or a penalty. This provision, however, does not apply to a "specified person," defined under clause 140 as "a person performing duties and functions in the course of the activities or business of a parliamentary entity."

Clause 86 of the bill provides that, where a regulated entity commits a violation, those individuals who directed, authorized, assented to, acquiesced in or participated in the commission of the violation are also a party to the violation. In a similar vein, clause 87 stipulates that a regulated entity is liable for a violation that is committed by its employees, agents or mandataries during the course of their employment or within the scope of their authority, regardless of whether the employee, agent or mandatary has been identified.

A violation that is committed or continued on more than one day constitutes a separate violation, pursuant to clause 88 of the bill. It should be noted that, in accordance with clause 90 of the bill, no proceedings in respect of a violation may be commenced after two years from the day in which the subject matter of the proceedings arose.

Finally, clause 93 of the bill provides the Accessibility Commissioner with the authority to make public the name of any regulated entity or person determined or deemed to have committed a violation, the nature of the violation, the amount of the penalty imposed, and any other information specified in the regulations made with respect to administrative monetary penalties.

2.6.4.2 NOTICE OF VIOLATION (CLAUSES 79 AND 89)

Clause 79 of the bill allows the Accessibility Commissioner to issue a notice of violation if the Commissioner has reasonable grounds to believe that a regulated entity or person has committed a violation as described in clause 77.

Clause 79 of the bill further provides that the notice of violation must name the regulated entity or person, identify the violation, and either contain a warning or set out the penalty for the violation. Where the notice of violation sets out a penalty, the time and manner of payment, along with the lesser amount that may be paid in complete satisfaction of the penalty, must be specified. The notice of violation must also summarize the rights and obligations of the regulated entity or person, as well as the procedure for exercising those rights. The notice of violation must be served on the regulated entity or person.

A notice issued under the *Accessible Canada Act* is admissible in evidence in any proceedings regarding a violation without proof of the signature or official character of the person claiming to have signed the notice, pursuant to clause 89 of the bill.

2.6.4.3 REVIEW OF A NOTICE OF VIOLATION (CLAUSES 80, 81, 84 AND 85)

Clause 81 of the bill stipulates that, where the regulated entity or person named in the notice of violation with penalty pays the amount of the penalty or the lesser amount specified in the notice, that regulated entity or person will be deemed to have committed the violation. The Accessibility Commissioner must then accept that amount in complete satisfaction of the penalty, and the proceedings commenced in respect of the violation will come to an end.

Alternatively, clauses 80 and 81 of the bill provide that regulated entities or persons who receive a notice of violation, either with a warning or with a penalty, may request a review of the acts or omissions that constitute the violation, within the time and manner specified in the notice. Where a notice of violation setting out a penalty is issued, the regulated entity or person may also request a review of the amount of the penalty. If these rights are not exercised within the specified time and manner, the regulated entity or person will be deemed to have committed the violation identified in the notice.

Clause 84 of the bill provides that, upon completion of a review, the Accessibility Commissioner must determine, on a balance of probabilities, whether the regulated entity or person committed the violation. Where the Accessibility Commissioner determines that the regulated entity or person did not commit the violation, the proceedings in respect of it will come to an end. Otherwise, the Accessibility Commissioner will determine whether the amount of the penalty was fixed in accordance with the regulations and either confirm or correct that amount. In this case, the proceedings will come to an end upon payment of the specified amount. A notice setting out the Accessibility Commissioner's decision and the reasons for it must be served in this regard.

It should be noted that the following defences are not available to those entities or persons named in a notice of violation, pursuant to clause 85 of the bill:

- the exercise of due diligence to prevent the violation; or
- a reasonable and honest belief in the existence of facts that, if true, would exonerate them.

2.6.4.4 COMPLIANCE AGREEMENTS (CLAUSES 81 TO 83)

Rather than a request for review, under clause 81 of the bill, a regulated entity or person that has been served with a notice of violation setting out a penalty may request to enter into a compliance agreement with the Accessibility Commissioner for the purpose of ensuring their compliance with the provisions of the *Accessible Canada Act* or regulations related to the violation.

Under clause 82 of the bill, the Accessibility Commissioner may enter into compliance agreements with the regulated entity or person making the request on any terms that the Commissioner considers appropriate (such as requiring a deposit of reasonable security as a guarantee of compliance and reducing the penalty in whole or in part). By entering into a compliance agreement, the regulated entity or person is deemed to have committed the violation in respect of which the compliance agreement was entered into.

Where the Accessibility Commissioner is satisfied that the compliance agreement has been complied with, the Commissioner must ensure that the regulated entity or person is served with a notice of compliance. Once served, the violation proceedings will come to an end, and any security given under the compliance agreement must be returned.

Where, however, the compliance agreement has not been complied with, the regulated entity or person will be served with a notice of default indicating that the regulated entity or person will now be liable to pay an amount that is twice the amount of the penalty and that any securities given will be forfeited. The regulated entity or person may not deduct from the amount owing any amounts spent under the compliance agreement. Upon payment of the amount set out in the notice of default within the time and manner prescribed, the Accessibility Commissioner must accept the amount in complete satisfaction of the penalty, and the proceedings commenced in respect of the violation will come to an end.

Finally, clause 83 of the bill provides that, where the Accessibility Commissioner refuses to enter into a compliance agreement, the regulated entity or person will be liable to pay the amount set out in the notice of violation, and similar provisions with respect to the effect of payment and deeming will apply.

2.6.4.5 REGULATIONS (CLAUSE 91)

Clause 91 of the bill provides the Governor in Council with the authority to make regulations, setting out further details with respect to administrative monetary penalties, including the power to classify violations as major or minor, and fixing a penalty or establishing a range of penalties for each violation. Clause 91, however, also stipulates that the maximum penalty that may be fixed under the regulations in respect of each violation is \$250,000.

2.7 PART 6: REMEDIES (CLAUSES 94 TO 110)

Part 6 of the bill establishes a process for filing complaints, other than those outlined below, with the Accessibility Commissioner regarding any harmful or adverse effects caused by contraventions of the regulations established under the *Accessible Canada Act*. It also sets out the authority of the Accessibility Commissioner to investigate complaints and order remedies when a complaint is substantiated.

Three other administrative bodies are also responsible for dealing with accessibility-related complaints that fall within their purview, as described in parts 8 and 10 of the bill (sections 2.9 and 2.11 of this Legislative Summary):

- The CRTC continues to receive complaints with respect to accessibility barriers related to broadcasting and telecommunication services using its existing powers.
- The Canadian Transportation Agency continues to address complaints related to the federal transportation system with enhanced powers.
- The Federal Public Sector Labour Relations and Employment Board (FPSLRB) addresses complaints from eligible federal public servants and parliamentary employees.⁴¹

2.7.1 FILING A COMPLAINT WITH THE ACCESSIBILITY COMMISSIONER
(CLAUSES 94, 109 AND 110)

Clause 94 of the bill provides individuals with the right to file a complaint with the Accessibility Commissioner if they have suffered “physical or psychological harm, property damage or economic loss,” or have been adversely affected in any other manner, as a result of a contravention by a regulated entity of regulations made under the *Accessible Canada Act* (such as regulations establishing accessibility standards intended to remove barriers in specified areas under federal jurisdiction). The Accessibility Commissioner must cause a written notice of the complaint to be served on the regulated entity against which the complaint was made.

The right to make a complaint to the Accessibility Commissioner, however, does not extend to employees in the federal public service who are entitled to present an individual grievance or make a complaint in respect of that contravention under the FPSLRA or the PSEA.⁴²

The Accessibility Commissioner is required under clause 109 of the bill to deal with complaints filed with the Commissioner “as informally and expeditiously as the circumstances and considerations of fairness and natural justice permit.” In addition, clause 110 allows the Accessibility Commissioner to disclose to any officer or employee of the Canadian Human Rights Commission any personal information that is contained in a complaint filed with the Accessibility Commissioner.

2.7.2 INVESTIGATION OF A COMPLAINT
(CLAUSES 95 TO 102 AND 108)

Clause 95 of the bill authorizes the Accessibility Commissioner to investigate a complaint, unless it appears to the Commissioner that

- the complainant ought to exhaust available grievance or review procedures;
- the complaint is one that could be more appropriately addressed under other federal legislation;
- the complaint is beyond the jurisdiction of the Commissioner;
- the complaint is trivial, frivolous, vexatious or made in bad faith; or
- the complaint is based on acts or omissions that the complainant became aware of more than a year before the filing of the complaint (or during any longer period as determined by the Accessibility Commissioner).⁴³

In conducting an investigation, the Accessibility Commissioner is afforded a series of powers under clause 98 of the bill. These include the power to summon persons to appear, to compel them to give evidence and to produce any records necessary for the investigation of the complaint, in the same manner and to the same extent as a superior court. The bill also allows the Accessibility Commissioner to enter any place, other than a dwelling-house, for the purpose of investigating a complaint.

Further, under clause 97, the Accessibility Commissioner may conduct a joint investigation if the Commissioner is of the opinion that two or more complaints involve substantially the same issues of fact. Clause 99 of the bill allows the

Accessibility Commissioner to attempt to resolve complaints by means of a dispute resolution mechanism.

Under clause 100 of the bill, the Accessibility Commissioner may terminate the investigation of a complaint if the Commissioner is of the opinion that there is insufficient evidence that any of the circumstances outlined in clause 95 are present, or that the matter has been resolved by the complainant and the regulated entity (for example, through a dispute resolution mechanism). Otherwise, pursuant to clauses 101 and 102 of the bill, at the conclusion of the investigation, the Accessibility Commissioner will either dismiss the complaint (if the Commissioner finds that the complaint is not substantiated) or make a finding that the complaint is substantiated.

Where the Accessibility Commissioner finds that the complaint is substantiated, the Commissioner may order the regulated entity to apply one or more of the following remedies, in accordance with clause 102 of the bill:

- take the corrective measures specified in the order;
- make available to the complainant the rights, opportunities or privileges denied as a result of the contravention;
- pay compensation to the complainant for any or all lost wages and incurred expenses as a result of the contravention;
- pay compensation to the complainant for any or all additional costs of obtaining alternative goods, services, facilities or accommodation, and for any or all incurred expenses, resulting from the contravention;
- pay compensation to the complainant for any pain and suffering experienced as a result of the contravention, in the manner specified in the bill; or
- pay compensation to the complainant if it is determined that the contravention is the result of a wilful or reckless practice, in the manner specified in the bill.

The bill also sets out various notice requirements in relation to the investigation process, including notices specifying whether the Accessibility Commissioner will investigate a complaint and notices of the termination of the investigation.

Clause 108 of the bill allows the Governor in Council to make regulations prescribing the procedures to be followed by the Accessibility Commissioner when conducting an investigation and governing the manner in which complaints are to be investigated.

2.7.3 REVIEW PROCESS (CLAUSES 103 AND 109)

Clause 103 of the bill stipulates that the Accessibility Commissioner may, on application by a party, review a decision the Commissioner made not to investigate the complaint or to terminate an investigation. The complainant must be given the opportunity to make representations during the review process in a manner that is accessible to the complainant.⁴⁴

Clause 103 further stipulates that, on completing the review, the Accessibility Commissioner must either confirm the original decision(s) not to investigate or to terminate the investigation, or else must investigate or continue the investigation. Every decision made by the Accessibility Commissioner in this regard is final and is not to be questioned or reviewed in any court. The complainant and regulated entity must be served with a notice setting out the Accessibility Commissioner's decision and reasons for it.

The Accessibility Commissioner is required under clause 109 of the bill to deal with applications for review "as informally and expeditiously as the circumstances and considerations of fairness and natural justice permit."

2.7.4 APPEAL PROCESS (CLAUSES 104 TO 107)

Clause 104 of the bill provides that a complainant or regulated entity that is affected by a decision made by the Accessibility Commissioner to dismiss a complaint (clause 101), or by an order made by the Commissioner upon finding that the complaint is substantiated (clause 102), may appeal the decision or order to the Canadian Human Rights Tribunal (the Tribunal).

The appeal must be made in writing within 30 days from the day on which a copy of the order or notice of the decision is served, or, as determined by the Tribunal, within any longer period that is no more than 60 days. The appeal can be made either on a question of law or a question of fact alone, or on a question of mixed law and fact, including a principle of natural justice. The request for appeal must contain a statement of the grounds of appeal and set out the evidence that supports those grounds.⁴⁵

Clause 105 of the bill provides details with regard to the number of Tribunal members who will hear the appeal. Clause 106 stipulates that the member or panel of members assigned to hear the appeal may, by order, confirm, vary, give the decision that the Accessibility Commissioner should have given, rescind the decision or order to which the appeal relates, or refer the complaint back to the Accessibility Commissioner for reconsideration in accordance with any direction the Tribunal may give. Every decision made under this provision is final and is not to be questioned or reviewed in any court.

While the appeal must be based on the record of the proceedings before the Accessibility Commissioner, a member or panel of members of the Tribunal must allow arguments and, if they deem it necessary for the purposes of the appeal, hear evidence not previously available.

Clause 106 further stipulates that a copy of the order by the Tribunal must be provided to the Accessibility Commissioner and the parties to the appeal.⁴⁶ In addition, clause 107 of the bill requires the Tribunal to include a report of its activities under the *Accessible Canada Act* in its annual report.

2.8 PART 7: CHIEF ACCESSIBILITY OFFICER
(CLAUSES 111 TO 116)

Clause 111 of the bill provides for the appointment of the Chief Accessibility Officer (CAO) as a special adviser to the minister. Specifically, the CAO is to be appointed by the Governor in Council to hold office on a full-time basis for a maximum of five years but may be reappointed for two further terms of office. The CAO, however, may be removed for cause at any time.

In the event of absence or incapacity of the CAO, or if the office is vacant, clause 111 of the bill allows the minister to authorize someone to act as the CAO for a term of up to 90 days, after which point Governor in Council's approval must be sought.

Under clause 112, the bill also provides details with respect to the benefits, remuneration, and travel and living expenses of the CAO.

The CAO may (or at the request of the minister, must) provide information or advice to the minister on systemic or emerging accessibility issues as well as prepare a special report for the minister in this regard, which the CAO may publish after 60 days have elapsed since providing it to the minister.⁴⁷ The CAO is also required to submit an annual report to the minister outlining the outcomes achieved by the *Accessible Canada Act* during the fiscal year and including any systemic or emerging accessibility issues. This annual report must be tabled before each house of Parliament within 15 sitting days of its receipt by the minister. These requirements are established by clauses 113, 114 and 116 of the bill.

The Accessibility Commissioner, the Canadian Transportation Agency, the CRTC, the Canadian Human Rights Commission, the FPSLRB and CASDO are required under clause 115 of the bill to “take all reasonable steps” to assist the CAO in the performance of the CAO's duties and functions.

2.9 PART 8: GENERAL
(CLAUSES 117 TO 133)

Part 8 of the bill addresses the creation of regulations under the *Accessible Canada Act* and its complaints, application and grievance referral mechanisms. Part 8 also addresses various policies and practices, as well as future reviews of the Act.

2.9.1 REGULATIONS
(CLAUSES 117 TO 121)

Clauses 117 to 121 of the bill set out the areas in which the Governor in Council may make regulations and prescribe certain limits to their application.

Clause 117, among other things, authorizes regulations to designate additional areas requiring the identification, removal and prevention of barriers. It also allows standards to be set for the removal of barriers and for the improvement of accessibility for areas identified elsewhere in the *Accessible Canada Act* or defined

through the regulations. Regulations may also be made in respect of the following, among others:

- the form that accessibility plans and progress reports should take and the manner in which they are to be published;
- the form and manner in which descriptions of feedback processes are to be published;⁴⁸ and
- the dates that trigger the time frames for preparing and publishing accessibility plans and progress reports.

Clause 117 also provides that exemptions from preparing and publishing accessibility plans, establishing feedback processes, and preparing and publishing progress reports or exemptions from all or any provision of regulations, may be granted to certain areas:

- (i) a regulated entity,
- (ii) a built environment,
- (iii) an object,
- (iv) a work, undertaking or business that is within the legislative authority of Parliament,
- (v) an activity conducted by a regulated entity, and
- (vi) a location.

Within two years of the coming into force of the *Accessible Canada Act*, the Governor in Council must make at least one regulation pertaining to the date that triggers the time frames for preparing and publishing initial accessibility plans or one regulation concerning the form or manner in which an accessibility plan, feedback process, or progress report is to be prepared or published.⁴⁹

Clause 118 limits the application of the regulations for broadcasting entities to those pertaining to the identification, prevention and removal of barriers in defined areas. The areas are these:

- employment;
- the built environment;
- transportation;
- other areas designated by regulations; and
- communication, other than information and communication technologies, as it relates to the other defined areas.⁵⁰

Regulations made under the *Accessible Canada Act* relating to employment do not apply to a regulated entity that carries on a broadcasting undertaking that is not subject to the *Employment Equity Act*.

Under clause 119, only regulations pertaining to the identification, prevention and removal of barriers in the same areas as defined in clause 118 apply to Canadian carriers or telecommunications service providers. Additional areas designated by regulations made under clause 117, however, are not applicable to Canadian carriers or telecommunications service providers if the entities are already subject to equivalent requirements under the *Telecommunications Act*.

Clause 120 limits regulations under the *Accessible Canada Act* with respect to entities subject to the CTA to regulations related to the identification, prevention and removal of barriers in the following areas:

- employment;
- the built environment (other than passenger aircraft, passenger trains, buses and vessels, aerodrome passenger terminals, railway passenger stations, bus passenger stations or marine passenger terminals);
- the procurement of goods, services and facilities not related to the mobility of persons with disabilities;⁵¹
- other areas designated by regulations; and
- communication, other than information and communication technologies, as it relates to the other defined areas.⁵²

Clause 121 allows entities to apply to the minister for an exemption from regulations. In granting an exemption, the minister must be satisfied that the entity has taken, or will take, measures that result in an equivalent or greater level of accessibility for persons with disabilities. The minister may also exempt a class of regulated entities in the same manner. The minister must provide the Accessibility Commissioner with a copy of every exemption order made. An order ceases to have effect three years after the day on which the order is made or at the end of any shorter period specified in the order.⁵³ The order must be published in the *Canada Gazette*, and the reasons for the making of the order must be made available to the public.⁵⁴

Clause 121.1 ensures that no provisions of the *Accessible Canada Act* or its regulations lessen the duty to accommodate of regulated entities under any other Act of Parliament.⁵⁵

2.9.2 MISCELLANEOUS PROVISIONS (CLAUSES 122 TO 132)

2.9.2.1 COLLABORATION (CLAUSES 122 AND 123)

Clauses 122 and 123 stipulate that the Accessibility Commissioner, the Canadian Transportation Agency, the CRTC, the Canadian Human Rights Commission and the FPSLRB must work together to establish effective and prompt mechanisms of referral to the relevant authority of accessibility-related complaints, applications, and grievances, and must collaborate to foster complementary policies and practices related to matters of accessibility.

Clause 122 adds that if one of these authorities decides to refer a complaint to another body, it must cause a written notice of its decision to be served on both the individual who filed the complaint, application or grievance and on the individual or entity that is the subject of the complaint. The authority may only do so if the complaint, application or grievance would be more appropriately dealt with by a different federally legislated procedure, or if it falls outside the jurisdiction of the referring authority.

2.9.2.2 OBSTRUCTION AND FALSE STATEMENTS
(CLAUSES 124 TO 127)

Clause 124 prohibits interfering with the Accessibility Commissioner or the Commissioner's delegate while they are performing their duties. Knowingly making false or misleading statements to the Accessibility Commissioner or the Commissioner's delegate is prohibited under clause 125, as is knowingly making false or misleading statements, or participating or acquiescing in the making of false or misleading statements, within records, reports, electronic data or other documents required under the *Accessible Canada Act* (clause 126).

2.9.2.3 RECOVERY OF COSTS
(CLAUSE 128)

Clause 128 stipulates that costs incurred by the federal government ("debts to Her Majesty") in relation to inspections of locations may be recovered in Federal Court. This is also the case for penalties, amounts agreed to be paid under compliance agreements and amounts set out in notices of violation or default.

2.9.2.4 REVIEW
(CLAUSES 131 AND 132)

Clause 131 foresees that five years after the first regulations are made under clause 117 of the bill, or as soon as possible thereafter, a review of the *Accessible Canada Act* must be undertaken by a committee of the Senate, of the House of Commons, or of both houses, and a report issued, including recommendations for any changes.

Further, clause 132 stipulates that five years after the report from the parliamentary committee is issued and on every tenth anniversary of that date, the minister must order an independent review of the *Accessible Canada Act* and issue a report on the review to be laid before each house of Parliament. The review must include consultation with the public, persons with disabilities, organizations that represent the interests of persons with disabilities, regulated entities and organizations that represent the interests of regulated entities.

2.9.3 NATIONAL ACCESSABILITY WEEK
(CLAUSE 133)

Clause 133 establishes a "National AccessAbility Week" each year starting on the last Sunday in May.

2.10 PART 9: PARLIAMENTARY ENTITIES
(CLAUSES 134 TO 146)

Part 9 of the bill outlines how the *Accessible Canada Act* applies to parliamentary entities. It defines parliamentary identities and details the limits and applications of other provisions of the Act to this part. It also lists the situations in which notification must be provided to the Speaker of the Senate and Speaker of the House of Commons.

2.10.1 PARLIAMENTARY POWERS, PRIVILEGES AND IMMUNITIES
(CLAUSE 137)

Clause 137 of the bill makes it clear that parliamentary powers, privileges and immunities are not limited by the *Accessible Canada Act* or any regulations made under it. Neither does the *Accessible Canada Act* authorize any interference with the business of the Senate or the House of Commons.

2.10.2 DEFINITION AND APPLICATION
(CLAUSES 134 TO 136 AND 138 TO 142)

Clause 134 of the bill defines the term “parliamentary entity” as the Senate, the House of Commons along with constituency offices, the Library of Parliament, the Office of the Senate Ethics Officer, the Office of the Conflict of Interest and Ethics Commissioner, the Parliamentary Protective Service, and the Office of the Parliamentary Budget Officer. The duties of regulated entities under the *Accessible Canada Act* (Part 4), their administration and enforcement (Part 5), possible remedies for contraventions under the Act (Part 6) and the general dispositions (Part 8) described above apply only to parliamentary entities to the extent outlined in Part 9 of the Act.

Accessibility plans, feedback processes and progress reports as outlined in clauses 69 to 71 apply to parliamentary entities. However, upon consultation with the Accessibility Commissioner, the Speaker of the Senate or the Speaker of the House of Commons, or the two Speakers jointly in certain cases, may exempt the application of clauses 69 to 71 (clause 138).⁵⁶

The powers granted to the Accessibility Commissioner regarding inspections under clause 73 apply to parliamentary entities. Production orders under clause 74 and compliance orders under clause 75, as well as the possibility of seeking a review of such orders under clause 76, also apply with respect to parliamentary entities (clause 139).

A notice of contravention under clause 140 may be issued to a parliamentary entity if the Accessibility Commissioner has reasonable grounds to believe that the entity has contravened aspects of the accessibility plan, the feedback process or the progress report as set out in clauses 69 to 71 of the bill.⁵⁷ Furthermore, notices of contraventions may also be issued by the Accessibility Commissioner, on the basis of reasonable grounds, when a parliamentary entity has

- failed to provide assistance with respect to inspections (clause 73);

- obstructed the Accessibility Commissioner in the performance of the Commissioner's duties (clause 124);
- knowingly provided false statements (clause 125);
- knowingly provided, participated in or acquiesced in the making of a false statement in a record, report or other document, or in electronic data (clause 126);
- contravened an order to produce an item for the purpose of verifying compliance with the accessibility plan, feedback process or progress report (clause 74);
- violated a compliance order under clause 75; or
- contravened regulations under clause 117 as they apply to the parliamentary entity.

Clause 140 provides that a notice of contravention may also be served to a specified person where the Accessibility Commissioner has reasonable grounds to believe that that person has contravened the Commissioner's inspection powers or where an owner or person in charge of a place entered by the Commissioner fails to provide reasonable assistance for the recovery of information required by the Commissioner (clause 73). Such notices may also be served on persons obstructing the Accessibility Commissioner's work (clause 124) or knowingly making false or misleading statements (clause 125).

Notices must include the name of the parliamentary entity or person, the contravention, and a summary of the rights and obligations of the entity or the person. They must also include the time and manner in which a request to review the acts or omissions that constitute the contravention is to be filed, as well as the specifics for filing a request to enter into a compliance agreement with the Accessibility Commissioner.

Further, clause 140 specifies that both parliamentary entities and individuals served with a notice of contravention may request a review of the acts or omissions included in the contravention. The Accessibility Commissioner must determine whether the contravention was committed on a balance of probabilities and either confirm or cancel the notice of contravention.

Parliamentary entities and individuals served with a notice of contravention may request to enter into a compliance agreement with the Accessibility Commissioner, who may enter into such an agreement on any terms the Commissioner deems appropriate, other than on terms that would provide for a deposit of security or for a penalty.

Finally, clause 140 ensures that the defences of due diligence and mistake of fact listed in clause 85 do not apply to contraventions committed by parliamentary entities and that parliamentary entities are liable for violations committed by their employees, as set out in clause 87.

The remedies included in Part 6 of the *Accessible Canada Act* apply to parliamentary entities, with some exceptions. Clause 141 prohibits individuals who are entitled to a

grievance procedure under section 62 of the PESRA from filing a complaint with respect to a contravention by a parliamentary entity of the regulations made under clause 117 of the bill. Clause 141 directs any appeal of a decision by the Accessibility Commissioner to dismiss or substantiate a complaint with respect to parliamentary entities to the FPSLREB rather than to the Canadian Human Rights Tribunal. The FPSLREB must notify the Speaker of the Senate and/or the Speaker of the House of Commons once it receives a request for appeal of a decision or order with respect to a parliamentary entity (clause 144).

Regulations made under clause 117 in Part 8 apply to parliamentary entities as if they were regulated entities;⁵⁸ however, the Speaker of the Senate or the Speaker of the House of Commons, or the two Speakers acting jointly, may exempt a parliamentary entity from the application of the regulations. This can only occur upon application by a parliamentary entity and after consultation with the Accessibility Commissioner. The Speakers must be satisfied that the parliamentary entity will take, or has taken, measures resulting in an equivalent or greater level of accessibility for persons with disabilities (clause 142).

2.10.3 NOTIFICATION OF SPEAKERS (CLAUSES 143 TO 146)

Clause 143 stipulates that the relevant Speaker must be notified by the Accessibility Commissioner of any of the following circumstances:

- the Accessibility Commissioner's intention to enter a place that is under the authority of a parliamentary entity;
- the Accessibility Commissioner issuing a production order under clause 74, a compliance order under clause 75, or a decision regarding the review of a compliance order under clause 76, with respect to a parliamentary entity;
- investigations of parliamentary entities under clause 95;
- the Accessibility Commissioner's orders upon the conclusion of an investigation under clause 102;
- the notices of contraventions outlined in clause 140;
- the Accessibility Commissioner's review decision under clause 140; and
- a notice of compliance or notice of default under clause 140.

Copies of the following notices with respect to parliamentary entities must also be provided to the Speaker of the Senate, the Speaker of the House of Commons, or both:

- a notice of a complaint served on a parliamentary entity under clause 94;
- a notice of whether the Accessibility Commissioner has decided to investigate a complaint under clause 96;
- a notice of the termination of an investigation under clause 100 or of the dismissal of a complaint under clause 101; and

- a notice of the Accessibility Commissioner's review of a decision under clause 103.

Clause 145 sets out three situations in which the Speaker of the Senate, or the Speaker of the House of Commons, or both, must be provided with an order in cases of non-compliance by a parliamentary entity:

- The Accessibility Commissioner must provide a compliance order when an order to terminate a contravention related to accessibility plans, a feedback process, or progress reports has not been complied with by a parliamentary entity.
- The Accessibility Commissioner must provide an order when an order made by the Accessibility Commissioner at the conclusion of an investigation is not complied with by a parliamentary entity.
- The FPSLREB, upon the request of the Accessibility Commissioner or a complainant, must provide an order when a parliamentary entity fails to follow an order made by a panel of the Board.

Clause 146 requires the Speaker of the Senate or the Speaker of the House of Commons, or both, to table in the relevant Chamber all notices of default with respect to contraventions by parliamentary entities under clause 140 and all orders received under clause 145.

2.11 PART 10: RELATED AMENDMENTS (CLAUSES 147 TO 195)

2.11.1 *BROADCASTING ACT* (CLAUSE 161)

Clause 161 of the bill amends the *Broadcasting Act* to allow the CRTC to inquire into, hear and determine whether persons have failed to act in accordance with the accessibility plans, feedback processes or progress reports for broadcasting entities under clauses 42 to 44 of the bill or have done anything in contravention of those provisions. Further, clause 161 empowers the CRTC to enforce the performance of any action included in clauses 42 to 44 of the bill and to forbid any action prohibited under these clauses.

2.11.2 *TELECOMMUNICATIONS ACT* (CLAUSES 162 TO 165)

Clause 162 of the bill adds accessibility inquiries to the CRTC's inquiries and determination powers under the *Telecommunications Act*. This provision enables the CRTC to inquire into, or make a determination in respect of, the accessibility plans, feedback processes or progress reports relating to Canadian carriers or telecommunication service providers under the *Accessible Canada Act*.

Clause 163 provides the CRTC with the capacity to enforce the performance of any action included in the accessibility plans, feedback processes or progress reports, as

set out in clauses 51 to 53 of the bill, for Canadian carriers or telecommunication service providers and/or to forbid any acts prohibited under the same clauses.

Clause 164 amends the *Telecommunications Act* to ensure that inspectors are able to effectively verify compliance or prevent non-compliance with respect to clauses 51 to 53. This includes entering places to verify compliance and requiring that information be submitted to the inspector.

Clause 165 ensures that contraventions related to accessibility plans, feedback processes, or progress reports for Canadian carriers or telecommunication service providers under clauses 51 to 53 of the bill are subject to administrative monetary penalties.

2.11.3 *CANADIAN RADIO-TELEVISION AND
TELECOMMUNICATIONS COMMISSION ACT
(CLAUSE 147)*

Clause 147 amends the *Canadian Radio-television and Telecommunications Commission Act* by requiring the CRTC to include aspects related to its responsibilities under the *Accessible Canada Act* in its annual report.

New section 13(2) of the *Canadian Radio-television and Telecommunications Commission Act* creates an obligation to report on inquiries by the CRTC under the *Broadcasting Act* related to the identification, prevention and removal of barriers, as well as inquiries concerning accessibility plans, feedback processes and progress reports of Canadian carriers or telecommunication service providers (clauses 42 to 44 of the bill). This section includes the same reporting requirements for orders made under the *Broadcasting Act* in relation to the identification, prevention, and removal of barriers, and orders as set out in clauses 42 to 44 of the bill.

New section 13(3) of the *Canadian Radio-television and Telecommunications Commission Act* requires that the CRTC's annual report include information concerning inspections under section 71 of the *Telecommunications Act* related to the identification, prevention and removal of barriers. This section also requires information about inspections regarding compliance with accessibility plans, feedback processes and progress reports of Canadian carriers or telecommunication service providers (clauses 51 to 53) to be included in the report, as well as information about orders made under the *Telecommunications Act* in relation to the identification, prevention and removal of barriers set out in clauses 51 to 53 of the bill.

Section 13(3) also requires the annual report to include information about notices of violations of both the *Telecommunications Act* and the *Accessible Canada Act*, as well as inquiries conducted under the *Telecommunications Act* with respect to the identification, prevention and removal of barriers.

Finally, under new section 13(4), the CRTC's annual report must also include observations on whether systemic or emerging issues related to the identification and removal of barriers and the prevention of new barriers can be identified based on the

information required for the report. Additional information may be required should the Governor in Council make corresponding regulations under new section 13(5) of the *Canadian Radio-television and Telecommunications Commission Act*.

2.11.4 *CANADIAN HUMAN RIGHTS ACT*
(CLAUSES 148 TO 153)

Clause 149 amends the CHRA to make it clear that the Canadian Human Rights Commission is designated as a monitoring body for the Government of Canada's implementation of the UN Convention.

Clause 148 amends the CHRA to add the Accessibility Commissioner as a full-time member of the Canadian Human Rights Commission, and clause 151 adds section 32.1, which groups the officers and employees of the Canadian Human Rights Commission that support the Accessibility Commissioner under the title "Accessibility Unit."

Clause 152 adds sections 38.1 and 38.2 to the CHRA, providing the Accessibility Commissioner with the powers, duties, and functions as outlined in the *Accessible Canada Act*, and provides replacement procedures for cases of absence or incapacity of the Accessibility Commissioner.

Finally, clause 153 adds new section 40.01 to the CHRA. It permits, for the purpose of the administration of the *Accessible Canada Act*, the disclosure to the Accessibility Commissioner of personal information contained in a complaint filed with the Canadian Human Rights Commission.

2.11.5 *PARLIAMENTARY EMPLOYMENT AND STAFF RELATIONS ACT*
(CLAUSES 154 TO 160)

Clause 154 amends the PESRA by adding section 2.1 to that Act. The new section foresees that individuals not entitled to present a grievance under the grievance procedure of the PESRA may file a complaint under the *Accessible Canada Act*. The section specifies, however, that the complaint must be with respect to a contravention of a regulation made under clause 117 of the bill and that the individual must have suffered physical or psychological harm, property damage or economic loss as a result of the contravention.⁵⁹

Section 63(1) of the PESRA specifies the categories of grievances that, upon reaching the highest level of the grievance process, may be referred to adjudication. Clause 155 amends section 63(1) of that Act to add a new classification of grievance under section 63(1)(g) with respect to contraventions by an employer of any applicable provision in the regulations made under the *Accessible Canada Act* that have caused an employee to suffer physical or psychological harm, property damage or economic loss.

Clause 156 adds new section 63.1 to the PESRA, requiring a party whose grievance with respect to a provision in regulations made under the *Accessible Canada Act* has been referred to adjudication to give notice of the issue to the Accessibility

Commissioner. Upon notification, the Accessibility Commissioner may make submissions during adjudication on the issue.

Finally, by adding new section 67.1 to the PESRA, clause 159 of the bill ensures that an adjudicator may interpret and apply the *Accessible Canada Act* and give relief in accordance with clause 102 for grievances respecting a provision in regulations made under the *Accessible Canada Act*.

**2.11.6 FEDERAL PUBLIC SECTOR LABOUR RELATIONS ACT
(CLAUSES 184 TO 193)**

Amendments to the FPSLRA include provisions allowing the referral of accessibility-related grievances to adjudication and enabling the adjudicator and the FPSLREB to apply the *Accessible Canada Act*.

Clause **184** of the bill adds section 209.1 to the FPSLRA, to permit an employee to refer an individual grievance to adjudication in a similar manner as described in amendments to the PESRA noted above. New section 209.1 specifies that an employee may refer to adjudication an individual grievance that pertains to a contravention of a regulation made under clause 117 of the bill if the individual has suffered physical or psychological harm, property damage or economic loss as a result of a contravention.

Clause **185** adds section 210.1 to the FPSLRA to, among other things, provide the Accessibility Commissioner with standing in the relevant adjudication proceedings. Clause **190** amends section 226(2) of the FPSLRA to provide the adjudicator and the FPSLREB with the power to interpret, apply and provide relief in accordance with the *Accessible Canada Act*.

**2.11.7 PUBLIC SERVICE EMPLOYMENT ACT
(CLAUSES 194 TO 199)**

Clause **194** of the bill amends section 65 of the PSEA to permit the Accessibility Commissioner to make a submission to the FPSLREB upon notification of a complaint raising an issue involving the contravention of a provision of regulations made under clause 117 of the bill. The clause also ensures that the FPSLREB may interpret and apply the *Accessible Canada Act* when considering the complaint and when determining relief. Clause **197** adds section 80.1 to the PSEA to allow the FPSLREB to interpret and apply the *Accessible Canada Act* when considering complaints regarding internal appointments.

**2.11.8 CANADA TRANSPORTATION ACT
(CLAUSES 166 TO 183)**

The CTA is amended by the *Accessible Canada Act* in a number of ways. The following represents some of the more substantial modifications.

Clause 166 of the bill amends the objective set out in section 5(d) of the CTA to the more inclusive phrase of “without undue obstacle to the mobility of *all* persons.”

[Authors' emphasis] The clause adds new section 5(d.1), stating that a measure of a successful transportation system would be that “the transportation system is accessible without barriers to persons with disabilities.”

Clause 167 amends section 42(2) of the CTA to require the Canadian Transportation Agency (the Agency) to include in its annual report information related to its responsibilities under the *Accessible Canada Act* and with respect to the new accessibility provisions in the CTA. Similar to the requirements under the *Canadian Radio-television and Telecommunications Commission Act* noted above, new section 42(2)(c) requires the Agency's annual report to include observations on whether the information required for the report points to systemic or emerging issues related to the identification, removal, and prevention of barriers. The clause also stipulates that information concerning inspections and orders for the purpose of compliance with the *Accessible Canada Act* must be included in the annual report.

Section 170 of the CTA enables the Agency to make regulations with respect to the removal of barriers for persons with disabilities. Clause 170 of the bill makes various amendments to section 170, including adding the requirement for the Agency to consult with the Minister of Transport before making new regulations, incorporating new wording consistent with the *Accessible Canada Act*, and making exemptions to the regulations conditional on whether the Agency is satisfied that a person or class of persons will take measures to remove barriers or prevent new barriers at least equivalent to those that must be taken under the provisions of the regulations for which an exemption is granted. Any exemption ceases to have effect three years after the day on which the order is made or at the end of any shorter period specified in the order.⁶⁰

Clause 172 of the bill amends section 172 of the CTA to provide additional remedies to the Agency in cases of undue barriers to the mobility of persons with disabilities, including corrective measures or compensation for expenses incurred and wages lost due to the barriers. The amended section also stipulates that compensation be paid to a maximum amount of \$20,000 for pain and suffering experienced by a person with a disability as a result of the barrier and/or that compensation be paid to the same maximum amount if the Agency determines that the barrier is the result of a wilful or reckless practice. **The Agency may determine that an undue barrier exists despite being satisfied that regulations made under section 170 with respect to the removal of barriers have been complied with. In such cases, the Agency may only require the adoption of corrective measures for remedy.**⁶¹

Clause 172 adds new section 172.1 to the CTA, enabling the Agency to conduct inquiries, upon application by an individual, into matters concerning regulations under section 170(1) of that Act to determine if the applicant has suffered physical or psychological harm, property damage or economic loss arising out of – or has otherwise been adversely affected by – a contravention of any provision of those regulations. A list of possible remedies, including corrective measures to be taken by the offender and different means of compensation, is also added. New section 172.3 allows the Agency to inquire into matters that concern transportation under the legislative authority of Parliament and relating to the mobility of persons with disabilities on its own initiative, with the minister's approval.

Clause **173** amends section 177 of the CTA to stipulate that the contravention of provisions of regulations made under section 170(1) of that Act or the contravention of provisions under the *Accessible Canada Act* regarding the production of accessibility plans and progress reports and the establishment of feedback processes (clauses 60 to 62 of the bill) may be considered violations under sections 179 and 180 of the CTA, with a maximum fine of \$250,000 for each violation.

Clause **175** of the bill adds new section 178.1 to the CTA, providing a list of additional powers to enforcement officers entering a place for the purpose of verifying compliance or preventing non-compliance with provisions of regulations under section 170(1) of the CTA or under clauses 60 to 62 of the bill. The additional powers include, among others, the power to examine anything found in the place, to use computer systems at the place in order to examine electronic data, and to use copying equipment to make copies of any document found there.

Clause **177** of the bill amends the provisions under section 180 of the CTA regarding the issuance of notices of violation to include contraventions of provisions of regulations under section 170(1) of the CTA or of provisions under the *Accessible Canada Act* pertaining to the production of accessibility plans and progress reports and the establishment of feedback processes.

Clause **183** adds section 181.1 to the CTA, enabling the Agency to publish violations referred to in amended section 177 for the purpose of encouraging compliance with provisions of the regulations of the CTA and the *Accessible Canada Act* dealing with accessibility plans, feedback processes and progress reports.

Clause **183** of the bill also gives the Agency the power to direct any person who is required to comply with the provisions of the CTA and the *Accessible Canada Act* to produce any records, reports, electronic data or other documents that the Agency believes contain relevant information.

2.12 PART 11: CONSEQUENTIAL AND COORDINATING AMENDMENTS (CLAUSES **200** TO **205**)

Clauses **200** to **204** make a number of consequential amendments to the *Access to Information Act*⁶² and the *Financial Administration Act* and the *Privacy Act*.⁶³ Clause **205** makes coordinating amendments to the *Economic Action Plan 2014 Act, No. 1*.⁶⁴

2.13 PART 12: COMING INTO FORCE (CLAUSE **206**)

Other than clause **205** (coordinating amendments to the *Economic Action Plan 2014 Act, No. 1*), the provisions of the bill will come into force on a day to be fixed by order of the Governor in Council.

NOTES

1. [Bill C-81, An Act to ensure a barrier-free Canada](#), 1st Session, 42nd Parliament, (S.C. 2019, c. 10).
2. [Canadian Radio-television and Telecommunications Commission Act](#), R.S.C. 1985, c. C-22.
3. [Canadian Human Rights Act](#), R.S.C. 1985, c. H-6.
4. [Parliamentary Employment and Staff Relations Act](#), R.S.C. 1985, c. 33 (2nd Supp.).
5. [Broadcasting Act](#), S.C. 1991, c. 11.
6. [Telecommunications Act](#), S.C. 1993, c. 38.
7. [Canada Transportation Act](#), S.C. 1996, c. 10.
8. [Federal Public Sector Labour Relations Act](#), S.C. 2003, c. 22, s. 2.
9. [Public Service Employment Act](#), S.C. 2003, c. 22, ss. 12, 13.
10. House of Commons, Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities [HUMA], [Thirteenth Report](#), 1st Session, 42nd Parliament, 19 November 2018.
11. **See Senate, Standing Committee on Social Affairs, Science and Technology [SOC], [Thirty-Fourth Report](#), 1st Session, 42nd Parliament, 7 May 2019.**
12. House of Commons, [Debates](#), 1st Session, 42nd Parliament, 19 September 2018, p. 21576.
13. [Canadian Charter of Rights and Freedoms](#), Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11.
14. Department of Justice, [Charter Statement – Bill C-81: An Act to ensure a barrier-free Canada](#), 20 June 2018.
15. [Employment Equity Act](#), S.C. 1995, c. 44.
16. The other three designated groups are women, Indigenous peoples and members of visible minorities.
17. United Nations, Office of the High Commissioner for Human Rights [OHCHR], Committee on the Rights of Persons with Disabilities, [Convention on the Rights of Persons with Disabilities](#).
18. OHCHR, Committee on the Rights of Persons with Disabilities, [Optional Protocol to the Convention on the Rights of Persons with Disabilities](#).
19. CNW, “[Canada accedes to the Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities](#),” News release, 3 December 2018. See also Government of Canada, “[Backgrounder: Optional Protocol to the United Nations Convention on the Rights of Persons with Disabilities](#),” Backgrounder.
20. Department of Finance Canada, “An Inclusive and Fair Canada,” Chapter 5 in [Growing the Middle Class](#), Budget 2016, 22 March 2016, p. 170.
21. Government of Canada, [Accessible Canada – Creating new federal accessibility legislation: What we learned from Canadians](#).
22. Ibid.
23. During committee stage, HUMA broadened the scope of the preamble by replacing the text “all Canadians” with “all persons in Canada.” HUMA also deleted the term “abilities” from this clause and throughout the bill.

24. HUMA broadened the definition of “disability” by inserting a reference to “any impairment” and by adding cognitive impairment to the list of examples. HUMA also added that an impairment could be “evident or not.”
- The definition of “barrier,” which also makes reference to impairments, was modified in a similar manner to align it with the amended definition of “disability.”
25. HUMA removed “progressive” from the expression “progressive realization” in this clause and throughout the bill.
- The deadline by which Canada must be barrier-free was added by SOCI during committee stage. This deadline is reiterated in various provisions throughout the bill. SOCI also added in the preamble to the bill that the approach for identifying, removing and preventing barriers to accessibility that seeks to complement the *Canadian Human Rights Act* must be achieved “without delay.”**
26. HUMA made various changes to the areas of focus for the prevention, identification and removal of barriers listed under clause 5 of the bill, including adding a new area: “communication, other than information and communication technologies.” HUMA also clarified that this new area does not include broadcasting or telecommunications.
27. **SOCI added the provisions regarding sign languages. It also amended the bill to provide that nothing in the *Accessible Canada Act* should be interpreted as justifying delays in the prevention or removal of barriers.**
28. **SOCI amended the principles clause of the bill to, among other aspects, provide that laws, policies, programs, services and structures must take into account the multiple and intersecting forms of marginalization and discrimination faced by people.**
29. This final principle was added by HUMA during committee stage.
30. See also Government of Canada, [Proposed Accessible Canada Act – Summary of the Bill](#).
31. HUMA amended this provision by replacing “may” with “must.”
32. The Canadian Accessibility Standards Development Organization (CASDO) is designated as a departmental corporation under clause 202 of the bill, which amends Schedule II of the *Financial Administration Act* to this effect. See [Financial Administration Act](#), R.S.C. 1985, c. F-11.
33. [Trade-marks Act](#), R.S.C. 1985, c. T-13.
34. Section 9 of the *Public Servants Inventions Act* provides that the administration and control of any invention is vested in Her Majesty, along with any patent or certificate of supplementary protection issued with respect to that invention, are vested in the appropriate minister. The appropriate minister, however, may transfer that administration and control to any other federal minister or corporate agency. See [Public Servants Inventions Act](#), R.S.C. 1985, c. P-32.
35. The stipulation about having directors who are representative of the diversity of disabilities faced by persons in Canada was added by HUMA during committee stage.
36. The requirement to make at least one regulation within two years of the coming into force of the relevant provisions was added by HUMA during committee stage.
37. This stipulation was added by HUMA during committee stage.
38. HUMA added the requirement to publish the reasons behind the exemption order.
39. The stipulation regarding the exemption order ceasing to have effect by a specific time was added by HUMA during committee stage.
40. See Government of Canada, [Proposed Accessible Canada Act – Summary of the Bill](#).

41. Ibid.
42. **SOCI deleted a clause that prevented members of the Royal Canadian Mounted Police (RCMP) from filing a complaint with the Accessibility Commissioner if they already had the right to present a grievance in respect of that contravention under the *RCMP Act*.**
- It was explained during committee stage that this was a drafting error, given that the existing RCMP grievance process does not offer the same level of compensation as that which is available to other federal government employees or through the *Accessible Canada Act*. See SOCI, [Evidence](#), 1st Session, 42nd Parliament, 2 May 2019.**
43. HUMA amended this provision to allow for complaints to be made based on acts or omissions *the complainant became aware of* more than a year before the filing of the complaint, rather than based on acts or omissions that occurred more than a year prior to the filing.
44. HUMA added the stipulation that the complainant be allowed to make representations during the review process in a manner that is accessible to the complainant.
45. The stipulations regarding the longer deadline for appealing a decision, the allowable grounds of appeal, and the requirement to set out supporting evidence were added by HUMA during committee stage.
46. HUMA made a number of amendments to clause 106 of the bill, including the amendments that expand the scope of the decisions that may be made by the Canadian Human Rights Tribunal, and the stipulation that a tribunal's decision is final.
47. The stipulation requiring the Chief Accessibility Officer to give the minister information, as opposed to advice only, on systemic or emerging accessibility issues was added by HUMA during committee stage.
48. During committee stage, HUMA added the possibility for regulations to specify the form in which descriptions of the feedback process are to be published.
49. The requirement to make at least one regulation within two years of the coming into force of the *Accessible Canada Act* was added by HUMA during committee stage.
50. This area of focus was added by HUMA during committee stage.
51. HUMA added the term "facilities" to clause 120 during committee stage.
52. This area of focus was added by HUMA during committee stage.
53. The stipulation regarding the exemption order ceasing to have effect by a specific time was added by HUMA during committee stage.
54. The stipulation that the reasons for making the order must be made available to the public was added by HUMA during committee stage.
55. **SOCI added this stipulation during committee stage.**
56. For the Library of Parliament, the Parliamentary Protective Service and the Office of the Parliamentary Budget Officer, both Speakers must act jointly for exemptions to occur.
57. Specifically, clauses 69(1) to 69(4) and 69(7) (accessibility plans); clauses 70(1) to 70(3) (feedback processes); and clauses 71(1) to 71(3) and 71(6) (progress reports).
58. Clause 142 provides that regulations made under clause 117 apply with respect to a parliamentary entity as if it were a regulated entity, but only to the extent that the regulations apply generally to regulated entities that are departments named in Schedule I to the *Financial Administration Act*.
59. For consistency with the *Accessible Canada Act*, HUMA replaced the term "emotional harm" with "psychological harm" during committee stage.

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60. The stipulation regarding the exemption order ceasing to have effect by a specific time was added by HUMA during committee stage.
61. **A provision enabling the Canadian Transportation Agency to determine that an undue barrier exists despite regulations on the matter being complied with, or not contravened, and setting out the restriction on remedies in such cases, was added by SOCI during committee stage.**
62. [Access to Information Act](#), R.S.C. 1985, c. A-1.
63. [Privacy Act](#), R.S.C. 1985, c. P-21.
64. [Economic Action Plan 2014 Act, No. 1](#), S.C. 2014, c. 20.