# CNIB Plain Language: Bill C-81, An Act to Ensure a Barrier-Free Canada

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## Short Title:

Bill C-81, An Act to Ensure a Barrier-Free Canada, can also be called the Accessible Canada Act.

## Definitions:

Accessibility Commissioner – A member of the Canadian Human Rights Commission who will be responsible for the Accessibility Team.

Barrier – Anything physical, architectural, technological, or attitudinal, based on information or communication, or is a result of policy or practice, that limits full and equal participating in society of persons with a physical, mental, intellectual, learning, communication or sensory impairment or functional limitation.

Disability – A physical, mental, intellectual, cognitive, learning, communication or sensory impairment or functional limitation, whether permanent, temporary or episodic in nature, evident or not

Standards Organization – The Canadian Accessibility Standards Development Organizations

## Purpose:

The purpose of this act is to benefit all persons, especially persons with disabilities 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 delivery of programs and services
* Transportation
* Other areas designated under government regulations

## Principles:

This legislation is guided by the following principles:

* All persons must be treated with dignity regardless of their disabilities
* All persons must have the same opportunity to make the lives they want to have, regardless of their disabilities, or regardless of how their disability interacts with their personal and social characteristics
* All persons must have barrier-free access to full and equal participation in society, regardless of their disabilities
* All persons must have meaningful options to be free to make their own choices, with support if they want, regardless of their disabilities
* Laws, policies, programs, services and structures must take into account the disabilities of persons and the different ways that persons interact with their environments, and persons with disabilities must be involved in their development or design
* The development and revision of accessibility standards and the making of regulations must be done with the objective of achieving the highest level of accessibility for persons with disabilities

## Application of Legislation

This legislation applies to the following people: departments, agencies, commissions, Crown Corporations etc. of the federal government; the federal public services; the Canadian Forces; any individual, partnership or organization that does business within the authority of Parliament.

## Part 1: Minister's Powers, Duties and Functions

Bill C-81 mandates the Minister of Public Service and Procurement and Accessibility to create a Canada without barriers. The Minister may do this by providing information, advice and assistance to matters relating to accessibility; or by promoting, supporting and conducting research into the identification and removal of barriers and the prevention of new barriers.

The Minister's powers, duties and functions extend to all matters relating to accessibility, over which Parliament has authority and that are not assigned to another Minister, department, board, agency, etc. within the federal government. The Minister may create, research, recommend, and promote government policies, programs and projects relating to accessibility. The Minister may make grants and contributions in support of these programs and projects.

## Part 2: Canadian Accessibility Standards Development Organization

The Bill requires a new Canadian Accessibility Standards Development Organization (CASDO) to be created. The mandate of CASDO is to contribute to a Canada without barriers by:

* Developing and revising accessibility standards
* Recommending accessibility standards to the Minister
* Developing and revising information, productions and services
* Promoting, conducting and supporting research into the identification and removal of barriers and the prevention of new barriers
* Sharing information about identifying and removing barriers and preventing new barriers

CASDO is to become a federal government entity and will have powers such as:

* Entering into contracts with entities and governments
* Making grants and contributions
* Spending money that it receives from the federal government
* Undertaking activities it considers necessary to fulfill its mandate

CASDO may develop accessibility standards for any person or entity, including any government in Canada or elsewhere. The Minister may issue general directions to CASDO to help carry out its mandate.

CASDO will be comprised of a board of directors, with no more than 11 directors, including a Chair and Vice-Chair. The directors are to be appointed by the federal Cabinet, on a part-time basis, for a term of no more than four years. The majority of directors are to be persons with disabilities and the appointment of directors is to be made having regard to the diversity of Canadian society and the diversity of disabilities faced by Canadians. A director can be reappointed for the same or another role. A director is to be paid at a rate fixed by the federal government. They are also entitled to travel and living expenses incurred while absent from their ordinary place of residence, while performing their duties for the Standards Organization.

The role of the board of directors of CASDO is to:

* Set the strategic direction for the Standards Organization
* Supervise and manage the Standards Organization's activities and affairs
* Advise the Chief Executive Officer on the Standards Organization's mandate

The board of directors may make by-laws to help conduct its affairs. If so, the board must send the by-laws to the Minister. The board can also appoint an advisory board or committees, in accordance with by-laws.

The federal Cabinet will appoint a Chief Executive Officer of the Standards Organization, for a term up to five years. The term of the Chief Executive Officer is renewable. The Chief Executive Officer is an employee of the federal public service and has the same rank and powers as a deputy head of a department. The Chief Executive Officer is responsible for the Standard Organization's day-to-day operations. The Chief Executive Officer may establish committees to assist in the development and revision of accessibility standards. When such committees are established the Chief Executive Officer must make the committee's terms of reference and names of its members publicly available.

All accessibility standards, recommended to the Minister, by CASDO must be made public. CASDO must make a report within three months after the end of each fiscal year, outlining activities in that fiscal year. This report must be sent to the Minister who must present the report to the House of Commons within 15 days of receiving it.

## Part 3: Accessibility Commissioner

The Accessibility Commissioner may provide information and advice regarding issues arising from the administration and enforcement of this legislation. The Accessibility Commissioner may also provide the Minister with a special report arising from the administration and enforcement of this legislation. If the Accessibility Commissioner provides the Minister with such a report, it must be made public after 60 days from being submitted to the Minister. The Accessibility Commissioner must provide a yearly report to the Minister, within three months after the end of each fiscal year, regarding her or his activities during the fiscal year. A copy of this report must be sent to the Minister of Justice. The report must include:

* The number of inspections, production orders, compliance orders, notice of violations and complaints
* Observations about systemic or emerging accessibility issues emerging from administration and enforcement of this legislation
* Information prescribed in regulation

The Minister must present the annual report to the House of Commons, 15 days after receiving it.

## Part 4: Duties of Regulated Entities

The Bill outlines three duties for all regulated entities, including regulated entities that are mandated by the Broadcasting Act, the Telecommunications Act, or the Transportation Act.

1. Accessibility Plans – One year after the law is in effect, each regulated entity will be required to prepare and publish an accessibility plan outlining its policies, programs, practices and services in relation to the identification and removal of barriers, and the prevention of new barriers. An updated version of this plan must be published every three years thereafter.

The accessibility plans must be created in consultation with people with disabilities, and the accessibility plan must describe the manner in which persons with disabilities were consulted. Each regulated entity is required to publish their plan publicly and let the Government of Canada know where the plan is published.

1. Feedback Tools – Regulated entities are required to establish a process for receiving and reviewing feedback from their employees and customers. Feedback could include things like complaints about how the organization is implementing its accessibility plan, or barriers encountered by individuals.
2. Progress Reports – Regulated entities must prepare and publish a progress report detailing how their accessibility plan is being implemented. They will also have to explain in the progress report how they are consulting persons with disabilities, any feedback they received, and how they responded to it.

## Part 5: Administration and Enforcement

### Inspections

To enforce this legislation, the Accessibility Commissioner may enter any regulated place to verify compliance or prevent non-compliance with accessibility plans, feedback, progress reports, or any regulations. The Accessibility Commissioner has a number of powers to help them verify or prevent non-compliance, including:

* Examining or opening any packages, records, reports, electronic data, documents or computer systems found within a regulated place
* Reproducing any documents or taking records, reports or documents for examination or copying
* Requiring a regulated entity to produce any record, report or electronic data for examination or copying
* Taking photographs, recordings, or sketches
* Ordering any person within a regulated place to establish their identity
* Ordering any person within a regulated place to start or stop activities as required to help with the inspection
* Entering a place remotely via telecommunication with the knowledge of the owner or person in charge
* Being accompanied by any individual they believe is necessary to their investigation
* Passing through private property
* Entering a dwelling-house with the consent of an occupant

### Compliance Orders

The Accessibility Commissioner may issue a compliance order that would require the regulated entity to stop any violations and take any steps specified in the order to make sure the violations do not continue to occur. The entity that receives the compliance order may request a review by the Accessibility Commissioner, but the order continues to apply during the review process.

### Administrative Monetary Penalties

A regulated entity or person is liable to a penalty fixed in accordance with the regulations if they commit a violation. The Act states that the purpose of a monetary penalty is to promote compliance and not to punish.

The Governor in Council may make regulations classifying violations as minor, serious, or very serious. They may also make regulations specifying a range of penalties and criteria to be considered when determining the amount of penalty.

If the Accessibility Commissioner has reasonable grounds to believe a regulated entity or person has committed a violation, the Accessibility Commissioner may issue a notice of violation that names the regulated entity or person, identifies the violation, and lays out either a warning or a penalty for the violation that the person or entity is liable to pay.

Alternative to payment, the regulated entity may request to enter into a compliance agreement with the Accessibility Commissioner to ensure their compliance with the Act. After considering their request, the Accessibility Commissioner may enter into a compliance agreement with any terms they deem necessary, including providing a reduction of the monetary penalty, or requiring a monetary security deposit to ensure the regulated entity or person will comply with the agreement.

If the Accessibility Commissioner is satisfied that the person or regulated entity has complied with the agreement, the regulated entity or person must be served with a notice of compliance and any monetary security deposit must be returned to them.

If the Accessibility Commissioner is not satisfied that the person or regulated entity has complied with the agreement, the person or regulated entity must be served with a notice of default, informing them that **either** they are liable to pay twice the amount of the penalty set out in the notice of violation, **or** the monetary security deposit will be forfeited to Her Majesty in right of Canada.

The legislation states that a regulated entity is liable for a violation that is committed by any of their employees. Any violation that is continued on one or more days constitutes a separate violation for each day it is committed.

## Part 6: Remedies

### Filing of Complaint

Any individual that has suffered physical or psychological harm, property damage or economic loss as a result of a violation by a regulated entity may file a complaint with the Accessibility Commissioner.

After a complaint has been filed, the Accessibility Commissioner may conduct an investigation. The Accessibility Commissioner may choose not to conduct an investigation if:

* The complaint could be dealt with more appropriately under another Act of Parliament
* The complaint is trivial, frivolous, vexatious, or made in bad faith
* The complaint is based on acts that happened over one year ago, or any longer period of time the Accessibility Commissioner considers appropriate
* The complaint is beyond the jurisdiction of the Accessibility Commissioner

During an investigation, the Accessibility Commissioner may call on people to appear before them to give oral or written evidence on oath, or to produce records or things the Accessibility Commissioner considers necessary to the investigation. The Accessibility Commissioner may conduct a joint investigation into two or more complaints that involve substantially the same issues of fact. Complaints may be resolved by means of a dispute resolution mechanism.

If the Accessibility Commissioner finds the complaint is substantiated, he or she may order the regulated entity to do one or more of the following:

* Take appropriate corrective measures and make available the rights and opportunities or privileges that were denied to the complainant
* Pay compensation to the complainant for any or all lost wages or expenses they incurred because of the violation
* Pay compensation to the complainant for any or all additional costs such as obtaining alternative goods, services, facilities or accommodations they incurred because of the violation
* Pay compensation to the complainant for any pain and suffering they experienced because of the violation

The amount of compensation payable to a claimant in the first calendar year this legislation comes into force is $20,000, subject to the Consumer Price Index in each subsequent calendar year.

## Part 7: Chief Accessibility Officer

The Governor in Council may appoint a special adviser to the Minister to be called the Chief Accessibility Officer. The Chief Accessibility Officer will hold office for a term of not more than five years and is eligible to re-appointed for a maximum of two further terms in office.

The Chief Accessibility officer may advise the Minister of any systemic or emerging accessibility issues, report to the Minister in writing about systemic or emerging accessibility issues and publish any report that he or she has provided to the Minister after the sixtieth day on which it was provided.

## Part 8: General

### Regulations

Regulations are a form of law that are mandatory and binding. They are a set of rules created by a department or agency and approved by the Government. The Governor in Council may make regulations regarding the application of many parts of this legislation, including:

* Establishing standards intended to remove barriers and to improve accessibility
* Impose obligations or prohibitions on regulated entities for the purpose of identifying or removing barriers or preventing new barriers
* Specifying the form in which the accessibility plans are to be prepared
* Specifying the manner in which the feedback process is required
* Specifying the form in which progress reports are required

The first regulations must be made by each body within two years after this law comes into force.

The Canadian Radio-television and Telecommunications Commission will continue to receive complaints related to accessibility barriers in relation to broadcasting and telecommunication services and be responsible for compliance and enforcement with respect to broadcasting and telecommunications services using their existing powers.

The Canadian Transportation Agency will be responsible for compliance and enforcement activities within the transportation sector with enhanced powers.

The Accessibility Commissioner will be responsible for compliance and enforcement for all other activities and sectors within federal jurisdiction.

Five years after the first regulation is made, a review of this Act is to begin by a committee of the Senate and/or the House of Commons. Within six months, the committee(s) must submit a report on that review, including a statement of any recommended changes.

Five years after the first report is submitted, and every tenth anniversary of that day, the Minister must call for an independent review of this Act. The person conducting the review must consult with the public and persons with disabilities, including organizations that represent the interests of persons with disabilities.

## Part 9: Parliamentary Entities

The Accessibility Commissioner may issue a notice of violation to a parliamentary entity or specified person if they have reasonable grounds to believe that the parliamentary entity or specified person has violated an order made under the legislation.

The notice of violation must name the parliamentary entity or specified person, identify the violation, summarize their rights under the legislation including their right to enter into a compliance agreement.

The Accessibility Commissioner must notify the Speaker of the Senate or the Speaker of the House of Commons as soon as possible after they receive a complaint against a parliamentary entity, make a compliance order with respect to a parliamentary entity, or conduct an investigation of a parliamentary entity.

## Part 10: Related Amendments

If Parliament passes this Bill, some other Acts which deal with matters under federal authority would need to be revised, including:

* The Canadian Human Rights Act
* The Canada Transportation Act
* The Telecommunications Act
* The Broadcasting Act

## Part 11: Consequential and Coordinating Amendments

If Parliament passes this Bill, some other Acts which deal with matters under federal authority would need to be revised, including:

* The Access to Information Act
* The Financial Administration Act
* The Privacy Act

## Part 12: Coming into Force

The provisions of this Act will come into force on a day to be fixed by order of the Governor in Council.