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Legislative Assembly of British Columbia

BILL 6

ACCESSIBLE BRITISH COLUMBIA ACT

Honourable Nicholas Simons
Minister of Social Development and Poverty Reduction

Explanatory Note

This Bill supports the identification, removal and prevention of barriers to the full and equal participation in society of persons with disabilities by requiring the government and other organizations to establish accessibility committees and develop accessibility plans and by providing for the development and enactment of accessibility standards.

BILL 6 – 2021

ACCESSIBLE BRITISH COLUMBIA ACT

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

PART 1 – INTERPRETATION

Definitions

1 In this Act:

- “**accessibility committee**” means a committee under section 9 [*accessibility committee*];
- “**accessibility plan**” means a plan under section 11 [*accessibility plan*];
- “**barrier**” has the meaning given to it in section 2 [*barriers*];
- “**director**” means the director designated under section 21 [*director*];
- “**disability**” means an inability to participate fully and equally in society as a result of the interaction of an impairment and a barrier;
- “**impairment**” includes a physical, sensory, mental, intellectual or cognitive impairment, whether permanent, temporary or episodic;
- “**Indigenous peoples**” has the same meaning as in the *Declaration on the Rights of Indigenous Peoples Act*;
- “**provincial accessibility committee**” means the government’s accessibility committee;
- “**technical committee**” means a committee under section 15 [*technical committees*].

Barriers

- 2** (1) For the purposes of this Act, a barrier is anything that hinders the full and equal participation in society of a person with an impairment.

- (2) For certainty and without limiting subsection (1), barriers can be
 - (a) caused by environments, attitudes, practices, policies, information, communications or technologies, and
 - (b) affected by intersecting forms of discrimination.

PART 2 – RECOGNITION AND ACCOUNTABILITY

Division 1 – Recognition

Minister to promote accessibility

- 3 (1) The minister must promote accessibility in British Columbia.
- (2) Without limiting subsection (1), the minister may, subject to the regulations, pay a grant to a person for the purpose of identifying, removing or preventing barriers.

Recognition of AccessAbility Week

- 4 The prescribed week in each year is AccessAbility Week throughout British Columbia.

Recognition of sign languages

- 5 Sign languages are recognized as the primary languages for communication by deaf persons in British Columbia, including, without limitation,
 - (a) American Sign Language, and
 - (b) Indigenous sign languages.

Division 2 – Accountability

Annual reports

- 6 (1) The minister must publish a report for each fiscal year of the government that describes the actions taken in that year by the minister and the provincial accessibility committee to implement this Act and the regulations.
- (2) A report under subsection (1) for a fiscal year must be published by September 30 in the following fiscal year.

Independent reviews

- 7 (1) The minister must, by appointing a person in accordance with subsection (2), initiate a review of the effectiveness of this Act and the regulations
 - (a) by March 31, 2026,
 - (b) within 5 years after the first appointment, and
 - (c) at least every 10 years thereafter.

- (2) An appointment under subsection (1) must require the person appointed to
 - (a) carry out the review in accordance with terms of reference, if any, specified in writing by the minister,
 - (b) in carrying out the review, consult with representatives of at least the following groups:
 - (i) persons with disabilities;
 - (ii) individuals and organizations that support persons with disabilities;
 - (iii) Indigenous peoples;
 - (iv) individuals and organizations that are subject to or affected by Part 3 [*Accessible Organizations*];
 - (v) individuals and organizations that are subject to or affected by the regulations, and
 - (c) submit to the minister a report that sets out
 - (i) the findings of the review, and
 - (ii) the recommendations, if any, of the person appointed on how to improve the effectiveness of the Act and the regulations.
- (3) The minister must lay a report under subsection (2) (c) before the Legislative Assembly as soon as practicable and, promptly after doing so, must publish the report.

PART 3 – ACCESSIBLE ORGANIZATIONS

Application

- 8** This Part applies to the following organizations:
- (a) the government;
 - (b) a prescribed organization and an organization in a prescribed class of organizations.

Accessibility committee

- 9** (1) An organization must establish a committee to
- (a) assist the organization to identify barriers to individuals in or interacting with the organization, and
 - (b) advise the organization on how to remove and prevent barriers to individuals in or interacting with the organization.

- (2) An accessibility committee must, to the extent possible, have members who are selected in accordance with the following goals:
 - (a) at least half of the members are
 - (i) persons with disabilities, or
 - (ii) individuals who support, or are from organizations that support, persons with disabilities;
 - (b) the members described in paragraph (a) reflect the diversity of persons with disabilities in British Columbia;
 - (c) at least one of the members is an Indigenous person;
 - (d) the committee reflects the diversity of persons in British Columbia.

Provincial accessibility committee

- 10 (1) The provincial accessibility committee is to consist of up to 11 members appointed by the minister in accordance with section 9 (2) [*accessibility committee*] and this section.
- (2) An individual may be appointed under subsection (1) for a term of up to 4 years and may not be appointed for more than 2 consecutive terms.
- (3) The provincial accessibility committee is subject to the direction of the minister.

Accessibility plan

- 11 (1) An organization must develop a plan to identify, remove and prevent barriers to individuals in or interacting with the organization.
- (2) An organization must review and update its accessibility plan at least once every 3 years.
- (3) In developing and updating its accessibility plan, an organization must consider the following principles:
 - (a) inclusion;
 - (b) adaptability;
 - (c) diversity;
 - (d) collaboration;
 - (e) self-determination;
 - (f) universal design.
- (4) In developing its accessibility plan, an organization must consult with its accessibility committee.
- (5) In updating its accessibility plan, an organization must
 - (a) consider any comments received under section 12 [*public feedback*], and
 - (b) consult with its accessibility committee.

Public feedback

- 12** An organization must establish a process for receiving comments from the public on
- (a) the organization’s accessibility plan, and
 - (b) barriers to individuals in or interacting with the organization.

PART 4 – ACCESSIBILITY STANDARDS

Division 1 – Accessibility Standards

Accessibility standards

- 13** (1) The Lieutenant Governor in Council may make regulations respecting the identification, removal or prevention of barriers.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations under that subsection in relation to any of the following:
- (a) employment;
 - (b) delivery of services;
 - (c) the built environment;
 - (d) information and communications;
 - (e) transportation;
 - (f) health;
 - (g) education;
 - (h) procurement.
- (3) For certainty, the authority to make regulations under this section is not limited by Division 2 [*Standards Development*].

Division 2 – Standards Development

Standards development

- 14** If the minister directs the provincial accessibility committee to develop a proposed accessibility standard, the committee must
- (a) develop the proposed accessibility standard in accordance with
 - (i) this Division and the regulations, if any, and
 - (ii) any general or specific directions of the minister, and
 - (b) submit the proposed accessibility standard to the minister.

Technical committees

- 15** (1) The minister may establish a technical committee to assist the provincial accessibility committee to develop a proposed accessibility standard.

- (2) The minister may appoint any of the following to a technical committee:
 - (a) members of the provincial accessibility committee;
 - (b) other individuals as the minister considers necessary or advisable.
- (3) A technical committee is subject to the direction of the provincial accessibility committee.

Consultations

- 16 In developing a proposed accessibility standard, the provincial accessibility committee must consult with representatives of at least the following groups:
 - (a) persons with disabilities;
 - (b) individuals and organizations that support persons with disabilities;
 - (c) Indigenous peoples;
 - (d) organizations that might be affected by the standard;
 - (e) ministries of the government that might be affected by the standard.

Accessibility principles

- 17 In developing a proposed accessibility standard, the provincial accessibility committee must consider the following principles:
 - (a) inclusion;
 - (b) adaptability;
 - (c) diversity;
 - (d) collaboration;
 - (e) self-determination;
 - (f) universal design.

Relevant laws, standards and norms

- 18 In developing a proposed accessibility standard, the provincial accessibility committee must consider
 - (a) relevant laws of British Columbia,
 - (b) relevant standards enacted or proposed in other jurisdictions, and
 - (c) the United Nations Convention on the Rights of Persons with Disabilities.

Rights of Indigenous peoples

- 19 In developing a proposed accessibility standard, the provincial accessibility committee must consider
 - (a) the rights recognized and affirmed by section 35 of the *Constitution Act, 1982*, and
 - (b) the United Nations Declaration on the Rights of Indigenous Peoples.

Publication and recommendation of proposed standards

- 20** The minister must
- (a) publish a proposed accessibility standard developed and submitted under section 14 [*standards development*], and
 - (b) after making any changes to the proposed accessibility standard that the minister considers necessary or advisable, recommend to the Lieutenant Governor in Council that a regulation based on that standard be enacted under section 13 [*accessibility standards*].

PART 5 – COMPLIANCE AND ENFORCEMENT

Director

- 21** The minister may designate a person appointed under the *Public Service Act* as the director for the purposes of this Act.

Inspections

- 22** (1) The director may
- (a) designate persons or persons in classes of persons as inspectors,
 - (b) issue identification to an inspector, and
 - (c) impose restrictions on the powers and duties that an inspector may carry out under this Act.
- (2) For the purpose of ensuring compliance with this Act or the regulations, an inspector may do any of the following:
- (a) at any reasonable time, enter land or premises;
 - (b) inspect, analyze, measure, sample or test anything;
 - (c) use or operate anything or require the use or operation of anything, under conditions specified by the inspector;
 - (d) examine and take away copies of records;
 - (e) take photographs or make audio or video records.
- (3) The inspection powers under subsection (2) must not be used to enter a private dwelling except with the consent of the occupant.
- (4) An inspector who enters land or premises in accordance with this section
- (a) may bring individuals and equipment that the inspector considers necessary for the purposes of the inspection, and
 - (b) on request, must provide proof of identity to a person present on the land or premises entered.

- (5) A person who is the subject of an inspection under this section, on request of an inspector, must, without charge or unreasonable delay,
 - (a) produce for examination by the inspector any record relating to requirements under this Act, and
 - (b) provide the inspector with information relevant to the purposes of the inspection.
- (6) A person must not do any of the following:
 - (a) obstruct an inspector or fail to comply with a direction given by an inspector acting under the authority of this section;
 - (b) provide false or misleading information or records to an inspector conducting an inspection under this section.

Monetary penalties

- 23**
- (1) The director may impose a monetary penalty on a person if the person contravenes any of the following:
 - (a) section 9 (1) [*accessibility committee*];
 - (b) section 11 (1), (2), (3), (4) or (5) [*accessibility plan*];
 - (c) section 12 [*public feedback*];
 - (d) section 22 (5) (a) or (b) or (6) (a) or (b) [*inspections*];
 - (e) section 28 [*accessible formats*];
 - (f) a prescribed provision of the regulations.
 - (2) If the director imposes a monetary penalty on a person, the director must serve on the person a notice that specifies the following:
 - (a) the contravention;
 - (b) the amount of the monetary penalty;
 - (c) the date by which the monetary penalty must be paid;
 - (d) the person's right to request a reconsideration under section 26 [*reconsiderations*].
 - (3) A monetary penalty imposed under this section must not exceed \$250 000.
 - (4) Subject to section 24 [*compliance agreements*], a person on whom a monetary penalty is imposed must pay the monetary penalty to the government
 - (a) within the prescribed number of days after the notice under subsection (2) of this section is served on the person, or
 - (b) if the person requests a reconsideration, within the prescribed number of days after the written reasons under section 26 (3) (b) [*reconsiderations*] in relation to the reconsideration are served on the person.

Compliance agreements

- 24** (1) The director may, subject to the regulations and this section, enter into an agreement with a person on whom a monetary penalty is imposed under section 23 [*monetary penalties*] for a contravention that
- (a) reduces or cancels the monetary penalty, and
 - (b) requires the person to comply with the provision contravened by a date specified in the agreement.
- (2) The director may enter into an agreement under subsection (1) with a person in relation to a monetary penalty if
- (a) the period of time referred to in section 23 (4) (a) [*monetary penalties – payment if no request for reconsideration*] has not elapsed, and
 - (b) the person has
 - (i) admitted the contravention,
 - (ii) accepted the monetary penalty as reasonable, and
 - (iii) provided security, if required by the director, in a form and amount acceptable to the director.
- (3) If a person fails to comply with an agreement under subsection (1) in relation to a monetary penalty, the director
- (a) must serve on the person a notice that specifies
 - (i) the failure to comply,
 - (ii) the amount of the monetary penalty, and
 - (iii) the date by which twice that amount must be paid, and
 - (b) may realize any security provided in relation to the agreement, up to twice the amount of the monetary penalty.
- (4) A person who fails to comply with an agreement under subsection (1) in relation to a monetary penalty must pay to the government, within the prescribed number of days after the notice under subsection (3) (a) is served on the person, the difference between
- (a) the amount equal to twice the monetary penalty, and
 - (b) any amount realized under subsection (3) (b).

Recovery of amounts payable

- 25** (1) An amount that a person is required to pay under section 23 (4) [*monetary penalties*] or 24 (4) [*compliance agreements – doubling of monetary penalty*] may be recovered as a debt due to the government.
- (2) If a person fails to pay an amount as required under section 23 (4) or 24 (4), the director may file a certificate in a court that has jurisdiction and, on filing, the certificate has the same force and effect, and all proceedings may be taken on the certificate, as if it were a judgment of the court with which it is filed.

- (3) A certificate under subsection (2) must be signed by the director and must contain the following information:
 - (a) the name of the person who is liable for the amount;
 - (b) the contravention in relation to which the amount is imposed;
 - (c) the amount required to be paid.

PART 6 – RECONSIDERATIONS AND APPEALS

Reconsiderations

- 26** (1) A person who is served with a notice under section 23 (2) [*monetary penalties*] may request the director to reconsider the monetary penalty.
- (2) A request under subsection (1) must be made within the time limits and in accordance with any rules prescribed by regulation.
- (3) On request under subsection (1), the director must
 - (a) reconsider the monetary penalty within the time limits and in accordance with any rules prescribed by regulation, and
 - (b) serve written reasons on the person who made the request.

Appeals to tribunal

- 27** A person who is served with written reasons under section 26 (3) (b) may appeal the decision to the prescribed tribunal in accordance with the regulations.

PART 7 – GENERAL

Accessible formats

- 28** A person who is required under this Act to publish a record must, on request, provide the record in a prescribed accessible format
 - (a) at no charge, and
 - (b) within a reasonable period of time.

Remuneration of provincial committees

- 29** In accordance with the general directives of Treasury Board, the minister may
 - (a) reimburse or pay an allowance to members of the provincial accessibility committee or a technical committee for reasonable travelling and out-of-pocket expenses necessarily incurred in carrying out their duties, and

- (b) pay remuneration to
 - (i) members of the provincial accessibility committee, or
 - (ii) members of a technical committee who are
 - (A) members of the provincial accessibility committee, or
 - (B) persons with disabilities.

Consultants and specialists

- 30** (1) The minister may, for the purposes of this Act, engage or retain consultants or specialists that the minister considers necessary and may determine their remuneration.
- (2) The *Public Service Act* does not apply to a person engaged or retained under subsection (1).

Section 5 of *Offence Act* does not apply

- 31** Section 5 of the *Offence Act* does not apply to this Act or the regulations.

Regulations

- 32** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.
- (2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations as follows:
- (a) respecting any matter for which regulations are contemplated by this Act;
 - (b) respecting grants under section 3 [*minister to promote accessibility*], including, without limitation,
 - (i) restricting the purposes, amounts or recipients of those grants, and
 - (ii) respecting the terms and conditions on which the grants may or must be given;
 - (c) prescribing for the purposes of section 8 (b) [*application of Part 3*] a person, agency or other body or a class of persons, agencies or other bodies;
 - (d) respecting the establishment and functions of accessibility committees, the development, contents and form of accessibility plans and the process for receiving comments under section 12 [*public feedback*];
 - (e) requiring persons to whom Part 3 [*Accessible Organizations*] does not apply to prepare plans described in section 11 (1) [*accessibility plan*] and respecting the development, contents and form of those plans;
 - (f) respecting the development of proposed accessibility standards under sections 14 to 19 [*standards development, etc.*];

- (g) without limiting paragraphs (d) and (f), respecting what is to be considered in considering a principle referred to in sections 11 (3) [*accessibility plan*] or 17 [*accessibility principles*];
 - (h) respecting monetary penalties under section 23 [*monetary penalties*], including, without limitation,
 - (i) prescribing a limitation period for imposing a monetary penalty and evidentiary matters in relation to that period,
 - (ii) subject to section 23 (3), prescribing the minimum or maximum amount of a monetary penalty that may be imposed for specified contraventions, or a manner of calculating those amounts,
 - (iii) authorizing administrative penalties to be imposed on a daily basis for continuing contraventions,
 - (iv) prescribing time limits for paying monetary penalties, and
 - (v) prescribing the consequences of failing to pay a monetary penalty, which may include, but are not limited to, imposing additional penalties;
 - (i) respecting appeals under section 27 [*appeals to tribunal*], including, without limitation,
 - (i) prescribing a tribunal established or continued under another Act for the purposes of that section, and
 - (ii) applying provisions of the *Administrative Tribunals Act* to an appeal or the tribunal;
 - (j) respecting publication of anything that is required to be published under this Act and prescribing formats as accessible formats for the purposes of section 28 [*accessible formats*].
- (3) A regulation under this Act may do one or more of the following:
- (a) delegate a matter to a person;
 - (b) confer a discretion on a person;
 - (c) make different regulations in relation to different classes of persons, things, circumstances or other matters;
 - (d) adopt by reference, in whole, in part or with any changes considered appropriate, a regulation, code, standard or rule
 - (i) enacted as or under a law of another jurisdiction in or outside Canada, or
 - (ii) set by a provincial, national or international body or any other code-, standard- or rule-making bodyas the regulation, code, standard or rule stands at a specific date, as it stands at the time of adoption or as amended from time to time.

(4) The authority to make regulations under this section does not limit and is not limited by the authority to make regulations under section 13 [*accessibility standards*].

Commencement

33 The provisions of this Act referred to in column 1 of the following table come into force as set out in column 2 of the table:

| Item | Column 1 Provisions of Act | Column 2 Commencement |
|------|--|---|
| 1 | Anything not elsewhere covered by this table | The date of Royal Assent |
| 2 | Sections 11 and 12 | By regulation of the Lieutenant Governor in Council |
| 3 | Sections 21 to 27 | By regulation of the Lieutenant Governor in Council |