

TO: Mayor Savage and Members of Halifax Regional Council

Original Signed by 

SUBMITTED BY:

Jacques Dubé, Chief Administrative Officer

DATE: March 27, 2018

SUBJECT: Administrative Order 2018-002-OP - Universal Access to Municipal Facilities

ORIGIN

On September 15, 2016, Community Planning & Economic Development passed the following motion: MOVED by Councillor Watts, seconded by Councillor Adams that the Community Planning and Economic Development Standing Committee request a staff report on how HRM can ensure universal access to municipal washroom facilities.

On April 20, 2017, Community Planning & Economic Development passed the following motion: MOVED by Deputy Mayor Craig, seconded by Councillor Outhit THAT the Community Planning and Economic Development Standing Committee recommend to Halifax Regional Council that staff be directed to draft an Administrative Order on universal access to all municipal facilities.

On May 9, 2017, Regional Council passed the following motion: MOVED by Councillor Mason, seconded by Councillor Nicoll THAT Halifax Regional Council direct staff to draft an Administrative Order on universal access to all municipal facilities.

LEGISLATIVE AUTHORITY

Halifax Regional Municipality Charter, section 11(2): "In the general exercise of its powers, the Council shall take into account the principle of accessibility for its citizens with disabilities."

Halifax Regional Municipality Charter, section 59(3): "In addition to matters specified in this Act or another Act of the Legislature, the Council may adopt policies on any matter that the Council considers conducive to the effective management of the Municipality."

Administrative Order 54, the Procedures for the Development of Administrative Orders, section 8(b): "Administrative Orders may be initiated by a resolution of a Community Council or a Standing Committee of the Council by means of a recommendation from the Community Council or Standing Committee to the Council and by a further resolution of the Council directing staff to draft an Administrative Order for consideration by the Council."

RECOMMENDATION

It is recommended that Regional Council approves the adoption of Administrative Order 2018-002-OP - Universal Access to Municipal Facilities as outlined in Appendix A.

BACKGROUND

The term 'universal' access is generally used to describe the accommodation of all members of society within the built environment.

In 2012, Corporate Facility Design & Construction (CFD&C), in consultation with the Accessibility Advisory Committee, adopted the Canadian Standards Association's (CSA) Standard B651-12 Accessible Design for the Built Environment, as a benchmark to guide all new construction.

Through application of the standard, many barriers have been removed which has improved accessibility at HRM facilities, increasing the independence and inclusion of a wider segment of society. Examples of removing barriers include:

- door operators
- ramps
- lever door handles
- grab bars
- braille signage
- lowered counter tops
- lowered controls.

DISCUSSION

While design to minimize barriers associated with physical, auditory, visual and cognitive challenges was a starting point, a broader consideration of access to public facilities proposes that washrooms be equitably available to all. Examples include public washrooms designed to accommodate gender neutral access, access for a child with a care-giver, or a person with an attendant.

Some Canadian municipalities have developed policies to ensure a proactive approach to universal access to their municipal facilities. Currently, HRM does not have a written policy to define and ensure universal access to municipal facilities. Universal access, as defined in the proposed administrative order, means access to all, regardless of gender or ability. CFD&C staff work with each business unit to determine, on a project-by-project basis, their program needs and rely on consultants to design project specific solutions compliant with current codes and standards.

On September 18, 2017, the Government of Nova Scotia proclaimed the Accessibility Act into effect. As stated in sections 39 of the Act, once prescribed by the Province, HRM will be required to prepare an "Accessibility Plan" to identify, remove and prevent barriers. The proposed administrative order could be used as one component of HRM's Accessibility Plan.

The intent of this administrative order is to ensure all municipal facilities become fully accessible. A universal access administrative order, aligned with Regional Council's Priority Areas, would clarify expectations and ensure application in a consistent manner.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this report.

RISK CONSIDERATION

N/A

COMMUNITY ENGAGEMENT

The Advisory Committee on Accessibility (ACA) was consulted for the development of this administrative order.

ENVIRONMENTAL IMPLICATIONS

N/A

ALTERNATIVES

Council could reject the adoption of this administrative order and direct staff to continue dealing with request on a case by case basis.

ATTACHMENTS

Attachment A - Administrative Order 2018-002-OP - Universal Access to Municipal Facilities
Attachment B - Accessibility Act

A copy of this report can be obtained online at <http://www.halifax.ca/commcoun/index.php> then choose the appropriate Community Council and meeting date, or by contacting the Office of the Municipal Clerk at 902.490.4210, or Fax 902.490.4208.

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**ADMINISTRATIVE ORDER NUMBER 2018-002-OP
RESPECTING UNIVERSAL ACCESS TO MUNICIPAL FACILITIES
WITHIN THE HALIFAX REGIONAL MUNICIPALITY**

BE IT RESOLVED AS AN ADMINISTRATIVE ORDER of the Council of the Halifax Regional Municipality under the authority of the *Halifax Regional Municipality Charter*, as follows:

Short Title

1. This Administrative Order may be known as the *Universal Access to Municipal Facilities Administrative Order*.

Purpose

2. The purpose of this Administrative Order is to ensure that principles of *universal access* are incorporated into the design, construction and major renovation of municipal facilities.

Interpretation

3. In this Administrative Order,
 - (a) “barrier” means anything that hinders or challenges the full and effective participation in society of persons with disabilities including a physical barrier, an architectural barrier, an information or communications barrier, an attitudinal barrier, a technology barrier, a policy or a practice;
 - (b) “disability” includes a physical, mental, intellectual, learning or sensory impairment, including an episodic disability, that, in interaction with a barrier, hinders an individual’s full and effective participation in society;
 - (c) “major renovations” means a renovation project on a municipal facility that requires engineering, architectural planning, or contract services, and has an estimated construction cost of at least \$50,000 and an estimated economic life of at least 10 years;
 - (d) “municipal facility” means any building owned or leased by the Municipality; and
 - (e) “universal access” means access to all, regardless of gender or ability.

Principles of Universal Access

4. New municipal facilities and major renovations to municipal facilities shall, unless determined by the Manager of Corporate Facility Design & Construction (CFD&C) to be cost prohibitive or otherwise impractical, be designed and constructed to:
 - (a) eliminate barriers facing persons with disabilities;
 - (b) provide equitable opportunity for all users;

- (c) avoid segregating or stigmatizing any users;
 - (d) consider the privacy, security and safety of all users;
 - (e) accommodate a wide range of individual preferences and abilities;
 - (f) use a variety of modes (pictorial, verbal, tactile) for presentation of essential information;
 - (g) make all components comfortable and reachable for any seated or standing user; and
 - (h) provide adequate space for the use of assistive devices or personal assistance.
5. All new municipal facilities and all major renovations to municipal facilities shall be designed and constructed to meet or exceed CSA Standard B651 – Accessible Design for the Built Environment.
 6. All signage at municipal facilities shall meet or exceed ISO Standard 7001 Graphical Symbols - Public Information Symbols.

Consultation with Advisory Committee on Accessibility

7. HRM CFD&C staff shall consult with the Advisory Committee on Accessibility at least annually regarding accessible designs for municipal facilities.

Mayor

Municipal Clerk

Accessibility Act

CHAPTER 2 OF THE ACTS OF 2017



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CHAPTER 2 OF THE ACTS OF 2017

An Act Respecting Accessibility in Nova Scotia

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WHEREAS, under the United Nations Convention on the Rights of Persons with Disabilities, Canada agrees to take appropriate measures to achieve accessibility and to develop and monitor minimum accessibility standards;

AND WHEREAS the *Canadian Charter of Rights and Freedoms* grants equality rights to all persons without discrimination on the basis of a disability;

AND WHEREAS the *Human Rights Act* recognizes that the Government, public agencies and all persons have a responsibility to ensure equal opportunity for every individual to enjoy a full and productive life;

AND WHEREAS persons with disabilities disproportionately live in conditions of poverty;

AND WHEREAS there is diversity among persons with disabilities;

AND WHEREAS persons with disabilities continue to face attitudinal and environmental barriers that prevent them from achieving their full and equal participation in society;

AND WHEREAS persons with disabilities who are subject to multiple forms of discrimination face additional barriers;

AND WHEREAS achieving accessibility will improve the independence and well-being of persons with disabilities;

AND WHEREAS the Government acknowledges it must take a leadership role in the process of achieving an accessible Nova Scotia:

Short title

1 This Act may be cited as the *Accessibility Act*. 2017, c. 2, s. 1.

Purpose of Act

2 The purpose of this Act is to

(a) achieve accessibility by preventing and removing barriers that disable people with respect to

- (i) the delivery and receipt of goods and services,
- (ii) information and communication,
- (iii) public transportation and transportation infrastructure,
- (iv) employment,
- (v) the built environment,
- (vi) education, and
- (vii) a prescribed activity or undertaking;

(b) provide for the involvement of persons with disabilities, the public sector and other stakeholders in the development of accessibility standards;

(c) facilitate the timely implementation of accessibility standards with a goal of achieving an accessible Nova Scotia by 2030;

(d) monitor, review and enforce compliance with accessibility standards; and

(e) establish an Accessibility Directorate that is responsible for supporting accessibility initiatives and advancing broader disability-related issues. 2017, c. 2, s. 2.

Interpretation

3 (1) In this Act,

(a) “accessibility plan” means a plan to address the identification, removal and prevention of barriers in the policies, programs, practices and services of a public sector body;

(b) “accessibility standard” means an accessibility standard established under this Act;

(c) “barrier” means anything that hinders or challenges the full and effective participation in society of persons with disabilities

including a physical barrier, an architectural barrier, an information or communications barrier, an attitudinal barrier, a technological barrier, a policy or a practice;

(d) “Board” means the Accessibility Advisory Board established under this Act;

(e) “built environment” means the human-made space in which people live, work, learn and play and includes buildings, rights-of-way and outdoor spaces;

(f) “committee” means a committee established under this Act;

(g) “Court” means the Supreme Court of Nova Scotia;

(h) “Director” means the Director of Compliance and Enforcement appointed pursuant to Section 45;

(i) “disability” includes a physical, mental, intellectual, learning or sensory impairment, including an episodic disability, that, in interaction with a barrier, hinders an individual’s full and effective participation in society;

(j) “Government” means Her Majesty in right of the Province;

(k) “inspector” means an inspector appointed under this Act;

(l) “Minister” means the Minister of Justice;

(m) “organization” includes the Government, a sole proprietorship, corporation, society, association, partnership and limited liability partnership, any association of individuals and any similar body;

(n) “order” means an order made under this Act;

(o) “prescribed” means prescribed by the regulations;

(p) “public sector body” means

(i) the Government,

(ii) a prescribed municipality,

(iii) a prescribed university, and

(iv) a prescribed organization.

(2) A document or information is publicly available if it is posted on a website or made available in a prescribed manner. 2017, c. 2, s. 3.

Act with stronger protection of rights prevails

4 (1) Nothing in this Act or the regulations diminishes the rights and protections offered to persons with disabilities under the *Human Rights Act*.

(2) Where a provision of this Act or the regulations conflicts with a provision of another enactment, the provision of this Act or the regulations prevails unless the other enactment provides a higher level of accessibility for persons with disabilities. 2017, c. 2, s. 4.

Act binds Crown

5 This Act binds Her Majesty in right of the Province. 2017, c. 2, s. 5.

Supervision of Act

6 The Minister is responsible for the general supervision and management of this Act and the regulations. 2017, c. 2, s. 6.

Mandate of Minister

7 (1) The mandate of the Minister is to achieve accessibility for persons disabled by barriers by

(a) raising awareness of how persons with disabilities are disabled by barriers;

(b) promoting and encouraging the prevention and removal of barriers;

(c) overseeing the development and implementation of accessibility standards necessary to attain the purpose of this Act;

(d) assisting in the integration of applicable accessibility standards into the activities of all persons in the Province; and

(e) ensuring persons in the Province are consulted in the development of accessibility standards and informed about their duties and responsibilities under the standards once created.

(2) Within one year of the coming into force of this Act the Minister shall adopt, and make publicly available, an implementation strategy setting out how the Minister plans to achieve the goal of an accessible Nova Scotia by 2030. 2017, c. 2, s. 7.

Annual report of Minister

8 (1) The Minister shall annually prepare a report of the actions the Minister has undertaken pursuant to Section 7 during the preceding fiscal year and make that report publicly available.

(2) The Minister shall table the report in the House of Assembly within 15 days after it is completed or, where the Assembly is not then sitting, file it with the Clerk of the Assembly. 2017, c. 2, s. 8.

Delegation by Minister

9 (1) The Minister may, in writing, delegate any power or duty conferred or imposed on the Minister under this Act to

- (a) an employee of the Government;
- (b) an employee of a municipality; or
- (c) another person,

who, in the Minister's opinion, has the requisite qualifications and experience.

(2) Where the Minister delegates a power or duty under subsection (1), the Minister may

(a) specify how the power or duty is to be exercised or performed and impose any requirement in relation to or restrictions on the exercise or performance of the power or duty that the Minister considers appropriate; and

(b) provide that the delegate be paid for, or reimbursed for the cost of, exercising or performing the delegated power or duty.

(3) Before making a delegation to a person under clause (1)(a) or (b), the Minister shall consult with and obtain the consent of the employer of the person.

(4) Before making a delegation to a person under clause (1)(c), the Minister shall obtain the consent of the person.

(5) The Minister may revoke a delegation made under subsection (1). 2017, c. 2, s. 9.

ACCESSIBILITY DIRECTORATE

Establishment of and role

10 (1) The Accessibility Directorate is hereby established.

(2) The role of the Accessibility Directorate is to

(a) support the implementation and administration of this Act and the regulations;

(b) address broader disability-related initiatives by acting as a central government mechanism to ensure that the concerns of persons with disabilities respecting policy, program development and delivery are advanced and considered by the Government. 2017, c. 2, s. 10.

Executive Director and staff

11 (1) The Minister shall appoint an Executive Director and the staff of the Accessibility Directorate.

(2) The Executive Director shall lead the Accessibility Directorate and liaise with the Board.

(3) The staff of the Accessibility Directorate shall be appointed pursuant to the *Civil Service Act*. 2017, c. 2, s. 11.

Duties

12 The Accessibility Directorate shall

(a) provide policy, programming, communication and administrative support on all aspects of this Act and the regulations;

(b) conduct research and develop and implement programs of public education and awareness on the purpose of this Act;

(c) examine and review measures, policies, practices and other requirements to improve opportunities for persons with disabilities; and

(d) identify and study issues of concern to persons with disabilities and recommend action where appropriate. 2017, c. 2, s. 12.

ACCESSIBILITY ADVISORY BOARD

Board composition

13 (1) There shall be an Accessibility Advisory Board consisting of 12 members appointed by the Governor in Council on the recommendation of the Minister.

(2) In making recommendations to the Governor in Council for the purpose of subsection (1), the Minister shall take into consideration

(a) the skills and assets the Minister considers necessary to ensure an effective and optimally functioning Board; and

(b) representation by stakeholder groups that will be subject to the accessibility standards.

(3) The majority of the members of the Board must be persons with disabilities. 2017, c. 2, s. 13.

Term

14 (1) A person appointed to the Board holds office for a term of three years.

(2) No person may be appointed to the Board for more than two consecutive terms. 2017, c. 2, s. 14.

Chair and Vice-chair

15 (1) The Governor in Council, on the recommendation of the Minister, may designate members of the Board as the Chair and the Vice-chair of the Board.

(2) The Vice-chair shall act as Chair if the Chair is absent or unable to act or when authorized to act by the Chair. 2017, c. 2, s. 15.

Board meetings and reports

16 (1) The Board shall hold at least four regular meetings in each year and meet with the Minister at least once every 12 months.

(2) The Board shall prepare a summary report after each regular meeting and make the report publicly available.

(3) The Board shall annually prepare a report of its activities and operations during the preceding fiscal year, file it with the Minister and make the report publicly available. 2017, c. 2, s. 16.

Duties

17 The Board shall advise and make recommendations to the Minister about accessibility and, in particular, shall

(a) suggest measures, policies, practices and requirements that may be implemented by the Government to achieve accessibility;

(b) assess whether existing measures, policies, practices and requirements are consistent with the purpose of this Act;

(c) set priorities for the establishment and content of accessibility standards and the timelines for their implementation;

(d) set long-term accessibility objectives for furthering the purpose of this Act; and

(e) respond to requests for accessibility advice from the Minister. 2017, c. 2, s. 17.

Standard development committees

18 (1) The Board shall, with the approval of the Minister, establish standard development committees to assist the Board with making recommendations to the Minister on the content and implementation of accessibility standards.

(2) The Board shall prepare terms of reference for each standard development committee that include deadlines for each stage of the standard development process.

(3) The Board may, with the approval of the Minister, establish a subcommittee of technical experts and other individuals familiar with issues specific to the standard being developed. 2017, c. 2, s. 18.

Standard development committee composition

19 (1) A standard development committee established under Section 18 must have

(a) one half of its membership consist of persons with disabilities or representatives from organizations representing persons with disabilities;

(b) representatives of organizations and classes of organizations likely to be affected by the standard being developed; and

(c) representatives from departments of the Government that have responsibilities related to the standard being developed.

(2) A person does not need to be a member of the Board to be a member of a committee or subcommittee. 2017, c. 2, s. 19.

Remuneration and expenses

20 (1) The Board, committee and subcommittee members not employed in the public service of the Province shall be paid such remuneration as is determined by the Minister.

(2) The Board, committee and subcommittee members shall be reimbursed for their reasonable expenses incurred in the performance of their duties. 2017, c. 2, s. 20.

ACCESSIBILITY STANDARDS

Considerations for a recommendation

21 When making a recommendation to the Minister on a proposed accessibility standard, the Board shall consider

(a) the accessibility objectives for the activity or undertaking, the class, the aspect of the built environment or the individuals or organizations to which the standard relates; and

(b) the measures, policies, practices and other requirements that the Board believes should be implemented, including

(i) how and by whom they should be implemented, and

(ii) the period for implementing them. 2017, c. 2, s. 21.

Considerations for recommending a time period

22 When recommending time periods for implementing an accessibility standard, the Board shall consider

(a) the nature of the barriers that the measures, policies, practices and other requirements are intended to identify, remove or prevent;

(b) any technical and economic considerations that may be associated with implementing the standard; and

(c) any other matter requested by the Minister. 2017, c. 2, s. 22.

Consultation

23 When preparing recommendations under Sections 21 and 22, the Board shall ensure that the following persons have been consulted:

- (a) persons with disabilities;
- (b) representatives from organizations representing persons with disabilities;
- (c) representatives of those engaged in the activity or undertaking, or the individuals or organizations, or representatives of the class that may be made subject to the proposed accessibility standard;
- (d) representatives of government entities that have responsibilities relating to the activity, undertaking or class that may be made subject to the proposed accessibility standard; and
- (e) other individuals or organizations that the Minister considers advisable. 2017, c. 2, s. 23.

Separate recommendations

24 The Board shall attempt to achieve a consensus among its members on its recommendations but one or more members may submit recommendations if a consensus is not achieved. 2017, c. 2, s. 24.

Form and availability of recommendations

25 (1) The recommendations must be submitted to the Minister in the form and within the period specified by the Minister.

(2) The Minister shall make the recommendations publicly available. 2017, c. 2, s. 25.

Proposed accessibility standard

26 Upon receipt of the recommendations, the Minister may prepare a proposed accessibility standard adopting the recommendations in whole, in part or with any modifications the Minister considers appropriate. 2017, c. 2, s. 26.

Contents of accessibility standard

27 An accessibility standard may

- (a) specify the individuals or organizations that are subject to the standard;
- (b) set out measures, policies, practices and other requirements for
 - (i) identifying and removing barriers, and
 - (ii) preventing barriers from being established; and

(c) require the individuals or organizations that are subject to the standard to implement those measures, policies, practices and other requirements within the period specified in the standard. 2017, c. 2, s. 27.

Application may be general or specific

28 An accessibility standard may be general or specific in its application and may be limited as to time and place. 2017, c. 2, s. 28.

Application to individuals or organizations

29 Accessibility standards may apply to individuals or organizations that

- (a) employ others;
- (b) offer accommodation;
- (c) own, operate, maintain or control an aspect of the built environment other than a private residence with three or fewer dwelling units;
- (d) provide goods, services or information to the public; or
- (e) engage in a prescribed activity or undertaking or meet other prescribed requirements. 2017, c. 2, s. 29.

Classes of persons, activities or aspects of built environment

30 An accessibility standard may apply to different classes of individuals or organizations or aspects of the built environment and, without limiting the generality of the foregoing, may apply to classes with respect to any attribute, quality or characteristic, or any combination of those things, including

- (a) the number of persons employed by an individual or organization or its annual revenue;
- (b) the type of activity or undertaking in which an individual or organization is engaged or the sector of the economy of which an individual or organization is a part; or
- (c) a particular characteristic of an aspect of the built environment, such as the type of infrastructure or the size of a building, a structure or premises, that is owned, operated, maintained or controlled by an individual or organization. 2017, c. 2, s. 30.

May define a class

31 An accessibility standard may define a class to include or exclude an individual or organization, or an aspect of the built environment, having the same or different attributes, qualities or characteristics. 2017, c. 2, s. 31.

More than one accessibility standard may apply

32 An individual or organization may be subject to more than one accessibility standard. 2017, c. 2, s. 32.

Must be publicly available

33 The Minister shall make a proposed accessibility standard publicly available. 2017, c. 2, s. 33.

Comments re proposed accessibility standard

34 Within 60 days after a proposed accessibility standard is made publicly available, or within any other longer period specified by the Minister, an individual or organization may submit comments about the proposed standard to the Minister. 2017, c. 2, s. 34.

Recommendation to Governor in Council

35 After consulting with the Board with respect to any comments and, if the Minister considers it appropriate, revising the proposed accessibility standard, the Minister shall recommend the standard to the Governor in Council for approval as a regulation. 2017, c. 2, s. 35.

Records

36 An individual or organization that is subject to an accessibility standard shall

- (a) prepare and keep records in accordance with the regulations;
- and
- (b) make the records available for inspection and examination under this Act and the regulations. 2017, c. 2, s. 36.

Compliance period

37 An individual or organization that is subject to an accessibility standard shall comply with it within the period specified in the standard. 2017, c. 2, s. 37.

Incentive-based measures

38 Where the Minister believes it is in the public interest to do so, the Minister may recommend that the Governor in Council prescribe incentive-based measures to encourage and assist an individual or organization, or a class of individuals or organizations, to meet or exceed an accessibility standard. 2017, c. 2, s. 38.

Accessibility plans

39 (1) Every public sector body shall prepare and make publicly available an accessibility plan within one year of the coming into force of this Act.

(2) A municipality, university or organization shall prepare and make publicly available an accessibility plan within one year of being prescribed as a public sector body. 2017, c. 2, s. 39.

Accessibility plan must include

40 An accessibility plan must include

- (a) a report on measures the public sector body has taken and intends to take to identify, remove and prevent barriers;
- (b) information on procedures the public sector body has in place to assess the following for their effect on accessibility for persons with disabilities:
 - (i) any of its proposed policies, programs, practices and services, and
 - (ii) any proposed enactments or by-laws it will be administering; and
- (c) any other prescribed information. 2017, c. 2, s. 40.

Input for accessibility plan

41 A public sector body shall seek input from persons with disabilities and representatives of organizations representing persons with disabilities when preparing an accessibility plan. 2017, c. 2, s. 41.

Updated and publicly available

42 A public sector body shall update its accessibility plan every three years and make it publicly available. 2017, c. 2, s. 42.

Joint accessibility plan

43 Two or more public sector bodies may agree to have a joint accessibility plan. 2017, c. 2, s. 43.

Accessibility advisory committee

44 (1) Every public sector body shall establish an accessibility advisory committee or continue any such committee that was established before the coming into force of this Act.

(2) At least one half of the members of an accessibility advisory committee must be persons with disabilities or representatives from organizations representing persons with disabilities. 2017, c. 2, s. 44.

COMPLIANCE AND ENFORCEMENT**Director of Compliance and Enforcement**

45 (1) The Minister shall appoint a Director of Compliance and Enforcement.

- (2)** The Director shall
 - (a) carry out the powers and duties assigned to the Director under this Act;
 - (b) advise the Minister with respect to compliance and enforcement matters; and

(c) perform such duties as are assigned by the Minister.

(3) The Director may delegate the exercise of any of the Director's duties, powers or functions, other than the power to review an order or decision. 2017, c. 2, s. 45.

Inspectors and other persons to assist

46 (1) Inspectors and other persons required to administer compliance with and enforcement of this Act and the regulations shall be appointed by the Minister in accordance with the *Civil Service Act*.

(2) Notwithstanding subsection (1), the Minister may engage, upon such terms and conditions as the Minister considers necessary, the services of such persons as the Minister requires for administering compliance with and enforcement of this Act and the regulations. 2017, c. 2, s. 46.

Identification card

47 (1) An inspector carrying out an inspection under this Act shall produce, on request, an identification card provided by the Minister for that purpose.

(2) A copy of an identification card purporting to be signed by the Minister is proof in any court of law that an individual is an inspector. 2017, c. 2, s. 47.

Inspections

48 (1) An inspector may carry out an inspection in response to a complaint or in relation to an activity as directed by the Director.

(2) An inspector may carry out any inspection, examination or test reasonably required to

(a) determine compliance with this Act and the regulations;

(b) verify the accuracy or completeness of a record or of other information required to be prepared under this Act and the regulations; or

(c) perform any other duty or function that the inspector considers necessary or advisable in the administration or enforcement of this Act and the regulations.

(3) When carrying out an inspection under this Section, an inspector may

(a) require the production of any document or record for inspection and copying; and

(b) inspect the physical premises and equipment. 2017, c. 2, s. 48.

Public Inquiries Act

49 An inspector has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*, with the exception of the powers of contempt, arrest and imprisonment. 2017, c. 2, s. 49.

Powers of inspector

50 (1) Subject to subsection (2), an inspector may, at any reasonable time, enter

(a) any land or any building, structure, premises or place that is subject to this Act or the regulations; or

(b) any other premises or place where the inspector has reasonable grounds to believe that records or things relevant to the administration or enforcement of this Act or the regulations are kept,

for the purpose of administering and enforcing this Act or the regulations.

(2) An inspector may not enter a private dwelling place or any part of a place that is designed to be used and is being used as a permanent or temporary private dwelling place except

(a) with the consent of the occupant of the place; or

(b) under an order granted under Section 51. 2017, c. 2, s. 50.

Court order

51 (1) Where a justice is satisfied on evidence under oath by an inspector that

(a) there are reasonable grounds to believe that it is appropriate for the administration of this Act for the inspector to do anything set out in Section 48; and

(b) the inspector may not be able to carry out duties under this Act effectively without an order under this Section because

(i) no person is present to grant access to premises that are locked or otherwise inaccessible,

(ii) a person has denied the inspector access to premises or there are reasonable grounds for believing that a person may deny the inspector access to premises,

(iii) a person has prevented the inspector from doing one or more things set out in Section 48 or denied the inspector access to something, as a result of which the inspector is unable to do one or more things set out in Section 48,

(iv) there are reasonable grounds to believe that a person may prevent an inspector from doing one or more things set out in Section 48, or may deny the inspector access

to something as a result of which the inspector may be unable to do one or more things set out in Section 48,

(v) it is unpractical, because of the remoteness of the premises to be inspected or because of any other reason, for the inspector to obtain an order under this Section without delay if access is denied, or

(vi) there are reasonable grounds to believe that an attempt by the inspector to do anything set out in Section 48 without the order might defeat the purpose of that Section or cause an adverse effect,

the justice may issue an order authorizing the inspector to do anything set out in Section 48 that is specified in the order for the period set out in the order.

(2) The period referred to in subsection (1) may not extend beyond 30 days after the date on which the order is made, but the order may be renewed for any reason set out in subsection (1) for one or more periods, each of which may not be more than 30 days.

(3) An application for an extension under subsection (2) may be made before or after the expiry of the period.

(4) An order under this Section may be issued or renewed on application without notice. 2017, c. 2, s. 51.

Order or finding of inspector

52 (1) An inspector who finds that this Act or the regulations are being or have been contravened may issue an order, in the form prescribed, requiring the individual or organization responsible for the contravention to remedy it.

(2) Where an inspector carries out an inspection and finds that this Act or the regulations are not being or have not been contravened the inspector shall document the finding and any relevant information leading to the finding. 2017, c. 2, s. 52.

Director may review decision of inspector

53 The Director may, on the Director's own motion, review any decision of an inspector that does not result in the issuance of an order and may confirm the inspector's decision or direct the inspector to issue an order under subsection 52(1). 2017, c. 2, s. 53.

Review of inspector's order

54 (1) An individual or organization named in an order made under subsection 52(1) may request the Director to review the order.

(2) A request must be made in writing and must include the individual's or organization's name and address, the reasons for requesting the review

and any additional information that the individual or organization wants to be considered by the Director.

(3) The Director is not required to hold a hearing when a request for review is made.

(4) A request for review operates as a stay of the inspector's order pending the outcome of the review by the Director.

(5) The Director may confirm, revoke or vary the order.

(6) The Director shall, within 60 days of the request for review being made, provide the individual or organization who requested the review with

(a) a copy of the Director's decision, with written reasons; and

(b) notification of the right to appeal the decision to the Court under Section 60.

(7) Where a request for review of an inspector's order is not received by the Director within 30 days after the order is served, the inspector's order is final. 2017, c. 2, s. 54.

Administrative penalty

55 (1) Subject to Section 56, where the Director is of the opinion that an individual or organization has failed to comply with an inspector's order within the period specified in the order, the Director may issue a written notice requiring the individual or organization to pay an administrative penalty in the amount prescribed.

(2) Notice of an administrative penalty may only be issued after the period for appealing an order has expired or, where an appeal has been filed, after a decision has been made on the appeal.

(3) The notice of administrative penalty must be served on the individual or organization required to pay the penalty. 2017, c. 2, s. 55.

Limitation period

56 No penalty may be issued by the Director more than three years after the act or omission that renders the individual or organization liable to a penalty first came to the knowledge of the Director. 2017, c. 2, s. 56.

Certificate filed with Court

57 (1) The Director may file a certificate with the Court signed by the Director and setting out

(a) the amount of the administrative penalty issued; and

(b) the individual or organization against whom the penalty is issued.

(2) A certificate filed under this Section has the same force and effect as if it were a judgment obtained in the Court for the recovery of a debt in the amount set out in the certificate and may be enforced in the same manner as a judgment of the Court. 2017, c. 2, s. 57.

Effect of payment of administrative penalty

58 An individual or organization who pays an administrative penalty for an incident of non-compliance may not be charged with an offence with respect to that non-compliance unless the non-compliance continues after the penalty is paid. 2017, c. 2, s. 58.

Use of administrative penalty fees

59 Administrative penalties paid under this Act must be used for the purpose of accessibility initiatives, including public education and awareness. 2017, c. 2, s. 59.

Appeal

60 (1) Any individual or organization who is directly affected by a decision of the Director made under

- (a) Section 54 with respect to an order; or
- (b) Section 55 with respect to an administrative penalty,

may appeal the decision by filing a notice of appeal with the Court and serving a copy on the Director and any other person who the Court orders to be served.

(2) An appeal may be made on the following grounds:

- (a) in the case of a decision under Section 54, that the finding of a contravention of this Act or the regulations was incorrect; or
- (b) in the case of an administrative penalty, that
 - (i) the amount of the penalty was not determined in accordance with the regulations, or
 - (ii) the amount of the penalty is not justified in the public interest.

(3) An appeal may not be commenced more than 30 days after the individual or organization receives a decision of the Director. 2017, c. 2, s. 60.

Duties of Director on appeal

61 On receipt of the notice of appeal under subsection 60(1), the Director shall file with the Court true copies of

- (a) all documents and materials that were before the Director when the Director made the decision;
- (b) the Director's decision; and
- (c) the Director's written reasons for the decision. 2017, c. 2, s. 61.

Powers of court

62 (1) On hearing an appeal under Section 60, the Court may confirm, vary or dismiss the decision or refer the matter back to the Director.

(2) The Court may make any order as to costs on an appeal that the Court considers appropriate. 2017, c. 2, s. 62.

Appeal operates as stay

63 The commencement of an appeal under Section 60 operates as a stay of the decision pending the outcome of the appeal. 2017, c. 2, s. 63.

Director's report

64 (1) The Director shall maintain a database of all complaints of non-compliance, inspector visits, orders issued, Director reviews, notices of administrative penalties and appeals and shall provide the Minister with a summary report annually or at any more frequent interval as requested by the Minister.

(2) The Minister shall share the report prepared pursuant to subsection (1) with the Accessibility Directorate and the Accessibility Advisory Board.

(3) The Minister may issue public reports disclosing details of orders and decisions made and administrative penalties issued under this Act which may include personal information as defined in the *Freedom of Information and Protection of Privacy Act*. 2017, c. 2, s. 64.

Documents to be provided in accessible format

65 The following documents must be provided in an accessible format and at no charge to a person within a reasonable period after the person requests it from the Minister or a public sector body:

- (a) in the case of the Minister,
 - (i) the recommendations of the Board,
 - (ii) a proposed accessibility standard,
 - (iii) a review conducted under Section 66,
 - (iv) any educational and awareness tools made publicly available,
 - (v) a summary report prepared by the Board,
 - (vi) an accessibility plan; and

- (b) in the case of a public sector body, its accessibility plan. 2017, c. 2, s. 65.

Review of Act and accessibility standards

66 (1) Within four years after the coming into force of this Act, and at least every five years thereafter, the Governor in Council shall appoint a person to undertake a comprehensive review of the effectiveness of the Act and the accessibility standards and report on the person's findings to the Minister.

(2) The person undertaking the review under this Section shall consult with

- (a) persons with disabilities;
- (b) representatives from organizations representing persons with disabilities; and
- (c) representatives from organizations affected by the implementation of the accessibility standards.

(3) Within 30 days of receiving the report, the Minister shall

- (a) make the report publicly available; and
- (b) table the report in the House of Assembly if the Assembly is then sitting or, where the Assembly is not then sitting, file it with the Clerk of the Assembly. 2017, c. 2, s. 66.

No action lies

67 No action lies against the Minister, the Accessibility Directorate, the Board, the Director, an inspector or any other person acting under the authority of this Act for anything done, or omitted to be done, in good faith, in the exercise or intended exercise of a power or duty under this Act or the regulations. 2017, c. 2, s. 67.

Offence and penalty

68 An individual or organization who

- (a) repeatedly fails to
 - (i) prepare and keep records in accordance with the regulations,
 - (ii) make the records available for inspection and examination, or
 - (iii) comply with an accessibility standard as required under Section 37;
- (b) knowingly makes a false or misleading statement to the Minister or an inspector acting under the authority of this Act;
- (c) knowingly makes a false or misleading statement in a record or report given or required under this Act;

(d) hinders, obstructs or interferes with, or attempts to hinder, obstruct or interfere with, the Minister or an inspector acting under the authority of this Act; or

(e) continues to fail to comply with an inspector's order after having been issued an administrative penalty, regardless of whether the penalty is paid,

is guilty of an offence and liable on summary conviction to a fine of not more than \$250,000. 2017, c. 2, s. 68.

Offence by employee

69 In a prosecution of an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused. 2017, c. 2, s. 69.

Liability of directors, officers and agents

70 Where an organization commits an offence, a director, officer or agent of the organization who authorized, permitted or acquiesced in the offence is also guilty of the offence and liable on summary conviction to the penalty set out in Section 68, whether or not the organization has been prosecuted or convicted. 2017, c. 2, s. 70.

Regulations

- 71** (1) The Governor in Council may make regulations
- (a) prescribing municipalities, universities and organizations as public sector bodies;
 - (b) prescribing the manner in which a document must be made publicly available;
 - (c) prescribing an activity, undertaking or other requirements for the purpose of clause 29(e);
 - (d) establishing accessibility standards;
 - (e) exempting an individual or organization or a class of individuals or organizations, or an aspect of the built environment, from the application of any provision of this Act or the regulations and prescribing terms and conditions for the exemption;
 - (f) respecting record-keeping and reporting requirements for individuals and organizations that are subject to an accessibility standard;
 - (g) respecting incentive-based measures to encourage and assist an individual or organization, or a class of individuals or organizations, to meet or exceed an accessibility standard;

(h) respecting accessibility plans, including the content, timing and preparation of such plans;

(i) respecting the offices, positions, territorial jurisdiction and duties of inspectors generally or specifically;

(j) establishing rules governing the qualifications, office, position, duties, conduct and discipline of inspectors;

(k) respecting the form of the order an inspector may make, including the content of the order and the method of its service;

(l) prescribing the form an inspector must use when making an order under Section 52;

(m) prescribing the form an inspector must use to document a finding that the Act or the regulations has not been contravened;

(n) for the purpose of Section 55, respecting administrative penalties for contraventions of this Act, including regulations

(i) prescribing the form and content of the notice of administrative penalty,

(ii) respecting the determination of amounts of administrative penalties, which may vary according to the nature or frequency of the contravention and whether it is an individual or organization in non-compliance, and

(iii) respecting any other matter necessary for the administration of the system of administrative penalties provided for under this Act;

(o) respecting the specific use to be made of any funds collected through the imposition of administrative penalties;

(p) respecting the manner in which any order, notice or other document under this Act may be served, given or provided to any individual or organization;

(q) defining any word or expression used but not defined in this Act;

(r) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2017, c. 2, s. 71.

Disabled Persons' Commission Act repealed

72 Chapter 130 of the Acts of 1989, the *Disabled Persons' Commission Act*, is repealed. 2017, c. 2, s. 72.

Effective date

73 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2017, c. 2, s. 73.

Proclaimed - September 15, 2017
In force - September 18, 2017
