

Accessibility for Ontarians with Disabilities Act, 2005

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PART I INTERPRETATION

Purpose

1. Recognizing the history of discrimination against persons with disabilities in Ontario, the purpose of this Act is to benefit all Ontarians by,

- (a) developing, implementing and enforcing accessibility standards in order to achieve accessibility for Ontarians with disabilities with respect to goods, services, facilities, accommodation, employment, buildings, structures and premises on or before January 1, 2025; and
- (b) providing for the involvement of persons with disabilities, of the Government of Ontario and of representatives of industries and of various sectors of the economy in the development of the accessibility standards. 2005, c. 11, s. 1.

Definitions

2. In this Act,

“accessibility standard” means an accessibility standard made by regulation under section 6; (“norme d’accessibilité”)

“barrier” means anything that prevents a person with a disability from fully participating in all aspects of society because of his or her disability, including a physical barrier, an architectural barrier, an information or communications barrier, an attitudinal barrier, a technological barrier, a policy or a practice; (“obstacle”)

“director” means a director appointed under section 30; (“directeur”)

“disability” means,

- (a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and, without limiting the generality of the foregoing, includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical co-ordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device,
- (b) a condition of mental impairment or a developmental disability,
- (c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language,
- (d) a mental disorder, or
- (e) an injury or disability for which benefits were claimed or received under the insurance plan established under the *Workplace Safety and Insurance Act, 1997*; (“handicap”)

“Minister” means the Minister of Citizenship and Immigration or whatever other member of the Executive Council to whom the administration of this Act is assigned under the *Executive Council Act*; (“ministre”)

“organization” means any organization in the public or private sector and includes,

- (a) the Government of Ontario and any board, commission, authority or other agency of the Government of Ontario,
- (b) any agency, board, commission, authority, corporation or other entity established under an Act,
- (c) a municipality, an association, a partnership and a trade union, or
- (d) any other prescribed type of entity; (“organisation”)

“prescribed” means prescribed by regulation; (“prescrit”)

“regulations” means the regulations made under this Act, unless the context indicates or requires otherwise; (“règlements”)

“Tribunal” means, with respect to an appeal of an order made by a director under this Act, the tribunal designated by the Lieutenant Governor in Council under section 26 for the purposes of hearing that appeal. (“Tribunal”) 2005, c. 11, s. 2; 2009, c. 33, Sched. 8, s. 1.

Recognition of existing legal obligations

3. Nothing in this Act or in the regulations diminishes in any way the legal obligations of the Government of Ontario or of any person or organization with respect to persons with disabilities that are imposed under any other Act or otherwise imposed by law. 2005, c. 11, s. 3.

PART II APPLICATION

Application

4. This Act applies to every person or organization in the public and private sectors of the Province of Ontario, including the Legislative Assembly of Ontario. 2005, c. 11, s. 4.

Crown bound

5. This Act binds the Crown. 2005, c. 11, s. 5.

PART III ACCESSIBILITY STANDARDS

ESTABLISHMENT OF STANDARDS

Accessibility standards established by regulation

6. (1) The Lieutenant Governor in Council may make regulations establishing accessibility standards. 2005, c. 11, s. 6 (1).

Application of standards

(2) An accessibility standard shall name or describe the persons or organizations to which it applies. 2005, c. 11, s. 6 (2).

Same

(3) An accessibility standard may apply only to a person or organization that,

- (a) provides goods, services or facilities;
- (b) employs persons in Ontario;
- (c) offers accommodation;
- (d) owns or occupies a building, structure or premises; or
- (e) is engaged in a prescribed business, activity or undertaking or meets such other requirements as may be prescribed. 2005, c. 11, s. 6 (3).

Same, Legislative Assembly

(4) An accessibility standard that applies to the Legislative Assembly may impose obligations on the Speaker of the Assembly and may apply with respect to all or part of the Legislative Building or of such other offices that fall within the jurisdiction of the Legislative Assembly and are identified in the accessibility standard. 2005, c. 11, s. 6 (4).

Several applicable standards

(5) A person or organization may be subject to more than one accessibility standard. 2005, c. 11, s. 6 (5).

Content of standards

- (6) An accessibility standard shall,
 - (a) set out measures, policies, practices or other requirements for the identification and removal of barriers with respect to goods, services, facilities, accommodation, employment, buildings, structures, premises or such other things as may be prescribed, and for the prevention of the erection of such barriers; and
 - (b) require the persons or organizations named or described in the standard to implement those measures, policies, practices or other requirements within the time periods specified in the standard. 2005, c. 11, s. 6 (6).

Classes

(7) An accessibility standard may create different classes of persons or organizations or of buildings, structures or premises and, without limiting the generality of this power, may create classes with respect to any attribute, quality or characteristic or any combination of those items, including,

- (a) the number of persons employed by persons or organizations or their annual revenue;
- (b) the type of industry in which persons or organizations are engaged or the sector of the economy of which persons or organizations are a part;
- (c) the size of buildings, structures or premises. 2005, c. 11, s. 6 (7).

Same

(8) An accessibility standard may define a class to consist of one person or organization or to include or exclude a person or organization having the same or different attributes, qualities or characteristics. 2005, c. 11, s. 6 (8).

Scope

(9) An accessibility standard may be general or specific in its application and may be limited as to time and place. 2005, c. 11, s. 6 (9).

STANDARDS DEVELOPMENT PROCESS

Process for development of standards

7. The Minister is responsible for establishing and overseeing a process to develop and implement all accessibility standards necessary to achieving the purposes of this Act. 2005, c. 11, s. 7.

Standards development committees

8. (1) As part of the process referred to in section 7, the Minister shall establish standards development committees to develop proposed accessibility standards which shall be considered for adoption by regulation under section 6. 2005, c. 11, s. 8 (1).

Responsibility for specified industries, etc.

- (2) Each standards development committee is responsible for,
 - (a) developing proposed accessibility standards for such industries, sectors of the economy or classes of persons or organizations as the Minister may specify; and
 - (b) further defining the persons or organizations that are part of the industry, sector of the economy or class specified by the Minister under clause (a). 2005, c. 11, s. 8 (2).

Consultation with ministries

(3) Before establishing a standards development committee for a particular industry, sector of the economy or class of persons or organizations, the Minister shall consult with other ministers having responsibilities relating to that industry, sector or class of persons or organizations. 2005, c. 11, s. 8 (3).

Composition of standards development committee

(4) The Minister shall invite the following persons or entities to participate as members of a standards development committee:

- 1. Persons with disabilities or their representatives.
- 2. Representatives of the industries, sectors of the economy or classes of persons or organizations to which the accessibility standard is intended to apply.
- 3. Representatives of ministries that have responsibilities relating to the industries, sectors of the economy or classes of persons or organizations to which the accessibility standard is intended to apply.
- 4. Such other persons or organizations as the Minister may consider advisable. 2005, c. 11, s. 8 (4).

Participation of Council members

(5) The Minister may invite members of the Accessibility Standards Advisory Council to participate as members of a standards development committee. 2005, c. 11, s. 8 (5).

Terms of reference

(6) The Minister shall fix terms of reference for each standards development committee and shall establish in the terms of reference the deadlines that each committee must meet throughout the various stages of the standards development process. 2005, c. 11, s. 8 (6).

Committee members' allowance

- (7) The terms of reference may,

- (a) provide for the Minister to pay members of a standards development committee an allowance for attendance at committee meetings and a reimbursement for expenses incurred by members in an amount that the Minister determines; and
- (b) specify the circumstances in which the allowance or reimbursement may be paid. 2005, c. 11, s. 8 (7).

Terms of reference made public

(8) After fixing the terms of reference under subsection (6), the Minister shall make the terms of reference available to the public by posting them on a government internet site and by such other means as the Minister considers advisable. 2005, c. 11, s. 8 (8).

Minutes of meetings

(9) A standards development committee shall keep minutes of every meeting it holds and shall make the minutes available to the public by posting them on a government internet site and by such other means as the terms of reference may provide. 2005, c. 11, s. 8 (9).

Development of proposed standards

9. (1) Each standards development committee shall develop proposed accessibility standards in accordance with the process set out in this section and with the terms of reference established by the Minister. 2005, c. 11, s. 9 (1).

Determination of long-term objectives

(2) Promptly after its establishment, each standards development committee shall determine the long-term accessibility objectives for the industry, sector of the economy or class of persons or organizations in relation to which the committee has responsibilities under subsection 8 (2), by identifying the measures, policies, practices and requirements that it believes should be implemented by the members of the industry, sector or class on or before January 1, 2025. 2005, c. 11, s. 9 (2).

Progressive implementation

(3) Each standards development committee shall determine an appropriate time-frame for the implementation of the measures, policies, practices and requirements identified under subsection (2) taking into account,

- (a) the range of disabilities that the measures, policies, practices and requirements are intended to address;
- (b) the nature of the barriers that the measures, policies, practices and requirements are intended to identify, remove and prevent;
- (c) any technical and economic considerations that may be associated with their implementation; and
- (d) any other consideration required under the committee's terms of reference. 2005, c. 11, s. 9 (3).

Time-frame

(4) The time-frame referred to in subsection (3) shall enable the measures, policies, practices and requirements identified under subsection (2) to be implemented in stages according to the following rules:

1. The standards development committee shall fix a target date for the implementation of the measures, policies, practices and requirements that the committee identifies for implementation at the first stage and the target date shall be no more than five years after the day the committee was established.
2. The standards development committee shall fix successive target dates for the implementation of the measures, policies, practices and requirements that the committee identifies for implementation at each of the following stages and each target date shall be no more than five years after the previous target date. 2005, c. 11, s. 9 (4).

Initial proposed standard

(5) Within the time period specified by the committee's terms of reference, each standards development committee shall prepare a proposed accessibility standard and submit it to the Minister for the purposes of making the proposed standard public and receiving comments in accordance with section 10. 2005, c. 11, s. 9 (5).

Finalizing initial proposed standard

(6) After considering the comments received under section 10, a standards development committee may make any changes it considers advisable to the proposed accessibility standard and provide the Minister with the proposed accessibility standard within the time period specified by the committee's terms of reference. 2005, c. 11, s. 9 (6).

Minister's response

(7) No later than 90 days after receiving a proposed accessibility standard under subsection (6), the Minister shall decide whether to recommend to the Lieutenant Governor in Council that the proposed standard be adopted by regulation under section 6 in whole, in part or with modifications. 2005, c. 11, s. 9 (7).

Same

(8) On making a decision under subsection (7), the Minister shall inform, in writing, the standards development committee that developed the proposed standard in question of his or her decision. 2005, c. 11, s. 9 (8).

Development of subsequent proposed standards

(9) Within five years after an accessibility standard is adopted by regulation or at such earlier time as the Minister may specify, the standards development committee responsible for the industry, sector of the economy or class of persons or organizations to which the standard applies shall,

- (a) re-examine the long-term accessibility objectives determined under subsection (2);
- (b) if required, revise the measures, policies, practices and requirements to be implemented on or before January 1, 2025 and the time-frame for their implementation;
- (c) develop another proposed accessibility standard containing such additions or modifications to the existing accessibility standard as the standards development committee deems advisable and submit it to the Minister for the purposes of making the proposed standard public and receiving comments in accordance with section 10; and
- (d) make such changes it considers advisable to the proposed accessibility standard developed under clause (c) based on the comments received under section 10 and provide the Minister with the subsequent proposed accessibility standard. 2005, c. 11, s. 9 (9).

Completion of process

(10) Subsection (9) applies with necessary modifications to the development of successive proposed accessibility standards until such time as all the measures, policies and practices and requirements identified under subsection (2) and by subsequent reviews under clause (9) (b) are adopted by regulation. 2005, c. 11, s. 9 (10).

Proposed standards made public

10. (1) Upon receiving a proposed accessibility standard from a standards development committee under subsection 9 (5) or clause 9 (9) (c), the Minister shall make it available to the public by posting it on a government internet site and by such other means as the Minister considers advisable. 2005, c. 11, s. 10 (1).

Comments

(2) Within 45 days after a proposed accessibility standard is made available to the public in accordance with subsection (1) or within such other period of time as may be specified by the Minister, any person may submit comments with respect to a proposed accessibility standard to the appropriate standards development committee. 2005, c. 11, s. 10 (2).

Progress reports

11. (1) Each standards development committee shall provide the Minister with periodic reports on the progress of the preparation of the proposed standard as specified in the committee's terms of reference or as may be required by the Minister from time to time. 2005, c. 11, s. 11 (1).

Progress reports made public

(2) Upon receiving a report under subsection (1), the Minister shall make it available to the public by posting it on a government internet site and by such other means as the Minister considers advisable. 2005, c. 11, s. 11 (2).

Assistance for standards development committees

12. The Minister may retain, appoint or request experts to provide advice to a standards development committee. 2005, c. 11, s. 12.

COMPLIANCE WITH STANDARDS AND REVIEW OF REPORTS

Compliance with accessibility standard

13. A person or organization to whom an accessibility standard applies shall comply with the standard within the time period set out in the standard. 2005, c. 11, s. 13.

Accessibility report

14. (1) A person or organization to whom an accessibility standard applies shall file an accessibility report with a director annually or at such other times as the director may specify. 2005, c. 11, s. 14 (1).

Report available to public

(2) A person or organization shall make an accessibility report filed under subsection (1) available to the public. 2005, c. 11, s. 14 (2).

Form

(3) An accessibility report shall be in the form approved by the Minister and the Minister may require that the report or a part of the report be provided electronically in a format approved by the Minister. 2005, c. 11, s. 14 (3).

Content

(4) An accessibility report shall contain such information as may be prescribed. 2005, c. 11, s. 14 (4).

Certification of accessibility report

15. (1) An accessibility report shall include a statement certifying that all the information required to be provided in the report under this Act has been provided and that the information is accurate and the statement shall be signed,

- (a) if the person preparing the report is an individual, by the individual; and
- (b) in all other cases, by a director, a senior officer or other responsible person with authority to bind the organization. 2005, c. 11, s. 15 (1).

Electronic signature

(2) If an accessibility report is filed in an electronic format approved by the Minister, the requirement that a person sign the report under subsection (1) shall be met if he or she provides an electronic signature. 2005, c. 11, s. 15 (2).

Definition

(3) In subsection (2),

“electronic signature” means a personal identification number (PIN), password, biometric information or any other electronic information that a person creates or adopts to be used in the place of his or her signature to authenticate his or her identity and that is in, attached to or associated with an accessibility report. 2005, c. 11, s. 15 (3).

Review of director

16. A director may review an accessibility report filed under section 14 to determine whether it complies with the regulations and whether the person or organization who submitted the report has complied with all applicable accessibility standards. 2005, c. 11, s. 16.

Other reports and information

17. At the request of a director, a person or organization shall provide the director with reports or information relating to the compliance of the person or organization with the accessibility standards. 2005, c. 11, s. 17.

PART IV INSPECTIONS

Inspectors

18. (1) The Deputy Minister shall appoint one or more inspectors for the purposes of this Act and the regulations within a reasonable time after the first accessibility standard is established under section 6. 2005, c. 11, s. 18 (1).

Certificate of appointment

(2) The Deputy Minister shall issue to every inspector a certificate of appointment bearing his or her signature or a facsimile of his or her signature. 2005, c. 11, s. 18 (2).

Production of certificate

(3) An inspector carrying out an inspection under section 19 shall produce his or her certificate of appointment upon request. 2005, c. 11, s. 18 (3).

Inspections without warrant

19. (1) An inspector may carry out an inspection under this Act for the purpose of determining whether this Act and the regulations are being complied with. 2005, c. 11, s. 19 (1).

Entry

(2) In the course of carrying out an inspection, an inspector may, without warrant, enter any lands or any building, structure or premises where the inspector has reason to believe there may be documents or things relevant to the inspection. 2005, c. 11, s. 19 (2).

Time of entry

(3) The power to enter and inspect a place without a warrant may be exercised only during the place's regular business hours or, if it does not have regular business hours, during daylight hours. 2005, c. 11, s. 19 (3).

Dwellings

(4) An inspector shall not enter into a place or part of a place that is a dwelling without the consent of the occupant. 2005, c. 11, s. 19 (4).

Powers

- (5) Upon entering a place under subsection (2), an inspector may,
- (a) require any person in the place to produce any document, record or thing that is relevant to the inspection;
 - (b) upon giving a receipt for it, remove any document, record or thing that is relevant to the inspection for the purposes of making copies or extracts;
 - (c) question any person present in the place on matters relevant to the inspection;
 - (d) use any data storage, processing or retrieval device or system used in carrying on business in the place in order to produce a document or record in readable form. 2005, c. 11, s. 19 (5).

Written demand

(6) A demand that a document, record or thing be produced for inspection must be in writing and must include a statement of the nature of the document, record or thing required. 2005, c. 11, s. 19 (6).

Assistance

(7) An inspector may be accompanied by any person who has special, expert or professional knowledge and who may be of assistance in carrying out the inspection. 2005, c. 11, s. 19 (7).

Use of force prohibited

- (8) An inspector shall not use force to enter and inspect premises under this section. 2005, c. 11, s. 19 (8).

Obligation to produce and assist

(9) A person who is required to produce a document, record or thing under clause (5) (a) shall produce it and shall, on request by the inspector, provide any assistance that is reasonably necessary, including assistance in using any data storage, processing or retrieval device or system, to produce a document or record in readable form. 2005, c. 11, s. 19 (9).

Return of removed things

- (10) An inspector who removes any document, record or thing from a place under clause (5) (b) shall,
- (a) make it available to the person from whom it was removed, on request, at a time and place convenient for both the person and the inspector; and
 - (b) return it to the person being inspected within a reasonable time. 2005, c. 11, s. 19 (10).

Admissibility of copies

(11) A copy of a document or record certified by an inspector to be a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value. 2005, c. 11, s. 19 (11).

Search warrant

20. (1) Upon application made without notice by an inspector appointed under this Act, a justice of the peace may issue a warrant, if he or she is satisfied on information under oath or affirmation that there is reasonable ground for believing that,

- (a) a person has contravened or is contravening this Act or the regulations; and
- (b) there are in any building, dwelling, receptacle or place any documents, records or other things relating to a contravention of this Act or the regulations. 2005, c. 11, s. 20 (1).

Powers

(2) A warrant obtained under subsection (1) may authorize an inspector named in the warrant, upon producing his or her appointment,

- (a) to enter any place specified in the warrant, including a dwelling; and
- (b) to do any of the things specified in the warrant. 2005, c. 11, s. 20 (2).

Conditions on search warrant

(3) A warrant obtained under subsection (1) shall contain such conditions as the justice of the peace considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances. 2005, c. 11, s. 20 (3).

Expert help

(4) The warrant may authorize persons who have special, expert or professional knowledge to accompany and assist the inspector in respect of the execution of the warrant. 2005, c. 11, s. 20 (4).

Time of execution

(5) An entry under a warrant issued under this section shall be made between 6 a.m. and 9 p.m., unless the warrant specifies otherwise. 2005, c. 11, s. 20 (5).

Expiry of warrant

(6) A warrant issued under this section shall name a date of expiry, which shall be no later than 30 days after the warrant is issued, but a justice of the peace may extend the date of expiry for an additional period of no more than 30 days, upon application without notice by the inspector named in the warrant. 2005, c. 11, s. 20 (6).

Use of force

(7) The inspector named in the warrant may call upon police officers for assistance in executing the warrant and the inspector may use whatever force is reasonably necessary to execute the warrant. 2005, c. 11, s. 20 (7).

Obstruction prohibited

(8) No person shall,

- (a) obstruct an inspector carrying out an inspection under a warrant issued under this section;
- (b) refuse to answer questions on matters relevant to the inspection;
- (c) provide the inspector with information on matters relevant to the inspection that the person knows to be false or misleading; or
- (d) withhold from the inspector any information that is relevant to the inspection. 2005, c. 11, s. 20 (8).

Application

(9) Subsections 19 (9), (10) and (11) apply with necessary modifications to an inspection carried out pursuant to a warrant issued under this section. 2005, c. 11, s. 20 (9).

**PART V
DIRECTOR'S ORDERS AND ADMINISTRATIVE PENALTIES**

Orders

Determination of applicable standard

21. (1) For the purposes of determining whether an accessibility standard applies to a person or organization, a director may order that,

- (a) the person or organization be treated as being part of a particular industry, sector of the economy or class of persons or organizations; and
- (b) two or more persons or organizations be treated as one person or organization. 2005, c. 11, s. 21 (1).

Same

(2) One of the circumstances in which a director may make an order under subsection (1) is where a person or organization has organized his, her or its businesses, activities or undertakings in a particular manner and the intent or effect of doing so is to permit the person or organization not to comply with a particular accessibility standard or to otherwise defeat the purposes of this Act. 2005, c. 11, s. 21 (2).

Compliance order, reporting requirements

(3) If a director concludes that a person or organization has contravened section 14 or 17, the director may, by order, require the person or organization to do any or all of the following:

- 1. File an accessibility report that complies with the requirements under this Act within the time specified in the order.
- 2. Provide the director with such reports or information as may be required under section 17 within the time specified in the order.
- 3. Subject to subsection (6), pay an administrative penalty in accordance with the regulations. 2005, c. 11, s. 21 (3).

Same, standards and regulations

(4) If a director concludes that a person or organization has contravened a provision of an accessibility standard or of any other regulation, the director may, by order, require the person or organization to do either or both of the following:

- 1. Comply with the accessibility standard or other regulation within the time specified in the order.
- 2. Subject to subsection (6), pay an administrative penalty in accordance with the regulations. 2005, c. 11, s. 21 (4).

Failure to comply with previous order

(5) If a person or organization fails to comply with an order made under subsection (3) or (4) within the time specified in the order and no appeal of the order is made within the time specified in subsection 27 (1), a director may, subject to

subsection (6), make an order requiring the person or organization to pay an administrative penalty in accordance with the regulations. 2005, c. 11, s. 21 (5).

Administrative penalties

(6) An administrative penalty may be ordered under this section for one or more of the following purposes:

1. To encourage compliance with this Act or with an order made under this Act.
2. To prevent a person or organization from deriving, directly or indirectly, any economic benefit as a result of a contravention of this Act or the regulations.
3. To recover the costs of enforcing this Act and the regulations against the person or organization that is required to pay the administrative penalty. 2005, c. 11, s. 21 (6).

Content of order

(7) An order under this section shall,

- (a) in the case of an order under subsection (1), inform the person or organization of the nature of the order and of the reasons for the order;
- (b) in the case of an order under subsections (3), (4) and (5),
 - (i) contain a description of the contravention to which the order relates and, in the case of an order under subsection (5), identify the previous order to which that order relates,
 - (ii) inform the person or organization of what must be done in order to comply with the order, and
 - (iii) specify the time within which the person or organization must comply with the order; and
- (c) inform the person or organization of the right to appeal the order to the Tribunal under section 27 within 15 days after the day the order is made. 2005, c. 11, s. 21 (7).

Notice of order

22. (1) A director shall not make an order under section 21 unless, before doing so, he or she gives notice of the order to the person or organization that is the subject of the proposed order and gives the person or organization an opportunity to make submissions with respect to the proposed order in accordance with this section. 2005, c. 11, s. 22 (1).

Content of notice

- (2) The notice shall inform the person or organization,
 - (a) of the nature of the order that the director proposes to make;
 - (b) of the steps that the person or organization must take in order to comply with the order;
 - (c) of the right of the person or organization to make written submissions to the director explaining the alleged failure to comply; and
 - (d) of the time within which the submissions must be made. 2005, c. 11, s. 22 (2).

Written submissions

(3) The person or organization that receives notice under this section may make written submissions to the director to explain any alleged contravention of section 14 or 17, of an accessibility standard or of any other regulation within 30 days of the day notice is received or within such further time as may be specified in the notice. 2005, c. 11, s. 22 (3).

Enforcement of administrative penalties

23. (1) If a person or organization fails to comply with an order to pay an administrative penalty within the time specified in the order and no appeal of the order is made within the time specified in subsection 27 (1), the order may be filed with a local registrar of the Superior Court of Justice and may be enforced as if it were an order of the court. 2005, c. 11, s. 23 (1).

Same

(2) Section 129 of the *Courts of Justice Act* applies in respect of an order filed with the Superior Court of Justice under subsection (1) and, for the purpose, the date on which the order is filed shall be deemed to be the date of the order. 2005, c. 11, s. 23 (2).

Failure to pay after appeal

(3) Subsections (1) and (2) apply with necessary modifications to an order of the Tribunal requiring a person or organization to pay an administrative penalty. 2005, c. 11, s. 23 (3).

Stay where appeal

(4) If a person or organization gives notice of appeal of an order to pay an administrative penalty within the time specified in subsection 27 (1), the requirement to pay is stayed until the disposition of the appeal. 2005, c. 11, s. 23 (4).

No hearing required prior to order

24. A director is not required to hold a hearing or to afford a person or organization an opportunity for a hearing before making an order under section 21. 2005, c. 11, s. 24.

Order reviewed, etc.

25. Within a reasonable time after making an order under section 21, a director may review the order and vary or rescind it. 2005, c. 11, s. 25.

**PART VI
APPEALS TO TRIBUNAL**

Designation of tribunals

26. (1) The Lieutenant Governor in Council shall, by regulation, designate one or more tribunals for the purposes of this Act and of the regulations within a reasonable time after the first accessibility standard is established under section 6. 2005, c. 11, s. 26 (1).

Responsibility of tribunals

(2) Each tribunal designated under subsection (1) shall be responsible for hearing such matters arising under this Act as are specified in the designation. 2005, c. 11, s. 26 (2).

Powers and duties

(3) A tribunal designated under subsection (1) may exercise such powers and shall perform such duties as are conferred or imposed upon it by or under this Act. 2005, c. 11, s. 26 (3).

Appeals to Tribunal

27. (1) A person or organization that is the subject of an order made by a director under section 21, 25 or subsection 33 (8) may appeal the order by filing a notice of appeal with the Tribunal within 15 days after the day the order is made. 2005, c. 11, s. 27 (1).

Notice of appeal

(2) A notice of appeal shall be in a form approved by the Tribunal and shall contain the information required by the Tribunal. 2005, c. 11, s. 27 (2).

Filing fee

(3) A person or organization that appeals an order to the Tribunal shall pay the prescribed filing fee. 2005, c. 11, s. 27 (3).

Hearing

(4) The Tribunal shall hold a written hearing with respect to an appeal under subsection (1) unless a party satisfies the Tribunal that there is good reason to hear oral submissions. 2005, c. 11, s. 27 (4).

Panels

(5) Despite the requirement of any other Act, the chair of the Tribunal may appoint a panel of one or more persons to hold hearings under this Act in the place of the full Tribunal and the panel has all the powers and duties of the Tribunal under this Act. 2005, c. 11, s. 27 (5).

Parties to appeal

(6) The parties to an appeal to the Tribunal are,

(a) the person or organization that made the appeal to the Tribunal;

(b) the director who made the order; and

(c) any other person or organization that the Tribunal considers necessary for the proper conduct of the hearing. 2005, c. 11, s. 27 (6).

Order of Tribunal

(7) After holding a hearing into the matter, the Tribunal may confirm, vary or rescind an order of the director. 2005, c. 11, s. 27 (7).

Mediation

28. The Tribunal may attempt to effect a settlement of all or part of the matters that are the subject of an appeal by mediation if,

- (a) the parties consent to the mediation; and
- (b) the Tribunal considers that it is in the public interest to do so. 2005, c. 11, s. 28.

PART VII MUNICIPAL ACCESSIBILITY ADVISORY COMMITTEES

Accessibility advisory committees

29. (1) The council of every municipality having a population of not less than 10,000 shall establish an accessibility advisory committee or continue any such committee that was established before the day this section comes into force. 2005, c. 11, s. 29 (1).

Small municipalities

(2) The council of every municipality having a population of less than 10,000 may establish an accessibility advisory committee or continue any such committee that was established before the day this section comes into force. 2005, c. 11, s. 29 (2).

Members

(3) A majority of the members of the committee shall be persons with disabilities. 2005, c. 11, s. 29 (3).

Duties of committee

- (4) The committee shall,
 - (a) advise the council about the requirements and implementation of accessibility standards and the preparation of accessibility reports and such other matters for which the council may seek its advice under subsection (5);
 - (b) review in a timely manner the site plans and drawings described in section 41 of the *Planning Act* that the committee selects; and
 - (c) perform all other functions that are specified in the regulations. 2005, c. 11, s. 29 (4).

Duty of council

- (5) The council shall seek advice from the committee on the accessibility for persons with disabilities to a building, structure or premises, or part of a building, structure or premises,
 - (a) that the council purchases, constructs or significantly renovates;
 - (b) for which the council enters into a new lease; or
 - (c) that a person provides as municipal capital facilities under an agreement entered into with the council in accordance with section 110 of the *Municipal Act, 2001* or section 252 of the *City of Toronto Act, 2006*. 2005, c. 11, s. 29 (5); 2006, c. 32, Sched. C, s. 1.

Supplying site plans

(6) When the committee selects site plans and drawings described in section 41 of the *Planning Act* to review, the council shall supply them to the committee in a timely manner for the purpose of the review. 2005, c. 11, s. 29 (6).

Joint committees

(7) Two or more municipalities may, instead of each establishing their own accessibility advisory committee, establish a joint accessibility advisory committee. 2005, c. 11, s. 29 (7).

Application

(8) Subsections (3) to (6) apply with necessary modifications to a joint accessibility advisory committee. 2005, c. 11, s. 29 (8).

PART VIII ADMINISTRATION

Directors

30. (1) The Deputy Minister shall appoint one or more directors for the purposes of this Act and the regulations. 2005, c. 11, s. 30 (1).

Responsibility

(2) A director is responsible for the application of all or any part of this Act and of the regulations with respect to any class of persons or organizations specified in the director's appointment. 2005, c. 11, s. 30 (2).

Powers and duties

(3) A director shall perform such duties and exercise such powers as may be specified in this Act or the regulations, subject to such conditions and restrictions as may be set out in the appointment. 2005, c. 11, s. 30 (3).

Delegation

(4) A director may, in writing, authorize any person to exercise any power or perform any duty of the director, subject to such conditions and restrictions as may be set out in the authorization. 2005, c. 11, s. 30 (4).

Same

(5) An authorization under subsection (4) may authorize an inspector appointed under this Act and named in the authorization to make orders under subsections 21 (3), (4) and (5). 2005, c. 11, s. 30 (5).

No liability

(6) No action or other proceeding for damages shall be instituted against a director or a person authorized to exercise a power of a director under subsection (4) for any act done in good faith in the execution or intended execution of the person's power or duty or for any alleged neglect or default in the execution in good faith of the person's power or duty. 2005, c. 11, s. 30 (6).

Accessibility Standards Advisory Council

31. (1) The Minister shall establish a council to be known in English as the Accessibility Standards Advisory Council and in French as Conseil consultatif des normes d'accessibilité. 2005, c. 11, s. 31 (1).

Members

(2) A majority of the members of the Council shall be persons with disabilities. 2005, c. 11, s. 31 (2).

Remuneration and expenses

(3) The Minister may pay the members of the Council the remuneration and the reimbursement for expenses that the Lieutenant Governor in Council determines. 2005, c. 11, s. 31 (3).

Duties

- (4) At the direction of the Minister, the Council shall advise the Minister on,
- (a) the process for the development of accessibility standards and the progress made by standards development committees in the development of proposed accessibility standards and in achieving the purposes of this Act;
 - (b) accessibility reports prepared under this Act;
 - (c) programs of public information related to this Act; and
 - (d) all other matters related to the subject-matter of this Act that the Minister directs. 2005, c. 11, s. 31 (4).

Public consultation

(5) At the direction of the Minister, the Council shall hold public consultations in relation to the matters referred to in subsection (4). 2005, c. 11, s. 31 (5).

Reports

(6) The Council shall give the Minister such reports as the Minister may request. 2005, c. 11, s. 31 (6).

Accessibility Directorate of Ontario

32. (1) The directorate known in English as the Accessibility Directorate of Ontario and in French as Direction générale de l'accessibilité pour l'Ontario is continued. 2005, c. 11, s. 32 (1).

Employees

(2) Such employees as are necessary for the proper conduct of the Directorate's work may be appointed under Part III of the *Public Service of Ontario Act, 2006*. 2005, c. 11, s. 32 (2); 2006, c. 35, Sched. C, s. 2.

Functions of Directorate

- (3) At the direction of the Minister, the Directorate shall,
- (a) advise the Minister with respect to the establishment and composition of standards development committees and with respect to the standards development process established under section 9;
 - (b) prepare training material for members of the standards development committees and guidelines and other reference material that may be used in preparing proposed accessibility standards;
 - (c) advise the Minister as to the form and content of accessibility reports and as to the method of reviewing the reports and enforcing the accessibility standards;

- (d) consult with persons and organizations required to prepare accessibility reports under this Act on the preparation of their reports;
- (e) conduct research and develop and conduct programs of public education on the purpose and implementation of this Act;
- (f) consult with organizations, including schools, school boards, colleges, universities, trade or occupational associations and self-governing professions, on the provision of information and training respecting accessibility within such organizations;
- (g) inform persons and organizations that may be subject to an accessibility standard at a future date of preliminary measures, policies or practices that they could implement before the accessibility standard comes into force in order to ensure that the goods, services, facilities, accommodation and employment they provide, and the buildings, structures and premises they own or occupy, are more accessible to persons with disabilities;
- (h) examine and review accessibility standards and advise the Minister with respect to their implementation and effectiveness;
- (i) support the Accessibility Standards Advisory Council and consult with it;
- (j) examine and review Acts and regulations and any programs or policies established by Acts or regulations and make recommendations to the Minister for amending them or adopting, making or establishing new Acts, regulations, programs or policies to improve opportunities for persons with disabilities; and
- (k) carry out all other duties related to the subject-matter of this Act that the Minister determines. 2005, c. 11, s. 32 (3).

PART IX INCENTIVE AGREEMENTS

Agreements

33. (1) If the Minister believes it is in the public interest to do so, the Minister may enter into agreements under this section with any person or organization required under this Act to comply with an accessibility standard, in order to encourage and provide incentives for such persons or organizations to exceed one or more of the requirements of the accessibility standards. 2005, c. 11, s. 33 (1).

Content of agreements

(2) A person or organization who enters into an agreement with the Minister under this section shall undertake to exceed one or more of the requirements of an accessibility standard applicable to that person or organization and to meet such additional requirements as may be specified in the agreement, within the time period specified in the agreement, in relation to accessibility with respect to,

- (a) goods, services and facilities provided by the person or organization;
- (b) accommodation provided by the person or organization;
- (c) employment provided by the person or organization; and
- (d) buildings, structures or premises owned or occupied by the person or organization. 2005, c. 11, s. 33 (2).

Exemptions and other benefits

(3) In consideration for the undertaking referred to in subsection (2), the Minister may, in an agreement under this section, grant such benefits as may be specified in the agreement to the person or organization who gave the undertaking and may exempt the person or organization from,

- (a) the requirement of filing an accessibility report under section 14 or such part of the report as may be specified in the agreement; and
- (b) any obligation to file or submit information, documents or reports to a director or to the Minister that is required by regulation and referred to in the agreement. 2005, c. 11, s. 33 (3).

Same

(4) An exemption under subsection (3) may be granted for the period of time specified in the agreement. 2005, c. 11, s. 33 (4).

Other reporting requirements

(5) An agreement made under this section may specify such reporting requirements as may be agreed to by the parties instead of those required by this Act or the regulations. 2005, c. 11, s. 33 (5).

Enforcement of agreement

(6) The Minister may appoint an inspector for the purposes of determining whether the person or organization has failed to comply with the accessibility requirements of the agreement. 2005, c. 11, s. 33 (6).

Application

(7) Sections 18, 19 and 20 apply with necessary modifications to an inspection carried out for the purposes of determining whether a person or organization has failed to comply with the accessibility requirements of an agreement entered into under this section. 2005, c. 11, s. 33 (7).

Director's order

(8) A director who concludes that a person or organization has failed to comply with the accessibility requirements of an agreement entered into under this section may, by order, require a person or organization to do either or both of the following:

1. Comply with the requirements of the agreement within the time period specified in the order.
2. Pay an administrative penalty in accordance with the regulations. 2005, c. 11, s. 33 (8).

Application

(9) Subsections 21 (5), (6) and (7) and sections 22, 23, 24 and 25 apply with necessary modifications to an order made under subsection (8). 2005, c. 11, s. 33 (9).

Alternative remedy

(10) Nothing in this section affects any remedy available at law to the Minister for breach of the agreement. 2005, c. 11, s. 33 (10).

PART X GENERAL

Delegation of Minister's powers

34. The Minister may delegate any of his or her powers under this Act to a director, whether or not the director is an employee of the Ministry, or to such employees of the Ministry as may be named in the delegation. 2005, c. 11, s. 34.

Document formats

35. (1) Despite any requirement in this Act that a notice, order or other document given or made by the Minister, a director or the Tribunal be in writing, if a request is made by or on behalf of a person with disabilities that the notice, order or document be provided in a format that is accessible to that person, the notice, order or document shall be provided in such a format. 2005, c. 11, s. 35 (1).

Same

(2) A notice, order or other document provided to a person with disabilities under subsection (1) shall be provided within a reasonable time after the request is made. 2005, c. 11, s. 35 (2).

Service

36. (1) Any notice given under section 22 or 33 and any order made under section 21, 25, 27 or 33 shall be given or served only,

- (a) by personal delivery;
- (b) by a method of delivery by mail that permits the delivery to be verified; or
- (c) by telephonic transmission of a facsimile of the document or by electronic mail if the person is equipped to receive such transmissions or mail. 2005, c. 11, s. 36 (1).

Personal delivery to various entities

- (2) Service by personal delivery of a notice or order referred to in subsection (1) shall be delivered,
- (a) in the case of service on a municipal corporation, to the mayor, warden, reeve or other chief officer of the municipality or to the clerk of the municipality;
 - (b) in the case of service on a corporation other than a municipal corporation, to a director or officer of the corporation or to a manager, secretary or other person apparently in charge of a branch office of the corporation;
 - (c) in the case of service on a partnership, to a partner or person apparently in charge of an office of the partnership; and
 - (d) in the case of service on any other organization, to a person apparently in charge of an office or of any place at which the organization carries on business. 2005, c. 11, s. 36 (2).

Deemed service

(3) If service is made by mail, the service shall be deemed to be made on the fifth day after the day of mailing unless the person on whom service is being made establishes that the person did not, acting in good faith, through absence, accident, illness or other cause beyond the person's control, receive the notice or order until a later date. 2005, c. 11, s. 36 (3).

Same

(4) A document that is served by a means described in clause (1) (c) on a Saturday, Sunday or a public holiday or on any other day after 5 p.m. shall be deemed to have been served on the next day that is not a Saturday, Sunday or public holiday. 2005, c. 11, s. 36 (4).

Exception

(5) Despite subsection (1), the Tribunal may order any other method of service it considers appropriate in the circumstances. 2005, c. 11, s. 36 (5).

Offences

37. (1) A person is guilty of an offence who,

- (a) furnishes false or misleading information in an accessibility report filed with a director under this Act or otherwise provides a director with false or misleading information;
- (b) fails to comply with any order made by a director or the Tribunal under this Act; or
- (c) contravenes subsection 20 (8) or subsection (2). 2005, c. 11, s. 37 (1).

Same, intimidation

(2) No person shall intimidate, coerce, penalize or discriminate against another person because that person,

- (a) has sought or is seeking the enforcement of this Act or of a director's order made under this Act;
- (b) has co-operated or may co-operate with inspectors; or
- (c) has provided, or may provide, information in the course of an inspection or proceeding under this Act. 2005, c. 11, s. 37 (2).

Penalties

(3) Every person who is guilty of an offence under this Act is liable on conviction,

- (a) to a fine of not more than \$50,000 for each day or part of a day on which the offence occurs or continues to occur; or
- (b) if the person is a corporation, to a fine of not more than \$100,000 for each day or part of a day on which the offence occurs or continues to occur. 2005, c. 11, s. 37 (3).

Duty of director or officer

(4) Every director or officer of a corporation has a duty to take all reasonable care to prevent the corporation from committing an offence under this section. 2005, c. 11, s. 37 (4).

Offence

(5) Every director or officer of a corporation who has a duty under subsection (4) and who fails to carry out that duty is guilty of an offence and on conviction is liable to a fine of not more than \$50,000 for each day or part of a day on which the offence occurs or continues to occur. 2005, c. 11, s. 37 (5).

Conflict

38. If a provision of this Act, of an accessibility standard or of any other regulation conflicts with a provision of any other Act or regulation, the provision that provides the highest level of accessibility for persons with disabilities with respect to goods, services, facilities, employment, accommodation, buildings, structures or premises shall prevail. 2005, c. 11, s. 38.

Regulations

39. (1) The Lieutenant Governor in Council may make regulations,

- (a) governing the time-frames for the development of proposed accessibility standards by standards development committees established under section 8, for the implementation of accessibility standards and for the review of those standards and providing different time-frames for different accessibility standards relating to different industries, sectors of the economy or classes of persons or organizations;
- (b) governing reports or information to be provided to a director for the purposes of this Act and requiring persons or organizations to provide such information;
- (c) governing accessibility reports, including the preparation of such reports;
- (d) respecting the manner in which accessibility reports shall be made available to the public and requiring persons and organizations to make the reports available in a prescribed manner;

- (e) prescribing the times at which accessibility reports shall be filed with a director, including prescribing different times for different classes of persons and organizations;
- (f) prescribing the information to be included in accessibility reports, including prescribing different information to be included in reports prepared by different classes of persons and organizations;
- (g) governing the appointment and qualifications of inspectors appointed under section 18;
- (h) governing director's orders made under Part V of this Act;
- (i) governing the administrative penalties that a director may require a person or organization to pay under this Act and all matters necessary and incidental to the administration of a system of administrative penalties under this Act;
- (j) designating one or more tribunals for the purposes of this Act and respecting the matters that may be heard by each designated tribunal;
- (k) prescribing the filing fee for filing an appeal to the Tribunal and respecting the payment of the fee including prescribing the person or entity to which the fee shall be paid;
- (l) governing mediations conducted by the Tribunal under section 28 including prescribing any fees relating to the mediation process and requiring persons to pay the fees;
- (m) specifying additional functions of municipal accessibility advisory committees for the purposes of clause 29 (4) (c);
- (n) respecting what constitutes a significant renovation for the purposes of clause 29 (5) (a) and what constitutes a new lease for the purposes of clause 29 (5) (b);
- (o) respecting the powers of a director;
- (p) governing agreements made under section 33;
- (q) defining the terms "accessibility", "accommodation" and "services" for the purposes of this Act and of the regulations;
- (r) exempting any person or organization or class thereof or any building, structure or premises or class thereof from the application of any provision of this Act or the regulations;
- (s) prescribing or respecting any matter that this Act refers to as a matter that the regulations may prescribe, specify, designate, set or otherwise deal with;
- (t) respecting any transitional matters necessary for the effective implementation of this Act and the regulations;
- (u) respecting any matter necessary to the enforcement and administration of this Act. 2005, c. 11, s. 39 (1).

Administrative penalties

- (2) A regulation under clause (1) (i) may,
 - (a) prescribe the amount of an administrative penalty or provide for the determination of the amount of the penalty by prescribing the method of calculating the amount and the criteria to be considered in determining the amount;
 - (b) provide for different amounts to be paid, or different calculations or criteria to be used, depending on the circumstances that gave rise to the administrative penalty or the time at which the penalty is paid;
 - (c) provide for the payment of lump sum amounts and of daily amounts, prescribe the circumstances in which either or both types of amounts may be required;
 - (d) prescribe the maximum amount that a person or organization may be required to pay, whether a lump-sum amount or a daily amount, and, in the case of a daily amount, prescribe the maximum number of days for which a daily amount may be payable;
 - (e) specify types of contraventions or circumstances in respect of which an administrative penalty may not be ordered;
 - (f) prescribe circumstances in which a person or organization is not required to pay an administrative penalty ordered under this Act;
 - (g) provide for the form and content of an order requiring payment of an administrative penalty and prescribe information to be included in the order;
 - (h) provide for the payment of administrative penalties, prescribe the person or entity to which the penalty is to be paid and provide for the investment of money received from administrative penalties, including the establishment of a special fund, and the use of such money and interest earned thereon;
 - (i) prescribe procedures relating to administrative penalties. 2005, c. 11, s. 39 (2).

Exemptions

(3) A regulation under clause (1) (r) shall state the reasons for exempting the persons, organizations, buildings, structures or premises or classes thereof, described in the regulation, from the application of the provisions specified in the regulation. 2005, c. 11, s. 39 (3).

Draft regulation made public

(4) The Lieutenant Governor in Council shall not make a regulation under subsection (1) unless a draft of the regulation is made available to the public for a period of at least 45 days by posting it on a government internet site and by such other means as the Minister considers advisable. 2005, c. 11, s. 39 (4).

Opportunity for comments

(5) Within 45 days after a draft regulation is made available to the public in accordance with subsection (1), any person may submit comments with respect to the draft regulation to the Minister. 2005, c. 11, s. 39 (5).

Changes to draft regulation

(6) After the time for comments under subsection (5) has expired, the Lieutenant Governor in Council may, without further notice, make the regulation with such changes as the Lieutenant Governor in Council considers advisable. 2005, c. 11, s. 39 (6).

Classes

(7) A regulation under this section may create different classes of persons or organizations or of buildings, structures or premises and, without limiting the generality of this power, may create classes with respect to any attribute, quality or characteristic or any combination of those items, including,

- (a) the number of persons employed by persons or organizations or their annual revenue;
- (b) the type of industry in which persons or organizations are engaged or the sector of the economy of which persons or organizations are a part;
- (c) the size of buildings, structures or premises. 2005, c. 11, s. 39 (7).

Same

(8) A regulation under this section may define a class to consist of one person or organization or to include or exclude a person or organization having the same or different attributes, qualities or characteristics. 2005, c. 11, s. 39 (8).

Same

(9) A regulation under this section may impose different requirements, conditions or restrictions on or in respect of any class. 2005, c. 11, s. 39 (9).

Scope

(10) A regulation under this section may be general or specific in its application and may be limited as to time and place. 2005, c. 11, s. 39 (10).

Annual report

40. (1) The Minister shall prepare an annual report on the implementation and effectiveness of this Act. 2005, c. 11, s. 40 (1).

Content of report

(2) The report shall include an analysis of how effective the standards development committees, the accessibility standards and the enforcement mechanisms provided for under this Act are in furthering the purpose of this Act. 2005, c. 11, s. 40 (2).

Tabling of report

(3) The Minister shall submit the report to the Lieutenant Governor in Council and shall cause the report to be laid before the Assembly if it is in session or, if not, at the next session. 2005, c. 11, s. 40 (3).

Review of Act

41. (1) Within four years after this section comes into force, the Lieutenant Governor in Council shall, after consultation with the Minister, appoint a person who shall undertake a comprehensive review of the effectiveness of this Act and the regulations and report on his or her findings to the Minister. 2005, c. 11, s. 41 (1).

Consultation

(2) A person undertaking a review under this section shall consult with the public and, in particular, with persons with disabilities. 2005, c. 11, s. 41 (2).

Contents of report

(3) Without limiting the generality of subsection (1), a report may include recommendations for improving the effectiveness of this Act and the regulations. 2005, c. 11, s. 41 (3).

Tabling of report

(4) The Minister shall submit the report to the Lieutenant Governor in Council and shall cause the report to be laid before the Assembly if it is in session or, if not, at the next session. 2005, c. 11, s. 41 (4).

Further review

(5) Within three years after the laying of a report under subsection (4) and every three years thereafter, the Lieutenant Governor in Council shall, after consultation with the Minister, appoint a person who shall undertake a further comprehensive review of the effectiveness of this Act and the regulations. 2005, c. 11, s. 41 (5).

Same

(6) Subsections (2), (3) and (4) apply with necessary modifications to a review under subsection (5). 2005, c. 11, s. 41 (6).

42. OMITTED (AMENDS OR REPEALS OTHER ACTS). 2005, c. 11, s. 42.

43. OMITTED (PROVIDES FOR COMING INTO FORCE OF PROVISIONS OF THIS ACT). 2005, c. 11, s. 43.

44. OMITTED (ENACTS SHORT TITLE OF THIS ACT). 2005, c. 11, s. 44.
