

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON
LEGAL AND CONSTITUTIONAL AFFAIRS

ACCESS ALL AREAS

GOVERNMENT RESPONSE

The Disability (Access to Premises – Buildings) Standards will achieve more consistent, systemic and widespread improvements in non-discriminatory access for people with disability to publicly accessible buildings.

The Premises Standards will further the Commonwealth Government's social inclusion agenda by progressively ensuring that people with disability and the ageing population have better access to a wide range of public buildings. Improved building access will afford older people and people with mobility, vision and hearing impairments greater opportunities to access employment and services and to connect with family, friends and the community.

The Premises Standards will also make a significant contribution to the Australian Government's ten-year National Disability Strategy, which is being developed with States and Territories through the Council of Australian Governments. The vision for the National Disability Strategy is of an inclusive Australian society that enables people with disability to fulfil their potential as equal citizens.

The scheme for the introduction of these Standards and complementary action to provide for their operation and implementation at State and Territory level is a complex one. The Commonwealth has provided direction and leadership. But the progress and success of the Standards has benefited from, and will continue to require, considerable goodwill and cooperative action by a wide community of stakeholders, including each of the States and Territories.

The impressive work of the House of Representatives Standing Committee on Legal and Constitutional Affairs in considering the draft Standards should also be acknowledged. The Government recognises the long period of development of the Standards and is focussed on implementing the Committee's recommendation to introduce the Premises Standards without delay. The Government has used the time required to complete the technical specifications in the Australian Standards referenced in the Premises Standards and to also deal with other committee recommendations, as far as possible without causing delay, in order to bring the Premises Standards to fruition.

RECOMMENDATION 1

The Committee recommends that the Premises Standards be introduced without delay. Any issues which cannot be finalised without causing delay should be considered at a later date.

Response

Accepted.

RECOMMENDATION 2

The Committee recommends that the requirement for access to be provided to the common areas of Class 2 buildings, which was contained in the 2004 draft Premises Standards be included in the Premises Standards.

Response

Accepted in part.

The Government agrees to the adoption of the approach of the 2004 draft Premises Standards to set access standards in relation to common areas of new Class 2 buildings where one or more sole-occupancy units are available for short-term rent. This will deliver the principal benefits of the requirements at a reasonable cost. The vast majority of building activity in regard to Class 2 buildings is applicable to new buildings.

Recognising that this situation may change over time, and that further evidence may emerge, the question of including existing Class 2 buildings within the scope of the Premises Standards will be reviewed three years from the Standards being adopted.

RECOMMENDATION 3

The Committee recommends that requirements for accessibility be imposed on all new and purpose-built Class 1b buildings regardless of the number of bedrooms or dwellings they contain, but that the proposed four bedroom threshold be maintained for existing buildings. The general provisions of the Disability Discrimination Act continue to be available for existing buildings with one to three bedrooms.

Response

Accepted.

The Premises Standards will require for a new single Class 1b building regardless of the total number of bedrooms, that at least one bedroom, including sanitary facilities, and guest facilities such as an eating area, must be accessible. The Committee report does not specifically address the question of holiday accommodation on a single allotment. It is noted that the ratio of accessible dwellings, where there are 4 or more Class 1b buildings used for holiday accommodation on a single allotment, will remain unchanged.

RECOMMENDATION 4

The Committee recommends that consideration be given to the development of disability standards in relation to building fit out and places other than buildings.

Response

Accepted in principle.

While the Government accepts this recommendation in principle, additional consultation with stakeholders, States and Territories will be necessary.

RECOMMENDATION 5

The Committee recommends that the small building exemption for Class 5, 6, 7b or 8 buildings be limited to the provision of lift or ramp access between floors.

Response

Accepted.

The Government agrees that all reasonable means to provide access to these buildings should be applied. It therefore supports the Committee's recommendation to limit the exemption for small buildings – such that only lift or ramp access, together with features on the non-entrance floors that are reliant on lift or ramp access between floors (principally accessible sanitary facilities) – will be optional. All other applicable access features will be required.

RECOMMENDATION 6

The Committee recommends that the exemptions in paragraphs D3.4 (a) – (e) be replaced with a general exemption for areas which pose a clear health and safety risk for people with a disability.

Response

Accepted in principle.

The Government supports the recommendation to provide a general exemption (as is currently the case in the Building Code of Australia) but, following further consultation with State and Territory building control authorities, is of the view that there may be areas where health and safety is not the only consideration as to the appropriateness of providing access. (This will be referred to the Australian Building Codes Board for further review.)

RECOMMENDATION 7

The Committee recommends that the words 'regional or remote location' be deleted from paragraph 4.1(3)(f) of the Premises Standards.

Response

Accepted.

RECOMMENDATION 8

The Committee recommends that further consideration be given to clarifying the meaning of 'heritage value' in paragraph 4.1(3)(k) of the Premises Standards. Consideration should be given to ensuring consistency with the tests used in State and Territory legislation in relation to heritage. The Committee further recommends that the words 'and to what extent incidental' be deleted from paragraph 4.1(3)(k) of the Premises Standards.

Response

Accepted.

RECOMMENDATION 9

The Committee recommends:

- that subsection 4.1(3) of the Premises Standards be amended to include consideration of the extent to which the building work concerned involves the use of public funds; and*
- that paragraph 4.1(3)(i) be amended to include specific reference to the use of the building for public purposes and the extent to which the building has a significant community function.*

Response

Accepted.

RECOMMENDATION 10

The Committee recommends that the current exemption for fire-isolated stairs and ramps in paragraph D3.3(b) be amended to provide accessibility as far as practicable, with particular consideration given to tactile ground surface indicators, luminance contrast stair nosings and second handrails.

Response

Accepted in part.

The Government accepts the recommendation to include luminance contrast stair nosings on fire-isolated stairs. Consideration of other accessibility components requires safety and technical assessment of their impact on building design requirements and an evaluation of costs, and will be referred to the Australian Building Codes Board for further consideration.

RECOMMENDATION 11

The Committee recommends that technical matters raised by submissions to this inquiry which relate to Australian Standards be referred to Standards Australia for urgent consideration.

Response

Accepted.

The Government has been in dialogue with Standards Australia in relation to the revision of three of the Australian Standards referenced in the Premises Standards, namely AS 1428.1, AS 1428.4.1 and AS 2860. The Standards Australia standards were completed at the end of 2009. The matters raised in the submissions to the Committee were passed to Standards Australia and considered in that process.

RECOMMENDATION 12

The Committee recommends that the objects of the Premises Standards be amended to include a reference to dignified access for people with a disability.

Response

Accepted.

RECOMMENDATION 13

The Committee recommends that the Australian Government provide funding for new research, to be completed within 12 months of the tabling of this report, into wheelchair sizes and the dimensions of building features necessary to accommodate them. The results and the issue of 90th percentile dimensions should be returned to this Committee for reconsideration at that time.

Response

Accepted in principle.

The Government sees merit in the study proposed but considers that this should be undertaken when these Standards have been in operation for two years so that developments to that time can be taken into account.

RECOMMENDATION 14

The Committee recommends that Table F2.4(a) be amended to make it clear that every accessible room in a Class 1b building must have an accessible toilet before a concession is provided in relation to common accessible toilets.

Response

Accepted.

RECOMMENDATION 15

The Committee recommends that:

- urgent technical advice be sought as to whether safe alternatives to locking off of lifts and constant pressure devices are available; and*
- the Premises Standards provide that stairway platform lifts should only be used in situations in which they are the only practical accessibility option.*

Response

Accepted in principle.

The issue of technical advice on safe alternatives to locking off of lifts and constant pressure devices will be referred to the Australia Building Codes Board for its consideration.

The Government accepts the recommendation concerning stairway platform lifts.

RECOMMENDATION 16

The Committee recommends that the Australian Building Codes Board undertake further research to identify deemed-to-satisfy provisions for emergency egress for people with a disability with a view to making changes to the Building Code as soon as possible.

Response

Accepted in principle.

This matter will be referred to the Australian Building Codes Board for its consideration.

RECOMMENDATION 17

The Committee recommends that the Disability Discrimination Commissioner be given the power to investigate non-compliance with the Premises Standards and to bring a complaint where there is non-compliance with the Premises Standards without requiring an individual complaint.

Response

Noted.

The Australian Human Rights Commission plays a key role in dealing with human rights in Australia. The Government is currently considering the rights of representative groups to bring legal proceedings in relation to anti-discrimination legislation in light of the recommendation of the Access to Justice Taskforce. The role of the Commission more generally will also need consideration in relation to the report of the National Human Rights Consultation.

RECOMMENDATION 18

The Committee recommends that an audit of a sample of new buildings or building work be conducted by the Australian Government prior to the review of the Premises Standards.

Response

Accepted.

RECOMMENDATION 19

The Committee recommends that:

- 1) the Premises Standards provide commencement and completion dates for the review process;*
- 2) the completion date for the review be within five years of the commencement of the Premises Standards;*
- 3) the Premises Standards set out the issues to be considered by the review and that these issues include:
the small building exemption;
the lessee concession;
80th and 90th percentile wheelchair dimensions;
locking off lifts;
accessible toilets;
swimming pools;
accessible car parking;
Class 1b buildings;
wayfinding;
emergency egress; and,
public transport buildings.*
- 4) the Premises Standards set out the criteria by which effectiveness of the Standards is to be assessed;*
- 5) the Australian Government identify what data will be collected and how it will be collected in each jurisdiction during the first four years;*
- 6) baseline data be collected; and*
- 7) funding be provided for the review.*

Response

Parts 1 and 2: Accepted.

Parts 3 and 4: Accepted in principle. The Government accepts in principle the issues to be considered by the review and the identification of criteria to assess effectiveness of the Premises Standards, but does not believe it is appropriate to include these matters in the Premises Standards.

Parts 5, 6 and 7: Noted.

