
The Parliament of the Commonwealth of Australia

Access All Areas

Report of the Inquiry into Draft Disability (Access to Premises – Buildings) Standards

**House of Representatives
Standing Committee on Legal and Constitutional Affairs**

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Canberra

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Foreword

Our vision is a fairer Australia where people with disabilities are regarded as equals, with the same rights as all other citizens, with recourse to systems that redress any infringements of their rights; where people with disabilities can participate in the life of the community in which they live, to the degree that they wish; where people with disabilities can gain and hold meaningful employment that provides wages and career opportunities that reflect performance; where control by people with disabilities over their own bodies, lives and future is assumed and ensured; where difference is accepted, and where public instrumentalities, communities and individuals act to ensure that society accommodates such difference. Only then will we be able to say that justice has been achieved.¹

The Disability Discrimination Act was passed by Parliament in 1992 with the promise of producing a radical shift in the way society included people with a disability. After 16 years of operation, the Act has produced substantial benefits for people with a disability and has contributed to attitudinal change in many areas of Australian society. However, in some areas it is clear that much more work remains to be done. Access to premises is one of those areas.

Equal access to premises is crucial to justice and social inclusion for people with a disability because it has a pervasive impact on the interaction of people with a disability with the Australian community. Without access to premises, people with a disability cannot access goods, services and facilities which other Australians take for granted, in areas as simple as the ability to enjoy the cinema with their family, go to the dentist, or to visit their Member of Parliament. Without access, people with a disability face many hurdles to full participation in community life. Failure to provide access may even affect the ability of people

¹ The Hon Brian Howe MP, Minister for Health, Housing and Community Services, Second Reading Speech for the Disability Discrimination Bill 1992, 26 May 1992.

with a disability to find work – something which contributes to dignity and self-esteem, and which represents a sad loss of human potential.

The Disability Discrimination Act recognises the importance of access to premises, by making it unlawful to discriminate in the provision of access to premises. Despite this, it is clear that many public buildings still fail to provide access to people with a disability on an equal or dignified basis. This is partly because the Act places the burden of enforcing its requirements on the individuals who are disadvantaged by an act of discrimination. Perhaps not surprisingly, few individuals are willing to pay the emotional and financial price of taking building owners to court to force them to comply with their obligations under the Act.

The Draft Disability (Access to Premises – Buildings) Standards (Premises Standards) take a fresh approach to access to premises by harmonising the requirements of the Disability Discrimination Act and those of the Building Code of Australia. The result will be that access requirements will be applied consistently to new buildings and new building work throughout Australia, and will be enforced through existing and effective State and Territory building approval processes.

This seems likely to produce a fundamental shift in the way Australian buildings are designed and constructed, which will revolutionise access to premises for people with a disability.

The Committee's inquiry into the Premises Standards is the latest stage in an extensive negotiation and consultation process which began in 2001. A number of recommendations have been made in this report to strengthen the requirements of the Premises Standards and make them more consistent. But the most important recommendation of the Committee is that the Premises Standards should be finalised quickly and implemented. People with a disability have waited more than long enough for better access to premises.

Mr Mark Dreyfus QC MP
Chair



Membership of the Committee

Chair Mr Mark Dreyfus QC MP

**Deputy
Chairman** The Hon. Peter Slipper MP

Members

The Hon. Kevin Andrews MP	Mrs Sophie Mirabella MP
Mr Mark Butler MP	Ms Belinda Neal MP
Mr Petro Georgiou MP	Mr Shayne Neumann MP
Mr Daryl Melham MP	Mr Graham Perrett MP

Committee Secretariat

Secretary	Dr Anna Dacre Ms Sharon Bryant
Inquiry Secretary	Ms Serica Mackay
Research Officer	Mr Stephen Still
Administrative Officers	Ms Claire Young Ms Emma Martin



Terms of reference

The Committee is to consider and report on the draft Disability (Access to Premises - Buildings) Standards covering:

- the appropriateness and effectiveness of the proposed Premises Standards in achieving their objects;
- the interaction between the Premises Standards and existing regulatory schemes operating in state and territory jurisdictions, including the appropriateness and effectiveness of the proposed Model Process to Administer Building Access for People with Disability;
- whether the Premises Standards will have an unjustifiable impact on any particular sector or group within a sector; and
- any related matters.



List of abbreviations

ABCB	Australian Building Codes Board
ACT	Australian Capital Territory
AS	Australian Standard
BAPC	Building Access Policy Committee
BCA	Building Code of Australia
Building Code	Building Code of Australia
CBD	Central Business District
Cth	Commonwealth
DARG	Disability Access Reference Group
DDA	<i>Disability Discrimination Act 1992 (Cth)</i>
MCS	Multiple Chemical Sensitivity
NIST	National Institute for Standards and Technology
NSW	New South Wales
Qld	Queensland
RIS	Regulation Impact Statement
SOU	Sole Occupancy Unit

UN	United Nations
Vic	Victoria
WA	Western Australia



List of recommendations

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	Recommendation 1	6
	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.	
2	Overview of the Standards	9
3	Scope of the Premises Standards	19
	Recommendation 2	31
	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.	
	Recommendation 3	37
	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.	
	Recommendation 4	40
	The Committee recommends that consideration be given to the development of disability standards in relation to building fit out and places other than buildings.	

4	Concessions, exemptions and exceptions.....	51
	Recommendation 5.....	55
	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.	
	Recommendation 6.....	60
	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.	
	Recommendation 7.....	63
	The Committee recommends that the words ‘regional or remote location’ be deleted from paragraph 4.1(3)(f) of the Premises Standards.	
	Recommendation 8.....	66
	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.	
	Recommendation 9.....	67
	The Committee recommends:67	
	<ul style="list-style-type: none"> ■ 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. 	
	Recommendation 10.....	69
	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.	

5	Specific provisions of the Premises Standards.....	77
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	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.	
	Recommendation 12.....	80
	The Committee recommends that the objects of the Premises Standards be amended to include a reference to dignified access for people with a disability.	
	Recommendation 13.....	87
	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 90 th percentile dimensions should be returned to this Committee for reconsideration at that time.	
	Recommendation 14.....	92
	The Committee recommends that Table F2.4(a) be amended to make it clear that <i>every</i> accessible room in a Class 1b building must have an accessible toilet before a concession is provided in relation to common accessible toilets.	
	Recommendation 15.....	95
	The Committee recommends that:.....95	
	<ul style="list-style-type: none"> ■ 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. 	
6	Matters not addressed by the Standards.....	123
	Recommendation 16.....	130
	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.	

7 Implementation and review137**Recommendation 17 151**

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.

Recommendation 18 151

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.

Recommendation 19 157

The Committee recommends that:

- the Premises Standards provide commencement and completion dates for the review process;
- the completion date for the review be within five years of the commencement of the Premises Standards;
- 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.

- the Premises Standards set out the criteria by which effectiveness of the Standards is to be assessed;
- the Australian Government identify what data will be collected and how it will be collected in each jurisdiction during the first four years;
- baseline data be collected; and
- funding be provided for the review.

