



Disability Standards for Accessible Public Transport Amendment 2009 (No. 1)¹

Disability Discrimination Act 1992

I, ROBERT McCLELLAND, Attorney-General, make these Standards under subsection 31 (1) of the *Disability Discrimination Act 1992*.

Dated 22 December 2009

ROBERT McCLELLAND
Attorney-General

1 Name of Standards

These Standards are the *Disability Standards for Accessible Public Transport Amendment 2009 (No. 1)*.

2 When these Standards take effect

These Standards take effect in accordance with subsection 31 (4) of the *Disability Discrimination Act 1992*.

3 Amendment of *Disability Standards for Accessible Public Transport 2002*

Schedule 1 amends the *Disability Standards for Accessible Public Transport 2002*.

Schedule 1 Amendment

(section 3)

[1] After Part 33

insert

Part 33A Exemptions from compliance

33A.1 Commission may grant exemptions

- (1) The following persons may apply to the Commission for an exemption:
 - (a) a person:
 - (i) on the person's own behalf; or
 - (ii) on behalf of the person and another person or other persons; or
 - (iii) on behalf of another person or other persons;
 - (b) 2 or more persons:
 - (i) on their own behalf; or
 - (ii) on behalf of themselves and another person or other persons; or
 - (iii) on behalf of another person or other persons.
- (2) After receiving an application under subsection (1), the Commission may grant the person or persons to whom the application relates an exemption from compliance with some or all of these Standards.
- (3) The Commission may grant a further exemption from compliance with the same requirements to which an exemption under subsection (2) (the *first exemption*) applied, if:
 - (a) a person makes an application for a further exemption; and
 - (b) the person who makes the application is a person to whom the first exemption relates; and
 - (c) the application is made in the period granted for the exemption granted last.
- (4) Before granting an exemption under subsection (2) or (3) the Commission:
 - (a) must consult with the Accessible Public Transport Jurisdictional Committee; and
 - (b) may consult with any other body or person that the Commission considers appropriate to consult.
- (5) An exemption granted by the Commission under subsection (2) or (3) must not be granted for a period of more than 5 years.

33A.2 Content of exemptions

An exemption granted under subsection 33A.1 (2) or (3) must:

- (a) be in writing; and
- (b) state if it is an exemption from compliance with some or all of the requirements of these Standards; and
- (c) if it only applies to some of the requirements of these Standards — state the requirements to which it only applies; and
- (d) state the period for which it is granted; and
- (e) state the following matters if they apply to the exemption:
 - (i) any terms and conditions subject to which the exemption is granted;
 - (ii) any circumstances or activities to which the exemption only applies;
 - (iii) if it is a further exemption.

33A.3 Effect of exemption

The following persons do not contravene these Standards if the person's failure to comply with the Standards is in accordance with an exemption granted under section 33A.1:

- (a) a person granted the exemption;
- (b) a person in the employment of, or under the direction or control of, a person granted the exemption.

Note Section 32 of the Act provides that it is unlawful for a person to contravene a disability standard.

33A.4 Review of exemptions by Administrative Appeals Tribunal

A person may apply to the Administrative Appeals Tribunal for review of decisions made by the Commission under section 33A.1.

33A.5 Publication of notice of decision

- (1) Within 1 month after it makes a decision under section 33A.1 the Commission must, organise for a notice of the making of the decision to be published in the *Gazette*:
 - (a) stating its findings on material questions of facts; and
 - (b) stating the evidence on which those findings were based; and
 - (c) stating the reasons for the making of the decision; and
 - (d) containing a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, application may be made to the Administrative Appeals Tribunal for a review of the decision to which the notice relates by or on behalf of any person or persons whose interests are affected by the decision.

- (2) A failure to comply with any part of subsection (1) for a decision does not affect the validity of the decision.
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Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.