

## **Explanatory Statement**

Issued by the Authority of the Attorney-General

*Disability Discrimination Act 1992*

*Disability (Access to Premises – Buildings) Amendment Standards 2010 (No.1)*

### **Authority**

1. The *Disability (Access to Premises – Buildings) Amendment Standards 2010* (Amendment Standards) are formulated under section 31 of the *Disability Discrimination Act 1992* (the DDA). Subsection 31(1) of the DDA provides that the Minister may, by legislative instrument, formulate standards in relation to any area in which it is unlawful to discriminate against another person on the ground of a disability of the other person under Part 2 of the DDA.

### **Background**

2. The *Disability (Access to Premises – Buildings) Standards 2010* (Premises Standards) were made on 15 March 2010 and are proposed to commence operation on 1 May 2011.

3. The Amendment Standards make amendments to the Premises Standards. The amendments include the introduction of a specification of a maximum pile height or pile thickness requirement for carpet of 11 mm to replace a specification of pile height of carpet of 6 mm. The Amendment Standards also correct minor technical errors in the Premises Standards and clarify the operation of the Premises Standards in relation to residential apartment blocks (Class 2 buildings).

4. Pile height has some impact on the rolling resistance for wheelchairs and mobility aids and the stability of the surface. The Premises Standards specify a maximum pile height or pile thickness of carpet to ensure that the pile does not offer an unreasonable barrier to people with disability. There is limited information on what should be the appropriate maximum pile height or other specification in that regard.

5. Among other Australian Standards, the Premises Standards reference Australian Standard AS 1428.1 2009 which provides technical specifications for minimum design requirements to enable access to buildings for people with disability. Australian Standard AS 1428.1 2009 specifies a maximum 6 mm pile height for carpet. However, industry research suggests there is little difference between the rolling resistance of 6 mm and 11 mm carpet. The research also suggests that other factors or measures may provide a more useful determinant in relation to disability access.

6. The Government intends to review this amended specification within three years. The Carpet Institute of Australia Limited has agreed that it would constructively engage in further research to seek to either verify the appropriateness of a pile height/pile thickness specification or provide an alternative; such as a measurement of rolling resistance.

7. The minor technical errors corrected in this amendment were identified as part of the process of preparation of complementary changes to the Building Code of Australia. The changes made in relation to Class 2 buildings ensure that there can be no misunderstanding that the Premises Standards apply only in relation to Class 2 buildings that are new buildings as defined in the Premises Standards, which is consistent with Government policy on this issue. This amendment follows consultations between Commonwealth and State and Territory officials in relation to respective changes required to State and Territory building laws in light of the Premises Standards.

## **Consultation**

8. The possible impact of the new carpet pile height specification was discussed with representatives from the Australian carpet industry and the Australian Human Rights Commission. State and Territory officials were also advised of the consultation.

9. In relation the other changes, extensive consultation occurred during the development of the Premises Standards. Given the corrective and minor character of these amendments, no further consultation has been undertaken in relation to them.

## **Provisions**

### ***Section 1 Name of Standards***

10. Section 1 provides that this legislative instrument is to be known as the *Disability (Access to Premises – Buildings) Amendment Standards 2010 (No.1)*.

### ***Section 2 Commencement***

11. Section 2 provides that this legislative instrument will commence on the commencement of the *Disability (Access to Premises – Buildings) Standards 2010*.

### ***Section 3 Amendment of Disability (Access to Premises – Buildings) Standards 2010***

12. Section 3 provides that the Premises Standards are amended by the items set out in Schedule 1 to the *Disability (Access to Premises – Buildings) Amendment Standards 2010 (No.1)*.

## **Schedule 1 – Amendments**

### ***Item 1: Amendment of Paragraph 2.1(1)(b)***

13. This item makes a change of wording to paragraph 2.1(1)(b) of the Premises Standards. This paragraph deals with the application of the Premises Standards to new and affected parts of buildings. Consistent with the scope of the DDA, such parts do not extend to building classes such as Class 1a or Class 4 buildings. The changed wording corrects a potential ambiguity in the scope of the Premises Standards to make it clear that they only apply to new and affected parts of apartment (Class 2) buildings that are ‘new’ buildings as defined in section 2.1(3).

14. Paragraph 2.1(1)(b), as amended, provides that the Premises Standards apply to a new part, and any affected part of a building, if the building is:

- a specified Class 1b building
- part of a new Class 2 building which has accommodation available for short-term rent, or
- Class 3, 5, 6, 7, 8, 9 and 10 buildings.

### ***Items 2-4, 7-11***

15. A number of minor drafting errors were identified in the Access Code of the Premises Standards, prepared by the Australian Building Codes Board Secretariat. These were identified in preparing amendments to the Building Code of Australia (BCA) to incorporate the access provisions of the Access Code. Corresponding corrections have also been included in the proposed BCA 2011 revision.

16. Item 2 amends Table 1 of Schedule 1. It corrects the title of Australian Standard AS1735.1 in the schedule of referenced documents.

17. Item 3 amends Table D3.1. It clarifies the number of dwellings in specified Class 1b buildings that are required to be accessible. Where a facility provides more than 100 dwellings, access for people with disability, as specified in the Premises Standards, is required to and within 5 dwellings plus one additional dwelling for each additional 30 dwelling or part thereof in excess of 100 dwellings.

18. Item 4 amends subclause D3.2(1). It amends the structure of the section to specify where an accessway should go from and to. The format of the existing provision does not clearly indicate where an accessway should go from and to.

19. Item 7 amends Schedule 1, paragraph D3.5(c) and corrects the reference to Australian Standard AS/NZS 2890.6, which was incorrectly referenced.

20. Item 8 amends Schedule 1, paragraph D3.7(1)(b). It removes the words 'or a room in a Class 9b building' from D3.7(1)(b) to remove repetition. These rooms are covered by D3.7(1)(a).

21. Item 9 amends Schedule 1, subparagraph D3.7(2)(b)(iii). It corrects an error in the requirements for the number of receivers for a hearing augmentation system so that the provision now correctly refers to a room or space accommodating more than 1000 persons but not more than 2000 persons.

22. Item 10 amends Schedule 1, paragraph D5.2(f), by changing the measurement in the specification of where a landing must be located on a fixed or movable ramp used as an accessible water entry/exit for swimming pools from metres to millimetres.

23. Item 11 amends Schedule 1, paragraph F2.4(i). It corrects the cross-referenced paragraph from 'D3.3(g)' to 'D3.3(f)'.

### ***Item 5 and 6***

24. Australian Standard AS 1428.1 2009 incorporates, in clause 7.4.1(a), a specification for carpet to comply with a maximum 6 mm pile height.

25. These items exclude the requirements of clause 7.4.1(a) of AS 1428.1 2009 that prescribes the maximum 6 mm pile height, and replaces it with a specification of a maximum 11 mm carpet pile height or pile thickness.