



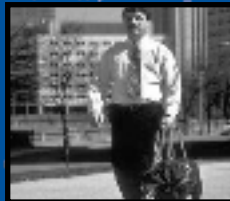
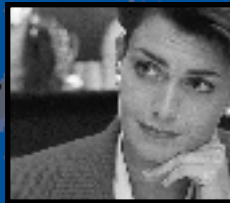
Public Works and  
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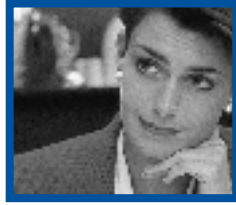
# ENSURING

# ACCESS

The Duty to Accommodate



Canada



On June 30, 1998, Parliament amended the *Canadian Human Rights Act* to further protect and enhance the rights of Canadians. Among other things, the new legislation requires employers and service providers to accommodate the special needs of people protected under the Act, such as persons with disabilities. This obligation must be met unless it would cause, undue hardship in terms of cost, health and safety. Each federal government department will have to comply with the legislation as the special needs of its employees or users become known. Public Works and Government Services Canada (PWGSC) will ensure that all reasonable steps are taken to accommodate people with physical disabilities.

Our wide-ranging initiatives of recent years have already gone a long way towards making our buildings barrier-free. We look forward to continuing with these efforts and to working with our clients on any further improvements necessary. Together, we can find the most cost-effective solutions to accessibility issues of the future. This booklet is a first step. It outlines the new legislation, explains how the various players are expected to address the special needs of people with physical disabilities, and lists sources for further information.

*A key concept in accommodating people is dignity.*

## A bit of background

December 10, 1998 marked the fiftieth anniversary of the adoption of the Universal Declaration of Human Rights by the United Nations. Much has been done in Canada to further human rights, including the rights of people with disabilities. Our buildings, streets and transportation facilities are now far more accessible and usable than ever before.

Statistics Canada notes that close to one fifth (17.7 per cent) of all Canadians have some form of physical disability, with mobility problems being the most common. Many federal government employees and clients will be among those with some kind of disability. Therefore, government facilities must be designed to consider the needs of a wide variety of users. To ensure that this happens, the federal government has legislation, policies and standards in place, as well as a team of experts on accessibility issues at PWGSC.



## Policies and standards

In 1990, to comply with human rights legislation of the time, Treasury Board Secretariat introduced its Real Property Accessibility (RPA) policy. Designed to ensure barrier-free access to, and use of, government facilities, the RPA specifies federal, community-based standards. It describes requirements for parking spaces, power-operated doors, accessible washrooms, tactile signage, assistive listening systems and many other building features that may impact on people with disabilities.

The policy also refers to the Canadian Standards Association's national, Barrier-Free Design Standard (B-651) for details on how to make a component, such as a door or a drinking fountain, usable by persons with a disability. Finally, the RPA outlines circumstances in which it is not necessary to make facilities accessible – for example, an unattended monitoring station in remote locations.

The RPA policy can be relied on to cover the vast majority of physical disability needs. But, occasionally, an individual will have extra requirements. New legislation clarifies both the rights of employees and the obligations of employers in such cases.

## The new legislation

The June 30, 1998 amendments to the *Canadian Human Rights Act* take a further step in protecting Canadians from discrimination. The law now expressly requires that the government accommodate the special needs of employees and service users protected under the Act. If basic standards are not enough to fulfill a special need, employers and service providers within the federal government must consider additional measures.

Discrimination can be defined as an action or situation that unjustly harms or disadvantages one or more individuals because of a personal characteristic, such as a disability. Discrimination can begin to develop when one makes a distinction between certain individuals or groups based on a prohibited ground (e.g., disability).



*"As far as reasonable, the accommodation must be provided in a manner that is most respectful of the dignity of the person or group requiring the accommodation."*

— *Accommodating Equality - guidelines (Manitoba Human Rights Code)*

“Every individual should have an equal opportunity with other individuals to make for himself or herself the life that he or she is able and wishes to have, consistent with his or her duties and obligations as a member of society.”

— *The Canadian Human Rights Act, a Guide*

## Few exceptions

Meeting building code requirements and health/safety or labour laws is not enough. Moreover, exceptions are very narrowly interpreted. An employer/service provider may not have to accommodate a special need if to do so would cause the department undue hardship. But the onus to prove such hardship is on the department.

“In most cases, it is unlikely that the test for undue hardship will be met solely by demonstrating that the program, ministry or agency responsible for providing the accommodation does not have adequate funds to provide it.”

— *Ontario Human Rights Commission Guidelines*

## Custodial and client department responsibilities

Custodial departments, such as PWGSC, have the primary responsibility for ensuring that the real property they administer is accessible to persons with disabilities in accordance with Treasury Board accessibility standards. This means that PWGSC must implement the requirements and assume the costs of the modifications. As a result of PWGSC’s accessibility upgrading program, which began in 1990, virtually all existing PWGSC buildings are already up to standard.

As employers and service providers, client departments are responsible for ensuring that special cases not covered by the Treasury Board RPA policy are accommodated in their operations, and can count on PWGSC support in doing so. In practice, this is what happens:

- The client tells PWGSC of any accessibility requirements above those already identified in the RPA policy.
- PWGSC will assist in identifying possible options and, where facility modifications are needed, implement them on an as-required and cost-recovery basis.

Some situations that might arise are:

- ▶ An employee with severe mobility impairments requires a power-operated door on the wash-room near his/her office.
- ▶ A person with a hearing impairment needs a visual alarm because he/she cannot hear the auditory fire alarm.

It is important that fit-up solutions support accessibility standards. For example, a department that intends to install card access devices on entry doors may have to consider using power-door operators if the forces required to open the door exceed allowable norms. Building modifications will be made to accommodate the special needs of persons with disabilities.



## PWGSC can help

At PWGSC, we have been in the forefront of barrier-free design for many years. We have invested approximately \$75 million in base building accessibility upgrades, and spend an estimated \$22 million extra per year in rental premiums as a result of requiring building owners to upgrade leased facilities. PWGSC has achieved a significant level of accessibility in the workplace and in buildings under its custody to accommodate the needs of persons with a wide range of physical and sensory disabilities.

In addition to incorporating the RPA accessibility requirements in new construction, lease tender calls and fit-up projects, we provide architectural and engineering services supporting accessibility to other federal custodians. Policy and standards development, tactile signage and accessible historic facilities are some of the areas that we have pioneered. We are actively involved in developing and disseminating information about barrier-free facilities, providing advice, conducting facility audits and making building modifications.

By working with us, our clients can achieve fair access to their facilities for their employees and users. Together, we will enter a new era of achievement in barrier-free design.



## Need more information?

### For enquiries about:

- ▶ a specific PWGSC facility, contact your PWGSC Client Service Unit
- ▶ the *Canadian Human Rights Act*, contact the Canadian Human Rights Commission at one of its regional offices, visit its Web site at [www.chrc.ca](http://www.chrc.ca) or contact the national office at: telephone: (613) 995-1151 fax: (613) 996-9661 e-mail: [info@chrc.ca](mailto:info@chrc.ca)
- ▶ *Treasury Board Real Property Accessibility Policy, June 30, 1998*, contact the Bureau of Real Property Management, Treasury Board of Canada Secretariat, 300 Laurier Avenue, West, Ottawa, Ontario K1A 0R5 telephone: (613) 957-9941 fax: (613) 957-2405
- ▶ *technical aspects*, contact the Codes and Standards Architect, Public Works and Government Services Canada, Place du Portage, Phase III, Hull, Quebec K1A 0M5 telephone: (819) 956-2649 fax: (819) 956-4441 e-mail: [george.ens@pwgsc.gc.ca](mailto:george.ens@pwgsc.gc.ca)
- ▶ CAN/CSA-B651-95 (updated June 1996), contact Barrier-Free Design, CSA, 178 Rexdale Blvd., Etobicoke, Ontario M9W 1R3 telephone: 1-800-463-6727 fax: (416) 747-2475 e-mail: [sales@csa.ca](mailto:sales@csa.ca) Web site: [www.csa.ca](http://www.csa.ca)
- ▶ *federal government disability policy and coordination issues*, contact the Office for Disability Issues, Human Resources Development Canada, Suite 100, 25 Eddy Street, Hull, Quebec K1A 0M5 telephone: 1-800-665-9017 TTY/teletypewriter: 1-800-561-9706

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