

What are the Current Laws and Building Standards?

In brief, we can say that the law states that it is illegal to discriminate against or prevent Persons With Disabilities from participating in any public activity whether it be education, employment, sport, entertainment, elections, religious or social activities, legal matters, transport. Also that all public establishments must be physically accessible for PwD and that all electronic information should be accessible to the visually impaired.



Rights of Persons With Disabilities Act
Chapt XVI, 89
PENALTIES

Many of the laws, building standards and guidelines that relate to Accessibility and Inclusion for Persons With Disabilities were updated in 2016. This document covers some of the main points in the following sections:

- **Laws Regarding the Application of Accessibility**
- **Non-Discrimination and Inclusion Related Clauses**
- **Available Penalties for Non-Compliance (fines)**

Which Laws, Standards and Guidelines?

The following are the main documents that cover the subject of Accessibility and inclusion for PwD in Government and private public establishments.

RPwDA 2016	Rights of Persons With Disabilities Act (law)
HGSS 2016,	Harmonised Guidelines Space Standards (guidance)
MBBL 2016	Model Building Bye Laws (guidance)
DCR 2016	(= initial of state) Development Control Regulations (law)
NBC 2016	National Building Code (standards)

The main law that covers this subject is the RPwDA which has some stringent terms and penalties for non-compliance. As an example penalties for non-compliance are extreme with **upto 5 lakh fine** and this is doesn't stop persons badly affected by non-compliance from using private litigation.

The deadline set by the Government is **June 2023** after which any establishment that has not complied with the law regarding physical accessibility, see clauses 44 & 45 of RPwDA, will be open to private **litigation and Government penalties (see clauses 89, 90 below)**.

While laws apply to all establishments including privately owned establishments which provide services, goods or employment to the public, the clauses which apply specifically to government establishments are more extensive. For instance there is a requirement that each Government establishment make a policy of reserving 5% of employment opportunities for those with a benchmark disability.

Who? Where? What?

Who needs to know the law?

Those responsible for providing accessibility compliance are as follows:

In Private Sector Establishments:

The CEO, HR managers, all owners and those involved with managing or developing the publicly accessed buildings, including project managers, surveyors and constructions supervisors.

All private architects, site surveyors, developers and contractors, designers and suppliers of lifts etc.

In Government Sector:

Heads of Local Body authorities, planning officials, architects, civil engineers, urban planners, site surveyors and all levels of management in town planning, civil engineering departments, and Road and Building Department.

Where does the law regarding accessibility apply?

These rules apply to ALL publicly accessed establishments in ALL areas of the building which are not private residences. This includes the common areas of apartment blocks such as stairwell, lifts etc. The word “public” in this context also includes employees, visiting contractors, suppliers, trainers etc who may also have disabilities. There is no exemption for sport facilities, auditorium, places of entertainment, places of worship, marriage halls etc.

What are the Penalties for Non-Compliance?

89. Any person who contravenes any of the provisions of this Act, or of any rule made thereunder shall for first contravention be punishable with fine which may extend to ten thousand rupees and for any subsequent contravention with fine which shall not be less than fifty-thousand rupees but **which may extend to five lakh rupees.**

90. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

90. (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

What is the Law?

Rights of Persons With Disabilities Act 2016

This is the law that defines the rights of persons with disabilities and clearly states the requirements for compliance on building accessibility as well as equity in employment and educational.

Each establishment and Government local body, is responsible for implementing an Equal Opportunities Policy which includes statements about providing an accessible workplace and accommodations for PwD (see document “Sample Equal Opportunities Policy with Forms”).

The EOP will state that requests for the accommodation of reasonable changes in the work place will be invited from the employees, recorded and acted upon. In any case the EOP will mention that all accessibility compliances will be met.



Chapter IV Skill Development and Employment

20. Non-discrimination in employment

(2) Every Government establishment shall provide reasonable accommodation and appropriate **barrier free** and conducive environment to employees with disability.

21. Equal opportunity policy (EOP)

(1) Every establishment shall notify equal opportunity policy detailing measures proposed to be taken by it in pursuance of the provisions of this Chapter in the manner as may be prescribed by the Central Government.

(2) Every establishment shall register a copy of the said policy with the Chief Commissioner or the State Commissioner, as the case may be.

Chapter VI Accessibility

15. Rules for Accessibility

(1) Every establishment shall comply with the following standards relating to physical environment, transport and information and communication technology, namely :-

(a) standard for public buildings as specified in the Harmonised Guidelines and Space Standards for Barrier Free Built Environment for Persons With Disabilities and Elderly Persons as issued by the Government of India, Ministry of Urban Development in March, 2016.

Chapter VIII Duties and Responsibilities of Appropriate Governments

40. The Central Government shall, in consultation with the Chief Commissioner, formulate rules for persons with disabilities laying down the standards of accessibility for the physical environment, transportation, information and communications, including appropriate technologies and systems, and other facilities and services provided to the public in urban and rural areas.

41. (1) The appropriate Government shall take suitable measures to provide, —
- (a) facilities for persons with disabilities at bus stops, railway stations and airports conforming to the accessibility standards relating to parking spaces, toilets, ticketing counters and ticketing machines;
 - (b) access to all modes of transport that conform the design standards, including retrofitting old modes of transport, wherever technically feasible and safe for persons with disabilities, economically viable and without entailing major structural changes in design;
 - (c) accessible roads to address mobility necessary for persons with disabilities.
- (2) The appropriate Government shall develop schemes programmes to promote the personal mobility of persons with disabilities at affordable cost to provide for, —
- (a) incentives and concessions
 - (b) retrofitting of vehicles
 - (c) personal mobility assistance

42. The appropriate Government shall take measures to ensure that,
- (i) all contents available in audio, print and electronic media are in accessible format;
 - (ii) persons with disabilities have access to electronic media by providing audio description, sign language interpretation and close captioning;
 - (iii) electronic goods and equipment which are meant for every day use are available in universal design.

44. (1) No establishment shall be granted permission to build any structure if the building plan does not adhere to the rules formulated by the Central Government under section 40.

44. (2) No establishment shall be issued a certificate of completion or allowed to take occupation of a building unless it has adhered to the rules formulated by the Central Government.

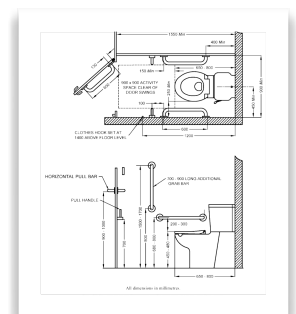
45. (1) All existing public buildings shall be made accessible in accordance with the rules formulated by the Central Government within a period not exceeding **five years** from the date of notification of such rules:

Provided that the Central Government may grant extension of time to the States on a case to case

HGSS - Harmonised Guideline and Space Standards

(for Barrier Free Built Environment for Persons With Disabilities and Elderly Persons)

This is a condensed version of the standards found in the reference document National Building Code (Annexure B). This is not a standard nor is it a law however complying with it is required by law as it is invoked in the RPwDA 2016 (see above). The illustrations are poor but the same information is better illustrated in the NBC or *DCR.



There are various different guidance documents like HGSS, by various different departments of government like CPwD and MoUD but they all have much the same information. They cover all aspects of physical accessibility, visual accessibility in signage.

Areas covered in this guidance of the built environment include: parking, paths, stairs, ramps, handrails, lifts, toilets, signage and various other details of the built environment that require features to be designed as per the principals of Universal Design (design which makes the utility of the objects/features usable by all including those with disabilities).

DCR 2016 - Development Control Regulations (Bye-laws)

This is the state bye-law that defines the building standards that must be followed. The standards legislated are based upon the National Building Code (NBC) through the MBBL, which is the underlying reference document that defines the standard features, dimensions and quantities in design and construction.

In the state DCRs there is a section which describes how each feature such as parking, ramps, stair, lifts, toilet will incorporate accessibility features. No construction can be approved unless it conforms with this standards. RPwDA specifically says that the local authorities are not permitted to give permission to construct any building unless it conforms with the accessibility guidance HGSS, however the SAME information found in HGSS is in the state DCRs and in the MBBL.

NBC 2016 - National Building Code

This is the set of standards which is the main point of reference for the laws and guidances. It is similar to the ISO building standards but has some difference and less detail. However the NBC is quite comprehensive and is more than sufficient for providing adequate details for dimensions, space standards and quantities etc.

All the technical details in the various other government guidance like HGSS and building bye-laws in the state DCRs are based on this document.





Establishment Name Building Name		Address		
Check List for all publicly accessed Private & Government premises				
Sr No.	RPwDA	Description	Y/N	Notes
00. 00. 01	CHPT VIII 42(i), (ii), (iii)	Has the establishments website and mobile apps been correctly coded so that they are accessible to the visually impaired as per the standards		
00. 00. 02	CHPT VIII 15.1a) 44.(1)	Has the establishment (private or government) provided all features of accessibility as described in the HGSS guideline, in the buildings it occupies?		
00. 00. 03	CHPT VIII 45.	Has a plan to achieve HGSS accessibility compliance before June 2022 been developed with funds and resources allocated and scheduled?		
00. 00. 04	CHPT II 3.(1)	Has the CEO & HR manager put in place revisions to the establishment's policies to be inclusive for persons with disabilities?		
00. 00. 05	CHPT VI 36	Has the company developed a policy of maintaining at least 5% employees with benchmark disabilities?		
00. 00. 06	CHPT II 3.(3)	Has the company's policies specifically stated that discrimination against PwD employment candidates is not permitted.		
00. 00. 07	CHPT IV 21.(1)	Has the establishment developed equal opportunity policies that include persons with disabilities including the equitable mitigations to provide inclusion for PwD?		
00. 00. 08	CHPT IV 21.(2)	Has the establishment sent a copy of the Equal Opportunity Policy to the Office of the Commissioner for PwD?		
00. 00. 09	Other			