

Disability and Accessibility Legislation in Israel

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ראשי הפרקים (האג'נדה)

- * Background of the Equal Rights for People with Disabilities Law, 1998
- * The Equal Rights Law
- * The Accessibility Regulations
- * Compliance

Background

- * The structure of the legal system in Israel
- * Early years: Paternalistic laws, policies and practices
- * Shift in Paradigm:
 - * Basic Laws
 - * Sup Ct. decisions on equality, early accessibility laws
 - * The Equal Rights for People with Disability Law

Structure of Israel's legal system

- * 1948 - Legal system was based mostly on the English Common Law.
- * No Constitution or written recognition of the right to equality.
- * Human rights, including the right to equality, were developed by the Supreme Court over the decades
- * Basic Laws in 1990s

14 Basic laws

- * Legislature, Judiciary, Government – their structure and powers
- * Basic law: Human Dignity and Liberty.
- * Basic Law: Freedom of Occupation
- * others

Basic law: Human Dignity and Liberty

- * Protection from unlawful imprisonment, arrest, extradition, search of private premises.
- * Protection of personal property.
- * Freedom of movement to and from Israel
- * Right to privacy.

- * Right to Equality not mentioned, though can be read into “dignity”

Sup Ct and equality

- * Post 1992, Sup Ct developed concept of equality further
- * Protected right to equality of minorities: arabs, gays, women – and people with disability
- * The Botzer Case (1996) first recognition of the right to equality of people with disabilities.

Disability Rights Before Botzer: paternalism and segregation

- * Right to equality and accessibility was unrecognized.
- * Paternalistic welfare laws, designed to protect. Ex:
 - * Guardianship Law
 - * Ward Protection Law
- * Segregation in living environment, educational, employment.



Institutionalization of people with physical, intellectual, mental disabilities.

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- * Special Education Law created separate school system.
 - * “sheltered” workshops.

Shift to the Social Model

- * Limited accessibility requirements in the Planning and Building Laws, starting in the early 1980s.
- * Law requiring captions and sign language interpretation in some tv shows, including news broadcasts (1993).
- * Law prohibiting discrimination of people using guide dogs (1993).

The road to the Equality Law

- * Botzer decision (1996) shifted the disability paradigm from the medical model to the human rights model.
- * Draft law (1996) – based on the ADA, Swedish law; input from disability rights scholars and activists
- * The Katz Committee Report (1997) reviewed international legislation and recommended adoption Law.

The Equality Law

- * Enacted 1998
- * Formal recognition of the rights of people with disabilities based on the concept of equality and on human dignity.
- * Social model of disability adopted.
- * Expressed goal is to protect dignity and liberty, and promote right to full, equal participation in all areas of life
- * The right of the person to make decisions about their own lives is recognized, though limited.

The Equality Law Chapters

- * The first chapters to be adopted were:
 - * Establishment of the Commission on Equal Rights for People with Disabilities – a department within the Min. of Justice, entrusted with promotion of equality, ensuring participation of people with disabilities in public life, fighting discrimination and raising awareness.
 - * The Commission also drafts regulations on behalf of the Min. of Justice and enforces them.

Other chapters enacted 1998

- * Employment – anti-discrimination measures, accessibility to the workplace and the work itself.
- * Recently : affirmative action in the workplace. Large employers have a target employment of 3% people with disabilities. Government bodies have a target of 5%
- * Accessibility in Public Transport – trains, municipal buses, airplanes and boats.

2005 – Accessibility Chapter

- * Prohibition of discrimination in public places and public services.
- * Duty to provide accommodations in public places and accommodations
 - * Structurally impossible
 - * Would be violation of a protected value (historical, natural etc.)
 - * Would change nature of service
 - * Undue burden

Definition of public places and services

- * List of public “places”, ranging from offices of government agencies and local authorities, hotels, courts, places of worship, schools, theatres, zoos, nature reserves, stores, hospitals etc.
- * List of public “services” including all gove. Services, entertainment, sports, tourism, culture, religion etc.
- * Lists supposedly comprehensive; in effect, all places where public service is given are covered.

- * Powers given to gov. ministries to enact regulations on accessibility to public places, public services; specific regulations on accessibility to health, education, roads.
- * Compliance
 - * Inc. accessibility auditors

Accessibility Regulations

- * Basic Laws

- * Laws – Knesset (Parliament)

- * Regulations – (executive branch – gov. ministries). Scope of the regulations, sometimes with whom to consult and whose approval to get, is set in the law.

- * Standards are technical and not legally binding unless:

- * Declared official standards by the government.

- * Adopted by laws or regulations by reference.

Accessibility Regulations


- * Min. of Justice – customer services; existing buildings
- * Min. of Interior – new buildings (post August 2009 and renovations)
- * Min. of Health – Health Services
- * Min. of Education – Education Services
- * Min of Transport – Public Tansport, roads.
- * Min. of Defense – Public shelters, emergency services
- * Others: telecommunication, insurance, vocational training

Which regulations are in force

- * Some 20 sets of regulations have been enacted. The three major sets of regulations are:
 - * Existing buildings
 - * new buildings
 - * Customer services – in most services.
- * Foundation of all other regulations.
- * Extremely detailed: what is to be provided, when, where and by whom

Other regulations in force

- * Outdoor areas (cemeteries, beaches)
- * Historical/archeological/nature sites
- * Hospitals, clinics (structural accessibility)
- * Universities, colleges – both accessibility to buildings, outdoor areas and to the educational services.
- * Vocational Training courses
- * School buildings, kindergartens (for students and parents)

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- * Public transport – city buses, planes, trains; encouragement for taxi services to provide accessible vans; car rental services;
 - * Accessible phones must be offered to the public
 - * Accommodations in the workplace.

Not enacted yet

- * Individual accommodations for school children: mainly accommodations in teaching materials for blind/deaf children, school trips and afterschool activities.
- * Accommodations in health services – only partially enacted.
- * Regulations on services during emergencies – wartime, earthquakes, hazmat incidents etc.

The process of enactment

- * As a precedent, all accessibility regulations require consultations with disability organizations.
- * They also require the approval of the Welfare Committee of the Knesset. (unusual)
- * And the approval of the Min. of Finance (and in some cases the Min. of Interior).

The process of enactment

- * 1st round of consultations with NGOs
- * 1st round of consultations with Govt. ministries.
- * Getting the approval of the Min. of Finance.
- * Knesset Committee hearings – asked for more consultation.
- * 2nd round of consultation with NGOs
- * 2nd round of consultation with Gov. Ministries.
- * Approval of the Knesset Committee.
- * Signed by the Min. of Justice, published.

The regulations on access to buildings

- * Higher duty in new buildings, more exemptions in existing buildings.
- * Schedule: existing buildings have to be accessible by Nov 2017 (now) if owners are private, Nov 2018 if owners are a “public authority”.
- * Local authorities – given extension until Nov 2021

Accessibility Requirements


- * Areas outside the building
- * Entrances, doors, elevators,
- * Overcoming height differences (elevators, lifts)
- * Handrails, switches, stairs, parking, lighting, direction, doors, restrooms, showers,
- * Specific requirements from places where people gather (theatre, places of worship etc.), hotels, places where services are given to people with disabilities, prisons, pools, and more.

Regulations on customer services

- * Apply to nearly all services, except health, education, transport, voting.
- * Two parts: general provisions that apply to all services, and sub-chapters on specific services.

General requirements

- * Maintaining human dignity while providing services and accommodations.
- * Policies, practices and procedures, including
 - * Service animals
 - * Evacuation during emergencies
 - * Exemption from waiting in line for service
 - * Exemption from paying for a carer in entrance to public location/service

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- * Accommodations in furniture (counters, desks, chairs)
 - * PA systems (visual, auditory)
 - * Signage
 - * Elevators
 - * Automated service machines

Information


- * Information given to the public will be provided by auxiliary aids or services, at the request of a person with disability.
- * Basic, minimal accommodations given, **but all “reasonable accommodations” apply**. Example:
 - * Sign language interpretation
 - * Accessible print
 - * Reading
 - * Assistive listening devices etc.

Information (2)

- * Providing service and information about the service in alternative channels: email, sms, fax, telephone etc.
- * Internet services
- * Duty to let the public know what accommodations were made in the service and locations where it is given.

Specific services

- * Police – interrogations
- * Prison service – accessible cells, all services made accessible (rehabilitation, health etc.), assistive listening devices, etc.
- * Public hearings
- * Commercial services
- * Public events

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- * Exhibitions, museums, galleries, visitor centers.
 - * Guided tours
 - * Libraries
 - * Training and education (such as preparation for college)
 - * Welfare services (women's shelters, and more)
 - * Religious services
 - * Hotels
 - * Restaurants and catering

Accessible Courts



Accessible restaurants



More general requirements

- * Maintenance of accommodations
- * Alternative accommodations, in case of exemptions
- * Training of staff/employees to provide accommodations: who is to be trained, and how!
- * Appointment of an Accessibility Coordinator, who advises the service provider about his/her duties and provides information to the public about accessibility.


Schedule

- * Schedule for customer service: by these dates all existing services have to be accessible
- * 1.11.2017 – now – for privately-owned services.
- * 1.11.2018 – for all services provided by “public authority”.
- * “new services”, provided to the public for the first time after 10.13 – have to be accessible from the start.

Compliance

- * Accessibility auditors
- * Self-report – a checklist – by service providers/owners of buildings; 5-year mandatory review.
- * Commission's powers
 - * Supervisors check for compliance, have powers to enter premises and require documents;
 - * Commissioner can issue an accessibility order
 - * non-compliance of the order – criminal offense
 - * Commissioner may prosecute

- * Person with disability who did not receive accommodation may sue, based on the Torts Ordinance, but does not have to prove damages.
- * Class actions are common
- * The commission also has a right to sue the violators in civil proceedings, including submitting a class action, or join in civil proceedings initiated by plaintiff
- * Business owners, building owners, executives of the respondent – may be personally liable

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- * Questions: anyone can formally request an answer from the commission on these issues
 - * If a certain place or service are subject to the Equality law.
 - * If an entity is a Public Authority
 - * Do any of the exemptions apply to a certain place or service.
 - * Alternative accommodations in case of exemptions.
 - * Was an accessibility order given in regards to a specific place or service.

Have the law and regulations made a change?

- * Israelis are slow to comply
- * Public awareness is high on discrimination, low on accessibility – but it is increasing.
- * Best tool: social media.
- * Also: the CRPD – revision in the guardianship law