



COMPLIANCE REQUIREMENTS FOR HEARING AUGMENTATION SYSTEMS

CONTENTS:

1. “National Construction Codes” and “Access to Premises Standards” requirements:

- a. AS1428.5
- b. Class 9B areas, counters, areas for judicial purposes
- c. Public transport buildings
- d. Performance Solutions

2. Other requirements:

- a. Disability Discrimination Act (DDA)
- b. “Fit for Purpose”
- c. Disability Inclusion Act 2014 (NSW)
- d. Public transport conveyances

3. References

4. Further Information

1. “National Construction Codes – NCC (formerly Building Code of Australia – BCA)” and “Access to Premises Standard” requirements:

A. AS1428.5:

While AS1428.5 is not mandatory, it clearly defines what the different types of Hearing Augmentation systems are, and the tests that must be passed in the built environment on a pass/fail basis. They can be found in Australian Standard 1428.5. This standard is also often referenced in contracts.

B. Class 9B buildings/areas, counters and areas for judicial purposes:

The mandatory requirements for Hearing Augmentation are contained in:

National Construction Codes – NCC - Section D3.7

Disability (Access to Premises - Buildings) Standards 2010 inc Amdt 1 – Part D3.7

The mandatory requirements for Signage for Hearing Augmentation are contained in:

National Construction Codes – NCC - Section D3.6 and Specification D3.6

Disability (Access to Premises - Buildings) Standards 2010 inc Amdt 1 - Part D3.6 and Part D4
Australian Standards 1428.1 - 2009 Amdt 1, Clause 8.2.2 and Figure 12

C. Public transport buildings only

The mandatory requirements for Hearing Augmentation are contained in:

National Construction Codes – NCC - Section H2.13

Disability (Access to Premises - Buildings) Standards 2010 inc Amdt 1 - Section H2.13

Australian Standard 1428.2 - 1992 Clause 21.1

The mandatory requirements for Signage for Hearing Augmentation are contained in:

National Construction Codes – NCC - Section H2.10

Disability (Access to Premises - Buildings) Standards 2010 inc Amdt 1

Australian Standards 1428.1 - 2001 Clause 14.3 and Figure 34

Australian Standards 1428.2 - 1992 Clause 17.1, 17.4, Figure 30 and Table 1

D. Performance Solution

As an exercise in economy, some try to use a Performance Solution. (The process is outlined in A0 of the NCC)

No Performance Solution has been proposed that meets the needs of as many people as if the Deemed to Satisfy Solutions in D3.7 had been used.

Any Performance Solution must meet DP9 of the NCC, which has the Performance Criteria, and follow A0 of the NCC.

Please see www.hearconnect.com.au/articles for more information regarding Performance Solutions.

2. Other Requirements:

It is not only the National Construction Codes and the Access to Premises Standard that must be met. There are other legal jurisdictions, some which overlap, and some which apply only to certain situations e.g. Fit For Purpose applies to every situation, while the requirements for Public Transport conveyances only applies to this category.

A. Disability Discrimination Act (DDA)

Many consider that being compliant with the NCC is the end of the matter. However, where the NCC or the Disability (Access to Premises Buildings) Standards 2010 inc Amendment 1 is silent, the DDA needs to be complied with.

For example:

D3.7 of the above requires receivers, but they don't mention what attachments are to be provided. Clearly, not providing attachments means the system is not functional. Hearing impaired users with hearing aids or cochlear implants must have a neckloop, while those without hearing aids or cochlear implants require headphones.

The only practical way to be compliant is for every receiver to have both a neckloop and a set of headphones. Failure to do so leaves the way open to a potential breach of the DDA, and a complaint being lodged with Australian Human Rights Commission.

Further, it may be thought that complying with the NCC and Access to Premises Standard is only necessary for the Occupancy Certificate. The reality is quite the opposite; failure to comply with the NCC following occupancy leaves the way open to a potential breach of the DDA, and a complaint being lodged with Australian Human Rights Commission.

B. Fit for purpose:

The Australian Competition and Consumer Commission specifies that

Businesses that sell goods guarantee that those goods are fit for any purpose that the consumer made known to the business before buying (either expressly or by implication), or the purpose for which the business said it would be fit.

This "Fit for Purpose" rule is replicated in every Australian state and territory, through each area's Fair Trading laws.

As an example, Consumer Affairs Victoria states: A trader guarantees that goods will be reasonably fit for any purpose that the trader or the consumer specifies - the goods will do the job the consumer was told they would. Suppliers guarantee that services, and any resulting products, are of a standard expected to achieve the results that the consumer expressly or by implication, told the supplier they wanted. Their services will be reasonably fit for any purpose expressly or by implication implied by the consumer.

There are a number of examples where Hearing Augmentation systems have been supplied that are not fit for purpose, including:

- Systems with inadequate output to be received by the telecoil in a user's hearing aid.
- Claiming to cover 100% of the area with a perimeter loop – in most cases this is not possible due to the dead zone over the top of the cable which the telecoil cannot pick up (unless the person tilts their head).
- Using desk or ceiling microphones which pick up reverberation and background noise, thereby defeating the purpose of the hearing augmentation system.
- Claiming compliance using a portable Hearing Augmentation System when there is a permanent inbuilt amplification system. (A permanent amplification system requires a permanent Hearing Augmentation system).

C. (NSW) Disability Inclusion Act 2014:

All disability service providers run and/or funded by Family and Community Services (FACS) must comply with the NSW Disability Service Standards.

The Disability Inclusion Act 2014 (the Act) and the Disability Inclusion Regulation 2014 (the Regulation) commenced on 3 December 2014.

The Act replaced the Disability Services Act 1993.

The main role of the Act is to commit the NSW Government to making communities more inclusive and accessible for people with disability now and into the future. These commitments are to continue even though the National Disability Insurance Scheme (NDIS) is operating across NSW.

More information available [here](#).

D. Public transport conveyances

The mandatory requirements for Public Transport Conveyances for Hearing Augmentation are contained in:

Disability Standards for Accessible Public Transport (2002) (inc. Amdt 1)
Australian Standard 1428.2 - 1992 Clause 21.1

The Disability Standards for Accessible Public Transport (2002) states the following:

Clause 26.1 - Public Address Systems — premises and infrastructure

If a public address system is installed, it must comply with **AS1428.2 (1992) Clause 21.1**, Hearing augmentation.

This clause applies to Premises (except those to which the Premises Standards apply) and Infrastructure.

26.2 - Public address systems – conveyances which reads:

“If a public address system is installed:

- a. people who are deaf or have a hearing impairment must be able to receive a message equivalent to the message received by people without a hearing impairment; and
- b. it must comply with **AS1428.2 (1992) Clause 21.1**, Hearing augmentation.

Conveyances include

- Buses
- Coaches
- Ferries
- Trains
- Trams
- Light Rail

27.1 Access to information about transport services

General information about transport services must be accessible to all passengers.

27.4 Access to information about location

All passengers must be given the same level of access to information on their whereabouts during a public transport journey.

The Disability Standards for Accessible Public Transport Guidelines 2004 (No. 3) states the following:

Operators or providers will supply all passengers with information necessary to use a transport service.

General information is associated with transport services and facilities, including regular service information, and planned and unplanned disruptions. Public address systems are necessary to deliver information, in particular to customers with vision impairments, without the need for direct assistance.

However, to provide general information that is accessible to all passengers, other communication channels such as hearing augmentation for those with a hearing impairment and textual display for the deaf are required.

This above clauses (26 and 27) only apply to public transport conveyances, (despite its reference to premises and infrastructure in places) as it is under the “Disability Standards for Accessible Public Transport (2002)” and the NCC takes precedence for premises that are Class 9B or Public Transport Buildings.

References

National Construction Codes (previously called Building Code of Australia - BCA); and
Disability (Access to Premises - Buildings) Standards 2010

DP9 – The Performance Requirement of DP9 states:

An Inbuilt communication system for entry, information, entertainment, or for the provision of a service, must be suitable for occupants who are deaf or hearing impaired.

The Deemed to satisfy requirement of DP9 states:

D3.7

- (a) A hearing augmentation system must be provided where an inbuilt amplification system, other than one used only for emergency warning, is installed etc.
- (b) If a hearing augmentation system required by (a) is—
 - i) an induction loop, it must be provided to not less than 80% of the floor area of the room or space served by the inbuilt amplification system; or
 - ii) a system requiring the use of receivers or the like, it must be available to not less than 95% of the floor area of the room or space served by the inbuilt amplification system, and the number of receivers provided must not be less than —
...(See NCC for details)
- (c) The number of persons accommodated in the room or space served by an inbuilt amplification system must be calculated according to D1.13
- (d) Any screen or scoreboard associated with a Class 9b building and capable of displaying public announcements must be capable of supplementing any public address system, other than a public address system used for emergency warning purposes only.

AS 1428.1 - 2009 Amdt 1

Design for access and mobility - General requirements for access - New building work may be downloaded [here](#).

AS 1428.1 - 2001

Design for access and mobility - General requirements for access - New building work
Download standard [here](#).

AS 1428.2-1992

Design for access and mobility Enhanced and additional requirements - Buildings and facilities. Download standard [here](#).

AS 1428.5 – 2010

Design for access and mobility - Communication for people who are deaf or hearing impaired. Download standard [here](#).

NCC Performance Solution

If you are looking at using an alternative to the Deemed To Satisfy requirements, this sets out the process to be followed.

NCC	Part A2	A2.0 Compliance
		A2.1 Compliance with the Performance Requirements
		A2.2 Performance Solution
		A2.3 Deemed-to-Satisfy Solutions
		A2.4 A combination of solutions

NCC may be downloaded at no charge from ncc.abcb.gov.au

FURTHER INFORMATION

If you have any questions, email Andrew Stewart: Managing Director of Hearing Connections at andrew@hearconnect.com.au

Other articles are available [here](#)
Sign up to receive our newsletter [here](#)

About the Author

Andrew Stewart is qualified in electronics and has been leading research into hearing augmentation systems for over 30 years – including designing, installing, testing and commissioning of Hearing Augmentation Systems. He and his team have conducted their own research of comparison methodologies of installing hearing loop systems and designed and constructed test equipment. He's been involved in installations at Sydney Opera House, First Class Qantas Club Singapore, art galleries, museums, theatres and many others.

Andrew was a key leader in the development of AS 1428.5 - 2010, the authoritative document on Hearing Augmentation in Australia. He is also a life member of Deafness Forum of Australia (the peak body for hearing impaired people in Australia) and continues to represent them, as he has on many committees for over 20 years. Andrew has been hearing impaired all his life, with a progressive loss, and now wears two cochlear implants. He has 9 other family members who wear hearing aids and/or cochlear implants.

Why choose Hearing Connections

Hearing Connections is built on experience of Andrew Stewart, who:

- Has been **wearing hearing aids** since age 7, and now wears two cochlear implants.
- Knows both sides of the story – the **lived experience**, and the **electronics qualifications**.
- Has been **specialising** in Hearing Augmentation Systems for over 33 years.
- Was **instrumental** in the writing of the definitive Australian Standard **AS 1428.5**.
- Has conducted **research and development** of Hearing Augmentation systems for improved outcomes.
- Has over **33 years of design, installation and commissioning** of Hearing Augmentation systems (loop systems, FM systems, sound field systems and public address systems) for a range of public access buildings, from small halls to significant buildings and venues, including Sydney Opera House and airports.
- **Lectures** in Hearing Augmentation for building professionals.
- Provides **training** in Hearing Augmentation for Access Consultants, Building certifiers and surveyors, and architects.
- Over 20 years of **advocating** for the needs of deaf and hearing impaired people.
- Is a **life member** of Deafness Forum of Australia.
- Has won **numerous awards** for service in advocating for the needs of deaf and hearing impaired people.

Legal

This document is not a legal interpretation of the NCC. It is the opinion of the principal of this company and is based on more than 30 years of experience with hearing augmentation. He himself is hearing impaired. The information provided is general advice only and does not take into account your building site objectives, building site design and or building materials used or other relevant factors and cannot be relied upon for your specific needs.

Therefore, Hearing Connections, its directors, agents and or employees do not accept any liability or responsibility arising in any way from the use of the information provided. The information should not be relied upon for accuracy or completeness. © Hearing Connections, 2020

