

**Information note to Subcommittee on Building
(Planning)(Amendment) Regulation 2008**

**Administration's response to matters arising from
the meeting of 16 June 2008**

***(a) Consider spelling out clearly the meaning of “conference halls”
and “auditorium”***

An expression used in a piece of legislation would need to be defined if the intention is to restrict or expand its ordinary meaning. It is the policy intention that the two expressions, “conference halls” and “auditorium”, be construed according to their respective ordinary meanings in the Building (Planning) (Amendment) Regulation. Therefore, it is in order not to define the two expressions in the Amendment Regulation.

In light of its ordinary meaning, the expression, "conference hall", in the Amendment Regulation would be interpreted to mean generally any hall/room for conferences or meetings. As for the expression "auditorium", it would be interpreted to mean generally a part of any premises where the audience sits.

***(b) Review the drafting of the proposed section 4 of the Third Schedule
to the Building (Planning) Regulations***

We have reviewed the drafting of section 4(1) and section 4(2) of the new Third Schedule. The provisions reflect the policy intention and it is therefore considered not necessary to amend them.

Section 4(1) provides for the general rule for providing wheelchair spaces in premises to which Division 1 of Part 2 of the new Third Schedule applies. The general rule is that 2 wheelchair spaces shall be provided for every 400 fixed seats or any part thereof. It is also stated clearly in section 4(1) that this general rule is however subject to the provision in section 4(2) which requires that in any event not less than 4 wheelchair spaces shall be provided at spectator level in an auditorium.

To facilitate stakeholders to better understand the requirements, the requirements have already been elaborated with an illustrative example in *Design Manual Barrier Free Access 2008*. The Administration will consider providing further elaboration and/or illustrative examples in the Design Manual as appropriate.

(c) Background and rationale for introducing the obligatory requirements governing the provision of facilities to allow access to food premises by persons with a disability in 1997 as compared with those to premises with auditorium, hotels, carparks etc.

In 1984, the obligatory requirements for the provision of facilities to allow access for persons with a disability (PWDs) to certain categories of buildings were introduced under the Buildings Ordinance for the first time. The requirements applied to all new commercial and factory buildings. Domestic buildings were exempted and the requirements were applied to other types of buildings to a limited extent depending upon the extent to which they might be expected to cater for the PWDs. Amongst the categories of buildings where limited facilities were required to be provided are places of public entertainment (PPE) such as cinema, and hotels. Also, only limited carparking facilities for PWDs were required to be provided.

After more than a decade, in the light of the advancement in building technology, improvement in the quality of life of the general public and growing awareness of the community towards the needs of PWDs, a revised Design Manual : Barrier Free Access 1997 was issued. The obligatory requirements were amended to introduce new design requirements in a number of areas. PPE and hotels remained in the category of buildings where limited facilities for PWDs are to be provided (Part II of the Third Schedule of the Building (Planning) Regulations). Also, only limited carparking facilities are required to be provided for PWDs.

The intention of only requiring limited facilities in certain categories of buildings, which are also the practices of many overseas countries, is clear in these legislative amendment exercises in 1984 and 1997.

Premises with Auditorium, such as cinema

A fundamental functional requirement of these premises is that the audience should be able to see the stage/performance/speaker from their seats without obstruction. In order to meet this functional requirement, the floor of the auditorium would usually not be leveled but be designed in tiers. In addition, it is common that fixed seating is provided.

It is plain that total accessibility by PWDs on wheelchairs in an auditorium with fixed seating are not compatible with the provision of fixed seating itself and the functional requirement of tiered design. Hence where fixed seating is provided in an auditorium, accessible wheelchair spaces shall be provided in accordance with section 4 of the new Third Schedule. Where no fixed seating is provided, section 4 of the Schedule does not apply.

Hotels

For a guestroom requiring all sleeping, bathing and sanitary facilities inside the room to be accessible, special design and layout of the room are required and additional accessories other than those normally provided in a guest room would need to be provided. These are additional requirements over and above the basic design requirements of a typical guestroom in a hotel.

Carparks

For carparks, according to the Hong Kong Planning Standards and Guidelines, the recommended dimensions of a standard parking space for private vehicle is 5m long by 2.5m wide. For a parking space accessible to PWDs, an additional space has to be provided to cater for the getting on/off of the car by PWDs.

A number of such specially designed parking spaces are therefore required to be provided in car parks in order to ensure reasonable access to the car park by PWDs. Again such requirements are requirements over and above the basic requirements for a normal car-park.

In the proposed Amendment Regulation, the number of parking spaces for PWDs has increased and detailed requirements on dimensions and signage specified. The intention is to enhance the provisions for PWDs.

Food Premises

Food premises are regarded as non-domestic use which are treated in the same manner as any other types of retail businesses such as shops, department stores etc.

The provision of raised platforms in the seating areas of food premises is not a basic functional design requirement but only a choice of design of the restaurant operator. It is, therefore, not unreasonable for the freedom of choice for permanent raised platforms to go with the requirement for the provision of barrier free access to the raised platforms.

Conclusion

The requirements for barrier free access to buildings are specified on the basic principle that such access as is reasonable in the circumstances to the building or premises is provided for PWDs. The requirements for limited provisions only in some types of buildings/premises are the result of a reasonable balance of the accessibility by PWDs and the special circumstances of the buildings/premises including special functional and design requirements.