

# 立法會 *Legislative Council*

LC Paper No. CB(2)2084/07-08(02)

Ref : CB2/SS/7/07

## **Building (Planning) (Amendment) Regulation 2008**

### **Background brief prepared by the Legislative Council Secretariat Review of the Design Manual : Barrier Free Access 1997**

#### **Purpose**

This paper summarises the past discussions of the Panel on Welfare Services on the proposal to review and enhance the design requirements governing the provision of facilities to allow access to and the use of building and their facilities by person with disabilities (PWDs) set out in the Design Manual: Barrier Free Access 1997 (DM97).

#### **Background**

2. Under section 84 of the Disability Discrimination Ordinance (Cap. 487), newly constructed or substantially altered private buildings are required by the Building (Planning) Regulations and related legislation under the Buildings Ordinance (Cap. 123) to provide access and facilities for PWDs. The obligatory and recommended design requirements for provision of the access and facilities are set out in DM97. All newly constructed government buildings should also comply with the design requirements stipulated in DM97.

3. In the 2001 Policy Address, the Government proposed the conduct of a review of DM97 with a view to enhancing the design requirements taking into account changes in building technology and expectation of the community. The design requirements would also be enhanced to ensure the health and safety of the elderly.

4. The Administration commissioned a consultancy study to review DM97, and issued the draft of the revised DM97 (draft revised DM) in January 2006 for a six-month public consultation. The Administration would finalize the draft revised DM taking into account views received in the consultation, and would introduce necessary legislative amendments to the relevant building regulations.

## **Deliberations of the Panel**

### Relevant meetings

5. The Panel on Welfare Services held two meetings on 9 January and 12 June 2006 to discuss the draft revised DM. The Panel held another meeting on 13 November 2006 to discuss the outcome of the six-month public consultation and the Administration's initial responses to the comments received. In response to members' comments made at the meeting on 13 November 2006, the Administration briefed the Panel on 12 March 2007 on the proposed further revisions to the Manual. The Panel also received views from deputations at these meetings to which members of the Panel on Development (former Panel on Planning, Lands and Works) were also invited to attend.

### Draft revised DM proposed by the consultant

#### *Enhancement of the design requirements in DM97*

6. At the Panel meeting on 9 January 2006, members were briefed on the following key areas of enhancement of the current design requirements in DM97 as put forward for public consultation –

- (a) introduction of new requirements on the provision of access to backstage facilities of auditoriums, tactile warning strips and Braille/tactile maps;
- (b) addition of detailed requirements on the number, size and signage of parking spaces for PWDs, and enhanced requirements on the provision of tactile guide path for different types of building;
- (c) requirement for surfaces of floor and ramp to be slip-resistant and with luminous contrast between wall and floor;
- (d) revision of door design in terms of width and closing devices;
- (e) improvement of directional signage to guide PWDs in way-finding;
- (f) specification of minimum illumination levels for corridor, stairs and lift lobby for visually impaired persons;
- (g) incorporation of more detailed requirements for audible and visual fire alarm and emergency call bell in disabled toilets, and the provision of assistive listening systems for the hearing impaired; and

(h) incorporation of recommended design guidelines for elderly-friendly built environment.

*Issues raised by members*

7. Some members held the view that the obligatory design requirements set out in DM97 were the minimum standards which building owners must comply with. To implement fully the Government's policy to develop a barrier-free physical environment for PWDs to live independently and participate actively in the community, the Administration should make the recommended design requirements in DM97 obligatory.

8. Some members considered that the Administration should not exempt owners of pre-1997 private buildings from complying with the design requirements set out in DM97 and the draft revised DM. They also urged the Administration to speed up the work of improving the access and facilities of government buildings and public rental housing in accordance with the standards of DM97 pending the completion of the review of DM97.

9. Noting that under the draft revised DM, ground floor entrances and lifts were required to have a minimum illumination level of 120 lux and 45 lux for corridors, accessible paths and stairs, some members cautioned that the Administration should strike a balance in meeting the needs of PWDs and conserving energy given that the prevailing minimum illumination level in these areas was about 20 lux.

10. To provide incentive for property developers to comply with the design requirements, a member suggested that the areas set aside for providing barrier-free access and appropriate facilities for PWDs should be excluded from the calculation of plot ratio of the buildings concerned.

11. In response to members, the Administration advised that obligatory design requirements must be complied with, unless building owners could prove that any of these requirements would impose unjustified hardship on them. On the other hand, the recommended design requirements were for the reference of building owners and professionals who intended to provide access and/or special facilities for use by PWDs, the elderly and people with other forms of physical infirmities or limitations, such as pregnant women and families with young children. The recommended design requirements had not been made obligatory because there was a need to strike a right balance between meeting the special needs of PWDs, the elderly and people with other forms of physical infirmities or limitations, and the affordability of developers and building owners.

12. In considering whether it should be made mandatory for about 34 000 pre-1997 buildings to provide access and facilities for PWDs in compliance with

the standards of DM97, the Administration advised that it had to take into account a number of factors, including the needs of PWDs, technical feasibility, and the impact on the general public. All buildings which had undergone major alteration after 1997 were required to provide access and facilities in compliance with the standards of DM97.

### Outcome of the public consultation

#### *Further revised DM*

13. Upon completion of the public consultation, the Administration briefed the Panel at the meeting on 13 November 2006 its initial responses to the major views and comments received. The Administration proposed to further amend the draft revised DM in the light of these comments. The major features are summarized below –

- (a) exemptions and application would be specified in the manual for clarity and consistent application;
- (b) large shopping complexes would be provided with tactile guide paths, and the requirement for tactile guide paths leading to escalators would be deleted. The requirement in the draft revised DM for the provision of tactile guide paths to cinemas would be retained;
- (c) luminous contrast would be introduced as a recommended design requirement, and guidelines on the measurement of luminous contrast would be provided. Consideration would be given to specifying the mandatory standard in the next review;
- (d) the introduction of a standard on slip resistance would be deferred;
- (e) to strike a balance between the needs of visually impaired persons and energy conservation, no further revision would be made to the illumination level proposed in the draft revised DM (i.e. 45 lux for corridors, accessible paths and staircases, 85 lux for lift lobbies of upper floors and 120 lux for ground floor entrance lobbies and lifts);
- (f) the installation of sensor-operated lighting systems in the common areas of buildings with a view to conserving energy was technically feasible, and the proposal would be further studied; and
- (g) the provision of unisex toilets for PWDs would be made mandatory. The internal clear space would be enlarged to a size of 1 500 mm x 1 500 mm if the toilet was not fitted with an automatic door.

14. The Administration advised that when a consensus on the further revised DM was reached amongst the various parties, it would proceed to amend the related regulatory mechanism and introduce the legislative proposal into the Legislative Council to implement the finalised DM.

*Members' views*

15. Deputations giving views to the Panel highlighted the difficulties encountered by PWDs in gaining access to buildings and facilities for PWDs. They strongly requested further improvements to the further revised DM, including raising the minimum illumination level in common areas, provision of tactile guide paths in buildings, enlarging the internal clear space inside toilets for PWDs, installation of proper signage leading to entrances accessible to PWDs and automatic doors at major entrances, taking enforcement actions against improper use of facilities for PWDs, and allowing PWDs to use passenger lifts.

16. Members expressed support for the deputations' views. They expressed dissatisfaction at the slow progress of the consultancy study which had taken over five years and the Administration's reluctance to accede to the requests of the Panel and deputations for further improvements to the Manual.

*Motion passed by the Panel*

17. At the meeting on 13 November 2006, Dr Hon Fernando CHEUNG moved the following motion urging the Administration to include further improvement measures in the finalized DM and expedite its implementation –

"That, with regard to the review of DM97, this Panel requests the Government to include the following improvement measures:

- (a) the provision of tactile guide paths should not be limited to 'large shopping complexes'; instead, they should be extended to all shopping complexes and such paths should also lead to escalators where audible devices are compulsorily installed;
- (b) the minimum illumination level for 'corridors, accessible paths and staircases' of the buildings should be 85 lux;
- (c) the 'entrance which is commonly used by the public' of the building concerned must satisfy the requirement that it is suitable for use by PWDs; the lift available for PWDs must be a passenger lift, not a goods lift;

- (d) the clear space in toilets for PWDs should be up to 1 500 mm x 1 500 mm and there should at least be one unisex toilet for PWDs on each floor of the building concerned; and
- (e) automatic doors should be installed at the main entrance(s) and exit(s) of the building concerned."

Seven members present at the meeting voted for the motion and Hon Tommy CHEUNG abstained from voting. No member voted against the motion.

*The Administration's response to the motion*

18. On 12 March 2007, the Panel was briefed the Administration's responses to the motion. Members were advised that the Administration had considered the feasibility of the proposed improvement measures, and had conducted a series of consultation with the Steering Committee responsible for the review. The Committee comprised representatives from the consultant, PWDs, the building industry and relevant government departments. The Administration's responses were –

- (a) it agreed to the Panel's suggestion that all new shopping complexes would be required to provide tactile guide paths leading from the main entrance to the accessible lift, the nearest accessible toilet and information counter. However, the tactile guide paths should not lead to escalators, as the use of escalators by visually impaired persons involved a certain degree of risks. Concerning the proposed installation of audible devices for all escalators to help visually impaired persons identify the location as well as the direction (i.e. "going-up" or "going-down") of the escalators, the Administration considered that there could be practical difficulties in providing audible devices for a pair (side by side) escalators going in different directions because it was hard for visually impaired persons to distinguish between "going-up" or "going-down" of escalators simply with the aid of different audible signals produced simultaneously by a pair of escalators;
- (b) the minimum illumination level for "corridors, accessible paths and staircases" of the buildings should be 85 lux during the period of normal use or occupation, having regard to the need to strike a balance for the needs of visually impaired persons and the need for energy conservation;

- (c) it had made clear in the Manual that the accessible entrance should be one which was commonly used by the public and PWDs, and the lift available for PWDs must be a passenger lift;
- (d) to facilitate the use of toilets by PWDs using bigger wheelchairs (e.g. electric-wheelchairs), the Administration agreed with the Panel's suggestion that the clear space for accessible toilets should not be less than 1 500 mm x 1 500 mm measured at 350 mm above the finished floor level; and
- (e) the mandatory provision of an automatic door at one of the main entrances commonly used by the public would be applicable only to office buildings, shopping complexes, hospitals, hostels and stadia, as well as public recreational cultural venues. Provision of automatic doors in domestic buildings would be made a recommended practice in the Manual.

19. Members expressed general support for the proposed improvement measures to the Manual. As regards the provision of tactile guide paths leading to escalators in shopping complexes, some members considered that it would be for individual visually impaired persons to choose whether to use the escalators. They suggested that instead of discouraging PWDs from using the escalators, the Administration should introduce measures to improve the safety of escalators.

20. Hon Tommy CHEUNG considered that due regard should be given to the physical constraints in small food premises when implementing the revised DM. He urged the Administration to conduct more consultation with the parties concerned in the implementation of new design requirements.

21. The Administration advised that it would strike a proper balance between the needs of PWDs and the interest of parties concerned when implementing the revised DM. The Administration would consider whether further revisions to the revised DM were necessary taking into account the suggestions made by members and deputations.

22. Some members considered that to provide a barrier-free environment for PWDs and to set a good example for property developers, the Government should ensure that the access and facilities of all new Government buildings would meet the standards stipulated in the Best Practice Section of the Manual. Members also urged the Administration to expedite the improvement programmes on the access and facilities of pre-1997 buildings.

23. Given that the review of DM had taken over five years, members strongly urged the Administration to expedite the introduction of the legislative amendments

and to hold briefing sessions on the finalized revised DM to explain the proposed requirements to PWDs groups and parties concerned. At the request of the Panel, the Administration provided the finalized version of the revised Manual for members' reference on 30 November 2007, which was issued to members vide LC Paper No. CB(2)496/07-08. According to the Administration, the finalized version had incorporated all the views received during the public consultation and agreed with groups of PWDs and the Panel. The Buildings Department had also consulted the Building Subcommittee under the Land and Building Advisory Committee and Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers Committee, and incorporated their suggestions as appropriate.

### **Relevant papers**

24. Members are invited to access the LegCo website at <http://www.legco.gov.hk> to view the Administration's papers for the meetings of the Panel on Welfare Services on 9 January, 12 June and 13 November 2006 and 12 March 2007, and the relevant minutes of meetings.

Council Business Division 2  
Legislative Council Secretariat  
29 May 2008