

**Administration's Response to Hon Tommy Cheung Yu Yan's
Proposed Resolution for Amendments to the
Building (Planning) (Amendment) Regulation 2008**

The Administration opposes the amendments proposed by the Hon Tommy Cheung to the Building (Planning) (Amendment) Regulation 2008.

The provision of ramps at all changes in level in non-domestic premises including restaurants and food courts is an existing requirement which has been in place since 1985. This is a key initiative seeking to facilitate persons with a disability (PWDs) to have equal opportunities for access to buildings and the facilities therein. The Amendment Regulation has maintained the existing provision and has not imposed any additional requirement in this respect.

The objective of the Amendment Regulation is to ***enhance*** the design requirements having regard to advancement in building technology, improvement in the quality of life of the general public and rising expectation of the community. The proposed relaxation as set out in the Hon Tommy Cheung's proposed resolution runs counter to the objective of the Amendment Regulation. It is also a ***major retrograde step*** against the overall direction in the development of a barrier-free physical environment for PWDs.

Indeed, the requirement in relation to the provision of ramps not only applies to food business, but is also generally applicable to other non-domestic premises such as shopping complexes, department stores, indoor markets, hospitals etc. as well as the common area of the domestic parts of a building. There is ***little justification*** in making a general relaxation in exempting food business from compliance with this long-standing statutory requirement.

As with the existing control mechanism, the Amendment Regulation will only be applicable to new buildings and alterations or additions to existing buildings. Where unjustifiable hardship is demonstrated in individual cases, application can be made to the Building Authority (BA) for variation of requirements. An advisory committee, namely the Advisory Committee on Barrier Free Access comprising representatives of PWD groups, professional institutes and relevant Government departments and a member of the public has been established to advise the BA in this respect having regard to the merits of individual applications.

Given that an established and effective mechanism is already in place to allow for variation of requirement for cases with unjustifiable hardship, we see no justifiable grounds for making a general relaxation of the requirement for the food businesses.

Furthermore, the requirements set out in the Amendment Regulation have been arrived at after a comprehensive review since 2002 and extensive consultation with stakeholders. These include, amongst other things, a six-month public consultation between January and June 2006, consultation with the relevant advisory committees, briefings for stakeholders as well as consultation with the Legislative Council on Welfare Services (with invitation to Members of the Panel on Development for attendance) on four occasions during the 2005-2007 Legislative Council sessions. It is the Panel's view that legislative amendment should be made to implement the relevant requirements in the revised Design Manual as soon as possible. The proposed resolution will bring about major changes to the existing requirement in relation to provision of ramps. It is only fair if prior consultation is conducted with stakeholders on such a drastic variation in this principal requirement. Such a consultation has not taken place.

As regards the proposed provision of a removable ramp as a substitute, we cannot see why a permanent ramp cannot be provided if a removable ramp can physically be provided on site. The concern of PWDs is that, if the removable ramp is intended to be provided only as and when required and that the space so vacated is used for other purposes, such as seating area, the intended purpose for provision of ramps to facilitate barrier free access by wheelchair and other users in need will be defeated.

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