

CHAPTER 1

FOREWORD

- 1.1 This Design Manual is an updated version of the "Design Manual : Access for the Disabled 1984".
- 1.2 Since 1984, there have been changes in the building technology, the quality of life of the general public and the attitudes of the community towards persons with a disability. The current exercise is carried out to ensure that the requirements for providing proper access and facilities for persons with a disability reflect all these changes. As in the case of the 1984 exercise, the publication of this Manual rests on the belief that persons with a disability should have the same rights as any other individuals - the rights to medical and rehabilitative services, education, housing, employment, transport, cultural, sports and leisure activities which will hasten the process of his or her social integration or reintegration (U.N. Declaration on Rights of Disabled Persons, December 1975).
- 1.3 The "barrier-free" design requirements included in this Manual will help considerably towards greater independence of not only persons with a disability, but also the elderly, pregnant women, and indeed a broad spectrum of the community. (This is the reason why we have changed the title of this Manual to "Design Manual : Barrier Free Access"). Of course, this Manual should never be seen as a limit to the creativity and forethought of the architects, and our care of the well being of the persons with a disability. We believe facilities of a reasonable standard, whether included in this Manual or not, should always be provided for the use of persons with a disability, whenever practicable.
- 1.4 The Disability Discrimination Ordinance was enacted in August 1995. It prohibits, among other things, discrimination against persons with a disability by failing to provide means of access to any premises that the public or a section of the public is entitled or allowed to enter or use, or by refusing to provide appropriate facilities. However, there is no discrimination in relation to the provision of access to premises if the premises are so designed or constructed as to be inaccessible to persons with a disability and any alteration to the premises to provide such access would impose unjustifiable hardship on the person who would have to provide it. A person who believes he or she has been discriminated against in relation to access to premises or the provision of facilities may lodge a complaint with the Equal Opportunities Commission or may institute legal proceedings in the court. We believe the Equal Opportunities Commission may refer to this Manual as it sees fit in considering whether it is reasonable to require the provision of such access or facilities.

1.5 For a new building or for the alterations or additions to an existing building, section 84 of the Disability Discrimination Ordinance stipulates that -

“84. Building approvals

(1) Notwithstanding any provision in any other Ordinance (whether enacted before or after the commencement of this Ordinance) but subject to subsection (3), a public authority which has the power to approve building works shall not, in respect of those works, approve building plans, whether for a new building or for the alterations or additions to an existing building unless the person seeking approval satisfies the public authority that such access as is reasonable in the circumstances to the building or premises will be provided for persons with a disability.

(2) In considering whether reasonable access will be provided under subsection (1), the public authority may take into account -

- (a) whether it is practicable to provide such access within the curtilage of the building, bearing in mind the physical location and immediate environs of the building; and
- (b) whether providing such access would impose unjustifiable hardship on the person seeking approval or on any other person.

(3) Subsection (1) has no application to -

- (a) buildings of 13 m or less in height above ground level which are used, or intended to be used, for occupation by a single family; or
- (b) temporary buildings or contractor’s sheds referred to in Part VII of the Building (Planning) Regulations (Cap. 123 sub. leg.).

(4) In this section, “public authority” (公共主管當局) includes -

- (a) the Director of Lands;
- (b) the Building Authority;
- (c) the Housing Authority;
- (d) the Director of Architectural Services.”

1.6 This Manual will apply to newly constructed or substantially altered private buildings. Relevant Government authorities and departments will also refer to it in the design and construction of government and public buildings.