

**Buildings to be Planned for Use by Persons with a Disability
Regulation 72 of Building (Planning) Regulations
Design Manual: Barrier Free Access 2008**

Pursuant to section 84 of the Disability Discrimination Ordinance (Cap 487), the Building Authority (BA), as a public authority which has the power to approve building works shall not, in respect of those works, approve plans, whether for a new building or for the alterations or additions to an existing building unless the person seeking approval satisfies the BA that such access as is reasonable in the circumstances to the building or premises will be provided for persons with a disability. The Building (Planning) Regulations (B(P)R) also require certain categories of buildings to be planned for use by persons with a disability. Access and facilities for persons with a disability (collectively referred to as “barrier free access”) shall be incorporated in a building at the design stage of the project, to comply with the legislation.

Relevant Building Regulations

2. The regulations stipulating requirements for buildings to be planned for use by persons with a disability include regulation 8(1)(m) of the Building (Administration) Regulations (B(A)R), regulations 2(1), 39(3)(e) and 72 and the Third Schedule of the B(P)R and regulation 61(3) of the Building (Standards of Sanitary Fittings, Plumbing, Drainage Works and Latrines) Regulations.

3. Regulation 72 of the B(P)R and the Third Schedule thereto set out the statutory requirements for barrier free access in private buildings. The B(P)R are supplemented by the Design Manual: Barrier Free Access 2008 (Design Manual 2008) which has incorporated the statutory design requirements as well as recommendations for best practice to improve the barrier free access.

4. Part 4 of the Third Schedule to the B(P)R identifies those categories of buildings (including domestic, non-domestic and composite buildings) where limited barrier free access are to be provided under regulation 72 of the B(P)R. Save for those buildings which are exempted under regulation 72(4) of the B(P)R, all other buildings not included in Part 4 of the Third Schedule are required to comply fully with the regulations.

Exemption from or Modification of Regulation 72 of B(P)R

5. In an application for approval of plans for a new building or for the alterations or additions to an existing building, barrier free access should be clearly shown on the submitted plans in accordance with regulation 8(1)(m) of the B(A)R.

6. There are occasions where proposals for building development cannot meet the full requirements for barrier free access stipulated in the regulations. Exemption from or modification of the regulations will be considered by the BA on individual merits of each case. The BA is prepared to consider applications to vary the requirements provided that the BA is satisfied that special circumstances exist. Examples of special circumstances include the physical location and immediate environs of a development site render compliance with the legislation impracticable or where such provisions would impose unjustifiable hardship on the applicant or any other person. The circumstances under which the BA may consider such applications are outlined in Appendix A.

Alteration and Addition Submissions

7. Where alteration and addition works are proposed to an existing building without initial access for persons with a disability, all practical measures should be taken to provide suitable barrier free access. Applications for exemption citing the prevailing special circumstances would be considered on a case by case basis.

Advisory Committee on Barrier Free Access

8. In considering applications for exemption from or modification of the regulations, the BA has established an advisory committee namely Advisory Committee on Barrier Free Access (ACBFA) to provide a forum for the deliberation and discussion of the proposals. The BA will take into account the advice given by the ACBFA in making decisions on the applications. The terms of reference and membership of the ACBFA are at Appendix B.

Amendments to Design Manual 2008

9. The Buildings Department (BD) has set up a technical committee (TC) to, among others, collect and consider the views and feedback from the building sector, rehabilitation sector and relevant stakeholder organisations arising from their practical experience in the use of the Design Manual 2008. On the advice of the TC, the following amendments to the Design Manual 2008 have been promulgated:

- (a) Appendix C – November 2012,
- (b) Appendix D – September 2015, and
- (c) Appendix E – April 2017 (applicable to all new building plans or major revision of building plans for development proposals or alteration and addition works submitted to the BA for approval on or after 10 May 2017).

More Accessible Built Environment

10. The Design Manual 2008 has already provided certain design guidelines for the elderly to enhance their health and safety and to facilitate their movement within buildings, particularly for elderly with infirmities in vision, hearing or locomotion. These guidelines and design requirements will also benefit people with other forms of physical infirmities or limitations such as pregnant women and families with young children. Authorized persons are therefore encouraged to recommend to their clients to incorporate these facilities in their developments.

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Ref. : BD GP/BREG/P/25(X)

This PNAP is previously known as PNAP 112

First issue April 1985

Last revision September 2015

This revision April 2017 (AD/NB1) (paragraph 9 and Appendix C amended and Appendices D and E added)