

**立法會**  
**Legislative Council**

LC Paper No. CB(2)116/08-09  
(These minutes have been seen  
by the Administration and cleared  
with the Chairman)

Ref : CB2/BC/2/06

**Bills Committee on  
Race Discrimination Bill**

**Minutes of meeting  
held on Friday, 23 May 2008, at 8:30 am  
in Conference Room A of the Legislative Council Building**

**Members present** : Hon Margaret NG (Chairman)  
Hon Abraham SHEK Lai-him, SBS, JP (Deputy Chairman)  
Dr Hon LUI Ming-wah, SBS, JP  
Hon James TO Kun-sun  
Hon CHEUNG Man-kwong  
Hon CHAN Yuen-han, SBS, JP  
Hon Bernard CHAN, GBS, JP  
Hon Jasper TSANG Yok-sing, GBS, JP  
Dr Hon YEUNG Sum, JP  
Hon CHOY So-yuk, JP  
Hon LI Fung-ying, BBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon Daniel LAM Wai-keung, SBS, JP  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon Mrs Anson CHAN, GBM, JP

**Members absent** : Hon LEE Cheuk-yan  
Hon Martin LEE Chu-ming, SC, JP  
Hon Howard YOUNG, SBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon Albert CHAN Wai-yip  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon WONG Ting-kwong, BBS  
Hon Ronny TONG Ka-wah, SC  
Hon TAM Heung-man

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- Public Officers attending** : Constitutional and Mainland Affairs Bureau
- Mr Arthur HO  
Deputy Secretary for Constitutional and Mainland Affairs (1)
- Mr Victor NG  
Principal Assistant Secretary for Constitutional and Mainland Affairs (5)
- Mr Stanley NG  
Assistant Secretary for Constitutional and Mainland Affairs (5)A
- Department of Justice
- Miss Betty CHEUNG  
Senior Government Counsel
- Miss Shandy LIU  
Senior Government Counsel
- Attendance by invitation** : Equal Opportunities Commission
- Mr Herman POON Lik-hang  
Chief Legal Counsel
- Clerk in attendance** : Miss Flora TAI  
Chief Council Secretary (2)2
- Staff in attendance** : Mr KAU Kin-wah  
Assistant Legal Adviser 6
- Ms Joanne MAK  
Senior Council Secretary (2)2

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**I. Meeting with the Administration and Equal Opportunities Commission**

LC Paper No. -- Submission from Equal  
CB(2)1900/07-08(01) Opportunities Commission (EOC)  
on "Equality Plan"

Action

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|----------------------------------|--------|--|
| LC Paper No. CB(2)1600/07-08(05) | No. -- | Submission from EOC  |
| LC Paper No. CB(3)176/06-07      | --     | The Bill   |
| LC Paper No. CB(2)1030/07-08(01) | No. -- | Summary of views received from deputations/individuals on specific clauses of the Bill (as at 6 February 2008) prepared by the Legislative Council Secretariat |

Discussion on the concept of mainstreaming racial equality through equality plans

The Bills Committee received a briefing by the Chief Legal Counsel of EOC on the concept of mainstreaming racial equality through equality plans as detailed in its submissions. The Bills Committee agreed that representatives of Hong Kong Human Rights Monitor and Hong Kong Unison be invited to give views on the proposal of introducing a Race Equality Scheme (index of proceedings at **Annex**).

*(Post-meeting note: the joint submission from Hong Kong Human Rights Monitor and Hong Kong Unison tabled at the meeting was issued vide LC Paper No. CB(2)2108/07-08.)*

2. After deliberation of the merits of the proposed Race Equality Scheme, the Bills Committee requested -

Admin (a) the Administration to provide its views before the meeting scheduled for 3 June 2008 on the proposal to impose a statutory duty on the Government and public authorities under the Bill to draw up equality plans and the difficulties envisaged if the plans were to be drawn up; and

ALA6 (b) the legal adviser to the Bills Committee to prepare a discussion draft of the proposed Committee Stage amendments (CSAs) for imposing such a statutory duty for members' consideration.

3. Members agreed that the Chairman should write to the Secretary for Constitutional and Mainland Affairs (SCMA) to invite him to attend the meeting scheduled for 3 June 2008 to join the discussion on the statutory duty to draw up equality plans.

*(Post-meeting note: the Chairman's letter dated 26 May 2008 to SCMA was issued vide LC Paper No. CB(2)2133/07-08.)*

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Clause-by-clause examination of the Bill

4. The Bills Committee completed scrutiny of Clauses 56 and 57 of the Bill (index of proceedings at **Annex**).

Clerk

5. To facilitate members' scrutiny of provisions of the Bill relating to EOC, the Chief Legal Counsel of EOC was requested to provide the following information -

- (a) whether there was any substantive difference between the provisions in Parts 7 and 8 of the Bill and the relevant provisions under the three existing anti-discrimination ordinances;
- (b) any observations on the application of the provisions under Parts 7 and 8 of the Bill to matters relating to racial discrimination on the assumption that there was no difference between these provisions and those under the existing anti-discrimination ordinances;
- (c) problems encountered, if any, in the operation of the relevant provisions of these anti-discrimination ordinances and possible ways to address those problems;
- (d) whether EOC had the same power when conducting an investigation upon receipt of a complaint as conducting a formal investigation under the relevant provisions;
- (e) whether EOC was still bound to endeavour, by conciliation, to effect a settlement of the matter to which the complaint related, when the complainant had already commenced proceedings against the complainee before lodging a complaint to EOC; and
- (f) the criteria according to which EOC decided whether or not it would provide assistance to the complainant and the type of assistance to be provided.

Admin

6. The Administration was requested to -

- (a) provide response to concern about Clause 56 which expressly exempted any acts done for the purpose of complying with an existing statutory requirement from being rendered unlawful;
- (b) consider whether the relevant provisions should be amended to the effect that the "requirement" in Clause 56 would not be restricted to requirements of existing statutory provisions only, but should include future legislation; and

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- (c) explain the need for the exemption provided under Clause 57 as the rights of inhabitants in the New Territories were already protected by Article 40 of the Basic Law and to provide justification for the exemption under Clause 57(a)(ii).

Date of next meeting

7. Members noted that the next meeting would be held on Monday, 26 May 2008, at 8:30 am.
8. There being no other business, the meeting ended at 10:30 am.

Council Business Division 2  
Legislative Council Secretariat  
22 October 2008

**Proceedings of the meeting of Bills Committee on  
Race Discrimination Bill  
on Friday, 23 May 2008, at 8:30 am  
in Conference Room A of the Legislative Council Building**

| Time marker     | Speaker  | Subject   | Action required   |
|-----------------|--|---|---|
| 000000 - 001136 | Chairman   | Opening remarks   |   |
| 001137 - 002352 | Chief Legal Counsel/Equal Opportunities Commission (EOC) Chairman  | Briefing by Chief Legal Counsel of EOC on the concept of mainstreaming racial equality through equality plans as detailed in its submissions.<br>[LC Paper No. CB(2)1900/07-08(01) and CB(2)1600/07-08(05)]   |   |
| 002353 - 004117 | Chairman<br>Hong Kong Human Rights Monitor<br>Hong Kong Unison Admin<br>Dr YEUNG Sum                         | Presentation of views by representatives of Hong Kong Human Rights Monitor and Hong Kong Unison on the proposed Race Equality Scheme<br>[LC Paper No. CB(2)2108/07-08(01)]  | <b>Admin to provide its views on the proposal to impose a statutory duty on the Government and public authorities to draw up equality plans</b><br>(para. 2(a) of minutes)                      |
| 004118 - 010431 | Mr Jeffrey LAM<br>Chairman<br>Admin<br>Hong Kong Human Rights Monitor<br>Hong Kong Unison<br>Dr LUI Ming-wah | Concern about the delay that might be caused to the enactment of the Bill if the ambit of the Bill was to be expanded to impose a statutory duty to draw up equality plans.   |   |
| 010432 - 012554 | Miss CHAN Yuen-han<br>Chairman<br>Admin<br>Mrs Anson CHAN<br>Mr CHEUNG Man-kwong<br>Dr YEUNG Sum             | Expression of support for imposing a statutory duty on the Government and public authorities to draw up equality plans under the Bill as it was consistent with the policy intent of the Bill.  |   |
| 012555 - 014207 | Chairman<br>Chief Legal Counsel/ EOC<br>ALA6<br>Dr YEUNG Sum<br>Mrs Anson CHAN<br>Miss CHAN Yuen-han         | Explanation by Chief Legal Counsel of EOC on the Race Relations (Amendment) Act 2000 in the United Kingdom which sought to impose a duty on specified public authorities when carrying out their functions to have due regard to the need to eliminate unlawful racial discrimination and to promote racial equality and good race relations. | <b>ALA6 to prepare a discussion draft of the proposed Committee Stage amendments for imposing a statutory duty on the Government and relevant public authorities</b><br>(para. 2(b) of minutes) |

| Time marker     | Speaker   | Subject   | Action required  |
|-----------------|---|---|--|
|                 |   | Members' agreement that the Chairman should write to the Secretary for Constitutional and Mainland Affairs to invite him to attend the meeting scheduled for 3 June 2008 to join the discussion on the proposed statutory duty to draw up equality plans. | <b>EOC was requested to provide information to facilitate members' scrutiny of provisions relating to EOC under the Bill</b><br>(para. 5 of minutes) |
| 014208 - 015723 | Chairman<br>Admin<br>ALA6<br>Miss CHAN Yuen-han | <b>Clause-by-clause examination of the Bill</b><br><br><u>Clause 56</u><br><br>Concern about Clause 56 which expressly exempted any acts done for the purpose of complying with an existing statutory requirement from being rendered unlawful.           | <b>Admin to respond to concerns raised by members about Clause 56</b><br>(para. 6(a) and (b) of minutes)   |
| 015724- 020221  | Admin<br>ALA6<br>Chairman<br>Dr YEUNG Sum       | <u>Clause 57</u><br><br>Concern about whether the exemption under Clause 57 would widen the rights of indigenous inhabitants in the New Territories, and justification for the exemption under Clause 57(a)(ii) should be provided.                       | <b>Admin to explain the need for the exemption under Clause 57</b><br>(para. 6(c) of minutes)  |
| 020222 - 020342 | Chairman  | Date of next meeting  |  |