

立法會
Legislative Council

LC Paper No. CB(2)118/08-09
(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, 6 June 2008, at 9:00 am
in the Chamber of the Legislative Council Building**

Members present : Hon Margaret NG (Chairman)
Hon Abraham SHEK Lai-him, SBS, JP (Deputy Chairman)
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Dr Hon LUI Ming-wah, SBS, JP
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, SBS, JP
Hon Bernard CHAN, GBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, 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 Jeffrey LAM Kin-fung, SBS, JP
Hon Alan LEONG Kah-kit, SC
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon TAM Heung-man

Members absent : Hon James TO Kun-sun
Hon Emily LAU Wai-hing, JP
Hon Albert CHAN Wai-yip
Hon Daniel LAM Wai-keung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon Mrs Anson CHAN, GBM, JP

Action

- 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
- Ms Anna CHEUNG
Legislative Assistant (2)2

I. Meeting with the Administration and Equal Opportunities Commission

Action

LC Paper No. CB(2)2175/07-08(01)	No. -- Paper provided by the Equal Opportunities Commission
LC Paper No. CB(3)176/06-07	-- The Bill
Appendix III to LC Paper No. CB(2)859/06-07	-- Marked-up copy of the relevant provisions of ordinances to be amended by the Bill
LC Paper No. CB(2)2152/07-08(01)	No. -- Administration's response to views received from deputations/ individuals on specific clauses of the Bill
LC Paper No. CB(2)2187/07-08(01)	No. Letter dated 5 June 2008 from Director of Legal Aid

The Bills Committee received a briefing by the Chief Legal Counsel of the Equal Opportunities Commission (EOC) on the paper provided by EOC [LC Paper No. CB(2)2175/07-08(01)] (index of proceedings at **Annex**).

Admin

2. The Administration was requested to -
- (a) consider moving Committee Stage amendments (CSAs) to Clauses 71(1)(b) and 81(3) as suggested in paragraph 34 of EOC's paper as well as corresponding amendments to other existing anti-discrimination ordinances;
 - (b) review the issue that Disability Discrimination Ordinance (DDO) and Family Status Discrimination Ordinance did not contain a provision similar to Clause 63 of the Bill;
 - (c) review the issue that Clause 71(6) was modeled on a similar provision in Sex Discrimination Ordinance but no equivalent provision was found in DDO;
 - (d) consider whether the reference to "Section 67(4)" in Clause 72(5) should be revised to read "Section 67(5)";
 - (e) provide justification for the proposed amendments under Clauses 89 and 94 for the Bills Committee to consider the implications of the proposed amendments; and
 - (f) move a CSA to Clause 93 to further expand the scope of sexual harassment as undertaken in the letter dated 30 May 2008 from the Secretary to Constitutional and Mainland Affairs to the

Action

Chairman.

EOC 3. At the suggestion of members, the Chief Legal Counsel of EOC agreed to -

(a) provide supplementary information on the actual operation of the existing mechanism covered by Clause 78; and

(b) convey to EOC for consideration Miss CHAN Yuen-han's suggestion that its functions of investigations and conciliation should be handled separately for the sake of maintaining its neutrality.

Clerk 4. Referring to the letter dated 5 June 2008 from the Director of Legal Aid, members requested the Clerk to ascertain further information as to whether those unsuccessful applicants had appealed against the decision of the Director of Legal Aid.

Clerk 5. The Bills Committee agreed that the following issues should be referred to the Panel on Constitutional Affairs for follow-up -

(a) the composition of EOC should be reviewed in the light of experience gained from implementation of the existing anti-discrimination ordinances, such as the need for appointing representatives from non-governmental organizations relating to equal opportunities issues; and

(b) the proposed establishment of the Equal Opportunities Tribunal as elaborated in paragraph 28 of the EOC's paper.

Date of next meeting

6. Members noted that the next meeting would be held on Wednesday, 11 June 2008, at 8:30 am.

7. There being no other business, the meeting ended at 10:45 am.

Council Business Division 2
Legislative Council Secretariat
22 October 2008

**Proceedings of the meeting of Bills Committee on
Race Discrimination Bill
on Friday, 6 June 2008, at 9:00 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000858	Chairman	Opening remarks	
000859 - 004113	Chief Legal Counsel / Equal Opportunities Commission (EOC) Chairman Admin Mr Howard YOUNG Mr Martin LEE	Briefing by the Chief Legal Counsel of EOC on the paper provided by EOC [LC Paper No. CB(2)2175/07-08(01)] <u>Parts 7, 8 and 9 of the Bill</u> Administration's initial response to the proposed minor amendments to Clauses 71(1)(b) and 81(3) and corresponding amendments to other existing anti-discrimination ordinances as set out in paragraph 34 of the EOC's paper.	Administration to consider amendments suggested by EOC in paragraph 34 of its paper (para. 2(a) of minutes)
004114 - 005001	Miss CHAN Yuen-han Chief Legal Counsel /EOC Chairman Mr Martin LEE	The view raised by the Law Society of Hong Kong that the dual role of EOC as investigator and conciliator might result in respondents feeling pressured to agree to settlements. Suggestion that EOC's functions of investigations and conciliation should be handled separately for the sake of neutrality of the EOC's role. Information about applications for legal aid under the three existing anti-discrimination ordinances and enquiry about the number of those unsuccessful applicants who had appealed against the decision of the Director of Legal Aid.	EOC to consider the suggestion that EOC's functions of investigations and conciliation should be handled separately. (para. 3(b) of minutes) Clerk to enquire with the Legal Aid Department (para. 4 of minutes)
005002 - 010130	Dr YEUNG Sum Chief Legal Counsel /EOC Chairman Miss CHAN Yuen-han Ms LI Fung-ying	Concern about the composition of EOC and suggestion that the matter should be followed up by relevant Panel in the next term. Suggestion of establishing the Equal Opportunities Tribunal as raised by EOC in its paper.	Clerk to refer the issues to the Panel on Constitutional Affairs for follow-up (para. 5 of minutes)

Time marker	Speaker	Subject	Action required
010131 - 011215	Chairman Chief Legal Counsel /EOC Dr YEUNG Sum	Clause-by-clause examination of the Bill <u>Part 7</u> Comments that the Disability Discrimination Ordinance (DDO) and Family Status Discrimination Ordinance (FSDO) did not contain a provision similar to Clause 63, and Clause 71(6), which was modeled on a similar provision in Sex Discrimination Ordinance, has no equivalent in DDO.	Admin to consider the need to amend DDO and FSDO (para. 2(b)-(c) of minutes)
011216 - 013540	Miss CHAN Yuen-han Chairman Chief Legal Counsel /EOC ALA6	<u>Part 8</u> Concern about whether the reference to "Section 67(4)" in Clause 72(5) should be revised to read "Section 67(5)". Enquiry about the actual operation of the existing mechanism covered by Clause 78.	Admin to consider the reference to "Section 67(4)" in Clause 72(5) (para. 2(d) of minutes) EOC to provide information on actual operation of the existing mechanism covered by Clause 78 (para. 3(a) of minutes)
013541 - 013702	Chairman Admin	<u>Part 9</u>	
013703 - 013925	Chairman Admin ALA6 Dr YEUNG Sum Miss CHAN Yuen-han	<u>Consequential and related amendments</u> [The Bill and Appendix III to LC Paper No. CB(2)859/06-07(01)] Concern about the impact of the proposed amendments under Clauses 89 and 94. Undertaking previously given by the Administration that it would move a CSA to Clause 93 to further expand the scope of sexual harassment.	Admin to provide justification for the proposed amendments under Clauses 89 and 94 (para. 2(e) of minutes) Admin to move a CSA to Clause 93 (para. 2(f) of minutes)
013926 - 014733	Chairman	Date of next meeting	