

**立法會**  
**Legislative Council**

LC Paper No. CB(2)120/08-09  
(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 Saturday, 14 June 2008, at 9:00 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)  
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 Emily LAU Wai-hing, JP  
Hon CHOY So-yuk, JP  
Hon Albert CHAN Wai-yip  
Hon Audrey EU Yuet-mee, SC, JP  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon WONG Ting-kwong, BBS  
Hon TAM Heung-man

**Members absent** : Hon James TO Kun-sun  
Hon LI Fung-ying, BBS, JP  
Hon Daniel LAM Wai-keung, SBS, JP  
Hon Alan LEONG Kah-kit, SC  
Hon Ronny TONG Ka-wah, SC  
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

**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

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**I. Meeting with the Administration**

The Bills Committee deliberated the following papers -

- (a) Administration's paper entitled "The Administration's proposals for Committee Stage amendments (CSAs)" [LC Paper No. CB(2)2251/07-08(01)];

Action

- (b) Discussion drafts of CSAs prepared by the legal adviser to the Bills Committee [LC Paper No. LS96/07-08];
- (c) Draft CSAs proposed by Dr YEUNG Sum [LC Paper No. CB(2)2251/07-08(02) and CB(2)2296/07-08(01)];
- (d) Administration's response to the outstanding general issues raised by members of the Bills Committee [LC Paper No. CB(2)2297/07-08(01)];
- (e) Administration's paper entitled "Administration's response to views received from deputations on vocational training and on interpretation services at hospitals" [LC Paper No. CB(2)2297/07-08(02)]; and
- (f) Administration's paper entitled "Administration's response to the outstanding general issues on education raised by members of the Bills Committee" [LC Paper No. CB(2)2308/07-08(01)].

(index of proceedings at **Annex**).

Draft CSAs to be proposed by the Administration

Admin

2. The Administration was requested to -

- (a) consider the suggestion of the legal adviser to the Bills Committee that, with regard to the definition of "near relative" in Clause 2, "such" should be added before "a child" at the end of paragraph (c) and before "a grandchild," in the first line of paragraph (f);
- (b) review in collaboration with the legal adviser to the Bills Committee the drafting of the proposed CSAs on the new definition of "sub-contractor" to enhance clarity;
- (c) consider whether the drafting of Clause 46 as amended by the CSA to be proposed by the Administration could reflect the policy intent regarding the offence of serious vilification; and
- (d) consult the Equal Opportunities Commission on the proposed CSA to Clause 81(3).

3. Members noted that in view of members' concerns about insufficient information including background, objectives and operation of the charities funds for the Bills Committee to assess the implications of the proposed amendments under Clauses 89 and 94 as well as the appropriateness to effect the proposed amendments in the form of related amendments as currently

Action

proposed, the Administration decided to delete these two clauses from the Bill. The Chairman stressed that the Bills Committee did not object to the proposal of expanding the provision of relevant services to people of non-Chinese race, but considered that any legislative proposal must reflect the relevant policy and this proposal had not been properly considered at the policy level. At the Bills Committee's request, the Administration agreed that the matter would be referred to the Home Affairs Bureau for consideration.

Admin

Admin

4. The Administration was also requested to consider that, during the resumption of the Second Reading debate on the Bill, the relevant policy secretaries should speak on the Administration's commitment to provide new resources and services for new arrivals from the Mainland, to enhance the interpretation services at public hospitals, to strengthen the vocational training services for ethnic minorities, and to enhance support to meet the educational needs of non-Chinese speaking students respectively.

Draft CSAs to be proposed by the Chairman on behalf of the Bills Committee

5. The Bills Committee agreed that the Chairman would move the following CSAs on its behalf -

- (a) adding a new section 9A under a new Part 2A stating that "It is unlawful for the Government to discriminate against a person on the ground of race of that person in the performance of its functions or the exercise of its powers.";
- (b) adding a new section 9B under new Part 2A imposing a general statutory duty of the Government to draw up a Race Equality Scheme;
- (c) amending Clause 4(1) to include the application of "a provision, criteria or practice";
- (d) deleting the reference to different treatment on the ground of permanent residency, right of abode and length of residence from Clause 8(3) and deleting the word "nationality" from Clause 8(3)(d);
- (e) reducing the duration of the transitional period provided for small employers with not more than five employees under Clause 10 to one year and excluding Clause 10(1) relating to employment from the application of the proposed transitional period;
- (f) deleting the proposed exemption for partnership with less than six partners; and

Action

- (g) excluding the provision of vocational training courses and provision of medical treatment within the meaning of section 2 of Medical Clinics Ordinance (Cap. 343) from the exemption provided for under Clause 58.

6. Members noted that, as the Bills Committee had agreed to the CSAs to be proposed by the Chairman, Dr YEUNG Sum would not move any CSAs on behalf of the Democratic Party.

ALA6

7. The legal adviser to the Bills Committee was requested to -

- (a) amend Clause 10(3) by substituting "subsections (1) and (2)" with "subsection (2)" and to delete Clause 10(10)(b); and
- (b) delete the proposed new Clauses 58(1D) and 58(1E).

8. Mr Howard YOUNG and Miss CHOY So-yuk indicated that the Liberal Party and the Democratic Alliance for the Betterment and Progress of Hong Kong did not support the proposed draft CSAs to be moved by the Bills Committee respectively. The Deputy Chairman also indicated that he did not support these CSAs.

Outstanding general issues raised by members of the Bills Committee

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9. The Administration was requested to provide information on the following outstanding issues -

- (a) whether the proposed administrative guidelines would be applicable to the Social Welfare Department and whether "community services" mentioned in the relevant paper [LC Paper No. CB(2)2219/07-08(01)] covered social security services;
- (b) details of the Hospital Authority's plan to enhance its provision of interpretation service at public hospitals, e.g. its recruitment plan of interpreters and allocation of resources for enhancing the interpretation service;
- (c) whether sufficient copies of service guidance could be made available at immigration control points for distribution to new arrivals from the Mainland; and
- (d) detailed information including a breakdown, by service items and costs, on the additional support services for new arrivals from the Mainland.

Action

Date of next meeting

Admin 10. Members noted that the next meeting was scheduled for Tuesday, 17 June 2008, at 10:45 am to consider all the Administration's responses to the outstanding issues raised by members. The Administration would also provide the full set of CSAs to be proposed by the Administration to the Bills Committee by the next meeting.

11. There being no other business, the meeting ended at 12:20 pm.

Council Business Division 2  
Legislative Council Secretariat  
22 October 2008

**Proceedings of the meeting of Bills Committee on  
Race Discrimination Bill  
on Saturday, 14 June 2008, at 9:00 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject	Action required
000000 - 000348	Chairman	<u>Briefing by the Administration on its paper entitled "Administration's proposals for Committee Stage amendments (CSAs)"</u> [LC Paper No. CB(2)2251/07-08(01)]	
000349 - 001138	Chairman Admin Dr YEUNG Sum Ms Emily LAU	Long Title	
001139 - 001218	Chairman Admin	Clauses 1(2), 64(3) and 84(1)	
001219 - 001501	Chairman Admin ALA6	Clause 2: Definition of club	
001502 - 001545	Chairman Admin	Clause 2: Definition of estate agent	
001546 - 001736	Chairman Admin ALA6	Clause 2 : Definition of near relative	<b>Admin to consider ALA6's suggestion from the drafting point of view.</b> (para. 2(a) of minutes)
001737 - 001815	Chairman Admin	Clause 3: Application to Government	
001816 - 001854	Chairman Admin	Clause 4(2)(b) and Clause 4(3) to 4(5): Definition of racial discrimination	
001855 - 002028	Chairman Admin ALA6 Dr YEUNG Sum	Clause 7(2): Racial harassment	
002029 - 002931	Chairman Admin ALA6 Dr YEUNG Sum Dr Fernando CHEUNG	Clause 15: Discrimination against contract workers	<b>Admin to review the drafting of the proposed new definition of "sub-contractor"</b> (para. 2(b) of minutes)

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action required</b>
002932 - 003649	Chairman Admin ALA6 Deputy Chairman	Clause 18: Exception for trade unions, etc.	
003650 - 003730	Chairman Admin	Clause 20(2)(b): Persons concerned with provision of vocational training	
003731 - 003755	Chairman Admin	Clause 26(2)(b): Discrimination by responsible bodies for educational establishment	
003756 - 003834	Chairman Admin	Clause 34(2): Discrimination in eligibility to stand for election, etc.	
003835 - 003900	Chairman Admin	Clause 44(1)(b): Pressure to discriminate	
003901 - 003935	Chairman Admin	Clause 45(2)(b): Vilification	
003936 - 005700	Chairman Admin ALA6 Dr YEUNG Sum Ms Emily LAU	Clause 46(1): Offence of serious vilification	<b>Admin to review the drafting of Clause 46</b> (para. 2(c) of minutes)
005701 - 005754	Chairman Admin	Clause 65: Power to conduct formal investigation	
005755 - 010332	Chairman Admin ALA6	Clause 71(1)(b): Claims in respect of discrimination, harassment and vilification	
010333 - 010402	Chairman Admin	Clause 72(5): Issue of enforcement notice	
010403 - 010727	Chairman Admin ALA6	Clause 81(3): Period within which proceedings to be brought	<b>Admin to confirm that the proposed CSA to this clause was agreeable to the Equal Opportunities Commission</b> (para. 2(d) of minutes)
010728 - 011407	Chairman Admin Dr YEUNG Sum Ms Emily LAU	Clause 89: Chinese Temples Ordinance  Clause 94: Chinese Permanent Cemeteries Ordinance	<b>Admin to refer the matter to the Home Affairs Bureau for consideration.</b> (paras. 3 and 4 of minutes)



Time marker	Speaker	Subject	Action required
011408 - 011426	Chairman Admin	Schedule 1: Educational Establishments and Their Responsible Bodies Schedule 2: Employee in Existing Employment	
011427 - 013753	Chairman Deputy Chairman ALA6 Dr YEUNG Sum Ms Emily LAU Mr Martin LEE Mr Howard YOUNG Mr WONG Ting-kwong Mr LEE Cheuk-yan Admin Ms Audrey EU	<u>Discussion drafts of CSAs prepared by the legal adviser to the Bills Committee</u> [LC Paper No. LS96/07-08]  Draft CSAs in relation to the provisions on application to Government  Chairman's reference to the concerns raised in the submission provided by Hong Kong Bar Association [LC Paper No. CB(2)2290/07-08(01)].	
013754 - 014220	Chairman ALA6 Dr YEUNG Sum Mr Howard YOUNG	Draft CSAs in relation to the provisions on racial discrimination	
014221 - 022023	Chairman ALA6 Dr YEUNG Sum Mr Howard YOUNG Mr WONG Ting-kwong Miss CHAN Yuen-han Ms Emily LAU Mr LEE Cheuk-yan Dr Fernando CHEUNG Ms Audrey EU	Draft CSAs in relation to the provisions on new arrivals from the Mainland and nationality	<b>Admin to confirm whether the proposed administrative guidelines would be applicable to the Social Welfare Department and whether "community services" covered social security services</b> (para 9(a) of minutes)
022024 - 022642	Chairman ALA6 Dr YEUNG Sum Ms Emily LAU Mr Albert CHAN Mr LEE Cheuk-yan	Draft CSAs in relation to the provisions on exemption from languages	<b>ALA6 to revise draft CSAs by deleting Clause 58(1D) and 58(1E)</b> (para 7(b) of minutes)
022643 - 023517	Miss CHAN Yuen-han Chairman Mr Howard YOUNG Dr YEUNG Sum Mr LEE Cheuk-yan ALA6	Draft CSAs in relation to the provisions on discrimination against applicants and employees	<b>ALA6 to revise the draft CSAs to amend Clause 10</b> (para 7(a) of minutes)
023518 - 023830	Chairman Dr YEUNG Sum Ms Emily LAU ALA6	Draft CSAs in relation to the provisions on partnerships	

Time marker	Speaker	Subject	Action required
023831 - 024614	Chairman Dr YEUNG Sum ALA6 Miss CHAN Yuen-han Miss CHOY So-yuk	Draft CSAs proposed by Dr YEUNG Sum [LC Paper No. CB(2)2251/07-08(02) and CB(2)2296/07-08(01)]	
024615 - 030327	Chairman Admin Ms Emily LAU Miss CHAN Yuen-han Miss CHOY So-yuk Deputy Chairman	<u>Administration's response to the outstanding general issues raised by members of the Bills Committee</u> [LC Paper No. CB(2)2297/07-08(01)]	<b>Admin to provide information on the Hospital Authority's plan to enhance its provision of interpretation service at public hospitals and to consider enhancing provision of support services for new arrivals from the Mainland</b> (para. 9(b)-(d) of minutes)
030328 - 030629	Chairman Admin	<u>Administration's paper entitled "Administration's response to views received from deputations on vocational training and on interpretation services at hospitals "</u> [LC Paper No. CB(2)2297/07-08(02)]	
030630 - 031612	Chairman Admin Deputy Chairman Ms Emily LAU	<u>Administration's paper entitled "Administration's response to the outstanding general issues on education raised by members of the Bills Committee"</u> [LC Paper No. CB(2)2308/07-08(01)]  Deputy Chairman's concerns about the provision of adequate support measures including appropriate Chinese textbooks for ethnic minority students.	
031613- 032015	Chairman Deputy Chairman Admin Ms Emily LAU Clerk	Suggestion that all relevant policy secretaries should, during resumption of the Second Reading debate on the Bill, speak on the Administration's commitment under their respective purviews to strengthen the promotion of racial equality and the support for new arrivals from the Mainland.  Date of next meeting.	<b>Admin to consider the suggestion</b> (para. 4 of minutes)