

RACE DISCRIMINATION BILL

COMMITTEE STAGE

Amendments to be moved by Doctor Honourable Yeung Sum, J.P.

Clause

Amendment Proposed

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by adding immediately after subclause (1)–

“(1A) In any circumstances relevant for the purposes of any provision referred to in subsection (1B), a person (“the discriminator”) also discriminates against another person if the discriminator applies to that other person a provision, criterion or practice which the discriminator applies or would apply equally to persons not of the same racial group as that other person, but –

- (a) which puts or would put persons of the same racial group as that other person at a particular disadvantage when compared with other persons,
- (b) which puts that other person at that disadvantage, and
- (c) which the discriminator cannot show to be a proportionate means of achieving a legitimate aim.

(1B) The provisions mentioned in subsection (1A) are –

- (a) Part 3, excepting sections 24 and 25;
- (b) Sections 28 to 29;
- (c) Sections 34 to 35; and
- (d) Part 5, in its application to the provisions referred to in paragraphs (a) to (c).

(1C) Where, if by virtue of subsection (1A), a person

discriminates against another person,  
subsection (1)(b) does not apply to the  
first-mentioned person.”

By deleting section 4(2)(b).

By deleting section 4(3).

By deleting section 4(4).

By deleting section 4(5).

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**New**

By adding –

**“5A. Discrimination against new arrivals from the  
Mainland**

(1) In any circumstances relevant for the purposes of any provision of this Ordinance, a person (“the discriminator”) discriminates against a person of Chinese origin (“the victim”) if—

(a) on the ground of any matters specified in subsection (2), the discriminator treats the victim less favourably than the discriminator treats or would treat other persons; or

(b) the discriminator applies to the victim a provision, criterion, or practice which the discriminator applies or would apply equally to persons to whom any matters specified in subsection (2) that applies to the victim does not apply, but—

(i) which puts or would put persons to whom the same matter specified in subsection (2) applies as the victim at a particular disadvantage when compared with other persons;

(ii) which puts the victim at that disadvantage;  
and

(iii) which the discriminator cannot show to be a proportionate means of achieving a legitimate aim.

(2) The matters specified in this subsection are—

- (a) that a person—
  - (i) is not a Hong Kong permanent resident; or
  - (ii) has not the right of abode in Hong Kong;
- (b) the length of residence in Hong Kong of a person;  
or
- (c) that a person is regarded as a member of the group of persons who have been granted one way permit by the relevant Mainland authorities to come to Hong Kong, and have recently come to settle in Hong Kong from the Mainland.

(3) In this section, “Mainland” means any part of China other than Hong Kong, Macau and Taiwan and “recently” means any time after 30 October 1980.”.

**New**

By adding –

**“7A. Harassment of new arrivals from the Mainland**

- (1) In any circumstances relevant for the purposes of any provision of this Ordinance, a person harasses a person of Chinese origin (“the other person”) if, on the ground of any matters specified in section 5A(2) that applies to the other person or a near relative of that other person, the first-mentioned person engages in unwelcome conduct (which may include an oral or a written statement), in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the other person would be offended, humiliated or intimidated by that conduct.
  
- (2) In any circumstances relevant for the purposes of any provision of this Ordinance, a person (“the first-mentioned person”) harasses a person of Chinese origin (“the second-mentioned person”) if, on the ground of any of the matters specified in section 5A(2) that applies to the second-mentioned person or his or

her near relative, the first-mentioned person, alone or together with other persons, engages in conduct (which may include an oral or a written statement) that renders hostile or intimidating the environment in which the second-mentioned person works, studies or undergoes training, or carries out related or incidental activities.”.

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By deleting section 8(3)(b) and substituting --

“(b) that the person --

“(i) has or has not the right to land in Hong Kong;

(ii) is or is not subject to any restriction or condition of stay imposed under the Immigration Ordinance (Cap.115); or

(iii) has or has not been given the permission to land or remain in Hong Kong under the Immigration Ordinance (Cap.115); or”

By deleting section 8(3)(c).

**Schedule 5**

By deleting Schedule 5 and substituting --

“SCHEDULE 5 [ss. 59(1), 61 & 85]  
OTHER MATTERS NOT AFFECTED  
BY THIS ORDINANCE

Item	Provision creating illegality	Matter
1.	Part 4	Any discrimination between persons of different racial groups arising from that policy of the Government known as the portable comprehensive social security assistance scheme under which eligibility for certain assistance is extended only to persons who take up permanent residence in certain places outside Hong Kong.

2. Section 5A Any discrimination between—
- (a) persons to whom any matters specified in section 5A(2) applies, and
  - (b) other persons
- arising from any policy or practice of the Government or any public authority that involves a charge on the general revenue.”.

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**58**

By deleting section 58(1) and substituting --

“(1) Nothing in section 20, 21, 26, 27, 28, 29, 35 or 36 renders unlawful the use of, or the failure to use, any language in any circumstances relevant for the purposes of the section.”

By adding immediately after subclause (1)–

“(1A) Subsection (1) does not apply to section 20 when the vocational training course is specifically provided for persons speaking a particular vernacular.

(1B) Subsection (1) does not apply to section 27 when the service provided is medical treatment within the meaning of section 2 of Medical Clinics Ordinance (Cap.343).”

By deleting section 58(3) and substituting –

“(3). In this section, a reference to the use of, or failure to use, a language includes a reference to the provision of, or failure to provide, a translation, interpretation or transcription into the language; and “vernacular” means the language spoken by a person but does not include a dialect.”