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Paper for the House Committee

**Report of the Subcommittee on Race Discrimination (Formal Investigations)
Rules, Race Discrimination (Investigation and Conciliation) Rules and
Code of Practice on Employment under the Race Discrimination Ordinance**

PURPOSE

This paper reports on the deliberations of the Subcommittee on Race Discrimination (Formal Investigation) Rules (FIRs), Race Discrimination (Investigation and Conciliation) Rules (ICRs) and Code of Practice on Employment under the Race Discrimination Ordinance (the Code).

BACKGROUND

2. The Race Discrimination Ordinance (Cap. 602) (RDO) was enacted on 10 July 2008 to make racial discrimination and harassment and other related acts unlawful in specified areas of activities, including employment, education and provision of goods, facilities, services and premises, in both the public and private sectors. The enabling provisions for the Equal Opportunities Commission (EOC) to implement RDO have come into effect on 3 October 2008. It is the Administration's plan to bring into operation the substantive provisions of RDO around mid-2009, together with these two sets of Rules and the Code at the same time.

THE RULES

3. Under section 82 of RDO, EOC may make rules to prescribe matters relevant to conducting formal investigations under section 64 of RDO; issuing enforcement notices under section 71 of RDO; and conducting investigation and conciliation of complaints under section 78 of RDO.

4. FIRs set out the procedure of formal investigation conducted by EOC under RDO. The Rules, inter alia -

- (a) specify the manner in which notice of holding of formal investigation is to be served;

- (b) specify the manner in which notice of holding of formal investigation is to be given pursuant to section 65(3) of the Ordinance to certain persons in cases where general notice of the investigation is not given;
- (c) prescribe the form of a notice requiring a person to furnish written information or give oral information or produce documents; and
- (d) prescribe the form of an enforcement notice.

5. FIRs shall come into operation on the day appointed for the commencement of section 65 of the Ordinance, which requires terms of reference for formal investigations to be drawn up.

6. ICRs set out the procedure relating to the lodgment of complaints under section 78 of RDO and the investigation and conciliation of such complaints. The Rules specify -

- (a) the persons who may lodge a representative complaint, the circumstances under which a representative complaint may be lodged and the requirements of a representative complaint;
- (b) the matters to be taken into account in determining that a complaint should not be a representative complaint;
- (c) the manner in which persons may be required by EOC by a notice in writing to furnish information for the purposes of investigating into an act and in endeavouring to settle the matter and the offence for failure to comply with such notice;
- (d) the manner in which disclosure of information is restricted; and
- (e) the manner in which persons may be directed to attend a conference and the procedure to be followed at a conference.

7. ICRs shall come into operation on the day appointed for the commencement of section 78 of the Ordinance.

THE CODE OF PRACTICE ON EMPLOYMENT

8. Under section 63 of RDO, EOC may issue codes of practice containing such practical guidance as it thinks fit for the elimination of discrimination, and the promotion of equality of opportunity and harmony between persons of different racial groups. The Code is issued by EOC for this purpose.

9. According to EOC, the Code emphasizes on providing recommendations for

good employment procedures and practices. Employers are encouraged to adopt these recommendations. They cover all aspects and stages of the employment relationship, including good procedures and practices relating to recruitment criteria, vacancy advertising, terms and conditions of employment, promotion and training, and termination of employment. The Code recommends good practice on language issues and also recommends employers to review their rules, policies and practices so that they are justified by specific job requirements or organization needs. The Code encourages employers to make effort to accommodate cultural practices of employees. It contains illustrations and examples derived from relevant case law to demonstrate how principles relating to the issue of justification may be applied in particular situations and what measures employers could consider in accommodating employees.

10. A sample policy on racial equality is also provided at the end of the Code for employers' reference.

11. Failure on the part of any person to observe any provision of the Code does not render him liable to any proceedings. But in any proceedings under RDO, the Code is admissible as evidence and the court shall take into account the relevant provisions of the Code in determining any question arising in the proceedings.

THE SUBCOMMITTEE

12. At the House Committee meeting on 15 May 2009, Members agreed to form a subcommittee to study FIRs, ICRs and the Code. The membership list of the Subcommittee is in **Appendix I**. Under the chairmanship of Hon Paul TSE, the Subcommittee has held seven meetings with EOC and the Administration. The Chairman of the Subcommittee moved a motion at Council meeting on 3 June 2009 to extend the scrutiny period of the two sets of Rules and the Code to 8 July 2009.

13. The Subcommittee has met with and received views from deputations, the names of which are in **Appendix II**. At the Subcommittee's request, EOC has made available translated versions of the Code in the six common ethnic minority languages (i.e. Urdu, Nepali, Tagalog, Thai, Hindi and Indonesian) before the Subcommittee is scheduled to meet with the deputations.

DELIBERATIONS OF THE SUBCOMMITTEE

The Rules

14. The Subcommittee notes that both FIRs and ICRs are in materially the same terms as the corresponding rules under the other three anti-discrimination ordinances (the Sex Discrimination Ordinance (Cap. 480) (SDO), Disability Discrimination Ordinance (Cap. 487) (DDO), and the Family Status Discrimination Ordinance (Cap. 527) (FSDO)).

15. EOC has advised that the corresponding rules relating to formal investigations under the other anti-discrimination ordinances have never been invoked. The corresponding rules relating to investigation and conciliation under the other anti-discrimination ordinances have been invoked around five times so far, and no operational difficulties had been encountered in the process.

16. Having observed that there are differences in the Chinese rendition between ICRs and the corresponding rules under the other anti-discrimination ordinances, the legal adviser to the Subcommittee has suggested that EOC could consider amending the Chinese rendition of "relevant" in section 7(2)(a) from "攸關" to "有關"; and the Chinese rendition of "anything said or done" in section 8(5) from "說過的任何說話或作出過的任何作為" to "任何發言或所做的任何事情".

17. EOC, however, takes the view that it is appropriate to retain the current Chinese rendition because -

- (a) EOC understands from the Department of Justice that the current drafting convention is to adopt the wording "攸關" as the Chinese rendition of the phrase "relevant to"; and
- (b) the phrase "anything said or done" appears in section 78(6) of RDO, the Chinese rendition of which is also "說過任何說話.....作為".

Members raise no further queries.

The Code

Improvements made to the draft Code

18. EOC has informed the Subcommittee that prior to the gazettal of the Code, a public consultation exercise on the draft Code was conducted between October 2008 and January 2009, and the draft Code was revised substantially taking into account the views received. Members have enquired about the improvements made to the Code to emphasize promotion of racial equality in the workplace, to render it more practical and easier to comprehend, and to address the concerns of ethnic minorities. EOC has advised that -

- (a) to encourage employers to promote racial equality in the workplace, the Code's contents on good employment procedures and practices have been expanded substantially to cover all aspects and stages of employment relationship, including recruitment criteria, vacancy advertising, terms and conditions of employment, promotion and training, and termination of employment;
- (b) employers are encouraged to adopt a systematic approach by putting in

place a policy on racial equality, a sample of which is provided in the Code for reference. Employers are also encouraged to monitor the implementation of such policy through gathering relevant information;

- (c) in response to concerns expressed by some employers during the consultation, illustrations and examples derived from relevant case law have been added to demonstrate how the issue of justification might be applied in particular situations; and
- (d) the contents on racial harassment (in paragraph 5.3.14 of the Code) have been revised substantially taking into account views received during the consultation exercise and after making reference to relevant materials and case law in other jurisdictions. To better explain and demonstrate the concept of racial harassment, a list of the types of inappropriate behaviour which could be regarded as harassment on the ground of race are set out in the Code, in place of the situational illustrations used in the first draft of the Code.

19. Some members have expressed the view that as EOC has revised the draft Code substantially, another round of public consultation should be conducted on the Code. They have suggested that the Administration could consider deferring the introduction of the Code to allow more time for consultation with a view to making further refinements to the Code.

20. The Administration has advised that it plans to bring into operation the substantive provisions of RDO around mid-2009 after the Code has been issued by EOC. It is the Administration's undertaking that the Code should be brought into operation together with RDO as the Code could provide practical guidance to help employers and employees better understand and fulfill their roles and responsibilities under the Ordinance.

21. EOC has also advised that it has been a taxing experience for EOC to draw up the Code before implementation of RDO. It would be appropriate to review the Code in about 12 months' time after the legislation has been implemented. Further refinements could then be made to the Code on the basis of experience and relevant case law if available.

Drafting of the Code

New Paragraph 2.2 Religion

22. EOC has informed the Subcommittee that in response to some deputations' views on the need to highlight the issue of religion in the meaning of race under RDO, the heading "Religion" with a new paragraph will be inserted. A cross-reference to Illustration 9 will also be inserted in the paragraph to show how requirements or conditions having an impact on people's religious practices may indirectly

discriminate certain racial groups. Ms Emily LAU has asked whether it would constitute race discrimination if an employee is not allowed to wear hijab in her workplace. EOC has explained that it would depend on whether in the particular circumstances of the case, the employer could show the requirement or condition to be justified on non-racial grounds, such as the need to pursue a legitimate aim (for example health and safety).

New Paragraph 2.3 Language

23. EOC has informed the Subcommittee that in response to the views of some deputations, a new paragraph 2.3.1 under the heading "Language" will be inserted to highlight the point that treatment based on language may lead to racial discrimination or harassment.

Paragraph 3.3 Work wholly or mainly outside Hong Kong

24. Referring to Illustration 3 under paragraph 3.3.1, Ms LI Fung-ying has queried whether it is appropriate to specify in absolute and specific term that a person working in Hong Kong 55% of the time and the remaining 45% of the time outside Hong Kong in the whole period of his employment would be regarded as working wholly or mainly in Hong Kong.

25. EOC has explained that the illustration is added in response to requests received during the public consultation exercise for a quantitative measure to determine whether a person is working wholly or mainly outside Hong Kong in which case RDO does not apply. EOC has made reference to relevant overseas case law. Paragraph 3.3 explains that working wholly or mainly in Hong Kong is determined by reference to the time a person spent working in Hong Kong for the whole period of employment. Illustrations derived from the principles laid down in the relevant case law are given.

26. Members have asked whether the assessment of the "whole period of employment" of an employee should be based on historical facts or contractual allocation of time, and whether other factors such as the place of incorporation of employer company would be taken into account. They are concerned that it would be difficult to make an accurate assessment in real life working environment.

27. EOC has explained that relying on the case of *Carver v Saudi Arabian Airlines* [1999] ICR 991, paragraph 3.3.1(3) adopts a historical facts approach and explains that a person works mainly outside Hong Kong as long as the person has spent more time working outside Hong Kong than in Hong Kong. A slight amendment will be made to paragraph 3.3.1(3) (by adding the words "in fact") to clarify this point. EOC has further explained that the actual time a person has spent working in and outside Hong Kong would be the principal factor of consideration, irrespective of the place where the employment contract is made, the place of incorporation of the employer company or the nationality of the employee concerned. However, case law

on these issues is capable of further development and EOC would keep these issues under review.

Paragraph 3.4 Grace period for small employers

28. The Subcommittee notes that a grace period for the first three years after the enactment of RDO is provided for employers who employ no more than five employees. Ms LI Fung-ying considers that the duration of the grace period should be made clear in paragraph 3.4.1 for the avoidance of doubt. EOC has agreed to state the expiry date of the grace period in the paragraph. At Ms LI's suggestion, EOC has also agreed to delete the last sentence in paragraph 3.4.2 to avoid confusion.

Paragraph 3.5 Domestic helpers

29. Members note that while RDO provides for an exception relating to the choice of an employer at the point of recruitment of a domestic helper, the domestic helper, once employed, is protected against racial discrimination in employment in the same way as other persons. Members have expressed concern that unlike ordinary employment, domestic helpers have close interaction with the employer and the employer's near relatives in daily life who may not understand their legal responsibilities under RDO, particularly the elderly. They stress that given the large number of households with foreign domestic helpers, it is important that more practical guidelines with specific illustrations be provided to make the employer and those in the household understand their legal responsibilities under RDO and how to prevent infringing the rights of the domestic helper of a different race.

30. Members have suggested that leaflets on relevant guidelines should be prepared and distributed through the Immigration Department and employment agencies concerned to persons applying for employment of foreign domestic helpers. The leaflets could also be uploaded onto the website of the Immigration Department. They have also suggested that a clause be added to the standard contract for foreign domestic helpers to alert employers of their responsibilities under RDO.

31. The Administration and EOC have advised that upon the implementation of RDO, various initiatives would be taken to educate employers of foreign domestic helpers on their responsibilities under RDO. Apart from preparing leaflets and distributing them through different channels, EOC would also disseminate such information through its newsletter and the media. In addition, seminars and briefing sessions for employers of foreign domestic helpers would be held. The Administration would also liaise with the Immigration Department to include the relevant leaflets in the information folder to be distributed to prospective employers of foreign domestic helpers. The leaflets would also be uploaded onto the Department's website and distributed through employment agencies of foreign domestic helpers. As regards the suggestion of adding a clause to the standard contract for foreign domestic helpers to alert employers of their responsibilities under RDO, the Administration is liaising with the Security Bureau regarding the suggestion.

32. Members expressed concern that employers of foreign domestic helpers may inadvertently commit acts of race discrimination, and requested that the Administration and EOC should do their utmost in taking specific measures to help employers of foreign domestic helpers understand their responsibilities under RDO. At members' request, the Administration has agreed that when the Secretary for Constitutional and Mainland Affairs moves his motion to amend the Code at the Council meeting on 8 July 2009, he will also report on the measures that would be taken in this regard including the relevant progress, if any.

Paragraph 3.8.1 Vocational training

33. Some deputations have submitted to the Subcommittee that vocational training providers should be encouraged actively to cater to the needs of ethnic minorities as far as practicable in planning and designing training courses, e.g. by providing course information and material in English, and more illustrations on good practice in this regard should be provided in the Code. They have further suggested that examples should be added to illustrate when language requirement for vocational training courses can be regarded as commensurate with the contents of the course.

34. EOC has advised the Subcommittee that paragraphs 3.8.1(2) and 3.8.1(3) will be amended to reinforce the encouragement to vocational training providers to cater for the needs of ethnic minorities, for example, by providing lecture notes or other course materials in English so that people who can read English and speak Cantonese (but not read Chinese) may participate in a course taught in Cantonese. A new paragraph 3.8.1(4) will also be inserted to elaborate on an example on the language requirement of training courses being commensurate with the contents of the course. Members stress that the Administration should ensure that vocational training institutions have adequate resources to conduct designated courses to cater for the needs of ethnic minorities including those who know little English.

Paragraph 4.1 Responsibilities of employers and principals

35. EOC has informed the Subcommittee that in response to the views of the two legal professional bodies, clarification will be made in paragraph 4.1.2(2) to emphasize that whether an event occurring outside normal working hours or workplace comes within the course of employment depends very much on the specific circumstances of each case. It is recommended that employers take reasonably practical steps to prevent discrimination and harassment by adopting the good employment practice and procedures described in Chapter 5 of the Code.

Paragraph 4.2 Rights of employees and workers and their role

36. In response to deputations' views, EOC has agreed to expand the relevant paragraphs on employees' role in eliminating and preventing racial discrimination, particularly racial harassment, along the lines of the Code of Practice on Employment under SDO (the SDO Code).

Paragraph 5.3 Good employment procedures and practices

37. Some members including Dr Margaret NG and Mr LEUNG Yiu-chung are of the view that the importance of employers taking proactive actions to promote racial equality and harmony in the workplace should be highlighted in the Code. They also consider that as compared with the SDO Code, the Code is less proactive in providing guidance to employers on good practice. Referring to paragraph 5.3.4 of the Code which only encourages employers to advertise in both English and Chinese media where reasonably practicable, these members consider that it is important to ensure that job information could reach people from different racial groups, as some ethnic minorities cannot read Chinese nor English. They have suggested that the wording should be revised to encourage employers actively to advertise vacancies in different ethnic minority languages as far as possible in the spirit of promoting racial equality.

38. EOC has explained that reference has been made to similar codes under the other three anti-discrimination ordinances in drafting the Code. The codes under SDO, DDO and FSDO are relatively simpler and couched in general wording, while the Code provides more detailed and specific guidelines to employers. EOC has further explained that it has to take into account that some employers, in particular those of smaller scale, would have practical difficulties in advertising vacancies in different ethnic minority languages. The Code has adopted a practical approach of encouraging employers to advertise in both the English and Chinese media where reasonably practicable, given that according to data from the Census and Statistics Department, around 70% of ethnic minorities in Hong Kong can communicate in English.

39. EOC has further informed the Subcommittee that in response to the views of some deputations, it will insert a new paragraph 5.3.7(4) to emphasize the good practice of keeping record of interview process and will amend relevant paragraphs in the Code to recommend employers to keep record of shortlisting process, recruitment process, interviews, promotion, transfer and training, grievances and disciplinary matters, and dismissals and redundancies for no less than 24 months which corresponds to the time limit for taking legal action against alleged race discrimination.

Paragraph 5.3.10 Terms and conditions of employment, benefits, facilities and services

40. Mrs Sophie LEUNG has expressed concern that paragraph 5.3.10(1) as presently worded would reduce the flexibility of an employer in offering incentive pay to an employee as a token of appreciation for his performance if the race of this employee is different from his fellow colleagues. EOC has explained that it would be unlawful under RDO to discriminate against another person in terms of pay and other benefits only if such discrimination is based on the ground of race and similar contents are found in the Code of Practice under other anti-discrimination ordinances.

41. Ms Miriam LAU has expressed concern that paragraph 5.3.10(2) as presently worded seems to impose an obligation on employers to accommodate workers' needs such as their cultural or religious practices, but as a matter of fact, they might be unable to do so due to operational needs. Ms LI Fung-ying has suggested that the wording of this paragraph should be revised to highlight the importance of mutual respect and resolving any possible conflict between employers' policies or workplace requirements and employees' cultural or religious practices through consultation between employers and employees.

42. In light of members' concern and suggestion, EOC has agreed to revise the last sentence of paragraph 5.3.10(2) from "Employers should consult staff, trade unions and other workplace representatives on practical ways in which they can accommodate workers' needs" to "Employers and employees should respect each others' culture and customs, and employers should consult staff, trade unions and other workplace representatives on practical ways in which accommodation may be made in respect of employees' needs".

43. Some deputations have submitted to the Subcommittee that equal pay for equal work is an entirely separate issue from race discrimination and it goes beyond the scope of RDO to provide in the Code that employers should maintain the principle of equal pay for equal work. They consider that inclusion of paragraphs 5.3.10(4) to (8) in the Code on equal pay for equal work/work of equal value are inappropriate and misleading, and should be deleted.

44. EOC has explained that segregation of men and women in different jobs of equal value but are paid differently has been widespread. General principles of equal pay for equal value are mainly articulated in the context of gender equality and are included in the code under SDO. The issue is not necessarily confined to the gender context, but may also arise in the context of racial equality, or equality for people with disabilities. It is therefore appropriate to include principles of equal pay for equal value in the Code in order to promote racial equality. These principles are also included in the Code under DDO.

Paragraph 5.3.14 Prevent harassment on the ground of race

45. In response to a deputation's view, EOC will re-draft paragraph 5.3.14 along the lines of paragraphs 19 to 22 of the SDO code.

Paragraph 5.3.13 Promotion, transfer and training

46. Referring to paragraph 5.3.13(6), Ms LI Fung-ying has expressed the view that employers should be requested to change, instead of "review and change", rules which restrict or preclude transfer between certain jobs if they are found to be discriminatory. EOC has explained that a review is expected to be part of the process before an employer takes any action to delete the rules. Reference has been made to the wording of the relevant paragraph of the SDO Code for the sake of consistency. At

a deputation's suggestion, EOC has agreed to insert after paragraph 5.3.13(6) a paragraph similar to paragraph 13.1.6 of the SDO Code.

Paragraph 6.5 - Discriminatory advertisements

47. Some deputations have submitted to the Subcommittee that language issues and relevant examples should be included in paragraph 6.5, for example, by stating that it would be unlawful to specify a language requirement in the recruitment advertisement if it is not necessary for the satisfactory performance of the job.

48. EOC has advised that the issue of language requirement leading to indirect discrimination is dealt with in paragraph 6.1.1(2)(v), and Illustration 13 based on relevant case law is given to facilitate understanding on the issue. EOC would keep the issue under review in the light of operational experience and case law development.

Paragraph 7.4 Other functions of EOC

49. At Mr LEUNG Yiu-chung's suggestions, EOC has agreed to add "or appropriate legal action" after "initiating formal investigation" in paragraph 7.4.1(4) and "through public education and public initiatives" after "issuing codes of practice for elimination of discrimination and promotion of racial harmony" in paragraph 7.4.1(5) in order to reflect more comprehensively the functions undertaken by EOC.

Sample policy on racial equality

50. Ms LI Fung-ying has expressed the view that the role of management staff, other than employees and workers, is equally important for the effective implementation of the policy on racial equality. At her suggestion, EOC has agreed to include the reference to "management staff" in paragraphs 3.4, 3.5 and 3.9 of the sample policy on racial equality.

Amendments to be proposed

51. Apart from the amendments to be made to the Code as elaborated above, EOC after consideration of the views expressed by members and those received by the Subcommittee on specific provisions of the Code, has further agreed to make various revisions to the Code. At the suggestion of the legal adviser to the Subcommittee, EOC has also agreed to make a number of textual amendments to the Code.

52. The draft resolution to be moved by the Administration to amend the Code is in **Appendix III**.

Recommendation

53. The Subcommittee supports both FIRs and ICRs. Subject to the amendments to be moved by the Administration, the Subcommittee also supports the Code. The Subcommittee has not proposed any amendments to the two sets of Rules and the Code.

Advice sought

54. Members are invited to note the Subcommittee's recommendation in the preceding paragraph.

Council Business Division 2
Legislative Council Secretariat
30 June 2009

**Subcommittee on Race Discrimination (Formal Investigations) Rules,
Race Discrimination (Investigation and Conciliation) Rules and
Code of Practice on Employment under the Race Discrimination Ordinance**

Membership list

Chairman Hon Paul TSE Wai-chun

Members Dr Hon Margaret NG
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LEUNG Yiu-chung
Hon Miriam LAU Kin-yee, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, BBS, JP
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king
Dr Hon Priscilla LEUNG Mei-fun (up to 7 June 2009)
Hon IP Kwok-him, GBS, JP

Total : 12 Members

Clerk Miss Flora TAI

Legal Adviser Ms Clara TAM

Date 7 June 2009

《 種族歧視(正式調查)規則 》、
《 種族歧視(調查及調解)規則 》及
《 種族歧視條例 》僱傭實務守則小組委員會
Subcommittee on Race Discrimination (Formal Investigations) Rules,
Race Discrimination (Investigation and Conciliation) Rules and
Code of Practice on Employment under the Race Discrimination Ordinance

曾向小組委員會表達意見的團體/個別人士名單
List of organizations/individuals which/who have
given views to the Subcommittee

<u>團體/個別人士名稱</u>	<u>Name of organizations and individuals</u>
1. Association of Indonesian Migrant Workers in Hong Kong	Association of Indonesian Migrant Workers in Hong Kong
2. 民主黨	Democratic Party
3. 香港僱主聯合會	Employers' Federation of Hong Kong
4. 香港聖公會麥理浩夫人中心	HKSKH Lady MacLehose Centre
5. 香港銀行公會	Hong Kong Association of Banks
6. 香港大律師公會	Hong Kong Bar Association
7. 香港社區發展網絡少數族裔青年聯盟	Hong Kong Community Development Network Ethnic Minorities Youth League
8. 香港總商會	Hong Kong General Chamber of Commerce
9. 香港人權監察	Hong Kong Human Rights Monitor
10. Hong Kong Integrated Nepalese Society	Hong Kong Integrated Nepalese Society
11. 香港融樂會	Hong Kong Unison
12. 香港律師會	Law Society of Hong Kong
13. 油尖旺區議會議員孔昭華先生	Mr HUNG Chiu-wah, Member of Yau Tsim Mong District Council

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| 14. Nisha Electronic Industries Ltd | Nisha Electronic Industries Ltd |
| 15. 香港社區組織協會 | Society for Community Organization |
| 16. 南方民主同盟 | Southern Democratic Alliance |
| 17. 港九勞工社團聯會 | The Federation of Hong Kong & Kowloon Labour Unions |
| 18. 尋道會 | Unitarian Universalists Hong Kong |
| 19. Working Group on the Promotion of Equal Opportunity and Diversity, the University of Hong Kong | Working Group on the Promotion of Equal Opportunity and Diversity, the University of Hong Kong |

RACE DISCRIMINATION ORDINANCE

RESOLUTION

(Under section 63(5) of the Race Discrimination Ordinance (Cap. 602))

CODE OF PRACTICE ON EMPLOYMENT

RESOLVED that the Code of Practice on Employment under the Race Discrimination Ordinance, published in the Gazette as Government Notice No. 2733 of 2009 and laid on the table of the Legislative Council on 13 May 2009, be amended-

- (1) in paragraph 1.2.1, in the Chinese text, by deleting “僱員和工作人員” and substituting “員工”;
- (2) in paragraph 1.2.2, in the Chinese text, by deleting “作”;
- (3) in paragraph 1.4.3, by adding “and” after “international”;
- (4) in paragraph 2.1.1, in the Chinese text, by deleting “乎” and substituting “符”;
- (5) in paragraph 2.1.4 (3), in the Chinese text, by deleting “典籍、”;
- (6) by deleting paragraph 2.1.4(4) and substituting-

“2.2 Religion”

2.2.1 Religion in itself is not race. A group of people defined by reference to religion is not a racial group under the RDO¹⁷. The RDO does not apply to discrimination on the ground of religion¹⁸. But requirements or conditions having an impact on people’s religious practices may indirectly discriminate against certain racial groups, and when this is so the RDO applies¹⁹ (see for example the blanket ban on beards in Illustration 9 below may indirectly discriminate against ethnic groups

whose religious practice or custom is to wear beards).

2.3 Language

2.3.1 As language used by people is often associated with their race, treatment based on language may discriminate against certain racial groups or may amount to racial harassment. Since language issues may arise in different aspects of employment matters, they will be mentioned and dealt with in different parts of the Code below (see for examples paragraphs 3.8.1(2) to (4), 5.3.1(1)(d), 5.3.1(2), 5.3.4(3), 5.3.5(2), 5.3.12, 5.3.13(1), 5.3.14(8)(c), and 6.1.1(2)(v)).”;

- (7) by renumbering paragraphs 2.2, 2.2.1 and 2.2.2 as 2.4, 2.4.1 and 2.4.2 respectively;
- (8) in Illustration 1, by deleting “only” where it secondly appears and adding “only” after “employ”; and in the Chinese text, by deleting “並非如此，公司亦有” and substituting “是公司不只聘用香港永久居民，也” and adding “考慮” after “拒絕” where it secondly appears;
- (9) in paragraph 3.2.2, in the Chinese text, by deleting “僱員和工作人員” and substituting “員工”;
- (10) in paragraph 3.3.1 (3), by adding “in fact” after “has”;
- (11) in Illustrations 3 and 4, in the Chinese text, by deleting “國內” where it appears and substituting “內地”;
- (12) in paragraph 3.4.1, by adding “This grace period ends on 10 July 2011.” after “5 employees³⁴.”; and in the Chinese text, by deleting “這段” and substituting “寬限”;
- (13) in paragraph 3.4.2, by deleting “Employers of domestic helpers may not at any time discriminate against them after recruitment³⁸.”;
- (14) in paragraph 3.4.3, by deleting “The grace period will expire on 10 July 2011, by which time the provisions making discrimination under the RDO in employment unlawful will apply to all employers.”;

- (15) in paragraph 3.6, in the Chinese text, by adding “《種族歧視條例》下有關於僱傭範疇的條文” after “第三部”;
- (16) in paragraph 3.7.3, in the Chinese text, by deleting “不可種族歧視佣金是其全部或部分收入的保險經紀” and substituting “不可對以佣金為其全部或部分收入的保險經紀作出種族歧視”;
- (17) in paragraph 3.8.1(2), by deleting “and may refuse enrolment for people who do not meet the requirement regardless of their race. Such language requirement” and substituting “which”;
- (18) in paragraph 3.8.1(3), by deleting “Course information and material may be provided only in the language required for the course.”, and deleting “have equal opportunities to undergo vocational training, and providers are encouraged to do so.”, and after “groups” adding “to have equal opportunities to undergo vocational training. Providers are encouraged to do so by, for example, providing lecture notes and other course materials in English so that people who can read English and speak Cantonese (but not read Chinese) may participate in a course taught in Cantonese.”;
- (19) by adding after paragraph 3.8.1(3)-
“(4) Providers are also encouraged to ensure that language requirements for training course are commensurate with the contents of the courses, so that people from different racial groups are not deterred by unnecessary language requirement. For example, where the language requirement for a course is only the ability to speak Cantonese, it is unnecessary to require students to be able to read and write Chinese.”;
- (20) in paragraph 3.8.2(1), by adding “Agencies also may not help or aid employers to discriminate on the ground of race⁴⁵, for example, by arranging underpayment for workers from certain racial groups.” after “their services.”;
- (21) in paragraph 4.1.1, in the Chinese text, by deleting “僱員和工作人員” where it appears and substituting “員工”;
- (22) in paragraph 4.1.2(1), by deleting “and implement the policy of the good employment practice and procedures described in Chapter 5 of the Code.” and

substituting “a policy of racial equality and implement such a policy through good employment practice and procedures. Chapter 5 of the Code provides recommendations on the contents of a racial equality policy and on good employment practice and procedures for employers’ and reference and adoption as appropriate according to the scale and structure of their organizations and available resources.”;

(23) in paragraph 4.1.2(2) after “hours⁴⁸.”, by adding “Whether an event occurring outside normal working hours or workplace comes within the course of employment depends very much on the specific circumstances of each case. It is recommended that employers take reasonably practical steps to prevent discrimination and harassment by adopting good employment practice and procedures as described in Chapter 5 of the Code.”;

(24) in paragraph 4.1.3, by deleting “employment” and adding “in the workplace” after “procedures”;

(25) in paragraphs 4.2, 4.2.1 to 4.2.3, in the Chinese text, by deleting “僱員和工作人員” where it appears and substituting “員工”;

(26) in paragraph 4.2.3 after “race.”, by adding “Employees and workers can be proactive in helping to eliminate racial discrimination by becoming familiar with the subject, so that they do not inadvertently discriminate against someone or inadvertently aid their employer to do so. Whenever appropriate, employees and workers could also encourage their employers to formulate anti-discrimination policies and to implement preventive measures. Employees and workers are encouraged to be supportive of friends or colleagues who intend, in good faith, to lodge a complaint about discrimination, or have lodged such complaint.”, and deleting “They are recommended to:-

- (1) Observe the requirement of the RDO and follow the recommendations of the Code;
- (2) Become familiar with and follow the employer’s equality policy;
- (3) Respect the racial identity of fellow workers and refrain from infringing their rights to work free of discrimination and harassment on the ground of race;
- (4) Cooperate with measures taken by the management to promote equal opportunities and prevent discrimination and harassment on the ground of race;

(5) Take part in training related to equal opportunities.”

(27) After paragraph 4.2.3, by adding-

“ 4.2.4 Employees and workers have a clear role to play in helping to create a climate at work in which racial harassment is unacceptable. They can contribute to preventing racial harassment through awareness and sensitivity towards the issue and by ensuring that standards of conduct for themselves and for colleagues do not cause offence.

4.2.5 All employees and workers have responsibilities as well as rights in respect of the work environment that is created. Racial harassment, particularly in its less severe forms, can be part of the usual code of behaviour in a workplace. To change this may require each employee or worker to reconsider his or her own attitudes and conduct as well as those of his or her colleagues.

4.2.6 Employees and workers can do much to discourage racial harassment by making it clear that they find such behaviour unacceptable and by supporting colleagues who suffered such treatment and are considering making a complaint.

4.2.7 People often do not complain even when they have been racially harassed because they are afraid of co-workers' reaction. They do not want to run the risk of being accused by them of spoiling the work climate. Neither do they want to be told that they provoked the harassment themselves or that they cannot take a joke. When employees and workers show through their words and their actions that they find racial harassment unacceptable, this will provide substantial support to those who are harassed and make it easier for them to come forward to file a complaint.

4.2.8 Employees or workers who are themselves recipients of harassment should, where practicable, tell the harasser that the behaviour is clearly unwanted and unacceptable. Once the offender understands clearly that the behaviour is unwelcome, this may be enough to put an end to it. If the behaviour persists, employees or workers should inform management and/or their employee representative through the

appropriate channels and request assistance in stopping the harassment, whether through informal or formal channels.

4.2.9 When telling the harasser that the behaviour is unwanted, if the employee or worker does not want to confront the harasser alone, he or she may want to ask a co-worker or a friend to be present. An alternative to confronting the harasser in person is to write to him or her and keep a copy of the correspondence.

4.2.10 Where an employee or worker feels uncomfortable or unsafe in confronting the harasser directly, the employee or worker may choose to inform management and/or an employee representative in the first instance and request for steps to be taken to deal with the matter.

4.2.11 If the harassment continues, however, the employee or worker should, if possible, seek advice on what to do next. The employee at all times has the option of seeking external assistance, such as lodging a complaint with the EOC or bringing legal proceedings in the District Court (see Chapter 7 of the Code).

4.2.12 It is important for an employee subjected to racial harassment to keep a record of the incident(s) so as to be able to recall exactly what has happened.

4.2.13 Employees and workers are also encouraged to come forward with complaints as soon as possible after the alleged incidents as a lapse in time may, in certain circumstances, weaken a complainant's case.

4.2.14 Overall, employees and workers are recommended to:-

(1) Observe the requirement of the RDO and follow the recommendations of the Code;

(2) Become familiar with and follow the employer's equality policy;

(3) Respect the racial identity of fellow workers and refrain from infringing their rights to work free of discrimination and harassment on the ground of race;

(4) Cooperate with measures taken by the management to promote equal opportunities and prevent discrimination and harassment on the ground of race;

(5) Take part in training related to equal opportunities.”;

(28) in paragraph 5.2.2(1) after “race”, by adding “(see paragraph 6.1.1(1) of the Code for the definition of direct discrimination under the RDO)”;

(29) in paragraph 5.2.2(2) after “objective” where it secondly appears, by adding “(see paragraph 6.1.1(2) of the Code for the definition of indirect discrimination under the RDO)”;

and in the Chinese text, by deleting “不公平” and substituting “差異甚大的”;

(30) in paragraph 5.2.3, in the Chinese text, by adding “(守則第 5.3 段)” after “推行⁵³”;

(31) After paragraph 5.3.1(2), by adding -

“(3) The application of consistent selection criteria is good management practice as it helps organizations to make faster decisions because the criteria for decisions are clear; and to make better decisions because the criteria directly relate to work performance; and they form the basis for effective job evaluation. Consistent selection criteria should also be applied in respect of other employment decisions such as promotion, transfer, or training. These criteria should be accessible by all job applicants, employees and workers.”;

(32) in paragraph 5.3.2 (1), in the Chinese text, by deleting “一個人”, “他/她的” and “其是否有能力”, and adding “的能力” after “工作” where it secondly appears;

(33) in paragraph 5.3.4 (3), in the Chinese text, by deleting “理想” and substituting “良好”; by deleting “可” after “介紹所” where it secondly appears and adding “可” after “實際” where it thirdly appears;

(34) After paragraph 5.3.5(2), by adding -

“(3) Keep record of the shortlisting process, including the shortlisting criteria and marking system, for not less than 24 months⁵⁷;”

and renumbering paragraphs 5.3.5(3) and 5.3.5(4) as 5.3.5(4) and 5.3.5(5) respectively;

(35) in paragraph 5.3.6(2) by deleting “may” where it firstly appears and adding “should only” after “information” where it firstly appears; and in the Chinese text, by deleting “僱主可索取與種族相關的資料，以便作出特別安排” and substituting “僱主應只可因作出特別安排”， and adding “，而索取與種族有關的資料” after “規範”;

(36) in paragraph 5.3.7, by deleting “It” where it firstly appears and substituting “An interviewer who seeks evidence of skills and abilities and who relies on facts rather than generalized hunches will be less likely to be biased. In line with good management practice, it”;

(37) After paragraph 5.3.7(1), by adding -

“(2) Accommodate people from different racial groups who may find it difficult to attend interviews at certain times, for example, Jewish people who have to observe Sabbath on Saturdays;”;

and renumbering paragraph 5.3.7(2) as 5.3.7(3);

(38) by adding after 5.3.7(3) as renumbered in (37) above-

“(4) It is a good practice to record, immediately after the interview, the assessment that each interviewer has formed on the applicant’s ability to match the consistent selection criteria. This will not only ensure a logical assessment of the applicant’s strengths and weaknesses but will also serve as a valuable explanation and defence against any unfounded suggestion of race bias.”;

and renumbering paragraph 5.3.7(3) as 5.3.7(5) and adding “not less than” after “for” and deleting “, or if this is not practicable, at least not less than 12 months”;

(39) in paragraph 5.3.9 after “applicant.”, by adding “By instructing employment agencies or services that there should be no discrimination in the recruitment

process will help the employers to show that they have discharged their responsibilities under the law and that the agencies and services do not have authority from them to discriminate.”;

(40) in paragraph 5.3.10(1), by deleting “their practices, rules” and substituting “the terms and conditions of employment, the assignment of work and duties, the practices, rules, terms policies, conditions”, and adding “This applies to commissions, bonuses, allowances, pensions, health insurance plans, annual leave, merit or performance pay, or any other fringe benefits available to employees and workers. If there is any differential treatment, ensure that it is not connected with the race of the employees.” after “direct discrimination).”;

(41) in paragraph 5.3.10(2), by deleting “Employers should consult staff, trade unions and other workplace representatives on practical ways in which they can accommodate workers’ needs.” and adding “Employers and employees should respect each others’ culture and customs, and employers should consult staff, trade unions and other workplace representatives on practical ways in which accommodation may be made in respect of employees’ needs.” after “working arrangements⁶¹.”; and in the Chinese text, by deleting “不公平” and substituting “差異甚大的”;

(42) in paragraph 5.3.10(4) after “them.” which it secondly appears, by adding “Examples of “like work” are: Chinese and Indian tellers working in the same bank; a Pakistani person working in an employment agency supplying clients with temporary staff and a Chinese person supplying permanent staff in the same agency; and foremen and line supervisors working in different sections of a production line.”;

(43) in paragraph 5.3.10 (5) after “pay.” which it fourthly appears, by adding “Race discrimination in pay may occur when different races are segregated into different jobs, for example, jobs having a higher status and are more highly rewarded are done mainly by Chinese people when compared to jobs done mainly by people from other racial groups. Such differences can be reinforced by discriminatory recruitment, selection and promotion procedures which restrict the range of work person of different races can perform.”;

(44) After paragraph 5.3.10(5), by adding-

“(6) Where part-time workers do not enjoy pay or benefits in pro-rata with full-time workers, employers should review the arrangements to ensure that such arrangements are justifiable without regard to race.”;

and renumbering paragraphs 5.3.10(6), 5.3.10(7) and 5.3.10(8) as 5.3.10(7), 5.3.10(8) and 5.3.10(9) respectively;

(45) by adding after 5.3.10(9) as renumbered in (44) above-

“(10) In addition, such considerations should:-

(a) actually exist (e.g. the person belonging to one race has more experience than the person belonging to another race);

(b) be genuinely the cause of the difference in pay (i.e. the employer should have a pay system which applies to all races alike and consistently rewards experience, where appropriate);

(c) account for the whole of the pay gap (i.e. the extra payment is not an excessive reward for the additional experience); and

(d) have the effect which the employer sets out to achieve, e.g. there is evidence that, as a result of the specific employee’s experience, he/she does the work better than the other colleague, who belongs to another race.”;

(46) in paragraph 5.3.12(1), in the Chinese text, by deleting “甄” and substituting “篩”;

(47) in paragraph 5.3.12(2), in the Chinese text, by deleting “僱員和工作人員” and substituting “員工”;

(48) in paragraph 5.3.13(5) by adding “not less than” after “for” and deleting “, or if this is not practicable, at least not less than 12 months;”;

(49) in paragraph 5.3.13(6) after “discriminatory”, by adding a full stop and “Employees of certain racial groups may be concentrated in sections from which transfer are traditionally restricted without real justification”;

(50) in paragraph 5.3.13(7)(b), in the Chinese text, by deleting “不同程度” and substituting “差異甚大”;

(51) in paragraph 5.3.14, by deleting “Employees and workers of all racial groups are entitled to be free from harassment on the ground of race. Employers must ensure that the working environment is one in which the racial identity of all employees is respected. It is recommended that employers:-” and substituting-

“(1) Employees and workers of all racial groups are entitled to be free from harassment on the ground of race. Employers must ensure that the working environment is one in which the racial identity of all employees is respected.

(2) An absence of complaints about racial harassment does not necessarily mean an absence of racial harassment. It may mean that the recipients of racial harassment think that there is no point in complaining because nothing will be done about it, or because it will be trivialized or the complainant will be subjected to ridicule, or because they fear reprisals.

(3) Implementing the preventive and procedural measures outlined here should facilitate a favourable climate at work.

(4) Both the policy and complaints procedures should be introduced after consultation or negotiation with the employee representatives. Strategies to create and maintain a working environment in which the dignity of employees and workers is respected are most likely to be effective where they are jointly agreed.

(5) Employers should also make clear that employees and workers have a duty and responsibility towards creating such an environment and in ensuring that racial harassment does not occur.”;

and renumbering paragraph 5.3.14(1) as 5.3.14(6) and deleting “Make” and substituting “Employers should make”; and deleting the semicolon and substituting a full stop;

and renumbering paragraph 5.3.14(2) as 5.3.14(7) and deleting “Provide a work environment that is” and substituting “The statement should make it clear that the work environment is to be” and deleting the semicolon and substituting a full stop; and in the Chinese text, by deleting “僱員和工作人員” and substituting “員工”;

and renumbering paragraph 5.3.14(3) as 5.3.14(8) and deleting “Explain that harassment⁶⁶ on the ground of race is” and substituting “The statement should also explain that harassment on the ground of race is unlawful⁶⁷ and”;

and in paragraph 5.3.14(8)(g) as renumbered above, deleting the semicolon and substituting a full stop;

and adding after 5.3.14(8) as renumbered above-

“(9) Information should be given about internal complaint procedures, assuring employees and workers that confidentiality will be observed.

(10)The contact details should be given of officers who are responsible for dealing with complaints, providing information and advice; and there should be a note about disciplinary action for harassers and that the complainant may lodge a complaint with the EOC or bring legal proceedings in the District Court.”

and renumbering paragraph 5.3.14(4) as 5.3.14(11) and deleting the semicolon and substituting a full stop;

and renumbering paragraph 5.3.14(5) as 5.3.14(12) and deleting the semicolon and substituting a full stop;

and renumbering paragraph 5.3.14(6) as 5.3.14(13);

and adding after 5.3.14(13) as renumbered above-

“(14)A co-ordinator, preferably with special training, should be designated to establish and administer both informal and formal complaints procedures.

- (15) Effective and regular promotion of the policy is important to a successful programme against racial harassment in that:-
- (a) it warns that certain offensive conduct is unlawful;
 - (b) it sends out a clear message that management will act against such behaviour;
 - (c) it ensures that all persons in the organization know what to do if they encounter racial harassment and know that any complaint will be handled effectively and properly; and
 - (d) it assures staff that they are unlikely to be disadvantaged by racial harassment or be victimized by making a complaint.
- (16) In order to promote the policy, information may be disseminated through:-
- (a) speaking at staff meetings;
 - (b) distribution and re-circulation of policy statements;
 - (c) posting notices; and
 - (d) conducting training and refresher courses.
- (17) The co-ordinator or any other staff member involved in the complaints handling procedures should receive adequate training to enable sensitive treatment of cases in relation to racial harassment, for example:-
- (a) what is racial harassment: definitions and examples; the role of power in harassment situations; the reasons why some individuals harass; recognize harassment situations, e.g. who are the workers at risk;
 - (b) prevention of racial harassment: recognize the role of publicity,

how to use publicity and available resources effectively; informal monitoring of the workplace; recognize symptoms of harassment; and alert staff of possible acts of racial harassment; and

(c) dealing with harassment: skills on responding to enquiries and maintaining privacy and confidentiality; non-judgmental listening skills; informing enquiries of alternative ways of handling harassment other than by making a formal complaint; knowledge of outside bodies that can be approached for assistance or to whom complaints can be made, e.g. the EOC.

(18) Regardless of whether an informal or formal complaints procedures is in use, it is good practice for employers to monitor and review complaints of racial harassment and how they have been resolved, in order to ensure that the procedures are working effectively.”

(52) in paragraph 5.3.15(1), in the Chinese text, by deleting “被” and substituting “獲”; adding a comma after “升職”, deleting the bracket after “解僱”;

(53) in paragraph 5.3.15(6) by adding “not less than” after “for” and deleting “, or if this is not practicable, at least not less than 12 months”;

(54) in paragraph 5.3.16 by adding the following sub-paragraph-

“(1) Ensure that employees and workers are not dismissed, made redundant, or given unfavourable treatment on the ground of race or irrelevant race-related factors such as language, appearance or attire;”

and renumbering paragraphs 5.3.16(1) to 5.3.16(4) as 5.3.16(2) to 5.3.16(5) respectively;

and in paragraph 5.3.16 (3) as renumbered above, in the Chinese text, by deleting “不公平” and substituting “差異甚大”;

and renumbering paragraph 5.3.16(5) as 5.3.16(6) and adding “not less than”

after “for” and deleting “, or if this is not practicable, at least not less than 12 months”;

and renumbering paragraph 5.3.16(6) as 5.3.16(7);

(55) in paragraph 5.3.17(4), in the Chinese text, by deleting “僱員和工作人員” and substituting “員工” and by deleting “不公平” and substituting “差異甚大”;

(56) in paragraph 5.3.17(5), in the Chinese text, by deleting “不公平” and substituting “差異甚大”;

(57) in paragraph 6.1.1(1)(a), in the Chinese text, by deleting “作為” where it appears and substituting “行為”;

(58) in paragraph 6.1.1(1)(c), in the Chinese text, by deleting “僱員和工作人員” and substituting “員工”;

(59) in Illustration 9, by deleting “, for example, because” and substituting “as”, and deleting “be” and substituting “have been”;

(60) in Illustration 10, by deleting “10” and substituting “9”; and in the Chinese text, by adding “例子 9” after “上文”;

(61) in paragraph 6.1.1(2)(v), by adding “Each case depends on its own facts and Illustration 13 below is for reference only.” after “the job.”;

(62) in paragraph 6.1.3(4), by adding “(except where the allegation is false and not made in good faith)” after “RDO”;

(63) in paragraph 6.2.2, in the Chinese text, by deleting “僱員和工作人員” and substituting “員工”;

(64) in paragraph 6.3.1 (11), in the Chinese text, by adding “。” after “人士¹¹⁰”;

(65) in paragraph 6.3.3, by adding “For good practice on prevention of racial harassment, please see paragraph 5.3.14 of the Code.” before “For”, and by deleting “paragraph 5.3.14(3)” and substituting “paragraph 5.3.14(8)”;

- (66) in paragraph 6.4.3, by deleting “or” and substituting “and”;
- (67) in paragraph 6.7.2, in the Chinese text, by deleting the third comma;
- (68) in paragraph 6.7.4(3)(b), in the Chinese text, by adding “非” after “就”, and adding “的僱員” after “人員”;
- (69) in paragraph 6.7.4(3)(b)(i), in the Chinese text, by deleting “主要對有關僱主委任或” and substituting “本地僱用條款是指僱主”, and by deleting “適用” and substituting “採用”;
- (70) in paragraph 6.7.4(3)(b)(ii), in the Chinese text, by deleting “主要對有關僱主委任或” and substituting “海外僱用條款是指僱主”, and by deleting “的人”, and by deleting “適用” and substituting “採用”;
- (71) in paragraph 7.1.1, in the Chinese text, by deleting “僱員和工作人員” and substituting “員工”;
- (72) in paragraph 7.1.3, in the Chinese text, by deleting “僱員和工作人員” and substituting “員工”;
- (73) in paragraph 7.2.10, by adding “If the parties do not wish to resolve disputes through settlement and wish to obtain a binding decision from the District Court, they may resort to legal proceedings directly.” after “publications by the EOC.”; in the Chinese text, by deleting “遲” and substituting “呈”;
- (74) in paragraph 7.3.2, by adding “the EOC’s strategic concerns such as” after “reflects”, and deleting “or the EOC’s strategic concerns.” and substituting “indicated through the EOC’s complaint handling experience.”
- (75) in paragraph 7.4.1(4), by adding “or appropriate legal action” after “investigation”;
- (76) in paragraph 7.4.1(5), by adding “through public education and publicity initiatives” after “racial harmony”;
- (77) in paragraphs 3.4 and 3.5 of the sample policy on racial equality, by adding “and

management staff” after “Workers”;

(78) in paragraph 3.9 of the sample policy on racial equality, in the Chinese text, by deleting “Requirements” and substituting “Terms and conditions of employment, rules and practices, requirements”, and adding “with a view to take steps to promote equality and prevent discrimination in consultation with employees, workers and management staff”;

(79) in paragraph 3.10(2)(g) of the sample policy on racial equality, in the Chinese text, by deleting “地” before “挑剔”;

(80) in paragraph 3.11 of the sample policy on racial equality, in the Chinese text, by adding “「機構名稱」” before “將”;

(81) in footnote 1, in the Chinese text, by adding “(第 602 章)” after “《種族歧視條例》”;

(82) in footnote 26, in the Chinese text, by deleting the full stop where it firstly appears and substituting a semicolon; and deleting the full stop where it secondly appears;

(83) by deleting footnote 38;

(84) by renumbering footnotes 39 to 45 as 38 to 44;

(85) by adding footnote 45 “RDO section 48”;

(86) by deleting footnote 53 in the Chinese text;

(87) in paragraph 5.3.1 (2), in the Chinese text, by adding footnote 54 “參閱守則第 5.3.12 和 6.1.1(2)(v)段”;

(88) by adding footnote 57 “Under the RDO, the time limit for lodging a complaint with the EOC is 12 months (RDO section 78(4)(c)) and for taking legal action in the District Court is 24 months (RDO section 80), keeping records properly will help to deal with disputes.”;

(89) by renumbering footnotes 57 to 112 as 58 to 113;

(90) in footnote 61 as renumbered above, in the Chinese text, by deleting the full stop.