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9 March 2018

Ms Joanne MAK  
Clerk to Subcommittee  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road,  
Central, Hong Kong

Dear Ms MAK,

**Subcommittee on Rights of Ethnic Minorities  
Motions passed at the meeting on 23 January 2018**

Thank you for your letter dated 25 January 2018. The responses of the HKSAR Government to the three motions under the agenda item “Implementation and review of the Administrative Guidelines on Promotion of Racial Equality” passed by the Subcommittee on 23 January 2018 are at **Annexes I to III** please.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Cathy LI'.

( Miss Cathy LI )  
for Secretary for Constitutional and Mainland Affairs

**Subcommittee on Rights of Ethnic Minorities**

**Motion passed under agenda item I  
"Implementation and review of the Administrative Guidelines on  
Promotion of Racial Equality"  
at the meeting on 23 January 2018**

This Subcommittee urges the Government to expeditiously amend the Race Discrimination Ordinance ("RDO") and include government functions and powers in the review of RDO, so as to address the inadequacies of the Administrative Guidelines on Promotion of Racial Equality and help promote racial equality.

Moved by: Hon Claudia MO

**Response from the HKSAR Government**

The Government is committed to eliminating racial discrimination and promoting equal opportunities for ethnic minorities (EMs). The Race Discrimination Ordinance (Cap. 602) (RDO), which came into full operation in July 2009, purports to protect people against discrimination, harassment and vilification on the ground of race. According to the RDO, it is unlawful to discriminate in specified areas, including employment; education; provision of goods, facilities, services and premises; election and appointment matters of public bodies etc.; arrangements in relation to barristers and membership of clubs. It is also unlawful to racially harass another person (i.e. engaging in unwelcome conduct, in circumstances in which a reasonable person would have anticipated that the other person would be offended, humiliated or intimidated by that conduct) in these fields.

2. The RDO binds the Government (section 3 of the Ordinance) and therefore, prohibits discriminatory acts and practices of the Government and other public authorities in all the areas specified in the RDO, such as employment; education; the provision of goods, facilities or services; and the disposal or management of premises. In particular,

section 27 of the RDO renders it unlawful for the HKSAR Government to discriminate against a person in the provision of the services of any department of the HKSAR Government or any undertaking by or of the HKSAR Government.

3. Under the HKSAR's legal framework, public bodies have always been prohibited from practising racial discrimination. The Hong Kong Bill of Rights Ordinance prohibits the HKSAR Government and public authorities from engaging in practices that would entail any form of discrimination, including discrimination on the ground of race. Avenues are also available to address complaints against public authorities through the Ombudsman, complaint channels in Bureaux and Departments, and the Legislative Council, etc.

**Constitutional and Mainland Affairs Bureau**  
**March 2018**

**Subcommittee on Rights of Ethnic Minorities**

**Motion passed under agenda item I  
"Implementation and review of the Administrative Guidelines on  
Promotion of Racial Equality"  
at the meeting on 23 January 2018**

Although Hong Kong has implemented the Race Discrimination Ordinance ("RDO") and the Administrative Guidelines on Promotion of Racial Equality ("the Administrative Guidelines"), RDO does not apply to the Government. The Equal Opportunities Commission has requested that amendments be expeditiously made to RDO by placing the Government under statutory regulation, yet the Government has turned down this suggestion. While the Administrative Guidelines have been drawn up, there is no monitoring at all, resulting that ethnic minorities ("EMs") in Hong Kong are unfairly treated when accessing to public services (including education, housing, healthcare, employment and social welfare services, etc.). This Subcommittee urges the Government to immediately amend RDO and set up a high-level commission on EMs for monitoring government policies, public services, legislation and resource allocation from the perspective of EMs, with a view to ensuring equal opportunities for EMs and protecting them against discrimination.

Moved by: Dr Hon Fernando CHEUNG Chiu-hung

**Response from the HKSAR Government**

The Government attaches great importance to the work on support for the ethnic minorities (EMs). Through various support services in areas such as education, employment and social participation, the Government seeks to safeguard equal opportunities for EMs and to facilitate their integration into the Hong Kong society. As recently announced in the 2018-19 Budget, the Chief Secretary for Administration will set up an inter-departmental steering committee to co-ordinate, review and monitor work in this area. The Government will also earmark \$500 million to strengthen support for EMs.

## **Race Discrimination Ordinance**

2. The Government is committed to eliminating racial discrimination and promoting equal opportunities for EMs. The Race Discrimination Ordinance (Cap. 602) (RDO), which came into full operation in July 2009, purports to protect people against discrimination, harassment and vilification on the ground of race. According to the RDO, it is unlawful to discriminate in specified areas, including employment; education; provision of goods, facilities, services and premises; election and appointment matters of public bodies etc.; and arrangements in relation to barristers and membership of clubs. It is also unlawful to racially harass another person (i.e. engaging in unwelcome conduct, in circumstances in which a reasonable person would have anticipated that the other person would be offended, humiliated or intimidated by that conduct) in these fields.

3. The RDO binds the Government (section 3 of the Ordinance) and therefore, prohibits discriminatory acts and practices of the Government and other public authorities in all the areas specified in the RDO, such as employment; education; the provision of goods, facilities or services; and the disposal or management of premises. In particular, section 27 of the RDO renders it unlawful for the HKSAR Government to discriminate against a person in the provision of the services of any department of the HKSAR Government or any undertaking by or of the HKSAR Government.

4. Under the HKSAR's legal framework, public bodies have always been prohibited from practising racial discrimination. The Hong Kong Bill of Rights Ordinance prohibits the HKSAR Government and public authorities from engaging in practices that would entail any form of discrimination, including discrimination on the ground of race. Avenues are also available to address complaints against public authorities through the Ombudsman, complaint channels in Bureaux and Departments, and the Legislative Council, etc.

## **Administrative Guidelines on Promotion of Racial Equality**

5. Meanwhile, the Government will continue to safeguard the equal rights of people with different ethnic origins, and enhance the sensitivity among public officers serving EMs through education and publicity as well as the implementation of the Administrative Guidelines on Promotion of Racial Equality (the Guidelines). The Guidelines is

administrative in nature and relevant public authorities are required to comply. At present, different bureaux and departments and public authorities are responsible for implementing and monitoring the implementation of the Guidelines in areas relevant to their purview. In accordance with the Guidelines, the relevant authorities have drawn up checklist of measures within their respective policy and programme areas that would assist in the promotion of racial equality, equal access to key public services and transparency of their work. The checklists have been uploaded onto the CMAB website and are subject to the monitoring of the Legislative Council and the public. The Constitutional and Mainland Affairs Bureau and the relevant authorities will continue to keep the Guidelines under regular review, especially in the context of how to enhance existing measures and introduce new measures that would promote racial equality. Besides, the Government will keep the coverage of the Guidelines under review.

**Constitutional and Mainland Affairs Bureau**  
**March 2018**

**Subcommittee on Rights of Ethnic Minorities**

**Motion passed under agenda item I  
"Implementation and review of the Administrative Guidelines on  
Promotion of Racial Equality"  
at the meeting on 23 January 2018**

The Government often refuses to collect data relating to ethnic minority service users on grounds of "avoiding racial discrimination". However, many countries have in fact clearly stated that data collection is an effective means of vigorously stamping out racial discrimination instead. This Subcommittee urges the Government to draw up guidelines on data collection to ensure that the collection and use of the relevant ethnicity data shall aim to eliminate discrimination or promote racial equality.

Moved by: Hon SHIU Ka-chun

**Response from the HKSAR Government**

In accordance with the Administrative Guidelines on Promotion of Racial Equality (the Guidelines), the relevant government bureaux and departments (B/Ds) and public authorities should consider taking appropriate steps to assess the impact of their policies and measures on racial equality or provision of equal access to key public services. These steps may include collection of relevant information and statistics, consultation with relevant stakeholders and other appropriate measures. Moreover, to facilitate assessment by the public, the relevant public authorities should consider setting indicators and/or targets as appropriate.

2. B/Ds and public authorities, having regard to their own policy considerations and needs, may collect data and statistics on the races of stakeholders and conduct related studies. The data and statistics is collected on a voluntary and confidential basis, and the purpose of which is to facilitate the Government in formulating policies and measures that would enable equal access by EMs to public services. The Constitutional and Mainland Affairs Bureau will continue to request the

relevant authorities to collect data and set indicators for the continuous improvement of services provision to EMs.

**Constitutional and Mainland Affairs Bureau**  
**March 2018**