

Bills Committee on Race Discrimination Bill

Views received from deputations/individuals on specific clauses of the Bill

(as at 30 September 2007)

Deputation/Individual [LC Paper no. of submission]	Comments/Proposed amendments
Clause 2 Interpretation	
The Hong Kong Bar Association [CB(2)1461/06-07(01)]	The definition of "club" in the Bill requires that the association must "sell or supply liquor for consumption on its premises". Such a definition excludes effectively clubs or associations catering for a membership that, for example, share the Muslim faith and cannot be what is intended.
Clause 3 Application to Government	
The Hong Kong Bar Association [CB(2)1461/06-07(01)]	(a) Clause 3 differs from other existing anti-discrimination ordinances in Hong Kong as well as those of some overseas jurisdictions (e.g. Australia, Canada, New Zealand) in limiting the scope of application of the Bill to the Government. The clause may be inconsistent with the International Convention on the Elimination of All Forms of Racial Discrimination. The provision should be re-drafted as "This Ordinance binds the Government." (b) It is not clear whether Clause 3 will have the effect of excluding the application of the Bill to acts performed by the Judiciary.
Equal Opportunities Commission [CB(2)1168/06-07(05)] Hong Kong Unison Limited [CB(2)1226/06-07(01)]	The Bill will not apply to the performance of government functions and powers which is different from other anti-discrimination ordinances.

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Mr Y K CHONG [CB(2)1226/06-07(04)]	Clause 3 should be revised as "This Ordinance binds the Government" and a clause similar to section 21 of the Sex Discrimination Ordinance (SDO) (Cap. 480) - "it is unlawful for the Government to discriminate against a woman in the performance of its functions or the exercise of its powers" should be added to the Bill.
Clause 4 Racial discrimination	
The Law Society of Hong Kong [CB(2)1325/06-07(01)] Equal Opportunities Commission [CB(2)1168/06-07(05)]	Clause 4(2) sets out the criteria for determining "justifiability", but this drafting approach deviates from that for the other three anti-discrimination ordinances.
The Hong Kong Bar Association [CB(2)1461/06-07(01)]	Clause 4(1)(b) prescribes a test of "disproportionate impact" for indirect discrimination. Clause 4(2) - (5) provides for two alternative tests to determine "justifiability". The second test on the "reasonable practicability" of the alleged discriminator does not appear to be in line with English jurisprudence and runs the risk of amounting to a less stringent test than the alternative test, i.e. proportionality test. Clause 4(2) - (5) is suggested to be deleted.
Civic Party [CB(2)1243/06-07(02)]	In Clause 4(1) - (4), the phrase "requirement or condition" should be replaced by "provision, criterion or practices" which has a wider meaning, following the wording adopted in the European Union Council Directive 2000/43/EC.
Mr Y K CHONG [CB(2)1226/06-07(04)]	Clause 4(2)(b) should be deleted as it will make it very difficult to prove a case of indirect discrimination. The test should be "failure to consider alternatives" and reference should be made to section 4 of the Disability Discrimination Ordinance (DDO) (Cap. 487). Clauses 4(2)(b) and 4(5) should be deleted as they will defeat the purpose of the Bill in tackling indirect discrimination.

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The Hong Kong Association of Banks [CB(2)1668/06-07(01)]	(a) Clause 4(2) defines "justifiable" in a very restrictive manner. A requirement or condition is regarded as justifiable if - - the condition serves a legitimate objective and bears a rational and proportionate connection to the objective; or - it is not reasonably practicable for the person who allegedly discriminates not to apply the restriction or condition. In practice, this could create doubt as to whether or not a requirement or condition is justifiable. The requirement is not contained in other anti-discrimination legislation in Hong Kong. (b) Certain financial/investment services (e.g. offering of Initial Public Offers of shares) may not be available to certain nationals by reason of the laws/regulations of their home countries. Clause 4(4)(d) should be amended to provide for appropriate exceptions for banks.
Clause 5 Discrimination on the ground of race of near relative	
The Law Society of Hong Kong [CB(2)1325/06-07(01)] Mr Y K CHONG [CB(2)1226/06-07(04)] Equal Opportunities Commission [CB(2)1168/06-07(05)]	The concept of "near relative" as defined under Clause 2 is too narrow compared with that of an "associate" under DDO and the latter term should be adopted for the Bill.
The Hong Kong Association of Banks [CB(2)1668/06-07(01)]	"Near relative" is defined widely to include a person's wife/husband/parent/child/grandparent/grandchild/brother/sister/stepchildren/illegitimate children. It may be difficult for a person to know whether he is inadvertently discriminating as he may not necessarily know the racial background of all the persons who come within the definition.

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Clause 8 Meaning of "race", "on the ground of race", "racial group" and comparison of cases of persons or different racial groups	
The Law Society of Hong Kong [CB(2)1325/06-07(01)] The Federation of Hong Kong & Kowloon Labour Unions [CB(2)1168/06-07(06)]	The definition of "race" in Clause 8(1)(a) is unclear and complex. The public should be educated about the concepts/definitions prior to the enactment of the Bill and guidance notes should be issued to all stakeholders.
The Hong Kong Bar Association [CB(2)1461/06-07(01)]	(a) The definition of discrimination on the ground of descent in Clause 8(1)(c) is unduly restrictive and not in accordance with the one adopted by the United Nations Committee on the Elimination of Racial Discrimination. (b) The corresponding provisions of Clauses 10, 11 and 12 of the Bill in the United Kingdom, namely sections 4, 5 and 6 of the Race Relations Act (RRA) amended in 2003 confer greater protection against discrimination on grounds of race or ethnic or national origins. The Administration should consider and explain why these provisions are not adopted in the Bill. (c) The Bill is unduly narrow in excluding discrimination on the ground of (former) immigrant status and on other grounds specified in Clause 8(2) and (3)(b)-(d).
Civic Party [CB(2)1243/06-07(02)]	The existing term "national origin" in Clause 8(1)(a) should be defined to include "origin from any territory outside the Hong Kong Special Administrative Region" in meaning, to protect many overseas Chinese who have come/returned to the Hong Kong Special Administrative Region (HKSAR).
Mr Y K CHONG [CB(2)1226/06-07(04)]	(a) The scope of the Bill should be extended to cover the following grounds of discrimination: language/place of origin outside Hong Kong/nationality/residency (Hong Kong resident status)/status of being, or having been an immigrant.

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	(b) Clause 8(3)(b)-(d) should be deleted and Clause 8(1) be amended to bring in the concept of perceived or imputed race. (c) The phrase "actual or perceived" should be added before the words "race, colour, decent, national or ethnic origin" in Clause 8(1)(a).
The Hong Kong Association of Banks [CB(2)1668/06-07(01)]	(a) The definition of "race" in Clause 8(1)(a) is extremely wide, covering not only race and colour but also descent or national or ethnic origin. The definition does not provide for how persons of mixed blood or origin should be dealt with. (b) Clause 8(1)(c) deals with discrimination on the ground of descent based on social stratification. Whether such a form of discrimination should be covered by the Bill should be discussed. In practice, it might be difficult to determine a person's descent.
Clause 10 Discrimination against applicants and employees	
The Democratic Party [CB(2)1226/06-07(03)] The Hong Kong Human Rights Commission [CB(2)1168/06-07(01) & CB(2)1226/06-07(02)(revised)] ** International Social Service - Hong Kong Branch [Oral presentation at the meeting on 3 March 2007]	The three-year transitional period for small employers should be reduced to one year or not more than one year.

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Christian Action [Oral presentation at the meeting on 3 March 2007] Mr Y K CHONG [CB(2)1226/06-07(04)]	
The Hong Kong General Chamber of Commerce [CB(2)1147/06-07(01)]	Shortening the three-year grace period will not serve the cause of eradicating racism from the society. The Government should ensure that there are sufficient resources/education initiatives to inform small to medium enterprises of this.
The New Territories General Chamber of Commerce (NTGCC) [Oral presentation at the meeting on 3 March 2007]	The exemption should be granted permanently instead of only three years.
Hong Kong Swatow Merchants Association Limited [CB(2)1266/06-07(01)]	Provision of a transitional period of three years for small companies/employers is appropriate.
The Hong Kong Bar Association [CB(2)1461/06-07(01)]	(a) The exception for small companies/employers in Clause 10(3) and 10(8) is unwarranted. It is also unclear whether domestic helpers are to be counted as employees of small employers for the purpose of the temporary exception under Clause 10(3). (b) Clause 10(10) is highly undesirable as it empowers the Government to extend the above exception to the detriment of those intended to be protected by the legislation.
Hong Kong Integrated Nepalese Society [CB(2)1168/06-07(02)]	It should be clarified whether imposition of the Chinese Language requirement (passes in Hong Kong Certificate of Education Examination or other local institutions) for employment in government organizations will be exempted.

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Clause 11 Exception for genuine occupational qualification	
Mr Y K CHONG [CB(2)1226/06-07(04)]	Clause 11(2)(c) - (e) are too broadly defined and can be easily abused by employers. They should either be deleted or defined more clearly.
Civic Party [CB(2)1243/06-07(02)]	The exception for genuine occupational qualification may become a loophole and should be restricted. An objective test should be provided for.
Clause 13 Exception for employment of person with special skills, knowledge or experience	
The Law Society of Hong Kong [CB(2)1325/06-07(01)]	(a) Clause 13(1)(c)(ii) is unclear and employers will have difficulty relying on the exemption until the relevant case law has been laid down. The exemption "any other relevant circumstances" is too wide and specific examples should be provided in the Bill by adopting the drafting format of "including...but not limited to ...". (b) The words "as the court may consider appropriate" should be added after "...race of the person)" in Clause 13(1)(c)(ii).
The Hong Kong Association of Banks [CB(2)1668/06-07(01)]	(a) Clause 13 only allows preferential terms to be offered to persons who possess special skills, knowledge or experience if they are recruited or transferred from a place outside Hong Kong. It is queried why there is a need to specify that the persons have to be recruited or transferred from a place outside Hong Kong if it is established that the persons possess skills not readily available in Hong Kong. (b) The expression "special skills, knowledge or experience" can be extremely broad and difficult to justify. It should be defined more clearly. (c) Under Clause 13(1)(c)(i), the terms of employment of the person concerned must have regard to the prevailing terms offered to persons with the relevant skills, knowledge or experience

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	outside Hong Kong. This is inappropriate as salaries in Hong Kong are normally higher than those paid abroad and employers would need to induce a person to move to Hong Kong with a higher salary.
Clause 14 Exception for existing employment on local and overseas terms of employment	
The Law Society of Hong Kong [CB(2)1325/06-07(01)]	Many employers determine an individual's entitlement to expatriate terms or local terms on the basis of various factors, none of which is related to the individual's permanent residency status. Paragraph 11 of Schedule 2 should be replaced by - "local terms of employment" (本地僱用條款) and "overseas terms of employment" (海外僱用條款)- (a) in relation to any employee (other than a public officer), means respectively - (i) such conditions or terms of service as are not "overseas terms of employment"; (ii) such conditions or terms of service as are generally known as "expatriate terms" due to their being related in whole or in part to the residency or nationality status of the employee...
The Hong Kong Association of Banks [CB(2)1668/06-07(01)]	See the Association's comments on Schedule 2 below.
Mr Y K CHONG [CB(2)1226/06-07(04)]	This exception may violate the International Covenant on Civil and Political Rights and the International Labour Organisation Conventions.

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Hong Kong General Chamber of Commerce [CB(2)1147/06-07(01)] Equal Opportunities Officer/University of Hong Kong [CB(2)1168/06-07(10)]	The exception is supported.
Clause 15 Discrimination against contract workers	
The Hong Kong Association of Banks [CB(2)1668/06-07(01)]	Concerns raised by the Association with regard to Clause 13 also apply in respect of this clause.
Clause 16 Meaning of employment at establishment in Hong Kong	
Mr Y K CHONG [CB(2)1226/06-07(04)]	The meaning of "an establishment in Hong Kong" should be defined in such a way that Hong Kong residents working outside Hong Kong for companies registered in Hong Kong will also be protected.
The Hong Kong Bar Association [CB(2)1461/06-07(01)]	(a) Clause 16 which defines the extent to which the legislation applies to employment is less generous in scope than the corresponding provisions of RRA of the United Kingdom. The Administration should explain why the latest provisions in RRA are not adopted in the Bill, given the increasing number of HKSAR permanent residents being stationed outside Hong Kong by their employers. (b) Clause 16(2) should be re-drafted to indicate whether employment on a Hong Kong registered ship, aircraft or dynamically supported craft is or is not subject to protection of the legislation.

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Clause 17 Partnerships	
The Hong Kong Bar Association [CB(2)1461/06-07(01)]	Clause 17(1) seeks to outlaw race discrimination in relation to partnerships but its protection is limited to a firm consisting of not less than six partners. The same limitation existed in section 10(1) of RRA but it was removed in 2003. Clause 17(7) provides for the removal of this limitation by the Chief Executive in Council. The Administration should explain the circumstances in which this power may be exercised.
Mr Y K CHONG [CB(2)1226/06-07(04)] The Society for Community Organisation, New Immigrants Mutual Aid Association, Hong Kong Human Rights Commission and Voices of the Rights of Asylum Seekers and Refugees - joint submission [CB(2)1226/06-07(02)(revised)] **	The Administration should provide justification for restricting application of this provision to partnerships of not less than six and consider removing this restriction.
Clause 18 Trade unions, etc.	
The Federation of Hong Kong & Kowloon Labour Unions [CB(2)1168/06-07(06)]	As cases of race discrimination in trade unions are rare, the words "trade unions" should be deleted from Clause 18 to avoid unnecessary disputes.
The Hong Kong Bar Association [CB(2)1461/06-07(01)]	Clause 18(5) seeks to provide for an exception for organisations of workers/employers/both workers and employers established prior to the enactment of the Bill. The provision, if enacted, will undermine the effectiveness of Clause 18. The Administration should justify the inclusion of this provision.

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Clause 19 Qualifying bodies	
Mr Y K CHONG [CB(2)1226/06-07(04)]	Is it a case of over-legislation to include Clause 19(2) and Schedule 3?
Clause 20 Persons concerned with provision of vocational training	
Hong Kong Unison Limited [CB(2)1226/06-07(01)] The Hong Kong Christian Service [CB(2)1226/06-07(06)] Hong Kong SKH Lady Macle hose Centre [CB(2)1202/06-07(02)] Civic Party [CB(2)1243/06-07(02)] Mr Y K CHONG [CB(2)1226/06-07(04)]	The exemption under Clause 20(2) will allow educational institutions to continue ignoring the demands of the ethnic minorities in vocational training and should be removed.
The Hong Kong Bar Association [CB(2)1461/06-07(01)]	There is no provision in RRA equivalent to Clause 20(2) which seeks to stipulate that the Bill is not to be construed as requiring a person concerned with the provision of vocational training or education to modify for persons of any racial group its arrangements regarding holidays or medium of instruction or to make different arrangements on those matters for persons of any racial group. It is concerned that the argument that it is not reasonably practicable for the arrangements to be made is a less than satisfactory justification and does not meet a properly formulated proportionality test.

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Clause 21 Employment agencies	
The Hong Kong Bar Association [CB(2)1461/06-07(01)]	Clause 21(4) aims to provide a defence to an employment agency which relies on a statement by the employer to the effect that the employer could lawfully refuse to offer the employment to the person in question. The lack of a requirement under Clause 21(4)(a) of providing such a statement in writing is likely to create difficulties in enforcement.
Clause 26 Discrimination by responsible bodies for educational establishments	
The Hong Kong Bar Association [CB(2)1461/06-07(01)]	There is no provision in RRA equivalent to Clause 26(2) which stipulates that the Bill is not to be construed as requiring a responsible body for an educational establishment to modify for persons of any racial group its arrangements regarding holidays or medium of instruction or to make different arrangements on those matters for persons of any racial group. It is concerned that it suggests an argument that failure to make the arrangements might be discriminatory on racial grounds but that such failure is defensible.
The Democratic Party [CB(2)1226/06-07(03)] Mr Y K CHONG [CB(2)1226/06-07(04)] Hong Kong SKH Lady Macle hose Centre [CB(2)1202/06-07(02)] Hong Kong Unison Limited [CB(2)1226/06-07(01)] The Hong Kong Christian Service [CB(2)1226/06-07(06)]	Clause 26(2) should be deleted since language discrimination is a form of indirect discrimination and this provision may legitimize existing discriminatory arrangements.

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Dr Keezhangatte James Joseph [CB(2)1243/06-07(01)]	Provisions should be made to permit affirmative action to be taken under Clause 26 on education.
The Law Society of Hong Kong [CB(2)1325/06-07(01)]	Clause 26(2) provides a blanket shield for the Administration and other educational bodies which will be exempted from any requirement that reasonable arrangements should be put in place to provide adequate support for ethnic minority students. It is suggested that the Administration should also review section 24(4) of DDO which provides for an exception for an educational establishment if its provision of services/facilities for students with a disability would impose unjustifiable hardship on the establishment.
Vocational Training Council [CB(2)1202/06-07(03)] Equal Opportunities Officer/University of Hong Kong [CB(2)1168/06-07(10)] The Association of Hong Kong Chinese Middle Schools [CB(2)1168/06-07(11)]	It is necessary to include the exception for medium of instruction and arrangements regarding holidays in education and training bodies as prescribed under Clause 26(2).
Clause 27 Discrimination in provision of goods, facilities or services	
Civic Party [CB(2)1243/06-07(02)]	Clause 27 will permit racial discrimination to take place. Its application is too wide and needs to be restricted.
Clause 28 Discrimination in disposal or management of premises	
The Hong Kong Bar Association [CB(2)1461/06-07(01)]	Clause 28(3) provides for an exception on disposal of premises by their owner-occupiers, unless the service of an estate agent is used or an advertisement is published in connection with the disposal. Its equivalent provision in RRA is section 21, which was amended in 2003 to remove the exclusion in relation to discrimination on grounds of race/ethnic/national origins. The

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	Administration should justify why such an amendment has not been adopted for Clause 28.
Clause 30 Exceptions for small dwellings	
The Hong Kong Bar Association [CB(2)1461/06-07(01)] Mr Y K CHONG [CB(2)1226/06-07(04)]	Clause 30 provides for an exception for letting and assignment of "small dwellings". Its equivalent provision in RRA is Section 22, which was amended in 2003 to remove the exclusion of discrimination on grounds of race/ethnic/national origins. The Administration should justify why such an amendment has not been adopted for Clause 30.
Clause 31 Exceptions for voluntary bodies	
Civic Party [CB(2)1243/06-07(02)]	This exception clause may encourage groups like White Supremacy, neo-Nazi groups and anti-Japanese groups to be formed in Hong Kong.
Clause 33 Further exceptions	
The Hong Kong Association of Banks [CB(2)1668/06-07(01)]	Paragraph 19 of the Explanatory Memorandum states that "Clauses 27(1) and 28 do not extend to discrimination covered by the employment or education provisions of the Bill (Clause 33(2) as read with Schedule 4)". It is necessary to clarify on how the specific provisions of Clause 33(2) and Schedule 4 should be read in the context of the Explanatory Memorandum.
Clause 34 Discrimination in eligibility to stand for election, etc.	
Mr Y K CHONG [CB(2)1226/06-07(04)]	Is it a case of over-legislation to include Clause 34(2)?
Clause 39 Other harassment	
Mr Y K CHONG	(a) Protection against racial harassment should be extended to service providers and not just to

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[CB(2)1226/06-07(04)]	service users under Clause 39(1). (b) Clause 39(3) and (4) should be amended to protect tenants and sub-tenants occupying the same premises from racial harassment. (c) The definition of a "club" under Clause 39(10) is too narrow and should be broadened by deleting paragraph (b) from its definition under Clause 2.
Clause 49 Special measures	
Vocational Training Council [CB(2)1202/06-07(03)] Equal Opportunities Officer/University of Hong Kong [CB(2)1168/06-07(10)]	It is necessary to include this provision such that the special measures intended for bestowing benefits on ethnic minorities and promoting equal opportunities for them not being regarded as racial discrimination.
Clause 50 Charities	
Hong Kong Bar Association [CB(2)1461/06-07(01)]	Clause 50 provides for the exception for certain provisions in charitable instruments from the scope of the Bill. Its equivalent provision in RRA is section 34. Since the exemption was removed from RRA in 2003, the Administration should justify why a similar amendment has not been made to Clause 50.
Clause 54 Nationality law, etc. not affected	
Mr Y K CHONG [CB(2)1226/06-07(04)]	The provision is too broad and unnecessary because of the existence of Clause 8(3)(d).

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Equal Opportunities Officer/University of Hong Kong [CB(2)1168/06-07(10)]	This provision will allow the University to administer various benefits/assistance that are only available to local students.
Clause 55 Immigration legislation	
Voices of the Rights of Asylum Seekers and Refugees [CB(2)1168/06-07(01) & CB(2)1226/06-07(02)(revised)] ** Mr Y K CHONG [CB(2)1226/06-07(04)] The Hong Kong Bar Association [CB(2)1461/06-07(01)] The Coalition For Migrants Rights, Indonesian Migrant Workers Union, Far East Overseas Nepalese Association, Filipinos Domestic Helper General Union, Alliance of Progressive Labor, Hong Kong, the Hong Kong Coalition of Indonesian Migrants Workers Organization [CB(2)1226/06-07(05)]	The exemption for immigration legislation is opposed as it will legitimize existing discriminatory arrangements against foreign domestic helpers e.g. two-week rule.
Clause 56 Acts done under statutory authority not affected by Parts 3, 4 and 5	
The Hong Kong Bar Association [CB(2)1461/06-07(01)]	It is objected to this exemption for acts done under statutory authority.
Mr Y K CHONG [CB(2)1226/06-07(04)]	This provision should be deleted in order to mainstream racial equality in existing laws.

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The Hong Kong Association of Banks [CB(2)1668/06-07(01)]	(a) The scope of exceptions should be widened to cater to the needs of established banking practices. Clause 56 refers to an "existing statutory provision", which means compliance with non-statutory requirements such as the Hong Kong Monetary Authority's guidelines and sanctions issued by overseas regulatory authorities will fall outside the scope of protection of the Clause. (b) Unlike section 41 of RRA, Clause 56 of the Bill applies to existing statutory provision (i.e. excludes future legislation). Hence, the scope of protection provided by Clause 56 will not apply to any new ordinance enacted after the Bill becomes enacted. The scope of Clause 56 should be expanded to include future legislation and non-statutory requirements that banks are expected to comply with in the prevention of money laundering and terrorist financing activities.
Clause 57 Application to New Territories land	
The Law Society of Hong Kong [CB(2)1325/06-07(01)] Mr Y K CHONG [CB(2)1226/06-07(04)]	The rights of inhabitants in the New Territories are protected by Article 40 of the Basic Law. The indigenous inhabitants of the New Territories should not be granted exemption from the coverage of the Bill as it will widen their rights.
Clause 58 Exception for languages	
The Hong Kong Human Rights Commission [CB(2)1168/06-07(01) & CB(2)1226/06-07(02)(revised)] ** Hong Kong Unison Limited [CB(2)1226/06-07(01)]	The exception for use, or failure to use, particular languages in regard to provision of goods and services, etc. should not be provided for in order to safeguard racial equality.

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The Hong Kong Christian Service [CB(2)1226/06-07(06)] Hong Kong SKH Lady Macle hose Centre [CB(2)1202/06-07(02)] The Coalition For Migrants Rights, Indonesian Migrant Workers Union, Far East Overseas Nepalese Association, Filipinos Domestic Helper General Union, Alliance of Progressive Labor, Hong Kong, the Hong Kong Coalition of Indonesian Migrants Workers Organization [CB(2)1226/06-07(05)]	
Mr Y K CHONG [CB(2)1226/06-07(04)]	What is the meaning of "in any circumstances relevant for the purpose of the section" in Clause 58(1)? Clause 58 should be deleted as it legitimizes discriminatory practice.
The Law Society of Hong Kong [CB(2)1325/06-07(01)]	Clause 58 should be amended by adopting the wording "...would impose unjustifiable hardship", in line with similar wording in section 26(2) of DDO.
The Hong Kong Association of Banks [CB(2)1668/06-07(01)]	This exception for use, or failure to use, particular languages should also cover Clause 10 and other provisions relating to employment.
Vocational Training Council [CB(2)1202/06-07(03)] Hong Kong Swatow Merchants Association Limited [CB(2)1266/06-07(01)]	(a) The Bill should not impose mandatory requirement for all service providers including educational establishments to conduct their activities and business in all languages or any specified language. (b) Provision of the exemption under Clause 58 is supported.

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The Hong Kong Federation of Insurers [CB(2)1168/06-07(07)] Tsim Sha Tsui District Kai Fong Welfare Association [CB(2)1168/06-07(08)] Yau Tsim Mong Committee on Promotion of Hong Kong Economy [CB(2)1168/06-07(09)] Equal Opportunities Officer/University of Hong Kong [CB(2)1168/06-07(10)] The Association of Hong Kong Chinese Middle Schools [CB(2)1168/06-07(11)]	
Part 7 Commission	
The Law Society of Hong Kong [CB(2)1325/06-07(01)]	(a) The enacted Bill should be implemented by the Equal Opportunities Commission (EOC). (b) As the dual role of EOC as investigator and conciliator may result in respondents feeling pressured to agree to settlements, provisions to provide for the setting up of a panel of independent conciliators/mediators should be incorporated into the Bill. (c) The existing protection against usual costs orders in relation to complaints to EOC is unjustified. EOC should avoid giving the impression that complainants receive preferential treatment over respondents in discrimination cases.

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Mr Y K CHONG [CB(2)1226/06-07(04)]	Clauses 60 and 79 on "Functions and powers of Commission" and "Assistance by way of conciliation" should be amended to enhance the functions and powers of EOC, such as by including the power to sue and to enable EOC to bring civil proceedings against those who have committed discriminatory practices without going through the process of formal investigation.
Schedule 2 Employee in Existing Employment	
The Law Society of Hong Kong [CB(2)1325/06-07(01)]	See the Law Society's comments under "Clause 14".
The Hong Kong Association of Banks [CB(2)1668/06-07(01)]	Schedule 2 defines an existing employee for the purpose of Clause 14 which grandfathers the terms offered to all existing employees. Paragraph 2(b) of Schedule 2 requires that there should not be a break in the service of the employee; otherwise, the existing employment would cease to be grandfathered. There should be some flexibility to allow for a break not exceeding six months to cover leave arrangements.
Mr Y K CHONG [CB(2)1226/06-07(04)]	Is inclusion of Clauses 9 and 11 a case of over-legislation? What will be the effect on the Native-speaking English Teacher Scheme if these two provisions are deleted?
Schedule 5 Other matters not affected by this Ordinance	
Mr Y K CHONG [CB(2)1226/06-07(04)]	What is the rationale of having an exemption for the portable comprehensive social security assistance scheme policy? What will be the effect if this schedule is deleted?

* Joint submission from the Society for Community Organisation, New Immigrants Mutual Aid Association, Hong Kong Human Rights Commission and Voices of the Rights of Asylum Seekers and Refugees

Council Business Division 2
Legislative Council Secretariat
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