

## **Race Discrimination Bill**

### **Response to the Administration's Allegation of Charging Effect of CSAs proposed on behalf of the Bills Committee**

#### Clause 4(1A), (1B) and (1C)

1. Although the CSAs would cover "provision, criterion and practice", discrimination would only be established if such provision, criterion and practice cannot be shown to be a proportionate means to achieve a legitimate aim. This is the same as the defence of justification under clause 4(1)(b) and (2).
2. There is no ground to assume that the public, the Government and the public authorities are committing unjustifiable race discrimination on a large scale and will not be able to comply with the provisions. Liability would not result from something beyond the Government's control. That being so, the allegation that there will be substantial increase in complaints and court proceedings are purely speculation without any support of facts.
3. The Bill would add the enforcement of anti-racial discrimination legislation to the existing jurisdiction and duties of EOC. Additional funding will be provided to EOC by the Administration after the Bill is enacted. The Administration will therefore increase funding to EOC after the Bill has been enacted. The Administration's view assumes that the capacities of EOC after receiving the new funding will be fully utilised so that it would not be able to deal with new complaints or proceedings arising from the CSAs without further increase in funding. No evidence is adduced to support such assumption. In any event, the provisions do not require the Government to finance EOC.
4. The Administration's view assumes that the courts have no capacity to deal with new cases arising from the proposed CSAs without increase in funding. No evidence is adduced in support. In any event, the provisions do not require the Government to increase funding to the

courts.

#### Clause 9A

5. The Administration's assertion again assumes that the Government is acting in a racial discriminatory way on such a substantial scale that clause 9A will have a significant impact on the Administration's resources devoted to dealing with complaints and litigation arising therefrom. There will not be justified complaints or litigation if the Government complies with the law. Liability would not result from something beyond the Government's control. The provision does not impose any obligation on the Government to expend public funds.
7. On the impact on EOC, please see para.3 above.

#### Clause 9B

8. Clause 9B does not require more than what the Administration has already promised Members to do. Further, clause 9B(2) does not require anything more than what are normally considered by a conscientious policy maker. The clause seeks to ensure that race equality has a place in the policy making process of the relevant Government bureaux and departments and public authorities but does not require any expenditure of public funds. It does not impose any obligation on the Government to increase any expenditure.

#### Clause 58 (1A)

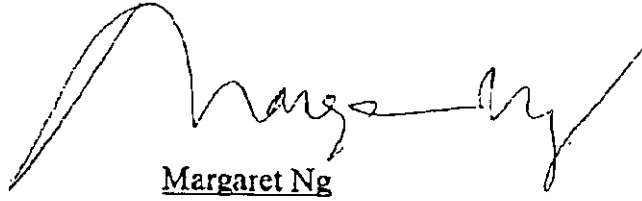
9. This clause does not require anybody to provide any vocational training course to persons speaking a particular vernacular. It merely disapplies clause 58(1) to such vocational training course. It does not impose an obligation on the Government to finance the Vocational Training Council, which is a body receiving one-line-vote funding.

#### Clause 58(1B)

10. This clause also does not require any medical services provider to provide translation in the language or vernacular spoken by a patient. It merely

disapplies clause 58(1) to section 27 when the service provided is medical treatment. It does not impose any obligation on the Government to finance the Hospital Authority, witch is also receiving one-line-vote funding.

Dated the 3<sup>rd</sup> day of July 2008



Margaret Ng