

RACE DISCRIMINATION ORDINANCE
AND
INTERPRETATION AND GENERAL CLAUSES
ORDINANCE

RESOLUTION

(Under section 83 of the Race Discrimination Ordinance
(29 of 2008) and section 35 of the Interpretation and
General Clauses Ordinance (Cap. 1))

RACE DISCRIMINATION (PROCEEDINGS BY EQUAL
OPPORTUNITIES COMMISSION) REGULATION

RESOLVED that the Race Discrimination (Proceedings by Equal Opportunities Commission) Regulation, made by the Secretary for Constitutional and Mainland Affairs on 11 March 2009, be approved, subject to the following amendment – in section 3, in the Chinese text, by deleting “指” and substituting “指出”.

RACE DISCRIMINATION (PROCEEDINGS BY EQUAL OPPORTUNITIES COMMISSION) REGULATION

(Made by the Secretary for Constitutional and Mainland Affairs under section 83 of the Race Discrimination Ordinance (29 of 2008) subject to the approval of the Legislative Council)

1. Commencement

This Regulation comes into operation on a day to be appointed by the Secretary for Constitutional and Mainland Affairs by notice published in the Gazette.

2. Circumstances in which Commission may bring proceedings

The circumstances in which the Commission may bring proceedings for the purposes of section 70(1) of the Ordinance (as if it were a person who may have brought proceedings under that section but has not done so) are where –

- (a) the case raises a question of principle; and
- (b) it is in the interests of justice to do so,

and it appears to the Commission that the claim of the person is well-founded.

3. Remedies Commission may seek in proceedings brought by it

In any proceedings brought under section 2, the Commission may apply for any remedy available to a claimant under section 70(3) of the Ordinance, including a declaration that the act which is the subject of the proceedings is an unlawful act or an injunction in respect of such act or both a declaration and an injunction.

Secretary for Constitutional and
Mainland Affairs

11 March 2009

Explanatory Note

Section 70 of the Race Discrimination Ordinance (29 of 2008) (“the Ordinance”) sets out the matters in respect of which a person may bring civil proceedings under the Ordinance. Section 83 of the Ordinance empowers the Secretary for Constitutional and Mainland Affairs to specify in regulations –

- (a) the circumstances in which the Equal Opportunities Commission (“the Commission”) may bring proceedings if a person who is entitled to bring proceedings under section 70 of the Ordinance does not do so; and
 - (b) the remedies which the Commission may seek to obtain in such proceedings.
2. Accordingly, this Regulation empowers the Commission –
- (a) to bring such proceedings where a question of principle is involved and it is in the interests of justice to do so and it appears that the claim is well-founded; and
 - (b) in any such proceedings to seek any remedy available under section 70(3) of the Ordinance, including a declaration or an injunction or both.