

**Bills Committee on  
Discrimination Legislation (Miscellaneous Amendments) Bill 2018**

**List of follow-up actions arising from the discussion  
at the meeting on 26 March 2019**

The Administration was requested to provide a written response to the following issues raised by members:

- (a) whether the Administration would consider members' suggestion of expanding the scope of protection under the Sex Discrimination Ordinance (Cap. 480) ("SDO") to cover acts of harassment, vilification and offensive behaviour towards breastfeeding women. If the answer was in the affirmative, how the Administration would take forward the suggestion (by proposing amendments to the Bill under scrutiny or by introducing a separate bill to deal with the matter);
- (b) whether the Administration would consider members' suggestion to include "interns", "unpaid trainees" and "volunteer" in the proposed definition of "workplace participant" as set out in Part 5 of the Bill in relation to the proposed new section 23A of SDO, new section 22A of the Disability Discrimination Ordinance (Cap. 487) ("DDO") and new section 24A of the Race Discrimination Ordinance (Cap. 602) ("RDO"). If yes, please advise how the Administration would take forward the suggestion;
- (c) whether the existing definition of "club" in the four anti-discrimination ordinances (i.e. "an association, incorporate or unincorporate, of not less than 30 persons associated together for social, literary, cultural, political, sporting, athletic or other lawful purposes and which provides and maintains its facilities, in whole or in part, from the funds of the association") covered churches and religious facilities; and whether the proposed protection relating to harassment by clubs (i.e. proposed new section 39A to SDO) would extend to cover pastoral staff and congregation participating in religious activities in churches and religious facilities such that they would have legal protection against sexual harassment;
- (d) regarding the definition of "club" mentioned in item (c), the rationale for setting the threshold at "not less than 30 persons" for being classified as "club"; and
- (e) regarding the scope of protection against sexual harassment under SDO, whether the Administration would reconsider the suggestion of including sexual harassment between students from different schools/ educational establishments within the scope of SDO.

2. The Administration has advised in its reply letter dated 22 February 2019 (LC Paper No. CB(2)866/18-19(01)) that an act of discrimination or harassment which gave rise to a claim under SDO, DDO, RDO and the Family Status Discrimination Ordinance (Cap. 527) fell within the scope of "matters pertaining to the contractual or other legal relationships of a civil nature" among the bodies or individuals as particularized in Article 7(5) of the Co-operation Arrangement between the Mainland and the Hong Kong Special Administrative Region on the Establishment of the Port at the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link for Implementing Co-location Arrangement ("the Co-operation Arrangement"). A "reserved matter", as defined under section 3 of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Ordinance (Cap. 632), was a matter to which the laws of Hong Kong applied and over which Hong Kong exercised jurisdiction, under Article 3 or 7 of the Co-operation Arrangement. Against this background, a member enquired and requested the Administration to clarify (i) whether the above principle applied in legal proceedings involving foreigners/foreign nationals and if yes, (ii) whether the "Law of the People's Republic of China on Application of Laws to Foreign-Related Civil Relations", which came into effect from 1 April 2011, had any implications on Hong Kong courts' handling of legal proceedings involving foreigners/foreign nationals which fell within the scope of "matters pertaining to the contractual or other legal relationships of a civil nature" under Article 7(5) of the Co-operation Arrangement (including claims made under the four anti-discrimination ordinances).

3. As the Administration has indicated in its reply letter dated 21 March 2019 (LC Paper No. CB(2)1033/18-19(01)) its willingness to consider how the proposed definition of breastfeeding might be amended such that the scope of protection for breastfeeding women against discrimination should not be limited to women who feed their own children with their breast milk, the Administration was requested to provide, as early as possible, its proposed amendments to the Bill to facilitate members' consideration.