

# A BILL

## To

Amend the Sex Discrimination Ordinance to render it unlawful for a person to harass a breastfeeding woman; and to make related amendments.

Enacted by the Legislative Council.

### 1. **Short title and commencement**

- (1) This Ordinance may be cited as the Sex Discrimination (Amendment) Ordinance 2020.
- (2) This Ordinance comes into operation on the commencement date of Part 2 of the Discrimination Legislation (Miscellaneous Amendments) Ordinance 2020.

### 2. **Sex Discrimination Ordinance amended**

The Sex Discrimination Ordinance (Cap. 480) is amended as set out in sections 3 to 11.

### 3. **Long title amended**

The long title—

#### **Repeal**

“and sexual harassment”

**Substitute**

“sexual harassment and harassment of breastfeeding women”.

**4. Section 2 amended (interpretation)**

- (1) Section 2(1), Chinese text, definition of 職業介紹所—

**Repeal the full stop**

**Substitute a semicolon.**

- (2) Section 2(1)—

**Add in alphabetical order**

“*harass* (騷擾) means—

- (a) sexually harass within the meaning of subsection (5); or
- (b) harass within the meaning of section 2A, and *harassment* (騷擾) is to be construed accordingly;”.

- (3) Section 2(8)—

**Repeal**

“sexual”.

- (4) After section 2(8)—

**Add**

“(8A) Subsection (8) does not apply to a provision of Part 3 or 4 framed with reference to harassment of women if the harassment is harassment within the meaning of section 2A.”.

**5. Section 2A added**

After section 2—

**Add**

**“2A. Harassment of breastfeeding women**

- (1) For the purposes of this Ordinance (other than section 2(5)), a person harasses a woman if, on the ground that the woman is breastfeeding—
  - (a) the person engages in unwelcome conduct, in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated that the woman would be offended, humiliated or intimidated by that conduct; or
  - (b) the person, alone or together with other persons, engages in conduct that creates a hostile or intimidating environment for the woman.
- (2) In subsection (1)—

*conduct* (行徑) includes making a statement to a woman or in her presence, whether the statement is made orally or in writing.”.

**6. Section 9 amended (discrimination by way of victimisation)**

- (1) Section 9(3)—

**Repeal**

“sexual”.
- (2) After section 9(3)—

**Add**

“(4) Subsection (3) does not apply to a provision of Part 3 or 4 framed with reference to harassment of women if the harassment is harassment within the meaning of section 2A.”.

**7. Section 24 amended (other sexual harassment)**

(1) Section 24, heading—

**Repeal**

“sexual”.

(2) Section 24—

**Repeal**

“sexually” (wherever appearing).

**8. Section 40 amended (other sexual harassment)**

(1) Section 40, heading—

**Repeal**

“sexual”.

(2) Section 40—

**Repeal**

“sexually” (wherever appearing).

**9. Section 81 amended (persistent discrimination or sexual harassment)**

(1) Section 81, heading—

**Repeal**

“sexual”.

- (2) Section 81(b)—

**Repeal**

“sexual”.

**10. The expression “sexual” repealed**

- (1) The following provisions—

- (a) Part 3, heading;
- (b) cross-heading before section 23;
- (c) Part 4, heading;
- (d) cross-heading before section 39;
- (e) cross-heading before section 83—

**Repeal**

“**Sexual**” (wherever appearing).

- (2) The following sections—

- (a) section 17(2)(b);
- (b) section 41(6) and (7);
- (c) section 58(2);
- (d) section 64(1)(c);
- (e) section 69(1)(c);
- (f) section 72(2)(b)(ii);
- (g) section 76(1)(c) and (d) and (6);
- (h) section 77(1)(b)—

**Repeal**

“sexual” (wherever appearing).

**11. The expression “sexually” repealed**

The following sections—

- (a) section 23;
- (b) section 39;
- (c) section 83(1)—

**Repeal**

“sexually” (wherever appearing).

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### **Explanatory Memorandum**

The object of this Bill is to amend the Sex Discrimination Ordinance (Cap. 480) (*Ordinance*) to render it unlawful for a person to harass a breastfeeding woman.

2. Clause 1 sets out the short title and provides for commencement.
3. Clause 3 expands the long title of the Ordinance to cover harassment of breastfeeding women.
4. Clause 4(2) adds the definition of *harass* to section 2(1) of the Ordinance which comprises both sexual harassment and harassment of breastfeeding women.
5. Clause 5 adds a new section 2A to the Ordinance which sets out the meaning of harassment of a woman on the ground that the woman is breastfeeding.
6. Clauses 4(3), 6(1) and 7 to 11 replace the references to “sexual harassment” and “sexually harass” in certain provisions of the Ordinance with the references to “harassment” and “harass” so that those provisions apply in relation to both sexual harassment and harassment of breastfeeding women. Clauses 4(1) and (4) and 6(2) make related amendments.