

委員會於1999年2月向香港特別行政區行政長官呈交了多項有關修訂《性別歧視條例》和《殘疾歧視條例》條文的建議。委員會是在兩條條例運作十二個月後，於1997年底開始進行法例檢討，從而提出有關的修訂建議。由於《家庭崗位歧視條例》於1997年11月才生效，因此這次法例檢討並不包括《家庭崗位歧視條例》。

這次法例修訂建議的範圍相當廣泛，主要包括：

- 委員會應有權就歧視性的處事常規採取法律行動；
- 應廢除《性別歧視條例》附表五所載的例外情況；
- 應擴闊某些範疇的性騷擾保障；
- 應保障殘疾人士的選舉資格或被選舉資格。

附表五的例外情況

附表五全部8項條文都與政府的政策、常規和規例有關。每項都影響到個人與政府關係中的個人權利。例子包括：

- 紀律部隊招聘員工時的最低身高和體重要求；

● 新界男性原居村民可享有與新界土地有關的特殊利益的「丁屋政策」；

● 向殉職輔警人員的遺孀發放撫恤金時，「並未再婚及品德良好」的遺孀享有的待遇較再婚的遺孀為佳。

教育範疇及其他範疇的性騷擾

《性別歧視條例》有關性騷擾的定義包括兩方面。第一方面是指任何人對另一人所作的不受歡迎行徑或行為，適用於所有範疇。第二方面指具敵意環境的騷擾，只適用於僱傭範疇。

委員會相信，沒有性騷擾的學習環境對學生同樣重要。學校及大學應有責任防止學校出現在性方面具敵意的學習環境。因此我們建議政府應修訂法例，把保障範圍擴大至包括學生在內。

“你離咗婚
要聯住子女，
呢份工唔啱你！”

“你一個人
帶住兩個細路，
我唔會
租間屋俾你㗎！”

“你又娶請假
帶爸爸去睇醫生，
不如辭職啦！”

法 例 檢 討

平等機會委員會的宣傳廣告出現在各個地鐵站內。

In February 1999 the Commission submitted to the Chief Executive of the Hong Kong Special Administrative Region a number of recommendations seeking amendment of the provisions in the Sex Discrimination Ordinance (SDO) and the Disability Discrimination Ordinance (DDO). The proposals for amendment were the culmination of a legislative review begun by the Commission at the end of 1997, following 12 months of operational experience with the two ordinances. As the Family Status Discrimination Ordinance did not come into operation until November 1997, it was not included in the Commission's review of the legislation.

The proposal for legislative amendments covers a wide range of areas. In particular, the key areas are:

- the Commission should have the power to take legal action for discriminatory practices;
- Schedule 5 of the SDO, which contains a number of exceptions to discrimination, should be repealed;
- the protection against sexual harassment in certain fields should be extended; and
- the protection for people with a disability in terms of the eligibility to vote for or stand for election should be added.

Exemptions under Schedule 5

All eight items exempted under Schedule 5 arise out of government policies, practices and regulations and affect the rights of individuals in their relationship with the government. Examples of these exemptions are:

- height and weight requirements in respect of recruitment to the disciplinary forces;
- small house policy which grants special benefits relating to land in the New Territories to male indigenous villagers;
- regulations relating to benefits payable to widows of officers of the Hong Kong Auxiliary Police Force who die in action give preferential treatment to widows who remained "unmarried and of good character".

EOC advertisements appearing at MTR stations throughout Hong Kong.

"Sorry!
You have too many family responsibilities. You won't have time for the company training course."

"You're postponing that business trip to look after your parents? Do you want to be promoted or not?"

"Minding your children after work means that you'll be too busy for overtime work. We can't employ you."

Reviewing the

Legislation



我們同樣關注到，服務行業的員工如果受顧客性騷擾，可能得不到法律保障。委員會建議應修訂法律，加入這方面的保障。

增加對殘疾人士的保障

委員會亦建議政府應修訂《殘疾歧視條例》，加入條文明確地保障殘疾人士在諮詢團體的投票資格與被選入或委入該等

團體的資格。根據《殘疾歧視條例》的現有條文，任何人在選舉與被選舉事宜上受到基於殘疾的歧視，並不受法例的保障。另一方面，《性別歧視條例》則規定，不得基於性別、婚姻狀況或懷孕的理由而在選舉與被選舉事宜上作出歧視。

我們的建議

委員會促請政府從速考慮法例修訂建議。為了實踐人人機會平等的精神，法例中的例外情況應盡量減至最少。此外，性騷擾的保障也應擴大，和加強對殘疾人士的保障。



Sexual harassment in education and other fields
Under the SDO, the definition of sexual harassment covers two aspects. First, it refers to unwelcome conduct or behaviour by one person against another and it applies to all fields of activities. Second, it refers to hostile environment harassment which applies only to the field of employment.

The Commission believes that it is equally important for students to have a learning environment which is free of sexual harassment. Schools and universities should be responsible for preventing a sexually hostile environment. We therefore recommend that the government should amend the law to extend protection to students in this respect.

We are equally concerned that people working in the service industry may not have protection against sexual harassment by customers and we recommend that the law should be amended to cover this aspect as well.

More protection for people with a disability

The Commission also proposes that the government should amend the DDO by introducing specific protection for persons with a disability in relation to eligibility to vote for and to be elected or appointed to advisory bodies. Under the existing provisions of the DDO, if a person is discriminated on the grounds of disability in such matters, he/she is not protected under the law. On the other hand, the SDO provides protection against

discrimination on the grounds of sex, marital status or pregnancy in these areas.

Our recommendations

The Commission urges the government to give prompt consideration to the proposal for legislative amendments. In keeping with the spirit of equal opportunities for all, exceptions in the law should be kept to a minimum. Also, protection against sexual harassment should be extended and protection for people with a disability should be strengthened.

