

Public Consultation on the Code of Practice on Employment under the Race Discrimination Ordinance

Information Note



平等機會委員會
EQUAL OPPORTUNITIES COMMISSION

October 2008

(English Version)

Code of Practice on Employment under the Race Discrimination Ordinance

◆ Introduction ◆

The Race Discrimination Ordinance (RDO) was enacted in July 2008. It brought to Hong Kong an opportunity to further entrench our community values and make our society better and fairer for everyone regardless of racial characteristics.

An important aspect of our lives is employment. The Equal Opportunities Commission has published a draft Code of Practice on Employment under the Race Discrimination Ordinance for public consultation. The consultation period will last for eight weeks from 13 October to 8 December 2008. The draft Code of Practice explains how the Race Discrimination Ordinance protects people from racial discrimination in employment-related matters. It is designed to assist stakeholders in the employment field, such as employees, employers, human resources practitioners and trade unions to have a better understanding of their rights and obligations under the RDO.

◆ Content of the draft Code of Practice ◆

The content of the draft Code of Practice covers the following areas:

Meaning of race under the Ordinance

- What is meant by race
- What is not regarded as racial discrimination

Scope of employment protection

- Meaning of employment
- Small employers
- Domestic helpers
- Religion
- Other occupational relationships
- Other work related matters

Overview of unlawful acts under the Ordinance

- What is “discrimination”
- Application to different aspects and stages of the employment relationship
- What is meant by “racial harassment”
- Relationships where racial harassment is unlawful
- Vilification and the offence of serious vilification
- Other unlawful acts under the Ordinance

Liability for unlawful acts

- Employer and principal liability
- Employee liability for aiding employer’s unlawful acts
- Employee’s direct liability
- Reasonably practicable steps by an employer to prevent unlawful acts

Further details on direct and indirect discrimination

- Direct discrimination
- Indirect discrimination

Exceptions and matters not affected

- Genuine occupational qualification
- Training for skills to be used outside Hong Kong
- Employment of persons with special skills, knowledge or experience
- Existing local and overseas terms
- Special measures

Good practice

- Drawing up policy
- Implementation

Complaint and legal proceedings

- Complaint handling
- Legal Assistance
- Right to take legal proceedings

◆ How to obtain the draft Code ◆

The draft Code is being distributed to stakeholders, ethnic minority organisations and concern groups for comments. It is also available from the Public Enquiry Service Centres of the Home Affairs Department, the Equal Opportunities Commission and on our website (<http://www.eoc.org.hk>). Members of the public are welcome to attend consultation meetings between November and December 2008. For details, please visit our website.

Public views and comments will be appropriately incorporated in the Code before it is tabled at the Legislative Council (Legco) in March 2009. Subject to endorsement by Legco, the Code will come into effect in April 2009.

You are welcome to provide your views to the Equal Opportunities Commission. Please forward your comments on this document to us in writing by 8 December 2008:

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