

**HONG KONG EQUAL OPPORTUNITY LAW —
LEGISLATIVE HISTORY ARCHIVE, 1993–1997**

**Introductory materials,
chronologies & table of archived
documents**

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Introduction: political and legal developments leading to the enactment of Hong Kong's equal opportunity legislation

[archived documents referenced in brackets]

Introduction

Traditionally, the Hong Kong Government has pursued a policy known as “positive non-interventionism”. In essence this means that the Government provided the infrastructure necessary for industry and commerce, but avoided enacting legislation that would be viewed as unduly burdensome to business. Although this philosophy has been modified somewhat in recent decades, the government continued to rely upon it as a justification for not introducing any anti-discrimination legislation that would apply to the private sector.

Nonetheless, in mid-1995 Hong Kong's first anti-discrimination laws were enacted: the Sex Discrimination Ordinance (which prohibits discrimination on the grounds of sex, pregnancy, and marital status, as well as sexual harassment) and the Disability Discrimination Ordinance (which prohibits discrimination, harassment, and vilification on the ground of disability). An additional law (prohibiting discrimination on the ground of family responsibility) was enacted in June 1997. This introduction to the legislative history of these laws briefly summarises the political and legal developments that compelled the government to abandon its original opposition to anti-discrimination legislation.

The Enactment of the Bill of Rights Ordinance

The campaign for discrimination legislation was led primarily by the women's movement, in part because sex discrimination has been particularly blatant in Hong Kong. However the women's movement made very little headway until the 1990's. Women received some support (albeit mostly symbolic) from the enactment of the Hong Kong Bill of Rights Ordinance in 1991. The Bill of Rights was essentially copied from the International Covenant on Civil and Political Rights (the “ICCPR”). The ICCPR contains a number of articles prohibiting discrimination. The widest, Article 26 (which was copied into Article 22 of the Hong Kong Bill of Rights Ordinance), states:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this regard, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

The Hong Kong women's movement initially viewed the Bill of Rights as a potentially powerful weapon against discrimination. They were particularly encouraged by the fact that the initial draft of the Bill of Rights applied not only to the Government, but also to private persons. Thus, women hoped that it could be used as a weapon against discrimination in the private sector. However, the business community lobbied hard against such broad application and when the Bill of Rights Ordinance was enacted in July 1991 it was amended so as to bind only the Government and public authorities.

In the end, even in the area of public discrimination, the Bill of Rights proved far less effective than women had hoped. However, the debate surrounding the Bill of Rights (particularly the question of whether it should apply to private parties) publicized the extent of discrimination in Hong Kong and helped to identify the right to equality as a “human right”, worthy of legal protection. In particular, the debate served to educate members of the Legislative Council, many of whom became strong supporters of the women's movement.

Portions of this introduction first appeared in Carole J. Petersen, “Hong Kong's First Anti-Discrimination Laws and Their Potential Impact on the Employment Market”, 27 Hong Kong Law Journal 324 (1997).

Support from the Legislative Council

The second significant development was the fundamental change in the role of the Hong Kong Legislative Council. In preparation for 1997, the Legislative Council became more democratic, with the first directly elected seats introduced in 1991. The legislature thus became more accountable to the general public, less beholden to the business community, and more willing to challenge the Government. As a result, in the early 1990's, legislators frequently criticised the Government's failure to address sex discrimination in Hong Kong. For example, in December 1992, the Legislative Council voted unanimously in favour of a motion calling upon the Hong Kong Government to request the United Kingdom to extend the Convention on the Elimination of all Forms of Discrimination Against Women (the "Women's Convention") to Hong Kong. This motion represented a clear challenge to the Hong Kong Government, not only because it had long opposed the Women's Convention, but also because it would require Hong Kong to enact anti-discrimination legislation. Although the Government was not obligated to change its position on the Women's Convention (and indeed, did not do so for some time), it could not simply ignore the unanimous vote of the Legislative Council. The Government thus promised to conduct its first formal consultation of the public on sex discrimination, by issuing a "Green Paper" on the issue. [3A] At the conclusion of the consultation period, the Government admitted that the majority of responses were in favour of the Women's Convention and the enactment of anti-discrimination legislation. [27]

Meanwhile, in September 1993 (while the Green Paper consultation exercise was still ongoing), a member of the Legislative Council directly challenged the Government's "laissez faire" policy towards discrimination. Ms. Anna Wu Hung-yuk began drafting two private member's bills, the Equal Opportunities Bill and the Human Rights and Equal Opportunities Commission Bill (the "Commission Bill"). [12], [13] The Equal Opportunities Bill was intended to prohibit discrimination on a wide range of grounds (including sex, marital status, pregnancy, family responsibility, disability, sexuality, race, age, political and religious conviction, and "spent conviction") in a broad range of activities (including employment, education, housing, the provision of goods and services, and the administration of laws and government programmes). The establishment of an independent human rights commission had been raised during consideration of the Bill of Rights Ordinance, but had been dismissed by the Government as unnecessary once it was decided not to apply the Ordinance to the private sector. Wu's Commission Bill would have created such a commission to enforce not only the rights created by the Equal Opportunities Bill and the Bill of Rights, but also other internationally recognized human rights.

By drafting these bills on her own, Wu made history in Hong Kong. In the past, the Government had proposed and drafted almost all new laws. The role of the Legislative Council was to study the Government's bill, propose amendments, debate and vote upon it. Prior to 1991, "private members'" bills were rare and used only to incorporate or regulate the affairs of a charity or other private institution. However, as the Legislative Council became more democratic and assertive, non-governmental members began to draft and introduce public bills. Wu's Equal Opportunities Bill was the most ambitious of these bills, in that it was the first private member's bill to attempt to introduce an entire new area of law.

Wu faced an important legal constraint. Under Hong Kong's colonial constitution, a member of the Legislative Council was required to obtain express permission from the Governor before she could introduce any bill that would require the expenditure of public revenue. Fearing that the Governor might refuse, Wu drafted the Equal Opportunities Bill so that it would not require any funding (and therefore could be introduced without the Governor's permission). However, it was impossible to draft the Commission Bill so as not to require expenditure of public revenue, and Wu duly sought permission to introduce it.

Whether the Government ought to establish a human rights commission for Hong Kong generated significant political controversy in the summer of 1994. The idea was endorsed in a comprehensive report on Hong Kong issued by a UK parliamentary committee, but sharply criticised by a senior Chinese official. In July, the UK Government rejected the parliamentary recommendation to establish a commission, and the Governor subsequently refused Wu permission to introduce her own Commission Bill.

The Equal Opportunities Bill was introduced into the legislature in July 1994. A Bills Committee (to study the bill and receive public submissions) was formed and began meeting in August 1994, with a view to putting the bill to a vote by July 1995. The introduction of Wu's bill put the Hong Kong Government in a difficult position. The women's movement had acquired significant support in the legislature and in the general public (as demonstrated by the Green Paper consultation exercise). Public sympathy for the disabled was also quite strong, following several well-publicized incidents of discrimination against them (including violent demonstrations against the establishment of centres for the mentally disabled in residential areas). Other groups who stood to benefit from Wu's bill — racial minorities, trade unions, and gay rights groups — were also lobbying in support of Wu, in the hope that she could seize the momentum and enact a truly comprehensive anti-discrimination law.

Given the widespread public demand for action against discrimination, even the pro-business legislators would have had difficulties voting against Wu's bill — unless they could be presented with a more conservative alternative bill. The Government thus reluctantly announced that it would introduce bills prohibiting the two areas of discrimination that had generated the most public support — sex discrimination and disability discrimination. [27], [43] The Government quickly drafted a Sex Discrimination Bill (essentially copying the UK's Sex Discrimination Act and adding several exemptions) and introduced it in October 1994. [67] The Government's Disability Discrimination Bill followed in April 1995. [134] The Sex Discrimination Bill was significantly more conservative than the relevant provisions of the Equal Opportunities Bill, containing more exemptions and provisions designed to delay the bill's implementation.

But despite these weaknesses, the Government's proposal had one thing that the women's movement and the disabled groups wanted, and which Wu's bill could not give them — an Equal Opportunities Commission. Although the Governor had refused to permit Wu to introduce her own Commission Bill, the Government wisely provided for an Equal Opportunities Commission in its own proposal. The ambit of the Government's proposed commission was narrower than the one proposed by Wu (as it would not address general human rights concerns or the implementation of international conventions). But it could assist victims and attempt to conciliate complaints of discrimination (an approach that appealed to the business community as well as to victims, as it could avoid costly litigation).

Recognizing the value of an Equal Opportunities Commission, Wu announced (in the spring of 1995) that she would withdraw the provisions of her bill relating to sex and disability discrimination and support the Government's Sex Discrimination Bill and Disability Discrimination Bill. She then tried to amend the Government's bills (so as to reduce the number of exemptions and expand the functions of the Equal Opportunities Commission). Several of Wu's proposed amendments to the Government's bills were accepted by the Government and therefore easily enacted. Her remaining amendments were debated in the Legislative Council, where Government succeeded in defending most of its exemptions.

Implementation and amendment of the new laws

Given that the Hong Kong Government was essentially pushed into introducing discrimination laws, it is not surprising that it drafted the bills so as to provide for fairly slow

implementation. Both laws gave the Government complete discretion as to when to bring them into force and it refused to bring either law into force until the Equal Opportunities Commission was created and fully operational. (This was not strictly necessary, as victims could enforce the laws in the courts as well as through the Commission.) The Government was then quite slow to establish the Commission: it did not advertise the key position of Chairman of the Commission until March 1996, a full eight months after the two ordinances were enacted. As a result, the Chairperson (Dr. Fanny Cheung) did not take up the position until May 1996. She devoted much of the summer of 1996 to the recruitment of other staff and the Commission did not become fully operational until September 1996.

The *non-employment* provisions of the Sex Discrimination and Disability Discrimination Ordinances were brought into force in September 1996, shortly after the Equal Opportunities Commission became fully operational. The employment provisions were delayed even further, until December 20, 1996. This was because the Secretary for Home Affairs refused to bring the employment provisions into force until detailed “Codes of Practice” could be issued to guide employers on their obligations under the new laws. Women’s and disability groups objected to this plan, as they feared that it could potentially delay enforcement of the employment provisions by an additional year or more (because the Codes of Practice had to be drafted in consultation with employer and employee groups and then be tabled for approval by the Legislative Council). However, the Commission’s staff worked very quickly (putting in many late nights) to draft the Codes and conduct the required rounds of public consultation, and managed to table the Codes in the Legislative Council by November 20, 1996. After a hasty study, the Legislative Council approved the Codes with a few revisions, and both the Codes and the employment provisions of the two ordinances finally came into force on December 20, 1996. Meanwhile, several of the amendments Wu had unsuccessfully proposed for the two discrimination bills in 1995 were put before the Legislative Council a second time, by a new private member’s bill sponsored by Christine Loh Kung-wai. Entitled the Sex and Disability Discrimination (Miscellaneous Provisions) Bill 1996, Loh’s amendment bill sought to strengthen the Commission’s enforcement powers and to widen judicial remedies for discrimination, as well as to close some of the more egregious loopholes in the two ordinances. [304] The Government opposed the bill, arguing that any changes to the two ordinances should await experience with them in practice, a view supported by the Commission itself. Though persuaded to delete many of the bill’s provisions, legislators this time did not reject the private member’s bill as a whole and a much reduced version passed on June 11, 1996, amending the remedies obtainable under two ordinances before they had ever been invoked in court.

The other grounds: consultation and legislation to July 1, 1997

Following the Government’s introduction of bills on sex and disability discrimination, Wu continued to lobby for the enactment of the parts of her Equal Opportunities Bill that were not addressed by the Government’s bills. The remaining grounds of discrimination covered by Wu’s Equal Opportunities Bills (including age, sexuality, race, political and religious belief, and family status) came to a vote in late July 1995. These bills were supported by the majority of the members of the Bills Committee and by the Democratic Party (which held the largest number of directly elected seats in the Legislative Council). However, the Government lobbied hard against the bills, arguing that Hong Kong should gain experience with the Sex Discrimination Ordinance and the Disability Discrimination Ordinance before adopting broader legislation. Under pressure to offer more in the final weeks before Wu’s bills were debated, the Government also undertook to conduct studies and consult the public on the main additional grounds covered by Wu’s bills — age, sexuality, family responsibility and race — during the following year. This undertaking provided legislators with an acceptable explanation for rejecting more comprehensive legislation. In the end, the

combined forces of the Government's ex-officio members, appointed members and pro-business legislators provided enough votes to defeat Wu's bills in marathon sittings.

After the 1995 Legislative Council elections, a group of legislators followed up on campaign promises by re-introducing the major parts of Wu's defeated Equal Opportunities Bill for reconsideration by the new Legislative Council. Aside from Loh's amendment bill discussed above, two other private member's bills were put forward: the Equal Opportunities (Family Responsibility, Sexuality and Age) Bill, sponsored by Lau Chin-shek, and the Equal Opportunities (Race) Bill, sponsored by Elizabeth Wong Chien Chi-lien. [286], [339] Both bills were attacked by Government for pre-empting the studies and consultation exercises it had promised to conduct on various grounds of discrimination at the end of the previous legislative term. While the bills slowly progressed through various procedural hurdles towards consideration in a new bills committee, the Government's studies began to unfold.

The Home Affairs Branch published its first two studies and consultation papers on January 24, 1996, on family status discrimination and sexual orientation discrimination. [269], [278] The branch belatedly published its third consultation paper on race discrimination on February 19, 1997. [383A] Meanwhile, the Education and Manpower Branch focused specifically on age discrimination in employment and published a study and consultation paper on that topic on June 7, 1996. [314] All the papers suffered some criticism for bias, but the paper produced by the Education and Manpower Branch — which was also embattled with unionist legislators on a variety of related legislative fronts, including unfair dismissal law and the loosening of restrictions on trade union activities — was certainly the most candid in expressing hostility to the legislative option.

On June 25, 1996, Home Affairs Branch announced the results of the first two consultations. [329] With a majority of consultation responses in favour of legislation against family status discrimination, the Government undertook to produce a bill of its own on the subject. The Family Status Discrimination Bill was duly drafted and introduced into the Legislative Council in April 1997, modelled closely on the Sex Discrimination Ordinance and addressing a more limited range of conventional family relationships than Wu's or Lau's bills on the subject. [412] The bill passed with little controversy at the Council's last sitting before the handover, becoming Hong Kong's third anti-discrimination ordinance.

In regard to sexual orientation, however, a majority of consultation responses opposed legislation (mainly because of a large number of submissions on pre-printed forms circulated among some religious groups). The Government therefore adopted a programme of "non-legislative measures" to combat sexual orientation discrimination, including some funding for community groups, a public education campaign (e.g. comprising public interest announcements, leaflets and a comic book), and preparation of a non-binding code of practice. Similar measures in respect of race discrimination were announced on June 18, 1997, after a majority of respondents to that consultation also failed to support legislation. [459] In regard to age, a majority of consultation respondents in fact supported legislation. The Education and Manpower Branch, however, characterised the overall response rate as low and concluded that age discrimination was "not a pressing issue to the community." [356] The Government therefore rejected legislation on that ground on October 16, 1996 and announced a program of "publicity, public education and self-regulation" instead, including another non-binding code of practice for employers.

Against this background of elaborate Government inaction, the Equal Opportunities (Family Responsibility, Sexuality and Age) Bill and Equal Opportunities (Race) Bill at last came to a vote in the highly-charged atmosphere of the Legislative Council's week-long final sitting before the July 1 handover. With the Council almost evenly split on the legislation, the outcome depended on the fence-sitting swing vote of legislators from the Alliance for

Democracy and People's Livelihood, who eventually made clear that they would oppose Wong's race bill and the sexual orientation provisions in Lau's bill, but would support the age provisions in Lau's bill. By a neatly executed parliamentary stratagem, however, the opponents of Lau's bill prevented its age provisions from being disentangled from its sexual orientation provisions, and the combined bill went down in defeat. As expected, Wong's race bill was also defeated.

One additional item of anti-discrimination legislation had a short but eventful life after it was passed on the penultimate day of the Legislative Council's last sitting. On that day, the Government and conservative legislators were shocked by the unexpected passage of four controversial and wide-ranging items of labour legislation, which had been introduced by unionist legislators late in the legislative term and never discussed in the Council. One of these items, enacted as the Employment (Amendment) (No. 4) Ordinance and sponsored by labour legislator Leung Yiu-chung, was originally modelled on provisions in Wu's Equal Opportunities Bill intended to prohibit discrimination on grounds of trade union membership. As enacted, it extended the Employment Ordinance's existing criminal sanctions against anti-union discrimination to encompass civil liability as well, and authorised civil remedies including damages and reinstatement for claimants. After the hand-over, all four of these 11th hour labour ordinances were swiftly suspended by the Provisional Legislative Council and eventually repealed (in the case of the Employment (Amendment) (No. 4) Ordinance, on October 29, 1997) without having ever come into force.

List of abbreviations used

Legislation

3 EO Bills	Equal Opportunities (Family Responsibility, Sexuality and Age) Bill [1995]; Equal Opportunities (Race) Bill [1995]; and Equal Opportunities (Religious or Political Conviction, Trade Union Activities and Spent Conviction) Bill
BORO	Hong Kong Bill of Rights Ordinance (Cap 383)
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CSA	Committee-stage amendment
DDB	Disability Discrimination Bill
DDO	Disability Discrimination Ordinance (Cap 487)
EOB	Equal Opportunities Bill
EO(FSA)B	Equal Opportunities (Family Responsibility, Sexuality and Age) Bill [1996]
EO(R)B	Equal Opportunities (Race) Bill [1996]
FSDB	Family Status Discrimination Bill
FSDO	Family Status Discrimination Ordinance (Cap 527)
HREOCB	Human Rights and Equal Opportunities Commission Bill
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
SD(A)B	Sex Discrimination (Amendment) Bill 1997
SDB	Sex Discrimination Bill
SD(MP)B	Sex and Disability Discrimination (Miscellaneous Provisions) Bill 1996
SD(MP)O	Sex and Disability Discrimination (Miscellaneous Provisions) Ordinance 1997
SDO	Sex Discrimination Ordinance (Cap 480)

Persons & organizations

AWu	(Office of) Legislative Councillor Anna Wu
CLoh	(Office of) Legislative Councillor Christine Loh
EMBr	Education & Manpower Branch
EOC	Equal Opportunities Commission
EWong	(Office of) Legislative Councillor Elizabeth Wong
FSBr	Financial Services Branch
Govt	Government (of Hong Kong unless otherwise specified)
HABr	Home Affairs Branch

List of abbreviations used (continued)

HWBr	Health & Welfare Branch
Lau	(Office of) Legislative Councillor Lau Chin-shek
PELBr	Planning, Environment & Lands Branch
S for CS	Secretary for Civil Service
S for EM	Secretary for Education & Manpower
S for HA	Secretary for Home Affairs
S for HW	Secretary for Health & Welfare
SecBr	Security Branch

Summary information on equal opportunity legislation

Enacted legislation

Sex Discrimination Ordinance [SDO]

- Content
 - Prohibits sexual harassment and discrimination on the ground of sex, marital status and pregnancy; civil remedies for contravention available in District Court.
 - Covers field of work, education, goods, facilities, services, premises, advisory bodies, barristers, clubs and government.
 - Establishes Equal Opportunities Commission [EOC] to promote and enforce SDO.
- Background
 - Originally a 1994 Government bill: Sex Discrimination Bill [SDB]. SDB extensively amended at committee stage of June 1995 Legco proceedings.
 - SDO further amended in June 1997 by **Sex and Disability Discrimination (Miscellaneous Provisions) Ordinance 1997**, originally a 1996 private member's bill by Christine Loh.
 - SDO further amended in November 1997 (to correct an error in previous amendments) by **Sex Discrimination (Amendment) Ordinance 1997**, originally a 1997 Government bill.

Disability Discrimination Ordinance [DDO]

- Content
 - Prohibits discrimination, harassment and vilification on the ground of disability; civil remedies available as in SDO.
 - Covers same fields as SDO, plus requests for information and access to premises.
 - Gives EOC jurisdiction to promote and enforce DDO.
- Background
 - Originally a 1995 Government bill: Disability Discrimination Bill [DDB]. DDB extensively amended at committee stage of July 1995 Legco proceedings.
 - DDO further amended by Sex and Disability Discrimination (Miscellaneous Provisions) Ordinance 1997.

Family Status Discrimination Ordinance [FSDO]

- Content
 - Prohibits discrimination on the ground of family status; civil remedies available as in SDO.
 - Covers same fields as SDO.
 - Gives EOC jurisdiction to promote and enforce FSDO.
- Background
 - Originally a 1997 Government bill: Family Status Discrimination Bill [FSDB]. FSDB slightly amended at committee stage of July 1997 Legco proceedings, in parallel with SDO amendments made by Sex and Disability Discrimination (Miscellaneous Provisions) Ordinance 1997.

Human Rights and Equal Opportunities Commission Bill [HREOCB]

- Content
 - Establishes Human Rights and Equal Opportunities Commission to promote compliance and conciliate disputes under Hong Kong Bill of Rights Ordinance and Equal Opportunities Bill, and in relation to human rights-related international instruments.
 - Establishes specialist Human Rights and Equal Opportunities Tribunal to adjudicate claims under Hong Kong Bill of Rights Ordinance and Equal Opportunities Bill.
- Background
 - Private member's bill by Anna Wu, published March 1994 for public consultation.
 - Chinese Government official in May 1994 claimed human rights commission would contravene Basic Law. UK and Hong Kong Governments rejected proposals to establish human rights commission in July 1994.
 - Because HREOCB is a private member's bill with charging effect, HREOCB could not be gazetted or introduced into Legco without Governor's express approval. Governor declined to approve HREOCB introduction in October 1994.

Equal Opportunities Bill [EOB] & related bills

- Content
 - Prohibits sexual harassment; harassment and vilification on the grounds of sexuality and race; and discrimination on the grounds of sex, marital status, pregnancy, family responsibility or family status, sexuality or sexual preference, race, disability, religious or political conviction, age, spent criminal conviction, membership or non-membership of a trade union and union activities.
 - Civil remedies for contravention obtainable in court proceedings. No administrative enforcement machinery provided (except separately by HREOCB) to avoid charging effect restrictions on private member's bills.
- Background
 - Originally a 1994 private member's bill by Anna Wu, and the 1st bill proposed on equal opportunities.
 - Taking account of subsequently introduced Government bills, Anna Wu restructured EOB content in 1995 as 3 separate bills [**3 EO Bills**]:
 - **Equal Opportunities (Family Responsibility, Sexuality and Age) Bill**
 - **Equal Opportunities (Race) Bill**
 - **Equal Opportunities (Religious or Political Conviction, Trade Union Activities and Spent Conviction) Bill**
 - Anna Wu's 3 EO Bills defeated in Legco in July 1995.
 - Slightly modified versions of **Equal Opportunities (Family Responsibility, Sexuality and Age) Bill [EO(FSA)B]** and **Equal Opportunities (Race) Bill [EO(R)B]** again introduced in 1996 by Lau Chin-shek and Elizabeth Wong respectively. Both bills defeated in Legco in June 1997.

Dates of gazette publication & Legco proceedings

Proceedings on EOB & 3 EO Bills

- 1 July 1994 EOB published in *Government Gazette*, page C991
6 July 1994 EOB 1st reading & 2nd reading adjournment
30 June 1995 3 EO Bills published in *Government Gazette*, page C1659
5 July 1995 3 EO Bills 1st reading & 2nd reading adjournment
28–29 July 1995 3 EO Bills 2nd reading resumption

Proceedings on SDB & SDO

- 14 October 1994 SDB published in *Government Gazette*, page C1391
26 October 1994 SDB 1st reading & 2nd reading adjournment of SDB
28–29 June 1995 SDB 2nd reading resumption, committee stage & 3rd reading
[Ordinance No. 50 of 1995] SDO inaccurately published in *Government Gazette*, page A1165
Ordinance No. 67 of 1995 SDO published in *Government Gazette*, page A1627
5 July 1996 SD(MP)B published in *Government Gazette*, page C2029
10 July 1996 SD(MP)B 1st reading & 2nd reading adjournment
11 June 1997 SD(MP)B 2nd reading resumption, committee stage & 3rd reading
[Ordinance No. 70 of 1997] SD(MP)O inaccurately published in *Government Gazette*, page A2414
Ordinance No. 71 of 1997 SD(MP)O published in *Government Gazette*, page A2441
17 October 1997 SD(A)B published in *Government Gazette*, page C433
29 October 1997 SD(A)B 1st reading & 2nd reading adjournment
12 November 1997 SD(A)B 2nd reading resumption, committee stage & 3rd reading
Ordinance No. 136 of 1997 SD(A)O published in *Government Gazette*, page A647

Proceedings on DDB & DDO

- 21 April 1995 DDB published in *Government Gazette*, page C965
26 April 1995 DDB 1st reading & 2nd reading adjournment
27–28 July 1995 DDB 2nd reading resumption, committee stage & 3rd reading
Ordinance No. 86 of 1995 DDO published in *Government Gazette*, page A2413
1996–1997 SD(MP)B — see above

Proceedings on EO(FSA)B

- 28 June 1996 published in *Government Gazette*, page C1791
10 July 1996 1st reading & 2nd reading adjournment
24 June 1997 2nd reading resumption

Proceedings on EO(R)B

- 5 July 1996 published in *Government Gazette*, page C1959
10 July 1996 1st reading & 2nd reading adjournment
24 June 1997 2nd reading resumption

Dates of gazette publication & Legco proceedings, continued

Proceedings on FSDB

- 11 April 1997 published in *Government Gazette*, page C1443
23 April 1997 1st reading & 2nd reading adjournment
24 June 1997 2nd reading resumption, committee stage & 3rd reading
Ordinance No. 91 of 1997 **FSDO** published in *Government Gazette*, page A3101

Relevant Legco motion debates

- 16 December 1992 CEDAW
14 July 1993 Human rights commission
8 December 1993 Green paper on equal opportunities for women & men

Chronology of equal opportunity legislation, 1990-5 Legislative Council

[archived documents referenced in brackets]

HREOCB

EOB

SDB

DDB

Bills Committee

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6 March

Govt publishes Hong Kong Bill of Rights Bill for public consultation.

25 July

Govt introduces Hong Kong Bill of Rights Bill into Legco. Bill contains non-discrimination rights (see BORO art. 1, art. 22) derived from ICCPR & applies to the public & private sector; introducing the Bill, Chief Secretary notes that art. 22 is intended to bind only the legislature, not individuals.

Business groups led by the Hong Kong Association of Banks oppose application of general rights to private sector, objecting in particular to art. 14 (privacy), 16 (opinion, expression & information) & 22 (non-discrimination). Legco Ad Hoc Group to study the Bill agrees & recommends application of BORO to private sector should be deferred, Govt should work toward specific legislation in respect of privacy, information & non-discrimination rights.

91

5 June

BORO passed by Legco. Govt moves amendment limiting BORO to apply exclusively to Govt & public authorities (see BORO s. 7). Chief Secretary says question of protecting rights in private sector will be considered; notes that Govt already studying CEDAW & that legal, social & economic implications of anti-discrimination legislation also need careful study.

8 June

BORO comes into force.

Women's groups & other non-governmental organizations, disappointed that BORO not applied to private sector, maintain pressure on Govt to extend CEDAW to Hong Kong, set up a Women's Commission & enact anti-discrimination legislation.

92

March

Govt forms inter-departmental working group under EMB to study how far sex discrimination is a problem in Hong Kong, identify measures against it, & advise with regard to employment on whether CEDAW should be applied to Hong Kong.

15-16 Dec

Working group announces findings (day before Legco motion debate on CEDAW): sex discrimination not a serious problem in Hong Kong; discrimination legislation would provide redress but also introduce labour market rigidities & be difficult to enforce; public consultation recommended before deciding on CEDAW. [1] [2] [3]

Motion Kong (sponsored by Emily Lau) urging CEDAW application to Hong Kong passes in Legco by voice vote with Govt abstaining.

Chronology of equal opportunity legislation, 1990-5 Legislative Council (continued)

[archived documents referenced in brackets]

	<u>HREOCB</u>	<u>EOB</u>	<u>SDB</u>	<u>DDB</u>	<u>Bills Committee</u>
93	14 Jul 1993 Motion (sponsored by AWu) urging establishment of a human rights commission passes in Legco by voice vote with Govt abstaining.				
<i>Aug</i>		26 Aug 1993 HABr launches Green Paper consultation on equal opportunities for women and men. [3A]		Aug-Nov Residents of Tung Tau estate organize campaign against new downs syndrome centre & hostel for mentally handicapped, including vandalism of centre and threats of violence against its residents	
<i>Sep</i>					
<i>Oct</i>	Oct & Nov AWu researches restrictions on private member's bills, particularly on charging effect (constitutionally, a bill with charging effect requires the Governor's permission). Legal advice suggests provisions making discrimination unlawful unlikely to have charging effect, but provisions establishing new administrative machinery (e.g. a commission for enforcement) do have charging effect. AWu isolates commission provisions in separate HREOCB to avoid charging effect in EOB. [6]				
<i>Nov</i>	2 Nov AWu announces plan to introduce HREOCB & EOB. [5]				
<i>Dec</i>		8 Dec Legco motion debate (sponsored by Peggy Lam) on the Green Paper			
94					
<i>Feb</i>				Feb Laguna City residents who unsuccessfully campaigned against the opening of a local	

Chronology of equal opportunity legislation, 1990-5 Legislative Council (continued)

[archived documents referenced in brackets]

	<u>HREOCB</u>	<u>EOB</u>	<u>SDB</u>	<u>DDB</u>	<u>Bills Committee</u>
				centre for psychiatric patients organize surveillance & “security” measures against patients visiting the centre.	
Mar	27 Mar AWu press conference launches public consultation on HREOCB & EOB. [9] [10] [11] [12] [13] [241]				
Apr	21 April UK House of Commons Foreign Affairs Committee publishes report on UK-China relations; recommendations include a human rights commission & sex discrimination legislation. [14] Amnesty International publishes report on human rights in Hong Kong; recommendations include establishment of a human rights commission. [14A]				
May	Apr-June Pending UK govt reply to Foreign Affairs Committee report, AWu & non-governmental organizations lobby Governor & UK govt to establish human rights commission. HK & UK govts non-committal but question necessity & durability of a commission. [15] [16] [20] [24] [25] [33] [35] [36] 6 May During visit to Hong Kong, Lu Ping (Director of China’s Hong Kong & Macau Affairs Office) says an independent human rights commission would contravene Basic Law and be disbanded after 1 July 1997. 9 May				

Chronology of equal opportunity legislation, 1990-5 Legislative Council (continued)

[archived documents referenced in brackets]

	<u>HREOCB</u>	<u>EOB</u>	<u>SDB</u>	<u>DDB</u>	<u>Bills Committee</u>
	<p>AWu queries whether charging effect blocks not only HREOCB passage, but also gazettal & introduction into Legco without Governor's permission; Legco President eventually confirms this is so. [4] [18] [34] [38] [104]</p> <p>18 May UK House of Lords debates Foreign Affairs Committee report. [19] [21] [22]</p> <p>23-5 May Australian Federal Human Rights Commissioner (Brian Burdekin) visits Hong Kong for public & private meetings to discuss role of Australian human rights commission (sponsored by AWu & Univ. of Hong Kong Law Faculty). [23]</p>				
Jun		<p>20, 27 June EOB certified by Law Draftsman. HABr advises Legco President that it finds no charging effect in EOB. [37] [38] [39] [40]</p>	<p>3 June HABr announces Green Paper outcome; Govt to apply CEDAW & legislate against sex discrimination. [26] [27] [28] [29]</p> <p>In press conference, S for HA indicates Govt bill will not address sexual harassment, pregnancy discrimination or marital status discrimination; but Govt House tells reporters bill will do so. S for HA & Governor deny any internal disagreement. [30] [31] [32]</p>		
Jul	1 July	1, 6 July		20 July	[For details see

Chronology of equal opportunity legislation, 1990-5 Legislative Council (continued)

[archived documents referenced in brackets]

	<u>HREOCB</u>	<u>EOB</u>	<u>SDB</u>	<u>DDB</u>	<u>Bills Committee</u>
	UK & HK Govts reply to Foreign Affairs Committee report, reject calls for a human rights commission. [41] [42]	EOB gazetted; AWu introduces bill into Legco. [42] 28 July Legco Bills Committee commences scrutiny of EOB.		HWBr announces plan to legislate against disability discrimination. [43] [44] [45]	<i>separate chronology of 1994-5 Bills Committee meetings</i> 14 & 28 July Meetings on EOB
Aug			5 Aug In bills committee, team of Govt officers attack EOB (only time Govt officers detail views on EOB in bills committee). [110]		5 Aug Meeting on EOB
Sep	7 Sept AWu writes Governor seeking permission to introduce HREOCB. [52] [53] [61]	12 Sept Gay & lesbian activist groups hold press conference in support of EOB. [55] [56]	5 Sept Draft SDB leaked to press; controversy over possible assignment of sex discrimination cases to Labour Tribunal. [46] HABr briefs Legco women's affairs subcommittee on draft SDB, providing minimal detail. [49] [50] mid-Sept HABr declines to release draft SDB or meet AWu to discuss its contents. [51] [57] [59]	Aug-Sept HWBr consults interested non-governmental organizations on draft DDB, agrees to discuss contents with AWu. [47] [48]	16 Sept Meeting on EOB
		15 Sept At bills committee's request, AWu & HABr meet to discuss cooperation on sex discrimination legislation but find no common way forward. AWu privately considers SDB impact on EOB. [73] [74]			
Oct	6 Oct Governor declines to permit AWu to introduce HREOCB. [62] [63]		11 Oct AWu urges women's & disability rights non-governmental organizations to scrutinize SDB. [64] [65] 14, 26 Oct		21 Oct Meeting on EOB 27, 28 & 31 Oct Meetings with deputations on EOB

Chronology of equal opportunity legislation, 1990-5 Legislative Council (continued)

[archived documents referenced in brackets]

	<u>HREOCB</u>	<u>EOB</u>	<u>SDB</u>	<u>DDB</u>	<u>Bills Committee</u>
<i>Nov</i>			SDB gazetted; S for HA introduces bill into Legco. [66] [67] [68] [71]		4 Nov Meeting on SDB & EOB 18 & 25 Nov Meetings on EOB
<i>Dec</i>			2 Dec HABr briefing launches bills committee scrutiny of SDB.		2 & 9 Dec Meetings on SDB 16 Dec Meeting on SDB & EOB 23 & 30 Dec Meetings on EOB
<u>95</u>		20 Jan S for HA tells reporters Govt is offering legislators public consultation on age and family responsibility discrimination as an alternative to EOB. [100]			5 Jan Meeting on EOB 13 Jan Meeting on SDB
		23, 30 Jan AWu writes Governor seeking assurances that Govt will not withdraw SDB if Legco amends it over Govt objections, & will permit expanded EOC jurisdiction if Legco passes EOB. Governor makes non-committal reply. [101] [102] [103]			20 Jan Meeting on EOB & SDB 27 Jan Meeting on EOB
<i>Feb</i>		10 Feb In bills committee, S for HA refers to Govt comments on EOB made 5 Aug, declines to elaborate further; attacks EOB's lack of commission enforcement & objects to EOC duties beyond SDB & DDB enforcement. [110]			

Chronology of equal opportunity legislation, 1990-5 Legislative Council (continued)

[archived documents referenced in brackets]

<u>HREOCB</u>	<u>EOB</u>	<u>SDB</u>	<u>DDB</u>	<u>Bills Committee</u>
	<p>AWu considers how to induce Govt to provide fuller commentary on EOB. [105] [111]</p> <p>mid-Feb to mid-Apr AWu considers amending SDB to cover age, family status & sexual orientation discrimination; dissuaded by legal advice on charging effect & other procedural obstacles. [106] [130] [131] [133] [136]</p>			<p>10 Feb Meeting on SDB & EOB</p> <p>17 Feb Meeting on EOB</p>
<i>Mar</i>	<p>17 Mar AWu meets HABr to discuss possible amendments to SDB.</p> <p>22 Mar Bills Committee Chairman meets Chief Secretary and S for HA to discuss Govt attitude to EOB; Chief Secretary undertakes to provide timetable for Govt action on EOB grounds of discrimination.</p> <p>late Mar 5 major employer organizations jointly release voluntary guidelines on equal employment opportunity (covering sex, age, marital status, religion or creed, race, ethnic origin or colour, nationality or national origin, disability). [146] [132] [121]</p> <p>30 Mar After floating idea in 3 & 10 Mar bills committee meetings, AWu undertakes to drop EOB parts overlapping SDB & DDB (i.e. sex, marital status, pregnancy & disability parts). [121] [139]</p>		<p>28 Mar Meeting between AWu & HWBr to discuss proposed DDB content. [121]</p>	<p>3 Mar Meeting on SDB</p> <p>10 Mar Meeting on SDB</p> <p>31 Mar Meeting on SDB & EOB</p>
<i>Apr</i>				<p>7 & 13 Apr Meetings with deputations on</p>

Chronology of equal opportunity legislation, 1990-5 Legislative Council (continued)

[archived documents referenced in brackets]

	<u>HREOCB</u>	<u>EOB</u>	<u>SDB</u>	<u>DDB</u>	<u>Bills Committee</u> SDB & EOB
				21 Apr DDB gazetted. [134] [135] [147]	21 Apr Meeting on SDB & EOB
<i>May</i>		5 May Bills Committee makes interim report to House Committee on EOB & SDB. House Committee endorses Anna Wu's proposal to split EOB into 3 EO Bills, omitting EOB parts overlapping SDB & DDB. [152] [153]			28 Apr Meeting on SDB
		26 -31 May Anna Wu forwards draft 3 EO Bills to HABr & Legco President for decision on charging effect. HABr resists responding pending formal certification of the bills by the Law Draftsman. [158] [169] [177] [183] [184] [188] [191] [197]	26 May HABr seeks to schedule SDB debate for 14 June, leaving bills committee no time prepare its own SDB CSAs. House Committee rejects HABr's proposed date & schedules debate for 28 June. [179] [195]		5, 12 & 26 May Meetings on SDB
<i>Jun</i>		1 June Last bills committee discussion of EOB/3 EO Bills.	1 June Last bills committee discussion on SDB. Bills committee decides to propose on its own most of AWu's suggested SDB amendments rejected by HABr; begins drafting CSAs. [189] [190] [192] [199] [203]	9 June First Bills Committee discussion of DDB.	1 Jun Meeting on SDB
		20-26 June 3 EO Bills certified by Law Draftsman; HABr advises Legco President that it finds no charging effect in 3 EO Bills. [204] [209] [220]	16 June Bills committee reports to House Committee on SDB. [201] [202]	15 & 22 June Meetings between AWu & HWBr to discuss possible DDB CSAs.	9 Jun Meeting on DDB & SDB
		30 June 3 EO Bills gazetted. [227]	26 June Final deadline to table SDB CSAs; Peggy Lam tables surprise		23 & 30 Jun Meetings on DDB

Chronology of equal opportunity legislation, 1990-5 Legislative Council (continued)

[archived documents referenced in brackets]

<u>HREOCB</u>	<u>EOB</u>	<u>SDB</u>	<u>DDB</u>	<u>Bills Committee</u>
		<p>CSA (never raised in bills committee) to cap damages obtainable in SDB lawsuits. [219] [224] [233]</p> <p>Late June Among selected legislators HABr circulates a confidential "must defend" list of arguments against bills committee CSAs. HABr declines to acknowledge or release list to AWu. [215] [216] [217]</p> <p>Secretary for Civil Service privately lobbies to preserve SDB exceptions for Govt marital status discrimination. [206] [207] [218] [223]</p> <p>23-27 June HABr challenges charging effect of 5 bills committee CSAs. Legco President hears urgent arguments over weekend; rules 4 CSAs out of order. [210] [211] [212] [213] [214] [221] [222]</p> <p>28-9 June SDB debated & passed by Legco. At committee stage, extensive HABr CSAs pass, most bills committee CSAs defeated; Peggy Lam's CSA (under discussion for 1st time) supported by S for HA & passed.</p>		
Jul	<p>5 July Anna Wu introduces the 3 EO Bills into Legco.</p>	<p>7 July SDO gazetted with errors (some successful CSAs omitted) as Ordinance No. 50 of 1995.</p>	<p>14 July Bills committee reports to House Committee on DDB. [244] [245]</p>	<p>7 July Meeting on DDB</p>

<u>HREOCB</u>	<u>EOB</u>	<u>SDB</u>	<u>DDB</u>	<u>Bills Committee</u>
	<p>7 July Bills Committee reports to House Committee on 3 EO Bills; House Committee schedules debate for 19 July. [229] [333]</p>	<p>21 July SDO re-gazetted accurately as Ordinance No. 67 of 1995.</p>	<p>27-28 July DDB debated & passed by Legco. Committee stage results generally parallel SDB, except in respect of court remedies: no cap on damages is proposed, & bills committee CSA authorizing court orders for reinstatement passes over Govt objections despite CSA's earlier failure under SDB. [254] [255] [256] [257]</p>	
	<p>10 July Final deadline to table CSAs for 19 July 3 EO Bills debate; only AWu tables CSAs. [228] [234] [235]</p>			
	<p>11-12 July Group of 24 religious groups and trade unions begin lobbying support for 3 EO Bills; AWu & CLoH deliver 2000 supporters' letters to S for HA.</p>			
	<p>S for HA holds press briefing to lobby against 3 EO Bills; argues enactment irresponsible because effect too uncertain. AWu writes to S for HA, arguing Bills was fully examined in Bills Committee and inviting S for HA to formal debate with AWu; S for HA declines. [236] [237] [238] [239] [240] [242]</p>			
	<p>11-17 July In private lobbying, S for HA unsuccessfully urges legislators to adjourn the 3 EO Bills Legco debate & allow bills to lapse at end of the legislative term without debate on their merits.</p>			
	<p>Among selected legislators (excluding AWu, Bills Committee</p>			

HREOCB	EOB	SDB	DDB	Bills Committee
	<p>Chairman & legislators known to support the bills), HABr circulates confidential 23 page list of detailed objections to 3 EO Bills, Govt's first detailed comments since 5 Aug 1994. [243] [252]</p>			
	<p>After obtaining list, AWu drafts new CSAs to alleviate objections (including CSA to empower S for HA to vary or defer operation of any provision in bills) & seeks urgent permission from Legco President either to move these late CSAs on 19 July or to defer debate. AWu privately urges S for HA to accept the bills so amended [246] [247] [248] [249] [250]</p>			
	<p>18 July HABr gives notice that it will seek individual committee stage votes on 42 provisions in bills, indicating S for HA plans to propose separate deletion of every major provision in any bill passed at 2nd reading. [251]</p>			
	<p>Press reports confidential Govt list of objections to bills.</p>			
	<p>AWu defers Legco debate on bills to 27 July & tables new CSAs; attacks HABr tactics & circulates reply to Govt list. [251] [253]</p>			
	<p>28-9 July Amid intensive lobbying, 3 EO Bills debated (as last item of</p>			

Chronology of equal opportunity legislation, 1990-5 Legislative Council (continued)

[archived documents referenced in brackets]

<u>HREOCB</u>	<u>EOB</u>	<u>SDB</u>	<u>DDB</u>	<u>Bills Committee</u>
	Legco business before end-of-term valedictory speeches) & defeated at 2 nd reading			

Chronology of 1994-1995 Legco Bills Committee meetings

[archived documents referenced in brackets]

#	Date	Bills	Invitees	Topics	Other remarks	Page
L1	18-07-94	EOB		<ul style="list-style-type: none"> • Notice and minutes of first meeting; election of Bills Committee officers 	Dr. Leong Che-hung elected as Chair, Christine Loh as Deputy.	1
L2	28-07-94	“	AWu	<ul style="list-style-type: none"> • AWu briefing - introduction to EOB • Discussion of future work plan 		13
L3	05-08-94	“	AWu, HABr, HWBr, FSBr, EMBr	<ul style="list-style-type: none"> • HABr briefing on initial Govt response to EOB - support equal opportunities in principle, but favour step-by-step approach beginning with Govt's forthcoming SDB & DDB; EOB impact unknown on economy, labour market & livelihood; all relevant policy branches still studying other possible implications • Govt queries on EOB effect - in regard to recognition of same-sex marriages; age-based limits on access to obscene articles; preference of religious schools & hospitals for religious employees; rules barring convicted criminals from eligibility to adopt children & giving priority to locals; better welfare benefits for families than singles; rules limiting convicted criminals' participation in financial services; inconsistent legislation not yet identified. 	<p>Only time Govt officers attend to discuss EOB provisions; Govt makes no further comments on EOB provisions until final lobbying in July 1995. HABr later tables written list of 5 Aug queries after S for HA cites them in 10 Feb 1995 meeting. [110]</p> <p>AWu argues Govt should know EOB implications because EOB equivalent to equality provisions in BORO; Govt lawyer replies EOB & BORO not comparable because “discrimination” in EOB has wider meaning than in BORO. [54]</p> <p>Bills Committee reluctant to study competing bills; asks Chairman & AWu to meet Govt to discuss common way forward. (Meeting held 15 Sept.)</p>	17
L4	16-09-94	“	AWu	<ul style="list-style-type: none"> • Chairman's report on 15 Sept meeting with AWu and S for HA - Govt reluctant to cooperate with EOB, committed to propose own legislation, i.e. SDB & DDB • AWu EOB briefing - meaning of discrimination; equal opportunity law in other common law jurisdictions [58] 	<p>Worries expressed about confusion & duplicated effort in scrutiny of competing bills; about Govt willingness to assist in scrutiny of EOB & to implement if passed. (Also see AWu internal team memo on procedural issues arising from parallel bills. [73])</p> <p>Bills Committee resolves to continue studying EOB, adopts tentative timetable; to seek public input by meeting with deputations; to request Govt to consult advisory bodies on EOB.</p>	25
L5	21-10-94	“	“	<ul style="list-style-type: none"> • AWu EOB briefing - international obligations [70]; grounds of discrimination, definition of direct & indirect discrimination [69] [76] 	<p>HABr declines to assist in consulting advisory bodies. [60]</p> <p>(Also see AWu internal memo on possible wider definition of indirect discrimination, ultimately not pursued. [82])</p>	29

#	Date	Bills	Invitees	Topics	Other remarks	Page
L6	27-10-94	"	deputations	• Meeting with deputations [77] [86]		33
L7	28-10-94	"	"	• Meeting with deputations [78] [86]		44
L8	31-10-94	"	"	• Meeting with deputations [79] [86]		52
L9	04-11-94	EOB & SDB	AWu	• Re-election of Chair & Deputy • Discussion of future work plan (AWu tables paper comparing EOB & SDB [80])	1 st meeting after SDB assigned to Bills Committee; Bills Committee decides to study both Bills in parallel instead of studying SDB first	81
L10	18-11-94	EOB	"	• AWu EOB briefing - discrimination in relation to relatives & associates [69]; act done for multiple reasons [81]; remedies & enforcement; BORO amendment; employment	Queries on race discrimination & unjustifiable hardship exception in employment	93
L11	25-11-94	"	AWu	• AWu EOB briefing - employment, ctd.	Queries on religious discrimination (described in AWu internal team memo [83]; also see 27 Jan 1995 meeting.)	101
L12	02-12-94	SDB	AWu, HABr, EMBr	• HABr briefing on Green Paper outcome & on SDB generally	Study of SDB begins. (See AWu internal team memo on composition of Govt team [84]; AWu internal memo to Democratic Party suggesting queries on SDB coverage employment, other matters [85].) Queries on why age & sexuality discrimination not covered; why pregnancy & marital status covered only in employment field; delayed implementation in employment field; sexual harassment; small employer exception; whether security & small house policy exceptions authorize Govt discrimination prohibited by BORO	107
L13	09-12-94	"	AWu, HABr, EMBr	• HABr SDB briefing - employment [87]	Queries on extent, partnerships, sexual harassment, positive discrimination, exception for protective legislation	115
L14	16-12-94	EOB & SDB	AWu, HABr, SecBr, disciplined services	• HABr/SecBr SDB briefing - security-related exceptions • AWu EOB briefing - comparison with SDB; sexual harassment, & comparative advantages of EOB & SDB provisions (AWu internal team memo considers revising sexual harassment in EOB per SDB approach [89])	HABr queried on age discrimination; exception for small employers; Govt attitude to amendment of SDB & whether Govt might withdraw SDB if amended (Also see AWu internal memo to Democratic Party suggesting queries concerning SDB security-related exceptions [88].)	123
L15	23-12-94	EOB	AWu	• AWu EOB briefing - access & vehicles; goods & services	Queries on age discrimination in relation to long-service pay & mandatory retirement. (AWu later tables CSAs to moderate EOB impact in these respects. [90] [91])	135

<u>#</u>	<u>Date</u>	<u>Bills</u>	<u>Invitees</u>	<u>Topics</u>	<u>Other remarks</u>	<u>Page</u>
L16	30-12-94	“	AWu	<ul style="list-style-type: none"> • AWu EOB briefing - goods & services ctd. (incl. harassment); clubs 		140
L17	05-01-95	“	AWu	<ul style="list-style-type: none"> • AWu EOB briefing - accommodation; land; laws & govt programmes; village elections & advisory bodies, etc.; education 		146
L18	13-01-95	SDB	AWu, HABr, EMBr	<ul style="list-style-type: none"> • HABr reply to SDB queries - definition of sexual harassment & same-sex harassment [94]; compatibility of SDB New Territories exception with BORO [94] • HABr SDB briefing - education; goods, services & facilities; premises 	<p>HABr says small house policy not discriminatory & under review by PELBr; policy may be challenged under BORO despite SDB exception, but EOC has no power to litigate BORO; village representative elections not affected by SDB.</p> <p>Queries on special treatment of government schools (later dropped by HABr [109]); employer liability for sexual harassment; coverage of private clubs. (Also see internal AWu memos preparing queries on coverage of administration of laws & government programmes, & of clubs. [92] [93] [95])</p>	155
L19	20-01-95	EOB & SDB	AWu, HABr, PELBr	<ul style="list-style-type: none"> • PELBr briefing on small house policy - origins & backlog of applications; policy to be reviewed, but SDB exception needed to avoid delaying SDB pending review • HABr SDB briefing - whether goods, services & facilities clause applies to private clubs & to govt facilities; premises; sexual harassment outside employment field • AWu EOB briefing - education, ctd; sport; unjustifiable hardship [98] 	<p>PELBr says review of small house policy only at internal discussion stage, too early to state timetable or policy options; policy is a domestic issue not requiring consultation with China; policy is administrative in nature, not a legal entitlement. [107]</p> <p>(Also see AWu internal team memo on queries concerning rural elections, exceptions for small house policy & protective legislation [97] [114].)</p>	162
L20	27-01-95	EOB	AWu	<ul style="list-style-type: none"> • AWu EOB briefing - religious discrimination [99]; religious exceptions; political discrimination; general exceptions. (In reply to queries on 25 Nov & 27 Jan, AWu later tables paper on issues relating to religious discrimination & exceptions [117].) 	<p>Noting S for HA 20 Jan remarks to press, Bills Committee to invite S for HA to discuss EOB & readiness to implement it if passed despite objections. AWu describes 23 Jan letter to Governor seeking assurance that Govt will not withdraw SDB if amended & will expand EOC jurisdiction if EOB passes. [101] [103]</p>	169
L21	10-02-95	EOB & SDB	AWu, HABr	<ul style="list-style-type: none"> • S for HA briefing on Govt “step-by-step” approach; Govt to propose SDB & DDB, & to examine other grounds; public consultation possible for age, family status & sexual preference • AWu EOB briefing - exceptions for measures to achieve 	<p>On EOB, S for HA cites Govt concerns already expressed at 5 Aug meeting [110]; says EOB also suffers from lack of commission or similar enforcement mode. On EOC jurisdiction, S for HA objects to burdening EOC with duties beyond SDB & DDB.</p>	178

<u>#</u>	<u>Date</u>	<u>Bills</u>	<u>Invitees</u>	<u>Topics</u>	<u>Other remarks</u>	<u>Page</u>
				equality, meet special needs; relating to pregnancy, infectious diseases, contracts with minors		
L22	17-02-95	EOB	AWu	<ul style="list-style-type: none"> • AWu EOB briefing - advertising; application forms & job interviews [108] 		185
L23	03-03-95	SDB	AWu, HABr	<ul style="list-style-type: none"> • HABr SDB briefing on EOC - scope of EOC functions, code of practice, delayed implementation & application to equal pay 	<p>Discussion of Govt attitude to other types of discrimination, AWu offers to drop EOB if Govt commits to legislate.</p> <p>(Also see AWu internal team memo on queries concerning EOC [116].)</p>	191
L24	10-03-95	“	“	<ul style="list-style-type: none"> • HABr reply to AWu note on EOC - formal investigations; role of Chief Secretary; court proceedings by EOC; assistance to complainants; scope of functions • AWu EOB briefing - advertising, ctd.; vilification; victimization; proposed CSAs on retirement age & grace period for age-based laws 	<p>AWu tables note on EOC [119]; HABr tables answer to 3 Mar queries on timetable for employment codes & legislative operation [118]</p> <p>More discussion of Govt attitude to other types of discrimination; AWu reiterates offer to drop EOB if Govt commits to legislate. Chairman to meet Chief Secretary to discuss way forward.</p>	201
L25	31-03-95	EOB & SDB	AWu, HABr, deputations	<ul style="list-style-type: none"> • S for HA briefing on other types of discrimination - HABr to study need for action on age, sexuality & family status discrimination for up to 12 months beginning end-1995; to consider public consultation • Meeting with deputations 	<p>AWu tables list of suggested CSAs to SDB discussed with HABr 17 Mar [120].</p> <p>AWu proposes to drop EOB parts duplicating Govt bills, tables paper on EOB economic implications [122]</p>	213
L26	07-04-95	“	deputations	<ul style="list-style-type: none"> • Meeting with deputations [113] [140] 	(Also see AWu internal memo on business views. [132])	221
L27	13-04-95	“	“	<ul style="list-style-type: none"> • Meeting with deputations [123] [124] [125] [126] [127] [128] [129] [160] 	Hong Kong Federation of Women suggests cap on damages in SDB court actions [160] (not further discussed, but CSA later moved by Peggy Lam & passed. [219])	231
L28	21-04-95	“	AWu, HABr	<ul style="list-style-type: none"> • AWu proposes to restructure EOB into 3 bills, omitting parts covered by SDB & DDB [139]; list of proposed EOB CSAs [139] • AWu tables revised list of suggested SDB CSAs with major outstanding issues marked [138]; HABr gives initial reaction to each 	EOB restructure endorsed for recommendation to House Committee. [152] [153]	242
L29	28-04-95	SDB	AWu, HABr, EMBr	<ul style="list-style-type: none"> • HABr/EMBr on AWu's suggested SDB CSAs - exception for protective legislation [141]; employment matters [142], including code of practice & delayed implementation, small 	AWu tables additional proposals concerning EOC. [150] HABr tables query about AWu's suggested SDB CSA concerning administration of laws & Govt programmes [144]	251

#	Date	Bills	Invitees	Topics	Other remarks	Page
				employer exception, genuine occupational qualification exceptions, domestic helper harassment; scope of discrimination [143], including acts done for multiple reasons, relatives & associates, de facto spouse as marital status; Govt financial control of EOC	[178].	
L30	05-05-95	"	AWu, HABr, FSBr, SecBr, Police Force	<ul style="list-style-type: none"> • FSBr briefing on SDB exception for death & retirement benefits [148] • HABr on AWu's suggested SDB CSAs - [149] exceptions for hospital & special care facilities; advertisements; exception for protective legislation; security & disciplined services exception; exception for marital status discrimination, in employment & civil service benefits; codes of practice & equal pay 	<p>AWu tables letter to HABr querying SDB remedies, coverage of equal pay. [150] (Also see later AWu internal memo on HABr's unclear position on equal pay. [171])</p> <p>AWu along with Bills Committee Legal Adviser directed to meet HABr to further discuss AWu's suggested SDB CSAs (meeting held 11 May – see AWu internal team memo on points to raise in meeting [155]).</p>	261
L31	12-05-95	"	AWu, HABr	<ul style="list-style-type: none"> • HABr on AWu's suggested SDB CSAs - EOC investigations; court damages & reinstatement orders; scope of EOC conciliation; time limit to bring proceedings; BORO amendment to overrule Tam v Wu case; scope of EOC functions; EOC research & education funding; availability of legal aid; exceptions relating to the New Territories [151] [156] [157] 	Chairman reports House Committee decision directing Bills Committee to study DDB as well, after concluding study of SDB & EOB.	273
L32	19-05-95	EOB & SDB	"	<ul style="list-style-type: none"> • HABr briefing on employer organizations' comments on SDB -[165] small employer exception; vicarious liability; preparation of codes of practice • HABr on AWu's suggested SDB CSAs - de facto spouse as marital status [166]; exception for protective legislation [167]; exception for death or retirement benefits not to apply to new schemes [168] • AWu briefing on EOB CSAs [162] - AWu highlights CSAs to apply EOB to domestic helpers & to allow grace period for age-based laws • AWu briefing on suggested SDB CSAs - updated, clause-by-clause list tabled [163]; domestic helper harassment [164] 	<p>HABr expects to table list of its accepted SDB CSAs the following meeting; Govt does not support & will not propose CSAs to EOB. Bills Committee decides to consider putting forward on its own those of AWu's SDB CSAs rejected by Govt.</p> <p>Discussion of suggested SDB CSAs regarding exception for work outside Hong Kong, small house policy. (Also see AWu internal team memos: discussing SDB CSAs suggested earlier but dropped from updated list [154]; discussing EOB CSAs to suggest, & transmitting draft list of SDB CSAs modified to reflect 11 May meeting with HABr [161])</p> <p>AWu tables letters to HABr explaining reorganization of EOB & transmitting draft 3 EO Bills [158]; transmitting suggested Govt bill to amend BORO to overrule Tam v Wu case [159].</p>	285
L33	26-05-95	SDB	"	<ul style="list-style-type: none"> • S for HA briefing on final list of SDB CSAs accepted by Govt [173]; S for HA to seek House Committee approval of 	Bills Committee objects to proposed date for Legco debate because Bills Committee CSAs cannot be ready in time;	300

<u>#</u>	<u>Date</u>	<u>Bills</u>	<u>Invitees</u>	<u>Topics</u>	<u>Other remarks</u>	<u>Page</u>
				14 June date for final Legco debate on SDB	Chairman to raise objection in House Committee. [179] [195] Disability group writes on concerns over EOC. [176] (Also see AWu internal team memo on timing issues connected with SDB & 3 EO Bills [172]; unsuccessful attempt to widen legal aid availability as under BORO [180].)	
L34	01-06-95	SDB	AWu	<ul style="list-style-type: none"> • AWu on SDB CSAs - updated list tabled, showing which CSAs already accepted by Govt or approved by Bills Committee [186]; CSAs rejected by Govt discussed in detail • AWu on EOB CSAs - updated list tabled, including draft text [185] 	HABr declines to attend, instead gives Chairman list of objections to rejected SDB CSAs [187]. Bills Committee endorses numerous rejected CSAs for proposal on its behalf; study of SDB concluded. Procedural arrangements for 3 EO Bills endorsed. (Also see AWu internal memos preparing EOB & SDB CSAs for Bills Committee approval. [174] [181] [182])	312
L35	09-06-95	SDB & DDB	HWBr	<ul style="list-style-type: none"> • AWu briefing on revisions to Bills Committee's SDB CSAs [192]; financial penalties for unlawful advertising; provisions on inconsistent laws, requests for information dropped • HWBr DDB briefing - definition of disability; unjustifiable hardship; operational timing & employment codes; access to premises & transportation; scheduled exceptions 	Study of DDB begins. (Also see AWu internal team memo discussing SDB CSA drafting issues with early draft by Legco Legal Adviser [189])	329
L36	16-06-95	DDB	HWBr, deputations	<ul style="list-style-type: none"> • Meeting with deputations [170] [175] [196] [198] [200] 	Additional submissions also tabled [194]	338
L37	23-06-95	"	HWBr	<ul style="list-style-type: none"> • HWBr DDB briefing - MTRC access [205] [258]; response to deputations' concerns 	AWu tables suggested DDB CSAs parallel to bills committee's SDB CSAs [208]; HWBr defers full response pending SDB results	347
L38	30-06-95	"	"	<ul style="list-style-type: none"> • HWBr on DDB CSAs • AWu on further EOB CSAs - proposal for wider legal aid dropped; operational date dropped; temporary exception for review of age discriminatory legislation 	AWu tables revised list of suggested DDB CSAs showing SDB results [225].	365
L39	07-07-95	"	"	<ul style="list-style-type: none"> • AWu on EOB CSAs - enabling S for HA to provide temporary employment exceptions • HWBr on DDB CSAs [232] - CSA limiting medical testing for employment [231] accepted by HWBr. 	Final Bills Committee meeting. Further submissions tabled. [230] [231] HWBr accepts DDB CSAs parallel to successful SDB CSAs; Bills committee endorses several DDB CSAs parallel to unsuccessful SDB CSAs.	374

Chronology of equal opportunity legislation, 1995-1997 Legislative Council

[archived documents referenced in brackets]

	<u>SD(MP)B</u>	<u>EO(R)B</u>	<u>EO(FSA)B</u>	<u>FSDB</u>	<u>Bills Committee</u>
95	12 Oct In Policy Address, Governor attacks private member's bills for disrupting Govt legislative priorities. [280]				
<i>Nov</i>			3 Nov S for HA tells media that consultation on sexual orientation discrimination will be held by year's end, discourages reintroduction of AWu's private member's bill; let govt legislate if public thinks right.		
	24 Nov Legco panel meets S for HA to discuss establishment of EOC; timetable for commencement & employment codes under SDO & DDO; damages cap & absence of reinstatement remedy in SDO; prospects for action on family status & sexuality discrimination. [258A] [259]				
	29 Nov Group of legislators interested in equal opportunities legislation hold first of a series of meetings to formulate & coordinate new private member's bills on equal opportunities. [259A]				
	30 Nov Committee for the Promotion of Civic Education launches public education campaign promoting human rights awareness.				
<i>Dec</i>	8 Dec Legco approves HABr funding request for preparatory work towards establishment of EOC. [259B]				
	13 Dec Group of legislators announce plans to re-introduce 2 of previous term's 3 EO Bills — EO(R)B & EO(FSA)B — as well as SD(MP)B, a new bill to amend SDO along the lines of the Bills Committee CSAs defeated 28 June [260]				
	Dec 95-Apr 96 CLOh presses HABr to explain why govt supports damages cap & opposes reinstatement remedy in SDO. [261] [272] [273] [279] [283] [299]		18 Dec EMBr "Working Group on Age Discrimination in Employment" reports findings to date & consultation plans to Legco panel. [262]		

	<u>SD(MP)B</u>	<u>EO(R)B</u>	<u>EO(FSA)B</u>	<u>FSDB</u>	<u>Bills Committee</u>
			21 Dec HABr releases questionnaire for survey on sexual orientation discrimination; questionnaire attacked for bias. [263]		
			27 Dec Lau submits draft EO(FSA)B to Law Draftsman for certification. [264]		
96	22 Jan CLoh submits draft SD(MP)B to Law Draftsman for certification. [266]	22 Jan EWong submits draft EO(R)B to Law Draftsman for certification. [265]	24 Jan HABr publishes consultation documents on sexual orientation discrimination & family status discrimination; releases survey results showing public discomfort about homosexuality. [267] [268] [269] [270] [271]		
		22-27 Jan Joint EMBr Working Group/Legco fact-finding missions visit Australia & New Zealand to examine employment-related age discrimination legislation; EWong also visits New Zealand Race Relations Conciliator. [288] [289] [290]			
Feb	1 Feb Govt announces proposed reservations to CEDAW. [274]	7 Feb S for HA reiterates to media Govt objections to private member's bill on discrimination, argues bills pre-empt public consultation & debate.			
	1-7 Feb CLoh sends draft SD(MP)B to S for HA & S for HW for information; HABr replies amendment should await EOC operational experience & review. [275] [276]				
	Feb-Apr CLoh seeks HABr clarification on scope of SDO equal pay rights. [277] [278] [298]				
Mar	Feb-Apr		29 Mar		

	<u>SD(MP)B</u>	<u>EO(R)B</u>	<u>EO(FSA)B</u>	<u>FSDB</u>	<u>Bills Committee</u>
	<p>Difficulty recruiting EOC chairperson continues to delay EOC establishment (Govt's preferred candidate declined in Dec 1995); open recruiting held. [281] [295A]</p> <p>22 Mar HABr & HWBr meet CLOh to discuss objections to draft SD(MP)B. [282] [295]</p>		<p>Lau briefs Legco panel on proposed EO(FSA)B. Non-governmental organizations attend to support legislation. [286] [287]</p> <p>HABr asks Legco President to block EO(FSA)B, arguing bill has charging effect because legal aid available for discrimination claims. President hears arguments through May. [285] [291] [293] [296] [301] [305] [312]</p>		
<i>Apr</i>	<p>Apr-May As charging effect argument over EO(FSA)B continues, legislators privately consider excluding legal aid under EO(FSA)B, EO(R)B & SD(MP)B to avoid charging effect. [292] [294] [297] [297A] [300]</p>				
<i>May</i>	<p>2 May CLOh makes revisions to SD(MP)B in reply to HABr views discussed 22 Mar. [302] [303]</p> <p>8 & 20 May EOC membership announced; EOC formally established as HABr commences relevant SDO & DDO provisions. [303A] [303B] [311A] [332A] [332B]</p> <p>24 & 30 May CLOh briefs Legco panel on SD(MP)B; forwards bill to EOC for comment. [304] [307] [309A] [316A]</p>		<p>22-27 May 7 legislators send letter urging Governor to permit EO(FSA)B to go forward without forcing restrictions on legal aid. Governor defends human rights policy, says charging effect is separate technical issue.[306] [308]</p>		
<i>Jun</i>	<p>5-28 Jun HABr explains role in relation to EOC & SDO, seeks associated funding in Legco. [326A] [326B]</p>		<p>6 Jun EMBr publishes consultation paper on age discrimination in employment. [314] [315]</p>		

	<u>SD(MP)B</u>	<u>EO(R)B</u>	<u>EO(FSA)B</u>	<u>FSDB</u>	<u>Bills Committee</u>
	[332B]				
	10-25 Jun HABr proposes sub. leg. to commence SDO & DDO in Sept, except employment part (pending completion of employment codes). Lee Cheuk-yan prevented from amending sub. leg. to commence employment part also. [319] [320] [327] [328]		7 Jun Legco President rules EO(FSA)B has no charging effect, may go forward despite legal aid costs. [316]		
	10-28 Jun EMBr proposes to extend SDO exception for women's industrial protective laws for 1 more year. Legco subcommittee examines EMBr progress towards amending excepted laws, endorses extension. [317] [318] [321] [322] [323] [324] [325] [326] [333] [334]		26 Jun HABr announces outcome of consultations on family status discrimination & sexual orientation discrimination. Citing views collected, Govt will legislate against former, but take only non-legislative measures against latter. [329] [330]		
	27 Jun HABr asks Legco President to block SD(MP)B, arguing bill has technical charging effect. President rules bill may go forward with minor technical amendments. [310] [311] [313] [331] [332] [336]		28 Jun EO(FSA)B gazetted.		
Jul	5 & 10 Jul SD(MP)B gazetted; CLoh introduces bill into Legco. [336] [349] [384]	5 & 10 Jul EO(R)B gazetted; EWong introduces bill into Legco. [350]	10 July Lau introduces EO(FSA)B into Legco. [350]		
		26 Jul EWong briefs Legco panel on EO(R)B. [339]			
Aug	9 Aug				

	<u>SD(MP)B</u>	<u>EO(R)B</u>	<u>EO(FSA)B</u>	<u>FSDB</u>	<u>Bills Committee</u>
	EOC publishes draft SDO & DDO employment codes for consultation with worker & employer organizations, etc. (1 st of 3 steps to final codes). [338] [340]				
<i>Sep</i>	6 Sep HABr & HWBr meet CLoh to discuss possible compromise amendments to SD(MP)B. [344] [345]				
	20 Sep All non-employment provisions in SDO & DDO come into force; court proceedings enabled. [309] [335] [351]				
<i>Oct</i>	1 Oct EOC publishes draft SDO & DDO employment codes for general public consultation (2 nd of 3 steps to final codes). [352] [358] [359]				
	14Oct CEDAW applied to Hong Kong. [370]				
	22 Oct CLoh seeks compromise with HABr & HWBr on EOC powers affected by SD(MP)B. [346] [347] [348] [353] [354] [355] [357]				
	28 Oct Labour Advisory Board approves EMBr proposals to amend women's industrial protective				
			Sep-Oct In Sept discussions on SD(MP)B, HABr tells CLoh Govt may be willing to legislate against family status discrimination by using Govt amendments to SD(MP)B instead of by introducing a new Govt bill; Govt would then support SD(MP)B. Govt will only do so, however, if Lau drops family status part of EO(FSA)B, & Lau, CLoh & allied legislators agree to exclude de facto relationships from family status legislation. Negotiations with Govt continue as Lau, allied legislators & community groups consider reply. [342] [343] [345]		
			16 Oct HABr publishes leaflet to promote better public understanding & acceptance of homosexuality.		
			18 Oct EMBr announces outcome of consultation on age discrimination in employment. Views collected favour legislation, but EMBr says low public response shows issue not pressing, so Govt to take only non-legislative measures. [356]		

	<u>SD(MP)B</u>	<u>EO(R)B</u>	<u>EO(FSA)B</u>	<u>FSDB</u>	<u>Bills Committee</u>
	legislation. [360] [361] [364]				
Nov	14 Nov HABr proposes regulation enabling EOC to litigate SDO (approved 18 Dec). [365] [371] [372]	22 Nov Court judgment finds aspects of civil service localization policy constitute race discrimination contravening BORO.		Nov In early Nov, after internal discussion with allied legislators & community groups, Lau & CLoH reject Govt offer to legislate compromise family status provisions by way of Govt amendments to SD(MP)B.	
	15 Nov EOC gazettes proposed SDO & DDO employment codes for Legco approval (3 rd of 3 steps to final codes). [363] [367]			In mid-Nov, Lau, CLoH & others reopen Govt proposal for further internal consideration. Pending final decision set for 2 Dec internal meeting, CLoH continues negotiations with HABr over compromise definition of family status. [366]	
	26 Nov HABr & HWBr meet CLoH to further discuss possible SD(MP)B compromise amendments; Govt unsatisfied by most. [374]			Shortly before 2 Dec internal meeting, HABr tells CLoH compromise no longer possible as Govt now committed to introduce its own FSDB.	
Dec	28 Nov-18 Dec Legco subcommittee hastily examines codes, argues over equal pay but declines to extend scrutiny period; Legco approves codes with compromise equal pay amendment. [368] [369] [370] [373] [377] [378] [379]				
	20 Dec HABr commences SDO & DDO employment provisions, bringing legislation fully into force. [380]				
97	3 Jan Legco activates bills committee on SD(MP)B, EO(FSA)B & EO(R)B (later also examines FSDB). [381] <i>[For details see separate chronology of 1997 Bills Committee meetings]</i>				15 Jan 1 st meeting.
Feb	14 Feb HWBr proposes regulation enabling EOC to litigate DDO. [383]	19 Feb HABr publishes consultation document on race discrimination. [383A]			

Chronology of equal opportunity legislation, 1995-1997 Legislative Council (continued)

[archived documents referenced in brackets]

	<u>SD(MP)B</u>	<u>EO(R)B</u>	<u>EO(FSA)B</u>	<u>FSDB</u>	<u>Bills Committee</u>
Mar	18 Mar Legco panel discusses EMBr proposals to amend women's protective industrial laws to comply with SDO. [398] [399] [403] (One amendment made earlier [362])		3 & 17 Mar EMBr writes legislators about govt measures against age discrimination, including draft guidelines for employers on eliminating age discrimination. [391] [395] [396]		3 Mar 2nd meeting. 11 Mar 3 rd meeting. 17 Mar 4 th meeting.
		17 Mar HABr argues to Legco President that EO(FSA)B & EO(R)B provisions making consequential amendments to BORO are constitutionally invalid, raising concern that bills may be blocked. [397] [406]			
Apr	22 Apr Heung Yee Kuk chairman Lau Wong-fat threatens publicly to leave Liberal Party if it fails to oppose SD(MP)B because of its effect on the small house policy. 23 Apr EOC announces review of SDO & DDO beginning Dec 1997, 1 year after full commencement of the laws.	8 Apr Legco President upholds constitutional objection to BORO-amending provisions in EO(FSA)B & EO(R)B, but rules bills may go forward without the provisions. Lau announces new private member's bill to amend BORO instead. [409] [411]		11 & 23 Apr FSDB gazetted; S for HA introduces bill into Legco. [412]	1 Apr 5 th meeting. 17 Apr 6 th meeting 28 Apr 7 th meeting.
May	5 May EOC presents progress report on work to Legco panel. Women's groups present "supervision report" criticizing EOC work. [427A] [427B] 30 May Bills committee reports to Legco on SD(MP)B. [441]		28 Apr EMBr informs Legco panel of finalized guidelines for employers on eliminating age discrimination. [427]		15 May 8 th meeting. 19 May 9 th meeting. ? May 10 th meeting.
Jun	10 Jun HABr lobbies legislators to vote against SD(MP)B. [452]		3-24 Jun Preparations made for complex voting at EO(FSA)B committee stage to enable legislators to vote		3 Jun 11 th meeting. ? Jun

Chronology of equal opportunity legislation, 1995-1997 Legislative Council (continued)

[archived documents referenced in brackets]

<u>SD(MP)B</u>	<u>EO(R)B</u>	<u>EO(FSA)B</u>	<u>FSDB</u>	<u>Bills Committee</u>
11 Jun SD(MP)B debated & passed by Legco with extensive deletions & amendments at committee stage. [446] [453] [454] [455]		separately on each ground of discrimination covered. [444] [445] [448] [449] 12 Jun HABr publishes comic book to promote equal treatment without sexual orientation discrimination.		12 th meeting. 12 Jun 13 th (last) meeting.
	13 Jun Bills committee reports to Legco on EO(R)B, EO(FSA)B & FSDB. Legco debate on bills set for last Legco sitting before hand-over (scheduled to run from 23 June through subsequent days as necessary). [456]			
20 Jun SD(MP)O gazetted with errors (deleted clauses included) as Ordinance No. 70 of 1997.	18 Jun HABr announces outcome of race consultation; govt will not legislate, but will enhance public education. [459]	21 Jun EMBr lobbies legislators to vote against EO(FSA)B age discrimination part. [460]	24 Jun Legco debates & passes FSDB. At committee stage, S for HA urges legislators not to amend FSDB in parallel with new SDO & DDO (as amended by SD(MP)B 11 Jun), but CLoh CSAs to do so are endorsed. (All Lau CSAs earlier blocked on basis of charging effect.) [457] [458] [463]	
27 Jun SD(MP)O re-gazetted accurately as Ordinance No. 71 of 1997.	24 Jun Legco debates EO(R)B (immediately after EO(FSA)B); bill defeated at 2 nd reading. [462] [463]	24 Jun Legco debates EO(FSA)B. Bill narrowly endorsed at 2 nd reading, but several legislators voting for bill declare they support only the age discrimination part; their support at 3 rd reading depends on committee stage deletion of sexuality discrimination part. During committee stage, most legislators who opposed bill at 2 nd reading step out of Legco chamber; no one calls for deletion of sexuality discrimination part, which passes by voice vote. Bill defeated at 3 rd reading when legislators opposed to sexuality discrimination part join those against entire bill. [461] [463]		

Jul

Aug

Chronology of equal opportunity legislation, 1995-1997 Legislative Council (continued)

[archived documents referenced in brackets]

	<u>SD(MP)B</u>	<u>EO(R)B</u>	<u>EO(FSA)B</u>	<u>FSDB</u>	<u>Bills Committee</u>
<i>Sep</i>					
<i>Oct</i>	17 & 29 Oct SD(A)B gazetted to correct drafting error in SD(MP)B (resulting in retrospective SDO liability for retirement benefit plans); S for HA introduces bill into Provisional Legco.				
<i>Nov</i>	12 Nov Provisional Legco passes SD(A)B.				
<i>Dec</i>					

Chronology of 1997 Legco Bills Committee meetings

[archived documents referenced in brackets]

#	Date	Bills	Invitees	Topics	Other remarks	Page
L40	15-01-97			<ul style="list-style-type: none"> • Election of Bills Committee officers • invitation of representations from govt, EOC, members of public who commented on EOB, SDB & DDB in 1994-5 bills committee 	Dr. Leong Che-hung elected as Chair, John Tse Wing-ling as Deputy.	381
L41	03-03-97	EO(FSA)B SD(MP)B EO(R)B	HABr Rehab Comr EMBr Labour Dept	<ul style="list-style-type: none"> • EO(FSA)B briefing by Lau & response by govt - de facto spouse as family status; need for sexuality & age discrimination legislation & criticism of govt consultations; overseas experience with age legislation; lack of EOC enforcement; constitutionality of consequential BORO amendment • EO(R)B briefing by Legco legal adviser (EWong absent) • SD(MP)B briefing by Loh - criticism of EOC failure to comment on specific provisions; initial reply to HABr position paper; desirability of legislating before EOC review; govt justification for SDO damages cap 	<p>Lau tables information note of EO(FSA)B. [382]</p> <p>CLoh tables revised Legco Brief on SD(MP)B, reflecting changed circumstances since bill's gazettal, e.g. SDO & DDO now in force & small employer exceptions almost expired, so amendment no longer necessary. [385] (CLoh later tables updating CSAs. [405] [415])</p> <p>Govt tables position papers stating general objections to SD(MP)B [386], EO(FSA)B [387] & EO(R)B [388].</p> <p>EOC tables paper stating SD(MP)B amendments premature; no views on EO(FSA)B & EO(R)B, but EOC jurisdiction should be extended if bills pass. [389] [390]</p>	383
L42	11-03-97	"	Public deputations	<ul style="list-style-type: none"> • Meeting with deputations from British Chamber of Commerce, Federation of HK Industries, HK Council of Social Service, HK Ass'n of Business & Professional Women, HK Women's Coalition on Equal Opportunities, Movement Against Discrimination, Mr Robin Adams 	[392] [393] [394] (Submissions summarized in table [393])	395
L43	17-03-97	EO(FSA)B	EMBr Labour Dept CSBr FSBr SecBr Immig Dept	<ul style="list-style-type: none"> • Govt views on EO(FSA)B - defense of pre-printed forms in sexuality consultation; constitutional challenge to consequential BORO amendment; general comments on implementation difficulties; whether to delay scrutiny of bill pending introduction of FSDB • HABr compares EO(FSA)B with forthcoming FSDB - definition of family status; EOC enforcement; improper link to international instruments not binding on HK • General examination of EO(FSA)B - definition of family status, what de facto relationships covered; comparison with de facto relationships covered by other laws 	Govt later tables legal opinion on impropriety of bills' references to non-binding international instruments such as ILO conventions not applied to HK. [413] Govt also objects to absence of reference to CEDAW reservations. [410] (CLoh also seeks legal advice on issue. [400] [401])	404

<u>#</u>	<u>Date</u>	<u>Bills</u>	<u>Invitees</u>	<u>Topics</u>	<u>Other remarks</u>	<u>Page</u>
L44	01-04-97	SD(MP)B	Public Dep- utation EOC HABr Rehab Comr EMBr PELBr SecBr	<ul style="list-style-type: none"> • Meeting with Heung Yee Kuk deputation - whether small house policy is sex discrimination • EOC briefing on SD(MP)B - changes to SDO & DDO should await EOC review beginning Dec 1997 • General examination of SD(MP)B - exception relating to HK security; disciplined services exception; govt review of small house policy; effect of removing disciplined services exception for married officers quarters 	In addition to Heung Yee Kuk submission [408], submissions from 10 other rural organizations oppose change in small house policy. [407] [417] [418] [419]	412
L45	17-04-97	SD(MP)B	Public Dep- utation HABr Rehab Comr EMBr PELBr SecBr	<ul style="list-style-type: none"> • Meeting with HK Federation of Women [404] • General examination of SD(MP)B - exception relating to HK security; small house policy exception (practices pre-dating policy, land supply issue, status under Basic Law, when govt review began); discrimination services exceptions for quarters allocation & firearms training 	HABr tables paper on small house policy background & quarters allocation by disciplined services. [410] PELBr later answers further small house policy questions. [425] [437] HABr also provides details on other disciplined services practices excepted from SDO, height & weight restrictions [414] & firearms training [423].	421
L46	28-04-97	SD(MP)B	HABr HWBr Rehab Comr EMBr PELBr SecBr	<ul style="list-style-type: none"> • General examination of SD(MP)B - small house policy (indigenous villager eligibility for public housing, practices pre-dating policy, when govt review to conclude, application backlog); disciplined services exception for quarters allocation, for firearms training • Examination of SD(MP)B clauses - CLOh's proposed updating amendments; indirect discrimination definition (meaning of "practice or policy", "imposes", relevance of UK precedents) 	<p>Bills committee requests that CLOh & Govt meet to discuss details of Govt objections to SD(MP)B.</p> <p>HABr provides full disciplined services' rules on quarters allocation. [422] CLOh argues rules are unnecessarily discriminatory & may contravene BORO. [424]</p> <p>HABr argues departure from UK statutory language in SD(MP)B indirect discrimination amendments creates legal uncertainty.</p>	430
L47	15-05-97	SD(MP)B	HABr HWBr Rehab Comr EMBr	<ul style="list-style-type: none"> • Examination of SD(MP)B clauses - indirect discrimination definition (CLOh CSA to preserve UK language, whether UK <i>Perera</i> case justifies changes); amendment to small employer exception dropped; CSA to move Sched 5 exceptions into main ordinance; EOC functions in relation to international instruments; clauses to be deleted per discussion with govt; SDO remedies (damages cap, reinstatement, damages for indirect discrimination); EOC binding undertakings; EOC litigation power; time to bring proceedings 	<p>CLOh tables revised CSAs reflecting discussion with govt, dropping several disputed SD(MP)B amendments. [428] HABr reiterates opposition to any SDO & DDO amendments pending EOC review.</p> <p>CLOh proposes CSAs to bring indirect discrimination provisions closer to UK language [428]; CLOh & HABr disagree on relevance of UK <i>Perera</i> case. [429]</p>	438
L48	19-05-97	SD(MP)B EO(FSA)B		<ul style="list-style-type: none"> • Examination of SD(MP)B clauses - court remedies; EOC binding undertakings; EOC litigation power 	HABr details current UK law position on damages for indirect discrimination [430] & EOC binding undertakings	448

<u>#</u>	<u>Date</u>	<u>Bills</u>	<u>Invitees</u>	<u>Topics</u>	<u>Other remarks</u>	<u>Page</u>
				<ul style="list-style-type: none"> • Examination of EO(FSA)B clauses 	[431]; attacks SD(MP)B difference with UK.	
L49	29-05-97	EO(FSA)B		<ul style="list-style-type: none"> • Examination of EO(FSA)B clauses - EMBr tables detailed objections to age part [440], Lau replies [443] 	<p>Bills committee to report to House Committee on SD(MP)B deliberations. [441] CLoh provides list of major SD(MP)B issues. [435]</p> <p>Bills committee declines S for EM request to defer discussion of age part of EO(FSA)B pending further solicitation of public views. [433]</p>	456
L50	03-06-97	EO(FSA)B FSDB	HABr Law Draft- ing Div EMBr CSBr FSBr SecBr	<ul style="list-style-type: none"> • Examination of EO(FSA)B clauses - voluntary body exception to follow SDO wording; govt objections to power to provide temporary exceptions • Examination of FSDB clauses - definition of family status; exception for school admissions 	<p>Lau twice suggests FSDB CSA to widen definition of family status to cover de facto relationships, but HABr blocks both CSAs on charging effect grounds. [432] [442] [447]</p> <p>Govt undecided whether to amend FSDB accordingly if SD(MP)B passes; if Govt declines CLoh to do so.</p>	465
L51	05-06-97	EO(FSA)B EO(R)B		<ul style="list-style-type: none"> • Examination of EO(FSA)B clauses • EWong briefing on EO(R)B & general Govt objections 	Lau proposes FSDB CSA to cover discriminatory requests for information. [451] (HABr later blocks for charging effect. [458])	472
L52	12-06-97	EO(FSA)B FSDB EO(R)B	HABr EMBr Ed Dept FSBr SecBr	<ul style="list-style-type: none"> • CSAs to FSDB - Lau's CSA to family status definition blocked; following passage of SD(MP)B, govt still undecided whether to amend FSDB accordingly • CSAs to EO(FSA)B - Lau's CSAs modified to reflect passage (with amendments) of SD(MP)B; new exception for insurance industry • Examination of EO(R)B - nationality & national status dropped from definition of "race" ; labour importation scheme; admission of aliens to public sector schools; whether CSA excepting school admission schemes covers future schemes; new exception for immigration law & policy 	<p>CLoh tables list of SD(MP)O amendments which should also be made to FSDB. [439]</p> <p>EWong tables drafts EO(R)B CSAs. [450]</p>	480

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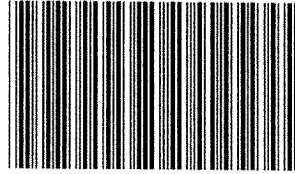
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