

Part II

ARTICLE 1 DEFINING DISCRIMINATION

“For the purposes of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”

Definition of “Discrimination against Women” in the Sex Discrimination Ordinance

The Sex Discrimination Ordinance (SDO) defines “discrimination” to include both “direct discrimination” and “indirect discrimination”. “Direct discrimination” means treating a person less favourably than another person in analogous circumstances because of the victimised person’s sex, marital status, or pregnancy. “Indirect discrimination” involves imposing on everyone the same requirement or condition which, however, has a detrimental effect on a particular group of persons. This kind of requirement would constitute “indirect” discrimination under the Ordinance if there is no justification for the requirement¹.

¹ Please refer to paragraphs 2 – 3 of the Initial Report for information about relevant sections relating to definition of “discrimination against women” in the Sex Discrimination Ordinance.

Reservations and Declarations to Application of the Convention on the Elimination of Discrimination of All Forms of Discrimination against Women (CEDAW) in Hong Kong Special Administrative Region

2. The People's Republic of China (PRC) has entered seven reservations and declarations on behalf of the Hong Kong Special Administrative Region (HKSAR) in respect of the provisions of the Convention as applied to the latter in the light of the special circumstances in Hong Kong. The Government of the PRC understands, on behalf of the HKSAR, that the main purpose of the Convention, in the light of the definition contained in Article 1, is to be the reduction, in accordance with its terms, of discrimination against women, and does not therefore regard the Convention as imposing any requirement upon the HKSAR to repeal or modify any of its existing laws, regulations, customs or practices which provide for women to be treated more favourably than men, whether temporarily or in the longer term. Undertakings by the PRC Government on behalf of the HKSAR under Article 4, paragraph 1, and other provisions of the Convention are to be construed accordingly. The HKSAR periodically reviews the need of the continued applicability of the relevant reservations and declarations. At the time of preparing this report, we are of the view that the seven reservations and declarations need to be retained.