

Legislative Council
Panel on Administration of Justice and Legal Services

**Implementation of the recommendations made by
the Law Reform Commission**

Background

The reporting mechanism introduced by the Legislative Council (“**LegCo**”) Panel on Administration of Justice and Legal Services (“**Panel**”) in 2012¹ aims to facilitate members of the Panel, as well as of other LegCo Panels, to follow up on progress of implementation of the recommendations of the Law Reform Commission (“**LRC**”) by the relevant bureaux and departments (“**B/Ds**”). This is the Secretary for Justice (“**SJ**”)’s ninth report to the Panel pursuant to this mechanism.

2. In accordance with the above mechanism established in 2012, we set out the latest information as provided by B/Ds on their implementation of LRC recommendations in the attached table (“**Table**”) so that the Panel can copy it to other Panels for their respective follow-up with the B/Ds concerned.

3. The Table lists the LRC’s reports under different categories according to their implementation status, ie:

- (a) recommendations implemented in full;

¹ On 2 March 2012, the House Committee endorsed the following mechanism proposed by the AJLS Panel:

- (i) SJ to submit to the AJLS Panel for discussion an annual report flagging up the progress in respect of the LRC reports which have not yet been implemented;
- (ii) The AJLS Panel to copy the annual report to the relevant Panels to facilitate their follow-up with the B/Ds concerned; and
- (iii) The relevant Panels to include the B/Ds’ responses to the respective LRC reports in their lists of outstanding items for discussion, and to invite members of the AJLS Panel and all other Members to join the future discussion.

- (b) recommendations implemented in part;
- (c) recommendations under consideration or in the process of being implemented;
- (d) recommendations rejected by the Government; and
- (e) the Government has no plan to implement the recommendations at this juncture.

Highlights of progress made since SJ's last annual report to the Panel

4. The following paragraphs seek to highlight the more significant developments advised by the B/Ds since SJ's last annual report to the Panel:

- (a) Substitute decision-making and advance directives In relation to medical treatment (August 2006) (*see item 50 in the Table*)

The Food and Health Bureau published a consultation report in July 2020 and is working to introduce a bill on advance directives and related matters in the next legislative term.

- (b) Hearsay in criminal proceedings (November 2009) (*see item 51 in the Table*)

The Department of Justice has prepared the Evidence (Amendment) Bill 2018 to implement the recommendations in the LRC Report on Hearsay in Criminal Proceedings. Further refinements to the legislative proposals are necessary. The Department of Justice has been reviewing the proposals in consultation with the Law Society of Hong Kong and the Hong Kong Bar Association, and aims for the enactment of the Bill within this legislative session.

- (c) Report on Voyeurism and Non-consensual upskirt-photography (April 2019) (*see item 57 in the Table*)

The Government introduced the Crimes (Amendment) Bill 2021 to the Legislative Council in March 2021 for introducing new offences of voyeurism, non-consensual

recording of intimate parts, publication of images originating from voyeurism or non-consensual recording of intimate parts and publication or threatened publication of intimate images without consent. The Bill is now under the scrutiny of the Legislative Council.

Concluding remarks

5. The publication of a LRC report marks the completion of the formal reference to the LRC. The published report will then be passed to the Government for the relevant policy bureau to consider whether, and if so, how to implement the LRC's recommendations or any of such recommendations. In accordance with the mechanism established in 2012, the LRC will continue to assist by submitting an annual report to the AJLS Panel on the latest implementation progress of LRC recommendations as collated from the B/Ds.

Law Reform Commission Secretariat
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LAW REFORM COMMISSION OF HONG KONG

COMPLETE LIST OF REPORTS

TABULATED ACCORDING TO IMPLEMENTATION STATUS

A total of 67 reports have been published since 1 January 1982. With one report recommending no change to the law,¹ the remaining 66 reports are tabulated into the following categories according to their implementation status:

- (a) recommendations implemented in full (35 reports, 53.0% of the 66 reports);
- (b) recommendations implemented in part (8 reports, 12.1% of the 66 reports);
- (c) recommendations under consideration or in the process of being implemented (15 reports, 22.7% of the 66 reports);
- (d) recommendations rejected by the Government (3 reports, 4.5% of the 66 reports); and
- (e) the Government has no plan to implement the recommendations at this juncture (5 reports, 7.6% of the 66 reports).

(a) Recommendations implemented in full

	Report (month and year of publication)	Implementing legislation or other relevant information, including response from the relevant bureau or department
1	Commercial arbitration (January 1982)	Implemented by Arbitration (Amendment) Ordinance (10 of 1982) (March 1982) amending Cap 341 ²
2	Bills of exchange (December 1982)	Implemented by Bills of Exchange (Amendment) Ordinance (16 of 1983) (April 1983) amending Cap 19
3	Laws governing homosexual conduct	Implemented by Crimes (Amendment) Ordinance (90 of 1991) (July 1991) amending Cap 200

¹ Report on *The procedure governing the admissibility of confession statements in criminal proceedings* (July 2000).

² Cap 341 has since 1 June 2011 been replaced by the Arbitration Ordinance (Cap 609) (17 of 2010), which came into operation on the same day.

	Report (month and year of publication)	Implementing legislation or other relevant information, including response from the relevant bureau or department
	(June 1983)	
4	Community service orders (June 1983)	Implemented by Community Service Orders Ordinance (Cap 378) (78 of 1984) (November 1984)
5	The law relating to contribution between wrongdoers (April 1984)	Implemented by Civil Liability (Contribution) Ordinance (Cap 377) (77 of 1984) (November 1984)
6	Damages for personal injury and death (February 1985)	Implemented by Fatal Accidents Ordinance (Cap 22) (41 of 1986) (July 1986); and Law Amendment and Reform (Consolidation) (Amendment) Ordinance (40 of 1986) (July 1986) amending Cap 23
7	Laws on insurance (January 1986)	Implemented by Insurance Companies (Amendment) (No. 3) Ordinance (76 of 1994) (July 1994) amending Cap 41
8	Young persons - Effects of age in civil law (April 1986)	Implemented by Age of Majority (Related Provisions) Ordinance (Cap 410) (32 of 1990) (May 1990); Marriage and Children (Miscellaneous Amendments) Ordinance (69 of 1997) (June 1997); and Law Reform (Miscellaneous Provisions and Minor Amendments) Ordinance (80 of 1997) (June 1997)
9	The control of exemption clauses (December 1986)	Implemented by Control of Exemption Clauses Ordinance (Cap 71) (59 of 1989) (November 1989)
10	Coroners (August 1987)	Implemented by Coroners Ordinance (Cap 504) (27 of 1997) (May 1997)
11	The adoption of the UNCITRAL model law of arbitration (September 1987)	Implemented by Arbitration (Amendment) (No. 2) Ordinance (64 of 1989) (November 1989) amending Cap 341 ³

³ Cap 341 has since 1 June 2011 been replaced by the Arbitration Ordinance (Cap 609) (17 of 2010), which came into operation on the same day.

	Report (month and year of publication)	Implementing legislation or other relevant information, including response from the relevant bureau or department
12	Competence and compellability of spouses in criminal proceedings (December 1988)	Implemented by Evidence (Miscellaneous Amendments) Ordinance (23 of 2003) (July 2003) amending Cap 8
13	Bail in criminal proceedings (December 1989)	Implemented by Criminal Procedure (Amendment) Ordinance (56 of 1994) (June 1994) amending Cap 221
14	Sale of goods and supply of services (April 1990)	Implemented by Sale of Goods (Amendment) Ordinance (85 of 1994) (October 1994) amending Cap 26; Supply of Services (Implied Terms) Ordinance (Cap 457) (86 of 1994) (October 1994); and Unconscionable Contracts Ordinance (Cap 458)(87 of 1994) (October 1994)
15	Law of wills, intestate succession and provision for deceased persons' families and dependants (May 1990)	Implemented by Wills (Amendment) Ordinance (56 of 1995) (July 1995) amending Cap 30; Intestates' Estates (Amendment) Ordinance (57 of 1995) (July 1995) amending Cap 73; Inheritance (Provision for Family and Dependants) Ordinance (Cap 481) (58 of 1995) (July 1995); and Law Amendment and Reform (Consolidation) (Amendment) Ordinance (16 of 1996) (May 1996) amending Cap 23
16	Loitering (July 1990)	Implemented by Crimes (Amendment) (No 2) Ordinance (74 of 1992) (July 1992) amending Cap 200
17	Illegitimacy (December 1991)	Implemented by Parent and Child Ordinance (Cap 429) (17 of 1993) (March 1993)
18	Grounds for divorce and the time restriction on petitions for divorce within three years of marriage (November 1992)	Implemented by Matrimonial Causes (Amendment) Ordinance (29 of 1995) (May 1995) amending Cap 179
19	Reform of the law relating to copyright (January 1994)	Implemented by Copyright Ordinance (Cap 528) (92 of 1997) (June 1997)

	Report (month and year of publication)	Implementing legislation or other relevant information, including response from the relevant bureau or department
20	Codification: the preliminary offences of incitement, conspiracy and attempt (May 1994)	Implemented by Crimes (Amendment) Ordinance (49 of 1996) (July 1996) amending Cap 200
21	Privacy – Part 1: Reform of the law relating to the protection of personal data (August 1994)	Implemented by Personal Data (Privacy) Ordinance (Cap 486) (81 of 1995) (August 1995)
22	Description of flats on sale – Part 1: Local uncompleted residential properties: Sales descriptions and pre-contractual matters (April 1995)	Implemented by Residential Properties (First-hand Sales) Ordinance (Cap 621) (19 of 2012) (July 2012)
23	Insolvency: Part I: Bankruptcy (May 1995)	Implemented by Bankruptcy (Amendment) Ordinance (76 of 1996) (December 1996) amending Cap 6
24	The hearsay rule in civil proceedings (July 1996)	Implemented by Evidence (Amendment) Ordinance (2 of 1999) (January 1999) amending Cap 8
25	Creation of a substantive offence of fraud (July 1996)	Implemented by Theft (Amendment) Ordinance (45 of 1999) (July 1999) amending Cap 210
26	The year and a day rule in homicide (June 1997)	Implemented by Statute Law (Miscellaneous Provisions) Ordinance 2000 (32 of 2000) (June 2000)
27	The age of criminal responsibility in Hong Kong (May 2000)	Implemented by Juvenile Offenders (Amendment) Ordinance (6 of 2003) (March 2003) amending Cap 226
28	Guardianship & custody – Part 1: Guardianship of children (January 2002)	Implemented by Guardianship of Minors (Amendment) Ordinance 2012 (1 of 2012) (January 2012) amending Cap 13
29	Guardianship & custody – Part 2: International parental child abduction	Implemented by Child Abduction Legislation (Miscellaneous Amendments) Ordinance (16 of

	Report (month and year of publication)	Implementing legislation or other relevant information, including response from the relevant bureau or department
	(April 2002)	2014) (November 2014) amending Cap 512
30	Rules for determining domicile (April 2005)	Implemented by Domicile Ordinance (Cap 596) (4 of 2008) (February 2008)
31	Privity of contract (October 2005)	Implemented by Contracts (Rights of Third Parties) Ordinance (Cap 623) (17 of 2014) (December 2014). The Commencement Notice was published in the Gazette on 5 June 2015 and the Ordinance came into operation on 1 January 2016.
32	Enduring powers of attorney (March 2008)	Implemented by Enduring Powers of Attorney (Amendment) Ordinance (25 of 2011) (December 2011) amending Cap 501
33	Sexual offences records checks for child-related work: interim proposals (February 2010)	On 28 November, 2011, the Security Bureau announced the implementation, with effect from 1 December 2011, of a scheme based on the LRC's recommendations enabling employers to check the sexual offence conviction records of prospective employees for work that requires frequent contact with children or mentally incapacitated persons.
34	The common law presumption that a boy under 14 is incapable of sexual intercourse (December 2010)	Implemented by Statute Law (Miscellaneous Provisions) Ordinance 2012 (26 of 2012) (July 2012)
35	Third party funding for arbitration (October 2016)	Implemented by the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017 (6 of 2017) (June 2017) ("Amendment Ordinance"). A Code of Practice for Third Party Funding of Arbitration was issued on 7 December 2018 and the provisions on third party funding of arbitration came into operation on 1 February 2019. The commencement of the provisions in relation to third party funding of mediation is pending agreement with the stakeholders on the relevant Code of Practice.

(b) Recommendations implemented in part

	Report (month and year of publication) and <i>Responsible Bureau</i>	Implementing legislation or other relevant information, including response from the relevant bureau or department
36	Arrest (November 1992) Security Bureau	<p>The Bureau has advised: <i>“The Bureau, upon detailed examination together with its law enforcement agencies (LEAs), has thoroughly considered the recommendations in the Report at different stages over the past years. The majority of the endorsed recommendations have already been implemented to improve our law enforcement regime and provide sufficient procedural safeguards. The Bureau has further looked into the remaining recommendations, having regard to the local enforcement experience in the past years and evolution of the legislation since the Report was published. The Bureau has concluded that all necessary actions have been completed and no further legislative amendments are required.”</i></p>
37	Insolvency - Part 3: Winding-up provisions of the Companies Ordinance (July 1999) Financial Services and the Treasury Bureau	<p>Some technical aspects were implemented by the Companies (Amendment) Ordinance (28 of 2003) enacted in July 2003 amending Cap 32.</p> <p>Having reviewed the key issues addressed in the Report and taking into account the sector’s latest developments, the Bureau has concluded:</p> <ul style="list-style-type: none"> ● <i>“not to pursue the recommendation to merge corporate insolvency legislation with personal bankruptcy legislation as there is no clear benefit or market demand for such a change;</i> ● <i>to continue to rely on established professional sectors to deliver private sector insolvency services, rather than establishing and upkeeping a statutory licensing system at this time, as the latter is considered to be not cost-effective;</i> ● <i>on remuneration (fees) of office-holders, the market has operated smoothly in determining the fee level of private sector insolvency services, with disputes settled by the Court’s Taxing Masters, and there is no need to establish an adjudication panel arrangement to determine fees;</i> ● <i>the concern that Official Receiver’s Office (ORO) should be adequately funded is noted. ORO’s funding bids, including additional</i>

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		<p><i>resources as and when necessary, will continue to be processed in accordance with the Administration's well-established policies and procedures."</i></p> <p>With respect to the other technical amendments recommended in the subject LRC Report, the Bureau has advised that they are addressed by the Companies (Winding-up and Miscellaneous Provisions) (Amendment) Ordinance 2016, which has come into operation on 13 February 2017 to improve and modernise Hong Kong's corporate winding-up regime.</p>
38	<p>The regulation of debt collection practices (July 2002) Security Bureau</p>	<p>The recommended review of the then limitations imposed on the collection and use of 'positive credit data' was implemented without legislation by the Privacy Commissioner for Personal Data in the Code of Practice on Consumer Credit Data 2002.</p> <p>The Report's other recommendations were rejected by the Administration in September 2005.</p>
39	<p>Description of flats on sale – Part 3: Local completed residential properties: Sales descriptions and pre-contractual matters (September 2002) Transport and Housing Bureau</p>	<p>The recommendations in respect of completed properties sold first-hand by the original developer were implemented by the Residential Properties (First-hand Sales) Ordinance (Cap 621) (19 of 2012) (July 2012) which regulates the sales of completed and uncompleted first-hand residential properties.</p> <p>The Bureau has stated that: <i>"The regulation of the sales of second-hand local residential properties is strengthened with the assistance of the Estate Agents Authority (EAA). The EAA has required, among other things, that estate agents must provide information on the saleable area, if available from Rating and Valuation Department (RVD) or the first agreement, of second-hand residential properties to prospective purchasers with effect from 1 January 2013."</i></p>
40	<p>Guardianship and custody – Part 3: The family dispute resolution process (March 2003) Home Affairs Bureau</p>	<p>The Report looks at various approaches which may be adopted in resolving family disputes, and focuses particularly on the use of mediation. The Report makes recommendations to strengthen family mediation services and to enhance the</p>

	Report (month and year of publication) and Responsible Bureau	Implementing legislation or other relevant information, including response from the relevant bureau or department
		<p>family litigation process.</p> <p>The Bureau has stated that: <i>“The Bureau has been assigned to co-ordinate inputs from relevant bureaux and departments in formulating a response to LRC’s recommendations. With the implementation of the Civil Justice Reform, legal aid has been extended to cover mediation in civil proceedings since 2009. Between 2 April 2009 and 31 March 2021, the Legal Aid Department has approved funding for appointment of mediators in 1,607 matrimonial cases. In May 2012, the Judiciary issued a Practice Direction on Family Mediation which sets out the duty of the parties and their legal representatives to assist the Court in encouraging the parties to use mediation as an alternative dispute resolution procedure. Furthermore, a Practice Direction on Children’s Dispute Resolution Pilot Scheme has come into effect since October 2012 and has been formalised as standard practice since April 2016. Parents wishing to seek mediation may approach the Integrated Mediation Office set up by the Judiciary for assistance. A Practice Direction on a pilot scheme for private adjudication of financial disputes in matrimonial and family proceedings came into effect on 19 January 2015 and has been extended for another three years from 2021. The scheme provides an alternative means for dispute resolution, which aims at furthering the objective of settlement facilitation. The research team commissioned by the Family Council completed a study on the provision of family mediation services in Hong Kong in late 2016. The study confirmed the positive effects of mediation in resolving divorce-related disputes and made a series of recommendations. The Family Council has shared the study findings and recommendations with relevant bureaux/departments and organisations for their reference and follow up actions as appropriate.”</i></p>
41	Privacy – Part 6: The regulation of covert surveillance (March 2006)	<p>The Interception of Communications and Surveillance Bill was introduced prior to publication of the LRC Report in March 2006 to regulate the conduct of interception of communications and the use of surveillance devices by public officers; and</p>

	Report (month and year of publication) and Responsible Bureau	Implementing legislation or other relevant information, including response from the relevant bureau or department
	<i>Constitutional and Mainland Affairs Bureau</i>	to establish the Office of the Commissioner on Interception of Communications and Surveillance to oversee the compliance by four law enforcement agencies with the relevant requirements. The Bill was passed on 6 August 2006 as Ordinance 20 of 2006 (Cap 589). See also items 42 and 45 below.
42	Privacy - Part 2: Regulating the interception of communications (December 1996) <i>Constitutional and Mainland Affairs Bureau</i>	<p>The Interception of Communications and Surveillance Bill was passed on 6 August 2006 as Ordinance 20 of 2006 (Cap 589) to regulate the conduct of interception of communications and the use of surveillance devices by public officers; and to establish the Office of the Commissioner on Interception of Communications and Surveillance to oversee the compliance by four law enforcement agencies with the relevant requirements.</p> <p>The Bureau stated in the 2015 report to the AJLS Panel on LRC Reports' implementation that: <i>"The Bureau considered the LRC Report on this topic, together with 4 others on Stalking; Privacy and media intrusion; Civil liability for invasion of privacy; and Regulation of covert surveillance.</i></p> <p><i>These 5 Reports touch on the sensitive and controversial policy and political issue of how to strike a balance between protection of individual privacy rights and freedom of the media. There were mixed responses and very divergent views from different sectors of the community. Given the complexity and sensitivity of the policy and political issues involved, the Bureau would consider the 5 Reports as and where appropriate and map out the way forward in consultation with relevant parties."</i></p> <p>The Bureau has advised that it has taken steps to deal with the LRC Report on Stalking. See item 45 below.</p>
43	Conditional fees (July 2007)	The Report recommended, <i>inter alia</i> , the expansion of the Supplementary Legal Aid Scheme by raising the financial eligibility limits, and increasing the types of cases covered by the Scheme. The financial eligibility limits were

	Report (month and year of publication) and Responsible Bureau	Implementing legislation or other relevant information, including response from the relevant bureau or department
		<p>raised in May, 2011, and the types of cases were expanded in November 2012.</p> <p>Report's other recommendations were rejected by the Government in October 2010.</p>

(c) Recommendations under consideration or in the process of being implemented

	Report (month and year of publication) and Responsible Bureau	Implementing legislation or other relevant information, including response from the relevant bureau or department
44	<p>Insolvency - Part 2: Corporate rescue and insolvent trading (October 1996)</p> <p><i>Financial Services and the Treasury Bureau</i></p>	<p>The Bureau has advised that:</p> <ul style="list-style-type: none"> ● Having reviewed the proposals put to the Legislative Council in 2000 and 2001 (which lapsed on both occasions), the Bureau conducted a public consultation in late 2009 on the conceptual framework and a number of specific issues relating to the corporate rescue procedure and insolvent trading provisions, and issued consultation conclusions in July 2010. Since then, the Bureau has reviewed some of the more contentious issues of the proposals and announced a package of legislative proposals for the introduction of a statutory corporate rescue procedure and insolvent trading provisions in 2014, and has been on that basis working on the legislative instructions. ● The legislative proposals are lengthy and complex, and stakeholders have raised many different views. The Bureau will continue to engage stakeholders to refine the legislative instructions.
45	<p>Privacy – Part 3: Stalking (October 2000)</p> <p><i>Constitutional and Mainland Affairs Bureau</i></p>	<p>The Bureau has stated: <i>“The Bureau decided to deal with the LRC Report on Stalking first and launched a public consultation on the recommendations from December 2011 to March 2012. In the light of the concerns and divergent views expressed over the implications that the LRC’s recommendations would have on</i></p>

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		<p><i>constitutional rights including freedom of the media and freedom of expression, the Bureau commissioned the Centre for Comparative and Public Law of the University of Hong Kong (‘the Consultant’) to study the experience of overseas jurisdictions in implementing their anti-stalking legislation and reported the findings and the Consultant’s recommended formulation to the LegCo Panel on Constitutional Affairs (‘the CA Panel’) in December 2013. Some Members of the CA Panel continued to express strong reservations on the enactment of a piece of stalking legislation and counter-proposed that a ‘specified relations’ approach be further explored.</i></p> <p><i>The Bureau has since sought the views of stakeholders who had submitted written views in the 2011/12 consultation, including the Hong Kong Bar Association and the Law Society of Hong Kong. After considering the feedback obtained and input from the Department of Justice, it is clear that none of the various formulations (ie, LRC’s, the Consultant’s and the ‘specified relations’ approach) is supported by CA Panel Members, the major stakeholders or the public, as being able to achieve the objective of providing protection to all people alike against stalking while at the same time avoid inflicting interference to the freedoms of the press and expression.</i></p> <p><i>The above being the case, the Bureau is of the view that there are no favourable conditions to pursue the matter further and sought the views of the CA Panel accordingly on 16 June 2014. At that Panel meeting, some Members expressed support for not pursuing the LRC’s recommendations. Regarding the ‘specified relations’ approach, Members noted the in-principle difficulties with this approach and that since the LRC Report was published in 2000, individual pieces of legislation have indeed been amended or administrative measures taken to better control harassment in domestic, landlord-and-tenant, and money lender-borrower relationships, and no Member requested further pursuing such an approach.</i></p>

	Report (month and year of publication) and Responsible Bureau	Implementing legislation or other relevant information, including response from the relevant bureau or department
		<i>The Bureau will take into account the opinion of LegCo Members and stakeholders and monitor related developments in considering the way forward.”</i>
46	Contracts for the supply of goods (February 2002) Commerce and Economic Development Bureau	<p>The Commerce and Economic Development Bureau has advised that:</p> <ul style="list-style-type: none"> ● It agrees that the implied undertakings for all types of contracts for the supply of goods should be standardized and that legislative amendments should be introduced to extend to contracts for the supply of goods the implied undertakings which currently apply in respect of contracts for the sale of goods. ● The Bureau is committed to improving consumer protection legislation. After the enactment of legislation against pyramid schemes and unfair trade practices in 2012, the Bureau has completed a public consultation on a proposal to establish a statutory cooling-off period for beauty and fitness services consumer contracts in April 2019. Due to the drastic changes in social environment, economic situation and consumption sentiments following the social unrest in the second half of 2019 and the COVID-19 outbreak since early 2020, there is a need to revisit the scope and details of the relevant legislative proposals having regard to the prevailing circumstances, and to critically review the timing and way forward with the legislative proposals. ● Meanwhile, the Bureau also notes that, following a 7-month public consultation exercise in 2020, the Department of Justice is planning to extend the application of the United Nations Convention on Contracts for the International Sale of Goods (“CISG”) to the HKSAR, and has consulted the LegCo Panel on Administration of Justice and Legal Services in March 2021 on the proposal. ● In tandem, the Bureau notices that laws regarding contracts in the three jurisdictions (Australia, New Zealand and the UK) to which

	Report (month and year of publication) and Responsible Bureau	Implementing legislation or other relevant information, including response from the relevant bureau or department
		<p>the LRC had made reference when formulating the recommendations in 2002 have evolved since then.</p> <ul style="list-style-type: none"> ● The Bureau will consider LRC's recommendations in due course, taking into account progress of the abovementioned exercise to apply CISG to Hong Kong, latest changes in legislation relating to contracts in Australia, New Zealand and the UK, as well as other competing policy initiatives and legislative priorities.
47	<p>Privacy – Part 4: Privacy and media intrusion (December 2004) <i>Constitutional and Mainland Affairs Bureau</i></p>	<p>The Bureau has stated: <i>“The Report touches on the sensitive and controversial policy and political issue. There were mixed responses and very divergent views from different sectors of the community. Given the complexity and sensitivity of the policy and political issues involved, the Bureau will monitor related developments in considering the way forward.”</i> See items 42 and 45 above.</p>
48	<p>Privacy – Part 5: Civil liability for invasion of privacy (December 2004) <i>Constitutional and Mainland Affairs Bureau</i></p>	<p>The Bureau has stated: <i>“The Report touches on the sensitive and controversial policy and political issue. There were mixed responses and very divergent views from different sectors of the community. Given the complexity and sensitivity of the policy and political issues involved, the Bureau will monitor related developments in considering the way forward.”</i> See items 42 and 45 above.</p>
49	<p>Guardianship and custody – Part 4: Child custody and access (March 2005) <i>Labour and Welfare Bureau</i></p>	<p>A total of 72 recommendations were made on the arrangements in relation to child custody and access, including that Hong Kong should follow jurisdictions such as England and Wales and Australia in applying the parental responsibility model to family law. Some of the recommendations of the Report will fundamentally change the concept of “custody” underpinning the existing family law and have far-reaching implications.</p> <p>In consultation with the Department of Justice, the Home Affairs Bureau, the Social Welfare Department, the Judiciary and other relevant</p>

	Report (month and year of publication) and Responsible Bureau	Implementing legislation or other relevant information, including response from the relevant bureau or department
		<p>Government Bureaux/Departments, the Labour and Welfare Bureau has prepared the draft Children Proceedings (Parental Responsibility) Bill (the proposed legislation) to follow up the majority of the LRC recommendations. On 25 November 2015, the Bureau launched a four-month public consultation on the proposed legislation. The Bureau advised that <i>“the recommendation to reduce the minimum age of marriage without parental consent from 21 to 18 (Recommendation 69) and the recommendation that a list of circumstances should be set out in the legislation to determine when it is appropriate to appoint a separate representative for a child in children proceedings (Recommendation 50) will be dealt with separately.”</i></p> <p>The public consultation ended on 25 March 2016.</p> <p>The Bureau reported the results of the consultation to LegCo Panel on Welfare Services (LegCo Panel) in May 2017. The results showed that the percentage of views in support of the implementation of the proposed legislation at this stage was about the same as that opposing it (i.e. 34.5% on each side), while another 20% of the views considered the proposed legislation worthy of support in principle, but requested additional resources and support measures as a prerequisite. Those in support of the proposed legislation considered that it was in line with some countries' practices and could protect the child's best interests. Those who opposed the proposed legislation considered that it could not help divorced parents in resolving conflicts, especially high-risk families with domestic violence background, but may cause more family problems and adversely affect the child's development. In particular, single-parent groups were concerned that the new requirement for obtaining the other party's consent or giving notification on major decisions would be used by the troublemaking party with malicious intent to obstruct and harass the other spouse, causing distress to the child. It may also result in long term hostility between divorced parents and more litigation. Besides,</p>

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		<p>the Bureau also noted that two motions were unanimously passed by the LegCo Panel on 22 February 2016 and 8 May 2017 respectively, requesting the Government not to introduce the proposed legislation into the LegCo at this stage, pending the provision of more support measures for divorcing/divorced/separated families. Similar requests were also raised by deputations at the special meeting of the LegCo Panel held on 4 October 2017.</p> <p>Having regard to the views collected during the public consultation and the LegCo Panel's position, the Bureau proposed at the LegCo Panel meeting on 12 March 2018 not to introduce the proposed legislation into the LegCo at this stage. However, the Bureau proposed to, as a matter of priority, increase resources in 2018/2019 to strengthen measures to support divorcing/divorced/separated families, so as to promote the concept of continuing parental responsibility towards children even after divorce, and strengthen co-parenting counselling and parenting coordination service, as well as making the Pilot Project on Children Contact Service a regular service of the Social Welfare Department with service expansion. The Bureau will keep in view stakeholders' receptiveness to the legislative proposal, in particular whether the doubts of those who oppose the legislation could be relieved, and consider whether and if so, the appropriate timing to pursue the legislation.</p>
50	<p>Substitute decision-making and advance directives in relation to medical treatment (August 2006) Food and Health Bureau</p>	<p>The Bureau has stated that: <i>"The outcome of the public consultation launched in 2009 indicated that while the respondents generally were not opposed to introducing the concept of advance directives as a personal decision, there was no clear consensus or public support for promoting the concept by way of legislation. In July 2010, the Hospital Authority (HA) issued the Guidance for HA Clinicians on Advance Directives in Adults which provides guidelines to HA frontline staff to deal with terminal care in an amicable manner under relevant circumstances. The Guidance was updated in July 2016. In January 2016, HA updated the HA</i></p>

	Report (month and year of publication) and Responsible Bureau	Implementing legislation or other relevant information, including response from the relevant bureau or department
		<p><i>Guidelines on Do Not Attempt Cardiopulmonary Resuscitation (CPR), extending the Guidelines to non-hospitalised patients with advanced irreversible illnesses. This facilitates the clinical staff to honour an advance directive refusing CPR of a non-hospitalised patient.</i></p> <p><i>As there appeared to be more receptiveness toward the information provided and more willingness among the patients and the community to discuss end-of-life care and the concept of advance directives, the Bureau reviewed the appropriateness of legislation in this regard and launched a public consultation on advance directives and related end-of-life care arrangements in September 2019. The Bureau published the consultation report in July 2020 and is working to introduce a bill on advance directives and related matters in the next legislative term.”</i></p>
51	<p>Hearsay in criminal proceedings (November 2009) Department of Justice</p>	<p>The Department of Justice has advised that: <i>“The Department has prepared the Evidence (Amendment) Bill 2018 to implement the recommendations in the LRC Report on Hearsay in Criminal Proceedings. The Bill was introduced into LegCo on 4 July 2018. The Bills Committee completed its scrutiny of the Bill, and its report was considered by the House Committee on 5 June 2020. The Government gave notice to resume second reading on 8 July 2020 as well as notice of intention to move Committee Stage Amendments. Since then, the Department has temporarily withdrawn the two notices as further refinements to the legislative proposals are necessary. The Department has been reviewing the proposals in consultation with the Law Society of Hong Kong and the Hong Kong Bar Association, and aims for the enactment of the Bill within this legislative session.”</i></p>
52	<p>Criteria for service as jurors (June 2010) Department of Justice</p>	<p>The Department of Justice has stated that: <i>“The Department is actively preparing the relevant Bill, and aims to consult the public, including the legal professional bodies, the Judiciary and other stakeholders on the legislative proposals in 2021.”</i></p>

	Report (month and year of publication) and Responsible Bureau	Implementing legislation or other relevant information, including response from the relevant bureau or department
53	Enduring powers of attorney: personal care (July 2011) Department of Justice	<p>The Department of Justice has stated that: <i>“Having convened meetings of an inter-departmental working group to examine the recommendations in the Report, the Department launched a public consultation on a draft Bill on 28 December 2017 and briefed the AJLS Panel on the consultation on 22 January 2018. The consultation period ended on 28 April 2018. The earliest when the Department may conduct a second round public consultation is the first half of 2021.”</i></p>
54	Double jeopardy (February 2012) Department of Justice	<p>The Department of Justice has stated that: <i>“The Department is prepared to take forward all the recommendations and will work out details of the legislative amendments in consultation with the stakeholders. We are now preparing a draft Bill for the purpose of consultation with the legal professional bodies, the Judiciary and stakeholders.”</i></p>
55	Class actions (May 2012) Department of Justice	<p>The Department of Justice has stated that: <i>“The Department has established a cross-sector Working Group to study and consider the recommendations of the Report, comprising members representing stakeholders in the private sector, the relevant Government bureaux and departments, the two legal professional bodies and the Consumer Council, and a representative from the Judiciary whose role is confined to providing input to the deliberations from the perspective of interface with court operations.</i></p> <p><i>Thirty one meetings of the Working Group were held between 2013 and 2020. In addition, a sub-committee of the Working Group (‘Sub-Committee’) was formed to assist the Working Group on technical issues that might arise during its deliberations of the subject matter. The Sub-Committee has held thirty-three meetings between 2014 and 2019.</i></p> <p><i>On 31 December 2020, the Working Group, acting through its secretariat (“Secretariat”) at the Department of Justice, announced that it intended to commission a consultancy study on the</i></p>

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		<p><i>(potential and likely) economic and other related impacts on Hong Kong if a class action regime, starting with a pilot scheme restricted to consumer class actions only, is to be introduced (“Consultancy Study”). The Secretariat has invited expressions of interest by 11 a.m. on 15 January 2021 from consultancy firms which may competently undertake the Consultancy Study. The Consultancy Study is expected to commence by the second quarter of 2021 and to complete in ten months.</i></p> <p><i>Upon completion of the study, the Working Group will put forward its recommendations for the Government to consider and to map out the way forward.”</i></p>
56	<p>Charities (December 2013) Home Affairs Bureau</p>	<p>The Bureau has stated its stance to be: <i>“The recommendations of the LRC Report on charities are relevant to the purviews of various Government bureaux and departments. Since many recommendations in the LRC Report carry significant implications on charities in Hong Kong in terms of their definition and operation, the Government needs to consider the recommendations thoroughly and carefully. The Bureau has been assigned to co-ordinate inputs from relevant bureaux and departments in formulating a response to LRC’s recommendations for the Government’s overall consideration. The Bureau has been actively following up the co-ordination with a view to formulating a response for the Government’s consideration as soon as possible. In this process, the Bureau will make reference to the improvement measures recommended in the Director of Audit’s Report No 68 (Audit Report) as well as in the Public Accounts Committee Reports No 68 and 68A (PAC Reports) when co-ordinating inputs from relevant bureaux and departments.</i></p> <p><i>With reference to the recommendations in the LRC Report, the Audit Report as well as the PAC Reports, a series of administrative measures have been introduced by the Government in two phases in 2018 and 2019 with a view to optimising the monitoring and supportive work relating to</i></p>

	Report (month and year of publication) and Responsible Bureau	Implementing legislation or other relevant information, including response from the relevant bureau or department
		<p><i>charitable fund-raising activities.</i></p> <p><i>Besides, representatives from the relevant bureaux have made detailed responses at the Legislative Council meetings on 17 June and 28 October 2020 in reply to Hon MAK Mei-kuen, Alice’s oral questions on regulation of online crowdfunding activities and regulation of online fundraising activities. The responses pointed out inter alia the regulation under relevant pieces of legislation (e.g. the Organized and Serious Crimes Ordinance and the Theft Ordinance) of cases where funds so raised were handled unlawfully. The relevant replies can be found at the following links:</i></p> <ul style="list-style-type: none"> ● <i>https://www.info.gov.hk/gia/general/202006/17/P2020061700374.htm; and</i> ● <i>https://www.info.gov.hk/gia/general/202010/28/P2020102800376.htm.</i>
57	<p>Report on Voyeurism and Non-consensual upskirt-photography (April 2019)</p> <p>Security Bureau</p>	<p>The Bureau has stated that: <i>“The Government introduced the Crimes (Amendment) Bill 2021 to the Legislative Council in March 2021 for introducing new offences of voyeurism, non-consensual recording of intimate parts, publication of images originating from voyeurism or non-consensual recording of intimate parts and publication or threatened publication of intimate images without consent. The Bill is now under the scrutiny of the Legislative Council.”</i></p>
58	<p>Review of substantive sexual offences (December 2019)</p> <p>Security Bureau</p>	<p>The Bureau has stated that: <i>“The Government notes that the LRC has just completed a consultation on the sentencing of sexual offences in February 2021, which is part of the overall review of the substantive sexual offences. The Government will consider LRC recommendations of the related matters in tandem.”</i></p>

(d) Recommendations rejected by the Government

	Report (month and year of publication)	Response from the relevant bureau or department
59	Confession statements and their admissibility in criminal proceedings (October 1985)	Rejected by the Government in September 1987
60	Contempt of court (July 1987)	Rejected by the Government in January 1994
61	Interest on debt and damages (July 1990)	Rejected by the Government in May 1994

(e) The Government has no plan to implement the recommendations at this juncture

	Report (month and year of publication) - <i>Responsible Bureau, where report not yet implemented</i>	Response from the relevant bureau or department, or other relevant information
62	Extrinsic materials as an aid to statutory interpretation (March 1997) <i>Department of Justice</i>	The Department of Justice has stated: <i>“Bill introduced into LegCo in March 1999 but lapsed in view of Bills Committee’s and the Bar’s opposition and suggestion to wait and see how this area of law may develop. Given the opposition of the Bills Committee, the Government has no plan to re-introduce the Bill into LegCo.”</i>
63	Description of flats on sale - Part 2: Overseas uncompleted residential properties (September 1997) <i>Transport and Housing Bureau</i>	The Bureau has stated that: <ul style="list-style-type: none"> • <i>“The relevant policy bureau at the time [the then Housing Bureau] carefully studied the LRC Report in consultation with the Estate Agents Authority (EAA) after the Report was published in 1997. As part of that exercise, the EAA conducted research into the law and practices of residential property sales in various jurisdictions (including New South Wales in Australia, British Columbia in Canada, England and Wales in the United Kingdom, and Mainland China). The conclusion was that the recommended regulatory scheme would not be effective, as it would apply to estate agents only, not the</i>

	Report (month and year of publication) - <i>Responsible Bureau, where report not yet implemented</i>	Response from the relevant bureau or department, or other relevant information
		<p><i>vendors of overseas residential properties.</i></p> <ul style="list-style-type: none"> ● <i>The LRC Report was prepared at a time when there was a surge in the volume of sales of non-local residential properties in Hong Kong, most prominently the sales of uncompleted residential properties situated in the Mainland. Malpractices, insufficient information available to purchasers and projects where construction works were not completed were common at the time. Given the outcome of the EAA’s research on the effectiveness of the recommended regulatory scheme, instead of implementing the recommendations as set out in the LRC Report, the Bureau adopted an alternative approach, under which the EAA and the Consumer Council stepped up their public education efforts to raise the awareness of the public on the risks of purchasing uncompleted residential properties situated outside Hong Kong.”</i> <p>The Bureau has further observed that:</p> <ul style="list-style-type: none"> ● <i>“The result of stepping up public education efforts has been very positive. Complaints about the sales of uncompleted residential properties situated outside Hong Kong have virtually diminished over the years. As such, the need for legislation to regulate the sales of non-local residential properties in Hong Kong does not seem imminent.</i> ● <i>Furthermore, currently, licensed estate agents need to comply with the relevant guidelines issued by the EAA, including the requirements concerning due diligence and record keeping, in handling the sale of uncompleted properties situated outside Hong Kong. As licensed estate agents are regulated by the EAA, consumers who appoint licensed estate agents to purchase non-local properties enjoy better protection. The EAA has been advising the public the above information through various channels.</i>

	Report (month and year of publication) - <i>Responsible Bureau, where report not yet implemented</i>	Response from the relevant bureau or department, or other relevant information
		<ul style="list-style-type: none"> ● <i>Regulating the sales of non-local residential properties conducted in Hong Kong involves complicated issues. In particular, given the advancement of information technology since the publication of the LRC Report, it is now very easy for vendors of residential properties situated outside Hong Kong to directly carry out their sales and promotional activities in Hong Kong through the internet. The question of legal jurisdiction is not an issue easy to resolve.</i> ● <i>In light of the above, the Bureau is inclined not to pursue the specific recommendations of the 1997 LRC Report.</i> ● <i>However, the Bureau will continue to monitor the situation. At present, the EAA and the Consumer Council provide regular feedback on complaints relating to the sale of non-local residential properties in Hong Kong to this Bureau. If in future, the Bureau sees a rise of complaints and the need to regulate the sales of non-local residential properties by legislation, it will look at the issue afresh and identify a suitable regulatory framework to suit the circumstances of the time. The Bureau remains open to any new ideas from LRC.”</i>
64	Civil liability for unsafe products (February 1998) Commerce and Economic Development Bureau	<p>A ‘strict liability’ regime is recommended to give an additional basis for aggrieved parties to seek compensation for injuries and damages arising from unsafe products. When the then Trade and Industry Panel of the LegCo was consulted in 1999, strong objection to the recommendations was raised from trade representatives. Some considered it unfair to hold a party, such as an importer, liable if that party did not have full control over the safety of the product, while others were concerned about the likely increase in litigation and compliance costs.</p> <p>The Bureau has stated its stance to be: “As the community is unlikely to reach any consensus on this matter in the near future, the Bureau does not</p>

	Report (month and year of publication) - <i>Responsible Bureau, where report not yet implemented</i>	Response from the relevant bureau or department, or other relevant information
		<i>intend to take forward the LRC's recommendations at this juncture."</i>
65	Excepted Offences under Schedule 3 to the Criminal Procedure Ordinance (Cap 221) (February 2014) Security Bureau	<p>The Bureau has stated:</p> <ul style="list-style-type: none"> ● <i>"The recommendations of the LRC Report on Excepted Offences may have implications on law and order as well as judicial procedures. After further review, the Security Bureau does not consider it appropriate to repeal excepted offences in the near future.</i> ● <i>The excepted offences regime was introduced in 1970s to respond to concerns of serious and violent crimes, and public sentiments that offenders of those crimes should not be treated leniently. The presence of the excepted offences provides an effective deterrent to serious and violent crimes. The recommendations in the LRC report were made at a time when the law and order situation was relatively stable. The series of incidents of serious violence, unlawful activities and disturbances since June 2019 have severely damaged the law and order situation and completely reversed the crime trends to the worsening side in 2019 and 2020. The sentiments for strong deterrence in sentencing have never been stronger at the moment, so has the case for rebuilding the law abiding culture in Hong Kong.</i> ● <i>The excepted offences listed in Schedule 3 of Cap 221 are amongst the most serious and violent ones in our criminal codes. The removal of all excepted offences will send a wrong message, albeit unintended, to the public that such offences are now less culpable and could be treated leniently. This is contrary to the Government's firm stance in upholding law and order."</i>
66	Adverse possession (October 2014) Development Bureau	<p>In consultation with the Lands Department ("LandsD") and the Land Registry ("LR"), the Bureau has stated that:</p>

	Report (month and year of publication) - Responsible Bureau, where report not yet implemented	Response from the relevant bureau or department, or other relevant information
		<ul style="list-style-type: none"> ● The Bureau agrees with LRC's recommendation that the existing provisions on adverse possession should be retained under the current deeds registration system. ● The LRC recommended that the law of adverse possession under the registered land system should be recast upon implementation of the Land Titles Ordinance ("LTO") (Cap 585) in future. As a matter of principle, the Bureau welcomes the suggestion to give certainty to private land ownership through appropriate means to complement the title registration regime. The Government will take this into account when it continues to work with stakeholders on an acceptable proposal for taking forward the LTO. ● The LRC Report suggests that the land boundary problem in the New Territories should be best dealt with together and in the context with the implementation of the LTO. Currently, LandsD administers a voluntary submission arrangement for authorised land surveyors to submit land boundary information under the Code of Practice of the Land Survey Ordinance (Cap 473). The Bureau takes note of LRC's recommendation, and will keep in view the situation and the need for review. ● There are also recommendations in the LRC Report for legislative amendments to the Limitation Ordinance (Cap 347) to clarify legal principles on adverse possession and overrule past judicial decisions. In general, the Government adopts a cautious approach on interfering with established legal principles and judicial decisions. At this stage, the Bureau does not see a pressing need to take forward the suggested legislative amendments. The Bureau will however continue to keep in view the legal developments and review such need when and where necessary.

	Report (month and year of publication) - Responsible Bureau, where report not yet implemented	Response from the relevant bureau or department, or other relevant information
		<ul style="list-style-type: none"> ● The Bureau agrees with LRC's recommendation against devising a statutory presumption or assignment to the effect that the adverse possessor become liable under the covenants in the Government lease, and LRC's recommendation against changing the law on adverse possession on "Tso" land. ● The Bureau will continue to keep in view the development of the law on adverse possession in Hong Kong and overseas jurisdictions, and conduct review when and where necessary. For general public education, the Government will disseminate information on the website of relevant Government departments to promote the awareness of landowners of the implications if they sleep on their own rights, and on the importance of proper management and custody of their own land in protecting it from adverse possession by others.