

## **Panel on Administration of Justice and Legal Services**

**Meeting on Monday, 23 May 2016**

### **Implementation of the recommendations made by the Law Reform Commission (“LRC”)**

#### **Background**

The reporting mechanism introduced by this Panel in 2012 aims to facilitate members of this Panel, as well as other Panels of the Legislative Council (“LegCo”), to follow up on progress of implementation of the LRC's recommendations by the relevant bureaux and departments. This is the Secretary for Justice (“SJ”)’s fourth report to the Panel pursuant to this mechanism.

2. In line with the approach adopted for the SJ's second report made to the Panel in 2014, the table annexed to this report lists the LRC's recommendations under different categories according to their implementation status, ie:

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

3. The information on implementation status which appears in this report is as provided to the LRC by the individual bureaux and departments concerned.

#### **Progress made since SJ's last annual report to this Panel**

4. The following paragraphs seek to highlight the more significant developments since SJ's last annual report to this Panel as set out in the table annexed to this report:

- (a) Insolvency – Part 2: Corporate rescue and insolvent trading (October 1996) *(see item 42 in table)*

The Financial Services and Treasury Bureau (“FSTB”) announced a package of legislative proposals for the introduction of a statutory corporate rescue procedure and insolvent trading provisions in 2014 and received broad support of the LegCo Panel on Financial Affairs and relevant stakeholders to the legislative exercise. The Bureau has been engaging relevant stakeholders on the further details for preparation of an amendment bill and is preparing the draft Drafting Instructions. The target is to introduce the amendment bill into LegCo in 2017/18.

- (b) Insolvency – Part 3: Winding-up provisions of the Companies Ordinance (July 1999) *(see item 36 in table)*

FSTB completed a public consultation on a package of legislative proposals in 2013 and issued the consultation conclusions in May 2014. Taking into account the consultation feedback, FSTB has introduced the Companies (Winding-up and Miscellaneous Provisions)(Amendment) Bill 2015 in October 2015. The Bills Committee of LegCo has completed the scrutiny of and supported the bill. The Government has issued the notice for resumption of Second Reading debate of the bill but the actual date for completing the legislative process will depend on the progress of the other bills before this bill.

- (c) Contracts for the supply of goods (February 2002) *(see item 46 in table)*

Research of the Commerce and Economic Development Bureau has shown that there have been significant changes to some relevant overseas legislation to which the LRC Report had made reference and on which the LRC’s recommendations were based. Further examination of the updated overseas legislation and the implementation is being conducted. The examination is ongoing. As this is taking longer than expected, the Bureau hopes that the examination could be completed as soon as practicable within 2016. Based on such examination and research, and subject to other prevailing competing policy priorities, the Bureau will further consider how legislative proposals should be formulated and the timing of public consultation.

- (d) Guardianship & custody – Part 2: International parental child abduction (April 2002) (see item 29 in table)

The LRC's recommendations were implemented by the Child Abduction Legislation (Miscellaneous Amendments) Ordinance, enacted in November 2014, which amended the Child Abduction and Custody Ordinance (Cap 512). The amending Ordinance came into operation on 5 April 2016.

- (e) Guardianship and custody – Part 4: Child custody and access (March 2005) (see item 49 in table)

In conjunction with the Department of Justice (“DoJ”), the Home Affairs Bureau, the Social Welfare Department, the Judiciary and other relevant Government Bureaux/Departments, the Labour and Welfare Bureau has prepared the draft Children Proceedings (Parental Responsibility) Bill (the proposed legislation) to implement the bulk of the LRC recommendations. On 25 November 2015, the Bureau launched a four-month public consultation on the proposed legislation. The Bureau has advised that *“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.”* The public consultation ended on 25 March 2016, and the Bureau is analysing the views collected.

- (f) Privity of contract (October 2005) (see item 31 in table)

The LRC's recommendations were implemented by the Contracts (Rights of Third Parties) Ordinance (Cap 623), enacted in December 2014. The Ordinance came into operation on 1 January 2016.

- (g) Criteria for service as jurors (June 2010) (see item 52 in table)

DoJ is preparing a working draft bill, with a view to seeking views of legal professional bodies, the Judiciary and stakeholders in 2016. Subject to the result of the consultation, it is planned that proposed legislation will be introduced into LegCo in the 2016/17 legislative session.

- (h) Enduring powers of attorney: personal care (July 2011) (see item 53 in table)

DoJ has convened meetings of an inter-departmental working group to examine the recommendations in the report and is

preparing a working draft bill, with a view to seeking views of legal professional bodies, the Judiciary and other stakeholders in 2016. Subject to the result of the consultation, it is planned that proposed legislation will be introduced into LegCo in the 2016/17 legislative session.

- (i) Class actions (May 2012) (*see item 55 in table*)

DoJ has established a cross-sector Working Group to study and consider the proposals of the report. The thirteenth meeting of the Working Group was held on 23 March 2016. In addition, a sub-committee of the Working Group ("Sub-Committee") has been formed to assist the Working Group on technical issues that might arise during its deliberations of the subject matter. The Sub-Committee held its sixteenth meeting on 22 April 2016. The Government will map out the way forward in the light of the recommendations to be made by the Working Group.

### **Concluding remarks**

5. SJ and the LRC are conscious of the need to follow up closely on the implementation of proposals made by LRC. Indeed, progress of implementation of LRC proposals is now made a regular item of the LRC meetings so that members of the LRC can monitor the situation. SJ will continue to closely follow up the progress with all relevant bureaux and departments.

Law Reform Commission Secretariat  
May 2016

**LAW REFORM COMMISSION OF HONG KONG**

**COMPLETE LIST OF REPORTS**

**TABULATED ACCORDING TO IMPLEMENTATION STATUS**

A total of 64 reports have been published since 1 January 1982. With one report recommending no change to the law,<sup>1</sup> the remaining 63 reports are tabulated into the following categories according to their implementation status:

- (a) proposals implemented in full (34 reports, 54% of the 63 reports);
- (b) proposals implemented in part (7 reports, 11% of the 63 reports) ;
- (c) proposals under consideration or in the process of being implemented (17 reports, 27% of the 63 reports);
- (d) proposals rejected outright by the Government (3 reports, 4.8% of the 63 reports); and
- (e) the Government has no plan to implement the proposals at this juncture (2 reports, 3.2% of the 63 reports).

**(a) Proposals implemented in full**

	<b>Report (month and year of publication) - Responsible Bureau, where report not yet implemented</b>	<b>Implementing legislation/ or other relevant information, including response from the relevant bureau or department</b>
1	<b>Commercial arbitration (January 1982)</b>	Implemented by Arbitration (Amendment) Ordinance (10 of 1982) (March 1982) amending Cap 341 <sup>2</sup>
2	<b>Bills of exchange (December 1982)</b>	Implemented by Bills of Exchange (Amendment) Ordinance (16 of 1983) (April 1983) amending Cap 19
3	<b>Laws governing homosexual conduct (June 1983)</b>	Implemented by Crimes (Amendment) Ordinance (90 of 1991) (July 1991) amending Cap 200

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

<sup>2</sup> 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.

	<b>Report (month and year of publication) - Responsible Bureau, where report not yet implemented</b>	<b>Implementing legislation/ or other relevant information, including response from the relevant bureau or department</b>
4	<b>Community service orders (June 1983)</b>	Implemented by Community Service Orders Ordinance (Cap 378) (78 of 1984) (November 1984)
5	<b>The law relating to contribution between wrongdoers (April 1984)</b>	Implemented by Civil Liability (Contribution) Ordinance (Cap 377) (77 of 1984) (November 1984)
6	<b>Damages for personal injury and death (February 1985)</b>	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	<b>Laws on insurance (January 1986)</b>	Implemented by Insurance Companies (Amendment) (No. 3) Ordinance (76 of 1994) (July 1994) amending Cap 41
8	<b>Young persons - Effects of age in civil law (April 1986)</b>	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	<b>The control of exemption clauses (December 1986)</b>	Implemented by Control of Exemption Clauses Ordinance (Cap 71) (59 of 1989) (November 1989)
10	<b>Coroners (August 1987)</b>	Implemented by Coroners Ordinance (Cap 504) (27 of 1997) (May 1997)
11	<b>The adoption of the UNCITRAL model law of arbitration (September 1987)</b>	Implemented by Arbitration (Amendment) (No. 2) Ordinance (64 of 1989) (November 1989) amending Cap 341 <sup>3</sup>

<sup>3</sup> 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.

	<b>Report (month and year of publication) - Responsible Bureau, where report not yet implemented</b>	<b>Implementing legislation/ or other relevant information, including response from the relevant bureau or department</b>
12	<b>Competence and compellability of spouses in criminal proceedings (December 1988)</b>	Implemented by Evidence (Miscellaneous Amendments) Ordinance (23 of 2003) (July 2003) amending Cap 8
13	<b>Bail in criminal proceedings (December 1989)</b>	Implemented by Criminal Procedure (Amendment) Ordinance (56 of 1994) (June 1994) amending Cap 221
14	<b>Sale of goods and supply of services (April 1990)</b>	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	<b>Law of wills, intestate succession and provision for deceased persons' families and dependants (May 1990)</b>	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	<b>Loitering (July 1990)</b>	Implemented by Crimes (Amendment) (No 2) Ordinance (74 of 1992) (July 1992) amending Cap 200
17	<b>Illegitimacy (December 1991)</b>	Implemented by Parent and Child Ordinance (Cap 429) (17 of 1993) (March 1993)
18	<b>Grounds for divorce and the time restriction on petitions for divorce within three years of marriage (November 1992)</b>	Implemented by Matrimonial Causes (Amendment) Ordinance (29 of 1995) (May 1995) amending Cap 179

	<b>Report (month and year of publication) - Responsible Bureau, where report not yet implemented</b>	<b>Implementing legislation/ or other relevant information, including response from the relevant bureau or department</b>
19	<b>Reform of the law relating to copyright (January 1994)</b>	Implemented by Copyright Ordinance (Cap 528) (92 of 1997) (June 1997)
20	<b>Codification: the preliminary offences of incitement, conspiracy and attempt (May 1994)</b>	Implemented by Crimes (Amendment) Ordinance (49 of 1996) (July 1996) amending Cap 200
21	<b>Privacy – Part 1: Reform of the law relating to the protection of personal data (August 1994)</b>	Implemented by Personal Data (Privacy) Ordinance (Cap 486) (81 of 1995) (August 1995)
22	<b>Description of flats on sale – Part 1: Local uncompleted residential properties: Sales descriptions and pre-contractual matters (April 1995)</b>	Implemented by Residential Properties (First-hand Sales) Ordinance (Cap 621) (19 of 2012) (July 2012)
23	<b>Insolvency: Part I: Bankruptcy (May 1995)</b>	Implemented by Bankruptcy (Amendment) Ordinance (76 of 1996) (December 1996) amending Cap 6
24	<b>The hearsay rule in civil proceedings (July 1996)</b>	Implemented by Evidence (Amendment) Ordinance(2 of 1999) (January 1999) amending Cap 8
25	<b>Creation of a substantive offence of fraud (July 1996)</b>	Implemented by Theft (Amendment) Ordinance (45 of 1999) (July 1999) amending Cap 210
26	<b>The year and a day rule in homicide (June 1997)</b>	Implemented by Statute Law (Miscellaneous Provisions) Ordinance 2000 (32 of 2000) (June 2000)
27	<b>The age of criminal responsibility in Hong Kong (May 2000)</b>	Implemented by Juvenile Offenders (Amendment) Ordinance (6 of 2003) (March 2003) amending Cap 226



	<b>Report (month and year of publication) - Responsible Bureau, where report not yet implemented</b>	<b>Implementing legislation/ or other relevant information, including response from the relevant bureau or department</b>
28	<b>Guardianship &amp; custody – Part 1: Guardianship of children (January 2002)</b>	Implemented by Guardianship of Minors (Amendment) Ordinance 2012 (1 of 2012) (January 2012) amending Cap 13
29	<b>Guardianship &amp; custody – Part 2: International parental child abduction (April 2002)</b>	Implemented by Child Abduction Legislation (Miscellaneous Amendments) Ordinance (16 of 2014) (November 2014) amending Cap 512. The Ordinance came into operation on 5 April 2016.
30	<b>Rules for determining domicile (April 2005)</b>	Implemented by Domicile Ordinance (Cap 596) (4 of 2008) (February 2008)
31	<b>Privity of contract (October 2005)</b>	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	<b>Enduring powers of attorney (March 2008)</b>	Implemented by Enduring Powers of Attorney (Amendment) Ordinance (25 of 2011) (December 2011) amending Cap 501
33	<b>Sexual offences records checks for child-related work: interim proposals (February 2010)</b>	On 28 November, 2011, the Security Bureau announced the implementation, with effect from 1 December 2011, of a scheme based on the LRC's proposals 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	<b>The common law presumption that a boy under 14 is incapable of sexual intercourse (December 2010)</b>	Implemented by Statute Law (Miscellaneous Provisions) Ordinance 2012 (26 of 2012) (July 2012)

**(b) Proposals implemented in part**

	Report (month and year of publication) - <i>Responsible Bureau, where report not yet implemented</i>	Implementing legislation/ or other relevant information, including response from the relevant bureau or department
35	<b>Arrest (November 1992)</b> <i>Security Bureau</i>	More than half of the endorsed recommendations have been implemented. The Bureau is still reviewing some of the proposals in the light of the changes in UK's Police and Criminal Evidence Act 1984 and local enforcement experiences with a view to determining the way forward.
36	<b>Insolvency - Part 3: Winding-up provisions of the Companies Ordinance (July 1999)</b> <i>Financial Services and the Treasury Bureau</i>	<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"> <li>● <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></li> <li>● <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></li> <li>● <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></li> <li>● <i>the concern that Official Receiver's Office (ORO) should be adequately funded is noted. ORO's funding bids, including additional resources as and when necessary, will continue to be processed in accordance with the Administration's well-established policies</i></li> </ul>

	<b>Report (month and year of publication) - Responsible Bureau, where report not yet implemented</b>	<b>Implementing legislation/ or other relevant information, including response from the relevant bureau or department</b>
		<p><i>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 being addressed by the Companies (Winding-up and Miscellaneous Provisions) (Amendment) Bill 2015 introduced into the Legislative Council in October 2015 to improve and modernise Hong Kong’s corporate winding-up regime.</p> <p>The Bills Committee of the Legislative Council has completed the scrutiny of and supported the bill. The Government has issued the notice for resumption of second reading debate of the bill but the actual date for completing the legislative process will depend on the progress of the other bills before this bill.</p>
37	<b>The regulation of debt collection practices (July 2002)</b>	<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>
38	<b>Description of flats on sale – Part 3: Local completed residential properties: Sales descriptions and pre-contractual matters (September 2002)</b>  <b><i>Transport and Housing Bureau</i></b>	<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 :</p> <ul style="list-style-type: none"> <li>● 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</li> </ul>

	<b>Report (month and year of publication) - Responsible Bureau, where report not yet implemented</b>	<b>Implementing legislation/ or other relevant information, including response from the relevant bureau or department</b>
		<p>second-hand residential properties to prospective purchasers with effect from 1 January 2013.</p>
<p>39</p>	<p><b>Guardianship and custody – Part 3: The family dispute resolution process (March 2003)</b> <b>Home Affairs Bureau</b></p>	<p>The Bureau has stated that: <i>“With the implementation of the Civil Justice Reform, legal aid has been extended to cover mediation since 2009. Between 2 April 2009 and 31 March 2016, the Legal Aid Department has approved funding for appointment of mediators in 780 matrimonial cases. In May 2012, the Judiciary issued a Practice Direction on Family Mediation which also 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 also approach the Mediation Co-ordinator’s Office set up by the Judiciary for assistance. A Practice Direction on a new pilot scheme for private adjudication of financial disputes in matrimonial and family proceedings has also come into effect since 19 January 2015. The scheme is a new mode of alternative dispute resolution, which aims at furthering the objective of settlement facilitation. Between May 2012 and January 2016, the Family Council implemented a pilot scheme to provide sponsorship for interested organizations on family mediation service. The Family Council has commissioned the Chinese University of Hong Kong to conduct a study to review the provision of family meditation services in Hong Kong. The Bureau will continue to co-ordinate efforts and inputs from relevant bureaux and stakeholders in further pursuing the recommendations of the report.”</i></p>

	Report (month and year of publication) - <i>Responsible Bureau, where report not yet implemented</i>	Implementing legislation/ or other relevant information, including response from the relevant bureau or department
40	<b>Privacy – Part 6: The regulation of covert surveillance (March 2006)</b>  <b><i>Constitutional and Mainland Affairs Bureau</i></b>	<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 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 43 and 45 below.</p>
41	<b>Conditional fees (July 2007)</b>	<p>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 raised in May, 2011, and the types of cases were expanded in November 2012.</p> <p>Report's other recommendations were rejected by the Administration in October 2010.</p>

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

	<b>Report (month and year of publication) - <i>Responsible Bureau, where report not yet implemented</i></b>	<b>Implementing legislation/ or other relevant information, including response from the relevant bureau or department</b>
42	<b>Insolvency - Part 2: Corporate rescue and insolvent trading (October 1996)</b>  <i>Financial Services and the Treasury Bureau</i>	<p>The Bureau has advised that:</p> <ul style="list-style-type: none"> <li>● 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 considered in detail other key issues which were not discussed in the 2009 consultation exercise.</li> <li>● The Bureau announced a package of legislative proposals for the introduction of a statutory corporate rescue procedure and insolvent trading provisions in 2014 and received broad support of the Financial Affairs Panel of the Legislative Council and relevant stakeholders to the legislative exercise.</li> <li>● The Bureau has been engaging relevant stakeholders on the further details for preparation of an amendment bill and is preparing the draft Drafting Instructions. The target is to introduce the amendment bill into the Legislative Council in 2017/2018.</li> </ul>

	Report (month and year of publication) - <i>Responsible Bureau, where report not yet implemented</i>	Implementing legislation/ or other relevant information, including response from the relevant bureau or department
43	<b>Privacy - Part 2: Interception of communications (December 1996)</b> <b><i>Constitutional and Mainland Affairs Bureau</i></b>	<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>
44	<b>Extrinsic materials as an aid to statutory interpretation (March 1997)</b> <b><i>Department of Justice</i></b>	<p>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. The Department of Justice is reviewing the developments and considering the way forward, in collaboration with the LRC Secretariat's further research as well as responses from the relevant stakeholders.</p>
45	<b>Privacy – Part 3: Stalking (October 2000)</b> <b><i>Constitutional and Mainland Affairs Bureau</i></b>	<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 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</i></p>

	<b>Report (month and year of publication) - Responsible Bureau, where report not yet implemented</b>	<b>Implementing legislation/ or other relevant information, including response from the relevant bureau or department</b>
		<p><i>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>



	<b>Report (month and year of publication) - Responsible Bureau, where report not yet implemented</b>	<b>Implementing legislation/ or other relevant information, including response from the relevant bureau or department</b>
		<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	<b>Contracts for the supply of goods (February 2002)</b>  <b>Commerce and Economic Development Bureau</b>	<p>The Commerce and Economic Development Bureau has advised that:</p> <ul style="list-style-type: none"> <li>● 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.</li> <li>● To enhance consumer protection, the Bureau completed the legislative exercises in 2012 to tighten the prohibition against pyramid schemes and to amend the Trade Descriptions Ordinance (Cap 362) to tackle unfair trade practices. The amended Cap 362 came into full operation in July 2013.</li> <li>● The research of the Bureau has shown that there have been significant changes to some relevant overseas legislation (e.g. that in Australia and New Zealand) to which the LRC Report had made reference and on which the LRC’s recommendations were based. Further examination of the updated overseas legislation and the implementation is being conducted.</li> <li>● The Bureau has stated that: <i>“The examination is ongoing. As this is taking longer than expected, it is hoped that the examination could be completed as soon as practicable within 2016. Based on such examination and research, and subject to other prevailing competing policy priorities, the Bureau will further consider how legislative proposals should be formulated and the timing of public consultation.”</i></li> </ul>

	Report (month and year of publication) - <i>Responsible Bureau, where report not yet implemented</i>	Implementing legislation/ or other relevant information, including response from the relevant bureau or department
47	<b>Privacy – Part 4: Privacy and media intrusion (December 2004)</b> <i>Constitutional and Mainland Affairs Bureau</i>	See items 43 and 45 above
48	<b>Privacy – Part 5: Civil liability for invasion of privacy (December 2004)</b> <i>Constitutional and Mainland Affairs Bureau</i>	See items 43 and 45 above
49	<b>Guardianship and custody – Part 4: Child custody and access (March 2005)</b> <i>Labour and Welfare Bureau</i>	<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>After conducting a public consultation on implementing the parental responsibility model by legislative means, the Labour and Welfare Bureau reported results of the consultation to LegCo Panel on Welfare Service in July 2013 and set out the way forward.</p> <p>The Bureau has stated that: <i>“In tandem, the Bureau is considering the implementation arrangements having regard to the experience of other jurisdictions as well as local circumstances.</i></p> <p><i>Upon working out the detailed legislative and implementation proposals, the Bureau will further engage the stakeholders and interested parties before embarking on legislation.”</i></p> <p>In conjunction with the Department of Justice, the Home Affairs Bureau, the Social Welfare</p>

	<b>Report (month and year of publication) - Responsible Bureau, where report not yet implemented</b>	<b>Implementing legislation/ or other relevant information, including response from the relevant bureau or department</b>
		<p>Department, the Judiciary and other relevant Government Bureaux/Departments, the Bureau has prepared the draft Children Proceedings (Parental Responsibility) Bill (the proposed legislation) to implement the bulk of the LRC recommendations. On 25 November 2015, the Bureau launched a four-month public consultation on the proposed legislation. The Bureau has 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> The public consultation ended on 25 March 2016, and the Bureau is analysing the views collected.</p>
50	<p><b>Substitute decision-making and advance directives in relation to medical treatment (August 2006)</b> <b>Food and Health Bureau</b></p>	<p>The Bureau has stated that: <i>“The outcome of the public consultation launched in 2009 indicates that while the respondents generally are not opposed to introducing the concept of advance directives as a personal decision, there is no clear consensus or public support for promoting the concept by way of legislation. In 2010, the Hospital Authority has 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. In October 2014, the Hospital Authority updated the 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. The Guidance on Advance Directives was updated correspondingly at the same time. While there appears to be more receptiveness toward the information provided and more willingness among the patients and the community to discuss terminal care and</i></p>

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		<p><i>the concept of advance directives, there is no substantial change in attitude in the community towards promoting advance directives through legal means. The Bureau considers it more advisable to implement advance directives by way of legislation when there is a greater degree of awareness and consensus over the use of advance directives and that the community is ready for it.</i></p> <p><i>The Review Committee on Mental Health was set up in May 2013 to examine the existing policy on mental health with a view to mapping out the future direction for development of mental health services. It will also consider whether and how necessary changes should be introduced to the Mental Health Ordinance including the LRC's recommendations in relation to the definition of "mentally incapacitated persons". The Bureau will publish the recommendations of the Review Committee upon completion of the review."</i></p>
51	<b>Hearsay in criminal proceedings (August 2009)</b> <b>Department of Justice</b>	<p>The Department of Justice has stated that: <i>"The Department consulted the LegCo Panel on Administration of Justice and Legal Services in April 2012 and organised a (small-scale) forum in May 2012 for the purposes of consulting the representatives of the Bar, the Law Society and the Judiciary on the way forward. In the light of the above consultations, a working draft bill is being prepared by the Department of Justice, with a view to seeking views of legal professional bodies, the Judiciary and other stakeholders in 2016."</i></p>
52	<b>Criteria for service as jurors (June 2010)</b> <b>Department of Justice</b>	<p>The Department of Justice has stated that: <i>"The Department is preparing a working draft bill, with a view to seeking views of legal professional bodies, the Judiciary and stakeholders in 2016. Subject to the result of the consultation, it is planned that proposed legislation will be introduced into LegCo in the 2016/17 legislative session."</i></p>

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53	<b>Enduring powers of attorney: personal care (July 2011)</b> <i>Department of Justice</i>	<p>The Department of Justice has stated that: <i>“The Department has convened meetings of an inter-departmental working group to examine the recommendations in the report and is preparing a working draft bill, with a view to seeking views of legal professional bodies, the Judiciary and other stakeholders in 2016. Subject to the result of the consultation, it is planned that proposed legislation will be introduced into LegCo in the 2016/17 legislative session.”</i></p>
54	<b>Double jeopardy (February 2012)</b> <i>Department of Justice</i>	<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. It is preparing drafting instructions for a working draft bill for consultation with the legal professional bodies, the Judiciary and stakeholders.”</i></p>
55	<b>Class actions (May 2012)</b> <i>Department of Justice</i>	<p>The Department of Justice has stated that: <i>“The Department has established a cross-sector Working Group to study and consider the proposals 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>Thirteen meetings of the Working Group were held on 26 February 2013, 3 May 2013, 3 July 2013, 13 November 2013, 28 February 2014, 12 May 2014, 11 July 2014, 19 November 2014, 19 March 2015, 12 June 2015, 8 September 2015, 11 December 2015 and 23 March 2016 respectively. 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 sixteen meetings on</i></p>

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		29 April 2014, 13 June 2014, 19 August 2014, 12 September 2014, 14 October 2014, 16 December 2014, 14 January 2015, 11 February 2015, 22 April 2015, 20 May 2015, 16 July 2015, 12 August 2015, 23 October 2015, 24 November 2015, 18 February 2016 and 22 April 2016. <i>The Administration will map out the way forward in light of the recommendations to be made by the Working Group.</i> "
56	<b>Charities (December 2013)</b> <i>Home Affairs Bureau</i>	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. Given that the recommendations will have significant implications on the operation of the charities in Hong Kong, the Government needs to study in detail and carefully consider the recommendations. The Bureau is coordinating comments from relevant bureaux and departments for consideration of the way forward."</i>
57	<b>Excepted Offences under Schedule 3 to the Criminal Procedure Ordinance (Cap 221) (February 2014)</b> <i>[tbc]</i>	The principal recommendation is to remove the restriction on the court's sentencing discretion by repealing the list of excepted offences in Schedule 3 in its entirety so that the court will have the full discretion to impose an appropriate and adequate sentence, immediate or suspended included, having regard to the gravity of the offence and the circumstances of the convicted person.
58	<b>Adverse possession (October 2014)</b> <i>Development Bureau</i>	The main recommendations are that the existing provisions on adverse possession should be retained since they offer a practical solution to some of the land title problems, while the law of adverse possession should be recast under the prospective registered land system in Hong Kong by introducing a notification scheme under which the registered owner will be notified if a squatter of registered title land applies for registration after 10 years' uninterrupted adverse possession. Other recommendations recommended changing or clarifying the law as laid down in three Court of

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		<p>Final Appeal cases. Another recommendation sought to clarify the common law applicable to Hong Kong.</p> <p>The Bureau has stated its stance to be: <i>“The Government has noted the LRC’s recommendations set out in its report on adverse possession published on 20 October 2014. The Bureau, in conjunction with the Lands Department and the Land Registry, will continue to study those recommendations that are relevant to the Bureau and will map out the way forward.”</i></p>

**(d) Proposals rejected outright by the Government**

	<b>Report (month and year of publication) - <i>Responsible Bureau, where report not yet implemented</i></b>	<b>Implementing legislation/ or other relevant information, including response from the relevant bureau or department</b>
59	<b>Confession statements and their admissibility in criminal proceedings (October 1985)</b>	Rejected by the Government in September 1987
60	<b>Contempt of court (July 1987)</b>	Rejected by the Government in January 1994
61	<b>Interest on debt and damages (July 1990)</b>	Rejected by the Government in May 1994

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

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62	<b>Description of flats on sale - Part 2: Overseas uncompleted residential properties (September 1997)</b> <b><i>Transport and Housing Bureau</i></b>	The Bureau has stated that: <ul style="list-style-type: none"><li>● 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 proposed regulatory scheme would not be effective, as it would apply to estate agents only, not the vendors of overseas residential properties.</li></ul>



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		<ul style="list-style-type: none"> <li data-bbox="738 465 1460 1597">● 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 proposed 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. The Bureau further observed that the result has been very positive. Complaints about the sales of uncompleted residential properties situated outside Hong Kong have virtually diminished over the years. Take the EAA as an example, of the some 600 complaints it received in 2012, none of them was related to the sales of uncompleted residential properties situated outside Hong Kong. In light of this, the need for legislation to regulate the sales of non-local residential properties in Hong Kong does not therefore seem imminent.</li> <li data-bbox="738 1637 1460 2000">● Regulating the sales of non-local residential properties conducted in Hong Kong involves complicated issues and requires careful consideration. 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 over which</li> </ul>

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		<p>the question of legal jurisdiction is not easy to resolve.</p> <ul style="list-style-type: none"> <li>● In the circumstances, the Bureau is inclined not to pursue the specific recommendations of the 1997 LRC Report.</li> <li>● However, the Bureau will continue to monitor the situation and if in future, the Bureau sees a rise of complaints and hence 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. Meanwhile, the Bureau will invite the EAA and the Consumer Council to provide regular feedback on any complaints relating to sales of non-local residential properties in Hong Kong. The Bureau remains open to any new ideas from LRC.</li> </ul>
63	<b>Civil liability for unsafe products (February 1998)</b>  <b>Commerce and Economic Development Bureau</b>	<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 proposal 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: <i>“As the community is unlikely to reach any consensus on this matter in the near future, the Bureau does not intend to take forward the LRC’s proposal at this juncture.”</i></p>