

LRC Report on Debt Collection Published

The Law Reform Commission today (July 29) announced the publication of its report on proposals to reform the law governing the way in which creditors, debt collection agencies and debt collectors collect debts in Hong Kong outside the court system.

Mr Justice Sakhrani, who chaired the Commission's sub-committee set up to examine this subject, said that the proposals were in response to public concern at the improper practices used by some involved in debt collection. At present, while the criminal law provided some protection against abuses, there was no overall framework for regulating the activities of debt collectors.

Mr Justice Sakhrani said that the Report had examined the way in which the law regulated debt collection in a number of other jurisdictions before recommending a range of measures to address the problem.

The main recommendations in the Report are:-

- (1) A new criminal offence of harassment of debtors and others should be created, so that it will be an offence if a person, with the object of coercing another person to repay a debt, –
 - (a) harasses the other with demands for payment which, in respect of their frequency or the manner or occasion of making any such demand, or of any threat or publicity by which any demand is accompanied, are likely to subject him or members of his family or household or any other person to alarm, distress or humiliation;
 - (b) falsely represents, in relation to the money claimed, that criminal proceedings lie for failure to pay it;
 - (c) falsely represents himself to be authorised in some official capacity to claim or enforce payment; or
 - (d) utters a document falsely represented by him to have some official character or purporting to have some official character which he knows it has not.
- (2) Debt collection agencies should be licensed by a new licensing authority, and it should be a criminal offence to collect debts as a business without a valid licence.
- (3) The proposed licensing regime should cover both consumer debts and commercial debts, and both individual and corporate debt collectors.
- (4) The licensing authority should formulate a code of practice following consultation with representative bodies of credit

providers, debt collectors and consumers. In an appropriate case, breach of the code should entitle the authority to revoke, suspend or decline to renew the licence of the party in breach, and to impose other penalties such as reprimands and fines.

- (5) The sharing of consumer credit data should be kept under review with a view to further alleviate bad debts and abusive debt collection practices.

Certain persons would be exempt from the requirement to obtain a licence. These would include authorized institutions and creditors collecting their own debts.

Copies of the report are available on request from the Law Reform Commission Secretariat, 20th Floor, Harcourt House, 39 Gloucester Road, Wanchai, Hong Kong, or can be downloaded from the Internet at <www.info.gov.hk/hkreform>.

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