

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

**Meeting on Tuesday, 25 June 2013**

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

#### **Background**

1. Law reform plays an important role in any society which aspires to maintain the rule of law. As our society evolves and new challenges arise, our laws have to change so as to meet the needs of society. In Hong Kong, the Law Reform Commission (LRC) was formally established pursuant to a decision of the Executive Council made in 1980 as an independent body which would consider areas of law which may merit consideration for reform.

2. The Secretary for Justice (SJ) chairs the LRC, whilst the Chief Justice (CJ) and the Law Draftsman of the Department of Justice (DoJ) are *ex officio* members. Other members of the LRC are appointed by the Chief Executive of the Hong Kong Special Administrative Region, on the advice of SJ. They are not confined to members of the legal profession, but include non-lawyers, academics, professionals of different disciplines and prominent members of the community.

3. The LRC considers for reform such aspects of the law as may be referred to it by the SJ or the CJ. In practice, referrals are invariably made jointly by the SJ and the CJ. Since the incumbent SJ took office on 1 July 2012, the practice is to have the potential topics discussed by members of the LRC before a decision is made as to whether such topics shall be made subject of study by the LRC or its sub-committees.

#### **Method of work**

4. The first step in proposing a reference to the LRC for deciding whether a subject should be studied is the preparation of a background research paper by the lawyers who serve full-time in the LRC Secretariat (which is staffed by DoJ). Such paper will then form the basis for discussion and deliberation by members of the LRC for the purpose of deciding whether the topic in question merits study as a law reform topic. In the event any topic is considered to be worthy of such study, the LRC will also consider and decide whether a sub-committee should be set up to examine the subject. Members of the sub-committee are appointed by the Chairman of the LRC. In a limited number of cases, the LRC may decide to dispense with a sub-committee and may decide to consider the matter itself by way of a fast-track approach on the basis of the Secretariat's research analyses and findings.

5. Whether or not a sub-committee is appointed to deal with a particular subject, the LRC always strives to ensure that there is extensive public consultation on any of its projects before it reaches its conclusions. In almost every case, the views of the relevant stakeholders and the public will be sought by way of a consultation paper, which sets out the preliminary conclusions and recommendations. The publication of consultation paper is widely publicized, initially often by way of a press conference or a press statement, and the paper is made available to the public both in hard copy and on the LRC's website. During the public consultation period, members of the sub-committee and the Secretariat will often be asked to provide a briefing on the proposals to the relevant Panels of the Legislative Council (LegCo) and organisations interested in the subject. The responses to the consultation paper play a crucial part in assisting the LRC to finalise its proposals.

6. Once completed, the sub-committee's report is passed to the LRC for consideration. The LRC considers the sub-committee's report in detail, assisted by the chairman and members of the sub-committee, before issuing a final LRC report. Wherever possible, reports are published simultaneously in English and Chinese, and both in hard copy and on the LRC's website. Where the subject is likely to be of general public interest, one or more members of the LRC or the relevant sub-committee will present the report at a press conference with a view to bringing the contents of the report to the public's attention. After publication, the report (which contains all the LRC's recommendations on that subject) will be passed to the Administration for consideration.

7. The publication of the final LRC report marks the completion of the reference, but the lawyers in the LRC Secretariat will continue to play a part in the implementation of the LRC's recommendations. This may include promoting the recommendations by organising seminars and briefings, assisting in the legislative drafting process, providing further research materials and information to the relevant Government bureaux which have policy responsibility for the subject, as well as attending to other matters arising from the implementation.

## **Implementation**

8. The LRC also plays a role in the implementation of the reports. Updates on progress of implementation are considered by members of the LRC regularly. The Chairman of the LRC also maintains regular contacts with the Administration, including the relevant bureaux and departments having the policy carriage of the recommendations for reform.

9. In terms of implementation of reports, two mechanisms have been put in place with a view to ensuring that there is appropriate and timely follow-up by the Administration on the LRC's recommendations.

10. The first is the Administration's Guidelines requiring bureaux or departments to provide public responses to the LRC's reports under their purview within specific time limits. Pursuant to these Guidelines, a detailed response should be given within 12 months of the publication of a LRC report, setting out which recommendations the Administration accepts, rejects or intends to implement in modified form. Even before that time, the relevant bureaux should issue within six months of a report's publication an interim response, setting out a clear timetable for implementation and the steps taken so far.

11. The second mechanism is that the SJ will submit to this Panel an annual report on the progress of implementation. This new reporting mechanism is to facilitate this Panel and other relevant LegCo Panels to follow up on progress with the relevant bureaux and departments.

12. As this is the first report under the second mechanism mentioned above, the table annexed provides information of each of the LRC reports since 1982 when the first report was published, together with details of any implementing legislation or other relevant information.

Law Reform Commission Secretariat  
June 2013

**Chronological list of LRC reports published since 1 January 1982  
with implementation status**

	<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>
1	<b>Commercial arbitration (January 1982)</b>	Implemented by Arbitration (Amendment) Ordinance (10 of 1982) (March 1982) amending Cap 341 <sup>1</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
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>Confession statements and their admissibility in criminal proceedings (October 1985)</b>	Rejected by the Administration in September 1987.
8	<b>Laws on insurance (January 1986)</b>	Implemented by Insurance Companies (Amendment) (No. 3) Ordinance (76 of 1994) (July 1994) amending Cap 41
9	<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)
10	<b>The control of exemption clauses (December 1986)</b>	Implemented by Control of Exemption Clauses Ordinance (Cap 71) (59 of 1989) (November 1989)

<sup>1</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) - <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>
11	<b>Contempt of court (July 1987)</b>	Rejected by the Administration in January 1994.
12	<b>Coroners (August 1987)</b>	Implemented by Coroners Ordinance (Cap 504) (27 of 1997) (May 1997)
13	<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>2</sup>
14	<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
15	<b>Bail in criminal proceedings (December 1989)</b>	Implemented by Criminal Procedure (Amendment) Ordinance (56 of 1994) (June 1994) amending Cap 221
16	<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)
17	<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
18	<b>Interest on debt and damages (July 1990)</b>	Rejected by the Administration in May 1994.

<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>
19	<b>Loitering (July 1990)</b>	Implemented by Crimes (Amendment) (No 2) Ordinance (74 of 1992) (July 1992) amending Cap 200
20	<b>Illegitimacy (December 1991)</b>	Implemented by Parent and Child Ordinance (Cap 429) (17 of 1993) (March 1993)
21	<b>Arrest (November 1992)</b> <i>Security Bureau</i>	Partly implemented - around half of the recommendations have been implemented through administrative and legislative measures. The rest have been reviewed and relevant draft drafting instructions have been completed.
22	<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
23	<b>Reform of the law relating to copyright (January 1994)</b>	Implemented by Copyright Ordinance (Cap 528) (92 of 1997) (June 1997)
24	<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
25	<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)
26	<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).
27	<b>Insolvency: Part I: Bankruptcy (May 1995)</b>	Implemented by Bankruptcy (Amendment) Ordinance (76 of 1996) (December 1996) amending Cap 6

	<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>The hearsay rule in civil proceedings (July 1996)</b>	Implemented by Evidence (Amendment) Ordinance (2 of 1999) (January 1999) amending Cap 8
29	<b>Creation of a substantive offence of fraud (July 1996)</b>	Implemented by Theft (Amendment) Ordinance (45 of 1999) (July 1999) amending Cap 210
30	<b>Insolvency - Part 2: Corporate rescue and insolvent trading (October 1996)</b> <i>Financial Services and the Treasury Bureau</i>	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. The Bureau has since been studying the various other key issues on the subjects and working further on the detailed proposals. The Bureau plans to take forward the proposals of a corporate rescue procedure and insolvent trading provisions as part of the corporate insolvency law improvement exercise (see item 36 below). The Bureau will further consult stakeholders on the detailed proposals in 2013/14.
31	<b>Privacy - Part 2: Interception of communications (December 1996)</b> <i>Constitutional and Mainland Affairs Bureau</i>	<p>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.</p> <p>These 5 reports touch on the sensitive and controversial 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 issues involved, the Bureau would handle the 5 reports in stages and map out the way forward in consultation with relevant parties.</p> <p>The first stage was to take forward the LRC report on Stalking and the Bureau launched a public consultation on the LRC's recommendations from December 2011 to March 2012. Views received and the issues involved are being studied with a view to formulating the ways forward.</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>
32	<b>Extrinsic materials as an aid to statutory interpretation (March 1997)</b> <i>Department of Justice</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. 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.
33	<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)
34	<b>Description of flats on sale - Part 2: Overseas uncompleted residential properties (September 1997)</b> <i>Transport and Housing Bureau</i>	<p>The relevant policy bureau at the time 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 &amp; 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.</p> <p>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 relevant policy bureau at the time took an alternative approach, by which the EAA and the Consumer Council stepped out their public education efforts to raise the awareness of the public on the risks of purchasing uncompleted residential properties situated outside Hong Kong all these years. The result has been very positive. Complaints about the sales of uncompleted residential properties situated</p>



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		<p>outside Hong Kong have virtually diminished over the years. Of the some 600 complaints received by the EAA in 2012, none of them was related to the sales of uncompleted residential properties situated outside Hong Kong. The need for legislation to regulate the sales of non-local residential properties in Hong Kong does not therefore seem imminent.</p> <p>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 very easy now for vendors of residential properties situated outside Hong Kong simply to carry out their sales and promotional activities in Hong Kong through the internet over which the question of legal jurisdiction is not easy to resolve.</p> <p>In the circumstances, the Transport and Housing Bureau (the Bureau) is inclined not to pursue the specific recommendations of the report.</p> <p>However, the Bureau will continue to monitor the situation and if in future, there is a rise of complaints and hence the need to regulate the sales of non-local residential properties by legislation, the Bureau will look at the issue afresh and identify a suitable regulatory framework. Meanwhile, the Bureau will invite EAA and the Consumer Council to provide regular feedback on any complaints relating to sales of non-local residential properties in Hong Kong. Also, the Bureau remains open to any new ideas from LRC.</p>
35	<b>Civil liability for unsafe products (February 1998)</b> <i>Commerce and Economic Development Bureau</i>	<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. The then Trade and Industry Panel of the LegCo being 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>

	<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>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.</p>
<p>36</p>	<p><b>Insolvency - Part 3: Winding-up provisions of the Companies Ordinance (July 1999)</b> <i>Financial Services and the Treasury Bureau</i></p>	<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>● 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;</li> <li>● 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;</li> <li>● 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;</li> <li>● 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 and procedures.</li> </ul> <p>The Bureau commenced a 3-month public consultation on 46 legislative proposals to improve our corporate insolvency and winding-up regime on 16 April 2013. These legislative proposals have taken into account international experience and the other technical amendments recommended in the report, with the</p>

	<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>
		objectives of facilitating more efficient administration of the winding-up process and increasing protection of creditors through streamlining and rationalizing the company winding-up procedures.
37	<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
38	<b>The procedure governing the admissibility of confession statements in criminal proceedings (July 2000)</b>	No change to the existing law was recommended.
39	<b>Privacy – Part 3: Stalking (October 2000)</b> <i>Constitutional and Mainland Affairs Bureau</i>	The Bureau decided to take forward the LRC report on Stalking first and launched a public consultation on the recommendations from December 2011 to March 2012. Views received and the issues involved are being studied with a view to formulating the ways forward. (see also item 31 above)
40	<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
41	<b>Contracts for the supply of goods (February 2002)</b> <i>Commerce and Economic Development Bureau</i>	<p>The Bureau 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.</p> <p>To enhance consumer protection, the Bureau completed in 2012 the legislative exercises to tighten the prohibition against pyramid schemes and to amend the Trade Descriptions Ordinance (Cap 362) to tackle unfair trade practices. The Bureau's current priority is to ensure the smooth implementation of the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance (25 of 2012) (July 2012), final preparations for which are being undertaken.</p> <p>Upon completion of this exercise, the Bureau will work on the report on Contracts for the Supply of Goods, with a view to undertaking a comprehensive</p>

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		<p>examination of the recommendations and researching into the relevant legislative and institutional arrangements adopted in other jurisdictions. It is intended that such work will be completed before the end of 2014. 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</p>
42	<p><b>Guardianship &amp; custody – Part 2: International parental child abduction (April 2002)</b> <i>Labour and Welfare Bureau</i></p>	<p>The Bureau informed LegCo Panel on Welfare Services in February 2010 that it had accepted in principle all the recommendations in the report and intended to take them forward in full, except one which will be taken forward in a modified form. A Bill will be introduced in 2013 to take forward LRC's recommendations.</p>
43	<p><b>The regulation of debt collection practices (July 2002)</b></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>
44	<p><b>Description of flats on sale – Part 3: Local completed residential properties: Sales descriptions and pre-contractual matters (September 2002)</b> <i>Transport and Housing Bureau</i></p>	<p>Implemented by Residential Properties (First-hand Sales) Ordinance (Cap 621) (19 of 2012) (July 2012).</p> <p>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 of second-hand residential properties to prospective purchasers with effect from 1 January 2013.</p>
45	<p><b>Guardianship and custody – Part 3: The family dispute resolution process (March 2003)</b> <i>Home Affairs Bureau</i></p>	<p>With the implementation of the Civil Justice Reform, legal aid has been extended to cover mediation since 2009. 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</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>Children's Dispute Resolution Pilot Scheme has come into effect since October 2012. Parents wishing to seek mediation may also approach the Mediation Co-ordinator's Office set up by the Judiciary for assistance. In addition, the Family Council launched a two-year pilot scheme to provide sponsorship for interested organization on family mediation service in May 2012. The Bureau will continue to co-ordinate efforts and input from relevant bureaux and stakeholders in further pursuing the recommendations of the report.</p>
46	<p><b>Privacy – Part 4: Privacy and media intrusion (December 2004)</b> <i>Constitutional and Mainland Affairs Bureau</i></p>	See item 31 above
47	<p><b>Privacy – Part 5: Civil liability for invasion of privacy (December 2004)</b> <i>Constitutional and Mainland Affairs Bureau</i></p>	See item 31 above
48	<p><b>Guardianship and custody – Part 4: Child custody and access (March 2005)</b> <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 &amp; Wales and Australia in applying the "joint 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>The Bureau launched a public consultation on 'Child Custody and Access: Whether to implement the "Joint Parental Responsibility Model" (the Model) by Legislative Means' which ended on 30 April 2012. In the process, further advice has been given by LRC Secretariat as requested by the Bureau. The Administration will make a further report to the Panel on Welfare Services of the Legislative Council later this summer.</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>
49	<b>Rules for determining domicile (April 2005)</b>	Implemented by Domicile Ordinance (Cap 596) (4 of 2008) (February 2008)
50	<b>Privity of contract (October 2005)</b> <i>Department of Justice</i>	A consultation paper (with a working draft of the Contracts (Rights of Third Parties) Bill) was issued on 31 Oct 2012. The consultation exercise ended on 31 December 2012. The Department of Justice will revise the draft Bill in the light of the result of the consultation, with a view to introducing the Bill into the LegCo in 2013/14 legislative session.
51	<b>Privacy – Part 6: The regulation of covert surveillance (March 2006)</b> <i>Constitutional and Mainland Affairs Bureau</i>	See item 31 above;  The Interception of Communications and Surveillance Bill (subsequently Ordinance 20 of 2006) was introduced prior to publication of the LRC report but mirrored some of the LRC's recommendations.
52	<b>Substitute decision-making and advance directives in relation to medical treatment (August 2006)</b> <i>Food and Health Bureau</i>	<p>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. The Hospital Authority has produced a user-friendly, practical information package for patients and health care professionals. 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 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.</p> <p>The Review Committee on Mental Health has just been set up 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 necessary changes to the Mental Health Ordinance including the LRC's recommendations in</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>
		relation to the definition of “mentally incapacitated persons”. It is expected that the review will be completed in around a year’s time.
53	<b>Conditional fees (July 2007)</b>	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.  Report's other recommendations were rejected by the Administration in October 2010.
54	<b>Enduring powers of attorney (March 2008)</b>	Implemented by Enduring Powers of Attorney (Amendment) Ordinance (25 of 2011) (December 2011) amending Cap. 501
55	<b>Hearsay in criminal proceedings (August 2009)</b> <i>Department of Justice</i>	The Department of Justice 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, the Department is making preparation for a working draft bill, with a view to seeking the views of the legal professional bodies, the Judiciary and stakeholders. It is planned that proposed legislation will be introduced into LegCo in 2014/15 legislative session.
56	<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.
57	<b>Criteria for service as jurors (June 2010)</b> <i>Department of Justice</i>	The Department of Justice is making preparation for a working draft bill, with a view to seeking the views of the legal professional bodies, the Judiciary and stakeholders. It is planned that proposed legislation will be introduced into LegCo in 2014/15 legislative session.

	<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>
58	<b>The common law presumption that a boy under 14 is incapable of sexual intercourse (December 2010)</b> <i>Department of Justice</i>	Implemented by Statute Law (Miscellaneous Provisions) Ordinance 2012 (26 of 2012) (July 2012)
59	<b>Enduring powers of attorney: personal care (July 2011)</b> <i>Department of Justice</i>	The Department of Justice has convened meetings of an inter-departmental working group to examine the recommendations in the report and is now making preparation for a working draft bill, with a view to seeking the views of the legal professional bodies, the Judiciary and stakeholders. It is planned that proposed legislation will be introduced into LegCo in 2014/15 legislative session.
60	<b>Double jeopardy (February 2012)</b> <i>Department of Justice</i>	The Department of Justice is prepared to take forward all the recommendations and will work out details of the legislative amendments in consultation with the stakeholders. It is planned that proposed legislation will be introduced into LegCo in 2014/15 legislative session.
61	<b>Class actions (May 2012)</b> <i>Department of Justice</i>	The Department of Justice 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.  The first and second meeting of the Working Group were held on 26 February 2013 and 3 May 2013 respectively. The Administration will map out the way forward in light of the recommendations to be made by the Working Group.

**END**

Law Reform Commission Secretariat  
June 2013