

**For discussion
on 24 June 2019**

**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 2012 aims to facilitate members of the Panel, as well as of other Panels, to follow up on progress of implementation of the recommendations of the Law Reform Commission ("LRC") by the relevant bureaux and departments. This is the Secretary for Justice ("SJ")'s seventh 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 (the "Table"), 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 (as set out in the Table).

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 relevant bureaux and departments since SJ's last annual report to the Panel:

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

The Department of Justice ("DoJ") prepared the Evidence (Amendment) Bill 2018 to implement the recommendations in this report. The Bill was introduced into LegCo on 4 July 2018. A Bills Committee has been formed to scrutinise the Bill and DoJ will continue to assist the Bills Committee with a view to facilitating the early passage of the Bill by the LegCo.

- (b) Class actions (May 2012) (*see item 55 in the Table*)

DoJ has established a cross-sector Working Group to study and consider the proposals of the report. The 25th meeting of the Working Group was held on 22 March 2019. 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 on the subject matter. The Sub-Committee held its 31st meeting on 16 May 2019. 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.

- (c) Charities (December 2013) (*see item 56 in the Table*)

The Home Affairs Bureau ("HAB") 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 as soon as possible.

Meanwhile, under the co-ordination of HAB, the relevant bureaux and departments introduced a series of administrative measures with effect from 1 August 2018 after making reference to the recommendations in the LRC Report, the Director of Audit's Report No 68 and the Public Accounts Committee Reports Nos 68 and 68A, with a view to enhancing the transparency of charitable fund-raising activities, safeguarding the interests of donors and facilitating the conduct of fund-raising activities. These measures include –

- (i) Uploading all audited accounts submitted by organisations, which file applications on or after 1 August 2018 and obtain approval to organise charitable fund-raising activities from the Social Welfare Department ("SWD") or charitable lottery events from the Home Affairs Department ("HAD"), to the fund-raising activities page of GovHK for reference by the public;
- (ii) Setting up a dedicated hotline (tel. no. : 3142 2678) for handling enquiries or complaints in relation to charitable fund-raising activities held by organisations in public places;

(iii) SWD, HAD and the Food and Environmental Hygiene Department ("FEHD") jointly issuing the "Good Practice Guide on Charitable Fund-raising" (the "Guide") to replace the "Reference Guide on Best Practices for Charitable Fund-raising Activities" previously promulgated by SWD, and stepping up promotion to encourage the adoption of the Guide by charitable organisations;¹

(iv) Providing a one-stop service for charitable fund-raising activities organised on government land to obviate the need for charitable organisations to separately apply to the Lands Department for temporary occupation of government land, when applying for permit or licence for different kinds of fund-raising activities;² and

(v) Providing a one-stop service for organisations to make application for Public Subscription Permit ("PSP") and waiver of Temporary Hawker Licence involving charity sale fund-raising activities in public places.³

On top of the above measures, the Government introduced a logo for charitable fund-raising activities on 1 April 2019 for display by holders of licences and permits in relation to charitable fund-raising during charitable fund-raising activities for identification by members of the public.

(d) Third party funding for arbitration (October 2016) (*see item 35 in the Table*)

This report was implemented by the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017 (6 of 2017) (June 2017) (the "Amendment Ordinance").

To ensure that safeguards are in place for funded parties, an "authorized body" appointed in May 2018 first consulted members of the public in a two-month public consultation, and then issued the Code of Practice for Third Party Funding of Arbitration in December 2018, setting out the practices and standards with which third party funders are ordinarily expected to comply in carrying on activities in connection with third party

¹ The Guide will also be uploaded to the fund-raising activities page of GovHK to facilitate the public to make reference and evaluate the performance of charitable organisations in organising fund-raising activities and to help donors understand their rights.

² The permit or licence approval authority will consult the Lands Department and notify the charitable organisations directly the application results.

³ SWD will forward the relevant information with regard to charity sale submitted via the PSP application form to FEHD for processing the waiver application and the organisation does not need to submit separate application to FEHD. FEHD will notify the organisation directly the application results.

funding of arbitration. In addition, an "advisory body" was appointed in August 2018 to monitor and review the operation of those provisions on third party funding of arbitration, including the implementation of the Code of Practice for Third Party Funding of Arbitration.

Provisions in the Amendment Ordinance on third party funding of arbitration came into operation on 1 February 2019. Commencement date of the provisions in the Amendment Ordinance on third party funding of mediation will be decided after further consultation with the Steering Committee on Mediation and other stakeholders.

- (e) Report on Voyeurism and Non-consensual upskirt-photography (April 2019) (*see item 59 in the Table*)

The Security Bureau is considering the LRC's recommendations, and suggests discussing with the relevant LegCo Panel in July 2019, to be followed by a consultation, with a view to introducing a bill to LegCo as soon as possible.

Concluding remarks

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

Law Reform Commission Secretariat
June 2019

LAW REFORM COMMISSION OF HONG KONG

COMPLETE LIST OF REPORTS
TABULATED ACCORDING TO IMPLEMENTATION STATUS

A total of 66 reports have been published since 1 January 1982. With one report recommending no change to the law,¹ the remaining 65 reports are tabulated into the following categories according to their implementation status:

- (a) proposals implemented in full (35 reports, 53.9% of the 65 reports);
- (b) proposals implemented in part (8 reports, 12.3% of the 65 reports);
- (c) proposals under consideration or in the process of being implemented (16 reports, 24.6% of the 65 reports);
- (d) proposals rejected outright by the Government (3 reports, 4.6% of the 65 reports); and
- (e) the Government has no plan to implement the proposals at this juncture (3 reports, 4.6% of the 65 reports).

(a) Proposals implemented in full

| | Report (month and year of publication) - Responsible Bureau, where report not yet implemented | 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 |

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) - Responsible Bureau, where report not yet implemented | Implementing legislation/ or other relevant information, including response from the relevant bureau or department |
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| 3 | Laws governing homosexual conduct (June 1983) | Implemented by Crimes (Amendment) Ordinance (90 of 1991) (July 1991) amending Cap 200 |
| 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) |

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

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) - Responsible Bureau, where report not yet implemented | Implementing legislation/ or other relevant information, including response from the relevant bureau or department |
|----|---|---|
| 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) |
| 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 |

| | Report (month and year of publication) - Responsible Bureau, where report not yet implemented | Implementing legislation/ or other relevant information, including response from the relevant bureau or department |
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| 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 (April 2002) | Implemented by Child Abduction Legislation (Miscellaneous Amendments) Ordinance (16 of 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 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. |

| | Report (month and year of publication) - Responsible Bureau, where report not yet implemented | Implementing legislation/ or other relevant information, including response from the relevant bureau or department |
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| 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"). 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 will be decided after further consultation with the Steering Committee on Mediation and other stakeholders. |

(b) Proposals implemented in part

| | Report (month and year of publication) - Responsible Bureau, where report not yet implemented | Implementing legislation/ or other relevant information, including response from the relevant bureau or department |
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| 36 | Arrest (November 1992) Security Bureau | The Bureau has advised: <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."</i> |
| 37 | Insolvency - Part 3: Winding-up provisions of the Companies Ordinance (July 1999) Financial Services and the Treasury Bureau | Some technical aspects were implemented by the Companies (Amendment) Ordinance (28 of 2003) enacted in July 2003 amending Cap 32. Having reviewed the key issues addressed in the report and taking into account the sector's latest developments, the Bureau has concluded: ● <i>"not to pursue the recommendation to merge</i> |

| | Report (month and year of publication) - Responsible Bureau, where report not yet implemented | Implementing legislation/ or other relevant information, including response from the relevant bureau or department |
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| | | <p><i>corporate insolvency legislation with personal bankruptcy legislation as there is no clear benefit or market demand for such a change;</i></p> <ul style="list-style-type: none"> ● <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 resources as and when necessary, will continue to be processed in accordance with the Administration's well-established policies and procedures."</i> <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 | The regulation of debt collection practices (July 2002) Security Bureau | <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> |

| | Report (month and year of publication) - Responsible Bureau, where report not yet implemented | Implementing legislation/ or other relevant information, including response from the relevant bureau or department |
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| 39 | Description of flats on sale – Part 3: Local completed residential properties: Sales descriptions and pre-contractual matters (September 2002) Transport and Housing Bureau | <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 | Guardianship and custody – Part 3: The family dispute resolution process (March 2003) Home Affairs Bureau | <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 family litigation process.</p> <p>The Bureau has stated that: <i>“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 30 April 2019, the Legal Aid Department has approved funding for appointment of mediators in 1300 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</i></p> |

| | Report (month and year of publication) - Responsible Bureau, where report not yet implemented | Implementing legislation/ or other relevant information, including response from the relevant bureau or department |
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| | | <p><i>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 was extended for another three years in 2018. 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 | <p>Privacy – Part 6: The regulation of covert surveillance (March 2006)</p> <p><i>Constitutional and Mainland Affairs Bureau</i></p> | <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 42 and 45 below.</p> |
| 42 | <p>Privacy - Part 2: Interception of communications (December 1996)</p> <p><i>Constitutional and Mainland Affairs Bureau</i></p> | <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: “The</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 |
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| | | <p><i>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) | <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 Government in October 2010.</p> |

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

| | 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 |
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| 44 | Insolvency - Part 2: Corporate rescue and insolvent trading | <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 |

| | 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 |
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| | <p>(October 1996) <i>Financial Services and the Treasury Bureau</i></p> | <p>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.</p> <ul style="list-style-type: none"> ● 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. ● The Bureau issued the Drafting Instructions and will continue to engage relevant stakeholders throughout the drafting stage. The target is to introduce the bill into the Legislative Council as soon as possible within the current term. |
| 45 | <p>Privacy – Part 3: Stalking (October 2000) <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 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</i></p> |

| | Report (month and year of publication) - Responsible Bureau, where report not yet implemented | Implementing legislation/ or other relevant information, including response from the relevant bureau or department |
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| | | <p><i>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> <p><i>The Bureau will take into account the opinion of LegCo Members and stakeholders and monitor related developments in considering the way forward."</i></p> |
| 46 | Contracts for the supply of goods | The Commerce and Economic Development Bureau has advised that: |

| | Report (month and year of publication) - Responsible Bureau, where report not yet implemented | Implementing legislation/ or other relevant information, including response from the relevant bureau or department |
|----|---|--|
| | (February 2002) Commerce and Economic Development Bureau | <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. ● 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. ● The research of the Bureau has shown that there have been significant changes to some relevant overseas legislation (e.g. that in Australia, New Zealand and the UK) 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 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. 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> |
| 47 | Privacy – Part 4: Privacy and media intrusion (December 2004) Constitutional and Mainland Affairs Bureau | <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</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 |
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| | | 45 above |
| 48 | Privacy – Part 5: Civil liability for invasion of privacy (December 2004) <i>Constitutional and Mainland Affairs Bureau</i> | <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 | Guardianship and custody – Part 4: Child custody and access (March 2005) <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>In consultation with the Department of Justice, 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 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> |

| | Report (month and year of publication) - Responsible Bureau, where report not yet implemented | Implementing legislation/ or other relevant information, including response from the relevant bureau or department |
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| | | <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. Besides, 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 2018-19 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. Meanwhile, the Bureau will work out the major provisions of the proposed legislation for the public's reference so as to enhance their understanding of the parental responsibility model in legal terms. The Bureau also hopes to clarify the doubts on the practical impact of the legislative proposal on divorced</p> |

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| | | <p>families, including parents and their children. As soon as the enhanced measures to support divorcing/divorced/separated families have been implemented, the Bureau will consult the stakeholders again on the proposed legislation, and gauge their receptiveness to the legislative proposal, especially the views of those who have put service improvements as a prerequisite to 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 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 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 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. 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.</i></p> <p><i>The Bureau commissioned The Chinese University of Hong Kong (‘the CUHK’) to conduct a</i></p> |

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| | | <p><i>3-year research study on the quality of healthcare for the ageing in 2015. The purpose of the research is to enhance the quality of healthcare for the elderly and is expected to inform policy in response to the challenge of the ageing population in health care, which also include healthcare services supporting elderly people with chronic diseases and quality of end-of-life care. The research will also analyse the implementation of advance directives and provide recommendations on changes in the legislation required and measures to deal with the ethical and cultural issues. The research team will propose a public education on publicity plan and strategy to promote understanding and acceptance of the concept of advance directives.</i></p> <p><i>The research study will also look into the definition of ‘mentally incapacitated persons’ under the Mental Health Ordinance (Cap 136) in the context of facilitating better end-of-life care.</i></p> <p><i>The Bureau will conduct a public consultation on advance directives and related end-of-life care arrangement in 2019.”</i></p> |
| 51 | Hearsay in criminal proceedings (November 2009) Department of Justice | <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. A Bills Committee has been formed to scrutinize the Bill and the Department will continue to assist the Bills Committee with a view to facilitating the early passage of the Bill by the LegCo.”</i></p> |
| 52 | Criteria for service as jurors (June 2010) Department of Justice | <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 2019.”</i></p> |
| 53 | Enduring powers of attorney: personal care | <p>The Department of Justice has stated that: <i>“Having convened meetings of an inter-departmental working group to examine the</i></p> |

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| | (July 2011) Department of Justice | <i>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 Department will brief the AJLS Panel on the result of the consultation as well as the proposed way forward on a date to be advised.”</i> |
| 54 | Double jeopardy (February 2012) Department of Justice | 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> |
| 55 | Class actions (May 2012) Department of Justice | 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> <i>Twenty-five 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, 23 March 2016, 15 June 2016, 6 September 2016, 13 December 2016, 22 March 2017, 20 June 2017, 20 September 2017, 14 December 2017, 16 March 2018, 22 June 2018, 27 September 2018, 11 December 2018 and 22 March 2019. 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</i> |

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| | | <p><i>matter. The Sub-Committee has held thirty-one meetings on 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, 22 April 2016, 26 May 2016, 13 July 2016, 19 August 2016, 24 August 2016, 8 November 2016, 25 November 2016, 12 January 2017, 22 February 2017, 8 August 2017, 9 October 2017, 16 January 2018, 9 February 2018, 26 February 2019, 12 April 2019 and 16 May 2019. 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 | Charities (December 2013) Home Affairs Bureau | <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 is 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>Meanwhile, the Government notes the concerns in the community over the accountability of charities, in particular that of charitable fund-raising</i></p> |

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| | | <p>activities. The Bureau has co-ordinated with relevant departments, and the Government introduced a series of administrative measures with effect from 1 August 2018 after making reference to the recommendations in the LRC Reports, the Audit Report and the PAC Reports, with a view to enhancing the transparency of charitable fund-raising activities, safeguarding the interests of donors and facilitating the conduct of fund-raising activities. These include –</p> <p>(a) Upload all audited accounts submitted by organisations, which file applications on or after 1 August 2018 and obtain approval to organise charitable fund-raising activities from the Social Welfare Department (SWD) or charitable lottery events from the Home Affairs Department (HAD), to the fund-raising activities page of GovHK for reference by the public;</p> <p>(b) Set up a dedicated hotline (tel. no.:3142 2678) for handling enquiries or complaints in relation to charitable fund-raising activities held by organisations in public places;</p> <p>(c) SWD, HAD and the Food and Environmental Hygiene Department (FEHD) to jointly issue the ‘Good Practice Guide on Charitable Fund-raising’ (the Guide) to replace the ‘Reference Guide on Best Practices for Charitable Fund-raising Activities’ previously promulgated by SWD, and to step up promotion to encourage the adoption of the Guide by charitable organisations. The Guide will also be uploaded to the fund-raising activities page of GovHK to facilitate the public to make reference and evaluate the performance of charitable organisations in organising fund-raising activities and to help donors understand their rights;</p> <p>(d) Provide a one-stop service for charitable fund-raising activities organised on</p> |

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| | | <p><i>government land to obviate the need for charitable organisations to separately apply to the Lands Department (LandsD) for temporary occupation of government land, when applying for permit or licence for different kinds of fund-raising activities. The permit or licence approval authority will consult the LandsD and notify the charitable organisations directly the application results; and</i></p> <p><i>(e) Provide a one-stop service for organisations to make application for Public Subscription Permit (PSP) and waiver of Temporary Hawker Licence involving charity sale fund-raising activities in public place. SWD will forward the relevant information with regard to charity sale submitted via the PSP application form to FEHD for processing the waiver application and the organisation does not need to submit separate application to FEHD. FEHD will notify the organisation directly the application results.</i></p> <p><i>On top of the above measures, the Government introduced a logo for charitable fund-raising activities on 1 April 2019 for display by holders of licences and permits in relation to charitable fund-raising during charitable fund-raising activities for identification by members of the public.”</i></p> |
| 57 | Excepted Offences under Schedule 3 to the Criminal Procedure Ordinance (Cap 221) (February 2014) Security Bureau | <p><i>The Bureau has stated: “The recommendations of the LRC Report on Excepted Offences may have implications on law and order as well as judicial procedures. Noting there were also varying comments and concerns raised during the public consultation stage in support of either retaining or expanding the relevant provisions besides repealing them, the Security Bureau has been reviewing the relevant crime trends in assessing the potential implications of the recommendations, and will coordinate and review the Government's overall position.”</i></p> |

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| 58 | Adverse possession (October 2014) Development Bureau | <p>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 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. Since the recommendations carry significant implications on the land system of Hong Kong and inevitably involves complicated issues in various aspects such as legal, land ownership, conveyancing and land management, the Government needs to consider them carefully.</i></p> <p><i>The Bureau, in conjunction with the Lands Department and the Land Registry, is actively studying those recommendations that are relevant to the Bureau for mapping out the way forward. Various issues such as the policy implications on land title and land administration, the interface with the Land Titles Ordinance (Cap 585), legal implications of altering the principles established in past Court rulings through legislative changes and operational considerations, are being examined. The diverse views of stakeholders over some of the recommendations as recorded in the LRC Report also need to be taken into account. The Government will examine the issues carefully before deciding the next steps and the relevant timeline."</i></p> |

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| 59 | Report on Voyeurism and Non-consensual upskirt-photography (April 2019) Security Bureau | The Bureau has stated that: <i>“The report recommends the introduction of a new and specific offence of voyeurism to deal with acts of non-consensual observation or visual recording of another person for a sexual purpose; and a new and specific offence in respect of non-consensual upskirt-photography. The Security Bureau is considering the LRC’s recommendations, and suggests discussing with the relevant Panel in July this year [i.e. 2019], to be followed by a consultation, with a view to introducing a bill for the Legislative Council’s scrutiny as soon as possible.”</i> |

(d) Proposals rejected by the Government

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| 60 | Confession statements and their admissibility in criminal proceedings (October 1985) | Rejected by the Government in September 1987 |
| 61 | Contempt of court (July 1987) | Rejected by the Government in January 1994 |
| 62 | Interest on debt and damages (July 1990) | Rejected by the Government in May 1994 |

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

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| 63 | Extrinsic materials as an aid to statutory interpretation (March 1997) Department of Justice | <p>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></p> |
| 64 | Description of flats on sale - Part 2: Overseas uncompleted residential properties (September 1997) Transport and Housing Bureau | <p>The Bureau has stated that:</p> <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 proposed regulatory scheme would not be effective, as it would apply to estate agents only, not the vendors of overseas residential properties.</i> ● <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 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</i> |

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| | | <p>Kong.”</p> <p>The Bureau has further observed that:</p> <ul style="list-style-type: none"> ● “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. ● 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 will advise the public the above information through various channels. ● 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. ● In light of the above, the Bureau is inclined not to pursue the specific recommendations of the 1997 LRC Report. ● 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 |

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| | | <p><i>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></p> |
| <p>65</p> | <p>Civil liability for unsafe products (February 1998) Commerce and Economic Development Bureau</p> | <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> |

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