

**For discussion
on 2 August 2022**

**Legislative Council Panel on
Administration of Justice and Legal Services**

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

Background

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

2. Set out in the attached table (“**Table**”) to this paper is the latest information as provided by the B/Ds on their consideration or implementation, as the case may be, of LRC recommendations which the Panel may copy, in accordance

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

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

with the above mechanism as it sees fit, to the relevant Panels for their follow-up with the B/Ds concerned.

3. The Table lists the LRC's reports by categories according to their implementation status, ie:

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

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

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

- (a) Third Party Funding for Arbitration (October 2016)
(see item 35 in the Table)

The recommendations in this report have been implemented by the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017 (6 of 2017). The provisions on third party funding of arbitration came into operation in February 2019 after a Code of Practice for Third Party Funding of Arbitration was issued in December 2018.

The commencement of the provisions in relation to third party funding of mediation has been deferred

pending the issue of the relevant Code of Practice. A two-month public consultation on the draft Code of Practice for Third Party Funding of Mediation was launched in August 2021 and ended in October 2021. The Department of Justice is considering the comments received during the consultation.

- (b) Voyeurism and Non-consensual Upskirt-photography (April 2019) (*see item 36 in the Table*)

The Security Bureau introduced the Crimes (Amendment) Bill 2021 into the LegCo in March 2021 to provide for new offences of voyeurism, unlawful recording or observation of intimate parts and publication of images obtained thereby, and disposal order. The Bill was passed by the LegCo in September 2021.

- (c) Outcome Related Fee Structures for Arbitration (December 2021) (*see item 37 in the Table*)

The Department of Justice introduced the Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Bill 2022 into the LegCo in March 2022 to amend the Arbitration Ordinance (Cap. 609) and the Legal Practitioners Ordinance (Cap. 159). Following passage of the Bill in LegCo on 22 June 2022, the Amendment Ordinance was gazetted on 30 June 2022. The Department of Justice will endeavour to introduce the relevant subsidiary legislation to provide for the detailed regulatory framework and particular safeguards for outcome related fee structures for arbitration for the full implementation of such regime in Hong Kong within 2022.

The way forward

5. The publication of an LRC report marks the completion of the study under a formal reference to the LRC. The responsibility to consider LRC recommendations ultimately remains on the part of the Government and it is a matter for the relevant bureau having policy carriage (and hence responsible for their consideration) to reject or implement, as the case may be, any or all of the recommendations in an LRC report. Any monitoring role which the LRC may play with regard to the pace at which the responsible bureau considers and the outcome of any implementation of LRC recommendations is therefore limited in that, as a law reform organisation, the LRC does not have any mandate to compel the Government to act in a particular way.

6. Be that as it may, and in order to facilitate possible implementation of its recommendations, the LRC would continue, resources permitting, to consider including draft legislation in the final LRC report as appropriate and counsel in the LRC Secretariat would assist the responsible bureau by explaining the considerations and rationale leading to the recommendations in the published reports, as well as the context and purpose of such recommendations when circumstances so warrant.

7. It is with this in mind that the LRC does not consider it appropriate to speak on behalf of the responsible bureau during discussions at the Panel on the implementation of its recommendations by the Government. To the extent that the Panel considers it necessary, the implementation progress of LRC recommendations in respect of which the Department of Justice has policy responsibility (as set out in the Table²) may

² The policy responsibility for the LRC Reports on (i) Criteria for Service as Jurors (item 54 in the Table, published in June 2010) and (ii) Enduring Powers of Attorney: Personal Care (item 55 in the Table, published in July 2011) has been transferred from the Department of Justice to the Chief Secretary for Administration's Office and the Labour and Welfare Bureau respectively.

be discussed under an appropriate agenda item for which arrangements can be made for the relevant officers to attend.

8. The Panel may also wish to note that, upon completion of an LRC Report, the Chairman of the LRC will notify the Chief Secretary for Administration of the publication of such new report in order that not only a responsible bureau will have been identified but also that attention can be given timeously to any needed coordination within the Government. Members of the relevant LegCo Panel could continue to liaise with the responsible bureau direct on progress as appropriate.

9. The above approach would not only streamline and rationalise the operation of B/Ds and the LRC, but would also enable the LRC to concentrate its efforts on, and deploy its limited resources in, performing its dedicated role in considering such reforms of the laws of Hong Kong as may be referred to it by the Chief Justice or the Secretary for Justice, and also to progress with the Systematic Review of the Statutory Laws of Hong Kong.³

Law Reform Commission Secretariat
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³ The review consists of work mainly in (i) adaptation of laws, (ii) consolidation of laws and (iii) repeal of obsolete laws.

LAW REFORM COMMISSION OF HONG KONG

COMPLETE LIST OF REPORTS

TABULATED ACCORDING TO IMPLEMENTATION STATUS

A total of 70 reports have been published since 1 January 1982. With one report recommending no change to the law,⁴ the remaining 69 reports are tabulated into the following categories according to their implementation status:

- (a) recommendations implemented in full (37 reports, 53.6% of the 69 reports);
- (b) recommendations implemented in part (8 reports, 11.6% of the 69 reports);
- (c) recommendations under consideration or in the process of being implemented (16 reports, 23.2% of the 69 reports);
- (d) recommendations rejected by the Government (3 reports, 4.4% of the 69 reports); and
- (e) recommendations in respect of which the Government has no plan to implement at this juncture (5 reports, 7.2% of the 69 reports).

(a) Recommendations implemented in full

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
1	Commercial arbitration (January 1982)	Attorney General's Chambers	Implemented by Arbitration (Amendment) Ordinance (10 of 1982) (March 1982) amending Cap 341 ⁵
2	Bills of exchange (December 1982)	Attorney General's Chambers	Implemented by Bills of Exchange (Amendment) Ordinance (16 of 1983) (April 1983) amending Cap 19

⁴ Report on *The procedure governing the admissibility of confession statements in criminal proceedings* (July 2000).

⁵ 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	Implementing legislation or other relevant information, including response from the responsible bureau
3	Laws governing homosexual conduct (June 1983)	Security Branch	Implemented by Crimes (Amendment) Ordinance (90 of 1991) (July 1991) amending Cap 200
4	Community service orders (June 1983)	Health and Welfare Branch	Implemented by Community Service Orders Ordinance (Cap 378) (78 of 1984) (November 1984)
5	The law relating to contribution between wrongdoers (April 1984)	Attorney General's Chambers	Implemented by Civil Liability (Contribution) Ordinance (Cap 377) (77 of 1984) (November 1984)
6	Damages for personal injury and death (February 1985)	Attorney General's Chambers	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)	Financial Services Branch	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)	Attorney General's Chambers	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)	Trade and Industry Branch	Implemented by Control of Exemption Clauses Ordinance (Cap 71) (59 of 1989) (November 1989)

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
10	Coroners (August 1987)	Chief Secretary's Office	Implemented by Coroners Ordinance (Cap 504) (27 of 1997) (May 1997)
11	The adoption of the UNCITRAL model law of arbitration (September 1987)	Attorney General's Chambers	Implemented by Arbitration (Amendment) (No. 2) Ordinance (64 of 1989) (November 1989) amending Cap 341 ⁶
12	Competence and compellability of spouses in criminal proceedings (December 1988)	Department of Justice	Implemented by Evidence (Miscellaneous Amendments) Ordinance (23 of 2003) (July 2003) amending Cap 8
13	Bail in criminal proceedings (December 1989)	Attorney General's Chambers	Implemented by Criminal Procedure (Amendment) Ordinance (56 of 1994) (June 1994) amending Cap 221
14	Sale of goods and supply of services (April 1990)	Trade and Industry Branch	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	Home Affairs Branch	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 Dependents) Ordinance (Cap 481) (58 of 1995) (July

⁶ 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	Implementing legislation or other relevant information, including response from the responsible bureau
	dependants (May 1990)		1995); and Law Amendment and Reform (Consolidation) (Amendment) Ordinance (16 of 1996) (May 1996) amending Cap 23
16	Loitering (July 1990)	Security Branch	Implemented by Crimes (Amendment) (No 2) Ordinance (74 of 1992) (July 1992) amending Cap 200
17	Illegitimacy (December 1991)	Attorney General's Chambers	Implemented by Parent and Child Ordinance (Cap 429) (17 of 1993) (March 1993)
18	Grounds for divorce and the time restriction on petitions for divorce within three years of marriage (November 1992)	Home Affairs Branch	Implemented by Matrimonial Causes (Amendment) Ordinance (29 of 1995) (May 1995) amending Cap 179
19	Reform of the law relating to copyright (January 1994)	Trade and Industry Branch	Implemented by Copyright Ordinance (Cap 528) (92 of 1997) (June 1997)
20	Codification: the preliminary offences of incitement, conspiracy and attempt (May 1994)	Attorney General's Chambers	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	Home Affairs Branch	Implemented by Personal Data (Privacy) Ordinance (Cap 486) (81 of 1995) (August 1995)

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
	(August 1994)		
22	Description of flats on sale – Part 1: Local uncompleted residential properties: Sales descriptions and pre- contractual matters (April 1995)	Transport and Housing Bureau	Implemented by Residential Properties (First-hand Sales) Ordinance (Cap 621) (19 of 2012) (July 2012)
23	Insolvency: Part I: Bankruptcy (May 1995)	Financial Services Branch	Implemented by Bankruptcy (Amendment) Ordinance (76 of 1996) (December 1996) amending Cap 6
24	The hearsay rule in civil proceedings (July 1996)	Department of Justice	Implemented by Evidence (Amendment) Ordinance (2 of 1999) (January 1999) amending Cap 8
25	Creation of a substantive offence of fraud (July 1996)	Department of Justice	Implemented by Theft (Amendment) Ordinance (45 of 1999) (July 1999) amending Cap 210
26	The year and a day rule in homicide (June 1997)	Department of Justice	Implemented by Statute Law (Miscellaneous Provisions) Ordinance 2000 (32 of 2000) (June 2000)
27	The age of criminal responsibility in Hong Kong (May 2000)	Security Bureau	Implemented by Juvenile Offenders (Amendment) Ordinance (6 of 2003) (March 2003) amending Cap 226
28	Guardianship	Labour and	Implemented by Guardianship of Minors

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
	& custody – Part 1: Guardianship of children (January 2002)	Welfare Bureau	(Amendment) Ordinance 2012 (1 of 2012) (January 2012) amending Cap 13
29	Guardianship & custody – Part 2: International parental child abduction (April 2002)	Labour and Welfare Bureau	Implemented by Child Abduction Legislation (Miscellaneous Amendments) Ordinance (16 of 2014) (November 2014) amending Cap 512
30	Rules for determining domicile (April 2005)	Department of Justice	Implemented by Domicile Ordinance (Cap 596) (4 of 2008) (February 2008)
31	Privity of contract (October 2005)	Department of Justice	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)	Department of Justice	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)	Security Bureau	On 28 November, 2011, the Security Bureau announced the implementation, with effect from 1 December 2011, of a scheme based on the LRC's recommendations enabling employers to check the sexual offence conviction records of prospective employees for work that requires frequent contact with children or mentally incapacitated persons.

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
34	The common law presumption that a boy under 14 is incapable of sexual intercourse (December 2010)	Security Bureau	Implemented by Statute Law (Miscellaneous Provisions) Ordinance 2012 (26 of 2012) (July 2012)
35	Third party funding for arbitration (October 2016)	Department of Justice	<p>Implemented by Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017 (6 of 2017) (June 2017).</p> <p>A Code of Practice for Third Party Funding of Arbitration was issued on 7 December 2018 and the provisions on third party funding of arbitration came into operation on 1 February 2019.</p> <p>The commencement of the provisions in relation to third party funding of mediation has been deferred pending the issue of the relevant Code of Practice. A two-month public consultation on the draft Code of Practice for Third Party Funding of Mediation was launched in August 2021 and ended in October 2021. Comments received during the consultation are being considered.</p>
36	Report on Voyeurism and Non-consensual upskirt-photography (April 2019)	Security Bureau	Implemented by Crimes (Amendment) Ordinance 2021 (35 of 2021) (October 2021) amending Cap 200
37	Outcome Related Fee Structures for Arbitration	Department of Justice	Implemented by Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Ordinance 2022 (6 of 2022) (June 2022) amending Cap 159 and Cap

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
	(December 2021)		<p>609.</p> <p>The Department of Justice has stated that: <i>“The Department of Justice welcomes the recommendations made by the Law Reform Commission (LRC) on the Outcome Related Fee Structures for Arbitration (ORFSA). The relevant recommendations are only applicable to arbitration and related court proceedings.</i></p> <p><i>Given that other jurisdictions have implemented similar arrangements, the introduction of reform in Hong Kong on legal fee arrangements for arbitration work can actively respond to the expectations of arbitration parties for flexible fee arrangements, enhance access to justice and enable Hong Kong’s arbitration services to advance with the times. This will help enhance Hong Kong’s competitiveness as a leading international arbitration centre and maintain our position as an international legal, deal-making and dispute resolution hub in the Asia-Pacific region.</i></p> <p><i>Having considered the LRC’s recommendations on ORFSA, the Department of Justice introduced the Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Bill 2022 into the LegCo on 30 March 2022 to amend the Arbitration Ordinance (Cap. 609) and the Legal Practitioners Ordinance (Cap. 159). Following passage of the Bill in the LegCo on 22 June 2022, the Amendment Ordinance was gazetted on 30 June 2022. The Department of Justice will endeavour to introduce the relevant subsidiary legislation to provide for the detailed regulatory framework and particular safeguards in favour of the full implementation of the ORFSA regime in</i></p>

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
			<i>Hong Kong within 2022."</i>

(b) Recommendations implemented in part

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
38	Arrest (November 1992)	Security Bureau	The Bureau has advised: <i>"The Bureau, upon detailed examination together with its law enforcement agencies (LEAs), has thoroughly considered the recommendations in the Report at different stages over the past years. The majority of the endorsed recommendations have already been implemented to improve our law enforcement regime and provide sufficient procedural safeguards. The Bureau has further looked into the remaining recommendations, having regard to the local enforcement experience in the past years and evolution of the legislation since the Report was published. The Bureau has concluded that all necessary actions have been completed and no further legislative amendments are required."</i>
39	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	Implementing legislation or other relevant information, including response from the responsible bureau
			<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>
40	The regulation	Security Bureau	The recommended review of the then

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
	of debt collection practices (July 2002)		<p>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>
41	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>
42	Guardianship and custody – Part 3: The family dispute resolution process (March 2003)	Home and Youth 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>“The Bureau has been assigned to co-ordinate inputs from relevant bureaux</i></p>

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
			<p><i>and departments in formulating a response to LRC's recommendations. With the implementation of the Civil Justice Reform, legal aid has been extended to cover mediation in civil proceedings since 2009. Between 2 April 2009 and 31 March 2022, the Legal Aid Department has approved funding for appointment of mediators in 1,780 matrimonial cases. In May 2012, the Judiciary issued a Practice Direction on Family Mediation which sets out the duty of the parties and their legal representatives to assist the Court in encouraging the parties to use mediation as an alternative dispute resolution procedure. Furthermore, a Practice Direction on Children's Dispute Resolution Pilot Scheme has come into effect since October 2012 and has been formalised as standard practice since April 2016. Parents wishing to seek mediation may approach the Integrated Mediation Office set up by the Judiciary for assistance. A Practice Direction on a pilot scheme for private adjudication of financial disputes in matrimonial and family proceedings came into effect on 19 January 2015 and has been extended for another three years from 2021. The scheme provides an alternative means for dispute resolution, which aims at furthering the objective of settlement facilitation. The research team commissioned by the Family Council completed a study on the provision of family mediation services in Hong Kong in late 2016. The 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>

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
43	Privacy – Part 6: The regulation of covert surveillance (March 2006)	Constitutional and Mainland Affairs Bureau	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 44 and 47 below.
44	Privacy - Part 2: Regulating the interception of communications (December 1996)	Constitutional and Mainland Affairs Bureau	<p>The Interception of Communications and Surveillance Bill was passed on 6 August 2006 as Ordinance 20 of 2006 (Cap 589) to regulate the conduct of interception of communications and the use of surveillance devices by public officers; and to establish the Office of the Commissioner on Interception of Communications and Surveillance to oversee the compliance by four law enforcement agencies with the relevant requirements.</p> <p>The Bureau stated in the 2015 report to the AJLS Panel on LRC Reports' implementation that: <i>"The Bureau considered the LRC Report on this topic, together with 4 others on Stalking; Privacy and media intrusion; Civil liability for invasion of privacy; and Regulation of covert surveillance.</i></p> <p><i>These 5 Reports touch on the sensitive and controversial policy and political issue of how to strike a balance between protection of individual privacy rights and freedom of the media. There were mixed responses and very divergent views from different sectors of the community. Given the</i></p>

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
			<p><i>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 47 below.</p>
45	Conditional fees (July 2007)	Home Affairs Bureau	<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) Recommendations under consideration or in the process of being implemented

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
46	Insolvency - Part 2: Corporate rescue and insolvent trading (October 1996)	Financial Services and the Treasury Bureau	<p>The Bureau has advised that:</p> <ul style="list-style-type: none"> ● Having reviewed the proposals put to the LegCo 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

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
			<p>issued consultation conclusions in July 2010. Since then, the Bureau has reviewed some of the more contentious issues of the proposals and announced a package of legislative proposals for the introduction of a statutory corporate rescue procedure and insolvent trading provisions in 2014, and has been on that basis working on the legislative instructions.</p> <ul style="list-style-type: none"> ● The legislative proposals are lengthy and complex, and stakeholders have raised many different views. The Bureau will continue to engage stakeholders to refine the legislative instructions.
47	Privacy – Part 3: Stalking (October 2000)	Constitutional and Mainland Affairs Bureau	<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 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</i></p>

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
			<p><i>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>

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
48	Contracts for the supply of goods (February 2002)	Commerce and Economic Development Bureau	<p>The Commerce and Economic Development Bureau has advised that:</p> <ul style="list-style-type: none"> ● It agrees that the implied undertakings for all types of contracts for the supply of goods should be standardized and that legislative amendments should be introduced to extend to contracts for the supply of goods the implied undertakings which currently apply in respect of contracts for the sale of goods in due course. ● The Bureau is committed to improving consumer protection legislation and has completed a public consultation on a proposal to establish a statutory cooling-off period for beauty and fitness services consumer contracts in April 2019. However, shortly after the completion of the public consultation, there have been drastic changes in social environment, economic situation and consumption sentiment since the second half of 2019. There is a need to, having regard to the prevailing circumstances, examine the details of the legislative proposal and critically review the situation, before deciding the way forward. ● The Bureau also notes that – <ul style="list-style-type: none"> - the Sale of Goods (United Nations Convention) Bill, the object of which is to implement the United Nations Convention on Contracts for the International Sale of Goods (CISG) in Hong Kong, was passed by the LegCo in September 2021. The ordinance will take effect on 1 December 2022; and - the laws regarding contracts in

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
			<p>the three jurisdictions (Australia, New Zealand and the UK) to which the LRC had made reference when formulating the recommendations in 2002 have evolved since then.</p> <ul style="list-style-type: none"> ● The Bureau will consider the LRC's recommendations in due course, taking into account the progress and impact of the application of CISG to Hong Kong, latest changes in legislation relating to contracts in Australia, New Zealand and the UK, as well as other competing policy initiatives and legislative priorities.
49	Privacy – Part 4: Privacy and media intrusion (December 2004)	Constitutional and Mainland Affairs Bureau	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 44 and 47 above.
50	Privacy – Part 5: Civil liability for invasion of privacy (December 2004)	Constitutional and Mainland Affairs Bureau	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 44 and 47 above.
51	Guardianship and custody – Part 4: Child custody and access (March 2005)	Labour and Welfare Bureau	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

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			<p>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 and Youth 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> <p>The Bureau reported the results of the consultation to LegCo Panel on Welfare Services (LegCo Panel) in May 2017. The results showed that the percentage of views in support of the implementation of the proposed legislation at this stage was about the same as that opposing it (i.e. 34.5% on each side), while another 20% of the views considered the proposed legislation worthy of support in principle, but requested additional resources and support measures as a prerequisite. Those in support of the proposed</p>

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			<p>legislation considered that it was in line with some countries' practices and could protect the child's best interests. Those who opposed the proposed legislation considered that it could not help divorced parents in resolving conflicts, especially high-risk families with domestic violence background, but may cause more family problems and adversely affect the child's development. In particular, single-parent groups were concerned that the new requirement for obtaining the other party's consent or giving notification on major decisions would be used by the troublemaking party with malicious intent to obstruct and harass the other spouse, causing distress to the child. It may also result in long term hostility between divorced parents and more litigation. Besides, the Bureau also noted that two motions were unanimously passed by the LegCo Panel on 22 February 2016 and 8 May 2017 respectively, requesting the Government not to introduce the proposed legislation into the LegCo at this stage, pending the provision of more support measures for divorcing/divorced/separated families. Similar requests were also raised by deputations at the special meeting of the LegCo Panel held on 4 October 2017.</p> <p>Having regard to the views collected during the public consultation and the LegCo Panel's position, the Bureau proposed at the LegCo Panel meeting on 12 March 2018 not to introduce the proposed legislation into the LegCo at this stage. However, the Bureau proposed to, as a matter of priority, increase resources in 2018/2019 to strengthen measures to support divorcing/divorced/separated families, so as to promote the concept of continuing parental responsibility towards children</p>

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			<p>even after divorce, and strengthen co-parenting counselling and parenting coordination service, as well as making the Pilot Project on Children Contact Service a regular service of the Social Welfare Department with service expansion. The Bureau will keep in view stakeholders' receptiveness to the legislative proposal, in particular whether the doubts of those who oppose the legislation could be relieved, and consider whether and if so, the appropriate timing to pursue the legislation.</p>
52	<p>Substitute decision-making and advance directives in relation to medical treatment (August 2006)</p>	<p>Health Bureau</p>	<p>The Bureau has stated that: <i>“The outcome of the public consultation launched in 2009 indicated that while the respondents generally were not opposed to introducing the concept of advance directives as a personal decision, there was no clear consensus or public support for promoting the concept by way of legislation. In July 2010, the Hospital Authority (HA) issued the Guidance for HA Clinicians on Advance Directives in Adults which provides guidelines to HA frontline staff to deal with terminal care in an amicable manner under relevant circumstances. The Guidance was updated in July 2016. In January 2016, HA updated the HA Guidelines on Do Not Attempt Cardiopulmonary Resuscitation (CPR), extending the Guidelines to non-hospitalised patients with advanced irreversible illnesses. This facilitates the clinical staff to honour an advance directive refusing CPR of a non-hospitalised patient.</i></p> <p><i>As there appeared to be more receptiveness toward the information provided and more willingness among the patients and the community to discuss end-of-life care and the concept of advance directives, the Bureau reviewed</i></p>

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			<i>the appropriateness of legislation in this regard and launched a public consultation on advance directives and related end-of-life care arrangements in September 2019. The Bureau published the consultation report in July 2020 and is working to introduce a bill on advance directives and related matters in the current legislative term.”</i>
53	Hearsay in criminal proceedings (November 2009)	Department of Justice	The Department of Justice has advised that: <i>“Following the legislative exercise of the Evidence (Amendment) Bill 2018 which lapsed in the Sixth Term of the LegCo, the Department is reviewing the matter as a whole with a view to revising and further improving the various legislative proposals to ensure that the new mechanism for admission of hearsay evidence in criminal proceedings will best ensure the administration of justice. The Government is committed to taking forward the legislative exercise with the aim of re-introducing an amendment bill afresh in the Seventh Term of the LegCo.”</i>
54	Criteria for service as jurors (June 2010)	Chief Secretary for Administration’s Office	<i>“The Government is preparing the relevant Bill for the purpose of consultation with the public, including the legal professional bodies, the Judiciary and other stakeholders on the legislative proposals.”</i>
55	Enduring powers of attorney: personal care (July 2011)	Labour and Welfare Bureau	Having convened meetings of an inter-departmental working group to examine the recommendations in the Report, the Government 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 Government is revising the draft Bill for the purpose of conducting a second round public consultation.

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56	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>
57	Class actions (May 2012)	Department of Justice	<p>The Department of Justice has stated that: <i>“The Government has established a cross-sector Working Group to study and consider the recommendations of the Report, comprising members representing stakeholders in the private sector, the relevant Government bureaux and departments, the two legal professional bodies and the Consumer Council, and a representative from the Judiciary whose role is confined to providing input to the deliberations from the perspective of interface with court operations.</i></p> <p><i>Thirty one meetings of the Working Group were held between 2013 and 2020. In addition, a sub-committee of the Working Group (‘Sub-Committee’) was formed to assist the Working Group on technical issues that might arise during its deliberations of the subject matter. The Sub-Committee has held thirty-three meetings between 2014 and 2019.</i></p> <p><i>On 31 December 2020, the Working Group, acting through its secretariat at the Department of Justice, announced that it intended to commission a consultancy study on the (potential and likely) economic and other related impacts on Hong Kong if a class action regime, starting with a pilot scheme restricted to consumer class actions only, is to be introduced. The consultancy contract</i></p>

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			<p>was awarded to PricewaterhouseCoopers Advisory Services Limited ('Consultant') on 26 August 2021. The Consultant will submit its findings and its recommendations for the Government to consider and to map out the way forward."</p>
58	<p>Charities (December 2013)</p>	<p>Home and Youth Affairs Bureau</p>	<p>The Bureau has stated its stance to be: "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. The Bureau has been actively following up the co-ordination, making 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, with a view to formulating a response.</p> <p>With reference to the recommendations in the LRC Report, the Audit Report as well as the PAC Reports, a series of administrative measures have been introduced by the Government in two phases in 2018 and 2019 with a view to optimising the monitoring and supportive work relating to charitable fund-raising activities.</p> <p>Besides, representatives from the relevant bureaux have made detailed responses at the LegCo meetings on 17</p>

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			<p><i>June and 28 October 2020 in reply to Hon MAK Mei-kuen, Alice's oral questions on regulation of online crowdfunding activities and regulation of online fundraising activities. The responses pointed out inter alia the regulation under relevant pieces of legislation (e.g. the Organized and Serious Crimes Ordinance and the Theft Ordinance) of cases where funds so raised were handled unlawfully. The relevant replies can be found at the following links:</i></p> <ul style="list-style-type: none"> ● https://www.info.gov.hk/gia/general/202006/17/P2020061700374.htm; and ● https://www.info.gov.hk/gia/general/202010/28/P2020102800376.htm.”
59	Review of substantive sexual offences (December 2019)	Security Bureau	The Bureau has stated that: “ <i>The Government notes that the LRC completed a consultation on the sentencing of sexual offences in February 2021, which is part of the overall review of the substantive sexual offences. The Government will consider LRC recommendations of the related matters in tandem.</i> ”
60	Causing or Allowing the Death or Serious Harm of a Child or Vulnerable Adult (September 2021)	Labour and Welfare Bureau	The Labour and Welfare Bureau is considering how to take forward the recommendations in the Report.
61	Sentencing and Related Matters in the Review of Sexual	Security Bureau	Awaiting Government response.

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
	Offences (May 2022)		

(d) Recommendations rejected by the Government

	Report (month and year of publication)	Responsible bureau	Response from the responsible bureau
62	Confession statements and their admissibility in criminal proceedings (October 1985)	Attorney General's Chambers	Rejected by the Government in September 1987
63	Contempt of court (July 1987)	Attorney General's Chambers	Rejected by the Government in January 1994
64	Interest on debt and damages (July 1990)	Finance Branch	Rejected by the Government in May 1994

(e) Recommendations in respect of which the Government has no plan to implement at this juncture

	Report (month and year of publication)	Responsible bureau	Response from the responsible bureau, or other relevant information
65	Extrinsic materials as an aid to statutory	Department of Justice	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</i>

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	interpretation (March 1997)		<i>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>
66	Description of flats on sale - Part 2: Overseas uncompleted residential properties (September 1997)	Housing Bureau	<p>The Bureau has stated that:</p> <ul style="list-style-type: none"> ● <i>"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 and Wales in the United Kingdom, and Mainland China). The conclusion was that the recommended regulatory scheme would not be effective, as it would apply to estate agents only, not the 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 recommended regulatory scheme, instead of implementing the recommendations as set out in the LRC Report, the Bureau adopted an alternative approach, under which the EAA and the Consumer Council stepped up their public education</i>

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			<p><i>efforts to raise the awareness of the public on the risks of purchasing uncompleted residential properties situated outside Hong Kong.”</i></p> <p><i>The Bureau has further observed that:</i></p> <ul style="list-style-type: none"> ● <i>“The result of stepping up public education efforts has been very positive. Complaints about the sales of uncompleted residential properties situated outside Hong Kong have virtually diminished over the years. As such, the need for legislation to regulate the sales of non-local residential properties in Hong Kong does not seem imminent.</i> ● <i>Furthermore, licensed estate agents need to comply with the relevant guidelines issued by the EAA, including the requirements concerning due diligence and record keeping, in handling the sale of uncompleted properties situated outside Hong Kong. As licensed estate agents are regulated by the EAA, consumers who appoint licensed estate agents to purchase non-local properties enjoy better protection. The EAA has been advising the public the above information through various channels.</i> ● <i>Regulating the sales of non-local residential properties conducted in Hong Kong involves complicated issues. In particular, given the advancement of information technology since the publication of the LRC Report, it is now very easy for vendors of residential properties situated outside Hong Kong to directly carry out their sales and promotional activities in Hong Kong through the internet. The question</i>

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			<p><i>of legal jurisdiction is not an issue easy to resolve.</i></p> <ul style="list-style-type: none"> ● <i>In light of the above, the Bureau did not pursue the specific recommendations of the 1997 LRC Report.</i> ● <i>However, the Bureau will continue to monitor and review the situation taking into account any latest developments.”</i>
67	Civil liability for unsafe products (February 1998)	Commerce and Economic Development Bureau	<p>A ‘strict liability’ regime is recommended to give an additional basis for aggrieved parties to seek compensation for injuries and damages arising from unsafe products. When the then Trade and Industry Panel of the LegCo was consulted in 1999, strong objection to the recommendations was raised from trade representatives. Some considered it unfair to hold a party, such as an importer, liable if that party did not have full control over the safety of the product, while others were concerned about the likely increase in litigation and compliance costs.</p> <p>The Bureau has stated its stance to be: <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 recommendations at this juncture.”</i></p>
68	Excepted Offences under Schedule 3 to the Criminal Procedure Ordinance (Cap 221) (February 2014)	Security Bureau	<p>The Bureau has stated:</p> <ul style="list-style-type: none"> ● “The recommendations of the LRC Report on Excepted Offences may have implications on law and order as well as judicial procedures. After further review, the Security Bureau does not consider it appropriate to repeal excepted offences in the near future.

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			<ul style="list-style-type: none"> ● The excepted offences regime was introduced in 1970s to respond to concerns of serious and violent crimes, and public sentiments that offenders of those crimes should not be treated leniently. The presence of the excepted offences provides an effective deterrent to serious and violent crimes. The recommendations in the LRC report were made at a time when the law and order situation was relatively stable. The series of incidents of serious violence, unlawful activities and disturbances since June 2019 have severely damaged the law and order situation and completely reversed the crime trends to the worsening side in 2019 and 2020. The sentiments for strong deterrence in sentencing have never been stronger at the moment, so has the case for rebuilding the law abiding culture in Hong Kong. ● The excepted offences listed in Schedule 3 of Cap 221 are amongst the most serious and violent ones in our criminal codes. The removal of all excepted offences will send a wrong message, albeit unintended, to the public that such offences are now less culpable and could be treated leniently. This is contrary to the Government's firm stance in upholding law and order."
69	Adverse possession (October 2014)	Development Bureau	<p>In consultation with the Lands Department ("LandsD") and the Land Registry ("LR"), the Bureau has stated that:</p> <ul style="list-style-type: none"> ● The Bureau agrees with LRC's recommendation that the existing provisions on adverse possession

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

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			<p>to take forward the suggested legislative amendments. The Bureau will however continue to keep in view the legal developments and review such need when and where necessary.</p> <ul style="list-style-type: none"> ● The Bureau agrees with LRC's recommendation against devising a statutory presumption or assignment to the effect that the adverse possessor become liable under the covenants in the Government lease, and LRC's recommendation against changing the law on adverse possession on "Tso" land. ● The Bureau will continue to keep in view the development of the law on adverse possession in Hong Kong and overseas jurisdictions, and conduct review when and where necessary. For general public education, the Bureau has disseminated information on its website to promote the awareness of landowners of the implications if they sleep on their own rights, and on the importance of proper management and custody of their own land in protecting it from adverse possession by others.