

The Law Reform Commission's Domicile sub-committee today (March 4) released a consultation paper on proposals to reform the law determining a person's domicile.

The paper explains that a person's domicile connects him with a system of law for the purposes of determining a range of matters, principally related to his status or property, including legal capacity to marry, recognition of overseas divorces or legal separations, personal capacity to make a will and formal validity of a will.

The concept of domicile is of significance in the Hong Kong legal system and plays a significant role in private international law. Despite the importance of the concept of domicile, the rules for determining a person's domicile have repeatedly been criticised for being unnecessarily complicated and technical, and sometimes leading to absurd results. Various law reform bodies in the common law world have recommended amending the rules for determining domicile. In Australia, Canada, Ireland, New Zealand and South Africa, those recommendations have been implemented by legislation which amends the rules for determining domicile.

The Domicile sub-committee, chaired by Miss Audrey Eu, SC, hopes that the recommendations put forward in the Consultation Paper will improve this complex and confusing area of common law by simplifying the concept of domicile and making it easier to ascertain a person's domicile.

Miss Eu said, "In practical terms, the sub-committee does not think that its recommendations would result in changes to the domicile of many people, with the exception of married women, whose domicile will no longer depend on that of their husbands.

Another major change relates to the domicile of children. The sub-committee recommends abolishing the existing differentiation between legitimate and illegitimate children, and the concepts of domicile of origin and domicile of dependency, which have created many anomalies. This is a technical area of the law which the sub-committee believes will be clarified and simplified by its recommendations."

The sub-committee stresses that the recommendations in the Consultation Paper are intended to facilitate discussions and do not represent the sub-committee's final conclusions. Miss Eu said that the sub-committee would welcome views, comments and suggestions on any issues discussed in the Consultation Paper.

Copies of the Consultation Paper are available on request from the Secretariat of the Law Reform Commission at 20/F Harcourt House, 39 Gloucester Road, Wanchai, Hong Kong. They are also available on the Internet at <www.info.gov.hk/hkreform>.

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