

Young Persons Report

Press Release

Eighteen is the age at which young people in Hong Kong should generally become fully responsible at law says the Law Reform Commission in a report published today (Monday).

The Commission looked at the ages below which the law imposes certain restrictions on the freedom of young persons and of those who deal with them.

On release of the report Commission member, Miss Christine Loh who served on the Sub-committee that considered the subject, said: "By the age of 18, young people in Hong Kong today seem to be ready, willing and able to acquire the rights and responsibilities of adulthood. The law should reflect the aspirations of a modern society like Hong Kong."

The Sub-committee of 12 men and women from different walks of life, under the chairmanship of LegCo member, Mr David K P Li, JP, considered that age restrictions that apply in three broad areas of law – those affecting property, the family and medical treatment.

"In the course of our work we consulted widely and looked at the age limits in other countries," said Miss Loh. "We considered the views of a large number of organisations and individuals closely involved with the day-to-day activities of young people."

The report, resulting from 3 years work by the Sub-committee, and the Commission itself, makes a number of recommendations relating to the capacity of a young person to make contracts, buy property, make a will, consent to medical treatment, get married without parental consent and become a company director or a trustee.

But, while recommending that, in general, the age limit should be lowered from 21 to 18, the Commission makes no recommendation about the age of voting. Lowering the voting age to 18 "would substantially increase the number of voters and make a significant shift in the political influence of the community. This," the report says "raises political and constitutional implications which would be better considered in a wider context."

Among its recommendations, the Commission proposes that when a young person reaches 18 –

- * he should be fully able to enter into contracts and be fully bound by them;

- * he should be allowed to make a valid will, be a personal representative of a deceased's estate and be capable of being validly appointed as sole trustee of a trust estate;
- * he should be presumed to be able to give valid consent to medical treatment without the need for a parent's or guardian's consent. If under 18 a young person should continue to be able to give valid consent if he understands the nature of the medical treatment he consents to;
- * he should be permitted to give blood without the consent of parents or guardian;
- * he should be able to marry without his parents' consent but the minimum age for marriage should remain 16 if he has his parents' or guardian's consent;
- * he should be able to become a company director. At present the age limit is 21.
- * he should cease to be the subject of wardship proceedings or of an order granting custody of him to one or other of his parents. Any court order for his financial support should cease once he turns 18 unless he is in full-time education or otherwise in need of support.

On adoption, the Commission recommends that there should be no change in the age limits. Under the present law the prospective adoptor must be at least 25 if he is not related to the intended adoptee, and at least 21 if he is a relative. An adoption order cannot be made if the intended adoptee has turned 21. The Commission considered possible changes in all three age limits and the possibility of no age limit for intended adoptees. "After a lot of discussion we came to the conclusion that things should stay as they are for the time being. Any change in the law of adoption would have far-reaching social implication," Miss Loh said. "There should be no change in this area without detailed study of what the social effects would be."

On the contractual capacity of minors, the Report recommends that the law governing contracts made by a minor should continue to be based on the principle of "qualified unenforceability", which means that a minor can enforce the contract against the adult party to the contract but the adult cannot enforce it against the minor unless it is beneficial to the minor. "But that rule can work unjustly," said Miss Loh, "If goods are transferred to a minor under a contract which is unenforceable against him, the minor can retain the goods without having to pay for them. We believe the minor should not be allowed to profit unjustly from the fact that he is a minor. He should have to return the goods he cannot or will not pay for."

Adults who guarantee the contracts made by persons under 18 will, if the proposal is implemented, be held to their guarantees even though the contract made by the minor is unenforceable against him. Miss Loh

commented, "The Commission saw no reason why an adult who freely undertakes to see a trader paid if the minor defaults should be able to avoid his liability by taking advantage of the fact that the trader cannot enforce his rights against the minor."

The report has been sent to the Government. "Of course, it is for the Government to decide what action to take on our recommendations," Miss Loh pointed out. "I hope it will not be long before we can treat our 18 year olds as adults", she added.

The report is published in English and Chinese and is on sale to the public.

Comments on the report are welcome and should be sent to the Law Reform Commission, Queensway Government Offices, 4th floor, 66 Queensway, Hong Kong.