

Follow-up actions taken by relevant bureaux on LRC reports

	<i>LRC Report (Date of publication)</i>	<i>Follow-up actions taken / Evaluation of relevant bureau</i>
1	Extrinsic materials as an aid to statutory interpretation (March 1997)	The Interpretation and General Clauses (Amendment) Bill 1999 was introduced into the Legislative Council (LegCo) in March 1999. The Bill had not be enacted, taking into account the views of the relevant Bills Committee.
2	The year and a day rule in homicide (June 1997)	The Statute Law (Miscellaneous Provisions) Ordinance was enacted in June 2000 to implement the LRC's recommendations.
3	Description of flats on sale - Part 2: Overseas uncompleted residential property (September 1997)	<p>In view of the LRC's recommendations on regulating the sale of overseas residential properties by licensed estate agents in Hong Kong, the Estate Agents Authority (EAA) commissioned a study to take stock of the laws and practices relating to sale of non-local residential properties in other jurisdictions. The study concluded that -</p> <ul style="list-style-type: none"> (a) the proposed regulatory scheme would not be effective as it would apply to estate agents only but not to the overseas developers; and (b) the legal frameworks of other jurisdictions might be different from that of Hong Kong, and the laws of other jurisdictions might not require similar protection to property buyers. <p>Also, with the public education efforts of the EAA and the Consumer Council, consumers had become more aware of the higher risk of purchasing uncompleted residential properties outside Hong Kong and had become more cautious in considering buying such properties. The number of complaints about the sale of overseas uncompleted residential properties had diminished. The need for legislation was considered to be less imminent.</p> <p>To date, as far as estate agency practices and flat sales are concerned, the sale of local</p>

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		residential properties is the area of primary concern to the public. The Transport and Housing Bureau (THB) will continue to accord priority to this area of work. THB does not have a definite timetable to extend the provisions of the Estate Agents Ordinance to cover non-local residential properties, and will continue to keep in view the issue.
4	Civil liability for unsafe products (February 1998)	<p>The LRC recommends in this report that a “strict liability” regime should be established to give an additional basis for aggrieved parties to seek compensation for injuries and damages arising from unsafe products. This proposal involves very complex and controversial issues. The then Trade and Industry Panel of LegCo was consulted in 1999. There has been strong objection to the proposal from LegCo Members representing the trade sector. Some members 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 he supplied, while others were concerned about the likely increase in litigation and compliance costs.</p> <p>As the community is unlikely to reach any consensus on this matter in the near future, the Commerce and Economic Development Bureau (CEDB) does not intend to take forward LRC’s proposal at this juncture.</p>
5	Insolvency - Part 3: Winding-up provisions of the Companies Ordinance (July 1999)	<p>Some technical amendments were implemented by the Companies (Amendment) Ordinance 2003.</p> <p>While the Financial Services and the Treasury Bureau (FSTB) will not pursue the recommendation to merge corporate insolvency legislation with personal bankruptcy legislation on grounds that there is no clear benefit or market demand, other policy and technical issues will be revisited in the context of the Phase II Companies Ordinance Rewrite exercise.</p>

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6	The age of criminal responsibility in Hong Kong (May 2000)	The Juvenile Offenders (Amendment) Ordinance was enacted in March 2003 to implement LRC's recommendations.
7	The procedure governing the admissibility of confession statements in criminal proceedings (July 2000)	The LRC recommended no change to the existing laws.
8	Privacy – Part 3: Stalking (October 2000)	<p>The LRC reports on privacy are highly controversial. When deciding the way forward, the Constitutional and Mainland Affairs Bureau (CMAB) needs to reach consensus in the community and strike a balance between different rights such as rights to personal privacy and freedom of the press.</p> <p>Among the LRC reports on privacy, the report on “stalking” is comparatively less controversial and CMAB will first deal with this report. CMAB is examining the report to consider carefully those proposals which may impact on press freedom. As an important step to follow up on the LRC report, CMAB will make practical preparation for conducting public consultation in the coming few months. CMAB plans to launch a consultation exercise in mid-2011.</p>
9	Guardianship & custody – Part 1: Guardianship of children (January 2002)	<p>The Report on Guardianship of Children made reform recommendations in relation to the law (mainly the Guardianship of Minors Ordinance) which governs the appointment of guardians for children in the event of the death of one or both parents.</p> <p>The Labour and Welfare Bureau (LWB) completed the examination of the Report on Guardianship of Children and issued its response to the report to the Chairman of the LRC in October 2009. In brief, LWB has accepted in principle all the recommendations of the report and is prepared to take them forward. The LegCo Panel on Welfare Services was briefed on the Administration's position in February 2010.</p>

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		A bill to implement the recommendations will be introduced into the LegCo in the 2010-11 legislative session.
10	Contracts for the supply of goods (February 2002)	<p>CEDB agrees that the implied undertakings for all types of contracts for the supply of goods should be standardised. It accepts the LRC's recommendation that legislative amendments should be introduced to extend to contracts for the supply of goods the implied undertakings which currently apply in respect of contracts for the sale of goods.</p> <p>CEDB's current priority in the area of consumer protection is to enhance legislative control over unfair trade practices and improve the operation of the Pyramid Selling Prohibition Ordinance. CEDB will work on this subject in due course.</p>
11	Guardianship & custody – Part 2: International parental child abduction (April 2002)	<p>The Report on International Parental Child Abduction recommends legislative amendments to prevent, and provide remedy for, international parental child abduction.</p> <p>LWB completed the examination of the Report on International Parental Child Abduction and issued its response to the report to the Chairman of the LRC in October 2009. In brief, LWB has accepted in principle all the recommendations of the report, and is prepared to take them forward. The LegCo Panel on Welfare Services was briefed on the Administration's position in February 2010. LWB is currently working on the detailed amendment proposals in consultation with relevant bureaux/departments.</p>
12	The regulation of debt collection practices (July 2002)	The Security Bureau (SB) made a detailed public response to LRC in September 2005, indicating that various legislative provisions are already in place to combat specifically illegal debt collection practices. CMAB will examine the stalking practices relating to debt collection activities when following up on the recommendations of LRC Report on Stalking.

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13	Description of flats on sale - Part 3: Local completed residential properties (September 2002)	The Administration has been keeping in view the need to regulate the sale of first-hand completed residential properties and has introduced various measures over the years. To further strengthen the regulation of the sale of first-hand private residential properties, THB has established the Steering Committee on the Regulation of the Sale of First-hand Residential Properties by Legislation (the Steering Committee) to discuss specific issues pertaining to the regulation of the sale of first-hand properties by legislation, including uncompleted and completed first-hand residential properties regardless of the lease conditions. The Steering Committee has commenced work in November 2010 for completion in October 2011, and will come up with practicable recommendations to the Secretary for Transport and Housing for consideration. THB's target is to take forward the subsequent public consultation in the form of a White Bill in order to expedite the consultation process.
14	Guardianship and custody – Part 3: The family dispute resolution process (March 2003)	Having consulted relevant bureaux and departments, the Home Affairs Bureau (HAB) indicated support to the recommendations in the LRC's report. Many of the recommendations in the report have been implemented. Other recommendations are being considered and will be followed up by relevant bureaux and departments.
15	Privacy – Part 4: Privacy and media intrusion (December 2004)	See item 8 above.
16	Privacy – Part 5: Civil liability for invasion of privacy (December 2004)	See item 8 above.
17	Guardianship and custody – Part 4: Child custody and access (March 2005)	The Report on Child Custody and Access made a total of 72 recommendations on the arrangements in relation to child custody and access, including that Hong Kong should

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		<p>follow jurisdictions such as England, Wales and Australia in applying the “joint parental responsibility” model to the Family Law.</p> <p>Some of the recommendations of the report on Custody and Access will fundamentally change the concept of “custody” underpinning the existing Family Law and have far-reaching implications. The LegCo Panel on Welfare Services was briefed on the progress in February 2010 where LWB flagged up the need to take a cautious approach on the matter and carefully consider the diverse views of relevant stakeholders before deciding on whether, and if so, how to adopt the recommendations of the report.</p>
18	Rules for determining domicile (April 2005)	The Domicile Ordinance was enacted in February 2008 to implement LRC’s recommendations.
19	Privity of contract (October 2005)	The Department of Justice (DoJ) agrees with the LRC that the doctrine of privity of contract should be reformed by means of a comprehensive, systematic and coherent legislative scheme. DoJ intends to prepare a bill to implement this proposal and will consult relevant stakeholders on the draft legislation in due course.
20	Privacy – Part 6: The regulation of covert surveillance (March 2006)	<p>The Interception of Communications and Surveillance Ordinance was enacted in August 2006 to implement the regulatory regime for interception and covert surveillance undertaken by public officers.</p> <p>As regards the recommendations on the regulatory regime for interception and covert surveillance undertaken by non-public officers, see item 8 above.</p>
21	Substitute decision-making and advance directives in relation to medical treatment (August 2006)	The Food and Health Bureau (FHB) shares LRC's view that it would be premature to embark on any legislative process for advance directives, and will take follow-up actions in consultation with the Hospital Authority, the medical profession, relevant NGOs and other stakeholders to raise the

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		<p>public's awareness of advance directives.</p> <p>FHB will also examine the definition of 'mentally incapacitated person (MIPs)' in the overall context of the law and explore the scope for improving its clarity and consistency in its application to various parts of the law. FHB will consult the relevant parties including mental health experts and seek to pursue any necessary legislative changes under a composite proposal in the long term.</p>
22	Conditional fees (July 2007)	<p>On the proposed establishment of conditional fees, DoJ has reported the Administration's response to LegCo's Administration of Justice and Legal Services (AJLS) Panel on 28 June 2010. In brief, as a privately-run Conditional Legal Aid Fund (CLAF) could only operate with the support of the legal profession, there appeared to be no prospect of establishing a CLAF in Hong Kong for the time being. In the circumstances, the Administration did not propose to take the recommendation of the Report that a CLAF be established any further.</p> <p>On the proposed expansion of the Supplementary Legal Aid Scheme (SLAS), the Administration would earmark \$100 million for injection into the SLAS fund when necessary to expand the scheme to cover more types of cases. Separately, HAB has reported progress to the AJLS Panel in September and November 2010 respectively. Members noted that the Administration had received the recommendations from the Legal Aid Services Council on the proposed expansion of the scope of SLAS in December 2010, and would continue to listen to Members' views in the coming Panel meeting in January 2011. HAB plans to consult the AJLS Panel on the Administration's specific recommendations on the proposed expansion of SLAS in March 2011.</p>

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23	Enduring powers of attorney (March 2008)	DoJ will put forward a bill to implement the recommendations.
24	Hearsay in criminal proceedings (November 2009)	DoJ is studying the complex issues raised in the LRC report and is seeking the view of the Law Society and the Bar Association.
25	Sexual offences records checks for child-related work: interim proposals (February 2010)	SB made a response to LRC in November 2010 indicating that it would implement the LRC's proposed administrative scheme to reduce the risk of children and mentally incapacitated persons from being sexually abused. The Police will establish an administrative scheme of sexual conviction record check in 2011 to allow employers who are going to hire persons undertaking child-related work to check such information.
26	Criteria for service as jurors (June 2010)	DoJ will put forward a legislative proposal to implement the recommendations.
27	The common law presumption that a boy under 14 is incapable of sexual intercourse (December 2010)	SB is examining the report together with DoJ with a view to amending the relevant legislation to implement the LRC's recommendation to abolish the common law presumption.