

Information paper

Implementation of the Recommendations Made by the Law Reform Commission

This paper aims to report to the Legislative Council (“LegCo”) the progress of implementation of the recommendations made by the Law Reform Commission (“LRC”).

Background

2. Since 2012, the Secretary for Justice (“SJ”) has, as the Chairman of the LRC, reported the progress of implementation of the recommendations made by the LRC to the LegCo Panel on Administration of Justice and Legal Services (“AJLS Panel”) on an annual basis.

3. At the AJLS Panel meeting on 2 August 2022, SJ briefed members on the Government’s new mechanism for reporting to LegCo the progress of implementation of LRC recommendations. An information paper¹ setting out the new mechanism was also submitted to AJLS Panel in February 2024. Under the new mechanism, the Administration Wing of the Chief Secretary for Administration’s Office would coordinate detailed responses from the relevant policy bureaux and departments (“B/Ds”) on the progress of implementation of the recommendations in LRC reports. An information paper containing the consolidated responses would then be issued to all LegCo Members (instead of to the AJLS Panel) for information and follow-up on an annual basis. The new mechanism would better facilitate LegCo in following up with the relevant B/Ds on the progress of implementation of LRC’s recommendations.

¹ The relevant paper is CB(4)165/2024(01) “Information paper on the mechanism for the Government to report the progress of the implementation of LRC’s recommendations”.

Latest position

4. This information paper sets out the latest position as provided by the B/Ds on their consideration or implementation. The table at Annex lists the LRC's reports by the following five categories according to their implementation status –

- (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.

5. The following sub-paragraphs highlight the more significant developments advised by the subject B/Ds since the issue of the last information paper in August 2023 –

- **Item 47: Causing or allowing the death or serious harm of a child or vulnerable adult**

The enactment of the new Mandatory Reporting of Child Abuse Bill in July 2024, which mandate 25 categories of professional practitioners in the Schedule 1 to the legislation to report serious child abuse cases, signifies a milestone in child protection. The Government will ensure the support measures on various fronts are in place properly during the 18-month transitional period and will monitor its effectiveness upon its implementation.

- **Item 53: Substitute decision-making and advance directives in relation to medical treatment**

In its report released in 2006, LRC recommended that the Government should initially promote the concept of advance medical directives under the existing common law framework, and consider whether legislation was appropriate when there was greater public awareness of the concept. On 6 December 2023, the Health Bureau

introduced the Advance Decision on Life-sustaining Treatment Bill into the Legislative Council for first and second readings. The Bill is currently under consideration by the relevant Bills Committee.

- **Item 61: Sentencing and Related Matters in the Review of Sexual Offences**

On the LRC's suggestion to expand the scope of the Sexual Conviction Record Check Scheme to cover existing employees, self-employed persons and volunteers, the Security Bureau agrees with the recommendation and will expand the scope to prospective self-employed persons from Q4 2024 as the first phase.

6. Members who would like to follow up on individual LRC reports are invited to take the matter up with the subject B/Ds through the relevant LegCo Panels.

Administration Wing
Chief Secretary for Administration's Office
September 2024

LAW REFORM COMMISSION OF HONG KONG

**COMPLETE LIST OF REPORTS
TABULATED ACCORDING TO IMPLEMENTATION STATUS**

A total of 71 reports have been published since 1 January 1982. With one report recommending no change to the law¹, the remaining 70 reports are tabulated into the following categories according to their implementation status:

- (a) recommendations implemented in full (37 reports, 52.9% of the 70 reports);
- (b) recommendations implemented in part (10 reports, 14.3% of the 70 reports);
- (c) recommendations under consideration or in the process of being implemented (15 reports, 21.4% of the 70 reports);
- (d) recommendations rejected by the Government (4 reports, 5.7% of the 70 reports); and
- (e) recommendations in respect of which the Government has no plan to implement at this juncture (4 reports, 5.7% of the 70 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 ² .
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.
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).

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	Implementing legislation or other relevant information, including response from the responsible bureau
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).
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 ³ .

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	Implementing legislation or other relevant information, including response from the responsible bureau
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 dependants (May 1990)	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 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)	Security Branch	Implemented by Crimes (Amendment) (No 2) Ordinance (74 of 1992) (July 1992) amending Cap 200.
17	Illegitimacy (December 1991)	Health and Welfare Bureau	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.

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
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 (August 1994)	Home Affairs Branch	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)	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.

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
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 & custody – Part 1: Guardianship of children (January 2002)	Labour and Welfare Bureau	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)	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	Implemented by Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017 (6 of 2017) (June 2017) ⁴ .
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 (December 2021)	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 609.

⁴ The provisions on third party funding of arbitration came into operation on 1 February 2019. The commencement of certain provisions in relation to third party funding of mediation will be deferred to a future date following further consultation with the mediation community and relevant stakeholders on certain issues concerning third party funding of mediation with a view to addressing them.

(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	<p>The Bureau has advised that: <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 evolvement 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></p>
39	Insolvency - Part 3: Winding-up provisions of the Companies Ordinance (July 1999)	Financial Services and the Treasury Bureau	<p>Some technical aspects were implemented by the Companies (Amendment) Ordinance (28 of 2003) enacted in July 2003 amending Cap 32.</p> <p>Having reviewed the key issues addressed in the Report and taking into account the sector’s latest developments, the Bureau has concluded that: <i>“not to pursue the recommendation to merge corporate insolvency legislation with personal bankruptcy legislation as there is no clear benefit or market demand for such a change; 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; on remuneration (fees) of office-holders, the market has operated smoothly in determining the fee level of private</i></p>

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			<p><i>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; and 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> <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 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 Government in September 2005.</p>
41	Description of flats on sale – Part 3: Local completed residential properties: Sales descriptions and pre-contractual matters (September	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</i></p>

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	2002)		<i>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>
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 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 2024, the Legal Aid Department has approved funding for appointment of mediators in 2,094 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</i></p>

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			<p><i>assistance. The Judiciary introduced the Family Court-annexed Mediation Scheme as a pilot scheme for a period of two years commencing from March 2024. The scheme intends to assist the divorcing parties to settle their disputes by adopting a collaborative approach among Family Judges and Masters, the Integrated Mediation Office and family mediators at the court premises. Accredited family mediators have been engaged for provision of mediation services at the court premises as and when required on the hearing date. 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 further extended for another two years from 2024 to 2026. 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>
43	<p>Privacy – Part 6: The regulation of covert surveillance (March 2006)</p>	<p>Constitutional and Mainland Affairs Bureau</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 44 and 46 below.</p>

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

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			<p>of cases were expanded in November 2012.</p> <p>Report's other recommendations were rejected by the Government in October 2010.</p>
46	Privacy – Part 3: Stalking (October 2000)	Constitutional and Mainland Affairs Bureau	<p>The Bureau has stated that: <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 explored. 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 (i.e., 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</i></p>

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			<p><i>against stalking while at the same time avoid inflicting interference to the freedoms of the press and expression. 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 Personal Data (Privacy) (Amendment) Ordinance 2021 came into effect in October 2021 to combat doxxing acts that intrude into personal data privacy. The doxxing offences created thereunder would cover stalking acts that involve the disclosure of personal data without the data subject's consent whereby the discloser has an intent or is being reckless as to the causing of any specified harm by that disclosure to the data subject or his or her family. Noting the alleviated doxxing situation in Hong Kong in the past few years, the Bureau will continue to monitor related developments in considering the way forward."</i></p>
47	Causing or Allowing the Death or Serious Harm of a Child or Vulnerable Adult	Labour and Welfare Bureau	The Government welcomes the recommendations in the Law Reform Commission's (LRC) Report, in which the objective of the proposed new

	Report (month and year of publication)	Responsible bureau	Implementing legislation or other relevant information, including response from the responsible bureau
	(September 2021)		<p>offence of “failure to protect”⁵ is in line with the Mandatory Reporting of Child Abuse Bill (the Bill) recommended by the Government as they both mandate certain categories of persons to take reasonable steps to protect children from suffering serious harm. The Government notes that the LRC’s proposed new offence is relatively complex in the execution, in particular to define if a person owes a “duty of care” to the child in institutional settings. The enactment of the Bill in July 2024, which mandate 25 categories of professional practitioners in the Schedule 1 to the legislation to report serious child abuse cases, signifies a milestone in child protection. The Government will ensure the support measures on various fronts are in place properly during the 18-month transitional period and will monitor its effectiveness upon its implementation.</p>

⁵ The offence of “failure to protect” in respect of children refers to the failure to protect a child in cases where the child’s death or serious injury is caused by an unlawful act or neglect. The maximum penalty recommended by the Law Reform Commission is imprisonment of 20 years if the victim dies and 15 years if the victim suffers serious harm.

(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
48	Insolvency - Part 2: Corporate rescue and insolvent trading (October 1996)	Financial Services and the Treasury Bureau	<p>The Bureau has advised that: <i>“The Bureau conducted many rounds of consultations on whether and how Hong Kong should establish statutory corporate rescue procedures (CRP), and in 2020 introduced specific legislative proposal to key stakeholders, including Legislative Council members, business sector, professional sectors (including legal and accountancy sectors), labour sector etc. While the proposal received support from some stakeholders, especially the accountancy and legal sectors as well as some from the business sector, some other key stakeholders had reservations. The labour sector worried that the CRP might be abused resulting in shifting away assets or delaying other employee entitlements. Some were concerned that the provisional supervisors leading the CRP may not pay heed to labour’s priorities when deriving the rescue plans. In addition, small and medium enterprises (SMEs) considered that since CRP was complex and costly, only large companies would be able to make use of it while their right as non-guaranteed creditors would be adversely affected as they, with lower bargaining power, might have to accept significant hair-cut to the debts originally owed to them as part of the rescue package.</i></p> <p><i>When formulating the legislative proposal, the Bureau had many rounds of in-depth discussion with stakeholders and made serious attempts to strike a balance between diverse interests. Nevertheless, quite a number of stakeholders and legislators asked for more time to study the proposal and assess its implications for their industries as they considered the proposal too complicated and brand new for the existing company insolvency system of</i></p>

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			<p><i>Hong Kong. Some of them went so far as to express objection or strong reservation. In deciding the way forward, the Bureau will continue to listen to and consider the views of stakeholders, and welcome other suggestions from the professional sectors on the CRP or enhancing the existing corporate insolvency system.”</i></p>
49	<p>Contracts for the supply of goods (February 2002)</p>	<p>Commerce and Economic Development Bureau</p>	<p>The Bureau has advised that: <i>“The LRC recommended that, among others, suppliers’ implied undertakings which is currently applicable to contracts for the sale of goods only, should be extended to all types of contracts for the supply of goods.”</i></p> <p>The Bureau has stated that: <i>“The implied undertakings for all types of contracts for the supply of goods should be standardised and that legislative amendments should be introduced in due course.”</i></p> <p>In the course of considering the LRC’s recommendations, the Bureau notes that: <i>“The laws regarding contracts in the three jurisdictions (Australia, New Zealand and the UK) to which the LRC had made reference when formulating its recommendations have evolved over the past two decades with some having undergone substantial changes.</i></p> <p><i>The Bureau will continue to examine the LRC’s recommendations, taking into account the latest developments in the legislation relating to contracts in Australia, New Zealand and the UK, the potential impact of the recommended legislative changes on Hong Kong and other competing policy initiatives and priorities, with a view to deciding on the way forward.”</i></p>

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50	Privacy – Part 4: Privacy and media intrusion (December 2004)	Constitutional and Mainland Affairs Bureau	The Bureau has stated that: <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. In monitoring related developments in considering the way forward, the Privacy Commissioner and her Office noted that in the past few years, the number of complaints against media organisations remained low. They will continue with the promotion and education efforts on the relevant requirements and exemptions of the the Personal Data (Privacy) Ordinance (PDPO) on news activities.”</i> See items 44 and 46 above.
51	Privacy – Part 5: Civil liability for invasion of privacy (December 2004)	Constitutional and Mainland Affairs Bureau	The Bureau has stated that: <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. To provide an avenue for civil compensation claims related to personal data privacy breaches, the PDPO was amended in 2012 to, inter alia, empower the Privacy Commissioner to grant legal assistance under section 66B of the PDPO. The Privacy Commissioner and her Office will continue to monitor related developments, noting the complexity and sensitivity of the policy and political issues involved.”</i> See items 44 and 46 above.
52	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 recommendations of the Report will fundamentally change the concept of “custody” underpinning the existing family law and have far-reaching implications. In consultation with the Department of Justice, the then Home Affairs Bureau (re-organised as the Home and Youth Affairs

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			<p>Bureau from 1 July 2022), 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> 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 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-</p>

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			<p>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. 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 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 (SWD) 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>

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			<p>To keep abreast of the latest views of stakeholders, in particular the aforementioned stakeholders who had concerns about the legislative proposal at that time, SWD collects the views of service users through Specialised Co-parenting Support Centres and Integrated Family Service Centres, for the Government to consider whether there is sufficient consensus to put forward the legislative proposal again and, if so, the appropriate timing.</p>
53	<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 end-of-life 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 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</i></p>

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			<i>consultation report in July 2020 on advance directives and related matters. On 6 December 2023, the Advance Decision on Life-sustaining Treatment Bill was introduced into the Legislative Council for first and second readings and is currently under consideration by the relevant Bills Committee."</i>
54	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>
55	Criteria for service as jurors (June 2010)	Department of Justice	The Government is examining the recommendations in the Report as a whole with a view to considering whether the legislative proposals should be implemented. This is to ensure that any changes to the criteria for service as jurors will best suit the administration of justice.
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	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</i>

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			<p><i>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 two meetings of the Working Group were held between 2013 and 2024. 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 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."</i></p>
58	Charities (December 2013)	Home and Youth Affairs Bureau	<p>The Bureau has stated that: <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 tasked to co-ordinate inputs from relevant bureaux and departments in formulating a response to LRC's recommendations. In following up the co-ordination, the Bureau has taken into</i></p>

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			<p><i>account 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), with a view to formulating a response.</i></p> <p><i>With reference to the recommendations in the LRC Report, the Audit Report as well as the PAC Reports, the Government introduced and implemented a series of administrative measures relating to charitable fund-raising activities in 2018 and 2019 with a view to optimising the monitoring and supportive work relating to charitable fund-raising activities. The Government will continue to keep in view the need for legislative amendments as appropriate.</i></p> <p><i>Besides, representative from the relevant bureau had made a detailed response at the LegCo meeting on 25 May 2022 in reply to Hon JoePHY Chan's oral question on "regulation of online fundraising activities". The response 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 of engaging in illegal acts through fundraising activities. The relevant reply can be found at the following link: https://www.info.gov.hk/gia/general/202205/25/P2022052500338.htm."</i></p>
59	Adverse possession (October 2014)	Development Bureau	<p>In consultation with the Lands Department ("LandsD") and the Land Registry ("LR"), the Bureau has stated that: <i>"The Bureau agrees with LRC's recommendation that the existing provisions on adverse possession should be retained under the current deeds registration system.</i></p> <p><i>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.</i></p>

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			<p><i>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. In this regard, the Government has been actively liaising with stakeholders on the proposal of implementing the title registration system of the LTO on newly granted land first. The Development Bureau briefed the Development Panel of the LegCo in December 2022 that as part of this proposal of implementing the title registration system, the Government will examine the feasibility of dis-applying adverse possession laws on newly granted land to be covered by the title registration system in future, to dovetail with the principle of giving certainty to land title under the LTO. The relevant proposal, together with the amendment bill for the LTO, is expected to be submitted for LegCo's scrutiny in the first half of 2025.</i></p> <p><i>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.</i></p> <p><i>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 to</i></p>

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			<p><i>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.</i></p> <p><i>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.</i></p> <p><i>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."</i></p>
60	Review of substantive sexual offences (December 2019)	Security Bureau	<p><i>The Bureau has stated that: "The Government is studying the recommendations contained in the two relevant Law Reform Commission's reports (the reports on Review of substantive sexual offences and Sentencing and Related Matters in the Review of Sexual Offences) in tandem. As the report on Review of substantive sexual offences involves over 70 recommendations, covering various complex legal principles and issues, it has to be studied carefully and holistically. The Government will make reference to the development of relevant legislation in overseas jurisdictions to formulate specific amendment proposals.</i></p> <p><i>The Government will conduct public consultation on proposed amendments in</i></p>

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			<i>due course and submit the proposals to the LegCo for consideration.”</i>
61	Sentencing and Related Matters in the Review of Sexual Offences (May 2022)	Security Bureau	<p>The Bureau has stated that: <i>“The Government is studying the recommendations contained in the two relevant Law Reform Commission’s reports (the reports on Review of substantive sexual offences and Sentencing and Related Matters in the Review of Sexual Offences) in tandem, and will make reference to the development of relevant legislation in overseas jurisdictions to formulate specific legislative amendment.</i></p> <p><i>In the report on Sentencing and Related Matters in the Review of Sexual Offences, the LRC recommended, among others, expanding the scope of the Sexual Conviction Record Check Scheme to cover existing employees, self-employed persons and volunteers. The Bureau agrees with the recommendation and will expand the scope to prospective self-employed persons from Q4 2024 as the first phase.”</i></p>
62	Periodical Payments for Future Pecuniary Loss in Personal Injury Cases (January 2023)	Department of Justice	<p>The Department of Justice has stated that: <i>“The Department of Justice has formed a task force (‘Task Force’) chaired by the Deputy Solicitor General (Policy Affairs) to examine and consider whether the recommendations in the Report should be implemented and, if so, how. Representatives from the Financial Services and the Treasury Bureau, Health Bureau, Labour Department and the Department of Justice are members of the Task Force. The Task Force held its first meeting on 15 December 2023. The Task Force will further discuss the issues relating to the recommendations of the LRC. The Government will then decide on the way forward in the light of the outcome of discussion and recommendations of the Task Force.”</i></p>

(d) Recommendations rejected by the Government

	Report (month and year of publication)	Responsible bureau	Response from the responsible bureau
63	Confession statements and their admissibility in criminal proceedings (October 1985)	Attorney General's Chambers	Rejected by the Government in September 1987
64	Contempt of court (July 1987)	Attorney General's Chambers	Rejected by the Government in January 1994
65	Interest on debt and damages (July 1990)	Finance Branch	Rejected by the Government in May 1994
66	Extrinsic materials as an aid to statutory interpretation (March 1997)	Department of Justice	Rejected by the Government in July 2023

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

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67	<p>Description of flats on sale - Part 2: Overseas uncompleted residential properties (September 1997)</p>	<p>Housing Bureau</p>	<p>The Bureau has stated that: <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></p> <p><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 efforts to raise the awareness of the public on the risks of purchasing uncompleted residential properties situated outside Hong Kong.”</i></p> <p>The Bureau has further observed that: <i>“The result of stepping up public education efforts has been positive. Complaints about the sales of</i></p>

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			<p><i>uncompleted residential properties situated outside Hong Kong have dropped significantly 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></p> <p><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. In end 2023, the EAA enhanced the guidelines, in particular by adding requirements in the areas of issuing advertisements and providing property information, with a view to further promoting the professionalism of licensed estate agents and offering better protection to consumers. The new guidelines will take effect on 1 July 2024. 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></p> <p><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 of legal jurisdiction is not an issue easy to resolve.</i></p> <p><i>In light of the above, the Bureau did not pursue the specific recommendations of the 1997 LRC Report.</i></p>

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			<i>However, the Bureau will continue to monitor and review the situation taking into account any latest developments.”</i>
68	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 that: <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>
69	Enduring powers of attorney: personal care (July 2011)	Labour and Welfare Bureau	<p>The major recommendation of the LRC Report on Enduring Powers of Attorney (EPA): Personal Care is to introduce legislation to extend the scope of an EPA, (which currently under the EPA Ordinance (Cap. 501) only covers decisions relating to the property and financial affairs of the donor) to cover also decisions on a donor’s personal care. In this regard, the Department of Justice (DoJ) conducted a public consultation on a draft Continuing Powers of Attorney (CPA) Bill in December 2017. Among the 41 respondents, the majority supported the draft Bill and an overwhelming majority of them also suggested that life-sustaining treatment should be included in the scope of “personal care” in the draft Bill. DoJ handed over the subject to LWB in 2022.</p> <p>LWB has reviewed the LRC recommendation taking into account the following –</p>

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			<p>(a) To the extent that “personal care matters” are covered by advance planning, which would typically entail “spending of the donor’s income or capital”, they are already within the scope of an EPA under the EPA Ordinance.</p> <p>(b) More financial products covering personal care are now available in the market, such as medical insurance products, to facilitate advance decision by a donor as to how his income and capital are to be spent for personal care within the existing scope of an EPA.</p> <p>(c) As regards the call for including life-sustaining treatment as a form of “personal care”, the concern can be addressed by the Advance Decision on Life-sustaining Treatment Bill introduced by the Health Bureau into the LegCo in end 2023, which provides a legal basis for advance medical directives on life-sustaining treatment.</p> <p>The Bureau has stated that: <i>“With the above developments, there is no pressing need to pursue the recommendation of the LRC Report on EPA: Personal Care. Since persons who may consider appointing an EPA are usually financially sufficient, from a welfare perspective, the LRC recommendation does not seem to warrant priority. The Government therefore has no plan to implement LRC’s recommendation at this juncture.”</i></p>
70	Excepted Offences under Schedule 3 to the Criminal Procedure Ordinance (Cap 221) (February 2014)	Security Bureau	<p>The Bureau has stated that: <i>“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.</i></p> <p><i>The excepted offences regime was introduced in 1970s to respond to</i></p>

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			<p><i>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.</i></p> <p><i>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."</i></p>

- END -