

LAW REFORM COMMISSION

KEY POINTS

1. The Law Reform Commission of Hong Kong was established in January 1980. The Commission considers for reform those aspects of the laws of Hong Kong which are referred to it by the Secretary for Justice or the Chief Justice. The Commission is chaired by the Secretary for Justice and includes in its membership both academic and practising lawyers, and prominent members of the community.
2. The Commission is unusual among law reform agencies in including non-lawyers in its membership. This enables the Commission to benefit in its deliberations from a wider range of expertise and experience than would otherwise be the case. It is fair to say that, while much law reform work involves technical legal questions, there are few areas in which extra-legal considerations do not also apply.
3. Subjects referred to the Commission for study are looked at in detail by a sub-committee of experts, usually under the chairmanship of a member of the Commission. Alternatively, the Commission may decide to dispense with a sub-committee and to proceed on the basis of research carried out by the Secretariat. The Secretariat, which consists of the Secretary, a Deputy Secretary and five other lawyers, researches topics and prepares background papers and draft Commission reports.
4. Where a sub-committee is appointed, one of the qualified lawyers from the Secretariat services the sub-committee as secretary. In view of the need to be in contact with the community at large, the sub-committees often have a substantial proportion of non-lawyer members. Whether or not a sub-committee is appointed to deal with a particular topic, the Commission always ensures that there is extensive public consultation on any subject referred to it before it reaches its conclusions.
5. The Commission has published reports on the following topics:-

Report	Publication date	Legislation
<i>Commercial arbitration</i>	January 1982	Arbitration (Amendment) Ordinance (Ord No 10 of 1982)
<i>Bills of exchange</i>	December 1982	Bills of Exchange (Amendment) Ordinance (Ord No 16 of 1983)
<i>Laws governing homosexual conduct in Hong Kong</i>	June 1983	Crimes (Amendment) Ordinance (Ord No 90 of 1991)
<i>Sentencing - Community Service Orders</i>	June 1983	Community Service Orders Ordinance (Cap 378)
<i>Law relating to contribution between wrongdoers</i>	April 1984	Civil Liability (Contribution) Ordinance (Cap 377)
<i>Damages for personal injuries and death</i>	February 1985	Fatal Accidents Ordinance (Cap 22) and Law Amendment and Reform (Consolidation) (Amendment) Ordinance (Ord No 40 of 1986)
<i>Confessions in criminal proceedings</i>	October 1985	-
<i>Insurance</i>	January 1986	Insurance Companies (Amendment) (No 3) Ordinance (Ord No 76 of 1994)
<i>Legal effects of age</i>	April 1986	Age of Majority (Related Provisions) Ordinance (Cap 410); Marriage and Children (Miscellaneous Amendments) Ordinance (Ord No 69 of 1997); and Law Reform (Miscellaneous Provisions and Minor Amendments) Ordinance (Ord No 80 of 1997)
<i>Unfair contract terms</i>	December 1986	Control of Exemption Clauses Ordinance (Cap 71)
<i>Contempt of Court</i>	July 1987	-

Coroners	August 1987	Coroners Ordinance (Cap 504)
Arbitration Model Law	September 1987	Arbitration (Amendment) (No 2) Ordinance (Ord No 64 of 1989)

<i>Witnesses – Competence and compellability of spouses</i>	December 1988	Evidence (Miscellaneous Amendments) Ordinance (Ord No 23 of 2003)
<i>Bail</i>	December 1989	Criminal Procedure (Amendment) Ordinance (Ord No 56 of 1994)
<i>Sale of goods and supply of services</i>	April 1990	Sale of Goods (Amendment) Ordinance (Ord No 85 of 1994); Supply of Services (Implied Terms) Ordinance (Ord No 86 of 1994) and Unconscionable Contracts Ordinance (Ord No 87 of 1994)
<i>Wills, intestate succession and provision for deceased persons' families and dependants</i>	May 1990	Wills (Amendment) Ordinance (Ord No 56 of 1995), Intestates' Estates (Amendment) Ordinance (Ord No 57 of 1995), Inheritance (Provision for Family and Dependants) Ordinance (Cap 481) and Law Amendment and Reform (Consolidation) (Amendment) Ordinance (Ord No 16 of 1996)
<i>Interest on debt and damages</i>	July 1990	-
<i>Loitering</i>	July 1990	Crimes (Amendment) (No 2) Ordinance (Ord No 74 of 1992)
<i>Illegitimacy</i>	December 1991	Parent and Child Ordinance (Ord No 17 of 1993)
<i>Arrest, detention, search and seizure</i>	November 1992	Dangerous Drugs, Independent Commission Against Corruption and Police Force (Amendment) Ordinance (Ord No 68 of 2000)
<i>Grounds for divorce and time restriction on petitions for divorce</i>	November 1992	Matrimonial Causes (Amendment) Ordinance (Ord No 29 of 1995)
<i>Copyright</i>	January 1994	Copyright Ordinance (Cap 528)
<i>Codification of the criminal law: the preliminary offences of incitement, conspiracy and</i>	May 1994	Crimes (Amendment) Ordinance (Ord No 49 of 1996)

attempt Privacy: Part 1, Protection of personal data	August 1994	Personal Data (Privacy) Ordinance (Cap 486)
Description of flats on sale: Part I, Sales description of local uncompleted residential property	April 1995	-
Insolvency: Part 1, Bankruptcy	May 1995	Bankruptcy (Amendment) Ordinance (Ord No 76 of 1996)
Hearsay evidence in civil proceedings	July 1996	Evidence (Amendment) Ordinance (Ord No 2 of 1999)
Fraud	July 1996	Theft (Amendment) Ordinance (Ord No 45 of 1999)
Insolvency: Part 2, Corporate rescue and insolvent trading	October 1996	-
Privacy: Part 2, Interception of communications	December 1996	-
The use of extrinsic materials as an aid to statutory interpretation	March 1997	-
The year and a day rule in homicide	June 1997	Statute Law (Miscellaneous Provisions) Ordinance (Ord No 32 of 2000)
Description of Flats on Sale: Part II, Overseas uncompleted residential properties	September 1997	-
Civil liability for unsafe products	February 1998	-
Insolvency: Part 3, Winding- up provisions of the Companies Ordinance	July 1999	-
The age of criminal responsibility in Hong Kong	May 2000	Juvenile Offenders (Amendment) Ordinance (Ord No 6 of 2003)
The procedure governing the admissibility of confession statements in criminal	July 2000	-

proceedings

Stalking	October 2000	-
Guardianship and custody: Part I, Guardianship of children	January 2002	-
Contracts for the supply of goods	February 2002	-
Guardianship and custody: Part II, International parental child abduction	April 2002	-
The regulation of debt collection practices	July 2002	-
Description of flats on sale: Part III, Local completed residential properties: sales descriptions and pre- contractual matters	September 2002	-
Guardianship and custody: Part III, The family dispute resolution process	March 2003	-

6. The Commission is currently examining the following subjects:-
- ◇ **Privacy : Part 4, Civil Liability for Invasion of Privacy** - The Privacy Sub-committee issued a consultation paper on *Civil Liability for Invasion of Privacy* in August 1999. The paper examines whether invasion of privacy should be a civil wrong.
 - ◇ **Privacy : Part 5, Privacy and Media Intrusion** - The Privacy Sub-committee issued a consultation paper on *The Regulation of Media Intrusion* in August 1999. The object of the study is to examine whether legislative or other measures should be introduced to provide protection against unwarranted invasion of privacy by the news media in addition to those proposed in the consultation paper on *Civil Liability for Invasion of Privacy*.
 - ◇ **Privacy : Part 6, Criminal Sanctions for Unlawful Surveillance** - The Privacy Sub-committee will finalise its report on *Criminal Sanctions for Unlawful Surveillance* after the Commission has

published the reports on *Civil Liability for Invasion of Privacy and Media Intrusion*.

- ◇ **Hearsay in Criminal Proceedings** – A sub-committee chaired by the Hon Mr Justice Stock is considering the admissibility of hearsay evidence in criminal proceedings.
- ◇ **Substitute Decision-making and Advance Directives in relation to Medical Treatment** – A sub-committee chaired by the Hon Mrs Sophie Leung is reviewing the law relating to decision-making for comatose/vegetative persons and advance directives. A consultation paper was issued in July 2004.
- ◇ **Rules for Determining Domicile** – A sub-committee, chaired by the Hon Ms Audrey Eu, SC, has been set up to study the rules for determining a person's domicile, which is the place or country considered by law to be a person's permanent home. A consultation paper was issued in March 2004.
- ◇ **Privity of Contract** – Mr Benjamin Yu, SC, chairs a sub-committee which is considering the rule that a third party cannot acquire rights under a contract, even where the contracting parties intended to benefit him. A consultation paper was issued in June 2004.
- ◇ **Conditional Fees** – Professor Edward Chen chairs a sub-committee considering whether lawyers should be permitted to enter into conditional fee arrangements with their clients in respect of civil litigation.
- ◇ **Criteria for service as jurors** – A sub-committee chaired by the Hon Mr Justice Woo is reviewing the existing criteria for service as a juror, and to consider whether those criteria should be set out with greater clarity and precision.

**Members of the Commission
(as at 1 November 2004)**

**The Hon Miss Elsie Leung, GBM, JP, Secretary for Justice
(Chairman)**

**The Hon Chief Justice Andrew Li, Chief Justice of the Court of
Final Appeal**

Mr Tony Yen, SBS, JP, Law Draftsman

Dr John Bacon-Shone

The Hon Mr Justice Bokhary, PJ

Professor Albert Chen

Mr Anthony Chow, SBS, JP

Professor Y K Fan, JP

Mr Alan Hoo, SC

The Hon Mrs Sophie Leung, SBS, JP

Professor Michael McConville

Mr Benjamin Yu, SC

Members of the Secretariat

Secretary

Deputy Secretary

Senior Government Counsel

Mr Stuart M I Stoker

Ms Michelle Ainsworth

Ms Amy Chan

Ms Judy Cheung

Mr Byron Leung

Mr Peter Sit

Ms Cathy Wan