

LRC issues report on Sentencing and Related Matters in the Review of Sexual Offences

The following is issued on behalf of the Law Reform Commission:

The Law Reform Commission of Hong Kong (LRC) today (May 30) published a report on Sentencing and Related Matters in the Review of Sexual Offences making final recommendations on the penalties for various offences proposed in the report on Review of Substantive Sexual Offences (Report on Sexual Offences); the reform and strengthening of treatment and rehabilitation services for sex offenders in Hong Kong; and the optimisation of the Sexual Conviction Record Check Scheme (SCRC Scheme) since it has come into operation in December 2011 as an administrative scheme.

The report follows a study by the LRC's Review of Sexual Offences Sub-committee, chaired by Mr Peter Duncan, SC, which issued a consultation paper on sentencing and related matters in November 2020. The Sub-committee has studied the legislation and relevant practices in Hong Kong, and compared them with corresponding legislation and practices in a number of overseas jurisdictions, namely, Australia, Canada, England and Wales, Scotland and New Zealand. The responses to the consultation paper have been taken into account in formulating the final recommendations in the report.

Some of the main final recommendations contained in the report are:

- (1) The current penalties for the existing offences of rape and incest should continue to apply to the recommended offences of sexual penetration without consent and incest.
- (2) There is no final recommendation on the penalties for the proposed offences of voyeurism and non-consensual upskirt-photography as the Legislative Council had already enacted the Crimes (Amendment) Ordinance 2021 which covers, among others, the offences of voyeurism and non-consensual photography of intimate parts or private acts, both for the purpose of obtaining sexual gratification and irrespective of the purpose, with a maximum penalty of five years' imprisonment. With regard to the penalties for the remaining new offences proposed in the Report on Sexual Offences, they are to be set by reference to the penalties for the corresponding offences in the respective overseas jurisdictions with suitable adjustments.
- (3) The current specialised treatment and rehabilitation programmes for sex offenders available on a voluntary basis at the Correctional Services Department should be maintained.
- (4) The Government should review and consider the introduction of an incentive scheme for sex offenders in correctional institutions for increasing motivation for treatment and behavioural change.

(5) The provision of specialised post-release supervision to discharged sex offenders under the existing statutory schemes administered by the Post-Release Supervision Board and the Long-term Prison Sentences Review Board should be maintained.

(6) The current SCRC Scheme should be optimised by extending it to cover all existing employees, self-employed persons and volunteers, and the Government should extend the SCRC Scheme to its fullest and evaluate the need to make it a mandatory scheme at an appropriate time.

(7) The SCRC Scheme should not be extended to include "spent" convictions in order to give offenders of relatively minor sexual offences the chance to rehabilitate in accordance with the spirit of the Rehabilitation of Offenders Ordinance (Cap 297).

The report and the executive summary can be accessed on the website of the LRC at www.hkreform.gov.hk. Hard copies are also available on request from the Secretariat of the LRC at 4/F, East Wing, Justice Place, 18 Lower Albert Road, Central, Hong Kong.