

**The Proposed Legislation to Implement  
the Recommendations of  
The Law Reform Commission Report on  
Child Custody and Access**

Public Consultation

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**CONSULTATION PAPER ON THE PROPOSED LEGISLATION  
TO IMPLEMENT THE RECOMMENDATIONS OF THE  
LAW REFORM COMMISSION REPORT  
ON CHILD CUSTODY AND ACCESS**

**FOREWORD**

*Law Reform Commission Report on Child Custody and Access*

The Law Reform Commission of Hong Kong ('LRC') published a series of four reports on the law relating to guardianship and custody of children with recommendations on the appropriate changes to the law. The last one of the series was the Report on Child Custody and Access ('the Report'), which put forward a total of 72 recommendations<sup>1</sup>. The main thrust of the Report relates to the introduction into Hong Kong's family law of a "parental responsibility model" ('the Model'). Underlying the Model is the principle that the best interests of children should guide all proceedings concerning children ('the best interests principle').

2. LRC observes that Hong Kong's existing law in this area defines parent-child relationship in terms of the "rights and authority" that parents have over their children. In the past, when a couple divorced or were engaged in other matrimonial proceedings, the courts would often award one parent sole custody of the child – with all the decision-making power that implied – while the other parent's involvement with the child was limited to the right of access only. Over time, this often resulted in dwindling contact between the child and the non-custodial parent. In recent years, the courts have recognised the importance of maintaining the direct involvement of both parents in the child's life as far as possible, and more orders for joint custody are now being made. Under these orders, although one parent may have daily care and control of the child, both parents continue to be actively involved in the child's life and in making major decisions affecting the child.

3. On the other hand, LRC observes that in England, Scotland, Australia and New Zealand, former child custody laws similar to Hong Kong's have been replaced with laws reflecting the Model. This new approach emphasises the continuing responsibilities of both parents

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<sup>1</sup> The Report is available at [www.hkreform.gov.hk](http://www.hkreform.gov.hk) and a summary of the 72 recommendations is provided in Chapter 14 of the Report.

towards their children rather than their individual parental rights. It also emphasises the child's right to enjoy a continuing relationship with both parents if this is in the child's best interests in line with the best interests principle. Allied to this change in concept, a range of new court orders have been introduced in England, Scotland, Australia and New Zealand to sweep away the old "custody" and "access" terminologies in family proceedings, with their connotations of ownership of the child.

4. As stated above, LRC has put forward a total of 72 recommendations in the Report. The main thrust of the Report relates to the introduction of the Model into Hong Kong's family law. As part of this approach, LRC recommends the introduction of new court orders to govern the arrangements of children when their parents divorce. LRC further recommends the removal of the current limitation on the right of interested third parties, such as close relatives, to apply for court orders affecting children. Other recommendations of the Report relate to: how the views of the children (up to 18 years old) may be better expressed in family proceedings which affect them; how the current care and protection provisions may be improved to better protect children's rights; and how the custody and access cases involving domestic violence may be better dealt with under the law. LRC also recommends that all parental rights and responsibilities shall apply in respect of a child until the child reaches the age of 18, and that the minimum age for marriage without parental consent should be reduced from 21 to 18 years. For the removal of doubt, LRC recommends that it should be made clear that the best interests principle should guide all proceedings concerning children under the Guardianship of Minors Ordinance (Cap. 13) ('GMO'), the Matrimonial Causes Ordinance (Cap. 179) ('MCO'), the Matrimonial Proceedings and Property Ordinance (Cap. 192) and the Separation and Maintenance Orders Ordinance (Cap. 16), including questions of guardianship, maintenance or property.

### ***Public Consultation in 2011-12 and Our Response***

5. The Labour and Welfare Bureau ('LWB') conducted a public consultation on the Report from December 2011 to April 2012<sup>2</sup>.

6. From the views received during the public consultation, it was found that a clear majority of respondents supported or did not dispute the

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<sup>2</sup> *The Consultation Paper on Child Custody and Access: Whether to Implement the "Joint Parental Responsibility Model" by Legislative Means* published by LWB in December 2011. This paper is available on [http://www.lwb.gov.hk/eng/public\\_consultation/Custody\\_Consultation.htm](http://www.lwb.gov.hk/eng/public_consultation/Custody_Consultation.htm)

concept of the Model. Having also examined the latest developments in other common law jurisdictions (including Australia, England and Wales, New Zealand and Scotland) and found that none of the studies questioned the fundamental merits of their law reforms to implement the Model, it is considered that the concept of parental responsibility should be pursued in Hong Kong and the recommendations put forward in the Report should be implemented through legislative or administrative means as appropriate.

### ***Implementation of the Report***

7. Not all of the recommendations of the Report will be implemented through new legislation. For example, most of LRC's recommendations relating to domestic violence (Recommendations 33-35) have been addressed in the context of the Domestic Violence (Amendment) Ordinance 2008 and 2009. In the case of LRC's recommendation to reduce the minimum age of marriage without parental consent from 21 to 18 years (Recommendation 69), it will be dealt with separately, outside the context of the proposed legislation to cover child custody and access. As to LRC's 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), it is noted that the Judiciary's Practice Direction "Guidance on Separate Representation for Children in Matrimonial and Family Proceedings" has covered such a list. Further, the Practice Direction may be codified into the law when the Judiciary implements the recommendations of the Final Report issued by the Chief Justice's Working Party on Family Procedure Rules. This notwithstanding, the bulk of LRC's recommendations of the Report could be given effect through new legislation.

8. LWB has, in consultation with the Department of Justice, Home Affairs Bureau, Social Welfare Department ('SWD'), Judiciary and other relevant bureaux/departments, prepared the draft Children Proceedings (Parental Responsibility) Bill<sup>3</sup> ('the draft Bill') (at **Annex**) to implement the Report's recommendations by legislative means as appropriate, including, *inter alia* –

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<sup>3</sup> The draft Bill is a consultative bill. It is included to assist in explaining the proposals in this consultation paper. It is not the final version for the legislative process if legislation is introduced for giving effect to the proposals.

- (a) replacing the concept of “guardianship” with the concept of “parental responsibility” to redefine the parent-child relationship in law;
- (b) introducing various statutory lists covering (i) parental responsibility (encompassing both responsibilities and rights) and (ii) major decisions concerning the child’s upbringing that would require express consent of or notification to the other parent;
- (c) introducing a range of new court orders to replace the existing custody and access orders; and
- (d) consolidating the existing substantive provisions dealing with disputes relating to children, arrangements on divorce, guardianship, disputes with third parties, or disputes between parents without accompanying divorce proceedings, as well as the new legislative provisions resulting from the recommendations of the Report, into one consolidated Ordinance<sup>4</sup>.

Some details of the draft Bill are set out in paragraphs 12 to 47 below.

9. It is noted that some members of the public have expressed concerns about the support services for implementing the Model. Particular concern is placed on whether there would be additional support services for divorced families to tie in with the proposed legislative reform and whether our community is ready for such a paradigm shift in parenting concept given that Hong Kong is a Chinese society and has a different culture from that of other western common law jurisdictions. Noting the public concerns on the promotion of the concept of parental responsibility and the need to strengthen support for separated/divorced families, a number of support measures have been and will be implemented by the Government in partnership with non-governmental organisations and other interested parties to address these concerns. For details, please refer to paragraphs 48 to 50 below.

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<sup>4</sup> The Report, para. 13.69-13.74 and Recommendation 71.

## *Your Views*

10. The Government wishes to know your views on the draft Bill and the support measures as set out in this consultation paper. Please send us your views through the following channels on or before 25 March 2016:

Email address: [parentalresponsibility\\_consult@lwb.gov.hk](mailto:parentalresponsibility_consult@lwb.gov.hk)

Fax number: 2524 7635

Address: Team 1, Labour and Welfare Bureau  
11/F, West Wing,  
Central Government Offices,  
2 Tim Mei Avenue, Tamar, Hong Kong

Website: [www.lwb.gov.hk/parentalresponsibility\\_consult](http://www.lwb.gov.hk/parentalresponsibility_consult)

11. It is voluntary for any member of the public to supply his or her personal data upon providing views on this consultation exercise. The submissions and any personal data collected may be transferred to the relevant Government bureaux/departments for purposes directly related to this consultation exercise. The Government bureaux/departments receiving the data may only use the data for such purposes. Your views and suggestions may be made public. If you prefer to remain anonymous, please indicate so.

## **CHAPTER 1 : THE PROPOSED LEGISLATION – CHILDREN PROCEEDINGS (PARENTAL RESPONSIBILITY) BILL – to Implement the Recommendations of the Law Reform Commission Report on Child Custody and Access**

### **INTRODUCTION**

12. The proposed legislation (at **Annex**) seeks to repeal the existing GMO and re-enact its provisions in a new Ordinance, whereby such provisions and the proposed provisions resulting from the recommendations of the Report would be consolidated and incorporated therein in accordance with Recommendation 71 of the Report. It is proposed that the new Ordinance should adopt the title of “Children Proceedings (Parental Responsibility) Ordinance”. This approach allows for greater flexibility in the language and structure of the provisions and thus a more user-friendly legislation.

### **IMPLICATIONS OF THE PROPOSED LEGISLATION**

13. Upon implementing the LRC’s recommendations, the proposed legislation will bring along some implications for divorced families, including, *inter alia* –

- (a) both parents retain the parental responsibility they had during the marriage under the Model. The newly introduced range of court orders simply regulate the exercise of particular aspects of parental responsibility, whilst leaving parental responsibility itself intact (the “child arrangements order” allows the court to address issues concerning the person or persons with whom the child is to live, spend time or otherwise have contact, the “prohibited steps order” allows the court to prohibit the exercise of certain aspects of parental responsibility, for example to prohibit a parent from relocating from the jurisdiction with the child, and the “specific issue order” allows the court to determine a specific question, for example which school the child is to attend). Thus, the parent who does not live with the child still has the right (i) to be involved in major decisions affecting the child’s well-being and future (see sub-paragraph (c) below) and (ii) to act independently in relation to the day-to-day care of the child in the best interests of the child while contact is being exercised;

- (b) the removal of the limitation on the rights of third parties (such as grandparents) to apply for court orders in relation to the child where an interested third party would not require leave of the court to apply for any of the new orders if the child had been living with the third party for a total of one year out of the previous three years provided that this period had not ended more than three months before the application was made;
- (c) while a parent exercising parental responsibility can act independently in relation to the day-to-day care in the best interests of the child, he or she has to seek the consent of or notify the other parent (depending on which class of decisions it falls within) if a major decision affecting the child is to be made; and
- (d) parents, whose children are committed to the care of the Director of Social Welfare ('DSW') under care orders, will be entitled to apply to have orders made to secure reasonable contact with their children.

### **SALIENT PROVISIONS OF THE PROPOSED LEGISLATION**

14. The draft Bill consists of eight parts to reform and consolidate the law relating to children in certain children proceedings and to make related and consequential amendments. Some salient provisions are set out as follows –

#### **Part 1: Preliminary**

15. Part 1 is an introductory part that sets out the short title of the new Ordinance, its commencement arrangement, and the interpretation and definition of various terms and expressions used in the Ordinance.

16. In England, a child is defined under section 105(1) of the Children Act 1989 as a person below the age of 18 years. In Hong Kong, according to section 3 of the Interpretation and General Clauses Ordinance (Cap. 1), the term "infant" or "minor" is defined as a person who has not attained the age of 18 years. With reference to the said definitions, a "child" is proposed to be a person under the age of 18 years under the Bill.

17. It is proposed that parental responsibility for the child would cease when he or she reaches the age of 18 years<sup>5</sup>.

## **Part 2: General Principles**

### *Statutory list in determining a child's best interests*

18. To make clear that the best interests principle would guide the children proceedings, a statutory checklist of factors in Part 2 is proposed to assist the court in determining what is in the best interests of the child in those proceedings. These factors include, *inter alia*<sup>6</sup> –

- (a) the views of the child;
- (b) the child's physical, emotional and educational needs;
- (c) the nature of the relationship of the child with each of the child's parents and with other persons;
- (d) the child's age, maturity, sex, social and cultural background, as well as any other relevant characteristics;
- (e) any harm or family violence that the child has suffered or is at risk of suffering; and
- (f) the practical difficulty and expense of a child maintaining contact with a parent.

### *Parental responsibility for children*<sup>7</sup>

19. One of the key recommendations of the Report is to replace the concept of “guardianship” under the existing law with “parental responsibility”.

20. The concept of parental responsibility under the Bill is proposed to encompass all parental duties and rights/powers towards the child. A person who has “parental responsibility” is someone with all the responsibilities and rights for the child. The function of “parental right” is to facilitate the parents to fulfill their “parental responsibility”. To

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<sup>5</sup> The Report, para. 9.63-9.65 and Recommendation 6.

<sup>6</sup> The checklist is proposed in response to Recommendation 3 of the Report. For details, please refer to the Report, para. 9.23-9.49 and Recommendation 3.

<sup>7</sup> Ditto, para. 9.56-9.62 and Recommendation 5.

better illustrate the concept of “parental responsibility”, the responsibilities and rights of a parent is proposed to be:

*Responsibilities*

- (a) safeguarding the child’s best interests;
- (b) providing direction and guidance to the child in a manner appropriate to the child’s development;
- (c) maintaining personal relations and direct contact with the child on a regular basis; and
- (d) acting as the child’s legal representative.

*Rights*

- (a) living with the child or otherwise regulating the child’s residence;
- (b) controlling, directing or guiding the child’s upbringing in a manner appropriate to the child’s stage of development;
- (c) maintaining personal relations and direct contact with the child on a regular basis; and
- (d) acting as the child’s legal representative.

*Acquisition of parental responsibility by an unmarried father*

21. Under the current law, an unmarried father must apply for a court order to acquire parental responsibility for his child. This is the case even if he has already taken the positive step of signing the birth register to identify himself as the father of a child<sup>8</sup>. In order to facilitate an unmarried father to acquire parental responsibility, it is proposed that, as recommended by LRC in the Report<sup>9</sup>, one of the means by which an unmarried father can acquire parental responsibility is by signing the birth register.

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<sup>8</sup> Ditto, para. 9.75 and sections 3(1)(c)(ii) and 3(1)(d) of GMO.

<sup>9</sup> Ditto, para. 9.74-9.80 and Recommendation 10.

### *Consent or notification required for certain acts relating to children*

22. The crux of the Model is that the child's best interests should always be safeguarded as the first priority. To achieve this and to reduce the number of disputes between parents after separation or divorce, LRC is of the view that any major decisions in respect of the child should be made jointly by the parents, while the day-to-day decisions do not need notification to, or consent of, the other parent<sup>10</sup>.

23. Accordingly, it is proposed that a parent should obtain the consent in writing of every other person who has parental responsibility for the child or obtain the leave of the court before doing certain acts. In addition, it is proposed that a parent should notify every other person who has parental responsibility for the child in writing within a reasonable time before making major decisions in relation to the child. "Major decision" is proposed to be defined as "a decision of long term consequence for the child's health, development and general welfare"<sup>11</sup>.

### **Part 3: Appointment and Powers of Guardians Taking Effect on or after the Death of Parent or Guardian**

#### *Concept of parental responsibility*

24. It is proposed that the concept of "guardianship" should be interpreted as a third party's responsibilities for a child after the death of a parent only; other than that, the concept of parental responsibility would replace that of guardianship<sup>12</sup>. This is to tally with the legislative purpose to emphasise parental responsibility for children and to encourage the greater involvement of both parents in the lives of their children even after divorce.

25. When re-enacting the relevant provisions of GMO in Part 3 regarding the appointment, application for, removal and powers of guardians, account has been taken of the reinterpreted concept of "guardianship".

#### *Abolition of the common law right of the father to be natural guardian*

26. At common law, a father is the natural guardian of his legitimate

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<sup>10</sup> Ditto, para. 9.92.

<sup>11</sup> Ditto, para. 9.94-9.97 and Recommendation 13.

<sup>12</sup> Ditto, para. 9.50-9.52 and Recommendation 4.

child. Even though the mother has the same rights and authority as the law allows to a father by virtue of section 3(1)(b) of GMO, the common law right of the father has never been abolished in Hong Kong. This is inappropriate in the light of gender equality, and is also inconsistent with overseas legal developments. In England, section 2(4) of the Children Act 1989 provided that the “*rule of law that a father is the natural guardian of his legitimate child is abolished*”.

27. In the light of the above, it is proposed that the common law right of the father to be the natural guardian of his legitimate child should be abolished and that section 3(1)(b) of GMO will not be re-enacted in the proposed legislation<sup>13</sup>.

#### **Part 4: Orders with respect to Children in Children Proceedings**

28. In Part 4, it is proposed that a range of new court orders should be introduced to replace the existing orders for child custody and access. The new range of orders would be available in any “children proceedings” (which are defined in Part 1 of the draft Bill) where a question arises as to the welfare of a child. Accordingly the new orders can be made not only in divorce proceedings but also in other proceedings such as wardship or guardianship.

##### *Introduction of new court orders*

29. In order to emphasise the concept of parental responsibility for the child, the existing legal terminologies of “custody” and “access” should no longer be used. In the light of recent overseas developments in the Model, it is proposed that an all-in-one term “child arrangements order” should be used to encompass and regulate arrangements (including timing) relating to the person with whom a child is to live, spend time or otherwise have contact, instead of adopting the terms “residence order” and “contact order” as set out in the Report<sup>14</sup>.

30. In addition, it is proposed that “prohibited steps order” and “specific issues order” should be introduced to address the disagreements between parents on issues relating to their children<sup>15</sup>.

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<sup>13</sup> Ditto, para. 9.66-9.68 and Recommendation 7.

<sup>14</sup> Ditto, para. 10.14-10.16 and Recommendation 21, and para. 10.20-10.25 and Recommendation 24.

<sup>15</sup> Ditto, para.10.26-10.30 and Recommendation 25, and para. 10.31-10.34 and Recommendation 26.

31. The intention of the above proposed measures is to move away from terminologies that would imply a winner or a loser in disputes concerning a child and focus on the practical arrangements for meeting parental responsibility with a view to minimising disputes.

32. It is proposed that the option of “no order” could be made available for those cases where both parties consent to no order being made by the court and the court considers that making no order would be in the best interests of the child<sup>16</sup>.

#### *Right of third parties to apply for court orders*

33. Under the existing section 10(1) of GMO, only either parent of a child or DSW may apply to court for orders of custody or access to the child. This causes problems for third parties such as grandparents or other carers who want to apply to the court for such orders. Such orders may be necessary to protect the child’s best interests, for example, where a single parent leaves his or her child to be brought up by the grandparents and subsequently demands the child back. LRC therefore proposed removal of the limitation set out in section 10(1) of GMO on the right of third parties to apply to the court for orders concerning children<sup>17</sup>.

34. Sharing LRC’s views, it is proposed that the limitation as set out in section 10(1) of GMO should be removed and that a new provision along the lines of section 10 of the English Children Act 1989 should be added to provide that third parties can apply for child arrangements orders without the court’s leave in cases, among others, where the child has lived with the applicant for a total of one year out of the previous three years (the one-year period needs not be a continuous period, but must not have ended more than three months before the application).

### **Part 5: Care Order and Supervision Order**

#### *Power to make care orders and supervision orders*

35. Under the GMO and MCO, the court may commit a child to DSW’s care if there are exceptional circumstances making it impracticable or undesirable to entrust the child to his or her parents or any other individual. The court may also order the child to be placed

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<sup>16</sup> Ditto, para. 10.50-10.58 and Recommendation 30.

<sup>17</sup> Ditto, para. 10.37-10.41 and Recommendation 28.

under DSW's supervision in exceptional circumstances where it is desirable that the child should be under the supervision of an independent person.

36. We share LRC's view that the powers of DSW in relation to care and supervision orders in matrimonial legislation should be retained. Furthermore, DSW's powers under matrimonial legislation and the Protection of Children and Juveniles Ordinance (Cap. 213) ('PCJO') should be rationalised<sup>18</sup>. Hence it is proposed that the Bill should make provisions for the court's powers in Part 5 to grant an order –

- (a) placing a child under DSW's supervision (**supervision order**);  
or
- (b) committing such a child to the care of DSW (**care order**);

so as to align the grounds on which DSW would be entitled to apply for a care or supervision order in children proceedings with the grounds on which DSW would be entitled to apply for a care or protection order under PCJO.

#### *Contact in respect of a child in care*

37. Under the existing law, there does not appear to be any clear provision allowing a child who is the subject of a care order to have access to his or her parents (apart from the court's more general power under section 10 of GMO to make an access order on an application of the parents or DSW). Even though DSW may informally grant access to a child under DSW's care, there is no clear legal basis for the parents or guardians to have contact with the child in care.

38. In view of the above, it is proposed that the Bill should include express provisions allowing parents, guardians or any person named in the child arrangements order as a person with whom the child was to live, to apply to have orders made to secure reasonable contact between them and children in care<sup>19</sup>. DSW should allow children in care to have reasonable contact with those groups of people without an application to court unless DSW is satisfied that it is necessary to refuse contact in order to safeguard and promote the welfare of the child.

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<sup>18</sup> Ditto, para. 13.11-13.14 and Recommendation 55.

<sup>19</sup> Ditto, para. 13.47-13.48 and Recommendation 67.

## **Part 6: Views of Child and Separate Representation for Child**

### *Child not required to express views*

39. LRC recommends that a child should not be required to express his or her views as to do so would place the child under pressure by one or both parents to take side in a dispute concerning the child's best interests<sup>20</sup>. It is now proposed that this recommendation should be implemented through the Bill.

### *How views of child are expressed*

40. If a child indicates directly or indirectly his or her desire to express views, LRC recommends that a child should be given the facility to express such views. It is then up to the court to determine the weight to be given to such views<sup>21</sup>.

41. It is proposed that the mechanism for ascertaining and expressing the child's views to the court, if the child wishes to do so, should be provided in the Bill.

### *Court order for independent representation for child's interests*

42. At present, the court has a discretion under rule 108 of the Matrimonial Causes Rules (Cap. 179A) to order that a child be separately represented in any "matrimonial proceedings", which is defined as "any proceedings with respect to which rules may be made under section 54(1) of the Matrimonial Causes Ordinance or section 32 of the Matrimonial Proceedings and Property Ordinance (Cap 192)". However, section 54(1) of MCO provides for rules to be made "for the better carrying out of the purposes and provisions of this Ordinance [i.e. MCO]". There may be doubt as to whether "matrimonial proceedings" referred to in rule 108 include custody proceedings, as the court's powers to award custody and access orders are generally found within the provisions of other matrimonial Ordinances.

43. For removal of doubt, it is proposed that the Bill should make it clear that a court may make an order for the independent representation of a child's interests by a solicitor, or by a solicitor and counsel in any dispute relating to parental responsibility for, or guardianship of, a

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<sup>20</sup> Ditto, para. 12.22-12.24 and Recommendation 45.

<sup>21</sup> Ditto, para. 12.17 and 12.21, and Recommendation 44.

child<sup>22</sup>, with the following persons being entitled to apply for such court order –

- (a) the child;
- (b) a parent or guardian of the child;
- (c) a person who is named as the person with whom the child is to live in a child arrangements order which is in force; and
- (d) persons who are entitled to apply for a child arrangements order in respect of the child as provided in the proposed legislation.

### **Part 7: Procedure, Jurisdiction and Subsidiary Legislation**

44. It is proposed that the relevant provisions dealing with the court's jurisdiction, as well as the statutory basis for making various regulations and rules for the better carrying out of the purposes and provisions of the new Ordinance should be included in the Bill.

45. For instance, it is proposed that Part 4 of the District Court Ordinance (Cap. 336) should apply to every proceeding before, and every order by, the District Court under the new Ordinance, and the proceedings may be transferred to the Court of First Instance upon application by any party to the proceedings. The Bill should provide for the regulation-making power of the Secretary for Labour and Welfare as well as the rule-making power of the Chief Justice.

### **Part 8: Repeal, Transitional and Savings Provisions and Consequential or Related Amendments**

46. It is proposed that the Bill should specify the provisions that repeal GMO, and deal with the consequential or related amendments to other relevant Ordinances and Subsidiary Legislations<sup>23</sup>.

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<sup>22</sup> Ditto, Recommendation 48.

<sup>23</sup> We propose to make consequential and related amendments to some Ordinances and Subsidiary Legislation, including, among others:

- (a) Separation and Maintenance Orders Ordinance (Cap. 16);
- (b) Births and Deaths Registration Ordinance (Cap. 174);
- (c) Matrimonial Causes Ordinances (Cap. 179);
- (d) Matrimonial Causes Rules (Cap. 179, sub. leg. A);
- (e) Marriage Ordinance (Cap. 181);
- (f) Matrimonial Proceedings and Property Ordinance (Cap. 192);
- (g) Protection of Children and Juveniles Ordinance (Cap. 213); and

47. The Bill should also specify the transitional and savings provisions, including, *inter alia*, any proceedings under GMO that are pending immediately before the commencement date of the new Ordinance will not be affected by the new Ordinance, and any guardian appointed under GMO will have the same responsibilities and rights as a guardian appointed under the new Ordinance.

## **CHAPTER 2 : SUPPORT MEASURES TO IMPLEMENT THE RECOMMENDATIONS OF THE REPORT**

48. The successful implementation of the Model and application of the best interests principle require a significant change in the mindset of parents and the community at large. To promote the concept of continuing parental responsibility towards children even after divorce, SWD has been undertaking publicity measures and public education work relating to the Model. These include launching a territory-wide campaign entitled “Marriage may end but parenthood goes on” (夫妻緣不再 親子情永在), production of a set of DVD cum two sets of information sheets for social workers and parents, and distribution of the above materials to the Government departments and other organisations concerned (such as the Family Mediation Coordinator’s Office and The Law Society of Hong Kong, etc.).

49. SWD has produced a set of handbooks to provide more detailed information and guidance for separated/divorced parents and their children on co-parenting issues for distribution by phases from September 2015 onwards, and will roll out a website by end-November 2015 to promote the concept of parental responsibility. It will also produce a set of television and radio Announcements in the Public Interest as well as a poster for release by end-2015. Besides, it has developed and is trial-running a short psycho-educational programme to instil the concept of continuing parental responsibility in separated/divorced parents. SWD will provide “dedicated help service” to handle enquiries and requests for assistance from parents and the public during the initial one to two years after the Bill has come into effect.

50. In response to the suggestion made by the legal profession and some welfare non-governmental organisations, SWD will launch a two-year pilot project on children contact service in the first half of 2016-17 to facilitate the arrangement of children contact with separated/divorced parents and to strengthen support for separated/divorced families so that children need not be torn between parents, irrespective of whether there are court orders on the divorce cases.

### **CHAPTER 3 : PUBLIC PARTICIPATION**

51. During the public consultation period up to 25 March 2016, stakeholders and other interested persons or groups are welcome to send us their views on the draft Bill and the relevant support measures to implement the recommendations put forward by LRC in the Report (please refer to paragraph 10 above). Details of public consultation activities will be announced at [www.lwb.gov.hk/parentalresponsibility\\_consult](http://www.lwb.gov.hk/parentalresponsibility_consult). The Government earnestly invites public participation in the consultation exercise, and will revise the draft Bill in the light of the comments received during the consultation period, as appropriate, for subsequent introduction into the Legislative Council at a suitable time.

**Labour and Welfare Bureau**  
**November 2015**