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BY FAX

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(Attn : Mr. G.F. Woodhead
Principal Assistant Secretary)

Dear Mr. Woodhead,

Land Registration (Amendment) Bill 2000

I am scrutinizing the above Bill with a view to advising Members on the legal and drafting aspects. I shall be grateful if you would clarify the following :

Sections 53 to 56 of the Schedule New Territories Ordinance

What is the policy intent for repealing section 10 of the New Territories Ordinance (Cap. 97) and the New Territories (Land Registries Approval) Order (Cap. 97 sub. leg.) proposed in sections 53 and 56 of the Schedule? Would those places previously approved by order of the Chief Executive in Council cease to be New Territories Land Registries?

Sections 58 to 74 of the Schedule Land Registration Regulations

Section 58 (Regulation 2)
Section 73 (First Schedule)

By repealing the definitions of "Land Registry" and "New Territories Land Registry" and the list of New Territories Land Registries in the First Schedule of the Ordinance, the Administration will rely on section 2 of the Land Registration Ordinance (Cap. 128) ("the Ordinance") to establish what the Land Registry is. How does the Administration intend to give effect to the policy stated in paragraph 4 of the LegCo Brief that the New Territories Land Registries would be retained to provide cross-district search services and owners' incorporation services?

Section 60 (Regulation 6)

According to paragraph 7(b)(ii) of the LegCo Brief, each of the nine Land Registries has its own set of memorial numbers. The addition of the district code identifiers is to solve the problem of duplication of such memorial numbers. The proposed Regulation 6(1)(fa) and (2)(fa) requires a memorial to contain the district code identifier for the land and premises to which the instrument relates if the memorial were delivered into the Land Registry before or immediately before (as the case may be) the commencement of these two subparagraphs.

Please clarify who would be responsible for adding the district code identifiers to the memorials and how it is done. If the policy applies to the memorials delivered before the commencement of the two subparagraphs, how does it take effect when the two subparagraphs have not come into operation? Please also confirm that there is no need to add the district code identifiers to the memorials after the two subparagraphs commence.

Section 62 (Regulation 8)

Please confirm that the proposed colour imaging method of plans falls within the definition of "imaging" or "imaging method" in section 1 of the Ordinance.

Section 63 (Regulation 9)

According to paragraph 10(c) of the Brief, it is intended that the Land Registry would issue a Circular Memorandum from time to time specifying when certified copies are acceptable for registration and the necessary certification manner. The words "the Land Registrar so permits in writing" would extend the power of the Land Registrar to permit a certain certified copy of instrument in a particular case. Is this intended?

Section 65 (Regulation 12)

According to paragraph 7(c) of the Brief, the Memorial Day Book would be kept in and accessed via the computer terminals after the commencement of the amendment. If the particulars will no longer be entered in a book, should the reference to "a book" be repealed? Does the term "Memorial Day Book" in Regulation 12(2) only refer to the Day Book in the form of a book and does not include the Day Book kept in the computer?

Section 66 (Regulation 14)

Section 68 (Regulation 17)

Section 66 proposes to repeal the words "or on a register card". This means that the Land Registrar would no longer enter particulars on a register card. Would the Administration consider whether the reference to "register card" in Regulation 11 should be repealed as well?

References to the gum label in Regulation 14(2) are proposed to be repealed. Please confirm whether it is necessary to amend the references to gum label in Regulations 16 and 18 too.

Regulation 14(3) would be amended and Regulation 17 repealed such that an instrument which has completed registration would be sent by post or courier to the person by whom it was delivered. Please explain the reason for not continuing the practice of giving notice for collection, and whether there is any precaution to avoid such instrument from being lost in the mail.

Section 67 (Regulation 15)

Please explain the time frame expressed in the proposed new Regulation 15(6), i.e. "where under paragraph (1) or under paragraphs (1) and (4)(b) as in force at any time (including at any time before the commencement of this paragraph)".

Please explain the reason for sending the prescribed notice only if practicable in Regulation 15(6). Under what circumstances would it not be practicable? Who would be the persons referred to in Regulation 15(7)?

Section 69 (Regulation 18)

Under paragraph 10(f) of the Brief, the Administration proposes to send the New Territories register cards to the Public Records Office for preservation and research purposes. Does the Land Registrar exercise this power under Regulation 19? In view of the concern raised by Heung Yee Kuk, would the Administration consider amending Regulation 19 by repealing the word "destroy or otherwise"?

Section 70 (Regulation 18A)

Regulation 18A(3) enables the Land Registrar to destroy or otherwise dispose of the copy of a coloured plan after an imaged record has been made. Does this apply to the 16mm microfilm of a plan?

Section 72 (Regulation 21)

Should the word "either -" appearing immediately before subparagraph (a)(i)(A) be repealed?

Sections 7 to 46 of the Schedule Antiquities and Monuments Ordinance and its subsidiary legislation

Sections 10 to 44

These sections propose to amend the Declarations or Notices previously made for declaration of monuments or historical buildings. Please clarify whether

the maps mentioned in these Declarations and Notices would be transferred to and deposited in the Land Registry.

Sections 45 and 46

Would the Administration consider taking this opportunity to amend the references to "Victoria" in paragraphs 2 and 3 of the Antiquities and Monuments (Declaration of Monuments and Historical Buildings)(Consolidation) Notice (Cap. 53 sub. leg.) to achieve consistency with the recent notices issued (see paragraph 3(ak))?

Does the Administration intend to move a Committee Stage Amendment in order to amend the Antiquities and Monuments (Declaration of Historical Buildings)(No. 2) Notice 2000, published in the Gazette on 29 December 2000 as L.N. 368 of 2000?

Sections 47 to 52 of the Schedule Port Control (Public Cargo Working Area) Orders

These sections propose to amend the Orders previously made for the declaration of public cargo working areas. Please clarify whether the maps mentioned in these Orders would be transferred to and deposited in the Land Registry.

Section 57 of the Schedule Waterworks Ordinance

Section 57 proposes to amend section 23 of the Waterworks Ordinance (Cap. 102) to require a map of a gathering ground to be deposited in the Land Registry. Do the maps previously deposited in the appropriate New Territories Land Registry continue to be so deposited? Would the Administration explain the reason for not amending the notices published under section 23(6)?

Sections 78 to 81 of the Schedule Public Health and Municipal Services Ordinance

These sections propose to amend various provisions in the Public Health and Municipal Services Ordinance (Cap. 132) such that the plans of a stadium, civic centre, public pleasure ground and cemetery would be deposited in the Land Registry. Do the plans previously deposited in the appropriate Land Registry continue to be so deposited?

Sections 87 and 88 of the Schedule Country Parks Ordinance
Section 89 of the Schedule Hong Kong Industrial Estates Corporation Ordinance

These sections propose to amend the two above-mentioned Ordinances such that every map approved by the Chief Executive in Council in relation to country parks and every plan of an industrial estate would be deposited in the Land Registry.

Do the maps and plans previously deposited in the appropriate Land Registry continue to be so deposited?

Sections 90, 92, 93, 95, 96, 97, 100 and 103 of the Schedule

What is the legal effect of amending the definition of "Land Registry" or the definitions of related terms? How does it affect the operation of these Ordinances?

***Section 91 of the Schedule Hong Kong Airport (Control of Obstructions)
Exemption Order***

Section 91 proposes to amend the Exemption Order previously made in relation to exemption from height restriction. Please clarify whether the plans mentioned in this Order would be transferred to and deposited in the Land Registry.

Section 94 of the Schedule Kowloon-Canton Railway Corporation Ordinance

Please confirm that the Conditions of Sale referred to in paragraph 23 of the Second Schedule to the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) remains to be known as New Grant No. 11326.

***Section 104 of the Schedule Mass Transit Railway (Transport Interchange)
(Deposit of Plans) Notice***

Section 104 proposes to amend the above Notice. Please clarify whether the plans mentioned in section 1(1) of the Notice would be transferred to and deposited in the Land Registry.

Yours sincerely,

(Bernice Wong)
Assistant Legal Adviser

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D of J (Attn. : Mr. G. Fox, SALD)
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