

For information

LEGISLATIVE COUNCIL PANEL ON PLANNING, LANDS AND WORKS

Land Registration Ordinance (Cap.128) LAND REGISTRATION (AMENDMENT) BILL 2000

PURPOSE

This paper informs Members of the Administration's proposed amendments to the Land Registration Ordinance (Cap. 128) and the Land Registration Regulations.

2. As part of the Land Registry's effort to increase its efficiency and to improve its services to its customers, the Land Registry proposed a Strategic Change Plan (SCP) in March 1998. The strategy recommended in the SCP requires substantial changes to the Land Registry's organization, business procedures and IT system. Legislative amendments are necessary to provide for a Central Registration System (CRS) which is a key component of the SCP and for a new service of colour imaging of plans. After an overall review of the Land Registration Ordinance and its Regulations, we also propose some amendments to improve the existing procedures for land registration.

I. Central Registration System

3. The Land Registry was established under the Land Registration Ordinance to provide land registration services in Hong Kong. At present, the

Registry maintains registration offices in nine districts: namely, Urban, Islands, Tsuen Wan, Tuen Mun, Yuen Long, North, Tai Po, Shatin and Sai Kung. Each registration office is independent and self-contained. Each maintains a separate set of records for its own registration district and provides services for registration and search of land records and processing of applications for the incorporation of owners under the Building Management Ordinance (Cap. 344). Conveyancing solicitors are required to deliver documents to the respective registration offices for registration. As nearly 98% of all law firms doing conveyancing work are located in the urban area, this arrangement is inconvenient, time-consuming and unnecessarily expensive for these law firms.

4. Under the proposed CRS, all documents for registration should be lodged at a central registration office in the urban area at the Queensway Government Offices. There would be one set of consolidated registration records to determine the priority of each registered instrument. To satisfy local customers' needs, the New Territories offices would be retained to provide cross-district search services and owners incorporation services. Registration service would no longer be available in the New Territories offices.

5. A Consultation Paper on the proposed CRS was issued to customer representatives and interested parties in 1998. The proposal was supported by the consulted parties. The Planning, Lands and Works Panel of the Legislative Council was also briefed on 12 November 1998 about the proposal.

6. In May 1999, the Land Registry commissioned a firm of consultants to recommend an Information Systems Strategy to support the IT aspects of the CRS. The recommended core strategy is to develop an Integrated Registration Information System (IRIS) to replace the existing fragmented computer systems. The new integrated computer system would be developed in two phases. The Land Registry proposes to implement the CRS after the development of Phase I of the IRIS. Phase II of IRIS would only begin after the passage of the Land Titles Bill to change the land registration system to a land titles system.

7. We **propose** the following changes to the registration process and procedures to facilitate the implementation of centralized registration-

(a) Property Reference Number

A unique identification number will be allocated to each land register as an identifier key to facilitate speedy retrieval of data from the land register.

(b) Memorial

Registration of an instrument in the Land Registry is effected by the delivery of the instrument together with the memorial to the Land Registry. The memorial, which contains the essential information on a property transaction, is a form for entering the particulars of the instrument according to the provisions of the Land Registration Ordinance. On the implementation of the CRS -

- (i) all memorial forms will be standardized, bar-coded and printed by the Land Registry

- (ii) new particulars will be entered in the memorial, including –
 - Property Reference Number
 - number of undivided shares in the land
 - district code indentifiers, which are added before memorial numbers to identify districts (This is necessary because currently each of the nine Land Registries has its own set of memorial numbers and there is duplication of such memorial numbers.)
 - Chinese names of parties and Chinese property address (if known).

(c) Memorial Day Book

The particulars of the memorial are currently kept in the Memorial Day Book in hard copy form. To facilitate land searches, the Memorial Day Book will be kept in and accessed via the computer terminals in the Land Registry on the implementation of the CRS.

II. Colour Imaging System

8. At present, the Land Registry records a coloured plan attached to an instrument in black and white image and will colour such plan manually upon the request of the searchers. To improve its services, the Land Registry is now procuring a colour imaging service in which the coloured plan attached to or

endorsed on an instrument will be imaged in colour. In future, coloured plans will be produced directly from the colour images and manual colouring will no longer be necessary. Copies of existing plans kept in the Land Registry will also be imaged in colour.

III. Overall Review of the Land Registration Ordinance and Land Registration Regulations

9. As a result of an overall review of the Land Registration Ordinance and Land Registration Regulations, we have identified a number of amendments to improve registration and search services and to regulate the existing practices.

10. We **propose** the following amendments to the existing procedures-

(a) **Temporary Withdrawal of Instruments**

The Land Registry currently allows withdrawal of instruments by the lodging party for correction of errors if registration is not yet completed or if the instrument is not withheld from registration due to non-compliance of the Land Registration Ordinance. We propose that temporary withdrawal should be formally governed by a new regulation and the same disincentive fee for instruments withheld from registration, i.e. \$200 for each period of 28 days would be charged.

(b) Removal of Entry of Instruments Withheld or Temporarily Withdrawn from Registration

At present, there is no provision under the Land Registration Ordinance and Regulations to remove from the land register a deed withheld from registration due to a mistake or other issue. These deeds, known as “stopped” deeds, are now entered on the “Deeds Pending Registration” portion of the computer land register. There are more than 2000 deeds which are “stopped” for more than one year. This has caused inconvenience to the searchers because copies of these deeds are not available for search as their registration has not been completed. We propose that power be given to the Land Registrar to remove the entries of these “stopped” deeds and the instruments temporarily withdrawn by the lodging parties from the land register after one year from the date of delivery. We further propose that the lodging party be notified of the proposed removal of the entry and be given a period of 28 days for them to make written submissions to the Land Registrar for a decision on the matter.

(c) Certified Copy Instruments

It is a requirement under the Land Registration Ordinance and Regulations that the original instruments (not copies) should be registered. However, the Land Registry will in practice accept copies of documents issued and certified by Government departments and copies of documents certified by solicitors where the original is not recoverable. We propose to amend the Land

Registration Regulations to provide for registration of certain type of copy documents which are certified in a manner satisfactory to the Land Registrar. The Land Registry would issue a Circular Memorandum from time to time notifying the legal practitioner and the interested bodies of the types of documents where certified copies are acceptable for registration and the necessary certification manner.

(d) Identification of Signing Parties in the Instruments

To provide for identification of companies and individuals signing the instruments, we propose that the instrument delivered for registration should contain, where practicable-

(i) in case of an individual, the identity card number or the number of valid travel document; or

(ii) in case of a company, the incorporation number of the company.

(e) Names in the Memorial Day Book

To avoid the setting up a names index by the users of the Memorial Day Book (which is in breach of the Personal Data (Privacy) Ordinance (Cap. 486)), we propose that the names of the parties or other relevant persons should not be entered in the Memorial Day Book. As data obtained from the Memorial Day Book are mostly used for research purpose and the full particulars including names

of the parties will continue to be recorded in the relevant land registers, we believe that this proposal would not have any effect on the customers.

(f) New Territories Register Cards

We propose to send the New Territories register cards, which serve no further purpose after the computerization of the New Territories land registers in 1994, to the Public Records Office for preservation and research purposes.

BENEFITS

11. The proposed amendments in the Land Registration (Amendment) Bill for the introduction of a Central Registration System, the colour imaging system and other new procedures will bring substantial benefits to the Land Registry customers, including -

- (a) simplified registration procedures;
- (b) reduced transaction times;
- (c) a clear customer contact point in the Urban Office;
- (d) easier tracking of the registration process;
- (e) lower operating costs for both law firms and the Land Registry;
and
- (f) better customer service.

TIMETABLE

12. We propose that the amendments should come into effect at different times. The stages are-

- (a) To implement the **CRS**, the Land Registry will develop a new and integrated computer system. Some changes in procedures and forms will be necessary. We envisage that the related amendments for the CRS will come into operation when the new integrated computer system is ready by the end of 2002.
- (b) To implement the **colour imaging system**, the Land Registry is now procuring the colour imaging service. We expect that the colour imaging system will be fully operational upon the implementation of the CRS and that the related amendments for the colour imaging system will come into operation by the end of 2002.
- (c) The amendments proposed as a result of the **overall review** of the Land Registration Ordinance and Land Registration Regulations should come into operation upon the enactment of the Bill.

CONSULTATION

13. A Consultation Paper has been issued to the Law Society, the Heung Yee Kuk and Members of the Public and Private Sectors of the Land Registry Customer Liaison Group. Their comments and the Administration's recommendations are summarized at the **Annex**.

FINANCIAL AND STAFFING IMPLICATION

14. The IRIS will be funded by the retained earnings of the Land Registry Trading Fund. The annual operation costs of the system will be offset by savings through managing an integrated system, in particular savings in staff, accommodation and stationery costs. Professional staff will be redeployed within the Land Registry and clerical grade staff will be redeployed within the civil service. We do not anticipate that fees will need to be increased.

WAY FORWARD

15. We are drafting the Land Registration (Amendment) Bill 2000 and plan to introduce the Bill into the Legislative Council in December 2000.

Planning and Lands Bureau

October 2000

Summary of Views of the Consultees on Land Registration (Amendment) Bill 2000

Issues	Raised By	Administration's Response
<p>1. <u>Property Reference Number</u></p> <p>Other than using the Property Reference Number as an alternative retrieval key of the land register, the current search system that the properties may be searched by address or lot number must be maintained.</p>	<p>The Law Society</p>	<p>The current search system by way of address and lot number will be maintained.</p>
<p>2. <u>Bar-coded Memorial Form</u></p> <p>It will be more time and cost efficient if lawyers are allowed to use their own computer printout memorial form.</p>	<p>The Law Society</p>	<p>Each memorial form has a unique bar code to secure the priority of the instruments lodged. The bar-coded memorial is also an essential means to enhance the security and the imaging quality of the new system.</p>
<p>3. <u>Removal of entry of instruments withheld or temporarily withdrawn from registration</u></p> <p>(i) The Land Registry should consider to provide copies of the withheld or stopped deeds to interested parties.</p>	<p>(i) The Law Society</p>	<p>(i) As the registration of stopped deeds or deeds pending registration have not yet been completed, the stopped deeds are not public documents and the Land Registry does not have the statutory authority to make copies of the instruments or to provide copies of the instruments to the interested parties.</p>

Summary of Views of the Consultees on Land Registration (Amendment) Bill 2000

Issues	Raised By	Administration's Response
<p>3.</p> <p>(ii) The Law Society suggested that the proposed period for the stopped deed to be pending for at least one year before the Land Registrar may remove the entry to be shortened. Heung Yee Kuk suggested the period to be reduced to 6 months and that this period may be extended on application with reasons satisfactory to the Land Registrar.</p> <p>(iii) The Land Registrar should have the power to vacate an entry if the deed is maliciously or mistakenly registered.</p> <p>(iv) The Land Registrar should provide notice to the owners and interested parties of the intended removal of the stopped deed before the Land Registrar exercises his power to remove the stopped deed.</p>	<p>(ii) (a) The Law Society</p> <p>(b) Heung Yee Kuk</p> <p>(iii) The Law Society</p> <p>(iv) The representative of the Hong Kong Society of Accountants and the representative of the Hong Kong Institute of Surveyor of the Private Sector of the Land Registry Customer Liaison Group</p>	<p>(ii) The lodging solicitors may not have sufficient time to deal with the outstanding issues or arrange for the rectification of mistakes by the parties within the shorter period or six months. One year is a reasonable period so that the lodging solicitors will have sufficient time to deal with the outstanding issues stated in the stopped deed note.</p> <p>(iii) The Land Registry is only a registration authority. Its staff do not have the judicial capacity to adjudicate on whether a deed is maliciously registered. If a deed is maliciously registered, the owner may apply to the Court for a Court Order to vacate the entry.</p> <p>(iv) The Land Registry will provide notice of the removal of the deed to the lodging party (mainly solicitors) at their updated address. Further, the lodging party is the only party that the Land Registry deals with in the registration of deeds. The lodging solicitors owe a duty to their clients and should notify their clients who are the interested parties of the removal. The Land Registry considers sufficient notice has been given if notice is provided to the lodging solicitors.</p>

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Issues	Raised By	Administration's Response
<p>4. <u>Registration of Certified Copy Instruments</u></p> <p>(i) The Amendment Bill should contain provisions providing clearly what kind of certified documents are registrable and what manner of certification are satisfactory to the Land Registrar.</p> <p>(ii) The owner of the property should be informed before registration of copy instruments against their property to prevent registration of fraudulent copy instruments.</p>	<p>(i) (a) The Law Society (b) Heung Yee Kuk (c) The representative of the Hong Kong Institute of Surveyors of the Private Sector of the Land Registry Customer Liaison Group</p> <p>(ii) Heung Yee Kuk</p>	<p>(i) The Land Registry will issue a Land Registry Circular Memorandum from time to time notifying the legal practitioners and the interested bodies of the types of registrable certified copy documents and the manner of certification.</p> <p>(ii) The Land Registry will only accept a limited category of certified copy instruments which have to be certified in a specific manner to its satisfaction. The instruments will have to be certified either by the solicitor or the issuing authority. The certification process should be a sufficient measure to prevent registration of fraudulent copy instruments.</p>

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Issues	Raised By	Administration's Response
<p>5. <u>Identification of signing parties in the instruments</u></p> <p>The new requirement to provide the identification of the parties in the instruments may present difficulties to the parties in certain cases.</p>	<p>The Law Society</p>	<p>The Amendment Bill only provides that the identification number be provided in the instruments where practicable. If there is difficulty, the solicitors may elect not to provide the identification. It is not compulsory.</p>
<p>6. <u>Deletion of names particulars in the Memorial Day Book</u></p> <p>(i) The deletion of names of parties from the Memorial Day Book may hinder the owner in searching the names of new purchaser and instituting speedy court proceedings to protect his title under the proposed title registration system.</p> <p>(ii) The names of parties may provide an idea to the searcher on the nature of the instrument and should not be deleted from the Memorial Day Book</p>	<p>(i) Heung Yee Kuk</p> <p>(ii) The Law Society</p>	<p>(i) The Memorial Day Book is a record mainly for research and statistical purposes showing all the instruments lodged for registration on a particular day. The actual land register will still show the names of the parties.</p> <p>(ii) The Memorial Day Book will still show the nature of the instruments.</p>

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<p>7. <u>New Territories Register Cards</u></p> <p>As there may be errors in the conversion of the register cards to the computerised records, the register cards or their copies should not be destroyed and should be made available for searchers in the New Territories Land Registries.</p>	<p>Heung Yee Kuk</p>	<p>The register cards will not be destroyed and arrangements may be made to search them at the Public Records Office. Further, as all the information in the register cards has been converted and transferred to the computer register, it is unlikely that the public will have to refer to the actual register card. Moreover, the information in the register cards may be retrieved from the registered documents which have been imaged and stored in the Land Registry's computer system.</p>
<p>8. <u>Lodgement of instruments in New Territories Land Registries</u></p> <p>As some of the law firms have offices in the New Territories, it is suggested that the New Territories offices of the Land Registry would also accept lodgement of instruments for registration.</p>	<p>The representative of the Law Society of the Private Sector of Land Registry Customer Liaison Group</p>	<p>As the new Central Registration System will have a single queue receiving counter to guarantee priority for the lodgement of instruments, the Queensway Government Office will be the only office to accept lodgement of instruments. The New Territories law firms may still send documents by post or by courier to the Queensway Government Offices.</p>