

For information

**LEGISLATIVE COUNCIL PANEL
ON PLANNING, LANDS AND WORKS**

**Removal of Stopped Deeds
Proposed Amendments to Land Registration Regulations**

PURPOSE

This paper sets out the present position in the Administration's consideration of the report prepared by the Legal Service Division of the Legislative Council Secretariat (the LegCo Secretariat) on the captioned subject.

LATEST POSITION

2. The Administration notes that the LegCo Secretariat agrees with the Administration on the following two points :-

- (a) removing instruments withheld from registration is part of the manner in which registration of instruments in the Land Registry is carried out or otherwise and should fall within the scope of section 28(1)(a) of the Land Registration Ordinance (the Ordinance); and
- (b) providing the decision of the Land Registrar (LR) to be reviewed by the court may be considered reasonably incidental to the removal of instruments withheld from registration.

3. The Administration has sought further legal advice on the LegCo Secretariat's view that providing for the priority of the instruments if a decision of removal is subsequently overturned by the court does not seem to come within any of the matters listed in section 28(1) of the Ordinance nor is it reasonably incidental to any of those matters.

4. As previously advised, the phrase “subject to this Ordinance” in section 3(1) of the Ordinance may be interpreted to mean that priority issues may be determined by the Regulations. The LegCo Secretariat disputes this interpretation. Having reviewed the matter and in view of the doubts now raised, the Department of Justice agrees that there could be a risk of legal challenge on the vires of the proposed Regulations as far as the question of priority is concerned. The Department agrees that, for the complete avoidance of doubt, the priority issue arising out of the proposed removal of stopped deeds should best not be dealt with in the Regulations.

WAY FORWARD

5. In view of the latest legal advice, the Administration has to consider how best to deal with the removal of stopped deeds proposal. We will revert to the Panel once we have reached a decision on the subject.

Housing, Planning and Lands Bureau
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