

**Bills Committee on Land Titles Bill**

**Summary of the proposed amendments mentioned in the papers  
provided by the Administration from April 2003 to early April 2004  
(Position as at 14 April 2004)**

**Part A: Proposed amendments to specific clauses/items**

**Part B: Miscellaneous proposed amendments**

**Part C: Proposed amendments to provide for the daylight conversion  
mechanism**

**Part A: Proposed amendments to specific clauses/items**

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
Clause 12(1)	To amend the Bill to reflect the policy intent that in the event that a certificate of good title could not be issued for a property, there would be no need to apply for a first registration of the property.	<p>The Administration proposes to amend clause 12(1) as follows -</p> <p>(a) by deleting “Subject to <u>subsection (2)</u>, an” and substituting “An”;</p> <p>(b) in paragraph (a)(i), by adding “except where <u>subsection (2)</u> cannot be complied with” after “day”; and</p> <p>(c) in paragraph (b), by adding “except where <u>subsection (2)</u> cannot be complied with” after “(Cap. 128)”.</p>	<p>Paper on “Response to Drafting Issues and Issues Raised by Assistant Legal Adviser” (LC Paper No. CB(1)2305/02-03(10)) <i>(English version issued on 29 July 2003)</i> <i>(Chinese version issued on 1 August 2003)</i></p>
Clause 12(4)	To replace the word “or” in the definition of “land” by “and”.	<p>The Administration proposes to amend the definition of “land” to read as follows -</p> <p>“land” does not include any part of a lot where -</p> <p>(a) the lot has been subdivided into undivided shares;</p>	<p>Paper on “The Conversion Mechanism — Supplementary Information” (LC Paper No. CB(1)1986/02-03(02)) <i>(English version issued on 17 June 2003)</i> <i>(Chinese version issued on 18 June 2003)</i></p>

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
		<p><i>and</i></p> <p>(b) an undivided share in land has not been allocated to that part.</p>	2003)
Clause 14(2)	To make it clear that the documents and interests stated in the subclause will be binding on the purchaser after registration.	The Administration intends to introduce to clause 14(2) amendments which are similar to those to clause 21(2) as described below with suitable modification.	Paper on "Response to Drafting Issues" (LC Paper No. CB(1)2501/02-03(03)) (Issued on 29 September 2003)
Clause 21	<p>In finalizing the sample Title Register showing transmission of interest upon the successive death of more than one joint owner, to consider how the following concerns of members could be addressed:</p> <p>(a) Under the existing practice, transmission on death of a joint tenant will take effect by operation of law on the date of death of the deceased joint tenant. Under the new land title registration system (LTRS), the Administration</p>	It is the policy intention that transmission on death of a joint tenant will take affect on the date of death of the deceased joint tenant. Clause 21 will be amended.	Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) (English version issued on 31 March 2004) (Chinese version issued on 1 April 2004)

<b>Clause no. /Item no.</b>	<b>Issues of concern</b>	<b>Administration's proposed amendments</b>	<b>Relevant paper</b>
	<p>proposes to revise the condition precedent to transmission on death of a joint tenant in clause 62(2)(b) to the effect that it is necessary to satisfy the Land Registrar (LR) either that the estate duty has been paid or its payment has been fully secured to the satisfaction of the Commissioner of Estate Duty. It is not clear which date (e.g. the date of death of the deceased joint tenant or the date of alteration of title registration) should be regarded as the date on which the ownership is transmitted to the surviving joint tenant(s). The legal status of the ownership between the two dates is also unclear; and</p>		

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	<p>(b) There appears to be an anomaly: If transmission will take effect on the date of death of the deceased joint tenant, it may contradict clause 21 which provides that “a transfer or transmission shall, when registered, vest [the land] in the person becoming the owner of the land”; if transmission will take effect on the date of alteration of title registration, it may be contrary to the Common Law rule that transmission on death of a joint tenant will take effect on the date of death of the deceased joint tenant.</p>		
<p>Clause 21 and related provisions</p>	<p>To improve the structure and drafting of clause 21 and the relevant provisions so that the effect of registration and any exceptions will be clearly set out in simple terms in a</p>	<p>The Administration will consider making appropriate amendments to clause 21 and related provisions so that the effect of registration and any exceptions will be clearly set out</p>	<p>Paper on “Part 6 of the Bill - Instruments (Minors)” (LC Paper No. CB(1)600/03-04(03)) <i>(English version issued on 17 December 2003)</i> <i>(Chinese version</i></p>

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
	single clause.	in simpler terms than presently drafted.	<i>issued on 18 December 2003)</i>
Clause 21(2)	To improve the drafting of clause 21(2) to make it clear that the documents and interests stated in the subclause will be binding on the purchaser after registration.	The Administration will amend clause 21(2) to make it clear that upon registration of a transfer or transmission under clause 21, the various interests stated in clause 21(2) will be binding on the purchaser.	Paper on "Response to Drafting Issues" (LC Paper No. CB(1)2501/02-03(03)) ( <i>Issued on 29 September 2003</i> )
Clause 22(2)	To make it clear that the documents and interests stated in the subclause will be binding on the purchaser after registration.	The Administration intends to introduce to clause 22(2) amendments which are similar to those to clause 21(2) as described above with suitable modification.	Paper on "Response to Drafting Issues" (LC Paper No. CB(1)2501/02-03(03)) ( <i>Issued on 29 September 2003</i> )
Clause 24(4)	Clause 24(4) refers to an order of the Court of First Instance (CFI). On a strict reading of this, an order of any other court, e.g. the Court of Appeal, would not suffice. The Law Society points out that this apparent anomaly appears in a number of other clauses.	This is being considered by the Administration in the context of detailed drafting issues.	Paper on "Response to Submissions to the Bills Committee" (LC Paper No. CB(1)2305/02-03(09)) ( <i>English version issued on 29 July 2003</i> ) ( <i>Chinese version issued on 1 August 2003</i> )
Clause 29(1)	Interpretation problem due to the word "create"	The Administration may make reference to section 41(1) of the New South Wales	Second paper on "Responses to Miscellaneous Issues)"

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		(NSW) Real Property Act 1900 and make amendments to clause 29(1) of the Bill in order to remove some interpretation problem due to the word "create".	(LC Paper No. CB(1)1057/03-04(03)) (issued on 23 February 2004)
Clause 30	Whether the expression "without notice" should be included in clause 30.	The Administration agrees that, in line with the objective of the Bill to free purchasers from the hazards of the doctrine of notice, clause 30 should be amended by deleting the phrase "without notice of the breach".	Paper on "Doctrine of Notice" (LC Paper No. CB(1)2305/02-03(07)) (English version issued on 29 July 2003) (Chinese version issued on 30 July 2003)  Paper on "Response to Drafting Issues" (LC Paper No. CB(1)2501/02-03(03)) (Issued on 29 September 2003)
Clause 30	To amend the phrase "a trustee in that capacity" in clause 30 to improve its clarity.	The Administration agrees to make suitable amendments to clause 30 to provide a linkage with clause 69 in order to improve its clarity.	Paper on "Response to Drafting Issues" (LC Paper No. CB(1)2501/02-03(03)) (Issued on 29 September 2003)
Clauses 32(1) and 96(5)	There is a risk of inconsistency in using "wilful default" in clause 32(1) and "without reasonable excuse" in clause 96(5).	The Administration proposes to adopt a uniform standard of "without reasonable excuse" in clauses 32(1) and 96(5).	Second paper on "Responses to Miscellaneous Issues" (LC Paper No. CB(1)1057/03-04(03)) (issued on 23 February 2004)

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Clause 34	<p>(a) To ensure that the priority of a charging order will be retained upon its re-registration.</p> <p>(b) In drafting the proposed amendments to clause 34 above, to set out clearly the legal effects of the re-registration before and after the expiry of the five-year period provided in clause 34(1) and the priority of the charging order or lis pendens upon the re-registration.</p>	<p>The Administration proposes to make appropriate amendments to clause 34 to state clearly that re-registration of a charging order or lis pendens shall have a priority relating back to its first registration.</p> <p>This is being done through the preparation of CSAs.</p>	<p>Paper on “Response to Drafting Issues” (LC Paper No. CB(1)2501/02-03(03)) <i>(Issued on 29 September 2003)</i></p> <p>Paper on “Outstanding Responses to Matters Raised by the Bills Committee” (LC Paper No. CB(1)1425/03-04(02)) <i>(English version issued on 31 March 2004)</i> <i>(Chinese version issued on 1 April 2004)</i></p> <p>Paper on “Outstanding Responses to Matters Raised by the Bills Committee” (LC Paper No. CB(1)1425/03-04(02)) <i>(English version issued on 31 March 2004)</i> <i>(Chinese version issued on 1 April 2004)</i></p>



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Clause 43	How implied covenants which have been excluded, varied or extended will be dealt with under the LTRS.	The Administration's intention is that excluded, varied or extended covenants and any new covenants should be registered with the transfer or charge that gives rise to them. The fact that there are exclusions, variations or extensions of the implied covenants provided for by section 35(2) of the Conveyancing and Property Ordinance (CPO) (Cap. 219) would be noted in the remarks column of the transfer or the legal charge. There is at present no express provisions for the above mechanism. The Administration will propose amendments that provide explicitly for this mechanism. The aim will be to ensure that if several registrable matters are provided for in one instrument, registration of the principal matter supported by that instrument will effect the registration of other matters in that instrument which also affect the registered	<p>Supplementary paper on "Implied Covenants" (LC Paper No. CB(1)600/03-04(02)) <i>(English version issued on 17 December 2003)</i> <i>(Chinese version issued on 18 December 2003)</i></p> <p>Second paper on "Responses to Miscellaneous Issues" (LC Paper No. CB(1)1057/03-04(03)) <i>(issued on 23 February 2004)</i></p>

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		<p>land, registered charge or registered long term lease.</p> <p>Moreover, the Administration will consider to add a clause similar to that of sections 75 and 80(1) of the NSW Real Property Act 1900 to link up section 35 of CPO with the provisions of the Bill. The Administration may also make reference to section 41(1) of the NSW Real Property Act 1900 and make amendments to clause 29(1) of the Bill in order to remove some interpretation problem due to the word "create".</p>	
Clauses 43 and 43(a)	Under the LTRS, implied covenants would come into effect upon registration of the relevant interest transferred but not upon registration of the relevant document. It is therefore not appropriate for clause 43(a) to provide that the provisions of the Bill shall not prejudice the	Being dealt with in CSA.	Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) <i>(English version issued on 31 March 2004)</i> <i>(Chinese version issued on 1 April 2004)</i>

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	<p>operation of section 35 (Implied covenants) of the Conveyancing and Property Ordinance (CPO) (Cap. 219). In this connection:</p> <p>(a) To consider amending clause 43(a) and other relevant clauses in the Bill to rectify the situation; and</p> <p>(b) To liaise with the Assistant Legal Adviser on how the drafting of clause 43 could be improved to clearly spell out the policy intent that implied covenants would come into effect upon registration of the relevant interest transferred.</p>		
Clause 43	<p>On the Administration's proposal to amend clause 29(1) to remove some interpretation problem due to the word "create", to consider ALA's view that clause 43 on covenants for title should also be</p>	<p>Being addressed in CSAs.</p>	<p>Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) (<i>English version issued on 31 March 2004</i>) (<i>Chinese version issued on 1 April 2004</i>)</p>

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	amended.		
Clause 44(1)(a)(ii)	<p>(a) To review clause 44(1)(a)(ii) and consider whether it is appropriate to require the vendor to provide the purchaser with a copy, print or extract of or from any instrument referred to in any current entries in the Title Register.</p> <p>(b) Given the Administration's proposal to amend clause 81 to provide for the rectification of Title Register in favour of an innocent former owner where title has been changed as a result of forgery, to consider the need for retaining the original copy of the instruments for inspection in the case of forgery, and discuss this point with The Law Society of Hong Kong when</p>	Clause 44(1)(a)(ii) will be amended by way of CSA.	Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) ( <i>English version issued on 31 March 2004</i> ) ( <i>Chinese version issued on 1 April 2004</i> )

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	deciding on the documents to be retained under the LTRS.		
Clause 51	To examine whether the drafting of clause 51 could achieve the policy intent of not changing the current law on the validity and enforceability of covenants in a deed of mutual covenant (DMC).	Clause 51 will be amended to clarify that nothing in that clause will affect the operation of sections 39, 40 and 41 of CPO except to the extent as amended by the Bill.	Paper on "Response to Drafting Issues" (LC Paper No. CB(1)2501/02-03(03)) (Issued on 29 September 2003)
Clause 62(1)	To improve the drafting of clause 62(1) to make clear the policy intent that for transmission upon death of a joint tenant, the remaining joint tenant or tenants shall hold the property subject to and with the benefit of the same rights and incumbrances as those before the death of the deceased joint tenant.	The Administration will consider improvement to the drafting of clause 62(1) to make clear this policy intent.	Paper on "Transmissions, Receivership & Trust" (LC Paper No. CB(1)524/03-04(02)) (Issued on 8 December 2003)
Clause 62(2)	The formulation, "the Registrar shall not comply with subsection (1)..." in clause 62(2) is rather odd as it seems to ask the LR not to comply with certain part of the Bill. To consider replacing the term	CSAs will be introduced to amend clause 62(2).	Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) (English version issued on 31 March 2004) (Chinese version

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	“comply with” with a more appropriate term.		<i>issued on 1 April 2004)</i>
Clause 62(2)(a)	A registered charge is not an interest in land chargeable to estate duty and hence may not need to be mentioned in clause 62(2)(a).	The Administration agrees to the observation and that there should be suitable amendment to clause 62(2)(a).	Paper on “Transmissions, Receivership & Trust” (LC Paper No. CB(1)524/03-04(02)) ( <i>Issued on 8 December 2003</i> )
Clause 62(2)(b)	Whether there are any means to enable the purchaser of a property to know directly that the payment of estate duty has been postponed in accordance with the provisions of the Estate Duty Ordinance (Cap. 111).	The Administration considers that even if a purchaser is aware of a mere postponement of payment, it does not remove the possible incumbrances on the property. The Administration proposes (subject to approval of the Commissioner of Estate Duty) to revise the condition precedent in clause 62(2)(b) to the effect that it is necessary to satisfy the LR either that the estate duty has been paid or its payment has been fully secured to the satisfaction of the Commissioner of Estate Duty.	Second paper on “Responses to Miscellaneous Issues” (LC Paper No. CB(1)1057/03-04(03)) ( <i>issued on 23 February 2004</i> )
Clause 65	To improve the drafting of clause 65 in the same way as clause 62(1) so as to clearly set out the	The Administration will consider improvement to the drafting of clause 65 to make clear this	Paper on “Transmissions, Receivership & Trust” (LC Paper No. CB(1)524/03-04(02))

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	policy intent that the transmission on death will not change the status quo apart from the change of ownership (i.e. that upon death of the owner of registered land, the personal representative to be registered as the owner would hold the land subject to exactly the same rights and incumbrances as before).	policy intent.	<i>(Issued on 8 December 2003)</i>
Clause 68	Need to cover in clause 68 a person who has become entitled to registered land as a trustee under a court order.	The Administration will consider appropriate amendments to the Bill to cover this point.	Paper on "Transmissions, Receivership & Trust" (LC Paper No. CB(1)524/03-04(02)) <i>(Issued on 8 December 2003)</i>
Clause 69	To amend the heading of clause 69 to make it clear that particulars of trusts, but not the trusts themselves, are not to be entered in the Title Register.	Being dealt with in CSA.	Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) <i>(English version issued on 31 March 2004)</i> <i>(Chinese version issued on 1 April 2004)</i>
Clause 69(2)	To consider amending clause 69(1) and (2) to make it clear that they are	The Administration will consider appropriate amendments to make	Paper on "Transmissions, Receivership & Trust" (LC Paper No.

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	subject to the provisions on restrictions in the Bill.	it clear that clause 69(2) shall not affect the entry of restrictions or cautions which may contain particulars of the trust.	CB(1)524/03-04(02) <i>(Issued on 8 December 2003)</i>
Clause 70(1)	To consider revising both the English and Chinese texts of the drafting of the first part of clause 70(1) to improve the clarity of the provision.	This is being done in the CSAs.	Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) <i>(English version issued on 31 March 2004)</i> <i>(Chinese version issued on 1 April 2004)</i>
Clause 73	Claims for wrongful registrations under the existing deeds registration system (DRS) and the LTRS should be in line with each other.	Subject to agreement on clause 73, the Administration will propose suitable consequential amendments to the Land Registration Ordinance (LRO) (Cap. 128) for the purpose.	Supplementary paper on "Wrongful Registration of Cautions" (LC Paper No. CB(1)274/03-04(06)) <i>(Issued on 10 November 2003)</i>
Clause 73	The Chinese version of the terms "wrongful" and "wrongfully" does not accurately reflect the meaning of the two terms.	The Administration will propose suitable amendments to the Chinese version of clause 73.	Supplementary paper on "Wrongful Registration of Cautions" (LC Paper No. CB(1)274/03-04(06)) <i>(Issued on 10 November 2003)</i>
Clause 74(1)	Concern that clause 74(1) has not specified the circumstances under	The Administration proposes to amend clause 74(1) to adopt the criteria laid down	Paper on "Outstanding Responses to Matters Raised by the Bills Committee"



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	<p>which the CFI may make an order inhibiting the registration of any dealing in registered land.</p>	<p>in section 46(1) of the UK Land Registration Act 2002. This allows the Court to act if "it is necessary or desirable to do so for the purpose of protecting a right or claim in relation to a registered estate or charge."</p>	<p>(LC Paper No. CB(1)1425/03-04(02)) (<i>English version issued on 31 March 2004</i>) (<i>Chinese version issued on 1 April 2004</i>)</p>
<p>Clause 77(1)</p>	<p>Concern that the scope of the power of the LR in making a restriction under clause 77(1) is not clear:</p> <p>(a) While the Administration has pointed out that the LR may exercise the power only on application by a person interested in registered land and where he is satisfied that the powers of the owner of the registered land should be restricted, this is not clearly reflected in clause 77(1); and</p> <p>(b) Concern that the LR is empowered to perform certain</p>	<p>The Administration proposes to adopt the criteria laid down in the UK Land Registration Act 2002, section 42 with suitable modification. The LR may only enter a restriction after being satisfied that the powers of an owner of land or charge or a lessee of lease to deal in the land, charge or lease should be restricted in order to -</p> <p>(a) prevent invalidity or unlawfulness in relation to dispositions of a registered estate or charge; or</p> <p>(b) protect a right or claim in relation to a registered estate or charge.</p> <p>The Administration will also adopt the UK</p>	<p>Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) (<i>English version issued on 31 March 2004</i>) (<i>Chinese version issued on 1 April 2004</i>)</p>

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	<p>quasi-judicial functions with a high degree of discretion, and that his power seems so broad that he may impose a restriction not directly consequential upon registered interests.</p>	<p>approach to define the person entitled to make application, and to adopt the model of the UK section 43(1) so that application may be made by a person if -</p> <p>(a) he is the relevant registered proprietor, or a person entitled to be registered as such proprietor;</p> <p>(b) the relevant registered proprietor, or a person entitled to be registered as such proprietor, consents to the application; or</p> <p>(c) he otherwise has a sufficient interest in the making of the entry.</p>	
Clause 77(1)	<p>To examine whether the present drafting of clause 77(1) could fully reflect the policy intent and the scope of power of the LR and if not, to consider how the drafting could be improved.</p>	<p>CSAs will be prepared to implement the Administration's intention.</p>	<p>Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) <i>(English version issued on 31 March 2004)</i> <i>(Chinese version issued on 1 April 2004)</i></p>

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Clause 77(1)(a)	It is not clear whether the term “an application” in clause 77(1)(a) refers to an application for registration of a restriction, or other types of applications, such as an application for registration of title.	Noted. It is intended to be an application for an entry of restriction only. Being dealt with in CSAs.	Paper on “Outstanding Responses to Matters Raised by the Bills Committee” (LC Paper No. CB(1)1425/03-04(02)) <i>(English version issued on 31 March 2004)</i> <i>(Chinese version issued on 1 April 2004)</i>
Clause 80	Clause 80 as presently drafted does not provide the LR the power to remove, when a minor who has been registered in the Title Register as the owner of registered land attains the age of majority, the annotation “a minor” added after the minor’s name in the Title Register.	To be addressed in CSAs.	Paper on “Outstanding Responses to Matters Raised by the Bills Committee” (LC Paper No. CB(1)1425/03-04(02)) <i>(English version issued on 31 March 2004)</i> <i>(Chinese version issued on 1 April 2004)</i>
Clause 80(1)	(a) To consider adding a new item (c) to clause 80(1) to provide for other circumstances not covered by item (a) or (b) of clause 80(1).	The Administration agrees to add a new item (c) to clause 80(1) to provide that, on provision of the relevant supporting documents, the Registrar may rectify an error in or omission from the Title Register if it has resulted from a clerical error.	Paper on “Rectification of Title Register by Registrar” (LC Paper No. CB(1)274/03-04(05)) <i>(English version issued on 6 November 2003)</i> <i>(Chinese version issued on 7 November 2003)</i>

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	<p>(b) In preparing the above CSAs, to take account of members' views that the scope of the new item (c) should be confined to that proposed, and the power of rectification should rest with the LR personally and should not be delegable.</p>	<p>Noted. To be dealt with in CSAs.</p>	<p>Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) (<i>English version issued on 31 March 2004</i>) (<i>Chinese version issued on 1 April 2004</i>)</p>
Clause 81	<p>Rectification of Title Register in favour of an innocent former owner where title has been changed as a result of forgery.</p>	<p>The Administration will put forward amendments to provide that in respect of all registered land,</p> <p>(a) rectification of Title Register will be given in favour of a former innocent owner if the change of ownership is procured by a forgery (that is, a transfer or transmission procured by forged signature, forged document or forged entry or any combination of them). An innocent registered owner in such a case will</p>	<p>Paper on "Position Report on Main Issues" (LC Paper No. CB(1)968/03-04(02)) (<i>issued on 12 February 2004</i>)</p>

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		<p>be given an indemnity up to a capped amount under the Bill; and</p> <p>(b) rectification will be allowed in other fraud cases if the court considers it unjust not to rectify the Title Register against the present registered owner. This is at the discretion of the court. Any innocent party who loses title as a result of rectification in such cases will be entitled to indemnity up to the capped amount under the Bill.</p>	
Clause 81	<p>(a) To clearly define the term "forgery" in the Bill.</p> <p>(b) When preparing CSAs to effect the Administration's proposed changes to the court's power of rectification to provide for rectification in</p>	<p>(a) The definition of "forgery" is being dealt with under the CSAs.</p> <p>(b) Noted. Being dealt with under the CSAs.</p>	<p>Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) (English version issued on 31 March 2004) (Chinese version issued on 1 April 2004)</p>

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	<p>favour of an innocent former owner if the change of ownership is procured by a forgery, to take account of the Bar's views on security of title made in its submission dated 23 April 2003 (LC Paper No. CB(1)1517/02-03(07)).</p> <p>(c) On the Administration's proposal to impose a limitation period of 12 years for the rectification of Title Register, to consider whether the period should only be counted from the date when the owner becomes aware of the forgery in question and whether extension of the period should be allowed under certain special circumstances to provide for a situation where an owner may be</p>		

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	out of Hong Kong or is a minor during the 12-year limitation period.		
Clause 81	The Bar Association welcomes the proposal in respect of forgery cases but has reservations over the wide discretion given to the courts in other cases. It has also drawn attention to the evidence needed to support claims of forgery and the consequent need to maintain certain records. Its views are shared by the Law Society.	In the course of redrafting clause 81, the concern to set clearer parameters for the court to exercise its discretion would be addressed.	Paper on "Report on consultation on revisions to conversion mechanism and rectification provisions" (LC Paper No. CB(1)1230/03-04(04)) <i>(issued on 8 March 2004)</i>
Clause 81	The Hong Kong Society of Accountants considers that the drafting of clause 81 is somewhat confusing.	The Administration will consider the drafting of clause 81 in due course with the Bills Committee.	Paper on "Response to Submissions to the Bills Committee" (LC Paper No. CB(1)2305/02-03(09)) <i>(English version issued on 29 July 2003)</i> <i>(Chinese version issued on 1 August 2003)</i>
Clause 81	To provide a paper to address the following points of concern expressed by members:  (a) Members are	Clause 81 is being amended extensively. The Administration intends to remove the causes of the questions that have been raised on the original clause.	Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) <i>(English version</i>

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	<p>concerned whether the original owner of a property, "A", who has lost the ownership of the property to "B" through fraud many years before, during which the property was sold to "C" and then "D", may still apply to the CFI for rectification of the title register. While the Administration claims that the original owner may do so, members doubt whether this is provided for in clause 81. According to clause 81(1), the CFI may order rectification of the Title Register by directing that an entry therein or omitted therefrom be removed, amended or entered, as the case may be. It seems that the term "an entry" refers to the</p>		<p><i>issued on 31 March 2004)</i> <i>(Chinese version issued on 1 April 2004)</i></p>



<b>Clause no. /Item no.</b>	<b>Issues of concern</b>	<b>Administration's proposed amendments</b>	<b>Relevant paper</b>
	<p>current entry only.</p> <p>(b) Having noted the Administration's advice that the full meaning of the term "fraud" would be determined according to case law, members are concerned that the scope of the term may change from time to time. To provide some typical examples of "fraud" that may be committed in relation to title registration.</p> <p>(c) Clause 81(4) provides that the CFI may, in exercising its discretion on whether the Title Register should be rectified, consider such factors, including the "hardship to the parties". Members are concerned that this requirement may give rise to uncertainty. To provide</p>		

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
	<p>information on overseas practices in this regard.</p> <p>(d) Referring to the Hong Kong Bar Association's concern about whether a "knowledge test" should be adopted as the statutory criterion in determining whether the Title Register is subject to the CFI's power of rectification, the Administration is invited to provide a written response on this point.</p>		
Clause 81(3)	<p>The Law Society considers that clause 81(3) should provide for applications by the owner of a registered charge. The drafting of this clause, particularly subclause (3)(c), seems overly convoluted and confusing and could be simplified and improved upon to achieve the desired result.</p>	<p>The Administration opines that insofar as an owner of a registered charge does not have the title to the property, his interests should not be dealt with under clause 81(3). The drafting will be considered in due course with the Bills Committee.</p>	<p>Paper on "Response to Submissions to the Bills Committee" (LC Paper No. CB(1)2305/02-03(09)) (<i>English version issued on 29 July 2003</i>) (<i>Chinese version issued on 1 August 2003</i>)</p>

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
Clauses 81(5), 83 and 84(2)(b)	<p>Clause 81(5) provides that in any rectification case not involving any mistake or omission on the part of any person referred to in clause 8(3), if the Land Registrar is joined as a party, the Registrar shall not pay costs incurred by the parties in the proceedings and damages suffered by any parties in the proceedings.</p> <p>Noting the Administration's advice that the claims for such costs and damages would have to be made by application for indemnity and that this policy intent would be set out in the relevant regulations, members are concerned that it is not clear from the relevant clauses (including clauses 83 and 84(2)(b)) that such costs could be recovered from the Indemnity Fund. To review the drafting of the relevant clauses to ensure that this point is clearly reflected.</p>	Being dealt with in CSA.	<p>Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) (<i>English version issued on 31 March 2004</i>) (<i>Chinese version issued on 1 April 2004</i>)</p>

<b>Clause no. /Item no.</b>	<b>Issues of concern</b>	<b>Administration's proposed amendments</b>	<b>Relevant paper</b>
Clause 84	The Association of Banks is primarily concerned with the limitation of an indemnity to loss of ownership. It is concerned that it will lose the security for their charges in the event of rectification.	The Administration is considering to make an amendment that would require the LR, in paying any indemnity for loss of ownership, to take account of registered charges.	Paper on "Report on consultation on revisions to conversion mechanism and rectification provisions" (LC Paper No. CB(1)1230/03-04(04)) <i>(issued on 8 March 2004)</i>
Clause 88	The policy intent and the scope of powers of the LR under clause 88 are not clear.	This policy intent is that the Registrar should resort to clause 88 only when faced with issues of law that are of general importance to the performance of his duties, the exercise of his powers and the discharge of his responsibilities under the Bill. The Registrar would have to justify fully to the court why he is seeking direction and not relying on his own legal advisors; otherwise the court might decline to give directions on his application. The Administration agrees that the current drafting of clause 88 does not clearly reflect this policy intent. It will propose suitable amendments to the clause accordingly.	Paper on "Powers of Land Registrar (Miscellaneous Issues)" (LC Paper No. CB(1)468/03-04(03)) <i>(English version issued on 1 December 2003)</i> <i>(Chinese version issued on 2 December 2003)</i>

<b>Clause no. /Item no.</b>	<b>Issues of concern</b>	<b>Administration's proposed amendments</b>	<b>Relevant paper</b>
Clause 88	<p>Directions from the CFI should only be sought on principles of law in respect of a specific case, but not “[i]n any case of doubt or difficulty or in any matter not provided for under this Ordinance” as presently provided for in clause 88. In this connection, reference should be made to the relevant provisions in the Land Registration Act 1925 in England and Wales, and the Real Property Act 1900 in New South Wales. The relevant provisions in the Land Registration Act 1925 is preferred because they provide for the involvement of the affected parties.</p>	Being addressed in CSAs.	<p>Paper on “Outstanding Responses to Matters Raised by the Bills Committee” (LC Paper No. CB(1)1425/03-04(02)) <i>(English version issued on 31 March 2004)</i> <i>(Chinese version issued on 1 April 2004)</i></p>
Clause 88	<p>Clause 88 is included in Part 10 of the Bill on appeals. It is not clear whether the LR would only exercise his power provided for in the clause in dealing with appeal cases.</p>	<p>Clause 88 is intended to be of general application to the whole Bill. The Administration agrees that clause 88 should be moved to a suitable place in the Bill and its heading revised.</p>	<p>Paper on “Powers of Land Registrar (Miscellaneous Issues)” (LC Paper No. CB(1)468/03-04(03)) <i>(English version issued on 1 December 2003)</i> <i>(Chinese version issued on 2 December 2003)</i></p>

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
Clause 95	The reference to "petition" in clause 95 does not fit present day circumstances, as people rarely apply to the CFI in respect of questions of title by petition.	The Administration agrees that the reference to petition may be deleted from clause 95 and will prepare the necessary amendments in due course.	Paper on "Part 11 - Miscellaneous Provisions" (LC Paper No. CB(1)274/03-04(07)) ( <i>Issued on 10 November 2003</i> )
Clause 95	To make rules on the procedures under clause 95.	The rules for regulating applications made to the CFI are a matter for the Chief Justice (clause 91). The rules will be prepared after enactment of the Bill.	Paper on "Part 11 - Miscellaneous Provisions" (LC Paper No. CB(1)274/03-04(07)) ( <i>Issued on 10 November 2003</i> )
Clause 96(1)	To improve the Chinese version of clause 96(1) to address members' view that the Chinese words "尋求將" are redundant.	The Law Draftsman suggests that the Chinese version of "application for the registration of any matter" in clause 96 should be amended to "要求將任何事項註冊的申請".	Supplementary paper on "Part 11 of the Bill - Miscellaneous Provisions" (LC Paper No. CB(1)524/03-04(04)) ( <i>Issued on 8 December 2003</i> )
Clause 96(7)	To address members' concern that the Chinese version of the phrase "application for the registration of any matter" in clause 96(7) ("尋求將任何事項註冊的申請") is clumsy, to consider improving the Chinese version of the phrase. A member suggests that	Being dealt with in CSAs.	Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) ( <i>English version issued on 31 March 2004</i> ) ( <i>Chinese version issued on 1 April 2004</i> )

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
	the Chinese version be simplified as “要求註冊任何事項的申請”.		
Clause 100(1)(zi)	Whether it is appropriate to empower the LR to borrow moneys of the Indemnity Fund (IF).	The LR should be empowered to borrow moneys for the purposes of the IF and not to borrow moneys of the IF. Clause 100(1)(zi) will be amended accordingly.	Supplementary paper on “Part 11 of the Bill - Miscellaneous Provisions” (LC Paper No. CB(1)524/03-04(04)) ( <i>Issued on 8 December 2003</i> )
Clause 102	On the Administration's advice that the purpose of clause 102 is to cater for any additional consequential amendments that may become necessary during the period between the passage of the Bill and the implementation of the LTRS, to consider introducing such additional consequential amendments in the form of subsidiary legislation that require positive vetting of the Legislative Council.	In CSA, the Administration will provide for SHPL to be able to amend Schedule 2 to deal with certain matters but will specify substantive matters that have to be dealt with by way of subsidiary legislation.	Paper on “Outstanding Responses to Matters Raised by the Bills Committee” (LC Paper No. CB(1)1425/03-04(02)) ( <i>English version issued on 31 March 2004</i> ) ( <i>Chinese version issued on 1 April 2004</i> )
Item 37 of Schedule 2	The proposed section 6(7) of the Tramway Ordinance (Cap. 107), which refers to	Modification will be made to include the owner of the land and any chargee of such	Paper on “Schedules 1 and 2 of the Bill” (LC Paper No. CB(1)468/03-04(01))

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
	<p>“owner or holder of the land” and “mortgagee of such land”, may need modification because whilst such descriptions may be appropriate under LRO, it is doubtful whether they are accurate under the Land Titles Ordinance (LTO). In particular, it seems only charges are registrable under the LTRS and no mortgage is mentioned in the Bill.</p>	<p>land under LTO.</p>	<p><i>(English version issued on 1 December 2003)</i> <i>(Chinese version issued on 4 December 2003)</i></p>
<p>Item 38 of Schedule 2</p>	<p>The proposed amendment to section 18(2) of the Estate Duty Ordinance (Cap. 111) aims to enable a notice of charge to be given by the Commissioner by registering an application under LTO. The proposed amendment may need modification because under the LTRS, it is not an application that is being registered but the relevant interest in land.</p>	<p>The Administration will amend the reference to a notice under the Bill to take account of the fact that the Commissioner can only lodge an application, not register it.</p>	<p>Paper on “Schedules 1 and 2 of the Bill” (LC Paper No. CB(1)468/03-04(01)) <i>(English version issued on 1 December 2003)</i> <i>(Chinese version issued on 4 December 2003)</i></p>
<p>Item 39 of Schedule 2</p>	<p>Section 56A(1) of the Inland Revenue</p>	<p>Modification will be made to include any of</p>	<p>Paper on “Schedules 1 and 2 of the Bill”</p>



Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
	Ordinance (Cap. 112) is proposed to be amended to include joint owners or owners in common appearing from any instrument registered under LRO or LTO to be answerable for doing all acts. The proposed amendment seems to suggest that under LTO, the system of registration would still be that of deeds and instruments.	those persons appearing from the Title Register kept under LTO or any instrument registered under LRO to be joint owners or owners in common.	(LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December 2003</i> ) ( <i>Chinese version issued on 4 December 2003</i> )
Item 41 of Schedule 2	Section 15(3)(a) of the Stamp Duty Ordinance (Cap. 117) is proposed to be amended to the effect that the LR can register an instrument under LRO or LTO if it is stamped under section 5(1) or 13(2) or is an agreement for sale mentioned therein. The proposed amendment appears to suggest that the LTRS will still be that of instruments.	Modification will be made to the effect that the LR can register an instrument under LRO or a matter under LTO, if the supporting instrument is stamped under section 5(1) or 13(2) or is an agreement for sale mentioned therein.	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December 2003</i> ) ( <i>Chinese version issued on 4 December 2003</i> )
Items 51 and 52 of Schedule 2	The simple addition of a reference to "Land Titles Ordinance" in sections 4A and 6(1)(a) of the Lands	Modification will be made to include any person having an estate or an interest in such land under an instrument registered	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December</i>

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
	Resumption Ordinance (Cap. 124) does not reflect the fact that not an instrument but the relevant estate or interest is registered under the LTRS.	under LRO or entered in the Title Register under LTO.	2003) ( <i>Chinese version issued on 4 December 2003</i> )
Item 53 of Schedule 2	The definition of "owner" in section 2 of the Government Rent and Premium (Apportionment) Ordinance (Cap. 125) is proposed to be amended to include a mortgagee under a mortgage registered under LRO or LTO. The proposed amendment does not take account of the fact that only charges would be registrable under LTO.	Modification will be made to include a mortgagee under a mortgage registered under LRO or a chargee of a charge registered under LTO.	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December 2003</i> ) ( <i>Chinese version issued on 4 December 2003</i> )
Item 53 of Schedule 2	The definitions of "relevant interest" and "section" in section 2 of the Government Rent and Premium (Apportionment) Ordinance (Cap. 125) are proposed to be amended to include an instrument registered under LRO or LTO. The proposed amendment is not accurate because it would	Modification will be made to include an instrument registered under LRO or a matter registered under LTO.	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December 2003</i> ) ( <i>Chinese version issued on 4 December 2003</i> )

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
	result in referring to “an instrument registered...under the Land Titles Ordinance”.		
Item 62 of Schedule 2	The definition of “owner” in section 2 of the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap. 126) is proposed to be amended to include a mortgagee registered under LRO or LTO. However, only charges, and not mortgages would be registrable under the Bill.	The definition of “owner” in section 2 of the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap. 126) will be modified to include a chargee of a charge which is registered under LTO and a mortgagee under a mortgage which is registered under LRO.	Paper on “Schedules 1 and 2 of the Bill” (LC Paper No. CB(1)468/03-04(01)) <i>(English version issued on 1 December 2003)</i> <i>(Chinese version issued on 4 December 2003)</i>
Items 71 to 74 of Schedule 2	Claims for wrongful registrations under the existing DRS and the new LTRS should be in line with each other.	Subject to agreement on clause 73, the Administration will propose suitable consequential amendments to LRO for the purpose.	Supplementary paper on “Wrongful Registration of Cautions” (LC Paper No. CB(1)274/03-04(06)) <i>(Issued on 10 November 2003)</i>
Item 72(b) of Schedule 2	To reflect the policy intent that in the event that a certificate of good title could not be issued for a property, there would be no need to apply for a first registration of the property.	The Administration proposes to amend the proposed new section 23(1A) of LRO by deleting “to which section 12 of the Land Titles Ordinance ( of 2002) applies” and substituting “mentioned in section 12 of the Land Titles Ordinance ( of	Paper on “Response to Drafting Issues and Issues Raised by Assistant Legal Adviser” (LC Paper No. CB(1)2305/02-03(10)) <i>(English version issued on 29 July 2003)</i> <i>(Chinese version issued on 1 August</i>

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
		2002)".	2003)
Item 79 of Schedule 2	Section 7(1) of the New Territories Leases (Extension) Ordinance (Cap. 150) is proposed to be amended to include an instrument registered under LRO or LTO. The proposed amendment may need modification because under the LTRS, it should be the interest that would be registered.	Modification will be made to include an instrument registered under LRO or a matter entered in the Title Register under LTO.	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) (English version issued on 1 December 2003) (Chinese version issued on 4 December 2003)
Item 81 of Schedule 2	Section 4(4)(a) of the New Territories (Renewable Government Leases) Ordinance (Cap. 152) is proposed to be amended to refer to any mortgage under LRO or LTO. The proposed amendment may need modification because only charges are referred to in the Bill.	Modification will be made to "any charge registered under the Land Titles Ordinance".	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) (English version issued on 1 December 2003) (Chinese version issued on 4 December 2003)
Item 83 of Schedule 2	The consequential amendments to the Solicitors (General) Costs Rules (Cap. 159 sub. leg.) should be dealt with by the Law Society as part of the overall arrangement for the	The Administration agrees that the Law Society would be responsible for amendment to the above rules.	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) (English version issued on 1 December 2003) (Chinese version issued on 4 December

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
	implementation of the LTRS.		2003)
Items 87 to 99 of Schedule 2	It should be made clear that section 35 of the Conveyancing and Property Ordinance (CPO) (Cap. 219) does not apply to a transfer of registered land. Only registration of title would imply the relevant covenants.	The Administration will consider the proposed change.	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December 2003</i> ) ( <i>Chinese version issued on 4 December 2003</i> )
Item 89 of Schedule 2	Section 14(3)(c) of CPO is proposed to be amended to include the entry of a note of compliance in the land register relating to the land kept under LRO or the Title Register relating to the land kept under LTO. The proposed amendment refers to land register kept under LRO and hence there is a need to clarify the meaning of "land register" because there is no such definition in LRO.	The term "land register" will be amended to "register". The same reference is adopted in sections 21, 24 and 28 of LRO.	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December 2003</i> ) ( <i>Chinese version issued on 4 December 2003</i> )
Items 91 and 92 of Schedule 2	Instead of introducing consequential amendments to sections 16 and 17 of CPO, it would be	The Administration will consider the proposed change.	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December</i>

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
	preferable for a separate section to provide for transfers of registered land.		2003) (Chinese version issued on 4 December 2003)
Item 94 of Schedule 2	To examine whether the drafting of clause 51 could achieve the policy intent of not changing the current law on the validity and enforceability of covenants in a DMC and to make a consequential amendment to section 41(9) of CPO.	The Administration proposes to amend section 41(9) of CPO to the effect that a covenant in the DMC registered under LTO shall bind the successor in title or the covenantor and the persons deriving title under or through him or them whether or not they had notice of the covenant. Item 94 of Schedule 2 to the Bill will be amended to give effect to this proposal accordingly.	Paper on "Response to Drafting Issues" (LC Paper No. CB(1)2501/02-03(03)) (Issued on 29 September 2003)
Item 95 of Schedule 2	Instead of introducing a consequential amendment to section 42(2) of CPO as proposed, consideration should be given to add a separate provision to cover registered land.	The Administration will consider the proposed change.	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) (English version issued on 1 December 2003) (Chinese version issued on 4 December 2003)
Item 100 of Schedule 2	The new definition of "Land Registry registers" in section 2 of the Land Transactions (Enemy Occupation) Ordinance (Cap. 256) refers to "land	The term "land register" will be amended to "register". The same reference is adopted in sections 21, 24 and 28 of LRO.	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) (English version issued on 1 December 2003) (Chinese version

<b>Clause no. /Item no.</b>	<b>Issues of concern</b>	<b>Administration's proposed amendments</b>	<b>Relevant paper</b>
	register kept under the Land Registration Ordinance” but there is no definition of “land register” in that Ordinance.		<i>issued on 4 December 2003)</i>
Items 103 and 104 of Schedule 2	The proposed amendment to sections 4(5) and 6(8) of the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) refers to “land register kept under the Land Registration Ordinance” but there is no definition of “land register” in that Ordinance.	The term “land register” will be amended to “register”. The same reference is adopted in sections 21, 24 and 28 of LRO.	Paper on “Schedules 1 and 2 of the Bill” (LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December 2003</i> ) ( <i>Chinese version issued on 4 December 2003</i> )
Item 108 of Schedule 2	The proposed consequential amendment to section 7 of the Registered Trustees Incorporation Ordinance (Cap. 306) refers to “land register kept under the Land Registration Ordinance” but there is no definition of “land register” in that Ordinance.	The term “land register” will be amended to “register”. The same reference is adopted in sections 21, 24 and 28 of LRO.	Paper on “Schedules 1 and 2 of the Bill” (LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December 2003</i> ) ( <i>Chinese version issued on 4 December 2003</i> )
Item 111 of Schedule 2	Order 47, rule 7(4)(b) of the Rules of District Court (Cap. 336 sub. leg. H) is proposed to be	The Administration will consider the proposed change.	Paper on “Schedules 1 and 2 of the Bill” (LC Paper No. CB(1)468/03-04(01)) ( <i>English version</i>

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
	<p>amended to include the registration of a certificate under LTO. The proposed amendment deviates from the principle of registration of interest under the LTRS and that a new paragraph to cover cases involving land registered under the LTRS should be considered.</p>		<p><i>issued on 1 December 2003)</i> <i>(Chinese version issued on 4 December 2003)</i></p>
<p>Items 114 , 115 and 116 of Schedule 2</p>	<p>The proposed amendment to sections 3(2)(a), 4(2)(b) and 6(2) of the Demolished Buildings (Re-development of Sites) Ordinance (Cap. 337) refers to “land register kept under the Land Registration Ordinance” but there is no definition of “land register” in that Ordinance.</p>	<p>The term “land register” will be amended to “register”. The same reference is adopted in sections 21, 24 and 28 of LRO.</p>	<p>Paper on “Schedules 1 and 2 of the Bill” (LC Paper No. CB(1)468/03-04(01)) <i>(English version issued on 1 December 2003)</i> <i>(Chinese version issued on 4 December 2003)</i></p>
<p>Items 119 and 120 of Schedule 2</p>	<p>The proposed amendments to the definition of “owner” in the Building Management Ordinance (BMO) (Cap. 344) and to section 5(5)(c)(iii) of the same Ordinance refer to “land register kept under the Land</p>	<p>The term “land register” will be amended to “register”. The same reference is adopted in sections 21, 24 and 28 of LRO.</p>	<p>Paper on “Schedules 1 and 2 of the Bill” (LC Paper No. CB(1)468/03-04(01)) <i>(English version issued on 1 December 2003)</i> <i>(Chinese version issued on 4 December 2003)</i></p>



Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
	Registration Ordinance” but there is no definition of “land register” in that Ordinance.		
Item 124 of Schedule 2	Paragraph 3(5)(a) of the Third Schedule of BMO is proposed to be amended to include any instrument registered under LRO or LTO. The proposed amendment is inconsistent with the fact that not an instrument but the relevant estate or interest is registered under the LTRS.	The Administration will consider the proposed change.	(LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December 2003</i> ) ( <i>Chinese version issued on 4 December 2003</i> )
Item 125 of Schedule 2	The proposed amendment to paragraph 13(c)(iii) of the Eighth Schedule of BMO refers to land register kept under LRO but there is no definition of “land register” in that Ordinance.	The term “land register” will be amended to “register”. The same reference is adopted in sections 21, 24 and 28 of LRO.	Paper on “Schedules 1 and 2 of the Bill” (LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December 2003</i> ) ( <i>Chinese version issued on 4 December 2003</i> )
Items 134, 135 and 136 of Schedule 2	The proposed amendments to sections 13(5), 15(8) and 35 of the Roads (Works, Use and Compensation) Ordinance (Cap. 370) refer to land register kept under LRO but there is no definition	The term “land register” will be amended to “register”. The same reference is adopted in sections 21, 24 and 28 of LRO.	Paper on “Schedules 1 and 2 of the Bill” (LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December 2003</i> ) ( <i>Chinese version issued on 4 December 2003</i> )

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
	of "land register" in that Ordinance.		
Items 140 and 141 of Schedule 2	Sections 4(2)(d) and 5(1) of the Sewage Tunnels (Statutory Easements) Ordinance (Cap. 438) are proposed to be amended to include an instrument registered under LRO or LTO. The proposed amendments may need modification because they refer to instrument registered under LTO.	The Administration will consider the proposed change.	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December 2003</i> ) ( <i>Chinese version issued on 4 December 2003</i> )
Items 145 and 146 of Schedule 2	The proposed amendments to sections 37(7)(a) and 44 of the Land Drainage Ordinance (Cap. 446) refer to land register kept under LRO but there is no definition of "land register" in that Ordinance.	The term "land register" will be amended to "register". The same reference is adopted in sections 21, 24 and 28 of LRO.	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December 2003</i> ) ( <i>Chinese version issued on 4 December 2003</i> )
Items 158, 159 and 160 of Schedule 2	The proposed amendments to sections 18(4), 20(8) and 40 of the Railways Ordinance (Cap. 519) refer to land register kept under LRO but there is no definition of "land register" in that Ordinance.	The term "land register" will be amended to "register". The same reference is adopted in sections 21, 24 and 28 of LRO.	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) ( <i>English version issued on 1 December 2003</i> ) ( <i>Chinese version issued on 4 December 2003</i> )

<b>Clause no. /Item no.</b>	<b>Issues of concern</b>	<b>Administration's proposed amendments</b>	<b>Relevant paper</b>
Item 167 of Schedule 2	The proposed amendments to sections 14(1) and (2) of the Fire Safety (Buildings) Ordinance (Cap. 572) refer to land register kept under LRO but there is no definition of "land register" in that Ordinance.	The term "land register" will be amended to "register". The same reference is adopted in sections 21, 24 and 28 of LRO.	Paper on "Schedules 1 and 2 of the Bill" (LC Paper No. CB(1)468/03-04(01)) <i>(English version issued on 1 December 2003)</i> <i>(Chinese version issued on 4 December 2003)</i>

**Part B: Miscellaneous proposed amendments**

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
—	Whether there should be a clause in the Bill setting out clearly that once a person is registered as the owner of a property, his title is absolute except in certain circumstances, e.g. in cases where the purchaser knows that the person selling the property is a minor.	The Administration will consider making appropriate amendments to the Bill.	Paper on “Part 6 of the Bill - Instruments (Minors)” (LC Paper No. CB(1)600/03-04(03)) <i>(English version issued on 17 December 2003)</i> <i>(Chinese version issued on 18 December 2003)</i>
—	It is not clear as to whether a person who has suffered loss from default of a Government employee would be compensated directly from the Government or through the IF.	The Administration intends to set it out clearly in the regulations governing the IF that the Land Registry Trading Fund (i.e. Government) will reimburse the IF for any payments attributable to mistakes or omissions by its staff.	Paper on “Indemnity Scheme: Government's Role” (LC Paper No. CB(1)2207/02-03(05)) <i>(English version issued on 15 July 2003)</i> <i>(Chinese version issued on 16 July 2003)</i>
—	To reflect the policy intent that the IF is the only source of funding for paying out indemnities under the Bill.	The Administration intends to specify in the relevant regulations that the IF is the only source of funding for paying out indemnities under the Bill.	Paper on “Indemnity Fund Operation - Supplementary Information” (LC Paper No. CB(1)2464/02-03(03)) <i>(English version issued on 17 September 2003)</i> <i>(Chinese version issued on 18 September 2003)</i>

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
—	<p>The Law Society is concerned that its professional indemnity fund may not recover from the IF for payments made for losses caused by the Land Registry.</p>	<p>The Administration's intention is that if a professional indemnity insurer has paid out for a loss that was caused by the mistake or omission of Land Registry staff, the insurer would be entitled to recover that payment from the Land Registry. The Administration is considering whether and how the Bill should be amended to make this intention clear and will consult the Law Society in this regard.</p>	<p>Paper on "Response to Submissions on Indemnity" (LC Paper No. CB(1)2207/02-03(07)) <i>(English version issued on 15 July 2003)</i> <i>(Chinese version issued on 16 July 2003)</i></p> <p>Paper on "Initial Response to the Law Society's Submission of 27 June 2003" (LC Paper No. CB(1)2207/02-03(08)) <i>(English version issued on 15 July 2003)</i> <i>(Chinese version issued on 16 July 2003)</i></p>
—	<p>To define the ambit of the provisions to be set out in the Regulations on the operation of the IF.</p>	<p>The Indemnity Fund Regulations will provide for:</p> <ul style="list-style-type: none"> <li>- establishing an indemnity fund;</li> <li>- powers of the Registrar under direction from the Financial Secretary;</li> <li>- payments into the fund (which will be defined to include payments from the Land</li> </ul>	<p>Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) <i>(English version issued on 31 March 2004)</i> <i>(Chinese version issued on 1 April 2004)</i></p>

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
		<p>Registry Trading Fund due to indemnity payments made under clause 82(1)(b) and costs connected with that payment);</p> <ul style="list-style-type: none"> <li>- payments out of the fund;</li> <li>- the financial year and accounting requirements; and</li> <li>- reporting requirements.</li> </ul>	
—	Need to retain supporting documents	<p>If the daylight conversion mechanism and the proposed changes to the court's power of rectification of registered title in the case of forgery are adopted, the Administration considers that compulsory retention of certain title documents for future reference is necessary. This could be achieved by requiring a current registered owner to retain certain core title documents such as assignments for an appropriate period of time and, in the case of a dealing over \$30M, to keep all</p>	<p>Second paper on "Responses to Miscellaneous Issues" (LC Paper No. CB(1)1057/03-04(03)) (issued on 23 February 2004)</p>

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
		<p>title deeds and documents. A sanction for failure to keep the deeds may be an evidential presumption unfavourable to the defaulter on the issue of authenticity of document or signature, etc. in any legal proceedings or dispute on title.</p>	
—	<p>To advise the Bills Committee of the types of land which would be defined as “new land”, and to provide examples of what would and would not be regarded as such.</p>	<p>The definition will be set out in the CSAs. Basically, any new grant which contains a clause which makes the recipient liable to any interests prevailing before the date of the grant will not be considered as “new land” but will be required to go through the daylight conversion process.</p>	<p>Paper on “Outstanding Responses to Matters Raised by the Bills Committee” (LC Paper No. CB(1)1425/03-04(02)) <i>(English version issued on 31 March 2004)</i> <i>(Chinese version issued on 1 April 2004)</i></p>

**Part C: Proposed amendments to provide for the daylight conversion mechanism**

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
—	<u>To provide for the daylight conversion mechanism</u>	A new Schedule 3 will be added, containing all detailed provisions governing the law and procedure relating to all transactions and registration of caveats and cautions against conversion for land remaining under the deeds registration system during the 12 years interim period. Consequential amendments will also be made to LRO to implement the registration of caveats and cautions against conversion.	Paper on “Position Paper on Committee Stage Amendments” (LC Paper No. CB(1)1057/03-04(01)) (issued on 23 February 2004)
—	To model the Bill on the 1994 version of the previous Land Titles Bill with the addition of a schedule setting out the transitional arrangements for the 12-year period. The schedule may be deleted upon expiry of the 12-year period.	This general approach has been agreed and will be reflected in the CSAs presented.	Paper on “Outstanding Responses to Matters Raised by the Bills Committee” (LC Paper No. CB(1)1425/03-04(02)) (English version issued on 31 March 2004) (Chinese version issued on 1 April 2004)
—	To put in place a legislative or administrative measure to effect a	The Administration agrees that regular review of the implementation of the	Paper on “Outstanding Responses to Matters Raised by the Bills Committee”



Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
	<p>review mechanism for the implementation of the daylight conversion system during the 12-year period, so that any problem that may arise in the interim can be tackled in a timely manner. To also add a provision in the Bill to empower the Administration to extend when necessary the 12-year period.</p>	<p>new system is necessary. Provision to allow for extension of the period before conversion will be made as part of the CSAs.</p>	<p>(LC Paper No. CB(1)1425/03-04(02)) (<i>English version issued on 31 March 2004</i>) (<i>Chinese version issued on 1 April 2004</i>)</p>
—	<p>Members note that during the 12-year incubation period, all existing or newly created unwritten equities affecting unregistered land can be protected by registration of a warning notice known as “caveat” under the Land Registration Ordinance (Cap. 128), and that the caveat will automatically take effect as non-consent caution under the LTRS. In this regard, to consider the need to provide LR with the power to refuse to register a caveat</p>	<p>Details about the registration and removal of caveats – and the deemed non-consent cautions they become on conversion - are being dealt with in the CSAs.</p>	<p>Paper on “Outstanding Responses to Matters Raised by the Bills Committee” (LC Paper No. CB(1)1425/03-04(02)) (<i>English version issued on 31 March 2004</i>) (<i>Chinese version issued on 1 April 2004</i>)</p>

Clause no. /Item no.	Issues of concern	Administration's proposed amendments	Relevant paper
	<p>which he considers unnecessary. To also consider whether it is appropriate to allow all caveats to automatically take effect as non-consent cautions. An alternative proposed by members is that a caveat will be regarded as an application for non-consent caution under the new LTRS.</p>		
—	<p>On the Administration's proposal that the registration of cautions against conversion can be extended by the court at its discretion upon application by the end of the 12-month validity period, members are concerned that in the absence of a limit on the extension period, registration of cautions against conversion may be extended endlessly and the court may be overloaded with such applications. To consider the need to impose a limit on the extension period.</p>	<p>The Administration agrees that the extension of the validity of a caution against conversion shall not be more than 12 months in the aggregate, taking into account the possibility that the extension may be granted by the court on one occasion or on several successive applications for a short period of extension.</p>	<p>Paper on "Outstanding Responses to Matters Raised by the Bills Committee" (LC Paper No. CB(1)1425/03-04(02)) <i>(English version issued on 31 March 2004)</i> <i>(Chinese version issued on 1 April 2004)</i></p>

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