

Bills Committee on Land Titles Bill

Land Registry's Operation

Purpose

This paper outlines the basic organizational and administrative requirements laid on the Land Registry by the Land Titles Bill. It gives background to Clauses 5 to 10 of the Bill.

A Public Office

2. For the operation of title registration, as with the existing deeds register, the Land Registry will be a public office, making the records that it is required to keep available for public search.

Records

3. Under title registration, the Land Registry will have to maintain the following records:-

- (a) a Title Register in respect of each parcel of land;
- (b) land title records; and
- (c) an applications record.

4. As regards para. 3(a), there will be two types of Title Register – the ownership register and the long term lease register. The ownership register will set out the lessee of the Government Lease as the owner. It will give details of the property, the owner and any encumbrances on the land.

5. The long term lease register sets out the lessee of a long term lease as the lessee. It will give the details of the property, a description of the long term lease, details of the lessee and of any encumbrances. There will be cross-reference to the lessor's ownership register.

6. A long term lease is a lease granted on or after the date of first registration by the owner of registered land. The lease must give the right to exclusive possession of the land for a term of not less than 21 years and be given not at open market rent but for a lump sum consideration paid in advance. The unexpired term of the lease must be not less than 21 years at the time of registration. This type of interest under long term lease is a

substantial interest in land that is found from time to time in Hong Kong. An example is Robinson Place where the flat owners hold a term of 99 years out of the 999 years granted under the Government lease. It is necessary to make special provision for this type of interest so that no question will arise as to who has title after the Bill is implemented.

7. Each Title Register will contain the following particulars:-

- (a) the title number;
- (b) the lot number of the land;
- (c) details of undivided shares in the land;
- (d) the address;
- (e) the commencement date of the Government lease;
- (f) the name of the owner of the land or lessee of the long term lease and their capacity (i.e whether they are acting in their own right or as trustee); and
- (g) all instruments supporting a current entry in the Title Register and their dates of registration.

The instruments supporting the current entry set out in the Title Register will include the assignment to the current registered owner, any relevant Deed of Mutual Covenant, the occupation permit, charges, leases and other current encumbrances.

8. As regards para. 3(b), a “land title record” is –

- (a) any memorial and document accompanying such memorial registered under the Land Registration Ordinance supporting a current entry, i.e., an entry that still has legal effect, in the Title Register; and
- (b) any application for registration under the Land Titles Bill and all documents accompanying such application that support a current entry on the Title Register.

9. As regards para. 3(c), applications records provide notice of applications for registration. They include -

- (a) the Applications Day Book that records the details of applications received each day;
- (b) if there is already a Title Register on the relevant property, a portion named “Applications pending registration” in the Title Register; and

- (c) An index of unposted applications, used if a Title Register has not yet been created for the property concerned.

The Land Registrar

10. The Land Registrar will be responsible for the compliance of the Land Registry with the provisions of the Ordinance. He will have power to require persons to present documents or to give information or explanations needed to help carry out his functions and he may require oaths or statutory declarations to be given. He may also refuse to proceed with registration of any matter if required information or documents are not given, if acts required by the Ordinance have not been performed or if fees are not paid. He may reject matters that are not registrable. He will have power to delegate certain functions. Where the Registrar or public officers assisting him act in good faith under provisions of the Ordinance they will not be personally liable in damages.

Historical Documents

11. During earlier consultation there was concern as to whether the Land Registry would keep historical documents or would destroy records after they ceased to support current entries in the Title Register. While historical records will not be shown on the title register, they will be preserved for reference by interested parties.