

The Consumer Council's Submission to the Bills Committee on the Land Titles Bill

Introduction

1. The Consumer Council is in support of the Land Titles Bill under which the present deeds registration system will be gradually converted to a title registration system. We believe that the Bill is a major step towards improvement of real property transaction by giving certainty in land ownership, simplifying conveyancing procedures and reducing conveyancing costs.

Gradual conversion

2. The Council had proposed a lead-in period before conversion from the deeds registration system to the new title registration system and opined an overnight conversion as undesirable. It is therefore pleased to note that the Bill now adopts a gradual conversion approach. Recognizing the costs of running parallel systems, the Council is also in support of the Government's proposal that automatic conversion will be revisited after some time for public adaptation to the new system.

3. It is the Council's hope that there will be appropriate monitor of the new system and timely review to address any implementation or legal shortfall to perfect the new system.

4. Moreover, the Council considers it necessary for the Government to conduct a review in 3 years' time to cover, in particular, the following:

(1) Whether or not properties with certain defective title should be converted into the new system and implications of such conversion. Examples of such defective title cases are: where there is defective corporation execution (which is still not covered / remedied by the recent legislative amendment proposals), or where there is defective power of attorney in bank mortgage documentation;

(2) Whether or not there are certain properties having problems in conversion and if so, to address the problems; and

(3) Fraud cases, if any, undermining the new system which might justify revision of certain statutory provisions for this system.

Indemnity fund

5. An indemnity is payable to a person suffering loss because of an entry under the new Title Register as a result of fraud and there is a court rectification order unless that person himself contributes to the fraud. But there is a cap on the indemnity. The Government's initial proposed cap was \$20 million. The Council had proposed it be raised to \$30 million which is now reflected in the Government's proposal. The Council notes that according to the Government, the present proposed cap of \$30 million would cover 99.6% of all transactions.

6. While the Council is pleased to see that the initial cap has been raised, the Council would re-iterate that the cap should be reviewed from time to time to reflect changes in the property market to ensure adequate consumer protection at all times.

7. During the pre-consultation exercise, the Council understood that the Government was prepared to advance a loan to the indemnity fund in case of fund insufficiency and provisions for the said loan would be set out in the indemnity fund regulations. The Council trusts that the Government will, when appropriate, introduce the necessary provisions so as to enhance public confidence in the new system.

Public Awareness

8. Lastly, the Council would like to stress the importance of raising public awareness of the change to the present deeds registration system, running of parallel systems, gradual conversion, indefeasibility of title under the new title registration system and importance of registration of interest in land. The Council is concerned that the minors, the elderly and the illiterate are particularly vulnerable to actions that might prejudice their interests under the new system. It is therefore important that adequate safeguards are in place and that wide penetration of the right message would reach these groups. We hope that the Government would put in as much resources as necessary for the purpose.

Consumer Council
22 April 2003