

**Bills Committee on Land Titles Bill  
Thirtieth meeting on 27 April 2004**

**List of follow-up actions to be taken by the Administration**

1. In examining clause 3, members note that the Administration intends to amend subclause (1) to specify the type of land, namely, new land, that the Land Titles Ordinance will apply during the 12-year incubation period under the daylight conversion mechanism. Members and the Assistant Legal Adviser (ALA) are however of the view that there is no need to amend clause 3(1) because the general approach agreed upon to provide for the daylight conversion mechanism is to set out the transitional arrangements for the 12-year period in a schedule to the Bill and the full implementation of the land title registration system (LTRS) in the main body of the Bill. In this regard, the Administration is invited to take the following actions:
  - (a) Please reconsider whether it is really necessary to amend clause 3(1) as proposed; if it is, please provide justifications for the proposal; and
  - (b) Please advise whether the agreed approach mentioned above will still be followed by the Administration; if not, please notify the Bills Committee and give reasons for the change.
  
2. On clause 4, members and ALA are concerned that clause 4(d) is too wide, giving the Land Registrar unlimited power to permit registration of any matter that affects registered land, a registered charge or a registered long term lease but not covered by clause 4(a), (b) or (c). Members also consider that clause 4(d) may impose unnecessary burden and workload on the Registrar. The Administration is therefore invited to consider whether clause 4(d) should be amended to confine the scope of the Registrar's power. In this connection, please consider a member's view that in order to ensure that clause 4 would cover all matters which are capable of registration, reference should be made to the types of instruments which are presently registrable under the deeds registration system.

3. On clause 5, ALA considers that the Administration should amend it to make it clear that the Land Registry mentioned therein refers to the existing Land Registry established under the Land Registration Ordinance (LRO) (Cap. 128). Please consider ALA's view and amend clause 5 as appropriate.
4. On clause 11, ALA points out that in consideration of the adoption of the daylight conversion mechanism, there may be a need to introduce amendments to the clause accordingly, and that reference could be made to the 1994 version of the previous Land Titles Bill. The Administration is invited to note the above views, and the following areas that may require amendment as highlighted by ALA:
  - (a) On clause 11(1), please consider the need to replace the phrase "on the opening of a Title Register" by an appointed day on which the LTRS will come into full operation. Please also consider the need to clearly set out the Administration's policy on how to deal with problem land where conversion is concerned, such as allowing registration of the title of problem land after the problem has been resolved; and
  - (b) Clause 11(2) may need to be amended if the Administration agrees to introduce amendments to the relating back provision under the Bill. In this connection, please consider the need to amend clause 34 to clearly state whether a charging order or a lis pendens is to be registered on its own or through the registration of a non-consent caution.
5. On clause 17, members and ALA express concern about the unlimited power of the Land Registrar to remove an entry in the Title Register "which in his opinion has ceased to have any effect". Members note that a similar provision is provided in clause 18(b)(ii) under which the Registrar may open a new edition of the closed Title Register omitting all entries in the closed Title Register "that in his opinion have ceased to have any effect". Members opine that such powers should be exercised on the basis of objective criteria rather than on the Registrar's personal opinion, particularly when there is no compensation for damages arising from any wrongful removal of entry. The Administration is therefore invited to set out the scope of the Registrar's powers under clause 17 and clause 18(b)(ii), and illustrate with examples the circumstances under which such powers could be exercised. Please also make reference to LRO and the

Land Registration Act in England.

6. On clause 20, members note that subclause (5) provides that the "Registrar shall refuse to register any matter relating to an undivided share in registered land..... unless and until an application for the division of the land into undivided shares has been registered showing or specifying such rights to the use and occupation of the land ....." . While members have no objection to the policy involved, they note ALA's view that the above provision relates to administrative arrangements only and has nothing to do with title, and that it may be more appropriate to include the provision in the Regulations. The Administration is invited to consider ALA's view, and decide whether the provision should be included in the Bill, the Regulations, or the relevant administrative directions.

Council Business Division 1  
Legislative Council Secretariat  
24 May 2004