

**Bills Committee on Land Titles Bill**

**List of outstanding issues which require Administration's written response**  
(Position as at 16 June 2004)

<b>Date of meeting</b>	<b>Outstanding issues</b>	<b>Reference</b>
9 March 2004	Having noted the various submissions annexed to the paper on “Report on Consultation on Revisions to Conversion Mechanism and Rectification Provisions” (LC Paper No. CB(1)1230/03-04(04)), members invite the Administration to copy to the Bills Committee its written responses to the parties concerned.	Item 1 of list of follow-up actions (LC Paper No. CB(1)1425/03-04(01))
2 April 2004	In discussing item 20 of the paper on “Outstanding Responses to Matters Raised by the Bills Committee” (LC Paper No. CB(1)1425/03-04(02)), members note that the Land Registry is studying the technical and administrative requirements for the search of properties by owners’ names to be conducted by the public and solicitors, and that whether this is to be done will very much hinge on the outcome of the study. Members are of the view that the Administration should decide on the policy first before studying the technical and administrative requirements for and the cost implications of the proposed search. Please take into account members’ views set out in item 4 of the list of follow-up actions and provide a paper setting out the Administration’s policy and the practices adopted in other jurisdictions. If the proposed search is allowed, please also state in the paper the implementation details and the estimated costs; if the proposed search is not allowed, please explain in the paper the policy objections.	Item 4 of list of follow-up actions (LC Paper No. CB(1)1751/03-04(01))

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13 April 2004	<p>The Administration is invited to provide the following information:</p> <ul style="list-style-type: none"><li>(a) Please provide information on how often the Land Registrar in England has exercised his power in making a restriction and how the costs so incurred are dealt with.</li><li>(b) Please provide the general practice guide issued by the Land Registry in England which sets out the circumstances under which a restriction should be applied from the Land Registry and those under which an inhibition should be applied from the court, as well as the procedures involved. Please also provide the relevant information in respect of the new LTRS proposed under the Bill.</li><li>(c) Please illustrate how the proposed provisions in the Bill relating to imposition of restrictions are going to work in practice. Please also make reference to the situation in England.</li></ul>	Item 2 of list of follow-up actions (LC Paper No. CB(1)1751/03-04(02))
13 April 2004	<p>The Administration is invited to provide a paper covering the following aspects:</p> <ul style="list-style-type: none"><li>(a) Please set out the policy decisions on the types of forgery cases in respect of which the court may order rectification of the title of a property in favour of an innocent former owner and provide justifications for such policy decisions. In making the policy decisions, please strike a balance between the need to protect the interests of the innocent former owners of properties and the need to ensure the security and certainty of title.</li><li>(b) In connection with item (a) above, please advise whether the scope of forgery under the Bill would cover</li></ul>	Item 5 of list of follow-up actions (LC Paper No. CB(1)1751/03-04(02))

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	<p>a case where the change of ownership of a property of a company is procured by a Board member of the company through forging the minutes of a Board meeting or without proper authorization of the company.</p> <p>(c) Please provide the definitions of the term "forgery" adopted in title registration systems in other jurisdictions.</p> <p>(d) Please provide the relevant case laws (including the <i>Argyle Case (1985)</i> and the <i>Hayes Case (1994)</i> mentioned in LC Paper No. CB(1)1425/03-04(02)). In <i>Hayes Case (1994)</i>, the Deputy Judge stated that "the power to order rectification is, of course, a discretionary one but, where a co-owner has forged a transfer, there is (subject to section 82(3)) usually an overwhelming case for rectification as against the transferee and their mortgagees.". Please elaborate on the type of case which is regarded as "an overwhelming case for rectification".</p>	
25 May 2004	The Administration is invited to provide justifications for the proposed daily fines in clause 96(4) and (5) and the comparable provisions in existing legislation.	Item 2 of list of follow-up actions (LC Paper No. CB(1)1987/03-04(01))
25 May 2004	In examining clause 99, members note that unpaid costs, charges and expenses required to be paid to the Land Registrar (clause 99(3)) or to a person other than the Registrar (clause 99(4)) shall be recoverable summarily as a civil debt within the meaning of the Magistrates Ordinance (Cap. 227). To address members' concern about how	Item 3 of list of follow-up actions (LC Paper No. CB(1)1987/03-04(01))

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	the recovery of debt could be done summarily, the Administration is invited to provide details of the procedures involved and some relevant examples.	
1 June 2004	On clause 24, please explain the Administration's policy intention regarding easements by prescription and the reasons behind, and consult the Hong Kong Bar Association on the issues relating to easements. Please also explain why clause 24(1)(g) is still retained given the Administration's agreement to apply the doctrine of notice to deal with the priority issue under the LTRS (item 2 of the list of follow-up actions to the thirty-first meeting of the Bills Committee on 11 May 2004 (LC Paper No. CB(1)1917/03-04(01))).	Item 21 of list of follow-up actions (LC Paper No. CB(1)2109/03-04(01))
8 June 2004	In examining the draft proposed CSAs to clause 62, members express concern about whether and how a surviving joint tenant, who can sign a conditional agreement for sale and purchase (ASP), could register such under the land title registration system (LTRS). Please provide an information paper on this subject.	Item 14 of list of follow-up actions (LC Paper No. CB(1)2140/03-04(01))
8 June 2004	On clause 65, the Administration is invited to provide information on whether, before securing a document of title to certify the transfer upon death of an owner of registered land, an intended personal representative could sign a conditional ASP, a conditional tenancy agreement, or an equitable charge, and have such registered under the LTRS.	Item 15 of list of follow-up actions (LC Paper No. CB(1)2140/03-04(01))
11 June 2004	Please explain the reasons for and the effect of deleting clause 82(5), and how far the Law Society's concern has been	Item 6 of list of follow-up actions (LC Paper No.

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	addressed.	CB(1)2171/03-04(01))
11 June 2004	In examining the proposed CSAs to section 2 of the Government Leases Ordinance (Cap. 40) set out in section 17 of Schedule 2 to the Bill, members invite the Administration to provide a paper on how Government leases would be affected under the LTRS and by the proposed CSAs.	Item 22 of list of follow-up actions (LC Paper No. CB(1)2171/03-04(01))

Council Business Division 1  
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