

Bills Committee on Land Titles Bill
Seventh meeting on 9 June 2003

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

1. Please provide a paper elaborating on the coverage of the term "mistake" in clause 82(1)(b) and clarify whether such a mistake covers the following -
 - (a) Registration of a property in the name of another person without proper regard to any consent or non-consent cautions registered in the Land Registry; and
 - (b) Transfer of a property to another name in blatant breach of a charging order or a trust instrument due to erroneous interpretation of the charging order or trust instrument.

2. Please provide a paper addressing the following points of concern raised on the proposed indemnity scheme:
 - (a) Please provide details of the proposed levy on registration, including the following information:
 - (i) the assumptions on which the level of levy will be set and reviewed;
 - (ii) what the level of levy will be with and without the cap on the indemnity;
 - (iii) a comparison between the level of levy and the level of stamp duty;
 - (iv) the estimated time required for the Indemnity Fund to establish reserves of its own with the proposed level of levy; and
 - (v) whether the level of levy will be increased if the Indemnity Fund is exhausted;
 - (b) To ensure that an innocent owner will be compensated in the case of fraud even if the fraudster is nowhere to be found and hence cannot be convicted, please consider introducing a provision into the Bill to ensure that the court will, in the case of fraud, consider whether payment of indemnity should be made upon fraud being proved on

the balance of probabilities irrespective of whether criminal proceedings are instituted against the fraudster or not; and

- (c) Under clause 84(2)(b), a successful claimant for indemnity can recover the costs and expenses incurred in relation to the claim. Please clarify the source of funds for the reimbursement of such costs.
- 3. Please provide details on the respective steps that will need to be taken for seeking rectification and claiming indemnity in case of loss caused by fraud and in case of loss caused by mistakes or omissions.
- 4. Please clarify whether under the current deeds registration system as well as the proposed land titles registration system an innocent owner can have remedies or seek rectification or claim indemnity in the case of fraudulent misrepresentation.

Council Business Division 1
Legislative Council Secretariat
18 June 2003