

## **Bills Committee on Land Titles Bill**

### **Comparison of Registrable Matters**

#### **Purpose**

This paper sets out a comparison of registrable matters under the existing deeds registration system and the proposed title registration system. Members requested this information at the third Bills Committee meeting on 23 April 2003.

#### **Existing deeds registration system**

2. Under the existing deeds registration system, instruments are registrable under section 2 of the Land Registration Ordinance if they affect any land in Hong Kong. These instruments include sale and purchase agreements, assignments, mortgages, tenancy agreements, Court orders and deeds of mutual covenants etc. The major types of instruments registrable under the Land Registration Ordinance are set out in the left hand column of the table at the Annex.

#### **Proposed title registration system**

3. Under Clause 4 of the Land Titles Bill, a matter can be registered if it is one of the following -

- (a) a matter expressly stated to be registrable under the Bill or in any other Ordinance. The former includes transfers, charging orders, charges, discharges, leases, easements, covenants and deeds of mutual covenant. An example of a provision in another Ordinance requiring instruments to be registered in the Land Registry is a certificate of compliance under Section 14(3) of the Conveyancing and Property Ordinance (Cap. 219);
- (b) a matter that is a dealing in a piece of registered land, a registered charge or a registered long term lease. A dealing may be a disposition by the owner himself, e.g., his effecting a transfer or a charge. It may also be a transmission of the title from one person to another person by operation of law. Examples are devolution of property on death of the owner, bankruptcy or orders of the Court;
- (c) an order affecting registered land, registered charge or a registered long term lease issued or made for the purpose of enforcing a judgment. This would be a Court order issued for the purpose of implementing the decisions in the judgments. An example will be

a declaration on the rights in the land; and

- (d) in any other case, the matter affects registered land, a registered charge or a registered long term lease and the Land Registrar permits it to be registered.

The right hand column of the Annex shows how each matter that can currently be registered will be dealt with under title registration.

4. The following answers a few specific questions that Members have asked in relation to registrable matters.

- (a) Building orders issued under the Buildings Ordinance (Cap.123) are registrable as overriding interests under Clause 4(a) of the Bill.
- (b) Charging orders are registrable as orders issued for the purpose of enforcing judgments under Clause 4(c) of the Bill.
- (c) Petitions for maintenance with application for property transfers are registrable as non-consent cautions under Clause 4(a) of the Bill.

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*Housing, Planning and Lands Bureau*

**Comparison of registrable matters  
under the existing deeds registration system and  
the proposed title registration system**

<b><u>Instruments registrable under deeds registration system</u></b>	<b><u>How the matter will be dealt with under the Land Titles Bill</u></b> (The number and letter indicate the sub- clause of Clause 4 that provides the necessary authority)
1. Provisional Agreement for Sale and Purchase	1. Consent Caution – 4(a)
2. Agreement for Sale and Purchase	2. Consent Caution – 4(a)
3. Agreement for Sub-Sale and Purchase	3. Consent Caution – 4(a)
4. Supplemental Agreement for Sale and Purchase	4. Consent Caution – 4(a)
5. Assignment	5. Transfer – 4(a)
6. Vesting Assignment	6. Transfer – 4(a)
7. Building Mortgage	7. Charge – 4(a)
8. Mortgage	8. Charge – 4(a)
9. Legal Charge	9. Charge – 4(a)
10. Debenture	10. Charge – 4(a)
11. Second Mortgage	11. Second Charge – 4(a)
12. Transfer of Mortgage	12. Transfer – 4(a)
13. Sub-mortgage	13. Charge on registered charge – 4(a)
14. Consolidation of Mortgage	14. Non-consent caution – 4(a)

<b><u>Instruments registrable under deeds registration system</u></b>	<b><u>Matters registrable under the proposed title registration system</u></b>
15. Equitable Mortgage of uncompleted building units	15. Consent Caution – 4(a)
16. Agreement for Mortgage	16. Consent Caution – 4(a)
17. Deed of variation of mortgage	17. Charge – 4(a)
18. Assignment of Mortgage Loan with negative pledge clause	18. Non-consent caution – 4(a)
19. Supplemental Mortgage	19. Charge – 4(a)
20. Collateral Mortgage	20. Charge – 4(a)
21. Further Charge	21. Subsequent Charge – 4(a)
22. Receipt on Discharge of a charge	22. Discharge of registered charge – 4(a)
23. Release	23. Discharge of registered charge – 4(a)
24. Discharge	24. Discharge of registered charge – 4(a)
25. Reassignment	25. Discharge of registered charge – 4(a)
26. Assignment of Rental Proceeds with negative pledge clause	26. Non-consent caution – 4(a)
27. Assignment of Sale Proceeds with negative pledge clause	27. Non-consent caution – 4(a)
28. Partial Release	28. Partial discharge of registered charge – 4(a)
29. Partial Reassignment	29. Partial discharge of registered charge – 4(a)

<b><u>Instruments registrable under deeds registration system</u></b>	<b><u>Matters registrable under the proposed title registration system</u></b>
30. Partial Discharge	30. Partial discharge of registered charge – 4(a)
31. Partial Receipt	31. Partial Discharge of registered charge – 4(a)
32. Partial Satisfaction	32. Partial Discharge of registered charge – 4(a)
33. Lease	33. Lease – 4(a)
34. Tenancy Agreement	34. Lease – 4(a)
35. Assignment of lease	35. Lease – 4(a)
36. Agreement for lease	36. Consent Caution – 4(a)
37. Sub-lease	37. Lease – 4(a)
38. Under-lease	38. Lease – 4(a)
39. Licence	39. Dealing – 4(b)
40. Declaration of Trust	40. Transfer – 4(a)
41. Probate	41. Transmission – 4(a)
42. Letters of Administration	42. Transmission – 4(b)
43. Deed of Family Arrangement	43. Dealing – 4(b)
44. Deed of Gift	44. Transfer – 4(a)
45. Assent	45. Transfer – 4(a)
46. Deed of Surrender to the Government	46. Transfer – 4(a)
47. Notice of Resumption	47. Overriding interests – 4(a)

<b><u>Instruments registrable under deeds registration system</u></b>	<b><u>Matters registrable under the proposed title registration system</u></b>
48. Vesting Notice	48. Overriding interests – 4(a)
49. Deed of Mutual Covenant	49. Deeds of mutual covenant – 4(a)
50. Sub-deed of mutual covenant	50. Deeds of mutual covenant – 4(a)
51. Memorandum of Re-allocation of shares	51. Dealing – 4(b)
52. Power of Attorney	52. Dealing – 4(b)
53. Deed of Exchange	53. Transfer – 4(c)
54. Deed of Partition	54. Dealing – 4(b)
55. Appointment of Trustee – S.18 (New Territories Ordinance)	55. Matter registrable under other enactment – 4(a)
56. Succession	56. Matter registrable under other enactment – 4(a)
57. Memorandum of Charge of outstanding management fee	57. Charge – 4(a)
58. Death Certificate	58. Transmission – 4(a)
59. Deed Poll – division of land	59. Division – 4(a)
60. Deed Poll – Change of name	60. Change of Name – 4(a)
61. Deed of Rectification	61. Dealing – 4(b)
62. Deed of Confirmation	62. Dealing – 4(b)
63. Confirmatory Release	63. Discharge of registered charge – 4(a)
64. Confirmatory Legal Charge	64. Legal Charge – 4(a)
65. Confirmatory Agreement for Sale and Purchase	65. Consent Caution – 4(a)

<b><u>Instruments registrable under deeds registration system</u></b>	<b><u>Matters registrable under the proposed title registration system</u></b>
66. Confirmatory Assignment	66. Transfer – 4(a)
67. Memorandum of Change of building name	67. Matter affecting registered land – 4(d)
68. Cancellation Agreement	68. Withdrawal of consent caution – 4(a)
69. Letter of Rescission	69. Withdrawal of consent caution – 4(a)
70. Certification of Incorporation on change of name	70. Change of Name – 4(a)
71. Occupation Permit	71. Matter affecting registered land – 4(d)
72. Deed of Severance	72. Dealing – 4(b)
73. Charging Order Nisi	73. Charging Order – 4(c)
74. Charging Order Absolute	74. Charging Order – 4(c)
75. Writ of Summons	75. Non-consent caution – 4(a)
76. Court order for enforcement	76. Order for enforcement of judgment – 4(c)
77. Court order for vesting property in a person	77. Transmission – 4(a)
78. Bankruptcy order	78. Transmission – 4(a)
79. Notice of discontinuance	79. Withdrawal of non-consent caution – 4(a)
80. Exclusion Order	80. Matter registrable under other enactment – 4(a)
81. Order under S.33(1) of the Buildings Ordinance	81. Matter registrable under other enactment – 4(a)

<b><u>Instruments registrable under deeds registration system</u></b>	<b><u>Matters registrable under the proposed title registration system</u></b>
82. Order under s.24(1) of the Building Ordinance	82. Overriding interest – 4(a)
83. Order under s.26 of the Buildings Ordinance	83. Overriding interests – 4(a)
84. Order under s.27A of the Buildings Ordinance	84. Overriding interests – 4(a)
85. Notice of unauthorized development under S.23(4A) of Town Planning Ordinance (Cap.131)	85. Matter registrable under other enactment – 4(a)
86. Closure Order under s.153B of Crimes Ordinance	86. Overriding interests – 4(a)
87. Certificate of charge on property under s.18A(1) of Legal Aid Ordinance	87. Matter registrable under other enactment – 4(a)
88. Consent Letter	88. Overriding interests – 4(a)
89. Letter of removal of alienation restriction	89. Overriding interests – 4(a)
90. Modification Letter	90. Overriding interests – 4(a)
91. Waiver Letter	91. Overriding interests – 4(a)
92. No-objection Letter	92. Overriding interests – 4(a)
93. Letter of compliance	93. Matter registrable under other enactment – 4(a)
94. Nomination	94. Matter affecting registered land – 4(d)

<b><u>Instruments registrable under deeds registration system</u></b>	<b><u>Matters registrable under the proposed title registration system</u></b>
95. Redevelopment order under s.4 of Demolished Buildings (Re-development of Sites) Ordinance	95. Matter registrable under other enactment – 4(a)
96. Memorandum of deposit of title deeds	96. Charge – 4(a)