

**Land Titles Bill**  
**Response to Submissions to the Bills Committee**

	Views of organizations	Name of Organization	Response of the Administration
<b><i>1. Certainty and security of title (including rectification of Title Register by Court of First Instance)</i></b>			
1.1	<ul style="list-style-type: none"> <li>• Since hardship is a relevant consideration for the Court in deciding whether the Title Register should be rectified, a party who is financially stronger will, more likely than not, lose out. This cannot be right and equitable.</li>   <li>• The Bill should be amended so that an innocent owner would always be entitled to have the Title Register rectified and his name restored to it. If the innocent owner is not to be so entitled, there should be no cap on the indemnity.</li> </ul>	REDA	<ul style="list-style-type: none"> <li>• The Court will consider all the circumstances of the case to reach a fair decision which balances the interests of the parties. Hardship is just one of the factors to be taken into account by the Court. In addition, clause 81(3) specifically provides for rectification to the former owner where the Court is satisfied that it would be unjust not to do so. It would not be right to assume that a financially stronger party must necessarily lose out.</li>   <li>• The main principle of title registration is to confer title on the purchaser who has been registered as the owner. Automatic restitution in fraud cases would defeat this purpose and is not necessarily the right course in each case. It is appropriate for the Court to decide in the circumstances of each case. The Court will be able to give consideration to the remedies available to the parties when deciding on rectification. The Administration has earlier responded to comments on the indemnity issue.</li> </ul>
1.2	<ul style="list-style-type: none"> <li>• Supports the indefeasibility of the title of the purchaser and the idea of giving the Court jurisdiction to rectify the Title Register when fraud occurs.</li> </ul>	D/HKIAS/CU	<ul style="list-style-type: none"> <li>• Agreed.</li> </ul>

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1.3	<ul style="list-style-type: none"> <li>The Court should only be given the discretion to order rectification of the Title Register in specific limited circumstances.</li> <li>Clause 81(3) should provide for applications by the owner of a registered charge. The drafting of this clause, particularly subclause(3)(c), seems overly convoluted and confusing and could be simplified and improved upon to achieve the desired result.</li> </ul>	Law Society	<ul style="list-style-type: none"> <li>With the safeguards against fraud and other mistakes, rectification cases involving two innocent parties should be very rare. The Court's power to consider all the circumstances of the case should not be unduly fettered.</li> <li>Clause 81(3) deals with title and interest of the registered owner and lessee. Insofar as an owner of a registered charge does not have the title to the property, his interests should not be dealt with under this clause. The drafting will be considered in due course with the Bills Committee.</li> </ul>
1.4	<ul style="list-style-type: none"> <li>The drafting of clause 81 (Rectification by Court of First Instance) is somewhat confusing. For example, clause 81(1) and 81(2) do not provide any particular procedures for rectification. Although clause 81(3) is the only one of the relevant provisions that specifies any procedures, clause 81(3) appears to conflict to some extent with clause 81(2) by providing that where fraud has occurred, the Court may order rectification in favour of a former registered owner or lessee of a registered long-term lease, even where the current registered owner or lessee has no knowledge of the fraud.</li> </ul>	SA	<ul style="list-style-type: none"> <li>(a) Clause 81(1) gives the power to the Court to rectify and there must be an application to the Court for rectification before exercise of this power.</li> <li>(b) Clause 81(2) limits the Court's power of rectification and no procedure is necessary.</li> <li>(c) Clause 81(3) is an exception to Clause 81(2) as the register may be rectified against the registered owner or lessee who had no knowledge of the fraud and had not caused or contributed to the fraud. The rectification is only available if the former registered owner and the current registered owner had no knowledge of the fraud and had not caused or contributed to the fraud. In such a case, the Court can only rectify the register if it would be unjust not to do so.</li> <li>The drafting will be considered in due course with the Bills Committee.</li> </ul>

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1.5	<ul style="list-style-type: none"> <li>• Agrees with the legislative approach of giving detailed statutory detailed guidelines for the Court to exercise its power and discretion.</li> <li>• Certain provisions in clause 81 fail to achieve the right balance between the requirement of certainty of title and the justice of a particular case.</li> <li>• Has grave doubts as to whether a “knowledge test” in clause 81(2)(a) should be adopted as the statutory criterion in determining whether the Title Register is susceptible to the Court’s power of rectification. Mere knowledge of, as opposed to contribution or participation, to a fraud, mistake, omission or voidability of the instrument should not have the effect of depriving a person’s registered title. This would put a registered person’s title at a greater risk than that under the existing law.</li> <li>• The exclusion of the right of a former registered owner or former registered lessee to apply for rectification merely because he might have knowledge of the fraud at some stage is also unsatisfactory (clause 81(3)(b)(i)).</li> <li>• Even if the knowledge test is the appropriate test, the important question to be asked is knowledge at what</li> </ul>	The Bar	<ul style="list-style-type: none"> <li>• The circumstances for the rectification by the Court are clearly defined in Clause 81 of the Bill.</li> <li>• The Administration is of the view that Clause 81 strikes a fair balance between certainty of title and the justice of a particular case.</li> <li>• It is reasonable that the title of a purchaser knowing of a fraud, mistake, or omission, or the voidness or voidability of the instrument before the purchase is made should not be protected under the new system. To prevent rectification to an innocent former owner where a Court has found that the purchaser had prior knowledge would risk facilitating fraud.</li> <li>• The intention is that a former registered owner or lessee should not succeed in obtaining rectification if it is found that he had knowledge of the fraud prior to the transaction proceeding but stood by and let it happen.</li> <li>• The knowledge in Clause 81(2)(a) is the knowledge at the time when the registered owner acquires his land.</li> </ul>

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	time? Proposes that all reference to the knowledge test should be entirely removed from clause 81.		
<b>2. Conversion arrangement (including the issue of certificate of good title)</b>			
2.1	<ul style="list-style-type: none"> <li>Gradual conversion is preferable.</li> </ul>	D/HKIAS/CU	<ul style="list-style-type: none"> <li>Agreed.</li> </ul>
2.2	<ul style="list-style-type: none"> <li>Supports gradual conversion and that automatic conversion be revisited after some time. Meanwhile, a timely review (preferably in three years' time) covering the following should be conducted to perfect the new system:</li> <li>Whether or not properties with certain defective title should be converted into the new system and implications of such conversion;</li> <li>Whether or not there are certain properties that have problems in conversion and if so, to address the problems; and</li> <li>Fraud cases, if any, undermining the new system which may justify revision of certain statutory provisions.</li> </ul>	CC	<ul style="list-style-type: none"> <li>The Administration will review the implementation of the new system some time after the commencement of the enabling legislation.</li> <li>The general principles as to how various types of defect may be handled have been set out in paper CB(1) 1567/02-03(02).</li> <li>We will review conversion problems in the light of experience.</li> <li>There are extensive safeguards against fraud built into the system. These will be reviewed regularly.</li> </ul>
2.3	<ul style="list-style-type: none"> <li>The advantage of mid-night conversion to the new system is the "at a stroke" removal of prior technical defects in title. The purely technical defects which unless removed in this way will affect the ability of solicitors to issue a certificate of good title.</li> </ul>	Law Society	<ul style="list-style-type: none"> <li>There are concerns that midnight conversion may take away real interests in the title that may be enforceable against the land. Balancing all relevant factors, we believe that gradual conversion is the appropriate way forward.</li> </ul>

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	<ul style="list-style-type: none"> <li>To ensure that consistent standards are applied uniformly where applications for first registration are made, it is suggested that the Land Registry should take on the task of confirming whether or not a title is suitable for first registration.</li> </ul>		<ul style="list-style-type: none"> <li>We trust that the legal profession will continue to apply the necessary professional standards and care in checking titles for first registration as they do now for property transactions. The Administration is also considering whether and how to give guidance to conveyancing solicitors in handling various title issues that may arise under the title registration system. .</li> </ul>
2.4	<ul style="list-style-type: none"> <li>It may be desirable to have a time frame for completing the conversion or at least, for reviewing the operation of the new system.</li> </ul>	IS	<ul style="list-style-type: none"> <li>The operation and progress of conversion will be monitored and reviewed regularly.</li> </ul>
2.5	<ul style="list-style-type: none"> <li>Conversion should be allowed to take place as a gradual process. Automatic conversion should not be considered until after the new system has gained popular acceptance.</li> </ul>	The Bar	<ul style="list-style-type: none"> <li>Noted.</li> </ul>
<p><b>3. Indemnity provisions</b> The Administration has already provided its response to comments made on the indemnity issue. Please refer to the paper “Response to Submissions on Indemnity”.</p>			
3.1	<ul style="list-style-type: none"> <li>The United Kingdom, Australia and Canada do not adopt a title registration system that places a limit on indemnity.</li> <li>The Bill, insofar as it attempts to deprive an innocent owner of his property without full compensation, is contrary to Articles 5, 6 and 105 of the Basic Law.</li> <li>The Bill should be amended as set out in paragraph 1.1 above.</li> </ul>	REDA	

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3.2	<ul style="list-style-type: none"> <li>• Welcomes the proposal of setting up a self-financing indemnity fund to back up the title guarantee under the new system.</li> </ul>	D/HKIAS/CU	
3.3	<ul style="list-style-type: none"> <li>• CC's proposal that the cap on the indemnity be raised to \$30 million has been reflected in the Bill.</li> <li>• The cap on the indemnity should be reviewed from time to time to reflect changes in the property market so as to ensure adequate consumer protection at all times.</li> <li>• Trusts that the Government would advance a loan to the indemnity fund in case of fund insufficiency and set out the provisions for the said loan in the indemnity fund regulations.</li> </ul>	CC	
3.4	<ul style="list-style-type: none"> <li>• Under the Bill, no indemnity is payable for fraud affecting a registered charge. This should be amended.</li> <li>• In view of the current proposals for rectification, it would seem that an indemnity should be available to any one who suffers loss as a result of dealing with the position on the Title Register which is then affected by a subsequent rectification, providing that he was not negligent or in some way contributed to any fraud or reasons for rectification. It is not clear that the provisions of the Bill as drafted reflect this position.</li> </ul>	Law Society	

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	<ul style="list-style-type: none"> <li>• The Bill provides that a person who suffers loss in excess of the indemnity could pursue the person who caused the loss. At the same time, the Land Registry could also sue that person to reclaim the amount paid out under the indemnity fund. The Bill should be amended to make it clear that in those circumstances, the person who suffers the loss has a prior claim to the assets of the wrongdoer than the Land Registry so that in the event of a deficiency, the person who suffers the loss would be preferred over the Land Registry.</li> <li>• Is it appropriate to provide in clause 8 that where a loss arises as a result of the fraud of a Government employee, the indemnity limit would still apply?</li> </ul>		
3.5	<ul style="list-style-type: none"> <li>• The availability of indemnity is severely restricted under the Bill. Under clause 82(1), indemnity is only available where there is fraud, or mistake or omission on the part of the Land Registrar or any public officer assisting him. "Fraud" is only defined as including dishonesty and forgery. It is not clear whether the term is confined to common law fraud, or whether it includes equitable fraud. Moreover, neither "mistake" nor "omission" is defined in the Bill. It is not clear whether unilateral mistake is</li> </ul>	The Bar	

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	<p>included.</p> <ul style="list-style-type: none"> <li>• Under clause 82(2)(a), no indemnity shall be payable to a person who has himself caused or substantially contributed to the loss by his fraud or negligence. Fails to see any justification for excluding indemnity in cases of “negligence” as opposed to “fraud”.</li> <li>• Fails to see any justification for clause 82(4)(c)(ii) which provides that no indemnity shall be payable in respect of any fraud, mistake or omission which occurred before the date of first registration of the lease as a long term lease and is discovered on or after that date.</li> <li>• Remains unconvinced that there should be any upper limit on the indemnity. The failure to provide a full indemnity in all cases where an owner has had his interest extinguished through no fault of his own would be wrong in principle.</li> <li>• Has strong doubts as to whether the expropriatory effects of the Bill are compatible with Articles 6 and 105 of the Basic Law.</li> <li>• The procedure for claiming indemnity is governed by clause 84. However, it is unclear as to who should be the counter-party in this kind of proceedings. The Land Registrar or the Secretary for Justice? This</li> </ul>		

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	<p>ought to be made clear.</p> <ul style="list-style-type: none"> <li>• Clause 85 attempts to treat a claim for indemnity as a simple contract debt, i.e. subject to a limitation period of six years. The limitation period for recovery of land is 12 years. Claims for indemnity are akin to proceedings for the recovery of land and there is no reason for imposing a shorter limitation period.</li> <li>• In accordance with the provisions in the Limitation Ordinance (Cap. 347), the words “might have known” in clause 85 should read “should have known”.</li> </ul>		
<b>4. Overriding interests</b>			
4.1	<ul style="list-style-type: none"> <li>• The Government should continue to examine how other jurisdictions deal with overriding interests and try to eliminate the uncertainty arising from unregistered overriding interests as far as possible.</li> </ul>	D/HKIAS/CU	<ul style="list-style-type: none"> <li>• We have already minimized the number of unregistered overriding interests as far as possible.</li> </ul>
4.2	<ul style="list-style-type: none"> <li>• If the aim of the Bill is to bring certainty of title, then the issue of adverse possession should be addressed in the Bill. The proposals in the UK Law Reform Commission Report should be considered.</li> <li>• There is no need for clause 24(1)(c)(i), (ii) and (iii) to be referred to separately. Rights of way and rights of water are easements.</li> </ul>	Law Soc	<ul style="list-style-type: none"> <li>• The issue of adverse possession stems from the operation of the present Limitation Ordinance. It is not an issue of registration as such. Any proposed reform to the issue of adverse possession should be considered in the context of limitation periods, and not in the context of land registration.</li> <li>• Clause 24(1)(c)(i) specifies easements provided for in registered instruments to be overriding interests. Clauses 24(1)(c) (ii) and (iii) provide for existing rights of way and water and these rights are not provided for</li> </ul>

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	<ul style="list-style-type: none"> <li>• Does not believe that the provisions of clause 24(1)(d) correctly protect all “implied” easements. Instead of seeking to define when an easement is implied under the Ordinance, it might be easier to simply limit the operation of subclause (1)(d) to easements which are implied by the law on the disposal of any land and which are not expressly granted or reserved in any instrument.</li> <li>• Clause 24(4) refers to an order of the Court of First Instance. On a strict reading of this, an order of any other court, e.g. the Court of Appeal, would not suffice. This apparent anomaly appears in a number of other clauses.</li> </ul>		<p>in registered instruments.</p> <ul style="list-style-type: none"> <li>• The aim of Clause 24(1)(d) is to protect one type of implied easements, that is, implied easements that arise upon sale of part of land by an owner (<i>Wheeldon v Burrows</i>). Easements of necessity are provided for in Clause 24(1)(e). Another type of implied easement, intended easements (easements of common intention) are not protected as they should be specifically granted and registered at the time of assignment of part of the land as they are the common intention of the vendor and purchaser.</li> <li>• This is being considered by the Administration in the context of detailed drafting issues.</li> </ul>
4.3	<ul style="list-style-type: none"> <li>• Supports the proposal to subject registered titles to some well-defined categories of overriding interests.</li> <li>• Occupiers’ interests have not been addressed in the Bill.</li> <li>• Another notable omission is the absence of any provision to cater for the possibility that easements may be acquired by prescription.</li> </ul>	The Bar	<ul style="list-style-type: none"> <li>• Noted.</li> <li>• Occupiers with rights in the land may register their interests under the title registration system.</li> <li>• (a) It is arguable under the present state of law whether prescription applies in Hong Kong. As such, it is best to leave to the decision by the Court.</li> <li>• (b) If there is a Court order confirming the application of prescription in Hong Kong, it can be registered under Clause</li> </ul>

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	<ul style="list-style-type: none"> <li>It is also important to clearly define whether the Government's right of re-entry under the terms of a Government lease for accrued breaches of the covenants in the Government lease should be treated as overriding interests.</li> </ul>		<p>4(c) of the Bill against the relevant land.</p> <ul style="list-style-type: none"> <li>It is stated in Clause 24(1)(f)(i) that such rights of re-entry are overriding interests.</li> </ul>
4.4	<ul style="list-style-type: none"> <li>Overriding interests should not be retained. If the Administration insists that overriding interests be retained, they should be entered in the Title Register.</li> </ul>	HYK	<ul style="list-style-type: none"> <li>Overriding interests are important rights in the land that have to be protected even if they may not be registered. Many are impractical to register e.g. existing rights on the first date of registration or tenancies of less than 3 years because of the onerous burden and cost that this would place on the public.</li> <li>These interests are existing under the present conveyancing system and have to be examined by the purchaser's solicitor. The interests are now well defined under the Bill.</li> <li>There are a number of overriding interests under the English, New South Wales and Ontario title registration systems as well.</li> </ul>
<b>5. Land boundaries</b>			
5.1	<ul style="list-style-type: none"> <li>Under the proposed system, the Government should handle with care land lots where the boundaries are not clearly defined, particularly those in the New Territories.</li> </ul>	D/HKIAS/CU	<ul style="list-style-type: none"> <li>Noted.</li> </ul>
5.2	<ul style="list-style-type: none"> <li>It is most important that the title registration system should provide reliable and adequate records about the particulars of the landed</li> </ul>	IS	<ul style="list-style-type: none"> <li>In Hong Kong, most properties are units in multi-storey buildings. The owners are unlikely to be concerned with the extent of the land boundary of the lot.</li> </ul>

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	<p>interest including plan showing the size, boundary and layout of the interests. Regrets to note that the new system as proposed under the Bill provides guarantee of ownership only.</p> <ul style="list-style-type: none"> <li>• Clause 92(2)(b) states that the Director of Lands shall not determine the boundaries of a lot held under a block Government lease. Would it imply a defect in the land title for the old schedule lots?</li> <li>• Clause 92(5) states that the Director of Lands may authorize “a person” to perform function, etc. under this clause. Since this function may include survey for boundary plans, it should be done by an Authorized Land Surveyor as described under the Land Survey Ordinance (Cap. 473) or by a Government Employee with professional capacity in land surveying.</li> </ul>		<p>Moreover, most properties do already have clear plans, copies of which are attached to registered deeds at present and will continue to be attached to documents maintained under the title register. Where there are particular uncertainties over boundaries, there are already channels to deal with them, e.g., negotiated settlements between the parties, and obtaining Court rulings.</p> <ul style="list-style-type: none"> <li>• (a) The plans in the block Government leases were made a century ago for the purpose of collection of rent and they did not contain any information on the dimension or area of the lots. As such, these plans cannot be used as the basis for determination of land boundary under the Bill.</li> <li>• (b) Whether there is any defect in the land title for old schedule lots depends on the circumstances of each case. For example, definition of boundaries of these lots may have been carried out by the Government in land exchanges and by the landowners for land development purposes.</li> <li>• The functions of the Director of Lands under the Bill do not include survey for boundary plans. Therefore, the question of the Director of Lands authorizing a person to carry out a survey for boundary plans should not arise.</li> </ul>

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	<ul style="list-style-type: none"> <li>• Clause 92(6) outlines the meaning of boundary “determination” in which a boundary survey has been explicitly excluded. In the process of updating the boundary, a land boundary survey plan should be prepared in accordance with the Code of Practice as referred to under the Land Survey Ordinance.</li> <li>• Clause 49(1)(b) leaves it to the Land Registrar to specify the “particular part of the land” as the easement. To achieve this, there is a need for a well-prepared plan instead of an approximate one as specified in clause 19.</li> </ul>		<ul style="list-style-type: none"> <li>• This is already provided under Clause 92(3)(d).</li> <li>• It is for the Registrar to require parties to the instrument to specify the particular part of the land. In fact, it is usual for the instruments creating or evidencing the existence of an easement to include a plan of such easement. As the Government is not in a position to verify the plan, these plans will be treated as only indicating the approximate situation and boundaries of the land only.</li> </ul>
5.3	<ul style="list-style-type: none"> <li>• Agrees with the proposal that leaves boundary disputes to be dealt with outside the title registration system.</li> <li>• It may not be just to the neighbouring owners for an owner to secure registration of a lot boundary plan behind the back of his neighbours. Suggests that a requirement be made as a condition for any application for registration of boundary plans that proper notice be given to neighbouring owners and a way be provided for these neighbouring owners to make any objection or submission to the Land Registrar within a specified period of time.</li> </ul>	The Bar	<ul style="list-style-type: none"> <li>• Noted.</li> <li>• The Bill already provides that the Director of Lands shall not make a determination of the boundaries of a lot if the plan changes the boundaries or area or measurement of that lot shown on a land boundary plan or on any Government lease. Therefore, it is not necessary to give notice to the neighbours as their interests will not be affected.</li> </ul>

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	<ul style="list-style-type: none"> <li>• It is not clear what legal effect would follow from the registration of the boundary plans.</li> <li>• The question of boundary and the question of title to any property are intertwined. If the boundary of the land is such that certain part of the land is occupied by a neighbour, then under the existing law, the title to the land cannot be said to be a good title.</li> </ul>		<ul style="list-style-type: none"> <li>• The determination of boundary plans provides an avenue for lot owners to survey their lot boundary to present day standards and, if approved by the Director of Lands, will provide reliable land records in future.</li> <li>• Issues of occupation and boundaries are open to settlement by agreement between the parties or by the Court so that good title can be established.</li> </ul>
5.4	<ul style="list-style-type: none"> <li>• HYK supports the proposal to allow the owner of registered land to make an application to the Director of Lands for a determination of lot boundaries. However, the relevant procedures as well as the respective roles of the Lands Department and the Government should be clearly stated.</li> <li>• When the owner of registered land makes an application to the Director of Lands for a determination of lot boundaries, if the Director considers that the existing land boundary plan is acceptable for the purpose, he should verify the plan together with the relevant District Survey Office before causing the plan to be registered under clause 92(3)(c).</li> </ul>	HYK	<ul style="list-style-type: none"> <li>• The detailed application procedures will be devised in due course. The functions of the Director of Lands are clearly set out in Clause 92.</li> <li>• The Government will set out the criteria for deciding whether a land boundary plan, including the existing plan prepared by the Survey and Mapping Office of the Lands Department is acceptable for determination of the boundaries of a lot and registration in the Land Registry.</li> </ul>

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	<ul style="list-style-type: none"> <li>• If there is no existing land boundary plan or the existing plan is not acceptable, the Director of Lands should not solely rely on the land boundary plan prepared by the authorized land surveyor appointed by the owner of the lot under clause 92(3)(d) in determining the boundaries of a lot. The Director should ensure that there is concrete information and data relating to the boundaries of the lot.</li> <li>• There is a need for the Government to establish a data base of the land boundary plans and relevant data of all lots to facilitate search by land owners and the public so as to reduce boundary disputes.</li> </ul>		<ul style="list-style-type: none"> <li>• Under Clause 92(3)(e), the Director of Lands has the power to decide whether a plan prepared under Clause 92(3)(d) is acceptable. He is, therefore, not required to automatically accept a plan prepared under Clause 92(3)(d).</li> <li>• This is exactly what the Survey and Mapping Office of the Lands Department has been working on over the years. The cadastral information system, which is part of the computerized land information system of the Lands Department, is a comprehensive database where boundary information of all the land parcels in the territory is stored. Members of the public can purchase from the Lands Department lot index plans showing the approximate location of a lot. Moreover, authorized land surveyors can inspect and obtain copies of any land boundary plan deposited with the Lands Department under the Land Survey Ordinance upon payment of the prescribed fee.</li> </ul>
<b>6. Land Registrar</b>			
6.1	<ul style="list-style-type: none"> <li>• The Land Registrar is given a number of quasi judicial functions under the Bill, but there is no requirement for the person holding the post to have any appropriate legal qualification and experience. Recommends that this be addressed in the</li> </ul>	Law Society	<ul style="list-style-type: none"> <li>• We agree that the Land Registrar and the staff of the Land Registry should have proper legal advice for the discharge of their duties envisioned under the Bill. However, this does not mean that the Land Registrar must be legally qualified. It may be noted that the present Chief Land Registrar in</li> </ul>

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	Bill.		England is not a legal officer.
<b>7. Registration of cautions</b>			
7.1	<ul style="list-style-type: none"> <li>It is not clear how clause 70(5), (6) and (7) will work in practice. Subclause (6) says the cautioner is the person who intends to effect the dealing, but it is not clear whether this means the donor or the donee or either. Moreover, subclause (7) says the Commissioner is the cautioner.</li> </ul>	Law Society	<ul style="list-style-type: none"> <li>The cautioner in Clause 70 (6) can either be the donor or the donee. After registration of the non-consent caution, the Commissioner shall be entered in the title register as the cautioner who can deal with the caution.</li> </ul>
7.2	<ul style="list-style-type: none"> <li>Clause 70(3), amongst other things, enables a person who has presented a winding-up petition against the owner of registered land or a registered charge, or registered long-term lease, to apply to the Land Registrar for registration of a non-consent caution in respect of the petition. Suggests that a person presenting a bankruptcy petition against the owner of registered land, etc. should also be able to apply to have a non-consent caution registered.</li> </ul>	SA	<ul style="list-style-type: none"> <li>A bankruptcy petition is a lis pendens which is registrable as a non-consent caution under Clause 70(12).</li> </ul>
7.3	<ul style="list-style-type: none"> <li>The concerns about problems regarding consent cautions and non-consent cautions previously raised by the Bar have not been addressed in the Bill. A fertile ground for litigation is being created if these problems are not properly addressed and resolved in the Bill.</li> </ul>	The Bar	<ul style="list-style-type: none"> <li>The Administration has reviewed the issue and is of the view that the present draft provisions are in order.</li> </ul>

	<b>Views of organizations</b>	<b>Name of Organization</b>	<b>Response of the Administration</b>
<b>8. Searches and retention of land titles records</b>			
8.1	<ul style="list-style-type: none"> <li>The provisions on searches and retention of land title records, e.g. clauses 27 and 60, seem to limit the requirement to retain records to records that relate directly to a current entry in the Title Register. At the same time, the regulation-making power in clause 100(1)(zc) makes a more general reference to the possibility of historical records being retained. The Government is requested to clarify its intention with regard to making available records of relevant transactions and documents prior to the first registration of any given plot of land on the Title Register.</li> </ul>	SA	<ul style="list-style-type: none"> <li>Our intention is that the Land Registry information system will keep historical records. While these will not be shown against current entries in the register, access will be available should this be required for any purpose. It should be noted, however, that only documents that support current entries in the register can have any effect on title.</li> </ul>
8.2	<ul style="list-style-type: none"> <li>Destruction of certain old records must be considered very carefully. In many cases, original entries of figures in the area schedules and the plans are informative. Microfilming or any other form of imaging under clause 60 may not be able to retain such information.</li> </ul>	IS	<ul style="list-style-type: none"> <li>Agreed. All plans and records that have colour in the originals are now imaged in colour in the LR imaging system and highly accurate copies can be provided whenever required. (These images are not subject to fading or deterioration of the paper over time.)</li> </ul>
<b>9. Protection of public interests</b>			
9.1	<ul style="list-style-type: none"> <li>Public awareness of the changes to the present deeds registration system should be enhanced. Adequate safeguards should also be in place to protect the minors, the elderly and the illiterate who are particularly vulnerable to actions that may prejudice their</li> </ul>	CC	<ul style="list-style-type: none"> <li>There will be appropriate publicity in the lead up to, during and after the rollout of the new system, which will, in a number of respects, strengthen protection for minors, the elderly, the illiterate as well as others. We will work with all interested parties to address any specific concerns regarding safeguards for particular groups.</li> </ul>

	<b>Views of organizations</b>	<b>Name of Organization</b>	<b>Response of the Administration</b>
	interests under the new system.		