

Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005

At Members' request at the Bills Committee meeting of 13 June, we have further consulted the Land Registry on whether the proposed change in application procedure for grant of representation would have any impact on the registry, specifically if no schedule of property is annexed to the grant of representation.

2. Response from the Land Registry is quoted as follows –

- (i) Under section 14(1) of Land Titles Ordinance (Cap. 585) (LTO), no matter shall be registered unless there is an application for registration, whose particulars are verified to be correct by a practicing solicitor. Before a solicitor verifies the particulars of an application to register a person as personal representative of a property under section 62(1) of the LTO, he shall satisfy himself by appropriate check or enquiry about the deceased's ownership of the property.
- (ii) It may not be a case of mistake if the Land Registrar effects registration of a matter according to an application which is regular on the face of it.
- (iii) Notwithstanding the solicitor's verification, if there is any suspicion of different persons with the same name, the Land Registrar may always seek further information by virtue of his power under section 8(2) of the LTO. An example is where the deceased has former names or many other names.
- (iv) Under the deeds registration system under the Land Registration Ordinance (Cap. 128), there is no guarantee on the title of the owner. It is for the parties concerned to satisfy that the personal representative has the title to deal with the property, e.g. by inspection of the title deeds, etc. Similar to a bankruptcy order or a death certificate, the grant may be registered as an instrument affecting land. There is no question of mistake or omission on the part of the Land Registrar.