

LAND TITLES ORDINANCE

CONTENTS

Section	Page
PART 1	
PRELIMINARY	
1. Short title and commencement	A1267
2. Interpretation	A1267
3. Application	A1279
PART 2	
ORGANIZATION AND ADMINISTRATION	
4. The Title Register	A1281
5. Applications register	A1283
6. Supporting documents	A1283
7. Form of registers	A1285
8. Functions and powers of Registrar	A1285
9. Registrar may apply to Court for directions	A1287
10. Delegation of functions and powers	A1287
11. Immunity	A1289
12. Seal of Land Registry	A1289
PART 3	
REGISTRATION PROCEDURES AND CONNECTED MATTERS	
13. Matters capable of being registered	A1291
14. Applications for registration	A1291
15. Manner of registration	A1293
16. Entry in Title Register constitutes notice to all persons	A1293
17. Removal of obsolete entries	A1293
18. Boundaries	A1293
19. Combinations and divisions	A1295
PART 4	
REGISTRATION OF TITLE TO LAND AND CONNECTED MATTERS	
20. Interpretation of Part 4	A1297
21. Registration of title to new land	A1299

Section		Page
22.	Date of first registration of new land	A1299
23.	Effect of first registration of new land	A1299
24.	Registration of LRO land	A1299

PART 5

EFFECT OF REGISTRATION AND CONNECTED MATTERS

25.	Effect of registration of transfer of land	A1299
26.	Effect of registration of long term lease	A1303
27.	Voluntary transfer	A1303
28.	Overriding interests	A1305

PART 6

CERTIFICATES, SEARCHES AND EVIDENCE

29.	Title certificates	A1309
30.	Searches	A1311
31.	Evidence	A1311

PART 7

DISPOSITIONS AND CONNECTED MATTERS

32.	Dispositions and instruments	A1315
33.	Additional fee for delayed registration	A1315
34.	Power to compel registration	A1317
35.	Priority of registered matters	A1317
36.	Charging orders and lis pendens, etc.	A1319
37.	Form and effect of charges	A1321
38.	Second or subsequent charges	A1323
39.	Charge on registered charge	A1323
40.	Discharge or partial discharge of registered charge	A1323
41.	Satisfaction of registered charge	A1323
42.	Floating charge	A1325
43.	Transfer	A1325
44.	Division of land, etc.	A1325
45.	Implied covenants for title	A1327
46.	Provisions as between vendor and purchaser	A1329
47.	Transfer subject to lease	A1331
48.	Leases other than long term leases	A1331
49.	Long term leases	A1331

Section		Page
50.	Termination of leases	A1333
51.	Easements	A1333
52.	Covenants	A1333
53.	Deeds of mutual covenant	A1335
54.	Release and extinguishment of registered easements and covenants	A1337
55.	Modification or partial extinguishment of registered easements and covenants	A1337
56.	Saving of certain rights	A1339
57.	Registration of more than one owner	A1339
58.	No interference with rights of succession, etc.	A1339

PART 8

INSTRUMENTS

59.	Form of instruments	A1339
60.	Stamping	A1341
61.	Minors	A1341

PART 9

TRANSMISSIONS AND TRUSTS

62.	Transmission	A1343
63.	Transmission on death of joint tenant	A1343
64.	Transmission on death of sole owner or tenant in common	A1345
65.	Transmission on death of trustee	A1347
66.	Effect of transmission on death and dealing by personal representative	A1347
67.	Transmission on bankruptcy	A1347
68.	Transmission on liquidation	A1349
69.	Trusts	A1351
70.	Protection of person dealing with trustees	A1353

PART 10

CAUTIONS AND RESTRAINTS ON DISPOSITION

71.	Registration of cautions	A1353
72.	Effect of cautions, etc.	A1357
73.	Withdrawal and removal of cautions	A1359
74.	Wrongful cautions	A1361
75.	Power of Court to inhibit dealings	A1363
76.	Effect of inhibitions	A1363
77.	Removal of inhibitions	A1363

Section	Page
78. Restrictions by Registrar	A1363
79. Notice and effect of restrictions	A1365
80. Removal and variation of restrictions	A1367

PART 11

RECTIFICATION

81. Rectification by Registrar	A1367
82. Rectification by Court	A1369
83. Time for bringing proceedings under section 82	A1373

PART 12

INDEMNITY

84. Indemnity	A1373
85. Amount of indemnity	A1377
86. Procedure for claiming indemnity	A1379
87. Time limit for claiming indemnity	A1379
88. Recovery of indemnity paid	A1381
89. Discrepancy in area and boundary	A1381
90. Land Titles Indemnity Fund	A1383

PART 13

APPEALS AND RULES

91. Appeals against decisions made by Registrar	A1383
92. Effect of appeal on disposition	A1385
93. Appeal rules, etc.	A1385

PART 14

MISCELLANEOUS

94. Determination of lot boundaries	A1385
95. Address for service	A1387
96. Meaning of “opportunity of being heard”	A1389
97. Application to Court by person other than Registrar	A1389
98. Offences	A1391
99. Power of Registrar to specify forms	A1393
100. Regulations relating to fees and levies	A1395
101. Unpaid fees, etc.	A1397
102. Regulations—general powers	A1399

Section	Page
103. Amendment of Schedules 1 and 2	A1405
104. Consequential amendments	A1405
Schedule 1 Provisions for conversion of LRO land and long term leases from land registration system to land title system	A1407
Schedule 2 Specified provisions for purposes of section 10	A1411
Schedule 3 Consequential amendments	A1413
Schedule 4 Consequential amendments to Land Registration Ordinance	A1487

HONG KONG SPECIAL ADMINISTRATIVE REGION**ORDINANCE NO. 26 OF 2004**A circular stamp containing the letters "L.S." in a bold, serif font.

TUNG Chee-hwa
Chief Executive
22 July 2004

An Ordinance to provide for a system of registration of title to land, and to provide for matters incidental thereto or connected therewith.

[]

Enacted by the Legislative Council.

PART 1**PRELIMINARY****1. Short title and commencement**

- (1) This Ordinance may be cited as the Land Titles Ordinance.
- (2) This Ordinance shall come into operation on a day to be appointed by the Secretary for Housing, Planning and Lands by notice published in the Gazette.

2. Interpretation

- (1) In this Ordinance, unless the context otherwise requires—
 - “application” (申請), in relation to the registration of any matter, means an application in the specified form;
 - “applications register” (申請註冊紀錄) means the applications register kept under section 5;
 - “appointed day” (指定日期) means the day appointed under section 1(2) for the commencement of section 21;
 - “authorized land surveyor” (認可土地測量師) has the meaning assigned to it by section 2 of the Land Survey Ordinance (Cap. 473);

“charge” (押記) means—

- (a) a legal charge within the meaning of section 2 of the Conveyancing and Property Ordinance (Cap. 219); or
- (b) a mortgage of an equitable interest over land but excluding any mortgage of an interest which is only capable of being protected by a consent caution or non-consent caution;

“chargee” (承押記人) means the owner of a charge;

“charging order” (押記令) means an order of any court of competent jurisdiction imposing on registered land, or a registered long term lease, specified in the order a charge for securing the payment of any money due or to become due under a judgment or order of the court;

“chargor” (押記人) means the owner of registered land, or the lessee of a registered long term lease, which is subject to a charge;

“company” (公司) means a body corporate—

- (a) incorporated under the Companies Ordinance (Cap. 32);
- (b) incorporated under any other enactment; or
- (c) incorporated or established outside Hong Kong,

and includes an unregistered company within the meaning of Part X of the Companies Ordinance (Cap. 32);

“consent caution” (同意警告書) means a caution referred to in section 71(1) and (3);

“Court” (法庭) means the Court of First Instance;

“current” (當時有效), in relation to any matter, means the matter has not ceased to have effect;

“date of first registration” (首次註冊日期) means—

- (a) in relation to registered land, the date determined in accordance with section 22 of this Ordinance or section 3 of Schedule 1, whichever is applicable; and
- (b) in relation to a registered long term lease, the date determined in accordance with section 49(5) of this Ordinance or section 6 of Schedule 1, whichever is applicable;

“dealing” (交易) means a disposition or transmission;

“disposition” (處置) means an act by the owner of registered land or a registered charge, or the lessee of a registered long term lease, whereby his rights in or over the land, charge or lease, as the case may be, are affected, but does not include—

- (a) an agreement to transfer;
- (b) an agreement to charge;
- (c) an agreement to grant a long term lease; or
- (d) an agreement to grant an easement,

and “dispose”, “disposal” and “disposed” (處置) shall be construed accordingly;

“document” (文件) includes, in addition to a document in writing—

- (a) a map, plan or drawing;
- (b) a disc, tape or other device in which data other than visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced from the disc, tape or other device; and
- (c) a film, tape or other device in which visual images are embodied so as to be capable, with or without the aid of some other equipment, of being reproduced from the film, tape or other device;

“entry” (記項), in relation to the Title Register, means a note, notice or other entry in the Title Register; and “enter” and “entered” (記入) shall be construed accordingly;

“fraud” (欺詐) includes dishonesty and forgery;

“image record” (影像紀錄) means a record produced using the imaging method and, where the context permits, includes a record in a legible form;

“imaging method” (影像處理方法) means a method by which documents in a legible form or in the form of microfilm are scanned by a scanner and the information recorded therein is converted into electronic images, which are then stored on electronic storage media capable of being retrieved and reproduced in a legible form;

“inhibition” (制止令) means an order made under section 75(1);

“instrument” (文書) includes—

- (a) a deed, conveyance, judgment, decree, order or other document which is—
 - (i) required to support, or is capable of supporting, an application for registration; or
 - (ii) specified in any other enactment as a document which shall or may support an application for registration under this Ordinance (or words to the like effect); and

(b) a memorial which supports a current entry in the Title Register, but does not include a will except a will which is the subject of a memorial referred to in paragraph (b);

“land” (土地) includes—

- (a) land covered by water; and
- (b) a thing attached to land or permanently fastened to a thing attached to land,

but does not include an interest in or over land other than—

- (c) an undivided share in land; and
- (d) such an interest vested in a person by virtue of the operation of section 23, 25(1) or 26(1) of this Ordinance or section 4 or 7 of Schedule 1;

“land boundary plan” (土地界線圖) has the meaning assigned to it by section 2 of the Land Survey Ordinance (Cap. 473);

- “Land Registry” (土地註冊處) means the Land Registry of the Government of the Hong Kong Special Administrative Region which is administered by the Registrar;
- “Land Titles Indemnity Fund” (土地業權彌償基金) means the indemnity fund established pursuant to section 90;
- “lease” (租契) includes an agreement for a lease and a tenancy but does not include a Government lease;
- “lessee” (承租人) means—
- (a) in relation to a registered long term lease, the person named in the Title Register as the lessee of the lease; and
 - (b) in relation to any other lease, the lessee of the lease;
- “liquidator” (清盤人) has the meaning assigned to it by section 2(1) of the Companies Ordinance (Cap. 32);
- “lis pendens” (待決案件) means—
- (a) any action or proceeding pending in any court or tribunal that relates to land or any interest in or charge on land; or
 - (b) a bankruptcy petition;
- “long term lease” (長期租契) means a lease—
- (a) granted by—
 - (i) subject to subparagraph (ii), the owner of registered land;
 - (ii) if the lease was granted before the land became registered land under this Ordinance, the owner of the land at the time of the grant,of the right to exclusive possession of the land for a term of not less than 21 years;
 - (b) not at rack rent; and
 - (c) in respect of which a premium has been paid,
- but does not include any lease the unexpired term of which is less than 21 years at the time it is registered;
- “lot” (地段) includes a section and subsection of a lot;

“lot number” (地段編號) means—

- (a) in the case of a lot, the designation and number by which the lot is described in the Government lease under which it is held from the Government; and
- (b) in the case of a section or subsection of a lot, the designation and number by which the section or subsection, as the case may be, is described in the instrument by which it came into existence as such;

“matter” (事項) means the subject of any application delivered for registration;

“memorial” (註冊摘要) means a memorial registered under the Land Registration Ordinance (Cap. 128);

“mortgage” (按揭) means a security over land for securing money or money’s worth;

“non-consent caution” (非同意警告書) means a caution referred to in section 71(4), (6) and (13);

“overriding interest” (凌駕性權益) means an interest referred to in section 28(1);

“owner” (擁有人) means—

- (a) in relation to registered land, the person (including, in respect of registered land to which Part II of the New Territories Ordinance (Cap. 97) applies, any clan, family or t’ong) named in the Title Register as—
 - (i) the owner, lessee or holder (or words to the like effect) of a Government lease of the land; or
 - (ii) the owner or holder (or words to the like effect) of an undivided share in the land; and
- (b) in relation to a registered charge, the person named in the Title Register as the person in whose favour the charge is made;

“personal representative” (遺產代理人) means—

- (a) the executor of the will; or
- (b) the administrator of the estate,

of the deceased owner of registered land or a registered charge, or the deceased lessee of a registered long term lease;

“present” (呈遞) includes produce, deliver and lodge;

“record” (紀錄) includes not only a written record but a record conveying information or instructions by any other means;

“register” (註冊), when used as a verb, means to make, remove, alter or add to an entry in the Title Register, but does not include to make, remove, alter or add to an entry in the Title Register to the extent that the entry denotes, in the case of the presentation of an application for the registration of a matter, that registration is pending or withheld in respect of the matter; and “registered” (註冊), “unregistered” (未經註冊) and “registration” (註冊) shall be construed accordingly;

- “registered charge” (註冊押記) means a charge registered in respect of registered land or a registered long term lease under section 37;
- “registered land” (註冊土地) means—
- (a) land—
 - (i) held under a Government lease; and
 - (ii) the title to which is registered under section 21; and
 - (b) land deemed to be registered land under section 2 of Schedule 1;
- “registered long term lease” (註冊長期租契) means—
- (a) a long term lease registered under section 49; and
 - (b) a lease deemed to be a registered long term lease under section 5 of Schedule 1;
- “registered matter” (註冊事項) does not include any matter which has ceased to have any effect;
- “Registrar” (處長) means the Land Registrar;
- “regulations” (《規例》) means regulations made under this Ordinance;
- “remove” (刪除), in relation to an entry in the Title Register, includes to delete by any means which, in the opinion of the Registrar, is appropriate in respect of that entry;
- “restriction” (限制令) means an order made under section 78(1);
- “right” (權利) includes such ancillary rights as are necessary for effective enjoyment of the right;
- “search” (查冊) means a search under section 30(1);
- “Secretary” (局長) means the Secretary for Housing, Planning and Lands;
- “solicitor” (律師) means a solicitor within the meaning of section 2(1) of the Legal Practitioners Ordinance (Cap. 159);
- “specified” (指明), in relation to a form, means specified under section 99;
- “title certificate” (業權證明書) means a certificate issued under section 29(1);
- “Title Register” (業權註冊紀錄) means the Title Register kept under section 4;
- “transfer” (轉移) means the registration of a matter to effect the passing of the title to registered land, a registered charge or a registered long term lease from one person to another person otherwise than by operation of law, and includes the instrument providing for such passing;
- “transmission” (傳轉) means the passing of the title to registered land, a registered charge or a registered long term lease from one person to another person under an order of a court of competent jurisdiction, under an enactment or by operation of law;
- “trustee” (受託人) includes a personal representative;
- “unregistrable interest” (不可註冊權益) has the meaning assigned to it by section 1A(1) of the Land Registration Ordinance (Cap. 128);
- “valuable consideration” (有值代價) means money or money’s worth, but does not include a nominal consideration.

- (2) It is hereby declared that—
- (a) the title to land becomes registered under this Ordinance by virtue of an entry being made in the Title Register specifying a person as being the owner of that land, and references in this Ordinance to registered land shall be construed accordingly; and
 - (b) any reference in any other enactment to “register in the Land Registry” or “registered in the Land Registry”, or words to the like effect, shall be construed to mean register or registered under the Land Registration Ordinance (Cap. 128) or this Ordinance, as the case may require.

3. Application

(1) Subject to Part 4 and Schedule 1, this Ordinance applies to land held under a Government lease.

(2) Where land is vested in a person under the provisions of any other enactment and there is any conflict or inconsistency between the provisions of this Ordinance and the provisions of that enactment in relation to that land, then the provisions of that enactment shall, in relation to that land and to the extent of that conflict or inconsistency, as the case may be, prevail over the provisions of this Ordinance.

(3) Where an instrument supporting an application for registration of a transfer under this Ordinance is void under the provisions of any other enactment governing the validity of a transfer, then the provisions of that enactment shall, in relation to the land to which the transfer relates, prevail over the provisions of this Ordinance.

(4) Where—

- (a) any provisions of any other enactment purport to provide that any legal or equitable interest in land or in a charge shall not be created, extinguished, transferred, varied or affected (or words to the like effect) except by an instrument (howsoever described) referred to in those provisions; and
- (b) by virtue of the provisions of this Ordinance, such interest may only be created, extinguished, transferred, varied or affected, as the case may be, by the registration under this Ordinance of an application providing therefor,

then—

- (c) without prejudice to any other ground on which the instrument may be void or voidable and notwithstanding any law, that instrument shall not be void or voidable on the ground that it does not, of itself, create, extinguish, transfer, vary or affect, as the case may be, such interest;

- (d) the provisions referred to in paragraphs (a) and (b) shall be construed to require that instrument to accompany that application; and
- (e) any reference to the instrument in—
 - (i) any other provisions of that enactment;
 - (ii) any provisions of any other enactment; or
 - (iii) any other provisions of this Ordinance,shall, without prejudice to the operation of section 2A of the Stamp Duty Ordinance (Cap. 117), be construed to take account of the operation of this subsection.

PART 2

ORGANIZATION AND ADMINISTRATION

4. The Title Register

(1) The Registrar shall keep in the Land Registry a register to be known as the Title Register.

(2) There shall be entered in the Title Register such matters as are or may be required to be entered therein under this Ordinance or any other enactment including, but not limited to—

- (a) particulars of the land the title to which is registered under this Ordinance, including—
 - (i) its title number (which may include letters or alphanumeric symbols or characters);
 - (ii) the lot number of the land;
 - (iii) the undivided shares, if any, in the land;
 - (iv) the location or address, if any, of the land;
 - (v) the date of commencement of the term of the Government lease and its expiry date;
 - (vi) the name of the owner or owners of the land; and
 - (vii) the capacity in which the owner or owners hold the land, whether as sole owner, tenants in common, joint tenants, trustee or otherwise;
- (b) particulars of each long term lease registered under this Ordinance, including—
 - (i) its title number (which may include letters or alphanumeric symbols or characters);
 - (ii) the lot number of the land;
 - (iii) the undivided shares, if any, in the land;
 - (iv) the location or address, if any, of the land;

- (v) the term of the lease;
- (vi) the name of the lessee or lessees of the lease; and
- (vii) the capacity in which the lessee or lessees hold the lease, whether as sole lessee, tenants in common, joint tenants, trustee or otherwise;
- (c) particulars of each charge registered under this Ordinance, including—
 - (i) its application number (which may include letters or alphanumeric symbols or characters); and
 - (ii) the name of the chargor;
- (d) particulars of all instruments which support a current entry in the Title Register;
- (e) the date of registration of each of the instruments referred to in paragraph (d);
- (f) particulars of any pending application for the registration of any matter under this Ordinance; and
- (g) such other matters as the Registrar is of the opinion should be contained in the Title Register.

5. Applications register

(1) The Registrar shall keep in the Land Registry a register to be known as the applications register, which shall contain a record of all pending applications for the registration of any matter under this Ordinance.

(2) The applications register shall contain such particulars as are required by the regulations to be contained therein.

6. Supporting documents

(1) The Registrar shall keep in the Land Registry, or make and keep in the Land Registry a microfilm, image record or other record (including an image record of a microfilm) of, the following documents—

- (a) any memorial which supports a current entry in the Title Register;
- (b) the documents, if any, accompanying a memorial referred to in paragraph (a);
- (c) any application for the registration of a matter where—
 - (i) the matter has been registered; and
 - (ii) the application supports a current entry in the Title Register;
- (d) the documents, if any, accompanying an application referred to in paragraph (c).

(2) Where a microfilm, image record or other record of a document is made under subsection (1), the Registrar may—

(a) destroy or otherwise dispose of the document from which the record was made; or

(b) return that document to the person by whom, or on whose behalf, it was delivered to the Land Registry.

(3) Where a microfilm, image record or other record is made of a document under subsection (1), the microfilm, image record or other record, as the case may be, shall be treated for all purposes as the original document.

7. Form of registers

The Title Register and the applications register may be kept in such form as the Registrar considers appropriate, including in a form other than a documentary form.

8. Functions and powers of Registrar

(1) The Registrar shall—

(a) be responsible for the general administration of this Ordinance;

(b) subject to the regulations, be responsible for the general management and administration of the Land Titles Indemnity Fund;

(c) supervise compliance with the provisions of this Ordinance; and

(d) perform such other functions and exercise such other powers as are imposed or conferred on him under this Ordinance or any other enactment.

(2) The Registrar may do all such things as are necessary for, or incidental or conducive to, the better performance of his functions and exercise of his powers, and in particular but without prejudice to the generality of the foregoing, may—

(a) require a person to present to him any document relating to registered land or a registered long term lease;

(b) require a person to appear before him and give any information or explanation in respect of—

(i) any matter relating to registered land or a registered long term lease; or

(ii) any document relating to registered land or a registered long term lease;

(c) require a person to verify, on oath or by statutory declaration, any proceedings, information or explanation affecting registration and, for that purpose, administer the oath or take the declaration;

- (d) refuse to proceed with the registration of a matter if—
 - (i) any document, or any information or explanation, required to be presented or given is withheld;
 - (ii) any act required to be performed under this Ordinance is not performed;
 - (iii) without prejudice to the generality of subparagraph (ii), any fee payable in respect of the registration (including any additional fee payable under section 33) has not been paid; or
 - (iv) the provisions of this Ordinance or of any other enactment relating to the registration of the matter have not been complied with;
- (e) where he is of the view that a matter is not registrable, refuse to register the matter; and
- (f) subject to subsection (3), order that the costs, charges and expenses incurred by him or another person in connection with an inquiry, investigation or hearing held by the Registrar for the purposes of this Ordinance shall be borne and paid by such persons and in such proportions as the Registrar thinks fit.

(3) The Registrar shall not make an order under subsection (2)(f) except after giving the persons to be affected by the order, and such other interested persons as the Registrar thinks fit, an opportunity of being heard.

9. Registrar may apply to Court for directions

If any question of law arises in respect of the performance or exercise of any functions or powers imposed or conferred on the Registrar by or under this Ordinance, the Registrar may apply to the Court for directions.

10. Delegation of functions and powers

(1) Subject to subsection (2), the Registrar may, with or without restrictions as he thinks fit, delegate in writing any of his functions or powers under this Ordinance to any public officer.

(2) The Registrar shall not delegate any of his functions and powers under—

- (a) subsection (1);
- (b) any provisions of this Ordinance specified in Schedule 2; and
- (c) any provisions of any regulations made under this Ordinance which are specified in the regulations as provisions which shall not be subject to subsection (1).

- (3) A delegate of the Registrar—
- (a) shall perform the delegated functions and may exercise the delegated powers as if the delegate were the Registrar himself; and
 - (b) shall be presumed to be acting in accordance with the terms of the delegation in the absence of evidence to the contrary.

11. Immunity

(1) No person to whom this subsection applies, acting in good faith, shall be personally liable in damages for any act done or default made in the performance or purported performance of any function, or the exercise or purported exercise of any power, under this Ordinance.

(2) The Government shall not be liable in damages for either—

- (a) any act or default referred to in subsection (1); or
- (b) any other act done or default made—
 - (i) by a person, to whom that subsection applies, not acting in good faith; and
 - (ii) in the performance or purported performance of any function, or the exercise or purported exercise of any power, under this Ordinance,

unless that act or default gives rise to an indemnity under Part 12 and, in any such case, the liability shall not exceed the amount of the indemnity provided under that Part in respect of that act or default.

(3) The persons to whom subsection (1) applies are—

- (a) the Registrar (including a delegate of the Registrar under section 10); and
- (b) any public officer assisting the Registrar (or any such delegate) in the performance or purported performance of any function, or the exercise or purported exercise of any power, under this Ordinance.

12. Seal of Land Registry

(1) The Land Registry shall have a seal of office having inscribed in the margin of the seal—

- (a) the words “Land Registrar, Hong Kong Special Administrative Region” in the English language and “香港特別行政區土地註冊處處長” in the Chinese language; or
- (b) such other words as the Registrar may from time to time specify by notice published in the Gazette.

(2) For the purposes of any proceedings, whether under this Ordinance or otherwise, an instrument—

- (a) purporting to bear the imprint of the seal referred to in subsection (1); and
- (b) purporting to be signed and issued by a person referred to in section 11(3),

shall be received in evidence in those proceedings upon its production without further proof and, in the absence of evidence to the contrary, it shall be presumed—

- (c) where the instrument purports to be so signed, that the signature is that of the person referred to in that section; and
- (d) where the instrument purports to be so issued, that it was issued by or under the direction of the Registrar.

PART 3

REGISTRATION PROCEDURES AND CONNECTED MATTERS

13. Matters capable of being registered

No matter shall be capable of being registered in the Title Register unless—

- (a) the registration of the matter is expressly provided for in this Ordinance or any other enactment (by whatever words used);
- (b) where paragraph (a) is not applicable, the matter is a dealing in registered land, a registered charge or a registered long term lease;
- (c) where neither paragraph (a) nor (b) is applicable, the matter is an order of any court or tribunal—
 - (i) affecting registered land, a registered charge or a registered long term lease; and
 - (ii) issued or made for the purpose of enforcing a judgment; and
- (d) in any other case, the matter affects registered land, a registered charge or a registered long term lease and the Registrar permits it to be registered.

14. Applications for registration

(1) Except as otherwise expressly provided in this Ordinance, no matter shall be registered in the Title Register unless the matter is the subject of an application presented to the Registrar for the registration of that matter, and this requirement applies—

- (a) whether or not any express reference is made in this Ordinance to that matter; or
 - (b) if an express reference is made in this Ordinance to the registration of that matter, whether or not that reference is accompanied by an express reference to such an application.
- (2) Each application for the registration of any matter shall be verified in such manner as is required by the regulations.

15. Manner of registration

(1) Except as otherwise expressly provided in this Ordinance, the registration of any matter in the Title Register shall be effected by the Registrar in the following manner—

- (a) by making, or adding to, an entry in the Title Register;
- (b) by removing or altering an entry in the Title Register; or
- (c) by any combination of the acts mentioned in paragraphs (a) and (b).

(2) The registration of a matter in the Title Register is effected when that matter is registered by virtue of the making, the addition to, or the removal or alteration of, an entry in the Title Register which refers to that matter, the application for registration of that matter or any document accompanying that application, or any combination thereof, and references in this Ordinance to the registration of any matter (howsoever expressed) shall be construed accordingly.

16. Entry in Title Register constitutes notice to all persons

All persons are deemed to have notice of every entry in the Title Register.

17. Removal of obsolete entries

The Registrar may remove any entry in the Title Register which has ceased to have any effect.

18. Boundaries

(1) For the purposes of this Ordinance, a plan referred to in the Title Register, or a plan or microfilm, image record or other record of a plan kept in the Land Registry under section 6, shall be treated as only indicating—

- (a) the approximate situation; and
 - (b) the approximate boundaries,
- of the registered land to which the plan relates.

(2) For the avoidance of doubt, it is hereby declared that the fact that a plan is referred to in the Title Register, or the fact that a plan or microfilm, image record or other record of a plan is kept in the Land Registry under section 6, shall not constitute a warranty, or a guarantee, as to the accuracy of the plan.

19. Combinations and divisions

(1) Where the Registrar is presented with an application from the owner of contiguous parcels of registered land for the combination of that land, the Registrar may effect the combination by making the appropriate entries in the Title Register to create a single title for the combined parcels of registered land.

(2) Where any new building is or is to be situated on any land consisting of 2 or more lots (and whether or not the owner or owners of the respective lots is or are the same person or persons), then the Registrar shall, in the circumstances prescribed by the regulations, refuse to proceed with the registration of any matter relating to an undivided share with an exclusive right to use and occupy a part of the building unless and until an application for the combination of those lots has been registered.

(3) Subject to section 44, where the Registrar is presented with an application from the owner of registered land for the division of the land, the Registrar may, if he considers it expedient to do so, effect the division by making the appropriate entries in the Title Register to create a single title for each parcel of land into which the registered land is to be divided.

(4) Subject to section 44, where the Registrar is presented with an application for the division of registered land by a person who—

(a) is to be the purchaser of one or more of the parcels of land to result from the division; and

(b) has the consent of the owner of the land to make the application, the Registrar may, if he considers it expedient to do so, effect the division upon the registration of that application, by making the appropriate entries in the Title Register to create a single title for each parcel of land into which the registered land is to be divided.

(5) In this section, “new building” (新建築物) means a building in respect of which—

(a) an occupation permit may be issued under section 21 of the Buildings Ordinance (Cap. 123) on or after the appointed day;

(b) a temporary occupation permit may be issued under section 21 of the Buildings Ordinance (Cap. 123) on or after the appointed day in respect of the whole or any part of the building;

- (c) a certificate of exemption has been issued under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121) before the appointed day but the building has not been completed before that day; or
 - (d) a certificate of exemption under the Buildings Ordinance (Application to the New Territories) Ordinance (Cap. 121) may be issued on or after the appointed day.
- (6) For the avoidance of doubt, it is hereby declared that—
- (a) subsection (1) shall not of itself operate to authorize the amalgamation or unification of Government leases of contiguous parcels of registered land which have been combined under that subsection; and
 - (b) this section shall not authorize anything to be done which would be inconsistent with the other provisions of this Ordinance or of any other enactment.

PART 4

REGISTRATION OF TITLE TO LAND AND CONNECTED MATTERS

20. Interpretation of Part 4

In this Part—

“LRO land” (《土註條例》土地) has the meaning assigned to it by section 1 of Schedule 1;

“new land” (新土地) means land granted under a Government lease or an agreement for a Government lease on or after the appointed day but does not include—

- (a) land granted under a short term tenancy; or
- (b) land which was the subject of a Government lease or agreement for a Government lease in effect immediately before the appointed day and which is the subject of an instrument executed on or after the appointed day whereby—
 - (i) the term of the Government lease or agreement for a Government lease has been extended;
 - (ii) the area of the land has been extended; or
 - (iii) the provisions of the Government lease or agreement for a Government lease have otherwise been varied;

“short term tenancy” (短期租約) means a lease expressed to be granted for a term of not more than 7 years; and in calculating that period for the purpose of this definition there shall be excluded any extension or renewal of the lease that has occurred, or may occur, by virtue of the exercise of any right.

21. Registration of title to new land

On the presentation of an application by the Director of Lands, the Registrar shall register the title to new land by—

- (a) making an entry in the Title Register to the effect that the Government lessee is the owner of the land; and
- (b) entering such other particulars in the Title Register relating to the land as the Registrar considers appropriate.

22. Date of first registration of new land

The date of first registration of new land to which the title is registered under section 21 shall be the day on which the Registrar makes the entries in the Title Register referred to in that section.

23. Effect of first registration of new land

On the date of first registration of new land, the registration of any person as the owner of the land shall vest in that person the same legal estate or equitable interest and rights as would be vested in that person if the land were transferred to him and he was registered as the owner of land under section 25.

24. Registration of LRO land

LRO land shall become registered land as provided in Schedule 1.

PART 5**EFFECT OF REGISTRATION AND CONNECTED MATTERS****25. Effect of registration of transfer of land**

(1) Subject to sections 27 and 82, the registration of a person as the owner upon a transfer of land shall vest in the person who is registered as the owner of the land the legal estate or equitable interest and rights described in subsection (2), free from all other interests and claims except as specified in subsection (3).

- (2) (a) Where paragraph (a)(i) of the definition of “owner” in section 2(1) is applicable and the land is held under a Government lease or an agreement for a Government lease in respect of which a Government lease is deemed to have been issued under section 14 of the Conveyancing and Property Ordinance (Cap. 219), there shall vest in the person who is registered as the owner—

- (i) the legal estate in the land held under the Government lease or the agreement for the Government lease (but excluding any case where the person does not hold the full unexpired term of the lease of the land); and
 - (ii) all rights attaching to the land which may be exercised by virtue of that legal estate.
- (b) Where paragraph (a)(i) of the definition of “owner” in section 2(1) is applicable and the land is held under an agreement for a Government lease in respect of which any condition precedent has not been complied with or has not been deemed to have been complied with under section 14 of the Conveyancing and Property Ordinance (Cap. 219), there shall vest in the person who is registered as the owner—
 - (i) the equitable interest in the land held under that agreement (but excluding any case where the person does not hold the full unexpired term of the agreement for lease); and
 - (ii) all rights attaching to the land which may be exercised by virtue of that equitable interest.
- (c) Where paragraph (a)(ii) of the definition of “owner” in section 2(1) is applicable and the land is held under a Government lease or an agreement for a Government lease in respect of which a Government lease is deemed to have been issued under section 14 of the Conveyancing and Property Ordinance (Cap. 219), there shall vest in the person who is registered as the owner—
 - (i) the legal estate of the undivided share in the land (but excluding any case where the person does not hold the full unexpired term of the lease of the land); and
 - (ii) all rights attaching to the land which may be exercised by virtue of that legal estate.
- (d) Where paragraph (a)(ii) of the definition of “owner” in section 2(1) is applicable and the land is held under an agreement for a Government lease in respect of which any condition precedent has not been complied with or has not been deemed to have been complied with under section 14 of the Conveyancing and Property Ordinance (Cap. 219), there shall vest in the person who is registered as the owner—
 - (i) the equitable interest of the undivided share in the land (but excluding any case where the person does not hold the full unexpired term of the lease of the land); and
 - (ii) all rights attaching to the land which may be exercised by virtue of that equitable interest.

- (3) The person who is registered as the owner shall hold his legal estate or equitable interest and rights subject to—
- (a) any covenants, exceptions, reservations, stipulations, provisos or declarations contained in the Government lease or the agreement for a Government lease of the land;
 - (b) any registered matter affecting the land; and
 - (c) any overriding interest affecting the land.
- (4) Nothing in this section shall relieve the owner of registered land from a duty to which he is subject as trustee.

26. Effect of registration of long term lease

- (1) Subject to subsections (2) and (3) and sections 27 and 82, immediately upon registration of a person as the lessee of a registered long term lease, there shall vest in the person, free from all other interests and claims—
- (a) the interest in the lease; and
 - (b) all rights attaching to the land which may be exercised by virtue of that interest.
- (2) The person who is registered as the lessee shall hold his interest and rights subject to—
- (a) any covenants, exceptions, reservations, stipulations, provisos or declarations contained in the Government lease of the land or the long term lease;
 - (b) any registered matter affecting the land; and
 - (c) any overriding interest affecting the land.
- (3) Nothing in this section shall relieve the lessee of a registered long term lease from a duty to which he is subject as trustee.

27. Voluntary transfer

- (1) Subject to subsection (2), the provisions of this Ordinance shall operate in relation to the owner of registered land or a registered charge, or the lessee of a registered long term lease, who has acquired the land, charge or lease by transfer without valuable consideration as if the transfer had been for valuable consideration.
- (2) The owner of registered land or a registered charge, or the lessee of a registered long term lease, referred to in subsection (1) shall hold the land, charge or lease subject to—
- (a) the provisions of the Bankruptcy Ordinance (Cap. 6);
 - (b) Part V of the Companies Ordinance (Cap. 32);
 - (c) section 33(9) of the Buildings Ordinance (Cap. 123); and

(d) any unregistered interests (including any matter referred to in section 4(2) or 7(2) of Schedule 1) subject to which the immediately preceding transferor held the land, charge or lease.

(3) Subsection (2) shall not operate to limit, restrict, or qualify the operation of any other provisions of this Ordinance.

28. Overriding interests

(1) All registered land shall be subject to such of the following interests as affect the land notwithstanding that the interests are not the subject of an entry in the Title Register—

(a) if Part II of the New Territories Ordinance (Cap. 97) applies to the land, any Chinese custom or customary right affecting the land;

(b) any public rights;

(c) any—

(i) easements provided for in any instrument within the meaning of the Land Registration Regulations (Cap. 128 sub. leg.) in respect of which a memorial within the meaning of those Regulations has been either registered, or accepted for registration, under the Land Registration Ordinance (Cap. 128);

(ii) rights of way;

(iii) rights of water; or

(iv) covenants which run with the land, existing on the date of first registration of the land;

(d) any easements or rights (whether existing before, on or after the appointed day) which are implied by law on the disposition or transmission of the land and which are not expressly granted or reserved in any instrument;

(e) any easements of necessity (whether existing before, on or after the appointed day);

(f) any rights (whether of the Government or any other person) under the Government lease under which the land is held;

(g) any rights, under an enactment,—

(i) of resumption, closure, entry, search, inspection, investigation, user, repair, alteration, removal, demolition, marking, naming or planning of buildings or development, redevelopment or reinstatement of land;

(ii) to extinguish rights or to create easements or other rights;

(iii) relating to costs, standards or specifications of any building, street or engineering works; or

(iv) affecting land or any interest in land,

- and any notices, orders and certificates relating to any such rights;
- (h) any first charge under section 18(1) of the Estate Duty Ordinance (Cap. 111), but only if—
 - (i) the instrument which gave rise to the charge was registered under the Land Registration Ordinance (Cap. 128) before the date of first registration of the land;
 - (ii) not more than 3 years have elapsed since the date of that instrument; and
 - (iii) the charge has not been registered under section 18(2) of the Estate Duty Ordinance (Cap. 111);
 - (i) any first charge under section 67 of the Stamp Duty Ordinance (Cap. 117);
 - (j) any lease—
 - (i) for a term not exceeding 3 years (but excluding any option to renew or extend the term of the lease);
 - (ii) at the best rent which can reasonably be obtained without a premium; and
 - (iii) where the lessee is to take possession forthwith under the lease;
 - (k) any rights acquired, or in the course of being acquired, in the land where, by virtue of the Limitation Ordinance (Cap. 347), the title of the registered owner has been extinguished or will after the expiry of the appropriate period be extinguished;
 - (l) any rights under an enactment for the erection, construction or laying of (and including the use of)—
 - (i) electricity supply lines;
 - (ii) telephone lines or poles;
 - (iii) telegraph lines or poles;
 - (iv) pipelines (including sewage tunnels);
 - (v) aqueducts;
 - (vi) canals;
 - (vii) wires;
 - (viii) dams; or
 - (ix) telecommunications facilities.

(2) Subject to subsections (3) and (5), the Registrar may, as he thinks fit, register an overriding interest.

(3) The Registrar shall, on application presented to him by the relevant authority established or referred to in an enactment referred to in subsection (1)(g), register a notice, order or certificate referred to in that subsection.

(4) The Court may order—

- (a) the registration of an overriding interest in such manner as it thinks fit and specified in the order; or

- (b) the removal or alteration of an entry in the Title Register referring to an overriding interest.
- (5) The Registrar shall give effect to an order made under subsection (4) in accordance with the provisions of the order.
- (6) The Registrar may, on—
 - (a) application presented to him by a person—
 - (i) affected by an overriding interest which has been registered; or
 - (ii) who, in the opinion of the Registrar, is otherwise concerned with the interest; and
 - (b) proof to his satisfaction that the interest has, for whatever reason, ceased to affect the registered land concerned,remove the entry in the Title Register referring to that interest.

PART 6

CERTIFICATES, SEARCHES AND EVIDENCE

29. Title certificates

(1) The Registrar may, on application presented to him by the owner of registered land or the lessee of a registered long term lease, issue to the owner or lessee a certificate in the specified form showing, or referring to, all current entries in the Title Register affecting the land or lease.

(2) Where only part of the registered land or interest in the registered long term lease which is the subject of a title certificate is dealt with in a transfer or transmission—

- (a) the title certificate shall accompany the application for registration of the transfer or transmission; and
- (b) the Registrar shall cancel that title certificate upon the registration of the application.

(3) A title certificate shall be admissible as evidence of the matters contained in the certificate as on the date of its issue.

(4) Notwithstanding what is shown, or referred to, in a title certificate, the Title Register shall be conclusive evidence of the title to the registered land and interest in the registered long term lease and the other matters shown on the Title Register.

(5) Except in the circumstances permitted under the regulations, if a title certificate has been issued for registered land or a registered long term lease, a transfer or transmission shall not be registered in respect of the land or lease unless the certificate is returned for cancellation.

(6) After the Registrar has issued a title certificate for registered land or a registered long term lease, he—

- (a) shall make a note in the Title Register that the certificate has been issued; and
- (b) subject to subsection (7), shall not issue another title certificate in respect of the land or lease unless the first certificate is cancelled.

(7) A new title certificate may be issued, in accordance with the regulations, in place of a title certificate which has been lost or destroyed or which for any other reason needs to be replaced.

(8) For the avoidance of doubt, it is hereby declared that a title certificate is subject to—

- (a) any overriding interest; and
 - (b) any subsequent entry in the Title Register,
- affecting the registered land or the registered long term lease to which the certificate relates.

30. Searches

(1) Subject to subsection (2), a person may—

- (a) on the presentation to the Registrar of an application for a search or inspection; and
- (b) in accordance with the regulations,

have made available any thing required under section 4, 5 or 6 to be kept in the Land Registry.

(2) Subsection (1) shall not operate to entitle a person to—

- (a) have made available any thing referred to in section 4, 5 or 6 in a manner not expressly permitted under the regulations (or, where more than one manner is so permitted, in any one such manner as the Registrar decides);
- (b) have made available, in respect of the application concerned, any document for the purposes of, or as a result of, the search to which the application relates other than any such document expressly permitted to be so made available under the regulations.

31. Evidence

(1) Notwithstanding any other enactment, a document purporting to be a copy, print or extract—

- (a) of or from—
 - (i) the Title Register (including any part thereof);
 - (ii) the applications register (including any part thereof);

- (iii) any document, or any microfilm, image record or other record of a document, kept in the Land Registry under section 6 (including any part thereof);
 - (iv) any specified form (including any part thereof);
 - (v) any other document (including any part thereof)—
 - (A) which is filed or deposited in the Land Registry under the provisions of this Ordinance or any other enactment; or
 - (B) which otherwise belongs to the Land Registry; or
 - (vi) any endorsement on the Title Register, the applications register or any document, record or form referred to in subparagraph (iii), (iv) or (v); and
- (b) bearing a certificate, with the signature or the printed signature of the Registrar, or of any other person authorized by him in that behalf, certifying that the document is a true copy, print or extract,

shall, subject to the Stamp Duty Ordinance (Cap. 117), and to the same extent as the original of the document, be admissible in evidence in any proceedings before any court on its production without further proof and, in the absence of evidence to the contrary, the court shall presume that—

- (c) the signature or the printed signature and certification to the document is that of the Registrar or a person authorized by him in that behalf; and
- (d) the document is a true and correct copy, print or extract.

(2) No solicitor, trustee or other person in a fiduciary position shall be liable in damages for any loss occasioned by the inaccuracy of a document first-mentioned in subsection (1).

(3) Subject to subsection (4), no process for compelling the production of any thing referred to in subsection (1)(a) shall be issued from any court—

- (a) except with the leave of the court; and
- (b) unless the process has a statement on it to the effect that it is issued with the leave of the court.

(4) A court shall not grant leave for a process referred to in subsection (3) to be issued if it is satisfied that a document first-mentioned in subsection (1) is sufficient for the purposes of the process.

(5) Nothing in this section shall prejudice the admissibility of any evidence which would be admissible apart from the provisions of this section.

PART 7

DISPOSITIONS AND CONNECTED MATTERS

32. Dispositions and instruments

(1) Subject to subsection (2), no disposition of registered land or a registered long term lease or any interest in or over registered land or a registered long term lease shall be effectual to create, extinguish, transfer, vary or affect the land or lease or any interest in or over the land or lease unless and until the disposition is registered under this Ordinance.

(2) Nothing in this section shall be construed as preventing an interest in or over registered land or a registered long term lease which is not registered under this Ordinance from taking effect in equity if the interest is—

- (a) capable of registration under this Ordinance; or
- (b) protected by an entry in the Title Register.

(3) Subsection (2) shall not operate to limit, restrict, or qualify the operation of any other provisions of this Ordinance.

(4) The death of a person by or on behalf of whom an instrument has been executed shall not of itself affect the validity of the instrument where—

- (a) the death occurred after the instrument was executed; and
- (b) the instrument was valid at the time it was executed,

and, accordingly, the instrument may be presented to the Registrar for registration as if the death had not occurred.

33. Additional fee for delayed registration

(1) Subject to subsections (2) and (3), where an application for the registration of any dealing is presented to the Registrar for registration later than 3 months after the date of the instrument supporting the application, then, in addition to the prescribed fee payable in respect of the application, an additional fee equal to that prescribed fee shall be payable for each month or part of a month which has elapsed since the date of that instrument.

(2) No additional fee payable under subsection (1) in respect of the registration of a dealing shall exceed 10 times the prescribed fee that would have been payable in respect of the application which relates to the dealing if that dealing had been registered on the date of the instrument supporting the application.

(3) The Registrar may remit, either in whole or in part, any additional fee payable under subsection (1) where to do so is in his opinion just and equitable in all the circumstances of the case.

34. Power to compel registration

(1) Where the Registrar is satisfied that a person, without reasonable excuse, has failed to present to the Registrar an application for the registration of a dealing, the Registrar may, by notice in writing served on the person, require that person to present the application to the Registrar not later than 30 days after the notice is so served.

(2) Where an application in relation to which a notice has been issued under subsection (1)—

(a) is presented to the Registrar on a date on or before the expiration of 30 days after the service of the notice—

- (i) the prescribed fee payable in respect of the application; and
- (ii) any additional fee payable under section 33 in respect of the application,

shall become due and payable on that date;

(b) is not presented to the Registrar on a date on or before the expiration of 30 days after the service of the notice—

- (i) the prescribed fee payable in respect of the application; and
- (ii) any additional fee payable under section 33 in respect of the application,

shall become due and payable on the day immediately following the expiration of those 30 days.

35. Priority of registered matters

(1) Subject to subsections (3), (4), (5) and (6) and section 9 of Schedule 1, matters appearing in the Title Register shall have priority according to the order in which the applications which led to their registration were presented to the Registrar, irrespective of the dates of the applications (including the dates of the instruments, if any, supporting the applications) and notwithstanding that the actual entry in the Title Register may be delayed.

(2) Where a first charge under the provisions of any enactment is not an overriding interest, then, in so far as the charge relates to land, and notwithstanding those provisions or the fact that the term “first charge” is used therein, that charge shall have priority as determined in accordance with subsection (1).

(3) Any first charges arising under section 67(2) of the Stamp Duty Ordinance (Cap. 117) shall have priority according to the order in which the instruments to which they respectively relate were registered under the Land Registration Ordinance (Cap. 128), irrespective of the order in which any such charges are registered under this Ordinance and notwithstanding the operation of section 67(4) of the Stamp Duty Ordinance (Cap. 117).

- (4) It is hereby declared that where—
- (a) a consent caution (“first consent caution”) referred to in section 71(3) has been registered in respect of a dealing;
 - (b) the provisional agreement for sale and purchase or agreement for sale and purchase to which the first consent caution relates is stamped or endorsed under the Stamp Duty Ordinance (Cap. 117); and
 - (c) another consent caution (“second consent caution”), accompanied by that stamped or endorsed provisional agreement for sale and purchase or agreement for sale and purchase, as the case may be, is registered in respect of that dealing not later than 30 days after the registration of the first consent caution,

then the second consent caution shall enjoy the same priority as the first consent caution, as if it had been registered on the same date as the first consent caution.

(5) If a consent caution is registered in relation to an interest under a provisional agreement for sale and purchase or an agreement for sale and purchase, then, upon the registration of the dealing to which the consent caution relates, the priority of all matters registered after that consent caution is registered shall be postponed as against that dealing.

(6) A charging order or non-consent caution which is duly registered shall have priority from the commencement of the day following the date of its registration.

36. Charging orders and *lis pendens*, etc.

- (1) Subject to subsections (2), (3) and (4)—
- (a) the registration of a charging order shall cease to have effect immediately upon the expiration of 5 years from the date of registration of the order but the order may be re-registered from time to time and, if so re-registered, the re-registration of the order shall have effect for another 5 years from the date of re-registration; and
 - (b) if the re-registration of a charging order is made before the expiration of a current period of registration or re-registration of the order, then the order shall retain its original priority.

(2) The operation of subsection (1) in respect of a charging order shall be subject to any express stipulation to the contrary contained in the order except any such stipulation which purports to provide that the registration of the order shall have effect for a period longer than 5 years from the date of registration.

(3) The variation of a registered charging order shall be effected by the registration of an order of a court of competent jurisdiction providing for the variation.

(4) The discharge of a registered charging order shall be effected by the removal of the entry in the Title Register referring to the order consequent upon the presentation to the Registrar of an order of a court of competent jurisdiction providing for the discharge.

(5) Without prejudice to the generality of any other provisions of this Ordinance under which the registration of a judgment, order or *lis pendens* may be removed or withdrawn, subsections (1) and (2) shall, with all necessary modifications, apply to a judgment, order or *lis pendens* as they apply to a charging order.

(6) A charging order, judgment or order shall be registered in the manner prescribed by the regulations.

37. Form and effect of charges

(1) A charge on registered land or a registered long term lease shall be effected by—

- (a) its registration as an incumbrance; and
- (b) the registration of the person in whose favour it is made as its owner.

(2) Where, in relation to a registered charge which is a charge to which Part III of the Companies Ordinance (Cap. 32) applies, there is any conflict or inconsistency between the provisions of this Ordinance and the provisions of that Part, then the provisions of that Part (including that Part as read with any other provisions of the Companies Ordinance (Cap. 32) to which it is subject) shall, to the extent of the conflict or inconsistency, as the case may be, prevail over the provisions of this Ordinance.

(3) For the avoidance of doubt, it is hereby declared that—

- (a) a registered charge shall not operate as a transfer of the registered land or the registered long term lease which is subject to the charge but shall have effect as a security only; and
- (b) where the registered charge is a mortgage effected by a legal charge within the meaning of section 2 of the Conveyancing and Property Ordinance (Cap. 219), the registration of the charge under this Ordinance shall not affect the operation of section 44(2) of that Ordinance.

38. Second or subsequent charges

The owner of registered land, or the lessee of a registered long term lease, which is subject to a registered charge may effect a second or subsequent registered charge in the same manner as a first registered charge and—

- (a) subject to paragraph (b), for that purpose the provisions of this Ordinance which apply to a first registered charge shall apply to a second or subsequent registered charge in the same manner as those provisions apply to a first registered charge; and
- (b) any power of sale expressed or implied in a second or subsequent registered charge shall be subject to all prior registered charges which have not been discharged.

39. Charge on registered charge

The owner of a registered charge may effect a charge on any interest he has in the registered charge and any charge so effected may be registered as an incumbrance specifying the person in whose favour it is made as the owner.

40. Discharge or partial discharge of registered charge

A discharge or partial discharge of a registered charge shall be effected by—

- (a) in the case of a discharge, the removal of the entry in the Title Register referring to the charge;
- (b) in the case of a partial discharge, the alteration of the entry in the Title Register referring to the charge or its removal or substitution by a new entry, as the case may require.

41. Satisfaction of registered charge

On proof to the satisfaction of the Registrar—

- (a) that all money or money's worth due under a registered charge has been paid to the chargee or by his direction;
- (b) that there has been fulfilment of all the conditions to which a registered charge relates;
- (c) that part of money or money's worth due under a registered charge has been paid to the chargee or by his direction; or
- (d) that there has been fulfilment of some of the conditions to which a registered charge relates,

the Registrar shall—

- (e) in the case of paragraph (a) or (b), remove the entry in the Title Register referring to the charge;
- (f) in the case of paragraph (c) or (d), alter the entry in the Title Register referring to the charge or remove the entry or substitute a new entry, as the case may require.

42. Floating charge

(1) Subject to subsection (3), an instrument providing for a floating charge, whether or not it specifically identifies any registered land or registered long term lease charged, shall not be registrable as a charge.

(2) An instrument providing for a floating charge becomes—

- (a) an instrument providing for a fixed charge on the registered land or the registered long term lease intended to be affected; and
- (b) registrable as a charge on that land or lease,

upon crystallization of that charge as evidenced by a certificate signed by or on behalf of the chargee.

(3) An instrument providing for a fixed charge and a floating charge shall be registrable as a charge on the registered land or the registered long term lease which is subject to the fixed charge.

43. Transfer

(1) A transfer of registered land, a registered charge or a registered long term lease shall be effected by the registration of the transferee as—

- (a) the owner of the registered land;
- (b) the owner of the registered charge; or
- (c) the lessee of the registered long term lease,

as the case may be.

(2) The transferee of a registered charge may require the chargor to execute the transfer for the purpose of acknowledging the amount due under the charge at the date of execution of the transfer, and the chargor shall comply with that requirement accordingly.

44. Division of land, etc.

(1) Subject to subsections (2) and (3), the Registrar shall not accept an application the registration of which will effect a division of registered land unless, in respect of each of the parcels of land to result from the division, the instrument accompanying the application and providing for the division is accompanied by a land boundary plan—

- (a) showing and delineating those parcels; and

- (b) subject to subsection (4), signed and certified by an authorized land surveyor.
- (2) Without prejudice to the generality of subsections (3) and (4)—
 - (a) subject to paragraph (b), it shall not be necessary for an instrument referred to in subsection (1) to be accompanied by a land boundary plan referred to in subsection (1) where the division of registered land concerned is provided for by a will or judgment and that instrument is the grant of probate in respect of the will, or the judgment, as the case may be;
 - (b) it shall be necessary for an instrument accompanying an application presented for the registration of a dealing to effect the passing of title to any parcel of land resulting from that division to be accompanied by such a land boundary plan.
- (3) It shall not be necessary for an instrument referred to in subsection (1) or (2)(b) to be accompanied by a land boundary plan referred to in that subsection if the instrument was executed before the commencement of section 30 of the Land Survey Ordinance (Cap. 473).
- (4) It shall not be necessary for a land boundary plan—
 - (a) accompanying an instrument referred to in subsection (1) or (2)(b); and
 - (b) which has been prepared by the Government,to be signed and certified by an authorized land surveyor.

45. Implied covenants for title

- (1) For the avoidance of doubt, it is hereby declared that—
 - (a) the provisions of this Ordinance shall not prejudice the operation of section 35 of the Conveyancing and Property Ordinance (Cap. 219); and
 - (b) no reference to a covenant implied under that section shall be entered in the Title Register.
- (2) Where a covenant implied under section 35 of the Conveyancing and Property Ordinance (Cap. 219) is to be excluded, varied or extended in a transfer of registered land or a registered charge, express reference shall be made to the covenant so excluded, varied or extended in the instrument supporting the transfer or registered charge.
- (3) Where a transfer or charge is supported by an instrument mentioned in subsection (2), then the registration of the transfer or charge shall of itself effect the registration of the covenant implied under section 35 of the Conveyancing and Property Ordinance (Cap. 219) as varied or extended by the transfer or charge.

46. Provisions as between vendor and purchaser

(1) On a sale of registered land or a registered long term lease to a purchaser—

- (a) the vendor shall, subject to any stipulation to the contrary, provide the purchaser with—
 - (i) a copy of the current entries in the Title Register;
 - (ii) a copy of any instrument referred to in any such entry;
 - (iii) a copy of any plan referred to in any such entry or instrument; and
 - (iv) such other documents as may be prescribed by the regulations,so far as any such entries, instrument, plan or documents respectively affect the land or lease (except registered incumbrances which are to be discharged at or prior to completion of the sale);
- (b) the vendor shall, subject to subsection (2) and to any stipulation to the contrary, at his own expense provide the purchaser with particulars of any overriding interests affecting the land or lease of which he has, or ought reasonably to have, knowledge; and
- (c) where the vendor is not the owner of the land or of a registered charge giving a power of sale over the land, or the lessee of the lease, he shall, at the request of the purchaser and at his own expense, and notwithstanding any stipulation to the contrary, procure—
 - (i) the registration of himself as the owner of the land or charge or the lessee of the lease; or
 - (ii) a disposition of the land, charge or lease from the owner to the purchaser.

(2) Where, on the first transfer on or after the date of first registration of land, the vendor has, or ought reasonably to have, knowledge of an overriding interest which might affect the land—

- (a) the vendor shall, notwithstanding any stipulation to the contrary, and whether under subsection (1)(b) or otherwise, at his own expense provide the purchaser of the land with full particulars of the interest; and
- (b) the purchaser shall include the particulars provided to him under paragraph (a) in the application presented to the Registrar for the registration of the transfer.

(3) Notwithstanding any stipulation to the contrary, on a sale of registered land or a registered long term lease, a purchaser shall only be entitled to require from the vendor the matters required to be provided by the vendor to the purchaser under this section.

47. Transfer subject to lease

A transfer of registered land or a registered long term lease which is subject to a lease shall be valid without the lessee of the last-mentioned lease acknowledging the transferee as lessor, but nothing in this section shall—

- (a) affect the validity of any payment of rents made by the lessee to the transferor; or
- (b) render the lessee liable, on account of his failure to pay rents to the transferee, for any breach of agreement to pay rents, before a notice of the transfer is given to the lessee by the transferor or transferee.

48. Leases other than long term leases

- (1) The Registrar shall register—
 - (a) the grant of a lease;
 - (b) any transaction concerning a lease where the lessee's interest in the lease is or is to be affected by the transaction.
- (2) In this section, "lease" (租契) does not include—
 - (a) a lease which is an overriding interest;
 - (b) a lease of any land which is not registered land; or
 - (c) a long term lease.

49. Long term leases

(1) An application for the registration of a long term lease shall be made by the first lessee of the long term lease granted by the owner of the registered land on or after the date of first registration of the land.

(2) Where, on the grant of a long term lease by the owner of the registered land on or after the date of first registration of the land, the owner has, or ought reasonably to have, knowledge of an overriding interest which might affect the long term lease—

- (a) the owner shall, notwithstanding any stipulation to the contrary, at his own expense provide the first lessee of the long term lease with full particulars of the interest; and
- (b) the first lessee shall include the particulars provided to him under paragraph (a) in the application presented to the Registrar under subsection (1).

(3) The Registrar may register a long term lease which is the subject of an application under subsection (1) if the Registrar is satisfied that the application complies with the provisions of this Ordinance applicable to it.

(4) The Registrar shall register a long term lease which is the subject of an application under subsection (1) by—

(a) making an entry in the Title Register specifying that the applicant is the lessee of the long term lease; and

(b) entering such other particulars in the Title Register relating to the lease as the Registrar considers appropriate.

(5) The date of first registration of a long term lease registered under this section shall be the date on which the application for registration of the lease was delivered to the Land Registry.

50. Termination of leases

Where a registered lease is terminated (whether by surrender, forfeiture, re-entry or otherwise), the Registrar shall remove the entry in the Title Register referring to the lease on the presentation of an application to the Registrar therefor together with—

(a) the instrument, if any, providing for the termination; or

(b) such other evidence as satisfies the Registrar that the lease has been terminated.

51. Easements

(1) An instrument creating, or evidencing the existence of, an easement shall specify—

(a) the nature of the easement, the period for which it is granted and any conditions, limitations or restrictions intended to affect its enjoyment;

(b) the registered land or the registered long term lease burdened by the easement and, if required by the Registrar, the particular part of the land so burdened; and

(c) the registered land or the registered long term lease which enjoys the benefit of the easement and, if required by the Registrar, the particular part of the land so benefited.

(2) The registration of an easement shall be effected by the entering in the Title Register of particulars of the instrument creating, or evidencing the existence of, the easement both in respect of the registered land or the registered long term lease burdened and the registered land or the registered long term lease benefited by the easement.

52. Covenants

(1) Where an instrument, other than a lease or charge, provides for a covenant (whether positive or restrictive in effect)—

- (a) which relates to registered land or a registered long term lease of the covenantor;
- (b) the burden of which is expressed or intended to run with the registered land or the registered long term lease of the covenantor; and
- (c) which is expressed and intended to benefit the registered land or the registered long term lease of the covenantee and his successors in title or persons deriving title to that land or lease under or through him or them,

the registration of the covenant shall be effected by the entering in the Title Register of particulars of that instrument both in respect of the registered land or the registered long term lease burdened and the registered land or the registered long term lease benefited by the covenant.

(2) Subject to section 28, an instrument providing for a covenant shall not affect registered land or a registered long term lease unless particulars of the instrument are entered in the Title Register.

(3) In this section, “covenant” (契諾) does not include a deed of mutual covenant within the meaning of section 53.

(4) For the avoidance of doubt, it is hereby declared that this section shall not prejudice the operation of section 45.

53. Deeds of mutual covenant

- (1) The registration of a deed of mutual covenant shall be effected by—
- (a) its registration as an incumbrance; and
 - (b) entering particulars of the deed in the Title Register.

(2) The registration of any alteration or addition to a registered deed of mutual covenant shall be effected by—

- (a) adding to or altering the entry in the Title Register referring to the deed; or
- (b) removing that entry and substituting a new entry in relation to the deed.

(3) On proof to the satisfaction of the Registrar that a registered deed of mutual covenant, including any registered alterations or additions, has been extinguished or otherwise terminated, the Registrar shall remove the entry in the Title Register referring to the deed.

(4) The registration of a deed of mutual covenant under this section shall also effect the registration of any easement, right or covenant provided for in the deed which affects the registered land or registered long term lease concerned.

(5) In this section—
“deed of mutual covenant” (公契) includes a document which defines the rights, interests and obligations of owners among themselves;

“owner” (業主) has the meaning assigned to it by section 2 of the Building Management Ordinance (Cap. 344).

(6) For the avoidance of doubt, it is hereby declared that, except to the extent provided by this Ordinance, nothing in this section shall prejudice the operation of sections 39, 40 and 41 of the Conveyancing and Property Ordinance (Cap. 219).

54. Release and extinguishment of registered easements and covenants

(1) On the registration of an executed release in respect of a registered easement or covenant—

- (a) the easement or covenant is thereupon extinguished; and
- (b) the Registrar shall remove the entry in the Title Register referring to that easement or covenant.

(2) The Registrar shall, on—

- (a) application presented to him by a person affected by a registered easement or covenant; and
- (b) proof to his satisfaction that—
 - (i) the period for which the easement or covenant was intended to exist has expired;
 - (ii) the event upon which the easement or covenant was intended to determine has occurred; or
 - (iii) the easement or covenant has otherwise ceased to have effect,

remove the entry in the Title Register referring to that easement or covenant.

55. Modification or partial extinguishment of registered easements and covenants

The Registrar shall register an application for the modification or partial extinguishment of a registered easement or covenant where—

- (a) the application is accompanied by an instrument providing for the modification or partial extinguishment; and
- (b) the Registrar is satisfied that each owner of the registered land or each lessee of the registered long term lease burdened or benefited by the easement or covenant consents to the modification or partial extinguishment.

56. Saving of certain rights

Nothing in this Ordinance shall be construed as altering any rule of law which implies in the grant or reservation of an easement such ancillary rights as are necessary for effective enjoyment of the easement.

57. Registration of more than one owner

(1) An instrument providing for a transfer made in favour of 2 or more persons shall not be registered unless it shows, in respect of the registered land or the registered long term lease to which it relates—

- (a) whether the persons are joint tenants or tenants in common; and
- (b) where the persons are tenants in common, the share of each owner or lessee.

(2) The entry made in the Title Register to effect the registration of an instrument referred to in subsection (1) shall show the particulars required to be shown in that instrument under paragraphs (a) and (b) of that subsection.

58. No interference with rights of succession, etc.

Nothing in this Ordinance shall be construed as affecting—

- (a) a right which the owner of registered land or a registered charge, or the lessee of a registered long term lease, has to make a will, under the law relating to testamentary disposition, disposing of the land, charge or lease on his death;
- (b) the law of intestate succession;
- (c) a right of succession to land under Part II of the New Territories Ordinance (Cap. 97) (including that Part as read with section 12 of the New Territories Land (Exemption) Ordinance (Cap. 452)); or
- (d) the operation of section 15 or 18 of the New Territories Ordinance (Cap. 97).

PART 8**INSTRUMENTS****59. Form of instruments**

(1) A disposition of registered land, a registered charge or a registered long term lease, or the grant or reservation of an easement over registered land or a registered long term lease, may be made in any manner as could have been done prior to the date of first registration of the land or lease except where—

- (a) such a disposition, grant or reservation is required to be made by an instrument in the specified form and there is such a specified form; or
- (b) notwithstanding that such a disposition, grant or reservation is not required to be made by an instrument in the specified form, the Registrar has exercised his power under section 99 to specify the form of such an instrument.

(2) An instrument, where applicable, shall contain a true statement of the amount or value of any purchase price or loan or other consideration.

60. Stamping

(1) Without prejudice to the operation of section 15(3) of the Stamp Duty Ordinance (Cap. 117), no instrument required by law to be stamped shall be accepted for registration of any matter unless the instrument is stamped in accordance with the requirements of that Ordinance.

(2) Subject to section 71(3) and without prejudice to the operation of section 15(3) of the Stamp Duty Ordinance (Cap. 117), where an application for the registration of a consent caution, a non-consent caution, an inhibition or a restriction for the purpose of protecting an interest in registered land, a registered charge or a registered long term lease is supported by an instrument required by law to be stamped, the registration shall not be proceeded with unless the instrument is stamped in accordance with the requirements of the Stamp Duty Ordinance (Cap. 117).

61. Minors

(1) Nothing in this section enables a minor who is the owner of registered land or a registered charge, or the lessee of a registered long term lease, to deal with the land, charge or lease or with an interest in the land, charge or lease.

(2) Where a disposition by a minor of registered land, a registered charge or a registered long term lease has been registered and—

- (a) the person to whom the disposition is made acted in good faith and for valuable consideration; and
- (b) the fact that the minor was a minor was not disclosed to that person at any time before the registration of the disposition,

that disposition shall not be set aside only on the ground that the disposition was made by a minor.

(3) For the avoidance of doubt, it is hereby declared that where the owner of registered land or a registered charge, or the lessee of a registered long term lease, is a minor and that fact is disclosed to the Registrar in any application for registration made by him, then the name of that minor shall be

entered in the Title Register with the addition after the minor's English name of the words "a minor" and with the addition after his Chinese name of the words "未成年人".

PART 9

TRANSMISSIONS AND TRUSTS

62. Transmission

(1) Without prejudice to the operation of sections 63, 64, 65, 66, 67 and 68, where a person becomes entitled to registered land, a registered charge or a registered long term lease under an order of a court of competent jurisdiction, under an enactment or by operation of law (including in the capacity of trustee), the Registrar shall, on the presentation to him by the person of such evidence as the Registrar requires, register the person so entitled—

- (a) as the owner, or as the owner in the capacity of trustee, of the land or charge; or
- (b) as the lessee, or as the lessee in the capacity of trustee, of the lease,

as the case may require.

(2) The registration of a person under subsection (1) as the owner, or as the owner in the capacity of trustee, of registered land shall be treated as only confirming that the person has the same legal estate or equitable interest and rights as would have been vested in that person if the land had been transferred to him and he had been registered as the owner of the land under section 25.

(3) The registration of a person under subsection (1) as the lessee, or as the lessee in the capacity of trustee, of a registered long term lease shall be treated as only confirming that the person has the same interest and rights as would have been vested in that person if he had been registered as the lessee of the lease under section 26.

63. Transmission on death of joint tenant

(1) Subject to subsection (2), where one of 2 or more joint tenants of registered land, a registered charge or a registered long term lease dies, the Registrar, on proof to his satisfaction of the death, shall remove the name of the deceased from the Title Register.

(2) The Registrar shall not remove the name of a deceased from the Title Register under subsection (1) until he is satisfied that—

- (a) estate duty is not payable under the Estate Duty Ordinance (Cap. 111) on the deceased's interest in registered land or the registered long term lease concerned; or
- (b) where such estate duty is payable on such interest—
 - (i) the estate duty has been paid in accordance with the provisions of that Ordinance; or
 - (ii) the payment of the estate duty has been secured to the satisfaction of the Commissioner under section 15 of the Estate Duty Ordinance (Cap. 111).

64. Transmission on death of sole owner or tenant in common

(1) Where a sole owner or tenant in common of registered land or a registered charge dies, or a sole lessee of or one of 2 or more lessees holding as tenants in common of a registered long term lease dies, his personal representative shall, on the presentation to the Registrar of the grant concerned, be entitled to be registered as the owner of the land or charge, or as the lessee of the lease, in the place of the deceased, with the addition after the personal representative's English name of the words "as executor of the will of deceased" or "as administrator of the estate of deceased", as the case may be, and after the personal representative's Chinese name of the words "作為死者.....的遺囑執行人" or "作為死者.....的遺產管理人", as the case may be.

(2) Where a sole owner or tenant in common of registered land or a registered charge dies, or a sole lessee of or one of 2 or more lessees holding as tenants in common of a registered long term lease dies, the Registrar may, on the presentation to him of the grant concerned by the personal representative of the deceased owner or lessee, and without requiring the personal representative to be registered in accordance with subsection (1), register—

- (a) a transfer of the land, charge or lease by the personal representative; or
- (b) a discharge of the charge by the personal representative.

(3) Where under section 17 of the New Territories Ordinance (Cap. 97) as read with section 12 of the New Territories Land (Exemption) Ordinance (Cap. 452) any registered land is vested in any person as a successor, that person shall, on the presentation to the Registrar of evidence which satisfies the Registrar that the land has so vested, be entitled to be registered as the owner of the land in place of the deceased person concerned.

(4) In this section, "grant" (授予承辦證明) means—

- (a) the grant of the probate of the will;
- (b) the grant of letters of administration of the estate; or

(c) evidence of the summary administration, under section 15 of the Probate and Administration Ordinance (Cap. 10), of the estate, of the deceased owner of registered land or a registered charge, or the deceased lessee of a registered long term lease, and includes the resealing of the grant.

65. Transmission on death of trustee

Where a trustee who in that capacity is registered as the owner of registered land or a registered charge dies, or where a trustee who in that capacity is registered as the trustee of a registered long term lease dies, his personal representative or any surviving or newly appointed trustee shall, on the presentation to the Registrar of such evidence as the Registrar requires, be entitled to be registered as the owner of the land or charge, or as the lessee of the lease, in the place of the deceased, with the addition after his English name of the words “as trustee” and with the addition after his Chinese name of the words “作為受託人”.

66. Effect of transmission on death and dealing by personal representative

A personal representative who in that capacity is registered as the owner of registered land or a registered charge, or as the lessee of a registered long term lease shall—

- (a) be subject to any interests to which the land, charge or lease is subject at the time of registration of the personal representative as the owner or lessee, as the case may be; and
- (b) without prejudice to paragraph (a), for the purposes of any dealing in the land, charge or lease, have—
 - (i) unrestricted power of sale over the land, charge or lease;
 - (ii) all the rights conferred under this Ordinance or any other enactment on the owner of registered land or a registered charge, or the lessee of a registered long term lease, as the case may be, who has acquired the land, charge or lease for valuable consideration.

67. Transmission on bankruptcy

(1) A trustee in bankruptcy shall, on the presentation to the Registrar of a sealed copy of the order of the Court—

- (a) adjudging the owner of registered land or a registered charge bankrupt, or the lessee of a registered long term lease bankrupt;
- or

- (b) directing that the estate of the deceased owner of registered land or a registered charge, or the deceased lessee of a registered long term lease shall be administered according to the law of bankruptcy,

be entitled to be registered as the owner of the land or charge, or as the lessee of the lease, in the place of the bankrupt or deceased owner or lessee, with the addition after the English name of the trustee in bankruptcy of the words “as trustee of the property of a bankrupt”, and with the addition after the Chinese name of the trustee in bankruptcy of the words “作為破產人.....的財產的受託人”.

(2) A trustee in bankruptcy who in that capacity is registered as the owner of registered land or a registered charge, or as the lessee of a registered long term lease shall—

- (a) be subject to—
- (i) any restrictions (including any rights) provided for in the Bankruptcy Ordinance (Cap. 6) or any other enactment; and
 - (ii) any interests subject to which the bankrupt or deceased owner of the land or charge or lessee of the lease held the land, charge or lease immediately prior to his bankruptcy or death;
- (b) without prejudice to paragraph (a), for the purposes of any dealing in the land, charge or lease, have—
- (i) unrestricted power of sale over the land, charge or lease;
 - (ii) all the rights conferred under this Ordinance or any other enactment on the owner of registered land or a registered charge, or the lessee of a registered long term lease, as the case may be, who has acquired the land, charge or lease for valuable consideration.

68. Transmission on liquidation

(1) Where a company is being wound up—

- (a) the liquidator of the company shall present to the Registrar the resolution or order under which he holds his appointment as liquidator; and
- (b) on the presentation of the resolution or order, the Registrar shall enter the appointment in the Title Register in respect of any registered land, registered charge or registered long term lease of which the company is the owner or lessee.

(2) An instrument executed by or on behalf of a company being wound up presented to the Registrar for registration after the appointment of the liquidator of the company has been entered in the Title Register shall—

- (a) in the case of a company required by law to have a common seal, be sealed with the common seal of the company and attested by the liquidator;
- (b) in any other case, be signed by the liquidator.

(3) Where an order has been made under section 198 of the Companies Ordinance (Cap. 32) vesting in the liquidator of a company any registered land, registered charge or registered long term lease of which the company is the owner or lessee—

- (a) the liquidator shall present the order to the Registrar; and
- (b) on the presentation of the order, the Registrar shall register the liquidator as the owner or lessee, as the case may be, of the land, charge or lease.

(4) Where under subsection (3) the liquidator of a company is registered as the owner of registered land or a registered charge, or as the lessee of a registered long term lease, the liquidator shall be subject to—

- (a) any restrictions (including any rights) provided for in the Companies Ordinance (Cap. 32) or any other enactment; and
- (b) any interests subject to which the company held the land, charge or lease immediately prior to the order made under section 198 of the Companies Ordinance (Cap. 32) by virtue of which the land, charge or lease was vested in the liquidator.

69. Trusts

(1) A person who, in the capacity of trustee (other than as a personal representative or trustee in bankruptcy)—

- (a) acquires registered land, a registered charge or a registered long term lease;
- (b) holds a registered charge;
- (c) holds a long term lease; or
- (d) becomes the lessee of a Government lease issued on or after the appointed day,

may be described by that capacity in the relevant instrument, and, if so described, shall be registered with the addition of the words “as trustee” and “作為受託人”, but the Registrar shall not enter particulars of the trust concerned in the Title Register.

(2) Where the owner of registered land or a registered charge, or the lessee of a registered long term lease, makes a declaration of trust in respect of the land, charge or lease, or otherwise comes to hold the land, charge or lease as a trustee (other than as a personal representative or trustee in bankruptcy), the Registrar shall, on the presentation of an application for the registration of a transfer of the land, charge or lease supported by the declaration or other instrument by virtue of which the owner comes to hold the land, charge or

lease as a trustee, add the words “as trustee” after that person’s English name and add the words “作為受託人” after that person’s Chinese name in the Title Register concerned, but the Registrar shall not enter particulars of the trust concerned in the Title Register.

(3) For the avoidance of doubt, it is hereby declared that subsections (1) and (2) shall not prevent the making of an entry of a consent caution, non-consent caution, inhibition or restriction in the Title Register by reason only of the fact that the entry contains particulars of a trust.

(4) A person who, in the capacity of trustee, is registered under this section as the owner of registered land or a registered charge, or as the lessee of a registered long term lease—

- (a) shall be subject to any interests to which the land, charge or lease is subject at the time of registration of the person as the owner or lessee, as the case may be; and
- (b) without prejudice to paragraph (a), for the purposes of any dealing in the land, charge or lease, shall have all the rights conferred under this Ordinance or any other enactment on the owner of registered land or a registered charge, or the lessee of a registered long term lease, as the case may be, who has acquired the land, charge or lease for valuable consideration.

(5) No breach of the terms of the trust to which the person, land, charge or lease referred to in subsection (4) is subject shall create any right or indemnity under this Ordinance.

70. Protection of person dealing with trustees

Where a person, in the capacity of trustee, is registered as the owner of registered land or a registered charge, or as the lessee of a registered long term lease, he shall, in dealing with the land, charge or lease, be deemed to be the owner of that land or charge or lessee of that lease, and no disposition that amounts to a breach of trust by the trustee to a bona fide purchaser for valuable consideration shall be defeasible by reason only of the fact of that breach.

PART 10

CAUTIONS AND RESTRAINTS ON DISPOSITION

71. Registration of cautions

(1) A person who intends to effect a dealing in registered land, a registered charge or a registered long term lease may present to the Registrar an application for the registration of a consent caution in respect of the dealing if he has obtained the consent of the relevant person specified in subsection (2).

- (2) For the purposes of subsection (1), the relevant person is—
- (a) the owner of the registered land or registered charge, or the lessee of the registered long term lease, as the case may be; or
 - (b) the cautioner under a registered consent caution with whom any person intends to enter into a dealing in respect of an interest that the cautioner claims under that registered consent caution.

(3) Where an instrument which is a provisional agreement for sale and purchase or an agreement for sale and purchase in respect of registered land or a registered long term lease has been or will be presented for stamping or endorsement under the Stamp Duty Ordinance (Cap. 117), then a consent caution in respect of that dealing may be registered if the application for the registration of the consent caution is accompanied by a statutory declaration by the purchaser under the dealing to the effect that the instrument has been or will be so presented.

- (4) A person who—
- (a) claims any interest, whether contractual or otherwise, in registered land or a registered charge, or a registered long term lease; or
 - (b) has presented a winding-up petition against the owner of registered land or a registered charge, or the lessee of a registered long term lease,

may present to the Registrar an application for the registration of a non-consent caution in respect of the claim or petition, as the case may be (and whether or not that person is the owner of that land or the lessee of that lease).

- (5) The reference to interest in subsection (4)(a) shall include—
- (a) in any case where proceedings are brought by virtue of section 147(3) of the Companies Ordinance (Cap. 32), a first charge under section 148(1) of that Ordinance which may arise by virtue of those proceedings;
 - (b) in any case where a gift inter vivos of any property is made and estate duty would be payable by virtue of section 6(1)(c) of the Estate Duty Ordinance (Cap. 111), a first charge under section 18(1) of that Ordinance which may arise by virtue of the gift.

(6) A transfer by a natural person of registered land or a registered long term lease by way of gift inter vivos shall not be registered unless there is registered at the same time a non-consent caution to the effect that, in consequence of that transfer, the land or lease is or may become subject to a first charge under section 18(1) of the Estate Duty Ordinance (Cap. 111).

(7) Notwithstanding subsection (4), for the purposes of subsection (6), an application for the registration of a transfer referred to in subsection (6) shall be accompanied by an application for the registration of a non-consent caution referred to in subsection (6) made by the same person who makes the application for registration of the transfer.

(8) The Commissioner, within the meaning of the Estate Duty Ordinance (Cap. 111), shall be entered in the Title Register as the cautioner in respect of a non-consent caution referred to in subsection (7) which has been registered, and the other provisions of this Ordinance (including section 73) shall be construed accordingly.

(9) The Registrar may require the person presenting an application for the registration of a consent caution or non-consent caution to support the application by such evidence as the Registrar requires.

(10) Subject to subsections (11) and (12), the Registrar shall register a consent caution or non-consent caution.

(11) The Registrar may refuse to register a consent caution or non-consent caution the purpose of which he considers can be effected by an entry in the Title Register other than an entry referring to the caution.

(12) An instrument providing for a floating charge, whether or not it specifically identifies any registered land or registered long term lease charged, shall not be treated as providing for a matter registrable as a consent caution or non-consent caution.

(13) A *lis pendens* shall be treated as providing for a matter registrable as a non-consent caution.

72. Effect of cautions, etc.

(1) Where a consent caution has been registered in respect of registered land, a registered charge or a registered long term lease, the consent caution shall not of itself prohibit the registration of matters in the Title Register affecting the land, charge or lease.

(2) Where a non-consent caution has been registered in respect of registered land, a registered charge or a registered long term lease, the non-consent caution shall not of itself prohibit the making of entries in the Title Register affecting the land, charge or lease.

(3) For the avoidance of doubt, it is hereby declared that the registration of a consent caution shall not—

- (a) of itself affect the validity or otherwise of the interest which is the subject of the consent caution; or
- (b) without prejudice to the generality of paragraph (a), constitute a warranty, or a guarantee, as to the validity of the interest which is the subject of the consent caution.

(4) For the avoidance of doubt, it is hereby declared that the registration of a non-consent caution shall not—

- (a) of itself affect the validity or otherwise of the winding-up petition or claim which is the subject of the non-consent caution; or

- (b) without prejudice to the generality of paragraph (a), constitute a warranty, or a guarantee, as to the validity of the winding-up petition or claim.

73. Withdrawal and removal of cautions

(1) A consent caution or non-consent caution may be withdrawn on the presentation to the Registrar by the cautioner of an application for the withdrawal of the caution.

(2) A consent caution or non-consent caution may be removed on the presentation to the Registrar of an application for its removal—

- (a) in any case, by a person who has obtained an order of the Court for its removal;
- (b) in the case of a consent caution, by the owner of the registered land or the registered charge, or the lessee of the registered long term lease, affected by the caution, but only if the Registrar is satisfied that the cautioner has agreed to its removal; or
- (c) in the case of a non-consent caution, by the owner of the registered land or the registered charge, or the lessee of the registered long term lease, affected by the caution, but only if the Registrar—
 - (i) is satisfied that the owner or lessee has provided a copy of the application to the cautioner not less than 14 days before the presentation of the application to the Registrar; and
 - (ii) is satisfied—
 - (A) that the caution was wrongfully registered;
 - (B) that the ground on which the caution was registered no longer exists; or
 - (C) that the cautioner consents to the removal of the caution.

(3) Where the subject of a non-consent caution is a first charge under section 18(1) of the Estate Duty Ordinance (Cap. 111), then the Registrar may be satisfied for the purposes of subsection (2)(c)(ii) if the application referred to in that subsection is accompanied by—

- (a) a statutory declaration made by the donor concerned, not less than 3 years after the date on which the gift concerned was made, that he is still alive;
- (b) a death certificate showing a date of death of the donor concerned which is a date not less than 3 years after the date on which the gift concerned was made;
- (c) any other evidence proving that the donor concerned is or was alive not less than 3 years after the date on which the gift concerned was made; or

(d) papers proving that—

- (i) the estate duty (including any interest thereon) to which the charge relates has been paid; or
- (ii) no estate duty is required to be paid in respect of the land or lease to which the charge relates.

(4) The Registrar may require the owner of registered land or a registered charge, or the lessee of a registered long term lease, presenting an application for the removal of a consent caution or non-consent caution under subsection (2)(b) or (c) to support the application by such evidence as the Registrar requires.

(5) A person with an interest in registered land, a registered charge or a registered long term lease affected by a consent caution or non-consent caution may apply by originating summons to the Court for the removal of the caution, and the Court may make such order on the originating summons and as to costs as to the Court appears just.

(6) On the withdrawal or removal of a consent caution or non-consent caution—

- (a) the Registrar shall remove the entry in the Title Register referring to the caution; and
- (b) any liability of the cautioner previously incurred under section 74 shall not be affected by the removal of that entry.

(7) The Registrar shall give effect to an order made under subsection (2)(a) or (5) in accordance with the provisions of the order.

74. Wrongful cautions

(1) A person who applies to register a consent caution or non-consent caution without reasonable cause shall be liable, in an action for damages at the suit of—

- (a) the owner of the registered land or registered charge concerned;
- (b) the lessee of the registered long term lease concerned; or
- (c) any other person who has an interest in the land, charge or lease, to pay compensation to the owner, lessee or other person for any damage sustained thereby, in such amount as to the Court appears just.

(2) A cautioner under a registered consent caution or non-consent caution who fails, without reasonable excuse, to apply to the Registrar for the withdrawal of the caution within a reasonable period of time after the ground on which it was registered ceases to exist, shall be liable, in an action for damages at the suit of a person referred to in subsection (1)(a), (b) or (c), to pay compensation to that person for any damage sustained thereby, in such amount as to the Court appears just.

75. Power of Court to inhibit dealings

(1) The Court may, if it appears to the Court that it is necessary or desirable to do so for the purpose of protecting an interest or claim in relation to registered land, a registered charge or a registered long term lease, make an order inhibiting the registration of any dealing in the land, charge or lease, on such terms and conditions as it thinks fit—

- (a) for a particular period;
- (b) until the occurrence of a particular event; or
- (c) generally until the making of a further order by the Court.

(2) The person who has obtained an inhibition shall present to the Registrar an application for the registration of the inhibition, supported by a copy of the inhibition under seal of the Court, and on such presentation the Registrar shall register the inhibition.

(3) An inhibition shall not affect registered land, a registered charge or a registered long term lease until the inhibition has been registered.

76. Effect of inhibitions

While an inhibition remains registered, no dealing which is inconsistent with it shall be registered.

77. Removal of inhibitions

The registration of an inhibition shall not be removed from the Title Register except on the presentation to the Registrar of an application for the removal of that registration on one or more of the following grounds—

- (a) on the expiration of the period limited by the inhibition;
- (b) on proof to the satisfaction of the Registrar of the occurrence of the event specified in the inhibition;
- (c) on the registered land or the registered charge affected by the inhibition being sold by a chargee, unless such sale is itself inhibited; or
- (d) by order of the Court.

78. Restrictions by Registrar

(1) The Registrar may, in respect of registered land, a registered charge or a registered long term lease, and—

- (a) after an application for an order under this section being presented to him by an interested person;
- (b) after—

- (i) directing such inquiries to be made and notices to be served as he thinks fit; and
 - (ii) giving such persons as appear to the Registrar from the Title Register may be affected by the order an opportunity of being heard; and
- (c) after being satisfied that the powers of the owner of the registered land or the registered charge, or of the lessee of the registered long term lease, to deal in the land, charge or lease should be restricted to—
- (i) prevent invalidity or unlawfulness in relation to dealing in the land, charge or lease; or
 - (ii) protect an interest or claim in relation to the land, charge or lease,

make an order prohibiting—

- (d) all dealings in the land, charge or lease;
- (e) such dealings in the land, charge or lease as do not comply with conditions specified in the order.

(2) A restriction may be expressed to endure—

- (a) for a particular period;
- (b) until the occurrence of a particular event; or
- (c) generally until the making of a further order by the Registrar.

(3) The Registrar shall register an order made under subsection (1).

(4) A restriction shall not affect registered land, a registered charge or a registered long term lease until the restriction has been registered.

(5) In this section, “interested person” (利害關係人), in relation to registered land, a registered charge or a registered long term lease, means a person—

- (a) who is the owner of the land or charge or the lessee of the lease;
- (b) who is entitled to be registered as the owner of the land or charge or the lessee of the lease; or
- (c) who falls within a class of persons prescribed by the regulations for the purposes of this section.

79. Notice and effect of restrictions

(1) The Registrar shall, as soon as reasonably practicable, give notice in writing of a restriction to the owner of the registered land or the registered charge, or the lessee of the registered long term lease, affected by the restriction.

(2) Subject to section 28(2), while a restriction remains registered, no dealing in the registered land, registered charge or registered long term lease concerned which is inconsistent with the restriction shall be registered except—

- (a) with the consent of the Registrar; or
- (b) by order of the Court.

80. Removal and variation of restrictions

(1) The Registrar may, in respect of a restriction—

(a) on application for the removal or variation of the restriction presented to him by—

(i) the owner of registered land or a registered charge, or the lessee of a registered long term lease, affected by the restriction; or

(ii) any other interested person; and

(b) after giving the persons affected by the restriction an opportunity of being heard,

remove or alter the entry in the Title Register referring to the restriction.

(2) The Court may, in respect of a restriction—

(a) on application made to it by the owner of registered land or a registered charge, or the lessee of a registered long term lease, affected by the restriction or any other interested person; and

(b) after notice of the application referred to in paragraph (a) has been given to the Registrar,

order the restriction to be removed or varied, or make such other orders as to the Court appears just, and may make an order as to costs.

(3) The Registrar shall give effect to an order made under subsection (2) in accordance with the provisions of the order.

PART 11

RECTIFICATION

81. Rectification by Registrar

(1) The Registrar may rectify any error or omission in the Title Register—

(a) on his own volition, if the rectification will not materially affect the interest of the owner of registered land or a registered charge, or the lessee of a registered long term lease;

- (b) on application presented to him by any person, if the applicant proves to the satisfaction of the Registrar that the error or omission is of a clerical nature only and that the rectification will not materially affect the interest of the owner of registered land or a registered charge, or the lessee of a registered long term lease; or
 - (c) in any other case, with the consent of all persons interested.
- (2) The Registrar shall—
 - (a) on application presented to him by a person stating that there has been a change in his name; and
 - (b) on proof to his satisfaction of that change,make an entry in the Title Register to record the change if that person's former name is the subject of an entry in the Title Register.
- (3) Where—
 - (a) pursuant to section 61(3), the name of a minor is entered in the Title Register as the owner of registered land or a registered charge, or as the lessee of a registered long term lease; and
 - (b) the owner or lessee, as the case may be, attains full age,then the owner or lessee, as the case may be, may make an application to the Registrar to remove the words in the Title Register which describe him as a minor.
- (4) On receipt of an application under subsection (3), the Registrar shall, if he is satisfied that the owner or lessee concerned has attained full age, remove the words in the Title Register which describe him as a minor.

82. Rectification by Court

- (1) Subject to subsections (2) and (3) and section 83, the Court may, on application by any person, order the rectification of the Title Register by directing that an entry therein relating to registered land or a registered long term lease be removed or altered, or that an entry relating to registered land or a registered long term lease which has been omitted from the Title Register be entered therein, if the Court is satisfied that the entry was obtained, made or omitted, as the case may be, by or as a result of—
 - (a) the fraud, mistake or omission of any person; or
 - (b) a void or voidable instrument.
- (2) No order may be made under subsection (1) so as to affect the title of a person who is the registered owner of registered land or the registered lessee of a registered long term lease, and who is in possession of the land and has acquired the land or lease for valuable consideration, unless the Court is satisfied—

- (a) that the name of such person was entered in the Title Register as the owner or lessee, as the case may be, by or directly as a result of the fraud, mistake or omission in question or the void or voidable instrument in question, as the case may be; and
- (b) that—
 - (i) in the case of fraud, the person—
 - (A) was a party to the fraud;
 - (B) had knowledge of the fraud at the time his name was so entered in the Title Register; or
 - (C) had, by his act or by lack of proper care, substantially contributed to the fraud;
 - (ii) in the case of a mistake or omission, the person—
 - (A) caused the mistake or omission;
 - (B) had knowledge of the mistake or omission at the time his name was so entered in the Title Register; or
 - (C) had, by his act or by lack of proper care, substantially contributed to the mistake or omission; or
 - (iii) in the case of a void or voidable instrument, the person—
 - (A) caused the instrument to be void or voidable, as the case may be;
 - (B) had knowledge that the instrument was void or voidable, as the case may be, at the time his name was so entered in the Title Register; or
 - (C) had, by his act or by lack of proper care, substantially contributed to making the instrument void or voidable, as the case may be.

(3) Subject to section 83, on an application made under subsection (1) by a former registered owner of registered land or a former registered lessee of a registered long term lease to restore his title to the land or lease on the ground that he lost his title by or as a result of fraud, the Court shall order the rectification of the Title Register to so restore the title of the applicant (and irrespective of whoever is currently the registered owner or registered lessee of the land or lease concerned), if the Court is satisfied that—

- (a) the entry in the Title Register by or as result of which the applicant lost his title was procured, whether in whole or in part, by or as a result of—
 - (i) a void instrument; or
 - (ii) a false entry in the Title Register;
- (b) the applicant was not a party to the fraud; and
- (c) the applicant did not, by his act or by lack of proper care, substantially contribute to the fraud.

(4) An order may be made under subsection (1) or (3) whether or not the entry in the Title Register in question was obtained, made or omitted, as the case may be, before, on or after the date of first registration of the registered land or registered long term lease concerned.

(5) The Registrar shall give effect to an order made under subsection (1) or (3) in accordance with the provisions of the order.

(6) This section is without prejudice to the operation of section 3(4)(c).

(7) The Court may make such order as to the costs of proceedings under this section as to the Court appears just.

(8) Any costs of proceedings awarded against the Registrar in any proceedings under this section shall be paid out of the Land Titles Indemnity Fund.

(9) For the purpose of subsection (2), a person who is in receipt of rents or profits, or who has the right to receive rents or profits, in respect of the registered land or registered long term lease concerned shall be treated as being in possession of the land.

83. Time for bringing proceedings under section 82

(1) Subject to subsection (2), no application for the rectification of the Title Register may be made under section 82 after the end of the period of 12 years from the date on which the entry in the Title Register in question was obtained, made or omitted, as the case may be.

(2) The Limitation Ordinance (Cap. 347) shall apply, with necessary modifications, to an application for the rectification of the Title Register under section 82.

PART 12

INDEMNITY

84. Indemnity

(1) Subject to subsections (2) and (4)(b) and (c) and sections 85 and 87, a person suffering loss by reason of an entry in, or an entry omitted from, the Title Register, where such entry has been obtained, made or omitted, as the case may be, by or as the result of—

(a) fraud—

(i) on the part of any person;

(ii) which affects the ownership of the registered land concerned or the registration of a person as the lessee of a registered long term lease; and

(iii) to which an order under section 82(1) or (3) relates (and whether or not the order grants or refuses the relevant application for rectification); or

(b) any mistake or omission on the part of any person referred to in section 11(3),

shall be entitled to be indemnified by the Government in respect of that loss.

(2) No indemnity shall be payable under subsection (1) to a person who—

(a) has himself caused or substantially contributed to the loss by his fraud or negligence; or

(b) derives title (otherwise than under a registered disposition made in good faith and for valuable consideration) from a person who so caused or substantially contributed to the loss.

(3) In this section, “omission” (遺漏) does not include a failure to deliver an application for registration.

(4) For the avoidance of doubt, it is hereby declared that—

(a) nothing in this Ordinance shall affect the validity or otherwise of any claim made under section 23A of the Land Registration Ordinance (Cap. 128) before the date of first registration of the registered land or registered long term lease concerned;

(b) no indemnity shall be payable under subsection (1) in respect of any fraud, mistake or omission discovered (whether in proceedings before any court or otherwise)—

(i) subject to subparagraph (ii), before the date of first registration of the registered land concerned and irrespective of whether any claim in respect thereof has been, or could have been, or could not have been, made under section 23A of the Land Registration Ordinance (Cap. 128) before that date; or

(ii) before the date of first registration of the registered long term lease concerned and irrespective of whether any claim in respect thereof has been, or could have been, or could not have been, made under section 23A of the Land Registration Ordinance (Cap. 128) before that date;

(c) no indemnity shall be payable under subsection (1) in respect of any fraud, mistake or omission—

(i) subject to subparagraph (ii), which occurred before the date of first registration of the registered land concerned and is discovered (whether in proceedings before any court or otherwise) on or after that date; or

- (ii) which occurred before the date of first registration of the registered long term lease concerned and is discovered (whether in proceedings before any court or otherwise) on or after that date;
- (d) no indemnity shall be payable under subsection (1) in respect of any fraud, mistake or omission in relation to land which is not registered land (including any lease to which the land is subject), and whether or not the fraud, mistake or omission occurred before, on or after the appointed day.

(5) Subject to subsections (2) and (4)(b) and (c) and sections 85 and 87, for the avoidance of doubt, it is hereby declared that where the Title Register is rectified under section 82(1) or (3), the registered owner of the land or the registered lessee of the long term lease who is deprived of the property in consequence of the rectification may make a claim for indemnity.

85. Amount of indemnity

(1) The amount of any indemnity payable under section 84(1) shall not exceed, in respect of each entry referred to in that section in respect of which an indemnity is payable—

- (a) in the case of any such entry obtained, made or omitted by or as the result of fraud on the part of any person—
 - (i) the value of the interest in the registered land or registered long term lease concerned on the date on which such entry was obtained, made or omitted; or
 - (ii) the amount from time to time determined under subsection (3) for the purposes of this subsection as such amount is in force immediately before the discovery of the fraud, whichever is the lesser;
- (b) in any other case, the value of the interest in the registered land or registered long term lease concerned on the date on which the mistake or omission concerned was made.

(2) Where 2 or more persons have ceased to be the owners of registered land or the lessees of a registered long term lease in consequence of—

- (a) an order being made under section 82(1) or (3) for the rectification of the Title Register on the ground of fraud; or
- (b) a fraud referred to in section 84(1),

and, in consequence of that cesser, those persons are entitled to be paid an indemnity under section 84(1), then the total of the indemnity shall not exceed the amount referred to in subsection (1)(a).

(3) The Financial Secretary may, by notice published in the Gazette, determine an amount for the purposes of subsection (1)(a)(ii).

(4) For the avoidance of doubt, it is hereby declared that a notice under subsection (3) is subsidiary legislation.

86. Procedure for claiming indemnity

(1) The Registrar shall, on application in the specified form made to him by an interested person—

- (a) determine whether a right of indemnity has arisen under this Part; and
- (b) if he determines that a right of indemnity—
 - (i) has arisen under this Part, offer an indemnity to the person of such value which, in the opinion of the Registrar, satisfies the right;
 - (ii) has not arisen under this Part, refuse the application.

(2) The Court shall, on application made to it by an interested person who has made an application under subsection (1) and who has rejected an offer mentioned in subsection (1)(b)(i) or who has had the application refused under subsection (1)(b)(ii)—

- (a) determine whether a right of indemnity has arisen under this Part; and
- (b) if it determines that a right of indemnity has arisen under this Part, determine the amount of the indemnity in accordance with section 85 and award the indemnity accordingly together with, as to the Court appears just, any costs and expenses properly incurred in relation to the matter.

(3) No proceedings may be commenced in the Court for the purposes of determining whether a right of indemnity has arisen under this Part except by a person mentioned in subsection (2).

(4) A person who has accepted an offer under subsection (1)(b)(i) shall not commence any proceedings in the Court under Part 11 or this Part.

87. Time limit for claiming indemnity

A liability to pay an indemnity under this Part shall be deemed to be a simple contract debt and, for the purposes of section 4 of the Limitation Ordinance (Cap. 347), the cause of action shall be deemed to arise at the time when the claimant knows or, but for his own default, might have known, of the existence of his claim.

88. Recovery of indemnity paid

(1) Where an indemnity is paid for a loss, the Government shall be entitled to recover the amount paid from any persons who have caused or substantially contributed to the loss by their fraud, in proportion to their respective contributions to the loss.

(2) The Government shall be entitled to enforce any express or implied covenant or other right which the person who is indemnified would have been entitled to enforce in relation to the matter in respect of which indemnity has been paid.

(3) For the avoidance of doubt, it is hereby declared that subsections (1) and (2) shall not operate to prevent a person to whom an indemnity has been paid from taking any legal proceedings or enforcing any right to recover any amount of damages that, by virtue of the operation of section 85(1)(a), he has not been able to recover from the Land Titles Indemnity Fund.

89. Discrepancy in area and boundary

As between the Government and the owner of registered land, no claim to indemnity under this Part shall arise, and no legal proceedings in respect thereof shall be commenced or maintained, on account of—

- (a) any surplus or deficiency in the area or measurement of the land disclosed by a survey (whether or not by an authorized land surveyor referred to in section 44) showing an area or measurement differing from the area or measurement—
 - (i) disclosed on any subsequent survey of the land; or
 - (ii) shown in the Title Register, on any Government lease or on any plan, or on any microfilm, image record or other record of any plan, kept in the Land Registry under section 6;
- (b) any boundary of the land disclosed by a survey (whether or not by an authorized land surveyor referred to in section 44) showing a boundary differing from any boundary—
 - (i) disclosed on any subsequent survey of the land; or
 - (ii) shown in the Title Register, on any Government lease or on any plan, or on any microfilm, image record or other record of any plan, kept in the Land Registry under section 6; and
- (c) any discrepancy in the area or measurement of the boundaries, whether upon a survey or otherwise, arising from the application or the determination of the boundaries of the lot under section 94.

90. Land Titles Indemnity Fund

(1) An indemnity fund, to be known as the Land Titles Indemnity Fund, shall be established for the purposes of this Part in accordance with the regulations.

(2) The amount of any indemnity awarded under section 86(1) or (2)(b) shall be paid out of the Land Titles Indemnity Fund.

PART 13**APPEALS AND RULES****91. Appeals against decisions made by Registrar**

(1) A person aggrieved by a decision made by the Registrar under this Ordinance (except a decision relating to a claim for indemnity) may appeal to the Court against the decision by serving on the Registrar a notice of appeal—

(a) in the specified form; and

(b) not later than 30 days after the decision has been made or such further period—

(i) as the Registrar permits in any particular case; or

(ii) as to the Court appears just in any particular case.

(2) Where the Registrar receives a notice of appeal under subsection (1), he shall prepare and send a brief statement of the question in issue to—

(a) the Court;

(b) the appellant; and

(c) any other person appearing to the Registrar from the Title Register to be affected by the appeal.

(3) On the hearing of an appeal—

(a) the appellant;

(b) the Registrar; and

(c) any other person who, in the opinion of the Court, is affected by the appeal,

may, subject to any rules of court, appear and be heard in person or by a counsel.

(4) The Court may make such order on an appeal as the circumstances may require together with, as to the Court appears just, any costs and expenses properly incurred in relation to the appeal.

(5) The Registrar shall give effect to an order made under subsection (4), in so far as it relates to him, in accordance with the provisions of the order.

(6) In subsection (1), “decision” (決定) includes a direction, order, requirement, determination and refusal.

92. Effect of appeal on disposition

An appeal under section 91 shall not affect a disposition—

- (a) made in good faith and for valuable consideration; and
- (b) registered at any time before the notice of appeal under section 91(1) is made the subject of a non-consent caution.

93. Appeal rules, etc.

The Chief Justice may make rules for regulating appeals under section 91, and applications made under this Ordinance to the Court, and for the fees to be paid in respect of such appeals and applications.

PART 14**MISCELLANEOUS****94. Determination of lot boundaries**

(1) Subject to the terms and conditions of the Government lease concerned and to subsection (2), the owner of registered land may make an application in the specified form—

- (a) to the Director of Lands; and
- (b) for a determination of the boundaries of—
 - (i) the lot; or
 - (ii) a portion of the lot after the rest of the lot has been surrendered to or resumed by the Government.

(2) The Director of Lands shall not make a determination under subsection (1) in respect of—

- (a) any subdivision of a lot which is made by a person other than the Government; or
- (b) a case where the application concerned does not have the consent of all the owners of the lot.

(3) Subject to subsection (4), the Director of Lands shall make a determination of the boundaries of a lot which is the subject of an application under subsection (1)—

- (a) by causing searches to be done to ascertain whether a land boundary plan prepared by the Director of Lands already exists (“existing plan”);
- (b) if there is an existing plan, by deciding whether or not the existing plan is acceptable for the determination of the boundaries of the lot;

- (c) if the Director of Lands decides that the existing plan is so acceptable, then, with the consent of the owner of the lot and upon payment of the relevant fee, by causing the existing plan to be registered;
- (d) if there is no existing plan or the existing plan is not acceptable—
 - (i) by advising the owner of the lot to appoint an authorized land surveyor to conduct a land boundary survey of the lot in accordance with the code of practice approved under the Land Survey Ordinance (Cap. 473) and to deliver the resultant land boundary plan (“new plan”) certified by the authorized land surveyor and accompanied by the relevant fee to the Director of Lands; or
 - (ii) if the Director of Lands decides to do so and with the consent of the owner of the lot and upon payment of the relevant fee, by conducting a land boundary survey of the lot and preparing the resultant land boundary plan (“new plan”);
- (e) by deciding whether or not the new plan, if any, is acceptable;
- (f) if the Director of Lands decides that the new plan is so acceptable and with the consent of the owner of the lot and upon payment of the relevant fee, by causing the new plan to be registered.

(4) The Director of Lands shall not make a determination of the boundaries of a lot under this section if the existing plan or new plan changes the boundaries or area or measurement of that lot as shown—

- (a) on a land boundary plan, or a microfilm, image record or other record of a land boundary plan, kept in the Land Registry under section 6; or
- (b) on any Government lease.

(5) The Director of Lands may authorize in writing a person to perform any function or exercise any power imposed or conferred on the Director under this section.

(6) In this section, “determination” (釐定), in relation to a boundary, means adding the bearings, boundary dimensions and coordinates wherever applicable in the process of updating the boundary.

95. Address for service

The Registrar may, by notice in writing served on a person who—

- (a) presents an application for the registration of any matter; or
- (b) is the owner of registered land or a registered charge, or the lessee of a registered long term lease,

require the person to provide to the Registrar a notice in writing—

- (c) specifying an address in Hong Kong for service on that person; and
- (d) within the period specified in the requirement.

96. Meaning of “opportunity of being heard”

(1) Where under this Ordinance a thing is to be or may be done after giving a person an opportunity of being heard, that person shall be deemed to have been given such an opportunity if he—

- (a) attends before the Registrar personally or by a solicitor or other agent, and is given such an opportunity;
- (b) intimates, personally or by a solicitor or other agent, that he does not wish to be heard; or
- (c) has been served with a notice in writing specifying the nature of the thing to be done and appointing a day and time not less than 12 working days after service of the notice at which he will, if he attends before the Registrar, be heard.

(2) Where a person or a solicitor or other agent on his behalf attends before the Registrar concerning a matter on which he is entitled to an opportunity of being heard, or fails to attend pursuant to a notice referred to in subsection (1)(c), the Registrar may, if he thinks fit, adjourn the hearing from time to time, and, notwithstanding failure to attend, may, if he thinks fit, hear such person at any time.

(3) Where under this Ordinance all persons interested or affected are to be given an opportunity of being heard, it shall be sufficient if all persons who, according to any current entry in the Title Register, appear to be so interested or affected, are given such an opportunity.

(4) In this section, “working day” (工作日) means any day other than a public holiday or a black rainstorm warning day or gale warning day within the meaning of section 71 of the Interpretation and General Clauses Ordinance (Cap. 1).

97. Application to Court by person other than Registrar

(1) A person interested in registered land, a registered charge or a registered long term lease may apply by originating summons to the Court in respect of any question relating to—

- (a) the title to the land, charge or lease; or
- (b) an interest in the land, charge or lease where the interest is—
 - (i) registered or registrable; or
 - (ii) expressed by this Ordinance not to require registration,

and the Court may make such order on the originating summons and as to costs as to the Court appears just.

(2) No proceedings may be commenced under this section in respect of any matter for which proceedings may be commenced under section 82.

(3) The Registrar shall give effect to an order made under subsection (1) in accordance with the provisions of the order.

98. Offences

(1) A person commits an offence and is liable on conviction on indictment to a fine of \$5,000,000 and to imprisonment for 14 years if he fraudulently—

- (a) issues or makes, or causes the issue or making of, any application for the registration of any matter;
- (b) presents, or causes the presentation, to the Registrar of any application for the registration of any matter;
- (c) makes, or causes the making of, any erasure or alteration to any application for the registration of any matter;
- (d) verifies any application required by section 14(2) to be verified;
- (e) makes, or causes the making of, any erasure or alteration to any microfilm, image record or other record of any application for the registration of any matter;
- (f) procures the issue of a title certificate;
- (g) makes, or causes the making of, any erasure or alteration to—
 - (i) the Title Register;
 - (ii) the applications register;
 - (iii) any document, or any microfilm, image record or other record of a document, kept in the Land Registry under section 6;
 - (iv) any endorsement on any thing referred to in subparagraph (i), (ii) or (iii); or
 - (v) any copy, print or extract of or from any thing referred to in subparagraph (i), (ii) or (iii) or of or from any endorsement on any such thing; or
- (h) removes, or causes the removal, from the Land Registry of all or any part of—
 - (i) any thing referred to in paragraph (g)(i), (ii) or (iii);
 - (ii) any endorsement on any such thing;
 - (iii) any copy, print or extract of or from any such thing or of or from any endorsement on any such thing.

(2) Any person who, without lawful authority or reasonable excuse, does any act referred to in paragraph (a), (b), (c), (d), (e), (f), (g) or (h) of subsection (1) commits an offence and is liable on conviction on indictment to a fine of \$500,000 and to imprisonment for 3 years.

(3) Any person who knowingly misleads or deceives any person referred to in section 11(3)—

(a) when that second-mentioned person is acting in the capacity referred to in that section; and

(b) in respect of—

(i) registered land, a registered charge or a registered long term lease; or

(ii) an interest in registered land, a registered charge or a registered long term lease,

commits an offence and is liable on conviction to a fine at level 5 and to imprisonment for 6 months.

(4) Any person who, without reasonable excuse, fails to comply with any requirement made under section 8(2)(a), (b) or (c) commits an offence and is liable on conviction to a fine at level 3 and, in the case of a continuing offence, to a daily penalty of \$500.

(5) Any person who, without reasonable excuse, fails to comply with a requirement made under section 34(1) commits an offence and is liable on conviction to a fine at level 4 and, in the case of a continuing offence, to a daily penalty of \$1,250.

(6) Any person who, without reasonable excuse, fails to comply with a requirement made under section 95 within the period specified in the requirement commits an offence and is liable on conviction to a fine at level 3 and, in the case of a continuing offence, to a daily penalty of \$500.

(7) In this section—

“alteration” (更改) includes making an entry;

“application for the registration of any matter” (要求將任何事項註冊的申請) includes any document accompanying the application;

“daily penalty” (每日罰款) means a penalty for each day on which the offence concerned is continued;

“erasure” (塗抹) includes defacement, obliteration and mutilation.

99. Power of Registrar to specify forms

(1) Subject to subsections (2) and (3), the Registrar may specify the form of any document required under this Ordinance to be in the specified form and the form of such other documents (including conveyancing documents) required for the purposes of this Ordinance as he thinks fit.

(2) The Registrar’s power under subsection (1) shall be subject to any express requirement under this Ordinance for a form, whether specified or otherwise, to comply with that requirement, but that requirement shall not restrict the exercise of that power in respect of that form to the extent that, in the opinion of the Registrar, his exercise of that power in respect of that form does not contravene that requirement.

(3) Without prejudice to the generality of subsection (2), the Registrar shall not specify under subsection (1) the form of any conveyancing document unless he has first consulted the Collector of Stamp Revenue appointed under section 3 of the Stamp Duty Ordinance (Cap. 117).

(4) A form specified under this section shall be—

- (a) completed in accordance with such directions and instructions as are specified in the form;
- (b) accompanied by such documents (including instruments, certificates, duplicates of the form and statutory declarations) as are specified in the form; and
- (c) if the completed form is required to be provided to the Registrar or any other person, so provided in the manner, if any, specified in the form.

(5) For the avoidance of doubt, it is hereby declared that the Registrar's power under subsection (1) may be exercised in such a way as to—

- (a) include in the specified form of any document referred to in that subsection a statutory declaration—
 - (i) to be made by the person completing the form; and
 - (ii) as to whether the particulars contained in the form are true and correct to the best of that person's knowledge and belief;
- (b) specify 2 or more forms of any document referred to in that subsection, whether as alternatives, or to provide for particular circumstances or particular cases, as the Registrar thinks fit;
- (c) require, to the extent practicable, the person completing the form to identify any entries in the Title Register to which the form relates which have ceased to have effect; and
- (d) where registered land or a registered long term lease is the subject of a deed of mutual covenant, within the meaning of section 53, and is also the subject of a registered deed of mutual covenant within the meaning of that section, require an application for the registration of that first-mentioned deed to be accompanied by an application for the removal from the Title Register of the entry referring to that second-mentioned deed.

100. Regulations relating to fees and levies

(1) The Financial Secretary may by regulation prescribe the fees to be paid to the Registrar in respect of—

- (a) any application for the registration of any matter (whether made pursuant to this Ordinance or any other enactment);

- (b) any verification under section 14(2) of any application for the registration of any matter;
- (c) receiving for registration any matter withheld from registration;
- (d) the registration of any matter (whether pursuant to this Ordinance or any other enactment);
- (e) the deposit or filing of any matter;
- (f) any application for satisfaction of a registered charge;
- (g) any application for the making, removal or variation of a restriction;
- (h) the provision (including inspection) of any thing (including any information) required to be or which may be kept in the Land Registry (whether under section 4, 5 or 6 or otherwise), or of a copy, print or extract of or from any such thing or of or from a microfilm, image record or other record of any such thing;
- (i) the official signature of any person referred to in section 11(3) to any document, whether such signature is requested or required under the provisions of this Ordinance or any other enactment or otherwise;
- (j) the issuance, cancellation or replacement of a title certificate or any other service or facility relating thereto;
- (k) the provision of any other service or facility connected with registration or any other matter to which this Ordinance relates.

(2) The amount of any fee prescribed in regulations made under subsection (1) shall not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred in relation to providing the service, facility or matter to which such fee relates and different fees may be so prescribed for the same service, facility or matter in order to provide for particular circumstances or particular cases specified in the regulations.

(3) The Financial Secretary may by regulation prescribe the levies to be paid to the Registrar in respect of the registration of any matter (whether pursuant to this Ordinance or any other enactment).

(4) Without prejudice to the generality of subsection (3), the Financial Secretary may, in exercising his power under that subsection, take account of the indemnification required to be provided by the Government under section 84(1).

101. Unpaid fees, etc.

(1) The Registrar may act notwithstanding that a prescribed fee or levy or part of a prescribed fee or levy has not been paid, but the Registrar shall make an entry in the Title Register recording the fact that the fee or levy or part of the fee or levy has not been paid.

(2) The Registrar may refuse to register a disposition of registered land, a registered charge or a registered long term lease in respect of which fees or levies are unpaid.

(3) Unpaid fees, levies, costs, charges or expenses required to be paid to the Registrar shall constitute a debt due to the Government and shall be recoverable summarily as a civil debt within the meaning of the Magistrates Ordinance (Cap. 227).

(4) Unpaid costs, charges or expenses the subject of an order under section 8(2)(f) which are required to be paid to a person other than the Registrar shall constitute a debt due to that person and shall be recoverable summarily as a civil debt within the meaning of the Magistrates Ordinance (Cap. 227).

102. Regulations—general powers

(1) The Secretary may make regulations for all or any of the following matters—

- (a) fixing the hours during which the Land Registry or any part of the Land Registry shall be open to the public and empowering the Registrar to vary such hours;
- (b) the manner of verification of an application for the registration of any matter;
- (c) the size, form and colouring of plans attached to or endorsed on an instrument accompanying an application for registration of any matter;
- (d) the size and form of, and the particulars to be contained in, instruments accompanying applications for registration of any matter;
- (e) the manner in which an application for the registration of any matter is made and the procedures to be followed for the presentation of the application;
- (f) the numbering of applications for the registration of any matter;
- (g) the particulars to be entered in the Title Register and the applications register;
- (h) without prejudice to the generality of paragraph (g), the manner in which the names of persons are to be entered in the Title Register and the applications register;
- (i) the circumstances and the procedures for rectification of the Title Register;
- (j) the scrutiny of applications for the registration of any matter;
- (k) the procedure to be followed in order to effect the registration of any matter;

- (l) the procedure to be followed where an application is withheld from registration by the Registrar or upon the request of the person who delivered the application;
- (m) the circumstances in which an application for the registration of any matter, which is accompanied by an instrument which is stamped under section 13(2) of the Stamp Duty Ordinance (Cap. 117), shall be required to be accompanied by an application for the registration of a charge in respect of any stamp duty payable or to be payable on the instrument (including any stamp duty and penalty payable under section 13(7)(b), or additional stamp duty payable under section 13(10), of that Ordinance on that instrument);
- (n) the procedure to be followed where an application for the registration of any matter is rejected, including the grounds of such rejection and the presentation again of any such application;
- (o) without prejudice to the generality of the grounds mentioned in paragraph (n), the circumstances in which the Registrar shall under section 19(2) refuse to proceed with the registration of any matter relating to an undivided share with an exclusive right to use and occupy a part of a building;
- (p) the documents to be provided by a vendor under section 46(1)(a)(iv);
- (q) the documents relating to title to be retained by the Land Registry where there is a dealing in registered land or a registered long term lease, and the period for which they are to be retained;
- (r) the classes of person who fall within paragraph (c) of the definition of “interested person” in section 78(5);
- (s) the date on which the first registration of any matter, which is not expressly provided for in this Ordinance, shall take effect;
- (t) the notice to be given where the registration of any matter is effected or an application for the registration of any matter is rejected;
- (u) prescribing the use of conveyancing forms in transactions;
- (v) the power to refuse to enter improper instruments or forms;
- (w) the manner of registration of a long term lease;
- (x) the manner of registration, withdrawal or removal of a consent caution or non-consent caution and the form of consent under a consent caution;
- (y) the manner of registration or removal of a charging order, judgment or order;

- (z) the manner of registration or removal of an inhibition;
- (za) the manner of making an application for an order under section 78(1) and for the registration, removal or variation of a restriction;
- (zb) the manner of making an application for a title certificate, for the cancellation of a title certificate and for the replacement of a title certificate;
- (zc) the circumstances in which a title certificate need not be returned for cancellation under section 29(5);
- (zd) the procedure for filing an incorporated document and the effect of the filing;
- (ze) the manner of giving notice by the Registrar;
- (zf) the safekeeping of any thing referred to in section 4, 5 or 6;
- (zg) the purposes of, and the manner (including the form) in which any thing referred to in section 4, 5 or 6 shall be made available for, any search;
- (zh) the manner (including the form) in which any thing (including any historical records) which may be kept in the Land Registry may be provided (including inspected);
- (zi) regulating the conduct of persons in the Land Registry;
- (zj) enabling any person to be refused entry to the Land Registry and the removal from the Land Registry of any person;
- (zk) regulating admission to the Land Registry or any part of the Land Registry and the use of any equipment, facilities or material in the Land Registry by members of the public;
- (zl) the manner (including the form) in which any document required under the provisions of any other enactment to be filed or deposited in the Land Registry shall be so filed or deposited;
- (zm) the funding, management, investment, and the keeping of accounts of, and the processing of claims in respect of, the Land Titles Indemnity Fund;
- (zn) the power of the Registrar—
 - (i) to borrow moneys for the purposes of the Land Titles Indemnity Fund; and
 - (ii) to manage and invest the moneys of the Land Titles Indemnity Fund;
- (zo) payments into and out of the Land Titles Indemnity Fund;
- (zp) the procedures for claiming indemnity, processing of claims, investigation, settlement and refusal of claims;
- (zq) the procedures for instituting court proceedings for claiming indemnity;

- (*zr*) prescribing anything that is required or permitted to be prescribed under this Ordinance;
- (*zs*) providing for the better carrying into effect of this Ordinance;
- (*zt*) providing for such incidental, consequential, evidential, transitional, savings and supplemental provisions as are necessary or expedient for the purpose of giving full effect to this Ordinance.

(2) Any regulations made under subsection (1)(*zg*) or (*zh*) may specify that a thing referred to in that subsection may be made available or provided, as the case may be, in such form and by such method as the Registrar thinks fit.

(3) Any regulations made under this section may—

- (*a*) empower the Secretary to grant exemptions from the regulations, either generally or in a particular case;
- (*b*) make different provisions for different circumstances and provide for a particular case or class of case;
- (*c*) be made so as to apply only in such circumstances as are prescribed by the regulations.

(4) Without prejudice to section 23 of the Interpretation and General Clauses Ordinance (Cap. 1), any regulations made under this section may include regulations which provide for transitional or savings provisions in respect of any of the enactments repealed or amended by this Ordinance.

(5) Any regulations made under this section may prescribe offences in respect of contraventions of the regulations, and may provide for the imposition in respect of any such offence of a fine at level 3 and of imprisonment for a period not exceeding 2 years.

103. Amendment of Schedules 1 and 2

(1) The Secretary may, with the approval of the Legislative Council, by notice published in the Gazette, amend Schedule 1.

(2) The Secretary may, by notice published in the Gazette, amend Schedule 2.

104. Consequential amendments

(1) The enactments specified in Schedule 3 are amended as set out in that Schedule.

(2) The Land Registration Ordinance (Cap. 128) is amended as set out in Schedule 4.

(3) The Secretary may, with the approval of the Legislative Council, by notice published in the Gazette, amend Schedule 3 or 4.

SCHEDULE 1

[ss. 2, 3, 20,
24, 27, 35
& 103]PROVISIONS FOR CONVERSION OF LRO LAND AND LONG TERM LEASES
FROM LAND REGISTRATION SYSTEM TO LAND TITLE SYSTEM

PART 1

PRELIMINARY

1. Interpretation

In this Schedule—

- “caution against conversion” (抗轉換警告書) has the meaning assigned to it by section 1A(1) of the Land Registration Ordinance (Cap. 128);
- “caveat” (知會備忘) has the meaning assigned to it by section 1A(1) of the Land Registration Ordinance (Cap. 128);
- “long term lease” (長期租契) has the same meaning as in section 2(1) of this Ordinance except that it does not include a lease of both registered land and LRO land;
- “LRO land” (《土註條例》土地) means land—
- (a) which is the subject of a Government lease for which a register has been kept under the Land Registration Ordinance (Cap. 128); and
 - (b) which is not registered land within the meaning of section 2(1) of this Ordinance.

PART 2

CONVERSION OF LRO LAND

2. When LRO land becomes registered land

(1) Subject to the provisions of this section, on the commencement of the 12th anniversary of the appointed day, all LRO land shall be deemed to be registered land, and all the provisions of this Ordinance shall apply to the land accordingly.

(2) Subject to subsection (3), subsection (1) shall not apply to any LRO land—

- (a) in respect of which an instrument has been delivered for registration under the Land Registration Ordinance (Cap. 128) but has not been registered under that Ordinance before the commencement of the 12th anniversary of the appointed day; or
- (b) which is subject to a caution against conversion which is registered under the Land Registration Ordinance (Cap. 128).

(3) LRO land referred to in subsection (2) shall be deemed to be registered land on—

- (a) the date on which the instrument referred to in subsection (2)(a) is registered under the Land Registration Ordinance (Cap. 128); or
- (b) the date on which the land ceases to be subject to a caution against conversion which is registered under the Land Registration Ordinance (Cap. 128),

whichever is the later, and all the provisions of this Ordinance shall apply to the land accordingly.

3. Date of first registration

The date of first registration of LRO land shall be—

- (a) in the case of land which falls within section 2(1), the 12th anniversary of the appointed day; and
- (b) in the case of land which falls within section 2(2), the date determined under section 2(3).

4. Effect of deeming

(1) On the date of first registration of LRO land, there shall vest in the owner of the land the same legal estate or equitable interest and rights as would have been vested in him if the land had been transferred to him and he had been registered as the owner of land under section 25 of this Ordinance.

(2) Subject to subsection (3), the deeming of LRO land to be registered land under section 2 shall not affect the validity or enforceability of any interest—

- (a) existing immediately before the date of first registration of the LRO land;
- (b) affecting the LRO land;
- (c) which was not registered under the Land Registration Ordinance (Cap. 128) (and whether or not it was capable of registration under that Ordinance); and
- (d) which was, immediately before the date of first registration, enforceable against the LRO land.

(3) An interest mentioned in subsection (2) in relation to LRO land deemed to be registered land shall not be enforceable against the land after the sale of the land to a purchaser for valuable consideration after the date of first registration of the land under this Ordinance.

PART 3

CONVERSION OF LONG TERM LEASES

5. When long term lease becomes registered long term lease

Where, on the date of first registration of any LRO land, the land is subject to a long term lease registered under the Land Registration Ordinance (Cap. 128), then on that date the long term lease shall be deemed to be a registered long term lease, and all the provisions of this Ordinance shall apply to the lease accordingly.

6. Date of first registration

The date of first registration of a long term lease is the date on which the lease was deemed to be a registered long term lease under section 5.

7. Effect of deeming

(1) On the date of first registration of a long term lease, there shall vest in the lessee of the lease the same interest and rights as would have been vested in him if he had been registered as the lessee of the lease under section 26 of this Ordinance.

(2) Subject to subsection (3), the deeming of a long term lease to be a registered long term lease under section 5 shall not affect the validity or enforceability of any interest—

- (a) existing immediately before the date of first registration of the long term lease under this Ordinance;
- (b) affecting the land;
- (c) which was not registered under the Land Registration Ordinance (Cap. 128) (and whether or not it was capable of registration under that Ordinance); and
- (d) which was, immediately before the date of first registration of the long term lease under this Ordinance, enforceable against the land.

(3) An interest mentioned in subsection (2) in relation to land shall not be enforceable against the land after the sale of the land to a purchaser for valuable consideration after the date of first registration of the long term lease under this Ordinance.

PART 4

MISCELLANEOUS

8. Registers kept under Land Registration Ordinance

On the date of first registration of LRO land for which a register has been kept under the Land Registration Ordinance (Cap. 128), the register shall, subject to the regulations, be deemed to form part of the Title Register, and all the provisions of this Ordinance shall apply to the register accordingly.

9. Transitional provisions in respect of Title Register, etc.

Subject to the regulations, where a register has been kept under the Land Registration Ordinance (Cap. 128) in relation to LRO land, then, on and after the date of first registration of the land under section 3, the priority of all interests in the Title Register—

(a) existing immediately before the date of first registration; and

(b) in respect of which a memorial of an instrument within the meaning of the Land Registration Regulations (Cap. 128 sub. leg. A) has been registered under the Land Registration Ordinance (Cap. 128),

shall be determined in accordance with the provisions of the Land Registration Ordinance (Cap. 128), and the provisions of this Ordinance shall be construed accordingly.

10. Transitional provision in respect of registered caveat

Where immediately before the date of first registration of LRO land under this Ordinance there was a caveat registered against the land under the Land Registration Ordinance (Cap. 128), then, commencing on the date of first registration of the land under this Ordinance—

(a) the caveat shall be deemed to be a non-consent caution;

(b) notwithstanding section 35(1) of this Ordinance, the priority of the interest claimed in the deemed non-consent caution shall be determined in accordance with the law in force immediately before the date of first registration of the land concerned and applicable to the priority among such interests; and

(c) all the provisions of this Ordinance (including sections 73 and 74) shall apply to the deemed non-consent caution accordingly.

SCHEDULE 2

[ss. 10 & 103]

SPECIFIED PROVISIONS FOR PURPOSES OF SECTION 10

Sections 8(1)(a), 9, 33(3), 41, 80(1) and 99(1).

SCHEDULE 3

[s. 104]

CONSEQUENTIAL AMENDMENTS

Specification of Public Offices**1. Schedule amended**

The Schedule to the Specification of Public Offices (Cap. 1 sub. leg.) is amended—

(a) by repealing—

“Secretary for Home Affairs

New Territories Ordinance (Chapter 97),
section 9(2), for the purposes of
section 19.”;

(b) by adding—

“Land Registrar

Land Titles Ordinance (26 of 2004).”.

High Court Ordinance**2. Provisions supplementary to sections 20 and 20A**

Section 20B of the High Court Ordinance (Cap. 4) is amended—

(a) in subsection (2), by adding “and the Land Titles Ordinance (26 of 2004)” after “Land Registration Ordinance (Cap. 128)”;

(b) by adding—

“(6) In the case of a charging order registered under the Land Titles Ordinance (26 of 2004), if an order under subsection (4) discharging the charging order is made, the Land Registrar shall, on the presentation to him of an application for the purpose accompanied by an office copy of the order, remove from the Title Register kept under that Ordinance the entry referring to the order.”.

Rules of the High Court**3. Special rules as to the sale of immovable property**

Order 47, rule 7(4)(b) of the Rules of the High Court (Cap. 4 sub. leg. A) is repealed and the following substituted—

“(b) In the case of immovable property which is registered under the Land Titles Ordinance (26 of 2004), such certificate shall be liable to the same stamp duty as an assignment of the same property and, when duly stamped, may support an application for registration under that Ordinance of the purchaser as the owner of the property.

(c) In the case of any other immovable property, such certificate shall be liable to the same stamp duty as an assignment of the same property and, when duly stamped, shall be taken and deemed to be a valid transfer of such right, title and interest and may be registered under the Land Registration Ordinance (Cap. 128).”.

4. Discharge, etc., of charging order

Order 50, rule 7(2) is amended by repealing “the lot number of the land and the memorial number of any relevant charge registered against the land.” and substituting—

“—

- (a) the lot number of the land; and
- (b) the memorial number of any relevant charge registered against the land under the Land Registration Ordinance (Cap. 128) or the application number of any relevant charge registered against the land under the Land Titles Ordinance (26 of 2004), as the case may be.”.

Bankruptcy Rules

5. Registration of petition under Land Registration Ordinance or Land Titles Ordinance

Rule 53 of the Bankruptcy Rules (Cap. 6 sub. leg. A) is amended by repealing “a memorial of the petition in the Land Registry against any property registered therein” and substituting “the petition under the Land Registration Ordinance (Cap. 128), or register a non-consent caution under the Land Titles Ordinance (26 of 2004) relating to the petition, against any property which is registered under that Ordinance”.

6. Registration of petition under Land Registration Ordinance or Land Titles Ordinance against partner

Rule 54 is amended by repealing “in either of the cases mentioned in rule 133 or 135 register a memorial of the petition in the Land Registry against any property registered” and substituting “, in either of the cases mentioned in rule 133 or 135, register the petition under the Land Registration Ordinance (Cap. 128), or register a non-consent caution under the Land Titles Ordinance (26 of 2004) relating to the petition, against any property which is registered under that Ordinance”.

7. Registration of bankruptcy order under Land Registration Ordinance or Land Titles Ordinance

Rule 73 is amended by repealing “a memorial of such bankruptcy order in the Land Registry against any property registered therein” and substituting “the order under the Land Registration Ordinance (Cap. 128), or register a non-consent caution under the Land Titles Ordinance (26 of 2004) relating to the order, against any property which is registered under that Ordinance”.

8. Registration of bankruptcy order under Land Registration Ordinance or Land Titles Ordinance against partner

Rule 74 is amended by repealing “a memorial thereof in the Land Registry against any property registered” and substituting “the order under the Land Registration Ordinance (Cap. 128), or register a non-consent caution under the Land Titles Ordinance (26 of 2004) relating to the order, against any property which is registered under that Ordinance”.

9. Disclaimer of lease

Rule 130(3) is amended by repealing “in the Land Registry, register a memorial of such disclaimer in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), register such disclaimer under that Ordinance”.

Bankruptcy (Forms) Rules**10. Forms**

The Schedule to the Bankruptcy (Forms) Rules (Cap. 6 sub. leg. B) is amended—

- (a) in Form 67, by repealing “vacated upon the application of the debtor under the Land Registration Ordinance (*Chapter 128*)” and substituting “vacated or removed upon the application of the debtor under the Land Registration Ordinance (*Chapter 128*) or the Land Titles Ordinance (*26 of 2004*), as the case may require”;
- (b) in Forms 128 and 129, by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (*Chapter 128*) or the Land Titles Ordinance (*26 of 2004*)”.

Landlord and Tenant (Consolidation) Ordinance**11. Registration under the Land Registration Ordinance or Land Titles Ordinance of order under section 4**

Section 7(1) of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) is amended by repealing “by memorial in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”.

12. Restriction on order for possession for rebuilding

Section 53A(3) is amended by repealing “by memorial in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”.

13. Interpretation

Section 115 is amended by adding—

- “(4) No notice or application under this Part shall be registrable under the Land Titles Ordinance (26 of 2004).”.

14. Additional provisions regarding opposition on ground of intention to rebuild

Section 119F(3) is amended by repealing “by memorial in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”.

Land (Miscellaneous Provisions) Ordinance**15. Vesting of private streets in the Government**

Section 14 of the Land (Miscellaneous Provisions) Ordinance (Cap. 28) is amended—

- (a) in subsection (2), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”;
- (b) in subsection (3), by repealing “under subsection (2) in the Land Registry” and substituting “, pursuant to subsection (2), under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004),”.

Companies (Winding-up) Rules**16. Disclaimer**

Rule 63(2) of the Companies (Winding-up) Rules (Cap. 32 sub. leg.) is amended—

- (a) by repealing “in the Land Registry” where it first appears and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require”;
- (b) by repealing “in the Land Registry” where it secondly appears and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”.

Government Leases Ordinance**17. Interpretation**

Section 2 of the Government Leases Ordinance (Cap. 40) is amended, in the definition of “section”, by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128), or which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance,”.

18. Person entitled to renew

Section 6 is amended by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”.

19. New Government rent to be noted or entered in register

Section 10 is amended—

- (a) by repealing subsection (1)(b) and substituting—
 - “(b) the Land Registrar shall cause the amount of the new Government rent payable in respect of the lot or section—
 - (i) to be noted in the register of such lot or section kept under the Land Registration Ordinance (Cap. 128); or
 - (ii) if the lot or section is registered under the Land Titles Ordinance (26 of 2004), to be entered in the Title Register kept under that Ordinance.”;
- (b) by repealing subsection (2)(b) and substituting—
 - “(b) the Land Registrar shall cause—

- (i) the amount of the new Government rent noted in the register of such lot or section kept under the Land Registration Ordinance (Cap. 128), or entered in the Title Register kept under the Land Titles Ordinance (26 of 2004), to be deleted; and
- (ii) the increased new Government rent to be noted or entered therein.”.

20. Correction of clerical or arithmetical errors

Section 11(2) is amended by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or entered in the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may require”.

21. Section substituted

Section 12 is repealed and the following substituted—

“12. Evidence of renewal

The amount of the new Government rent payable in respect of a lot or section for the time being shown in the register kept under the Land Registration Ordinance (Cap. 128), or entered in the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may be, shall be conclusive evidence of the grant of the new Government lease of the lot or section and of the new Government rent thereof.”.

22. Collection of new Government rent

Section 13(4) is amended by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”.

23. New Government leases subject to encumbrances and interests

Section 15 is amended—

- (a) in paragraph (a), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128)”;
- (b) by adding—
 - “(aa) any charge registered under the Land Titles Ordinance (26 of 2004);
 - (ab) any equitable mortgage which is the subject of a consent caution or non-consent caution registered under the Land Titles Ordinance (26 of 2004);”.

24. Section substituted

Section 16 is repealed and the following substituted—

“16. Government lease plan

- (1) If a plan of a lot held under a renewable Government lease—
 - (a) is not annexed to the counterpart of the Government lease kept under the Land Registration Ordinance (Cap. 128), or if the plan annexed thereto is, in the opinion of the Director, inaccurate or inadequate to establish the location, position, or dimensions of the lot; or
 - (b) if the lot is registered under the Land Titles Ordinance (26 of 2004), is not referred to in the Title Register kept under that Ordinance, or if the plan is

referred to in the Title Register, is, in the opinion of the Director, inaccurate or inadequate to establish the location, position, or dimensions of the lot, the Director may cause the lot to be surveyed and a plan thereof prepared.

(2) If a plan of a section of a lot held under a renewable Government lease—

(a) is not registered under the Land Registration Ordinance (Cap. 128), or if the plan is so registered is, in the opinion of the Director, inaccurate or inadequate to establish the location, position, or dimensions of the section; or

(b) if the lot is registered under the Land Titles Ordinance (26 of 2004), is not referred to in the Title Register kept under that Ordinance, or if the plan is referred to in the Title Register, is, in the opinion of the Director, inaccurate or inadequate to establish the location, position, or dimensions of the section,

the Director may cause the section to be surveyed and a plan thereof prepared.”.

25. Plan as approved or amended to be delivered to Land Registry

Section 22(a) and (b) is repealed and the following substituted—

“(a) in the case of a lot—

(i) cause the plan to be annexed to the counterpart of the renewable Government lease of the lot kept under the Land Registration Ordinance (Cap. 128) and cause the previous plan, if any, to be cancelled; or

(ii) if the lot is registered under the Land Titles Ordinance (26 of 2004), cause the plan to be entered in the Title Register kept under that Ordinance and cause any entry relating to the previous plan, if any, to be removed from the Title Register;

(b) in the case of a section of a lot—

(i) cause the plan to be registered under the Land Registration Ordinance (Cap. 128) in respect of the section of the lot to which the renewable Government lease relates, and cause the previous plan, if any, to be cancelled; or

(ii) if the lot is registered under the Land Titles Ordinance (26 of 2004), cause the plan to be entered in the Title Register kept under that Ordinance and cause any entry relating to the previous plan, if any, to be removed from the Title Register.”.

Transfer of Businesses (Protection of Creditors) Ordinance

26. Interpretation

Section 2(1) of the Transfer of Businesses (Protection of Creditors) Ordinance (Cap. 49) is amended, in the definition of “registered charge”, by adding—

“(aa) the Land Titles Ordinance (26 of 2004);”.

Antiquities and Monuments Ordinance

27. Interpretation

Section 2 of the Antiquities and Monuments Ordinance (Cap. 53) is amended by repealing the definition of “Land Registry”.

28. Declaration of proposed monuments etc. and plans thereof

Section 2A(4)(b)(i) is amended by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require”.

29. Declaration of monuments and plans thereof

Section 3(4)(b) is amended by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require”.

Legal Aid Ordinance

30. Charge on property recovered

Section 18A(3A) of the Legal Aid Ordinance (Cap. 91) is amended by adding “or the Land Titles Ordinance (26 of 2004), as the case may require,” after “Land Registration Ordinance (Cap. 128)”.

New Territories Ordinance

31. Registration of manager of “t’ong”, etc.

Section 15 of the New Territories Ordinance (Cap. 97) is amended by repealing the last sentence and substituting “Such re-entry, in the case of any such lease, shall be effected by the registration under the Land Registration Ordinance (Cap. 128), of an instrument of re-entry presented to the Land Registrar by the Secretary for Home Affairs or, if the lease is registered under the Land Titles Ordinance (26 of 2004), by the making of an entry relating to such an instrument in the Title Register kept under that Ordinance.”.

32. Power to appoint trustees for minors

Section 18 is amended—

- (a) by adding “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,” after “shall be registered”;
- (b) by adding “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)” after “registering”.

33. Certification of memorials

Section 19 is repealed.

34. Land Registrar not required to keep index

Section 20 is repealed.

35. Certified copies receivable in evidence

Section 43 is repealed.

36. Part not to affect Government, etc.

Section 44 is amended by adding “, or caused to be done or made,” after “made”.

Tramway Ordinance**37. Attachment**

Section 6(7) of the Tramway Ordinance (Cap. 107) is repealed and the following substituted—
“(7) For the purpose of this section, “owner” (擁有人) means the person who is registered under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004) as the owner or holder of the land on which the house or building in question is built and any—

- (a) mortgagee thereof who is registered as such under the Land Registration Ordinance (Cap. 128); or
- (b) chargee thereof who is registered as such under the Land Titles Ordinance (26 of 2004).”.

Estate Duty Ordinance**38. Charge of estate duty on property**

Section 18 of the Estate Duty Ordinance (Cap. 111) is amended—

- (a) by repealing subsection (2) and substituting—

“(2) Notice of any charge on any leasehold property constituted by subsection (1) which is to be registered under the Land Registration Ordinance (Cap. 128) may be given by the Commissioner registering a memorial under that Ordinance against the property affected thereby, which memorial—

- (a) shall be signed by the Commissioner; and
- (b) shall specify—

- (i) the subsection under which the charge is constituted;
- (ii) the name, description, and date of death of the deceased in respect of whose estate the claim to estate duty arises; and
- (iii) particulars of the property charged.”;

- (b) by adding—

“(2A) Notice of any charge on any leasehold property constituted by subsection (1) which is to be registered under the Land Titles Ordinance (26 of 2004) may be given by the Commissioner registering a non-consent caution under that Ordinance against the property affected thereby, which non-consent caution—

- (a) shall state that the property is subject to a first charge under that subsection; and
- (b) shall be supported by an application signed by the Commissioner specifying—
 - (i) the subsection under which the charge is constituted;
 - (ii) the name, description and date of death of the deceased in respect of whose estate the claim to estate duty arises; and
 - (iii) particulars of the property charged.”;

- (c) by repealing subsection (3) and substituting—

“(3) A notice in writing of any charge under subsection (1) or (2) may be registered under the Land Registration Ordinance (Cap. 128) as an instrument affecting land.”.

Inland Revenue Ordinance**39. Joint owners and co-owners**

Section 56A(1) of the Inland Revenue Ordinance (Cap. 112) is amended by repealing everything after “appearing from” and substituting—

- (a) any deed, conveyance, judgment or other instrument in writing registered under the Land Registration Ordinance (Cap. 128); or
- (b) the Title Register kept under the Land Titles Ordinance (26 of 2004), to be such an owner shall be answerable for doing all such acts, matters and things as would be required to be done under the provisions of this Ordinance by a sole owner.”.

Stamp Duty Ordinance**40. Section added**

The Stamp Duty Ordinance (Cap. 117) is amended by adding—

“2A. Instruments affected by Land Titles Ordinance

Where an instrument in relation to registered land within the meaning of the Land Titles Ordinance (26 of 2004) (including any instrument the form of which is specified under section 99 of that Ordinance)—

- (a) falls into any of the following cases—
 - (i) is chargeable with stamp duty;
 - (ii) would be chargeable with stamp duty but for any provisions of the Land Titles Ordinance (26 of 2004); or
 - (iii) if the Land Titles Ordinance (26 of 2004) had never been enacted, would be chargeable with stamp duty but for any provisions of Part V; and
- (b) would create, extinguish, transfer, vary or affect any legal or equitable interest in land but for any provisions of the Land Titles Ordinance (26 of 2004), then, for the purposes of this Ordinance, the instrument shall—
- (c) without prejudice to any other ground on which it may be void or voidable and notwithstanding any law, not be void or voidable on the ground that it does not, of itself, create, extinguish, transfer, vary or affect, as the case may be, such interest;
- (d) where—
 - (i) paragraph (a)(i) is applicable, continue to be so chargeable;
 - (ii) paragraph (a)(ii) is applicable, be so chargeable;
 - (iii) paragraph (a)(iii) is applicable, continue to be so chargeable but for any provisions of Part V,
- (e) notwithstanding any provisions of the Land Titles Ordinance (26 of 2004); and accompany the application, within the meaning of section 2(1) of the Land Titles Ordinance (26 of 2004), for the registration under that Ordinance of the matter which would, if so registered, create, extinguish, transfer, vary or affect, as the case may be, such interest.”.

41. Non-admissibility etc. of instruments not duly stamped

Section 15(3) is amended—

- (a) in paragraph (a), by repealing “or” at the end;
- (b) by adding—
 - “(aa) a matter under the Land Titles Ordinance (26 of 2004) if the instrument supporting the registration of the matter is—
 - (i) stamped under section 5(1) or 13(2); or
 - (ii) an agreement for sale that either contains a statement to the effect that it relates to non-residential property within the meaning of section 29A(1) or is endorsed under section 29C(13)(a); or”;
- (c) by adding “或事項” after “下文書”.

42. Section added

The following is added—

“67. Transitional provisions for purposes of Land Titles Ordinance

(1) In this section, “date of first registration” (首次註冊日期), “dealing” (交易) and “registered land” (註冊土地) have the meanings respectively assigned to them by section 2(1) of the Land Titles Ordinance (26 of 2004).

(2) Where an instrument—

- (a) has either been registered, or delivered for registration (including any case where a memorial of such an instrument has been redelivered for registration on or after the date of first registration) under the Land Registration Ordinance (Cap. 128); and
- (b) is stamped under section 13(2) but is not stamped under section 13 with a stamp denoting that it is not chargeable with stamp duty or that it is duly stamped, then the stamp duty, if any, chargeable on the instrument shall be a first charge on the registered land the subject of the dealing to which the instrument relates.

(3) The charge under subsection (2) in respect of registered land shall expire on—

- (a) the 1st anniversary of the date of first registration of the land;
- (b) the date on which the instrument is stamped under section 13 with a stamp denoting that it is not chargeable with stamp duty; or
- (c) the date on which the instrument is stamped with a stamp denoting that it is duly stamped,

whichever is the earlier.

(4) Where a first charge under this section is registered under the Land Titles Ordinance (26 of 2004) at any time before the 1st anniversary of the date of first registration, then subsection (2), as in force immediately before that day, shall continue to operate in relation to that charge as if subsection (3) had never been enacted.

(5) For the avoidance of doubt, it is hereby declared that a first charge under this section may be registered under the Land Titles Ordinance (26 of 2004) notwithstanding that the amount of the charge has not been determined.”.

Buildings Ordinance**43. Interpretation**

Section 2(1) of the Buildings Ordinance (Cap. 123) is amended by repealing the definition of “Land Registry”.

44. Dangerous buildings

Section 26(2A) is amended by repealing “by memorial in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”.

45. Defective buildings

Section 26A(4A) is amended by repealing “by memorial in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”.

46. Dangerous hillsides, etc.

Section 27A(2D)(a) and (b) is amended by repealing “by memorial in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”.

47. Water pipes, drains or sewers laid in slopes, etc.

Section 27C(6) is amended by repealing “by memorial in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”.

48. Drainage

Section 28(6A) is amended by repealing “by memorial in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”.

49. Recovery of costs of works by Building Authority

Section 33 is amended—

(a) in subsection (9)—

(i) by repealing “a memorial of”;

(ii) by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”;

(iii) in paragraph (a), by repealing “such Land Registry register” and substituting “the Land Registry register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004)”;

(iv) in the proviso, by repealing “memorial thereof” and substituting “certificate under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”;

(b) in subsection (10)—

(i) by repealing “Upon” and substituting “Where the certificate is registered under the Land Registration Ordinance (Cap. 128), upon”;

(ii) by repealing “any memorial” and substituting “any certificate”;

(c) by adding—

“(11) Where the certificate is registered under the Land Titles Ordinance (26 of 2004), upon the recovery of any sum under this section, the Building Authority shall cause the appropriate entries to be made in the Title Register kept under that Ordinance to effect a discharge or partial discharge of the charge mentioned in subsection (9), as the case may require.”.

Lands Resumption Ordinance**50. Interpretation**

Section 2 of the Lands Resumption Ordinance (Cap. 124) is amended, in the definition of “owner”, by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”.

51. Section substituted

Section 4A is repealed and the following substituted—

“4A. Purchase by agreement

(1) Where an order has been made for the resumption of any land under section 3, the Authority may, before the land reverts to the Government under section 5—

(a) agree with the owner on the purchase of the land; and

(b) agree with any person—

(i) having an estate or interest in such land under an instrument registered under the Land Registration Ordinance (Cap. 128); or

(ii) having an estate or interest in such land which is registered under the Land Titles Ordinance (26 of 2004),

on the purchase of any such estate or interest therein.

(2) Any such agreement relating to land in respect of which an order under section 3 is made on or after the commencement of the Crown Lands Resumption (Amendment) Ordinance 1984 (5 of 1984) may provide for the payment by the Authority to the owner or such person of any costs or remuneration reasonably incurred or paid by him in employing persons to act in a professional capacity in connection with the purchase.”.

52. Compensation

Section 6(1)(a) is repealed and the following substituted—

“(a) make an offer of compensation in respect of the resumption of the land in writing to—

(i) the former owner; and

(ii) any person having, immediately before reversion—

(A) an estate or interest in such land under an instrument registered under the Land Registration Ordinance (Cap. 128); or

(B) an estate or interest in such land which is registered under the Land Titles Ordinance (26 of 2004); or”.

Government Rent and Premium (Apportionment) Ordinance**53. Interpretation**

Section 2 of the Government Rent and Premium (Apportionment) Ordinance (Cap. 125) is amended—

(a) in the definition of “existing building”, by repealing paragraph (c) and substituting—

“(c) in respect of which—

(i) in the case of a lot or section which is registered under the Land Titles Ordinance (26 of 2004), the Title Register kept under that Ordinance contains no current entry providing for a basis of apportionment of

- the principal Government rent reserved under the new Government lease or of the annual instalment of premium payable in respect of that relevant interest; or
- (ii) in the case of any other lot or section, no instrument containing a basis of apportionment of the principal Government rent reserved under the new Government lease or of the annual instalment of premium payable in respect of that relevant interest has been registered under the Land Registration Ordinance (Cap. 128);”;
- (b) in the definition of “owner”, by repealing paragraphs (a) and (b) and substituting—
- “(a) the person whose name is registered under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004) as that of the owner or one of the owners of the section or relevant interest, as the case may be; and
- (b) a mortgagee under a mortgage which is registered under the Land Registration Ordinance (Cap. 128) or an owner of a charge which is registered under the Land Titles Ordinance (26 of 2004);”;
- (c) in the definition of “relevant interest”, by repealing “under the terms of an instrument registered in the Land Registry to exclusive possession of premises in that building;” and substituting—
- “to exclusive possession of premises in that building under the terms of an instrument—
- (a) which is registered under the Land Registration Ordinance (Cap. 128); or
- (b) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance;”;
- (d) by repealing the definition of “section” and substituting—
- ““section” (分段) means any portion or division of a lot which has been assigned, alienated or retained for the whole of the term or interest created by the Government lease of the lot by or under an instrument—
- (a) which is registered under the Land Registration Ordinance (Cap. 128); or
- (b) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance.”.

54. Apportionment of Government rent

Section 6(1)(b) is amended by repealing “which is registered in the Land Registry; or” and substituting—

“—

- (i) which is registered under the Land Registration Ordinance (Cap. 128); or
- (ii) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance; or”.

55. Apportionment of premium on section

Section 7(1)(a) is amended by repealing “which is registered in the Land Registry; or” and substituting—

“—

- (i) which is registered under the Land Registration Ordinance (Cap. 128); or
- (ii) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance; or”.

56. Area of lot or section

Section 10(1) is amended by repealing everything after “contained in” and substituting—

“—

- (a) a Government lease or other instrument—
 - (i) which is registered under the Land Registration Ordinance (Cap. 128); or
 - (ii) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance; or
- (b) any plan annexed to or endorsed on any such Government lease or instrument.”.

57. Cases in which Government rent or premium to be treated as apportioned in registered instrument

Section 11(a) and (b) is amended by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128), or which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance,”.

58. Apportionment of Government rent on relevant interest

Section 13(1)(a) is amended by repealing “which is registered in the Land Registry; or” and substituting—

“—

- (i) which is registered under the Land Registration Ordinance (Cap. 128); or
- (ii) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance; or”.

59. Apportionment of premium on relevant interest

Section 14(1)(a) is amended by repealing “which is registered in the Land Registry; or” and substituting—

“—

- (i) which is registered under the Land Registration Ordinance (Cap. 128); or
- (ii) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance; or”.

60. Notice of determined Government rent and determined annual instalment of premium

Section 22(1)(b) and (2)(b) is amended by adding “kept under the Land Registration Ordinance (Cap. 128) or registered under the Land Titles Ordinance (26 of 2004), as the case may require,” after “Land Registry records”.

61. Covenants between owners not to be affected

Section 25 is amended by repealing “which is registered in the Land Registry, but” and substituting—

“—

- (a) which is registered under the Land Registration Ordinance (Cap. 128); or
 - (b) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance,
- but”.

Government Rights (Re-entry and Vesting Remedies) Ordinance

62. Interpretation

Section 2 of the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap. 126) is amended—

- (a) in the definition of “former owner”, by repealing everything after “immediately before” and substituting—
 - “—
 - (a) in the case of a lot or relevant interest which is registered under the Land Titles Ordinance (26 of 2004), the time of registration under that Ordinance of an application supported by an instrument of re-entry or a vesting notice, as the case may be;
 - (b) in the case of any other lot or relevant interest, the time of registration under the Land Registration Ordinance (Cap. 128) of an instrument of re-entry or a vesting notice, as the case may be;”;
- (b) in the definition of “owner” —
 - (i) in paragraph (a), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”;
 - (ii) in paragraph (b), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or an owner of a charge which is registered under the Land Titles Ordinance (26 of 2004)”;
- (c) in the definition of “relevant interest”, by repealing everything after “entitled” and substituting—
 - “to exclusive possession of premises in that building under the terms of an instrument—
 - (a) which is registered under the Land Registration Ordinance (Cap. 128); or
 - or
 - (b) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance;”;
- (d) in the definition of “vesting notice”, by repealing “registered in the Land Registry under section 7.” and substituting—
 - “issued under section 7—
 - (a) which is registered under the Land Registration Ordinance (Cap. 128); or
 - or
 - (b) which supports an application for registration relating to the vesting notice under the Land Titles Ordinance (26 of 2004).”.

63. Instrument of re-entry

Section 4 is amended—

- (a) in subsection (1)—
 - (i) by repealing “a memorial of an instrument of re-entry” and substituting “an instrument of re-entry may be issued”;
 - (ii) by repealing “may be registered in the Land Registry.” and substituting—
 - “and—

- (a) if such an instrument relates to lands or tenements registered under the Land Titles Ordinance (26 of 2004), it may be made the subject of an application for registration under that Ordinance; and
 - (b) if such an instrument relates to other lands or tenements, it may be registered under the Land Registration Ordinance (Cap. 128).”;
- (b) in subsection (2), by repealing “on the registration of such a memorial” and substituting “upon the making of an entry relating to such an instrument in the Title Register kept under the Land Titles Ordinance (26 of 2004), or the registration of such an instrument under the Land Registration Ordinance (Cap. 128)”.

64. Section substituted

Section 5 is repealed and the following substituted—

“5. Notice of registration of instrument of re-entry

Notice of the making of an entry in the Title Register kept under the Land Titles Ordinance (26 of 2004) relating to, or the registration under the Land Registration Ordinance (Cap. 128) of, an instrument of re-entry by the Government shall be published in the Gazette.”.

65. Power to vest relevant interest in The Financial Secretary Incorporated

Section 7 is amended—

- (a) in subsection (1), by repealing everything after paragraph (b) and substituting—
 - “a vesting notice may be issued, under the hand of any public officer authorized by the Chief Executive to sign such instruments, and—
 - (c) if the relevant interest is registered under the Land Titles Ordinance (26 of 2004), such vesting notice may be made the subject of an application for registration under that Ordinance; and
 - (d) if the relevant interest is not registered under the Land Titles Ordinance (26 of 2004), such vesting notice may be registered under the Land Registration Ordinance (Cap. 128).”;
- (b) in subsection (1A), by repealing everything after “Government Leases Ordinance (Cap. 40)” and substituting—
 - “a vesting notice may be issued, under the hand of any public officer authorized by the Chief Executive to sign such instruments, and—
 - (a) if the relevant interest of which the tenement to which the demand relates forms a part is registered under the Land Titles Ordinance (26 of 2004), such vesting notice may be made the subject of an application for registration under that Ordinance; and
 - (b) if the relevant interest of which the tenement to which the demand relates forms a part is not registered under the Land Titles Ordinance (26 of 2004), such vesting notice may be registered under the Land Registration Ordinance (Cap. 128).”;
- (c) in subsection (2)—
 - (i) by repealing everything before paragraph (a) and substituting—
 - “(2) Immediately upon the making of an entry relating to a vesting notice in the Title Register kept under the Land Titles Ordinance (26 of 2004), or the registration of a vesting notice under the Land Registration Ordinance (Cap. 128)—”;
 - (ii) in paragraph (b), by repealing “registered in the Land Registry” and substituting “supporting a current entry in the Title Register kept under the

- Land Titles Ordinance (26 of 2004), or registered under the Land Registration Ordinance (Cap. 128);”;
- (iii) in paragraph (i), by repealing “in the Land Registry” and substituting “under the Land Titles Ordinance (26 of 2004) or the Land Registration Ordinance (Cap. 128)”;
 - (iv) in paragraph (iv), by repealing “registered in the Land Registry” and substituting “supporting a current entry in the Title Register kept under the Land Titles Ordinance (26 of 2004), or not registered under the Land Registration Ordinance (Cap. 128)”;
 - (d) in subsection (3), by repealing “registered in the Land Registry under subsection (1) or (1A)” and substituting “which, under subsection (1) or (1A), is made the subject of an application for registration under the Land Titles Ordinance (26 of 2004), or is registered under the Land Registration Ordinance (Cap. 128)”.

66. Right to apply for relief against re-entry or vesting

Section 8 is amended—

- (a) in subsection (1), by repealing “where a memorial of re-entry has been registered under section 4 in the Land Registry” and substituting “where, under section 4, an entry relating to an instrument of re-entry has been made in the Title Register kept under the Land Titles Ordinance (26 of 2004), or an instrument of re-entry has been registered under the Land Registration Ordinance (Cap. 128)”;
- (b) in subsection (2), by repealing “where a vesting notice has been registered under section 7 in the Land Registry” and substituting “where, under section 7, an entry relating to a vesting notice has been made in the Title Register kept under the Land Titles Ordinance (26 of 2004), or a vesting notice has been registered under the Land Registration Ordinance (Cap. 128)”;
- (c) in subsection (3), by repealing “from the registration of the memorial of re-entry or vesting notice” and substituting “from the date of the making of the entry in the Title Register kept under the Land Titles Ordinance (26 of 2004) relating to the instrument of re-entry or vesting notice, or the date of registration of the instrument of re-entry or vesting notice under the Land Registration Ordinance (Cap. 128)”.

67. Power of Chief Executive or Chief Executive in Council to order cancellation of instrument of re-entry or vesting notice

Section 9(1)(a) and (2)(a) is amended by repealing “memorial” and substituting “instrument”.

68. Powers of Court of First Instance in respect of application for relief

Section 10 is amended by repealing “memorial” and substituting “instrument”.

69. Cancellation of instrument of re-entry

Section 11 is amended—

- (a) in subsection (1)—
 - (i) by repealing “A memorial” and substituting “An instrument”;
 - (ii) by repealing “the memorial” where it twice appears and substituting “the instrument”;
- (b) in subsection (2)—
 - (i) by repealing “a memorial” and substituting “an instrument”;

- (ii) by repealing “it had never been registered” and substituting “no entry had been made in respect of it in the Title Register kept under the Land Titles Ordinance (26 of 2004), or as if it had never been registered under the Land Registration Ordinance (Cap. 128), as the case may be”;
- (c) in subsection (3), by repealing “a memorial” and substituting “an instrument of re-entry”.

70. Cancellation of vesting notice

Section 12 is amended—

- (a) in subsection (1), by repealing “the memorial of”;
- (b) in subsection (2)—
 - (i) by repealing “the same had never been made or registered” and substituting “no entry had been made in respect of it in the Title Register kept under the Land Titles Ordinance (26 of 2004), or as if it had never been registered under the Land Registration Ordinance (Cap. 128), as the case may be,”;
 - (ii) by repealing “no vesting notice had been registered at the Land Registry” and substituting “no entry had been so made or no vesting notice had been so registered, as the case may be”.

Town Planning Ordinance

71. Enforcement on land within a development permission area

Section 23 of the Town Planning Ordinance (Cap. 131) is amended—

- (a) in subsection (4A), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require”;
- (b) in subsection (4B), by repealing everything after “or (4A)” and substituting “may be registered under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require.”.

Public Health and Municipal Services Ordinance

72. Recovery of cost of works done or services rendered by public officers or public bodies

Section 130 of the Public Health and Municipal Services Ordinance (Cap. 132) is amended—

- (a) in subsection (9)—
 - (i) by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”;
 - (ii) by repealing “a memorial of”;
 - (iii) by repealing “Land Registry register” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004)”;
 - (iv) in the proviso, by repealing “before the registration of the memorial” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004) before the registration”;
- (b) in subsection (10), by repealing everything after “this section” and substituting—
“in respect of which a certificate has been issued under the provisions of subsection (1), the public officer concerned shall—

- (a) if the certificate has been registered under the Land Registration Ordinance (Cap. 128), register under that Ordinance an appropriate instrument of satisfaction against the certificate; or
- (b) if the certificate has been registered under the Land Titles Ordinance (26 of 2004), cause the appropriate entries to be made in the Title Register kept under that Ordinance to effect a discharge or partial discharge of the charge mentioned in subsection (9), as the case may require.”.

Public Cleansing and Prevention of Nuisances Regulation

73. Interpretation

Section 3 of the Public Cleansing and Prevention of Nuisances Regulation (Cap. 132 sub. leg. BK) is amended, in the definition of “common parts”, by repealing “in an instrument registered in the Land Registry as being for the exclusive use, occupation or enjoyment of an owner or occupier;” and substituting—

“as being for the exclusive use, occupation or enjoyment of an owner or occupier in an instrument—

- (a) which is registered under the Land Registration Ordinance (Cap. 128); or
- (b) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance;”.

New Territories Leases (Extension) Ordinance

74. Interpretation

Section 3(1) of the New Territories Leases (Extension) Ordinance (Cap. 150) is amended—

- (a) by repealing the definition of “Land Registry register” and substituting—
““Land Registry register” (土地註冊處註冊紀錄冊) means so much of the register that is kept, under the Land Registration Ordinance (Cap. 128), or so much of the Title Register that is kept, under the Land Titles Ordinance (26 of 2004), in respect of land that is the subject of a New Territories lease;”;
- (b) in the definition of “New Territories lease” and “lease”, by repealing “or on behalf of the Governor” and substituting “the Government”.

75. Burdens and covenants

Section 7 is amended—

- (a) in subsection (1), by repealing “registered in the Land Registry” and substituting “referred to in subsection (4)”;
- (b) by adding—
“(4) For the purpose of subsection (1), the instrument referred to in that subsection is an instrument—
 - (a) which is registered under the Land Registration Ordinance (Cap. 128); or
 - (b) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance.”.

New Territories (Renewable Government Leases) Ordinance**76. Interpretation**

Section 2 of the New Territories (Renewable Government Leases) Ordinance (Cap. 152) is amended, in the definition of “section”, by repealing “in the Land Registry and also means” and substituting “under the Land Registration Ordinance (Cap. 128), or which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance, and”.

77. New Government leases deemed to be granted on 1st July 1973

Section 4(4) is amended—

- (a) in paragraph (a), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128)”;
- (b) by adding—
 - “(aa) any charge registered under the Land Titles Ordinance (26 of 2004);
 - “(ab) any equitable mortgage which is the subject of a consent caution or non-consent caution registered under the Land Titles Ordinance (26 of 2004);”.

Legal Practitioners Ordinance**78. Unqualified person not to prepare certain instruments, etc.**

Section 47(1)(b) of the Legal Practitioners Ordinance (Cap. 159) is repealed and the following substituted—

- “(b) draws or prepares any document for the purposes of the Land Registration Ordinance (Cap. 128), the Land Titles Ordinance (26 of 2004), or the New Territories Ordinance (Cap. 97), or makes any application or lodges any testimony for registration under any of those Ordinances at the Land Registry.”.

Domestic Violence Ordinance**79. Injunctions not to be registered**

Section 10 of the Domestic Violence Ordinance (Cap. 189) is amended by adding “or the Land Titles Ordinance (26 of 2004)” after “Land Registration Ordinance (Cap. 128)”.

Crimes Ordinance**80. Section substituted**

Section 153M of the Crimes Ordinance (Cap. 200) is repealed and the following substituted—

“153M. Registration of notices and orders relating to premises

(1) Where the Land Registrar receives a notice sent to him under section 145A, 153C(6) or 153H(4), or a copy of an order sent to him under section 153A(2), 153I(8) or 153K(5), he shall as soon as reasonably practicable register under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require, the notice or copy of the order.

(2) A failure to register under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004) a notice or copy of an order referred to in subsection (1) shall not, save as is provided in section 153C, affect its validity as against any person.”.

Prevention of Bribery Ordinance

81. Restraining orders

Section 14C(3A) of the Prevention of Bribery Ordinance (Cap. 201) is amended by repealing everything after “property,” and substituting “the order may be registered under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require.”.

Conveyancing and Property Ordinance

82. Proof of title and recitals

Section 13 of the Conveyancing and Property Ordinance (Cap. 219) is amended by adding—
“(6) This section shall not apply to land which is registered land within the meaning of the Land Titles Ordinance (26 of 2004).”.

83. Conversion of equitable interest to legal estate where right to Government lease

Section 14(3) is amended—

(a) in paragraphs (a) and (b), by repealing “in the Land Registry”;

(b) by repealing paragraph (c) and substituting—

“(c) upon the entry made by the Land Registrar in the register kept under the Land Registration Ordinance (Cap. 128), or in the Title Register kept under the Land Titles Ordinance (26 of 2004), of a note to the effect that those conditions have been complied with.”.

84. Construction of words and expressions

Section 15(d) is repealed and the following substituted—

“(d) Chinese words and terms shall be construed according to Chinese language and custom; and”.

85. What an assignment is deemed to include

Section 16 is amended by adding—

“(3) This section shall not apply to land which is registered land within the meaning of the Land Titles Ordinance (26 of 2004).”.

86. Assignment passes whole estate

Section 17 is amended—

- (a) by renumbering it as section 17(1);
- (b) by adding—

“(2) This section shall not apply to land which is registered land within the meaning of the Land Titles Ordinance (26 of 2004).”.

87. Standard forms

Section 37 is amended—

- (a) by renumbering it as section 37(1);
- (b) by adding—

“(2) This section shall not apply to land which is registered land within the meaning of the Land Titles Ordinance (26 of 2004).”.

88. Enforcement of covenants

Section 41 is amended—

- (a) in subsection (3), by adding “and the Land Titles Ordinance (26 of 2004)” after “subsection (5)”;
- (b) by adding—

“(9A) A covenant registered or deemed to be registered in the Title Register kept under the Land Titles Ordinance (26 of 2004) against the land affected by the covenant shall bind the successors in title of the covenantor and the persons deriving title under or through him or them whether or not they had notice of the covenant.”.

89. Saving of covenants, terms and conditions

Section 42 is amended—

- (a) in subsection (2)—
 - (i) by adding “or the Land Titles Ordinance (26 of 2004)” after “Land Registration Ordinance (Cap. 128)”;
 - (ii) by repealing “Land Registry registers” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may require.”;
- (b) by adding—

“(4) This section shall be subject to the provisions of the Land Titles Ordinance (26 of 2004).”.

90. Discharge of mortgage by signed receipt

Section 56 is amended by adding—

“(7) This section shall not apply to land which is registered land within the meaning of the Land Titles Ordinance (26 of 2004).”.

91. Section substituted

Section 64 is repealed and the following substituted—

“**64. Amendment of Schedules**

- (1) The Legislative Council may by resolution amend the First, Second or Fourth Schedule.
- (2) The Land Registrar may, by notice in the Gazette, amend the Third Schedule.”.

92. Covenants and Conditions which may be incorporated by reference

The Second Schedule is amended, in Part A, in clause 10, by repealing “in the Land Registry, to register at the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128), to register under that Ordinance”.

93. Forms

The Third Schedule is amended, in Form 1, in clause 3 of Form 4 and in clause 2(a) of Form 5, by repealing “in the Land Registry by Memorial No.” and substituting “under the Land Registration Ordinance (Cap. 128) by Memorial No.”.

Land Transactions (Enemy Occupation) Ordinance

94. Interpretation

Section 2 of the Land Transactions (Enemy Occupation) Ordinance (Cap. 256) is amended by repealing the definition of “Land Registry registers” and substituting—
““Land Registry registers” (土地註冊處註冊紀錄冊) means the register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004).”.

95. Proceedings in relation to disputes

Section 6(4) is amended by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”.

Mass Transit Railway (Land Resumption and Related Provisions) Ordinance

96. Interpretation

Section 2 of the Mass Transit Railway (Land Resumption and Related Provisions) Ordinance (Cap. 276) is amended, in the definition of “mortgage”, by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”.

97. Chief Executive may order resumption of land

Section 4(5) is amended by repealing “register of the land kept in the Land Registry” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may require”.

98. Chief Executive may order creation of easements or rights

Section 6(8) is amended by repealing “register of the land affected thereby kept in the Land Registry” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may require”.

Housing Ordinance

99. Interpretation

Section 2 of the Housing Ordinance (Cap. 283) is amended—

- (a) in the definition of “common parts”, by repealing “in an instrument registered in the Land Registry as being for the exclusive use, occupation or enjoyment of an owner;” and substituting—
 - “as being for the exclusive use, occupation or enjoyment of an owner in an instrument—
 - (a) which is registered under the Land Registration Ordinance (Cap. 128);
 - or
 - (b) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance;”;
- (b) by repealing the definition of “Land Registry”;
- (c) in the definition of “registered mortgagee”, in paragraph (a), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”.

Hong Kong Airport (Control of Obstructions) Ordinance

100. Orders by Chief Executive in Council relating to heights of buildings

Section 3(3) of the Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301) is repealed and the following substituted—

- “(3) An order under subsection (1)(c) shall be served upon the owner of the premises affected, and—
- (a) if the land affected is registered under the Land Registration Ordinance (Cap. 128), the order may be registered under that Ordinance against the land affected by delivering to the Land Registrar a memorial thereof signed by the Clerk to the Executive Council and containing the full terms of the order; or
 - (b) if the land affected is registered under the Land Titles Ordinance (26 of 2004), the order may be registered under that Ordinance against the land affected by delivering a copy thereof to the Land Registrar containing a declaration signed by the Clerk to the Executive Council to the effect that it is a true and correct copy of the order,

and upon receipt of such memorial or copy, the Land Registrar shall register it in the register kept under the Land Registration Ordinance (Cap. 128) or in the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may require.”.

101. Recovery of cost of works by Director of Buildings

Section 16(9) is amended by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”.

Registered Trustees Incorporation Ordinance**102. Vesting of land**

Section 7 of the Registered Trustees Incorporation Ordinance (Cap. 306) is amended by repealing “Land Registry register” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004)”.

Air Pollution Control (Fuel Restriction) Regulations**103. Interpretation**

Regulation 2 of the Air Pollution Control (Fuel Restriction) Regulations (Cap. 311 sub. leg.) is amended, in the definition of “Sha Tin fuel restriction area”, by repealing “Office” and substituting “Registry”.

District Court Ordinance**104. Provisions supplementary to sections 52A and 52B**

Section 52AB of the District Court Ordinance (Cap. 336) is amended—

- (a) in subsection (2), by adding “and the Land Titles Ordinance (26 of 2004)” after “Land Registration Ordinance (Cap. 128)”;
- (b) by adding—

“(6) If an order under subsection (4) discharging a charging order registered under the Land Titles Ordinance (26 of 2004) is made, the Land Registrar shall, on the presentation to him of an application for the purpose accompanied by an office copy of the order, remove from the Title Register kept under that Ordinance the entry referring to the order.”.

Rules of the District Court**105. Special rules as to the sale of immovable property**

Order 47, rule 7(4)(b) of the Rules of the District Court (Cap. 336 sub. leg. H) is repealed and the following substituted—

- “(b) In the case of immovable property which is registered under the Land Titles Ordinance (26 of 2004), such certificate shall be liable to the same stamp duty as an assignment of the same property and, when duly stamped, may support an application for registration under that Ordinance of the purchaser as the owner of the property.
- (c) In the case of any other immovable property, such certificate shall be liable to the same stamp duty as an assignment of the same property and, when duly stamped, shall be taken and deemed to be a valid transfer of such right, title and interest and may be registered under the Land Registration Ordinance (Cap. 128).”.

106. Discharge, etc., of charging order

Order 50, rule 7(2) is amended by repealing “the lot number of the land and the memorial number of any relevant charge registered against the land.” and substituting—

“—

- (a) the lot number of the land; and

- (b) the memorial number of any relevant charge registered against the land under the Land Registration Ordinance (Cap. 128) or the application number of any relevant charge registered against the land under the Land Titles Ordinance (26 of 2004), as the case may be.”.

Demolished Buildings (Re-development of Sites) Ordinance

107. Interpretation

Section 2(1) of the Demolished Buildings (Re-development of Sites) Ordinance (Cap. 337) is amended by repealing the definition of “Land Registry”.

108. Premises made subject to Ordinance

Section 3(2) is repealed and the following substituted—

“(2) The Director shall cause—

- (a) a copy of such notice to be served on any person appearing from the register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004) to have an interest in such property; and
- (b) such notice to be registered under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require.”.

109. Order for re-development

Section 4(2) is repealed and the following substituted—

“(2) Where an order is served under subsection (1)—

- (a) the order shall within one month of such service be registered under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require; and
- (b) a copy of the order shall also be served on any person appearing from the register kept under the Land Registration Ordinance (Cap. 128), or the Title Register kept under the Land Titles Ordinance (26 of 2004), to have an interest in such property.”.

110. Assessment of incremental value

Section 6(2) is amended by repealing “Land Registry registers” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004)”.

111. Payment of compensation

Section 9(1) is amended by repealing “in the Land Registry by a memorial thereof signed” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”.

112. Charge for compensation awarded

Section 12(1) is amended by repealing “in the Land Registry under” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004) pursuant to”.

Building Management Ordinance**113. Interpretation**

Section 2 of the Building Management Ordinance (Cap. 344) is amended—

- (a) in the definition of “common parts”, in paragraph (a), by repealing “in an instrument registered in the Land Registry as being for the exclusive use, occupation or enjoyment of an owner; and” and substituting—
 - “as being for the exclusive use, occupation or enjoyment of an owner in an instrument—
 - (i) which is registered under the Land Registration Ordinance (Cap. 128); or
 - (ii) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance; and”;
- (b) in the definition of “deed of mutual covenant”, in paragraph (b), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”;
- (c) by repealing the definition of “Land Registry”;
- (d) in the definition of “owner”, in paragraph (a), by repealing “records at the Land Registry” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004)”;
- (e) in the definition of “registered mortgagee”, in paragraph (a), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”.

114. Notice of and voting at meetings

Section 5(5)(c)(iii) is amended by repealing “register kept at the Land Registry” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may be,”.

115. Corporation may sell or register charges against flat in certain circumstances

Section 19(1) is amended by repealing “a charge against such interest in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require, a charge against such interest”.

116. Determination of owner’s shares

Section 39(a) is amended by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”.

117. Jurisdiction of tribunal in relation to building management

Section 45 is amended—

- (a) in subsection (3), by repealing “which is registered in the Land Registry including a deed of mutual covenant (if any).” and substituting—
 - “, including a deed of mutual covenant (if any)—
 - (a) which is registered under the Land Registration Ordinance (Cap. 128); or

- (b) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance.”;
- (b) in subsection (4)(j), by repealing “which is registered in the Land Registry including a deed of mutual covenant (if any).” and substituting—
 - “, including a deed of mutual covenant (if any)—
 - (i) which is registered under the Land Registration Ordinance (Cap. 128); or
 - (ii) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance.”.

118. Meetings and procedure of corporation

The Third Schedule is amended—

- (a) in paragraph 3(5)(a), by repealing “the provisions of any instrument registered in the Land Registry and subject to sub-paragraph (6)” and substituting “sub-paragraph (6) and subject to the provisions of any instrument referred to in sub-paragraph (9)”;
- (b) by adding—
 - “(9) For the purpose of sub-paragraph (5)(a), the instrument referred to in that sub-paragraph is an instrument—
 - (a) which is registered under the Land Registration Ordinance (Cap. 128); or
 - (b) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance.”.

119. Terms added if consistent with deed of mutual covenant

The Eighth Schedule is amended, in paragraph 13(c)(iii), by repealing “register kept at the Land Registry” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may be,”.

Electricity Networks (Statutory Easements) Ordinance

120. Interpretation

Section 2 of the Electricity Networks (Statutory Easements) Ordinance (Cap. 357) is amended, in the definition of “owner”—

- (a) in paragraph (a), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”;
- (b) in paragraph (b), by repealing “registered in the Land Registry;” and substituting—
 - (i) which is registered under the Land Registration Ordinance (Cap. 128); or
 - (ii) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance;”.

121. Easements not to have effect until order registered

Section 5(1) and (2) is amended by adding “or the Land Titles Ordinance (26 of 2004)” after “Land Registration Ordinance (Cap. 128)”.

122. Registration of order to be advertised in press

Section 6 is amended—

- (a) in subsections (1) and (2)(a), by adding “or the Land Titles Ordinance (26 of 2004)” after “Land Registration Ordinance (Cap. 128)”;
- (b) in subsection (2)(b), by adding “or the number of the application” after “memorial”.

123. Rectification etc. of approved scheme

Section 7(3) is amended by adding “or the Land Titles Ordinance (26 of 2004)” after “Land Registration Ordinance (Cap. 128)”.

124. Compensation for diminution of value of land

Section 10(1) is amended by adding “or the Land Titles Ordinance (26 of 2004)” after “Land Registration Ordinance (Cap. 128)”.

Water Pollution Control Ordinance**125. Recovery of costs**

Section 40B of the Water Pollution Control Ordinance (Cap. 358) is amended—

- (a) in subsection (9), by adding “or the Land Titles Ordinance (26 of 2004)” after “Land Registration Ordinance (Cap. 128)”;
- (b) in subsection (10), by repealing everything after “shall” and substituting—
 - (a) if a copy of the certificate has been registered under the Land Registration Ordinance (Cap. 128) against land or premises pursuant to subsection (9), register under that Ordinance a certificate of satisfaction against the land or premises; or
 - (b) if a copy of the certificate has been registered under the Land Titles Ordinance (26 of 2004) against land or premises pursuant to subsection (9), cause the appropriate entries to be made in the Title Register kept under that Ordinance to effect a discharge of the legal charge mentioned in that subsection.”.

Water Pollution Control (Sewerage) Regulation**126. Compensation Rights and Assessment**

Schedule 1 to the Water Pollution Control (Sewerage) Regulation (Cap. 358 sub. leg.) is amended, in Part II, in section 2, in the definition of “owner”, in paragraph (b), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”.

Roads (Works, Use and Compensation) Ordinance**127. Interpretation**

Section 2(1) of the Roads (Works, Use and Compensation) Ordinance (Cap. 370) is amended—

- (a) in the definition of “mortgage”, by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”;
- (b) in the definition of “owner”, in paragraph (b), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”.

128. Governor may order resumption of land

Section 13(5) is amended by repealing “register of the land kept in the Land Registry” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may require”.

129. Governor may order creation of easements and other rights

Section 15(8) is amended by repealing “register of the land kept in the Land Registry” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may require”.

130. Surrender of title documents

Section 35 is amended by repealing “register of the land kept in the Land Registry” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may require”.

Drug Trafficking (Recovery of Proceeds) Ordinance

131. Restraint orders

Section 10(11) of the Drug Trafficking (Recovery of Proceeds) Ordinance (Cap. 405) is repealed and the following substituted—

“(11) Where any property specified in a restraint order is immovable property, the order may be registered under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require.”.

**Drug Trafficking (Recovery of Proceeds)
(Designated Countries and Territories) Order**

132. Drug Trafficking (Recovery of Proceeds) Ordinance as modified

Schedule 2 to the Drug Trafficking (Recovery of Proceeds) (Designated Countries and Territories) Order (Cap. 405 sub. leg.) is amended by repealing section 10(11) and substituting—

“(11) Where any property specified in a restraint order is immovable property, the order may be registered under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require.”.

Sewage Tunnels (Statutory Easements) Ordinance**133. Interpretation**

Section 2 of the Sewage Tunnels (Statutory Easements) Ordinance (Cap. 438) is amended by repealing the definition of “Land Registry”.

134. Publication of plans

Section 4 is amended—

(a) in subsection (2)(d), by repealing “registered in the Land Registry” and substituting “referred to in subsection (3)”;

(b) by adding—

“(3) For the purpose of subsection (2)(d), the instrument referred to in that subsection is an instrument—

(a) which is registered under the Land Registration Ordinance (Cap. 128); or

(b) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance.”.

135. Objections

Section 5 is amended—

(a) in subsection (1), by repealing “registered in the Land Registry” and substituting “referred to in subsection (5)”;

(b) by adding—

“(5) For the purpose of subsection (1), the instrument referred to that subsection is an instrument—

(a) which is registered under the Land Registration Ordinance (Cap. 128); or

(b) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance.”.

136. Orders under section 6 or 7

Section 8 is amended by adding—

“(4) An order made under section 6 or 7 and applying in respect of any land to which the Land Titles Ordinance (26 of 2004) applies may be registered under that Ordinance.”.

137. Deposit of plan and registration of order

Section 9(b) is amended by adding “or the Land Titles Ordinance (26 of 2004), as the case may require” after “Land Registration Ordinance (Cap. 128)”.

Land Drainage Ordinance**138. Interpretation**

Section 2 of the Land Drainage Ordinance (Cap. 446) is amended—

(a) by repealing the definition of “Land Registry”;

- (b) in the definition of “mortgage”, by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”;
- (c) in the definition of “owner”, in paragraph (b), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”.

139. Resumption of land on application

Section 37(7)(a) is amended by repealing “register of the land kept in the Land Registry” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may require”.

140. Surrender of title documents

Section 44 is amended by repealing “register of the land kept in the Land Registry” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may require,”.

Bedspace Apartments Ordinance

141. Recovery of cost of works by Authority

Section 25 of the Bedspace Apartments Ordinance (Cap. 447) is amended—

- (a) in subsection (2), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”;
- (b) in subsection (8), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”;
- (c) in subsection (9), by repealing “登記” and substituting “註冊”;
- (d) in subsection (10), by repealing everything after “shall” and substituting—
 - (a) if the certificate has been registered under the Land Registration Ordinance (Cap. 128), register under that Ordinance an appropriate memorial of satisfaction against the charge mentioned in subsection (8); or
 - (b) if the certificate has been registered under the Land Titles Ordinance (26 of 2004), cause the appropriate entries to be made in the Title Register kept under that Ordinance to effect a discharge of the charge mentioned in subsection (8).”.

Organized and Serious Crimes Ordinance

142. Restraint orders

Section 15(11) of the Organized and Serious Crimes Ordinance (Cap. 455) is repealed and the following substituted—

“(11) Where any property specified in a restraint order is immovable property, the order may be registered under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require.”.

Land Survey Ordinance**143. Interpretation**

Section 2 of the Land Survey Ordinance (Cap. 473) is amended by repealing the definition of “Land Registry”.

144. Disciplinary offences

Section 20(*l*) is amended by repealing “section 30(6) or (8)” and substituting “section 30(6) or (8) or 30A(7) or (9)”.

145. Land boundary plans for subdivisions

Section 30 is amended by adding—

“(11) This section shall not apply to land which is registered land within the meaning of the Land Titles Ordinance (26 of 2004).”.

146. Section added

The following is added—

“30A. Land boundary plans for subdivision of registered land

(1) Subject to subsections (2) and (3), where there is presented to the Land Registrar any application—

- (a) within the meaning of the Land Titles Ordinance (26 of 2004); and
- (b) the registration of which under that Ordinance will effect a division of registered land,

then the instrument accompanying the application and providing for the division shall, in respect of each of the parcels of land to result from the division, be accompanied by a land boundary plan—

- (c) showing and delineating those parcels; and
- (d) subject to subsection (4), signed and certified by an authorized land surveyor in the specified form.

(2) Without prejudice to the generality of subsections (3) and (4)—

- (a) subject to paragraph (b), it shall not be necessary for an instrument referred to in subsection (1) to be accompanied by a land boundary plan referred to in subsection (1) where the division of registered land concerned is provided for by a will or judgment and that instrument is the grant of probate in respect of the will, or the judgment, as the case may be;
- (b) it shall be necessary for an instrument accompanying an application presented for the registration under the Land Titles Ordinance (26 of 2004) of a dealing to effect the passing of title to any parcel of land resulting from that division to be accompanied by such a land boundary plan.

(3) It shall not be necessary for an instrument referred to in subsection (1) or (2)(b) to be accompanied by a land boundary plan referred to in that subsection if the instrument was executed before the commencement of section 30.

(4) It shall not be necessary for a land boundary plan—

- (a) accompanying an instrument referred to in subsection (1) or (2)(b); and
- (b) which has been prepared by the Government,

to be signed and certified by an authorized land surveyor.

(5) An authorized land surveyor who certified a land boundary plan referred to in subsection (1) or (2)(b) shall deposit with the Authority a duplicate of the land boundary plan and the survey record plan of the relevant land boundary survey both signed and certified in the specified form, not later than 7 days after the application referred to in that subsection to which the land boundary plan relates was presented to the Land Registrar.

(6) A prescribed fee shall be payable to the Authority by the authorized land surveyor who deposits a duplicate land boundary plan and a survey record plan.

(7) The Authority may by notice in writing require any authorized land surveyor who has undertaken a land boundary survey or any part of such survey to deliver to the Authority for his inspection within such time as may be specified in the notice the following documents or things used in connection with or produced from the survey as may be specified in the notice—

- (a) the report of calibration of survey instruments;
- (b) the survey instruments;
- (c) field notes; and
- (d) the report in relation to the land boundary definition.

(8) The Authority shall return any document or thing delivered under subsection (7) as soon as it is practicable after inspection.

(9) The Authority may by notice in writing require an authorized land surveyor who deposited with the Authority under subsection (5) a duplicate land boundary plan and a survey record plan to amend the duplicate land boundary plan or the survey record plan or both so deposited with respect to the new boundary line created by a division of land and shown and delineated thereon in such manner as specified in the notice to make them comply with any code of practice approved under the Land Survey Ordinance (Cap. 473) within such time as specified in the notice.

(10) For the purposes of this section—

“judgment” (判決) includes a judgment or order of the Court of First Instance, the District Court or the Lands Tribunal;

“registered land” (註冊土地) has the meaning assigned to it by section 2(1) of the Land Titles Ordinance (26 of 2004).

(11) For the avoidance of doubt, it is hereby declared that a land boundary plan referred to in subsection (1) shall not have effect other than the effect it has by virtue of its being a plan attached to or endorsed on or accompanying an instrument delivered into the Land Registry for registration under the Land Titles Ordinance (26 of 2004).

(12) This section shall apply to land which is registered land within the meaning of the Land Titles Ordinance (26 of 2004).”.

Marine Parks and Marine Reserves Regulation

147. Interpretation

Section 2 of the Marine Parks and Marine Reserves Regulation (Cap. 476 sub. leg.) is amended by repealing the definition of “Land Registry”.

Environmental Impact Assessment Ordinance

148. Recovery of costs

Section 25 of the Environmental Impact Assessment Ordinance (Cap. 499) is amended—

- (a) in subsection (9), by adding “or the Land Titles Ordinance (26 of 2004), as the case may require,” after “Land Registration Ordinance (Cap. 128)”;
- (b) in subsection (10), by repealing everything after “shall” and substituting—

- (a) if a copy of the certificate has been registered under the Land Registration Ordinance (Cap. 128) against land or premises pursuant to subsection (9), register under that Ordinance a certificate of satisfaction against the land or premises; or

- (b) if a copy of the certificate has been registered under the Land Titles Ordinance (26 of 2004) against land or premises pursuant to subsection (9), cause the appropriate entries to be made in the Title Register kept under that Ordinance to effect a discharge of the legal charge mentioned in that subsection.”.

**Government Rent (Assessment and
Collection) Ordinance**

149. Interpretation

Section 2 of the Government Rent (Assessment and Collection) Ordinance (Cap. 515) is amended, in the definition of “section”, by repealing “registered in the Land Registry;” and substituting—

“—

- (a) which is registered under the Land Registration Ordinance (Cap. 128); or
(b) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance;”.

**150. Exemption from liability to pay Government
rent**

Section 4(13)(a) is amended by repealing everything after “entitled” and substituting—
“to the exclusive possession of any part of any building erected on the lot or of any part of the lot under the terms of an instrument—

- (i) which is registered under the Land Registration Ordinance (Cap. 128); or
(ii) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance.”.

151. Deed of mutual covenant overridden

Section 38(4) is amended—

- (a) in the definition of “common parts”, by repealing “in an instrument registered in the Land Registry as being for the exclusive use, occupation or enjoyment of an owner;” and substituting—
“as being for the exclusive use, occupation or enjoyment of an owner in an instrument—
(a) which is registered under the Land Registration Ordinance (Cap. 128);
or
(b) which is registered under the Land Titles Ordinance (26 of 2004) or which supports a current entry in the Title Register kept under that Ordinance;”;
- (b) in the definition of “deed of mutual covenant”, in paragraph (b), by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”.

Railways Ordinance**152. Interpretation**

Section 2 of the Railways Ordinance (Cap. 519) is amended—

- (a) in the definition of “mortgage”, by repealing “in the Land Registry” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004)”;
- (b) in the definition of “owner”, in paragraph (b), by repealing “registered in the Land Registry”.

153. Resumption order

Section 18(4) is amended by repealing “register of the land kept in the Land Registry” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may require”.

154. Chief Executive may order creation of easements and rights

Section 20(8) is amended by repealing “register of the land kept in the Land Registry” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may require”.

155. Surrender of title documents

Section 40 is amended by repealing “register of the land kept in the Land Registry” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may require”.

Mutual Legal Assistance in Criminal Matters Ordinance**156. Enforcement, etc. of external confiscation orders**

Schedule 2 to the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) is amended by repealing section 7(10) and substituting—

- “(10) Where any property specified in a restraint order is immovable property, the order may be registered under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require.”.

Land (Compulsory Sale for Redevelopment) Ordinance**157. Interpretation**

Section 2(1) of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) is amended by repealing the definition of “lis pendens” and substituting—

““lis pendens” (待決案件) means a lis pendens—

- (a) within the meaning of section 1A of the Land Registration Ordinance (Cap. 128) and which is registered under that Ordinance; or

- (b) within the meaning of section 2(1) of the Land Titles Ordinance (26 of 2004) and which is registered under that Ordinance;”.

158. Application to Tribunal for compulsory sale of lot

Section 3(3)(b) is amended by adding “or the Land Titles Ordinance (26 of 2004), as the case may require,” after “Land Registration Ordinance (Cap. 128)”.

159. Determination of application

Section 4(13) is amended by adding “or removed under the Land Titles Ordinance (26 of 2004), as the case may require” after “Land Registration Ordinance (Cap. 128)”.

160. Registration of order for sale, etc.

Section 7 is amended—

- (a) in subsections (1) and (2), by adding “or the Land Titles Ordinance (26 of 2004), as the case may require,” after “Land Registration Ordinance (Cap. 128)”;
- (b) in subsection (3), by adding “or removed under the Land Titles Ordinance (26 of 2004), as the case may require” after “Land Registration Ordinance (Cap. 128)”.

Broadcasting Ordinance

161. Domestic free television programme service supplementary provisions

Schedule 4 to the Broadcasting Ordinance (Cap. 562) is amended, in Part 2, in section 9(8), by repealing “by memorial” and substituting “under the Land Registration Ordinance (Cap. 128) or the Land Titles Ordinance (26 of 2004), as the case may require,”.

Fire Safety (Buildings) Ordinance

162. Registration of fire safety compliance order, etc. in the Land Registry

Section 14(1) and (2) of the Fire Safety (Buildings) Ordinance (Cap. 572) is amended—

- (a) by repealing “by memorial”;
- (b) by repealing “land register” and substituting “register kept under the Land Registration Ordinance (Cap. 128) or the Title Register kept under the Land Titles Ordinance (26 of 2004), as the case may require,”.

SCHEDULE 4

[s. 104]

CONSEQUENTIAL AMENDMENTS TO LAND
REGISTRATION ORDINANCE**1. Interpretation**

Section 1A of the Land Registration Ordinance (Cap. 128) is amended—

(a) by renumbering it as section 1A(1);

(b) in subsection (1)—

(i) in the definition of “register card”, by repealing the full stop at the end and substituting a semicolon;

(ii) by adding—

““caution against conversion” (抗轉換警告書) means a document in the specified form—

(a) giving notice of a claim to title to land or a beneficial interest in the land; and

(b) specifying that title or interest and that land;

“caveat” (知會備忘) means a document in the specified form—

(a) giving notice of a claim to an unregistrable interest in land; and

(b) specifying that interest and that land;

“registered caution against conversion” (註冊抗轉換警告書) means a caution against conversion registered under this Ordinance;

“registered caveat” (註冊知會備忘) means a caveat registered under this Ordinance;

“specified” (指明), in relation to a form, means specified under section 27A;

“unregistrable interest” (不可註冊權益) means any interest or equity in or affecting land which—

(a) has been created by operation of law; and

(b) but for the enactment of section 21A, would not be registrable under this Ordinance.”;

(c) by adding—

“(2) Unless the context otherwise requires, any reference in any other enactment to a thing being noted in or shown in a register kept under this Ordinance, or to the register of a lot or section kept under this Ordinance, shall be construed as a reference to the relevant records of the Land Registry kept under this Ordinance, by whatever name called.”.

2. Section added

The following is added immediately after section 1A—

“1B. Application

This Ordinance does not apply to new land or registered land within the meaning of the Land Titles Ordinance (26 of 2004).”.

3. Establishment of Land Registry for registration of instruments affecting land

Section 2 is amended by adding—

“(1A) A caveat and a caution against conversion shall be regarded as an instrument in writing capable of registration under this Ordinance.”.

4. Section substituted

Section 17 is repealed and the following substituted—

“17. Registration and re-registration of judgment, order or lis pendens

(1) Subject to subsection (2)—

(a) the registration of a relevant order shall cease to have effect immediately upon the expiration of 5 years from the date of registration of the order but the order may be re-registered from time to time and, if so re-registered, the re-registration of the order shall have effect for another 5 years from the date of re-registration; and

(b) if the re-registration of a relevant order is made before the expiration of a current period of registration or re-registration of the order, then the order shall retain its original priority.

(2) For the avoidance of doubt, it is hereby declared that the operation of this section shall not prejudice the generality of any other provisions of this Ordinance under which the registration of a relevant order may be removed or withdrawn.

(3) In this section, “relevant order” (有關命令) means a judgment, order or lis pendens.”.

5. Sections added

The following are added immediately after section 21—

“CAVEATS**21A. Registration of caveat to protect unregistrable interest**

A person who claims an unregistrable interest in land may make an application in the specified form to the Land Registrar to register a caveat against the land.

21B. Effect of registration of caveat

(1) The registration of a caveat against land shall constitute notice of the claim which is the subject of the caveat to all persons.

(2) For the avoidance of doubt, it is hereby declared that the registration of a caveat shall not—

(a) of itself affect the validity or otherwise of the claim which is the subject of the caveat;

(b) of itself create or validate any rights or interests, or adversely affect any rights or interests, of the caveator; or

(c) without prejudice to the generality of paragraph (a), constitute a warranty, or a guarantee, as to the validity of the claim.

(3) The registration of a caveat does not prejudice the priority of the claim which is the subject of the caveat.

21C. Relationship between caveat and registered instrument

The question of whether a registered instrument is subject to an unregistrable interest claimed under a caveat shall be determined in accordance with the law in force at the time when the transaction which is the subject of the registered instrument was effected.

21D. Priority among unregistrable interests relating to the same land

The priority of all unregistrable interests relating to the same land, and whether or not any such interest is the subject of a registered caveat, shall be determined in accordance with the law applicable to the priority among such interests.

21E. Withdrawal and removal of caveats

(1) A caveat may be withdrawn on the presentation to the Land Registrar by the caveator of an application in the specified form for the withdrawal of the caveat.

(2) A caveat may be removed on the presentation to the Land Registrar of an application in the specified form for the removal of the caveat—

- (a) in any case, by a person who has obtained an order of the Court of First Instance for its removal;
- (b) by the owner of the land affected by the caveat but only if the Land Registrar—
 - (i) is satisfied that the owner has provided a copy of the application to the caveator not less than 14 days before the presentation of the application to the Land Registrar; and
 - (ii) is satisfied—
 - (A) that the caveat was wrongfully registered;
 - (B) that the ground on which the caveat was registered no longer exists; or
 - (C) that the caveator consents to the removal of the caveat.

(3) The Land Registrar may require the owner of land presenting an application for the removal of a caveat under subsection (2)(b) to support the application by such evidence as the Land Registrar requires.

(4) A person with an interest in land affected by the caveat may apply by originating summons to the Court of First Instance for the removal of the caveat and the Court of First Instance may make such order on the originating summons and as to costs as to the Court of First Instance appears just.

(5) On the withdrawal or removal of a caveat—

- (a) the Land Registrar shall cause an entry to be made in the register kept under this Ordinance in respect of the land against which the caveat was registered, giving notice of the withdrawal or removal of the caveat; and
- (b) any liability of the caveator previously incurred under section 21F shall not be affected by the entry made under paragraph (a).

21F. Wrongful caveats

(1) A person who applies to the Land Registrar to register a caveat without reasonable cause shall be liable, in an action for damages at the suit of—

- (a) the owner of land concerned; or
- (b) any other person who has an interest in the land,

to pay compensation to the owner or other person for any damage sustained thereby, in such amount as to the Court of First Instance appears just.

(2) A caveator under a registered caveat who fails, without reasonable excuse, to apply to the Land Registrar for the withdrawal of the caveat within a reasonable period of time after the ground on which it was registered ceases to exist, shall be liable, in an action for damages at the suit of a person referred to in subsection (1)(a) or (b), to pay compensation to that person for any damage sustained thereby, in such amount as to the Court of First Instance appears just.

CAUTIONS AGAINST CONVERSION

21G. Registration of caution against conversion

(1) Subject to subsection (2), a person who claims to have any title to land, or a beneficial interest in any land, may make an application in the specified form to the Land Registrar to register a caution against conversion against the land.

(2) No application may be made under subsection (1) on or after the 12th anniversary of the appointed day as defined by section 2(1) of the Land Titles Ordinance (26 of 2004).

21H. Effect of registration of caution against conversion

(1) Land against which a registered caution against conversion subsists shall not become registered land under the Land Titles Ordinance (26 of 2004).

(2) The registration of a caution against conversion against land shall constitute notice of the claim which is the subject of the caution against conversion to all persons.

(3) For the avoidance of doubt, it is hereby declared that the registration of a caution against conversion shall not—

- (a) of itself affect the validity or otherwise of the claim which is the subject of the caution against conversion;
- (b) of itself create or validate any rights or interests, or adversely affect any rights or interests, of the cautioner; or
- (c) without prejudice to the generality of paragraph (a), constitute a warranty, or a guarantee, as to the validity of the claim.

(4) The registration of a caution against conversion does not prejudice the priority of the claim which is the subject of the caution against conversion.

21I. Relationship between caution against conversion and registered instrument

The question of whether a registered instrument is subject to an interest claimed under a caution against conversion shall be determined in accordance with the law in force at the time when the transaction which is the subject of the registered instrument was effected.

21J. Validity of registration of caution against conversion

(1) Subject to subsections (2), (3), (4), (5) and (6) and section 21K, the registration of a caution against conversion shall expire immediately upon the commencement of the 1st anniversary of its date of registration.

(2) Subject to subsection (3), the cautioner under a registered caution against conversion may from time to time apply by originating summons to the Court of First Instance for the extension of the validity of registration of the caution against conversion and the Court of First Instance may make such order on the originating summons and as to costs as to the Court of First Instance appears just.

(3) An application for time extension under subsection (2) must be made—

- (a) before the expiration of the validity of registration of a registered caution against conversion; or
- (b) if the application is made within an extension granted under that subsection, before the expiration of such extension.

(4) Subject to subsection (5), the Court of First Instance shall not grant any extension of time under subsection (2) which would extend the validity of the registration of a caution against conversion beyond the date of the 2nd anniversary of the caution against conversion's first date of registration.

(5) The Court of First Instance may, if it is satisfied that exceptional circumstances exist, grant an extension of time under subsection (2) notwithstanding that the applicant has not complied with subsection (3) or that the extension would extend the validity of registration of the caution against conversion beyond the date referred to in subsection (4).

(6) Where before the expiration of the validity of the registration of a caution against conversion under this section, a lis pendens relating to the claim which is the subject of the caution against conversion has been registered by the cautioner against land against which the caution against conversion is registered, then, subject to section 21K, the validity of the registration of the caution against conversion shall not expire under this section until the registration of the lis pendens has been vacated or discharged.

(7) The Land Registrar shall not—

- (a) register more than one caution against conversion in respect of the same claim made by the same person; or
- (b) again register a caution against conversion the registration of which—
 - (i) has previously expired; or
 - (ii) has been withdrawn or removed under section 21K.

21K. Withdrawal and removal of caution against conversion

(1) A caution against conversion may be withdrawn on the presentation to the Land Registrar by the cautioner of an application in the specified form for the withdrawal of the caution.

(2) A caution against conversion may be removed on the presentation to the Land Registrar of an application in the specified form for the removal of the caution—

- (a) in any case, by a person who has obtained an order of the Court of First Instance for its removal;
- (b) by the owner of the land affected by the caution but only if the Land Registrar—
 - (i) is satisfied that the owner has provided a copy of the application to the cautioner not less than 14 days before the presentation of the application to the Land Registrar; and
 - (ii) is satisfied—
 - (A) that the caution was wrongfully registered;
 - (B) that the ground on which the caution was registered no longer exists; or
 - (C) that the cautioner consents to the removal of the caution.

(3) The Land Registrar may require the owner of land presenting an application for the removal of a caution against conversion under subsection (2)(b) to support the application by such evidence as the Land Registrar requires.

(4) A person with an interest in land affected by the caution against conversion may apply by originating summons to the Court of First Instance for the removal of the caution against conversion and the Court of First Instance may make such order on the originating summons and as to costs as to the Court of First Instance appears just.

(5) On the withdrawal or removal of a caution against conversion—

- (a) the Land Registrar shall cause an entry to be made in the register kept under this Ordinance in respect of the land against which the caution against conversion was registered, giving notice of the withdrawal or removal of the caution against conversion; and
- (b) any liability of the cautioner previously incurred under section 21L shall not be affected by the entry made under paragraph (a).

21L. Wrongful caution against conversion

(1) A person who applies to the Land Registrar to register a caution against conversion without reasonable cause shall be liable, in an action for damages at the suit of—

- (a) the owner of land concerned; or
- (b) any other person who has an interest in the land,

to pay compensation to the owner or other person for any damage sustained thereby, in such amount as to the Court of First Instance appears just.

(2) A cautioner under a registered caution against conversion who fails, without reasonable excuse, to apply to the Land Registrar for the withdrawal of the caution against conversion within a reasonable period of time after the ground on which it was registered ceases to exist, shall be liable, in an action for damages at the suit of a person referred to in subsection (1)(a) or (b), to pay compensation to that person for any damage sustained thereby, in such amount as to the Court of First Instance appears just.”.

6. Section added

The following is added—

“27A. Power of Land Registrar to specify forms

(1) Subject to subsection (2), the Land Registrar may specify the form of any document required under this Ordinance to be in the specified form.

(2) A form specified under this section shall be—

(a) completed in accordance with such directions and instructions as are specified in the form;

(b) accompanied by such documents (including instruments, certificates, duplicates of the form and statutory declarations) as are specified in the form; and

(c) if the completed form is required to be provided to the Land Registrar or any other person, so provided in the manner, if any, specified in the form.

(3) For the avoidance of doubt, it is hereby declared that the Land Registrar’s power under subsection (1) may be exercised in such a way as to—

(a) include in the specified form of any document referred to in that subsection a statutory declaration—

(i) to be made by the person completing the form; and

(ii) as to whether the particulars contained in the form are true and correct to the best of that person’s knowledge and belief;

(b) specify 2 or more forms of any document referred to in that subsection, whether as alternatives, or to provide for particular circumstances or particular cases, as the Land Registrar thinks fit.”.