

**For discussion  
on 24 January 2025**

**LEGISLATIVE COUNCIL  
PANEL ON DEVELOPMENT**

**Amendments to the Land Titles Ordinance to Implement  
Title Registration on Newly Granted Land**

**PURPOSE**

At our last Panel briefing on 19 December 2022 (LC Paper No. CB(1)908/2022(03)), Members were generally supportive of the proposal to implement the title registration system on newly granted land first (i.e. “New Land First” proposal). With our law drafting work at advanced stage, this paper updates Members our plan to introduce into the Legislative Council (LegCo) in March 2025 the Registration of Titles and Land (Miscellaneous Amendments) Bill (the Amendment Bill) to provide for the “New Land First” proposal. While our legislative proposals remain largely the same as reported in December 2022, we have set out in this paper our response to suggestions raised by Members before.

**BACKGROUND**

2. The present land registration system in Hong Kong is a deeds registration system operating under the Land Registration Ordinance (Cap. 128) (LRO) since 1844. Under the deeds registration system, registration of instruments governs the priority of registered instruments in the land register, but gives no guarantee of title to the property<sup>1</sup>, and there may be uncertainty in property ownership caused by title defects or interests not necessarily registered in the land register. Therefore, during the conveyancing process, the purchaser’s solicitor has to thoroughly check each time the title deeds including historical title documents to establish a

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<sup>1</sup> Under the deeds registration system, title is established by checking previous title deeds and the passing of title depends upon execution of an instrument.

“clean” title to the property, complicating and lengthening the conveyancing procedures. Also, property owners have to safe-keep the title deeds of properties. Hong Kong is amongst the few economies which still run a deeds registration system.

3. The Land Titles Ordinance (LTO) (Cap. 585) was enacted in 2004 to introduce the title registration system. By mandating that the person registered in the Title Register as owner will be recognised as the true owner, the title registration system offers the following benefits –

- (a) providing certainty in property ownership through the Title Register. A person who is registered as the owner shall hold the legal estate or equitable interest and rights in the registered land subject to any registered matter and overriding interests affecting the land<sup>2</sup>, and the Title Register is conclusive evidence of title to the property and other registered matters such as encumbrances;
- (b) obviating the need to check or safe-keep historical title documents for verifying the title to the properties. The adverse consequence of loss of original title documents will be reduced;
- (c) simplifying conveyancing and enhancing efficiency and reducing cost in completing property transactions. The title can be established by checking the Title Register without the need for investigation of title by a practising solicitor; and
- (d) bringing Hong Kong’s land registration system in line with those currently adopted in the Mainland and other jurisdictions such as Singapore and the United Kingdom.

As substantial changes were made at the committee stage during the scrutiny of the Land Titles Bill in 2004, the Administration and LegCo agreed back then that before commencement of the LTO, a thorough

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<sup>2</sup> Overriding interests are interests that affect the property notwithstanding that they are not registered e.g. rights of way of necessity and lease of a term not exceeding three years. Under the deeds registration system, lease of a term not exceeding three years are generally not registered notwithstanding that it is an interest that affects the property. It is thus necessary to define lease of a term not exceeding three years as overriding interests under the title registration system to preserve the legal position of such lease.

review (i.e. post-enactment review) should be conducted in consultation with the key stakeholders. As a result, the LTO has not yet been put into operation. Notwithstanding lengthy discussions and public consultation in the past years, consensus still could not be reached with key stakeholders on major issues, most notably the conversion of existing land under the LRO to land regulated by the title registration system under the LTO (especially in respect of problematic registers and unregistered interests). With the support of key stakeholders, the Administration eventually decided to adopt a phased approach by implementing the “New Land First” proposal and dealing with conversion of existing land at a subsequent stage.

4. When we last consulted this Panel in December 2022, Members were generally supportive of the “New Land First” proposal. We have summarised in ensuing paragraphs key features of the latest legislative proposals, which are mainly the same as we discussed with Members in December 2022, as well as our response to Members’ views on issues including scope of “new land”, principle of indefeasible title, disapplication of adverse possession on “new land”, indemnity cap for loss of title due to fraud, and conversion of existing land.

## **SCOPE OF “NEW LAND”**

5. The Amendment Bill seeks to implement title registration on “new land” first, which are free from any title defects or prior interests. “New land” will be defined in the LTO to mean land held under a Government lease granted on or after the date on which the LTO comes into operation (operation date) for a term commencing on or after that date, subject to certain exceptions<sup>3</sup>, and generally speaking, will include land granted –

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<sup>3</sup> The exceptions are –

- (a) any land granted on or after the operation date for the primary purpose of extending (i) the term of Government lease; or (ii) the area of the land which is already held under a Government lease;
- (b) land subject to lease modification not involving surrender and re-grant;
- (c) land held under a new Government lease as defined in section 2 of the Government Leases Ordinance (Cap. 40);
- (d) land held under a Government lease that is deemed to have been issued under section 14 of the Conveyancing and Property Ordinance (Cap. 219) on or after the operation date; and

- (a) by way of land sale (auction or tender);
- (b) by private treaty grant; and
- (c) by land exchange (i.e. land re-granted after surrender).

After commencement of the LTO, titles on the “new land”, including cases where the “new land” has been divided up (e.g. into undivided shares) and titles acquired by subsequent owners through transfers, will immediately enjoy the benefits of title registration. Based on past statistics, a rough estimate is that within a five-year period after commencement of the Amendment Bill, about 450 land grants will be registered, resulting in about 25 000 title registers to be created.

6. In response to a few Members’ suggestion at the Panel meeting in December 2022 of implementing the title registration system on certain existing land where the likelihood of unclear title is low, we have reviewed the feasibility of expanding the scope of “new land” to cover existing land granted by the Government within a limited period before the commencement of the Amendment Bill provided that the land meets certain conditions (e.g. the land has not yet been divided up to multiple ownership through pre-sale). Such land, already registered under the LRO (i.e. existing land), would be automatically converted to land regulated by the title registration system upon implementation of the Amendment Bill. However, automatic conversion would entail unresolved fundamental legal issues. For example, automatic conversion would extinguish certain rights enforceable, though not necessarily registered, under the LRO system, giving rise to the question of whether and if yes how such rights should be protected under the LTO. This indeed recoils us to the yet-to-be-resolved conversion issue of existing land, which has been impeding us to implement the LTO in the past two decades. If, alternatively, an opt-out mechanism is provided for such automatic conversion cases, the number of cases benefited from such proposal would be limited and would not justify the efforts and time involved in working

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(e) land held under a direct lease from the Government that is deemed to be such under section 5(2) of the Block Crown Lease (Cheung Chau) Ordinance (Cap. 488) on or after the operation date.

For the avoidance of doubt, land let out by Government through a short term tenancy, normally with fixed term of not more than seven years (exclusive of any extension or renewal of the lease) is not regarded as “new land” as a tenancy does not confer ownership.

out detailed rules for converting such existing land under the LRO into land regulated under the title registration system, not to mention the need for further consultation with stakeholders, which would delay the LTO implementation. We therefore consider it prudent to proceed with the scope of “new land” as proposed in paragraph 5 above in the Amendment Bill.

## **PRINCIPLE OF INDEFEASIBLE TITLE**

7. In the enacted LTO, there was a mandatory rectification (MR) rule, which essentially refers to rectification of the Title Register upon an order by the Court in favour of an innocent former registered owner if he lost his title by or as a result of fraud of a third party, irrespective of whoever is currently the registered owner. As reported to the Panel in December 2022, we have proposed upon review to abolish the MR rule in the enacted LTO for “new land” registered in the Title Register. One key benefit of title registration is title certainty. To uphold this objective, a bona fide purchaser of property for valuable consideration and in possession of the property should be protected by law as the owner, and his title should be indefeasible. In other words, a bona fide and innocent purchaser for valuable consideration and in possession of the property will enjoy indefeasible title even in the event of a transfer of property effected through the fraud of a third party though such cases are expected to be few and far between. In such cases, the innocent former owner who is unable to recover the property will be entitled to compensation under the Indemnity Fund (subject to a cap, see paragraphs 12 to 16 below).

8. A few Members have expressed concern over the abolition of MR rule and considered it important to protect property ownership of innocent former land owners, who may prefer land ownership to any form of compensation because land is unique and may have special significance to the clan (in respect of villages in the New Territories) or family of the owner. While noting that the principle of “indefeasible title” is different from the common law position applicable to the current deeds registration system (under which an innocent former owner will be able to recover his property in case of fraud), the proposal of abolishing the MR rule is necessary to be in line with the very objective of the title registration

system in ensuring title certainty. Such an approach is also in line with that in other jurisdictions with title registration regimes. If the MR rule were to remain as a cardinal rule, any prudent purchaser will demand for an investigation into the title history of a property to obtain greater assurance of his title, thus defeating the original purpose of implementing the title registration system. This will undermine the certainty of title and work against the objective of simplifying conveyancing procedures under the title registration system.

9. Moreover, it should be noted that indefeasible title will only be conferred if three conditions are met, that is the purchaser (i) is bona fide and innocent; (ii) has acquired the property for valuable consideration; and (iii) is in possession of the property. Generally speaking, owner-occupiers and owners renting out properties are considered as in possession of the properties, the risk of their titles being conferred to a third party by fraud should be largely reduced. While we do not propose to apply the MR as a cardinal rule, the Amendment Bill will allow the former owner to file an application to the Court for rectification of the Title Register and the Court would still have discretion to restore the title of the former owner, if the purchaser with registered title is not bona fide, has not acquired the property for valuable consideration or is not in possession of it, taking into account the circumstances of the case.

10. We acknowledge that the main concern about “indefeasible titles” is centred on frauds. In this connection, a provision is proposed in the LTO of empowering the Land Registrar (the Registrar) to prohibit the registration of any transfer of the property if there are reasonable grounds for suspecting that a fraud has occurred or may occur and a reference to the restriction order is to be made in the Title Register in relation to the property. This will offer title protection in favour of innocent former owners. Moreover, in response to suggestion by key stakeholders, LR will be issuing title certificates to registered owners under the title registration system. We have taken the opportunity to incorporate advanced anti-forgery features in the title certificates to prevent fraud. Land Registry (LR) will work closely with the Police, and create a publicity strategy to educate the public regarding property fraud before and after the

implementation of the LTO on “new land”.<sup>4</sup>

## **DISAPPLICATION OF ADVERSE POSSESSION ON “NEW LAND”**

11. To uphold the spirit of title certainty, it is proposed that the limitation period prescribed in the Limitation Ordinance (Cap. 347) will not apply to an action to recover land which is “new land” registered under the LTO. In other words, claims for adverse possession<sup>5</sup> will not arise for “new land” with title registered under the “New Land First” proposal. There is a strong policy reason for doing so as the whole purpose of the title registration system is to give certainty to title.

## **CAP ON INDEMNITY FUND AND LEVY**

12. Under the enacted LTO, a Land Titles Indemnity Fund (Indemnity Fund) will be established under the LTO for the payment of indemnity (subject to a cap) to persons who suffer loss of interests in land to which the title registration system applies due to fraud<sup>6</sup>. The Indemnity Fund will be operating on a self-financing basis, i.e. the indemnity is to be paid

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<sup>4</sup> Title certificates with advanced anti-forgery features will be issued to registered owners upon registration of transfer. Upon disposal of the property, the issued title certificate will have to be returned to the LR for cancellation. Also, when LTO comes into operation, registered owners will receive notification (in the form of e-mail, followed by text reminders sent to phones) from the LR when there is an application for registration lodged against their properties and also upon the completion of registration or cancellation of registration (where applicable). The service will enable registered owners to discover possible fraud at an early stage and take appropriate actions as soon as practicable.

<sup>5</sup> Adverse possession is the process by which a person can acquire title to someone else’s land by continuously occupying it in a way inconsistent with the right of its owner. If a person is in adverse possession of the land, the owner of the land is barred from bringing an action to recover the land after the expiration of the relevant limitation period prescribed under the Limitation Ordinance (Cap. 347) and, the owner’s title to the land will be extinguished. The person in adverse possession acquires a possessory title to the land. In Hong Kong, except in the case of Government land, for which the limitation period is 60 years, no action to recover land is allowed after 12 years from the date upon which the right of action accrued.

<sup>6</sup> Apart from provision of indemnity in the case of fraud as aforesaid, under the enacted LTO, persons who suffer a loss due to a mistake or omission of the LR that causes an entry being obtained in, or omitted from the Title Register will also be eligible for the payment of indemnity. The indemnity payable under LTO as a result of LR’s mistake or omission is not subject to a cap and will be paid out of the Indemnity Fund which will then be reimbursed by the Land Registry Trading Fund.

out from the Indemnity Fund which is built up by levy on property transfers registered under the LTO, and hence the cap of the indemnity would affect the level of contributions required for setting up the self-financing Indemnity Fund. We reported to the Panel in December 2022 that the indemnity cap would be lifted to \$50 million (as compared to \$30 million proposed when the LTO was enacted in 2004) and a flat levy rate of 0.014% (as compared to 0.017% proposed in 2004) on the consideration amount of each property being transferred. In other words, for every \$1 million worth of the consideration amount, the purchaser will contribute \$140 to the Indemnity Fund. The proposed indemnity cap (\$50 million) and levy rate (0.014%) were recommended by the actuarial consultant appointed by the LR in 2022 by forecasting the overall risks to be borne by the Indemnity Fund; and considering the policy objective of achieving a balanced fund in the long run as well as the public acceptance of the levy rate. The Government could take recourse actions as appropriate to recover the compensation made out of the Indemnity Fund<sup>7</sup>.

13. There were views that if titles of land under the title registration system could not be rectified in favour of the innocent former owner, the innocent former owner should be fully indemnified for the loss he suffered and no cap should be introduced. Removing the cap on indemnity entirely would create a much higher risk of insolvency for the Indemnity Fund as one or two claims of high-valued properties could exhaust the Indemnity Fund. A balance needs to be struck amongst the extent of indemnity protection, the levy rate and financial sustainability of the Indemnity Fund, and public acceptance of levy rate. As a matter of fact, the proposed cap should provide sufficient protection for the great majority of property owners, as over 99% of assignments registered at the LR in 2023-24 involved consideration not exceeding \$50 million.

14. To provide sufficient buffer for indemnity payments, a stand-by

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<sup>7</sup> Where an indemnity is paid to a claimant in the case of fraud, the Government has a right to recover the amount paid from the persons who have caused, or substantially contributed to, the loss by their fraud, or persons who had knowledge of the fraud, e.g. from the fraudsters. The Government is also subrogated, to the extent of the amount of indemnity paid, to the right of the claimant who has received the indemnity in enforcing any covenant or right in relation to the matter for which indemnity has been paid. Moreover, the LR may have a claim against a solicitor who has acted negligently in verifying the application causing the payment of indemnity. However, a solicitor acting in good faith and with reasonable diligence in verifying an application for registration is not liable for any loss occasioned by the inaccuracy in the verification.



loan facility of \$150 million for the Indemnity Fund from the Government is proposed as we reported to the Panel in December 2022. Funding for the proposed loan facility will be sought in accordance with established mechanism.

15. In order to prevent fraudulent applications for indemnity payment, an order made by the Court in the rectification proceedings is a prerequisite for claiming indemnity in the case of fraud. If it is revealed in the Court's ruling that a person was a party to the fraud, had substantially contributed to the fraud, or had knowledge of the fraud, such person is not entitled to indemnity. To create deterrent effect against fraudulent applications, we propose introducing a new offence in the Amendment Bill to the effect that a person fraudulently lodging an application for registration of any matter or fraudulently lodging an application for indemnity will be subject to maximum penalty of \$5,000,000 and imprisonment for 14 years<sup>8</sup>. Besides, a fraudster will be criminally liable for his action in a fraudulent transfer as under the current deeds registration system. The LR will work closely with the Police when fraud is suspected. The LR can, with input from the Police, adduce its own evidence to establish further findings before an indemnity is paid out.

16. A comparison of the key aspects of the LRO, the enacted LTO and the Amendment Bill is at **Annex**.

## **CONVERSION OF EXISTING LAND**

17. While "new land" will come under the title registration system, existing land under the LRO will continue to be dealt with and registered

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<sup>8</sup> Given the seriousness of fraud in nature, and having taken into account the penalty level of similar offences relating to fraud or false instruments in the Theft Ordinance (Cap. 210) and Crimes Ordinance (Cap. 200) where a person committing the offence of fraud is liable on conviction upon indictment to imprisonment for 14 years, it was proposed in the enacted LTO that the maximum penalty for the offence of fraudulently lodging an application for registration of any matter is 14 years of imprisonment and fine of \$5,000,000. For the new offence of fraudulently lodging an application for indemnity payment, we propose the same maximum penalty.

under the current deeds registration system and existing laws<sup>9</sup>. Some Members asked about the timetable of converting the existing 2.9 million land registers to the title registration system. The key issue is how such conversion should be done, especially in respect of how to identify and deal with properties with defective titles to ensure the accuracy of the Title Register will not be compromised after conversion. To size up the problem of indeterminate ownership, we have kick-started internal research by conducting pilot sample screening to assess the extent and types of problematic registers in the existing 2.9 million land registers which we need to resolve for conversion of existing land. Initial results indicate that cases with indeterminate ownership will not be insignificant with at least a few thousand problematic registers. These cases normally involves title chain issues, e.g. broken title chains and multiple registers. The screening however is not exhaustive and we will continue our efforts on this front. We hope that with more findings, it would shed light on how we may implement LTO on a wider scale progressively. We are aiming to formulate the conversion proposal for discussion with stakeholders after implementing the “New Land First” proposal in the first half of 2027.

## **WAY FORWARD**

18. We aim to introduce the Amendment Bill to the LegCo in March 2025. Subject to the passing of the Amendment Bill by the LegCo by the end of 2025, we will prepare the six pieces of subsidiary legislation for negative vetting by LegCo in 2026. Assuming that the subsidiary legislation will be passed within 2026, we will launch publicity and educational activities to educate the public and the practitioners on the detailed implementation arrangements for the title registration system. It is expected that the implementation of title registration on “new land” will be in first half of 2027.

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<sup>9</sup> Parallel running of two registration systems is not uncommon in overseas jurisdictions. For example, in England and Wales, Ireland, Scotland and Singapore, parallel running of title registration system and its original land registration system has lasted or has been lasting for a relatively long period of time.

## **ADVICE SOUGHT**

19. Members are invited to note and comment on the content of the paper.

**Development Bureau  
Land Registry  
January 2025**

Annex

**Comparison of Key Aspects of the Land Registration Ordinance  
(Cap. 128), the Land Titles Ordinance (Cap. 585) (LTO) and  
the Registration of Titles and Land (Miscellaneous Amendments) Bill  
2025 (the Bill)**

<b>Key Aspects</b>	<b>Land Registration Ordinance</b>	<b>LTO</b> <i>(Enacted in 2004 and not yet commenced)</i>	<b>The Bill</b>
<b>Mode of passing title</b>	<ul style="list-style-type: none"><li>• Title to property passes <b>upon the execution of instruments</b> (e.g. a valid deed of assignment)</li><li>• Hence, title is <u>not</u> passed nor guaranteed upon registration</li></ul>	<ul style="list-style-type: none"><li>• Passing of title occurs <b>upon the registration of the matter</b> (e.g. a transfer) with the Land Registry</li></ul>	<ul style="list-style-type: none"><li>• Same as LTO</li></ul>
<b>Effect of registration</b>	<ul style="list-style-type: none"><li>• Registration of instruments <b>only determines priority of registered instruments</b> in the land register</li><li>• Registration <b>does not give effect</b> to the registered instruments <b>nor guarantee title</b> of the property</li></ul>	<ul style="list-style-type: none"><li>• Registration <b>determines priority of registered matters and gives effect to dispositions</b></li></ul>	<ul style="list-style-type: none"><li>• Same as LTO (save arrangement in case of fraud set out below)</li></ul>

<b>Key Aspects</b>	<b>Land Registration Ordinance</b>	<b>LTO</b> <i>(Enacted in 2004 and not yet commenced)</i>	<b>The Bill</b>
<b>Title certainty</b>	<ul style="list-style-type: none"> <li>• Title may be subject to title defects or other <b>unregistered interests</b></li> <li>• The land register is not conclusive evidence of property ownership</li> </ul>	<ul style="list-style-type: none"> <li>• Title is certain subject to registered matters and overriding interests affecting the land (if any, e.g. easements or rights implied by law), irrespective of notice and, if any, rectification order by the court</li> </ul>	<ul style="list-style-type: none"> <li>• Same as LTO</li> </ul>
<b>Means to check title</b>	<ul style="list-style-type: none"> <li>• Thorough checking of title deeds, including historical title deeds<sup>10</sup>, is necessary to prove title of the property (but still not conclusive proof as the title could be subject to unregistered interests)</li> </ul>	<ul style="list-style-type: none"> <li>• Checking of the Title Register suffices, as the Title Register is conclusive evidence of title</li> </ul>	<ul style="list-style-type: none"> <li>• Same as LTO</li> </ul>
<b>Title in case of fraud</b>	<ul style="list-style-type: none"> <li>• Innocent owner will get property back under the common</li> </ul>	<ul style="list-style-type: none"> <li>• Purchaser may not enjoy indefeasible title due to the</li> </ul>	<ul style="list-style-type: none"> <li>• <b>MR rule does not apply.</b> Bona fide and</li> </ul>

<sup>10</sup> Where the grant of the Government lease of the property was not less than 15 years before the contract of sale of the property, vendor needs to provide, inter alia, proof of title to the property extending not less than 15 years before the contract of sale of the property commencing with an assignment, a mortgage by assignment or a legal charge, each dealing with the whole estate and interest in that land.

Key Aspects	Land Registration Ordinance	LTO <i>(Enacted in 2004 and not yet commenced)</i>	The Bill
	law nemo dat rule <sup>11</sup>	mandatory rectification (MR) rule (i.e. <b>MR rule applies</b> ). <ul style="list-style-type: none"> <li>• Under MR rule, title will be reverted to the former owner if the Court is satisfied that the former owner is innocent</li> </ul>	innocent purchaser for valuable consideration and in possession of the property enjoys indefeasible title <ul style="list-style-type: none"> <li>• MR rule does not apply because it may undermine title certainty, as a prudent purchaser will investigate the title history of a property to obtain greater assurance of the title. This defeats the original purpose of implementing title registration system</li> </ul>
<b>Indemnity for loss of title due to fraud</b>	<ul style="list-style-type: none"> <li>• No indemnity is provided by Government</li> <li>• Purchaser of property who lost ownership has</li> </ul>	<ul style="list-style-type: none"> <li>• Indemnity is provided for the person who suffers loss due to fraud that results in the loss of</li> </ul>	<ul style="list-style-type: none"> <li>• Same as LTO (but with a higher level of cap at \$50 million)<sup>3</sup></li> </ul>

<sup>11</sup> A person who does not have ownership of property does not have the ability to transfer the ownership of that property to another person i.e. one cannot give what he does not have.

Key Aspects	Land Registration Ordinance	LTO <i>(Enacted in 2004 and not yet commenced)</i>	The Bill
	remedy against the fraudster only through civil claims	ownership <ul style="list-style-type: none"> <li>• Depends on the Court's decision on rectification, either former owner (who cannot recover the property) or purchaser (who lost the property) can claim indemnity</li> <li>• Subject to a cap (at \$30 million)<sup>12</sup></li> </ul>	

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<sup>12</sup> The cap is to be specified in the regulations to be made.