

LAND REGISTRATION ORDINANCE

- CHAPTER 128

Long title

To provide for the registration of deeds, conveyances, judgments and other instruments affecting real or immovable property, the keeping of Land Registry records, and for other matters relating to land registration. (Replaced 56 of 1980 s. 2. Amended 56 of 1992 s. 2; 8 of 1993 s. 2)

[28 February 1844]

(Originally 3 of 1844; 2 of 1896 (Cap 128, 1950); 10 of 1956)

Preamble

WHEREAS it is expedient to prevent secret and fraudulent conveyances, and to provide means whereby the title to real and immovable property may be easily traced and ascertained: (Amended 5 of 1911 s. 4)

Sect. 1 - Short title

This Ordinance may be cited as the Land Registration Ordinance. (Amended 5 of 1924 s. 6)

Sect. 1A - Interpretation

In this Ordinance, unless the context otherwise requires-

"document" (文件) includes, in addition to a document in writing-

- (a) any map, plan or drawing;
- (b) any 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 therefrom; and
- (c) any 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 therefrom;

"image" (影像) or "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; (Added 104 of 1995 s. 2)

"imaging" (影像處理) or "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; (Added 104 of 1995 s. 2)

"lis pendens" (待決案件) means-

- (a) any action or proceeding pending in a court or tribunal that relates to land or any interest in or charge on land; and
- (b) a bankruptcy petition; (Added 56 of 1992 s. 3)

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

"register card" (註冊資料卡) has the meaning assigned to it by regulation 2 of the Land Registration Regulations (Cap 128 sub. leg.). (Added 104 of 1995 s. 2) (Added 49 of 1986 s. 2)

Sect. 2 - Establishment of Land Registry for registration of instruments affecting land

(Past version on 30/06/1997).

Adaptation amendments retroactively made - see 25 of 1998 s. 2 REGISTRATION OF INSTRUMENTS AFFECTING LAND

(1) The Land Registry shall be a public office for the registration of deeds, conveyances, and other instruments in writing, and judgments; and all deeds, conveyances, and other instruments in writing, and all judgments, by which deeds, conveyances, and other instruments in writing, and judgments, any parcels of ground, tenements, or premises in Hong Kong may be affected, may be entered and registered in the said office in the prescribed manner. (Amended 50 of 1911 s. 4 & Schedule; 10 of 1953 s. 2; 56 of 1980 ss. 3 & 12; 56 of 1992 s. 15; 8 of 1993 s. 2)

(2) For the purpose of this Ordinance, "judgments" (判決) includes judgments and orders of the Court of First Instance, the District Court and the Lands Tribunal. (Added 10 of 1953 s. 2. Amended 29 of 1983 s. 48; 25 of 1998 s. 2)

Sect. 2A - Floating charge

(1) A document effecting a floating charge, whether or not it specifically identifies any land charged, is not, for the purposes of section 2, a deed, conveyance or other instrument in writing by which any parcel of ground, tenement or premises in Hong Kong may be affected. (Amended 56 of 1992 s. 4)

(2) A document effecting a floating charge created before, on or after 1 November 1984- (Amended 31 of 1988 s. 31)

- (a) becomes a fixed charge on the land intended to be affected; and
- (b) for the purposes of section 2, is a deed, conveyance or other instrument in writing by which any parcel of ground, tenement or premises in Hong Kong may be affected, upon crystallization of that charge after 1 November 1984 as evidenced by a certificate signed by or on behalf of the chargee.

(3) For the purposes of section 5, the time of execution of a charge mentioned in subsection (2) is the time of signature of the certificate mentioned in

that subsection. (Added 62 of 1984 s. 57)

Sect. 3 - Priority of registered instruments; effect of non-registration

(1) Subject to this Ordinance, all such deeds, conveyances, and other instruments in writing, and judgments, made, executed, or obtained, and registered in pursuance hereof, shall have priority one over the other according to the priority of their respective dates of registration, which dates shall be determined in accordance with regulations made under this Ordinance. (Amended 50 of 1911 Schedule; 34 of 1978 s. 2; 56 of 1980 s. 4)

(2) All such deeds, conveyances, and other instruments in writing, and judgments, as last aforesaid, which are not registered shall, as against any subsequent bona fide purchaser or mortgagee for valuable consideration of the same parcels of ground, tenements, or premises, be absolutely null and void to all intents and purposes: Provided that nothing herein contained shall extend to bona fide leases at rack rent for any term not exceeding 3 years. (Amended 50 of 1911 Schedule) (Amended 56 of 1992 s. 15)

Sect. 4 - Notice of unregistered instrument not to affect registered instrument

No notice whatsoever, either actual or constructive, of any prior unregistered deed, conveyance, or other instrument in writing, or judgment, shall affect the priority of any such instrument as aforesaid as is duly registered. (Amended 50 of 1911 Schedule; 56 of 1992 s. 15)

Sect. 5 - Period within which instruments to be registered after execution

All deeds, conveyances, and other instruments in writing, and judgments, which are duly registered within the respective times next mentioned, that is to say, all deeds, conveyances, and other instruments in writing which are registered within one month after the time of execution thereof respectively, and all judgments which are registered within one month after the entering up or recording thereof, shall severally be in like manner entitled to priority, and shall take effect respectively by relation to the date thereof only in the same manner as if this Ordinance had not been passed. (Amended 50 of 1911 Schedule; 34 of 1978 s. 3; 56 of 1992 s. 15)

Sect. 5A - Priority of registered charging orders and lites pendentes

Notwithstanding section 3 or section 5 a charging order or lis pendens which is duly registered shall have priority from the commencement of the day following the date of its registration. (Added 34 of 1978 s. 4)

Sect. 6 - (Repealed 56 of 1980 s. 5)

Sect. 7 - (Repealed 56 of 1980 s. 5)

Sect. 8 - (Repealed 56 of 1980 s. 5)

Sect. 9 - (Repealed 56 of 1980 s. 5)

Sect. 10 - (Repealed 56 of 1980 s. 5)

Sect. 11 - (Repealed 56 of 1980 s. 5)

Sect. 12 - (Repealed 56 of 1980 s. 5)

Sect. 13 - (Repealed 56 of 1980 s. 5)

Sect. 14 - Application to lis pendens

REGISTRATION OF LIS PENDENS

The provisions of this Ordinance relating to judgments (subject to the provisions hereinafter contained) shall extend to lites pendentes:

(10 of 1856 s. 1 incorporated. Amended 50 of 1911 Schedule; 20 of 1948 s. 4; 56 of 1992 s. 5)

Sect. 15 - (Repealed 56 of 1992 s. 6)

Sect. 16 - Case of lis pendens not registered

(Past version on 30/06/1997).

Adaptation amendments retroactively made - see 25 of 1998 s. 2 No lis pendens shall be registered in the Registry of the High Court, or elsewhere than in the Land Registry; and a lis pendens not registered in the said office shall not bind any purchaser or mortgagee of the estate intended to be thereby affected.

(10 of 1856 s. 3 incorporated. Amended 50 of 1911 Schedule; 56 of 1992 s. 7; 8 of 1993 s. 2; 25 of 1998 s. 2)

Sect. 17 - Expiry and re-registration

The registration of a judgment, order or lis pendens shall cease to have effect at the end of 5 years from the date of registration, but the judgment, order or lis pendens may be re-registered from time to time and, if so re-registered, shall have effect for 5 years from the date of re-registration. (Replaced 56 of 1992 s. 8)

Sect. 18 - Effect of registry and re-registry and extension of 1855 c. 15 s. 11

Every lis pendens registered or re-registered, and also every judgment or order re-registered under this Ordinance, shall have the same force and effect as a judgment registered and not further or otherwise.

(10 of 1856 s. 5 incorporated. Amended 50 of 1911 Schedule; 20 of 1948 s. 4; 56 of 1980 s. 12; 56 of 1992 s. 9)

Sect. 19 - Power to the court to order vacation of lis pendens

VACATION OF REGISTRATION OF LIS PENDENS

The court or judge before whom any property sought to be bound is in litigation, may on the determination of the lis pendens, or during the pendency thereof, where the said court or judge is satisfied that the

litigation is not prosecuted bona fide, or for other good cause shown, make an order for the vacating of the registration in the Land Registry of such lis pendens without the consent of the party who registered it, and may direct the party on whose behalf the registration was made to pay all the costs and expenses occasioned by the registration or the vacating thereof, including the costs of the application to vacate, or may make such other order as to such costs or any of them as to the said court or judge may seem just.

(2 of 1896 s. 1 incorporated. Amended 50 of 1911 Schedule; 8 of 1993 s. 2) [cf. 1867 c. 47 s. 2 U.K.]

Sect. 20 - Mode of making application to the court

The application to vacate a lis pendens under section 19 may be in a summary way by petition or motion in court or by summons in chambers, and may be made by any person interested in the property against which the lis pendens has been registered, whether such person is a party to the lis pendens or not.

(2 of 1896 s. 2 incorporated. Amended 5 of 1924 s. 8) [cf. 1867 c. 47 s. 2 U.K.]

Sect. 21 - Entry of discharge by Land Registrar

If an order is made for vacating any such registration, the Land Registrar shall, on the filing with him of a memorial and an office copy of such order, enter a discharge of such lis pendens on the register, and may issue certificates of such entry.

(2 of 1896 s. 3 incorporated. Amended 50 of 1911 Schedule; 8 of 1993 s. 3) [cf. 1867 c. 47 s. 2 U.K.]

Sect. 22 - (Repealed 104 of 1995 s. 3)

MISCELLANEOUS

(Repealed 104 of 1995 s. 3)

Sect. 23 - Obligation of Land Registrar to register

(1) Subject to subsection (2), the Land Registrar shall register, in the manner prescribed by or under this Ordinance, any deed, conveyance or other instrument in writing, or judgment, if, but only if, he is satisfied that- (Amended 56 of 1992 ss. 10 & 15; 8 of 1993 s. 3; 28 of 1995 s. 40)

- (a) the deed, conveyance or other instrument in writing, or judgment, may be, or is under any other Ordinance required to be, registered under this Ordinance; (Amended 56 of 1992 s. 15)
- (b) the provisions of this Ordinance and of any regulations made thereunder, and of any other Ordinance relating to the registration of an instrument under this Ordinance have been complied with; and
- (c) the prescribed fees have been paid.

(2) Subject to subsection (3), the Land Registrar shall not register a deed,

conveyance or other instrument in writing, executed after the commencement of section 30 of the Land Survey Ordinance (Cap 473) and effecting a division of land if the deed, conveyance or instrument is not accompanied by a land boundary plan-

- (a) showing and delineating the parcels of land resulting from the division; and
- (b) subject to subsection (4), signed and certified by an authorized land surveyor in accordance with the Land Survey Ordinance (Cap 473). (Added 28 of 1995 s. 40)

(3) Where a division of land is effected by a will or judgment and the grant of probate in respect of the will or the judgment, as the case may be, is delivered into the Land Registry for registration, it shall not be necessary for the grant or judgment to be accompanied by a land boundary plan referred to in subsection (2), but the deed, conveyance or other instrument in writing transferring the title of any parcel of land resulting from the division delivered into the Land Registry for registration shall be accompanied by such a land boundary plan. (Added 28 of 1995 s. 40)

(4) It shall not be necessary for a land boundary plan accompanying any deed, conveyance or other instrument in writing to which subsection

(2) or (3) applies and which plan is prepared by the Government to be signed and certified by an authorized land surveyor. (Added 28 of 1995 s. 40)

(5) In this section, "authorized land surveyor" (認可土地測量師), "land"

(土地) and "land boundary plan" (土地界線圖) have the meanings respectively assigned to them under the Land Survey Ordinance (Cap 473). (Added 28 of 1995 s. 40) (Replaced 56 of 1980 s.6)

Sect. 23A - Liability of Land Registrar and others

If the Land Registrar or any other person employed in the Land Registry wilfully or negligently fails to comply with section 23, he shall be liable for any loss or damage thereby caused, but he shall not be liable in damages- (Amended 8 of 1993 ss. 2 & 3)

- (a) for registering, in good faith, any deed, conveyance or other instrument in writing, or judgment, notwithstanding any error, omission or defect therein;
- (b) for registering, in good faith, any deed, conveyance, or other instrument in writing, or judgment, which does not affect any parcels of ground, tenements or premises in Hong Kong; or
- (c) for any damage to or loss or destruction of any memorial or any deed, conveyance or other instrument in writing, or judgment, registered or delivered for registration or any document in his custody unless such damage, loss or destruction was due to his act and such act-
 - (i) was not authorized by or under this Ordinance; and

- (ii) was done negligently or with intent to cause such damage, loss or destruction. (Added 56 of 1980 s. 6. Amended 56 of 1992 s. 15)

Sect. 24 - Dishonest destruction etc., of memorials and other documents

(1) Any person who dishonestly, with a view to gain for himself or another, or with intent to cause loss to another, destroys, removes, alters, defaces or conceals-

- (a) any memorial, or any deed, conveyance or other instrument in writing, or judgment, belonging to, or filed or deposited in, the Land Registry, or any part thereof or endorsement thereon or any microfilm, image or other record thereof; or (Amended 104 of 1995 s. 4)
- (b) any register, book, index, receipt, docket or other document belonging to, or filed or deposited in, the Land Registry, or any part thereof or any microfilm, image or other record thereof, (Amended 104 of 1995 s. 4) commits an offence and is liable on conviction upon indictment to imprisonment. (Amended 56 of 1992 ss. 11 & 15; 8 of 1993 s. 2)

(2) Any person who wilfully or maliciously destroys, removes, alters, defaces or conceals any thing referred to under subsection (1)(a) or (b) commits an offence and is liable to imprisonment and a fine. (Added 56 of 1992 s. 11) (Replaced 56 of 1980 s.7)

Sect. 25 - (Repealed 56 of 1980 s. 8)

Sect. 26 - Duties and powers of assistant land registrar

Any assistant land registrar acting in the place or on behalf of the Land Registrar shall have the same duties and powers as are given by this or any other Ordinance to the Land Registrar. (Added 23 of 1938 s. 2. Amended 8 of 1993 s. 3)

Sect. 26A - Copies of documents etc. admissible in evidence

(Past version on 30/06/1997).

(1) A document purporting to be a copy, print or extract-

- (a) of or from-
 - (i) any memorial or any deed, conveyance or other instrument in writing, or judgment, belonging to, or filed or deposited in, the Land Registry, or any part thereof or endorsement thereon or any microfilm, image or other record thereof; or (Amended 56 of 1992 s. 15; 104 of 1995 s. 5)
 - (ii) any register, book, index, receipt, docket or other document belonging to, or filed or deposited in, the Land Registry, or any part thereof or any microfilm, image or other record thereof; and (Amended 104 of 1995 s. 5)

(b) bearing a certificate, with the signature or the printed signature of the Land Registrar, or of any person authorized by him in that behalf, certifying that the document is a true copy, print or extract, (Replaced 104 of 1995 s. 5) shall, subject to the Stamp Duty Ordinance (Cap 117), be admissible in evidence in criminal or civil proceedings before any court on its production without further proof and, until the contrary is proved, the court shall presume that- (A) the signature or the printed signature and certification to the document is that of the Land Registrar or a person authorized by him in that behalf; and (Amended 104 of 1995 s. 5) (B) the document is a true and correct copy, print or extract.

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

(3) For the avoidance of doubt, it is hereby declared that nothing in this section or any other provision of this Ordinance shall require the Land Registrar or a person mentioned in subsection (1) to provide a certificate mentioned in that subsection in relation to any copy, print or extract of or from any instrument, including any copies, prints or extracts of or from the memorial and plans (if any) relating thereto, withheld from registration pursuant to the Land Registration Regulations (Cap 128 sub. leg. A). (Added 20 of 2002 s. 2) (Added 56 of 1980 s. 9. Amended 8 of 1993 ss. 2 & 3)

Sect. 27 - Fees

(Past version on 30/06/1997).

Adaptation amendments retroactively made - see 61 of 1999 s. 3

(1) The Chief Executive in Council may by regulation prescribe the fees to be taken in the Land Registry. (Amended 20 of 1948 s. 4; 9 of 1950 Schedule; 37 of 1950 Schedule; 61 of 1999 s. 3)

(2) Subject to the provisions of subsection (3), the true consideration shall be stated in all documents registered in the Land Registry. (Replaced 28 of 1931 s. 2)

(3) Where the amount or value of the consideration money is not stated in any deed, assignment, mortgage or other instrument proposed to be registered in the Land Registry, or where no consideration money or merely nominal consideration money passes thereunder, the value of the property, to which such deed, assignment, mortgage or other instrument relates, shall be determined by the Land Registrar and the like fees shall be paid as if the value so determined were the amount or value of the consideration money. (Replaced 28 of 1931 s. 2. Amended 20 of 1948 s. 4; 56 of 1992 s. 12) (Amended 8 of 1993 ss. 2 & 3)

Sect. 28 - Regulations

(1) The Land Registrar may make regulations for all or any of the following matters- (Amended 56 of 1992 s. 13)

(a) the manner in which entry and registration of memorials, deeds, conveyances, and other instruments in writing, and judgments, and

other documents in the Land Registry shall be effected, and the withdrawal of any memorial, deed, conveyance, or other instrument in writing, or judgment, or other document from registration; (Amended 56 of 1992 s. 15)

- (b) determining the date of registration of registered instruments and the proof thereof;
- (c) particulars and documents to be furnished for the purposes of registration;
- (d) the method by which and the form in which memorials, deeds, conveyances, and other instruments in writing, and judgments, and other documents are to be recorded and the manner in which they are to be maintained; (Amended 56 of 1992 s. 15)
- (e) the correction and amendment of any memorial or other document;
- (f) the keeping of indexes, registers and other records of the Land Registry;
- (g) the use of microfilm, imaging or any other material or method for the recording of memorials, deeds, conveyances, and other instruments in writing, and judgments, and other documents, including records of the Land Registry; (Amended 56 of 1992 s. 15; 104 of 1995 s. 6)
- (ga) the use of the imaging method for the recording of microfilm records; (Added 104 of 1995 s. 6)
- (h) the destruction or disposal of memorials and other documents, including records of the Land Registry, recorded on microfilm or on other material or by the imaging method; (Amended 104 of 1995 s. 6)
- (i) fixing the hours during which the Land Registry or any part thereof shall be open to the public and empowering the Land Registrar to vary such hours;
- (j) regulating admission to the Land Registry or any part thereof and the use of any equipment, facilities or material therein by members of the public;
- (k) regulating the conduct of persons in the Land Registry;
- (l) enabling any person to be refused entry to the Land Registrar and the removal from the Land Registry of any person;
- (m) prescribing anything that is required or permitted to be prescribed under this Ordinance.

(2) Regulations made under this section may provide that a contravention of any specified provision of any such regulation shall be an offence and may provide penalties therefor not exceeding a fine of \$10000 and imprisonment for 2 years. (Added 56 of 1980 s. 10. Amended 8 of 1993 ss. 2 & 3)

Sect. 29 - Effect of memorials recorded on microfilm

Where pursuant to regulations made under section 28 the memorial of any deed, conveyance or other instrument in writing, or judgment, is recorded on microfilm-

- (a) the microfilm record of the memorial shall be treated for all purposes as the original memorial; and
- (b) the registration of any such deed, conveyance or other instrument in writing, or judgment, registered prior to the date of commencement* of the Land Registration (Amendment) Ordinance 1980 (56 of 1980), shall not be affected. (Added 56 of 1980 s. 10. Amended 56 of 1992 s. 15)

_____ Note:

* Date of commencement-8 June 1981.

Sect. 29A - Effect of register cards recorded on microfilm or memorials recorded by the imaging method, etc.

Where pursuant to regulations made under section 28-

- (a) any register card is recorded on microfilm, the microfilm record of the register card shall be treated for all purposes as the original register card;
- (b) the memorial of any deed, conveyance or other instrument in writing, or judgment, is recorded by the imaging method, the image record of the memorial shall without prejudice to section 29(a) be treated for all purposes as the original memorial; and
- (c) the microfilm record of the memorial of any deed, conveyance or other instrument in writing, or judgment, is recorded by the imaging method, the image record of the microfilm record of the memorial shall without prejudice to section 29(a) be treated for all purposes as the original memorial. (Added 104 of 1995 s. 7)

Sect. 30 - (Repealed 20 of 2002 s. 3)

(Past version on 01/07/1997).

(Past version on 30/06/1997).

Sect. 31 - Saving in respect of deposit of deeds, etc., in Land Registry for safe custody

Notwithstanding the repeal of section 22 by section 3 of the Land Registration (Amendment) Ordinance 1995 (104 of 1995), where immediately before the commencement of that Ordinance, any person has, pursuant to that repealed section, deposited in the Land Registry for safe custody any deed, conveyance, power of attorney, or other instrument in writing whatsoever, the Land Registrar shall continue to-

- (a) keep and maintain the book which contains an accurate alphabetical index having reference as well to the name of the parties to each such deed or instrument as to the person depositing the same; and

(b) carefully and securely keep all such deeds, conveyances, powers of attorney, or other instruments in his office until required by the party depositing the same to deliver them back again. (Added 104 of 1995 s. 8)

Schedule 1 (Repealed 20 of 2002 s. 4)

Schedule 2 (Repealed 20 of 2002 s. 4)