

LAND TITLES ORDINANCE: RECTIFICATION

Introduction

1. On 30th April 2010 a delegation from the Law Society met representatives of the Bar Association in the Bar Council chamber to discuss the proposals of the Law Society concerning rectification of the land titles register. These proposals were presented in a nine-page letter dated 16th April 2010 from the (then) President of the Law Society to the (then) Chairman of the Bar.
2. The Law Society has sought the Bar's support for the proposals.

Background

3. The background is as follows. The Land Titles Ordinance Cap 585 (LTO) was passed in 2004, but it has not been brought into effect pending reconsideration of its provisions.
4. The LTO contains powers by which the court may alter the registered (and therefore legal) owner of a piece of registered land if his registration is tainted by omission, mistake or fraud. By this means registered ownership may be restored to the original owner who has been deprived of ownership by the omission, mistake or fraud.
5. All jurisdictions which have a registered title system allow the register to be rectified in this way, although the grounds upon and circumstances in which the power is to be exercised vary.
6. The principal rectification provision is section 82 of the LTO. Subsection 82(1) of this section gives the court power to direct that an entry on the Title Register be removed or altered, or that an entry which has been omitted be entered, if the court is satisfied that

the entry was obtained, made or omitted by or as a result of the fraud, mistake or omission of any person or of a void or voidable instrument.

7. Subsection 82(2) cuts back on this power by providing that the court can make no order so as to affect the title of a person who is a registered owner of land and who is in possession of the land unless certain conditions are satisfied. These conditions are, in paraphrase: that the name of the person was entered by or directly as a result of the fraud, mistake or omission, or of the void or voidable instrument, in question; and that the person was a party to, knew about or by his lack of care substantially contributed to the fraud, mistake or omission or to making the instrument void or voidable.
8. Subsection 82(3), however, requires the court to rectify the register in certain circumstances. These are: first, that the application for rectification is by a former registered owner to restore his title to the land on the ground that he lost his title by or as a result of fraud; secondly, that the entry in the register by which the applicant lost his title was procured by or as a result of a void instrument or a false entry in the register; thirdly, that the applicant was not a party to the fraud; and, fourthly, that the applicant did not by his own lack of care, substantially contribute to the fraud. In these circumstances the court “shall order the rectification of the Title Register to.....restore the title of the applicant” irrespective of whoever is currently the registered owner.
9. It is this provision for mandatory rectification to which the Law Society objects and which it proposes should be amended.
10. Subsection (3) was put into the legislation as part of a compromise out of sympathy with innocent owners who had been deprived of registered ownership by fraud and to deal with the consequences of the administration’s insistence that there be a limit upon the amount of compensation to be paid to those who suffer as a result of the working of the LRO.
11. This limit, known as the cap on indemnity, is HK\$30 million, which at the time that it was set was estimated to cover 99% of land sales. To remove the effect of the limit on

defrauded innocent owners, the power of the court to order rectification of the register in favour of such owners was changed into an obligation.

12. The justification for preferring the innocent previous owner over the new registered owner is said to be that the latter can take at least some measures to guard against fraud (by, for instance, checking signatures on title deeds), although fraud may not always be detectable. By contrast there is little that the innocent previous owner can do to prevent fraud upon him.

The Law Society's objections

13. In his letter, the President pointed out that the object of title registration is to bring certainty to title and to simplify the conveyancing process. Certainty is provided by indefeasibility of title, that is to say, by the person registered as owner being guaranteed by the government to be the legal owner. In consequence there is no need for a purchaser's solicitors to investigate title as they do at present in Hong Kong by perusing bundles of documents of title and raising requisitions about these documents. Indefeasibility therefore saves time, trouble and expense.
14. Although recognising the need for a power of rectification, the Law Society argues that the scope of that power should be as limited as possible so as to preserve the benefits of title registration. The society regards rectification as an exception to indefeasibility of title.
15. The Law Society's view is that section 82(3) greatly undermines the aims of title security and ease of conveyancing, because any purchaser would be subject to the risk of a rectification order being made against him as a result of fraud in any transaction prior to his. Consequently purchasers may wish to investigate previous transactions in order to obtain greater assurance: this "totally defeats the very purpose of title registration; and renders unworthy the LTO to any claim of a title registration system".

16. At our meeting on 30th April 2010 the Law Society's representatives explained that because rectification under section 82(3) is mandatory, conveyancers were of the opinion that they would have to go behind the register to search for signs of fraud in prior transactions in order to reduce the risk to their purchaser clients of an application being made under the subsection. The representatives said that it would be professionally negligent not to do so and that their insurers agreed with this.

The Law Society's proposals

17. The Law Society's preference is for section 82(3) to be removed altogether. This would mean that the court would not be obliged to make an order in favour of an innocent previous owner who has been displaced as a result of fraud. Instead, the court would have discretion to do so under section 82(1), but subject to the restriction in section 82(2).
18. Since the restriction in section 82(2) prevents the court from ordering rectification which affects the title of an innocent registered owner who is in possession acquired for valuable consideration, this proposal in effect would mean favouring the latter over an innocent prior owner who has been the victim of fraud.
19. As an alternative, the Law Society proposes that section 82(3) be replaced by a complicated formula taken from the English Land Registration Act 2002 under which the court is obliged to order rectification unless there are exceptional circumstances but the court may not do so if the alteration prejudicially affects the title of an innocent registered proprietor (owner) or it would for any other reason be unjust. This formula is more in favour of mandatory rectification than the Law Society's primary proposal but less in favour of it than is section 82(3).
20. Under both the alternative and the preferred option, a purchaser would be at risk of a rectification order being made against him only if there had been some fault by him in the transaction to which he had been a party. In other words, where there are two purely innocent owners, title to the property would remain with the later, registered owner. The earlier, defrauded owner would have to settle for compensation from the indemnity fund.

By contrast, under section 82(3) preference is given to the earlier owner and it is the later owner (the purchaser) who has to settle for compensation.

21. To the Law Society, the attraction of its options is that under each of them the purchaser would not have to go behind the register and investigate the title. This is said to be more in the spirit of title registration than is section 82(3).

The Government's position

22. After the passing of the LTO, the administration embarked upon its promised review of the legislation. In 2008, the Land Registry (which is responsible for the review) circulated to interested parties a paper entitled "Rectification and Indemnity in case of Fraud". Among other matters, this paper considered the effects of section 82(3).
23. The paper recognised that mandatory rectification provided for by the subsection as it stood was antagonistic to the aims of title registration. In order to mitigate this, the paper proposed to add three exceptions to the scope of mandatory rectification. These exceptions were, in short:
 - (1) for a bona fide purchaser who is a registered owner in possession and who did not deal with the fraudster;
 - (2) where there has been resumption by or surrender of the land to the government since the fraudulent transaction; and
 - (3) where the property has been bought by a developer and resold in shares since the fraudulent transaction.
24. The first exception reflects a principle which is known in land titles parlance as "deferred indefeasibility". The justification for this principle is that the registered owner who acquires property from a fraudster has the opportunity to conduct enquiries to avoid the

fraud but a later registered owner who simply relies upon the register has no such opportunity.

25. The Government's proposal regarding section 82(3) was considered by the Bar's sub-committee on land titles. As a result, the Bar expressed dismay at the continued cap on indemnity and commented that the proposed exception (1) above appeared to be rather arbitrary and might be perceived as unfair in that a later registered owner would be in a better position than an earlier one, but accepted that the exception would reduce the uncertainty and insecurity faced by future purchasers as a result of the mandatory rectification provisions in the subsection. As regards proposed exception (3), the Bar commented that whilst this would avoid complication and disruption, it was difficult to justify as a matter of principle: it would seem unfair that a defrauded former owner whose property had been sold to a single purchaser would have his title restored whereas a defrauded former owner whose property had been divided and sold to two purchasers would not.
26. The then Land Registrar Mr Kim Salkeld responded in November 2008 to the Bar's submission, noting the Bar's concern at the continued cap on indemnity and explaining that the administration considered that deferred indefeasibility represented a fair balance of interests among innocent parties in case of fraud.
27. The Registrar also explained that the Government's proposals would apply only where the fraud had occurred after the land had been converted to the new system: pre-conversion frauds would still be dealt with according to the common law ("nemo dat"), so a purchaser would continue to bear the risk of pre-conversion fraud, with no indemnity available. Once the title had been "upgraded", there would be no need for a purchaser to check the title deeds since he could rely on the register as conclusive and the entitlement to indemnity will protect him, unlike at present.
28. In and between January and March 2009, public consultation upon the Government's proposed changes to the rectification provisions took place. Apparently nearly all respondents were in favour of retaining mandatory rectification in favour of an innocent

former owner where it was practically possible to return the land to him; consequently they opposed the introduction of exception (1) above.

29. The Law Society formally responded to the Government's consultation paper on 1st March 2010, eleven months after the consultation had closed. The Law Society's four-page response reflected the points made in the President's letter to the Chairman of the Bar of 16th April 2010. The Law Society opposed section 82(3) as it stood, and felt that the Government's proposal to introduce exceptions to section 82(3) did not go far enough.
30. That letter was circulated to members of the Steering Committee on the Land Titles Ordinance (a committee composed of representatives of various "stakeholders", including the Bar) in March 2010 under cover of a paper on the outcome of the consultation exercise. The paper summarised the differences of opinion and suggested that the mandatory rectification rule in section 82(3) represented a consensus reached after extensive deliberations between the administration, the main interested parties and the legislature and struck a fair balance between the variety of interests in society. The paper warned that revisiting the issue would inevitably be time consuming and would significantly affect the legislative timetable.
31. A meeting of the steering committee took place on 11th May 2010, ie. after our meeting with Law Society representatives. The Land Registrar, Ms Olivia Nip, told the meeting that the Government's present intention was not to press the first exception but to continue with the other two. However she also said that the administration would like the key elements of the system (including indefeasibility and rectification) to be similar to those elsewhere and that Hong Kong was the only jurisdiction with mandatory rectification.

Attitude of other parties

32. The main matter for discussion at the steering committee was the letter from the Law Society of 1st March 2010. Also placed before the meeting (although not on the agenda) were very recent submissions from the Hong Kong Association of Banks and the Real

Estate Developers Association broadly supporting the Law Society's position, from the Estate Agent's Authority saying that it had no views on the Law Society's proposals and from the Consumer Council reserving its position until it had learnt more about the Law Society's proposals. At the meeting, Ms Susie Cheung from the Hong Kong Mortgage Corporation said that in her view section 82(3) ill fitted a modern economy and should be removed.

33. It seems that the Law Society had already met the HKAB, REDA, the Mortgage Corporation, the Hong Kong Conveyancing and Property Law Association Ltd (a body of conveyancing professionals) and its own insurers and had persuaded them to support its proposals. The letter to and meeting with the Bar is therefore part of sustained, if belated, lobbying against mandatory rectification in section 82(3). This lobbying has succeeded to the extent that a group has coalesced of parties from the real estate industry against retaining section 82(3) and has persuaded the Government to reopen the issue.
34. At a recent Legco committee meeting, chaired by Ms Margaret Ng, to consider the legislation, the Law Society's views were heard and Ms Ng commented that the interested parties seemed to be further apart than ever. Consideration of the matter was adjourned.
35. We may expect the view of the Bar to be influential, if not with the committee then with legislators. Accordingly what follows is an attempt to assess the cogency and importance of the Law Society's stance and to indicate possible positions for the Bar to take.

Discussion

36. The President's letter is correct in stating that the main object of title registration is to bring certainty of title and to simplify the conveyancing process and that this is achieved by indefeasibility of title. It is also correct that rectification is an exception to, or a cutting back on, indefeasibility and so detracts from the main object of the legislation. As the letter observes, all jurisdictions with registered title allow rectification in certain circumstances and so permit some derogation from the principle of indefeasibility: it is a

question of balance between indefeasibility and rectification, that is to say, between certainty and justice.

37. The letter asserts that to ensure certainty of title, the scope of rectification should be as limited as possible. It says that the problem with section 82(3) is that it means that any purchaser would be at risk of the register being rectified against him as a result of prior fraud and that therefore the purchaser may want to investigate previous transactions so as to minimise the risk. This, the letter says, would amount to a reversion to the old (i.e. the existing) system: it “totally defeats the very purpose of title registration; and renders unworthy the LTO to any claim of a title registration system”.
38. This seems to be an exaggeration, no doubt introduced for effect. At the recent Steering Committee meeting Mr Andy Ngan, who as chairman of the Law Society’s working party on the LTO is its chief spokesman on the subject, nevertheless repeated the claim but also said that mandatory rectification places Hong Kong at one end of the spectrum of land titles systems. The latter seems to us a more accurate assessment. As far as we are aware, no other jurisdiction has the equivalent of section 82(3).
39. To our minds, the nub of the issue is: If section 82(3) remained unamended, would Hong Kong conveyancers be justified in retaining their existing practice of scrutinising all the title deeds, so destroying the saving in time and costs which the new system is designed to achieve?
40. In assessing this, there are a number of relevant considerations. The most fundamental is that no system of title registration gives complete certainty of title since they all allow rectification of the register in certain circumstances. Accordingly, there is always a risk that the register does not reflect reality and may be amended. The mere continued existence of some risk would not justify a solicitor in going behind the register: if that were so, the purpose of registration would have been defeated in all jurisdictions with registered title and solicitors there would continue to check title deeds, which they do not.
41. So the question is not the existence of risk, but the degree of risk.

42. The chances of rectification must be higher where the law gives complete discretion to the court to amend the register than where the law restricts that discretion.
43. In the Australian states, New Zealand and Singapore, the court's discretion is quite limited. They have what is called in land registration jargon "immediate indefeasibility". This is the sort of approach which the Law Society is advocating.
44. In the United Kingdom the court's discretion is a little wider, something similar to that proposed by the Hong Kong authorities during the review but apparently now abandoned. Under that, the chances of rectification would be marginally greater, so the balance is more towards justice than certainty. If the mandatory rectification in 82(3) were to remain, as now seems to be the administration's preference, the possibility of rectification would be increased compared with the UK position. On the face of it, that increase appears relatively large because it takes away the court's discretion. But the discretion is taken away only if certain conditions are satisfied, so mandatory rectification is applicable in very limited circumstances: the applicant must be a previous owner, must be completely innocent and must have been the victim of fraud.
45. One should appreciate that fraud is extremely rare and that rectification is ordered only in the most exceptional circumstances. So far as we are aware there are no statistics or estimates as to the proportion of titles which have been infected by fraud in Hong Kong or elsewhere. We would guess that the proportion is certainly less than one in 100 transactions, probably less than one in 1,000 and quite possibly less than one in 10,000. It seems to us that the incidence with which fraud occurs or is likely to occur is an important consideration in assessing whether solicitors would be justified in continuing to check title if section 82(3) remains.
46. In jurisdictions with long-established registered title, the indemnity funds have been wound-up because there have been so few claims upon the fund by those who have lost through reliance of the register. This gives some indication as to the rarity of fraud and of rectification. The Law Society would no doubt point out that those jurisdictions do not have mandatory rectification.

47. The administration evidently fears that Hong Kong will be different from elsewhere and that fraud will be more prevalent. That is why it has insisted on preserving the cap on indemnity, the fear being that a few large claims could wipe out the fund. We were told by the Law Society's representatives that the Government has commissioned a risk assessment but has refused to reveal the results. Access to that assessment would surely be helpful in deciding whether solicitors would be justified in viewing the risk as sufficiently large for them to continue to scrutinize title deeds.
48. It is certainly the case that in Hong Kong real property is regarded as more like a commodity than elsewhere. The market has more than its fair share of sharp practitioners and shady characters. Speculators, estate agents, and others may engage in dubious and dishonest practices. But this is no doubt to some extent also true elsewhere. One should never underestimate the ingenuity of local "businessmen" but the notion seems far-fetched that there is a host of people willing and able to organise a deception by which they pose as innocent owners who have been victims of fraud seeking rectification of the register and their accomplices pose as innocent purchasers seeking indemnity from the fund.
49. We are not aware of any study of the varieties or types of land registration fraud perpetrated in other jurisdictions. This may be because such fraud is so rare. But this study would be relevant to the assessment of the degree of risk posed by section 82(3). It may be, for instance, that outright deprivation of ownership is not the usual consequence of such fraud.
50. The facts of the better-known fraud cases suggest that the perpetrators of fraud are likely to be relatives of the victim and that the object of the fraudulent conduct is to raise money on the security of the property. We understand that Land Registry officials believe that in Hong Kong land fraud is most commonly perpetrated by relatives of the owner and that at present such cases are settled quietly within the family. The fear is that family settlements will cease once government compensation becomes available.

51. Another pattern of fraud involves misuse of a certificate (or duplicate certificate) of title to the property issued by the land registry. This will not be encountered in Hong Kong since certificates of title will not be issued.
52. Of its nature, fraud involves deception and is therefore difficult to detect. Accordingly, it is somewhat doubtful whether a check of the title deeds would uncover the fraud. When we put this point to the Law Society representatives, they gave the instance of a fraudulent transfer executed by a forged signature. This, they said, might be detected on a visual comparison with past signatures. But how common is this type of fraud?
53. Another example given by the Law Society is self-dealing by a company director. In this, the director misuses his authority to execute on behalf of the company a deed transferring the company's land to the director himself at an undervalue.
54. If there is a state guarantee of title backed up by indemnity (even one limited in amount), as there will be in Hong Kong, one has to wonder whether solicitors really will go to the trouble of scrutinising title documents on the extremely remote chance that there has been fraud in a previous transaction which can be deduced from the documents. No doubt a few extremely conscientious conveyancers might do so but we would suggest that the great majority would take the risk, at least if acting in a run-of-the-mill sale and purchase involving property worth less than the indemnity cap.
55. Alternatively, solicitors might warn their purchasing clients that there is a small risk that the registered owner is not the real owner and give their clients a choice of service. One would be a limited service which relies on the accuracy of the register backed up by indemnity, with lower fees. The other would include a full title check and would be correspondingly more expensive. Clients might be expected to opt for the latter only if the property held some special attraction for them or was so expensive as to be outside the indemnity cap.
56. We doubt therefore whether the practical consequences of retention of section 82(3) would really be as described by the Law Society's letter. We suggest this with diffidence, however, since the members of the Law Society's working party who are responsible for

the contents of the letter are experienced conveyancers and may be expected to know their profession's likely reaction better than we do. On the other hand, it may be that barristers understand professional negligence better than do solicitors.

57. The Law Society representatives justified their view as to the effect upon conveyancing of mandatory rectification by reference to the reaction of their indemnity insurers who apparently regard s 82(3) with dismay and insist that as a result title checking will still be required.
58. We have two comments upon this. First, the insurers' reaction will depend upon how mandatory rectification and its risks are presented to and understood by them. Second, it is natural that an insurer would regard any risk, no matter how remote, as too much risk. If mandatory rectification has been presented to the insurers in the way that it is presented in the Law Society's letter, it is not surprising that they have reacted negatively.
59. Insurers are not the arbiters of what constitutes professional negligence; the courts are. If after the LTO is brought into force with section 82(3) as it stands a solicitor acting for a purchaser were not to check the title deeds and were to rely upon the register as conclusive of the vendor's ownership, would s/he be in breach of duty of care? We would suggest not. The very purpose of the reform brought about by the LTO is to substitute the register for the deeds: it is therefore difficult to conclude that it would be wrong for a conveyancer to rely on the register. The risk that the register is inaccurate is slight. The register is not absolute but if the solicitor's client were so unlucky as to suffer from rectification, s/he would receive compensation from the fund in the amount of the value of the interest lost up to the level of the cap. It is therefore difficult to see that the client would suffer any, or at least any substantial, loss if the compensation received is within the cap. Damage is an ingredient of the tort of negligence, so the client would have no cause of action even if what his solicitor did fell short of the standard of care. Only in purchases of very valuable property beyond the indemnity limit could the solicitor be exposed to a negligence suit.
60. The Law Society and its insurers might suggest that if, on their advice, it became routine for conveyancers to check title despite the LTO, any solicitor who failed to do so would

be negligent. We would suggest otherwise. In assessing whether a practitioner is in breach of the duty of care the courts certainly take into account the practice of the profession: this is part of ascertaining the standard of a reasonably competent solicitor, which is the standard to be applied. But that standard is not the whole test. As *Edward Wong Finance v Johnson, Stokes & Master* shows, the practice of conveyancers may fall short of what is expected of a competent solicitor. It is equally possible that the practice may exceed that expectation. The ultimate test is whether the risk was reasonably foreseeable.

61. What is the risk here? Is it the risk that the register will be rectified? Or is it the risk that the register will be rectified without adequate compensation being paid by the state? Whichever it is, it seems to us likely that the risk is so remote as to be not reasonably foreseeable. Of course, the question of negligence to some extent turns upon the facts of the individual case so it is dangerous to be dogmatic. However, in the absence of something special on the particular facts, the ever-present fact that there is a register which is designed to obviate the elaborate checking of title and to supply a guarantee of title would justify a conveyancer in dispensing with scrutiny of the title deeds.
62. On the other hand, even if we are wrong, the availability of compensation would mean that a solicitor would be safe in relying solely on the register in all cases except those in which the value of the property exceeds the cap on indemnity. This highlights the relevance of the cap to the scope of rectification allowed for by the Ordinance.
63. Also relevant to the scope of rectification is the degree of security which is practiced in carrying out land transactions. Here, Hong Kong can benefit from other jurisdictions' experience in the taking of steps to counter fraud. British Columbia seems to be the most advanced jurisdiction in this regard. In the prevention of fraud through "identity theft" Hong Kong has the advantage of long-standing use of identity cards. It may be that the impact of mandatory rectification can be reduced by advanced security measures.
64. The Law Society's alternative of adopting the English approach would lead to greater uncertainty than under their first proposal and under section 82(3). This alternative would give the court discretion to refuse rectification in undefined "exceptional

circumstances". We think that this would lead to more litigation and, if the Law Society's fears are justified, would not eliminate the need to check title.

65. The President's letter also floats the possibility of exempting village land in the New Territories. This is apparently in anticipation of opposition to the Law Society's proposals from the vociferous Heung Yee Kuk who fear that indigenous villagers may be tricked out of their ancestral land if the court were to have power to refuse rectification in favour of an innocent former owner.
66. We doubt whether indigenous villagers would be at greater risk of losing their land than any other owner. The opposite may be true, because transactions concerning New Territories' rural land must be formalized before the District Officer and then registered. In any event, we do not think it desirable to create two classes of land with different rectification rules according to the identity of the former owner. The privileged position of so-called indigenous villagers (actually male descendants of male villagers of 112 years ago whose link with the village is often tenuous) is a historical anomaly and we do not think that additional, new privileges should be accorded to this or any group after the reversion of Hong Kong to China.
67. At the steering committee meeting on 11th March 2010, the representative of the Heung Yee Kuk, Mr Lam Kwok-cheong, expressed the view that separate treatment for village land would make things more complicated. He said that the Kuk wanted to maintain section 82(3) as it stood. A submission in Chinese from the Kuk was placed before the meeting.

Conclusion and recommendations

68. There appear to be four choices: (1) to retain section 82(3) and its limited mandatory rectification; (2) to move towards deferred defeasibility by adding to section 82(3) the three exemptions formerly proposed by the government; (3) to adopt the 2002 English approach of giving the court greater but ill-defined discretion to amend the register,

which is the Law Society's second preference; and (4) to move towards absolute indefeasibility by adopting the Law Society's principal proposal.

69. As regards the Law Society's arguments, this sub-committee thinks that they are exaggerated and somewhat alarmist but accepts that section 82(3) is inconsistent with indefeasibility of registered title which is one of the main aims of land titles legislation and that the subsection's retention would put Hong Kong at one end of the range of indefeasibility options. Abolition of the subsection would place Hong Kong in the mainstream of land titles systems, including those in the region, but the high degree of indefeasibility practiced in those systems is not without its critics.
70. The approach of the Land Registration Act 2002 lacks certainty but allows a limited amount of justice into the system by giving the court a fallback discretion in extreme circumstances. This approach is presumably the result of a relatively recent review of how the system works in practice and is the consequence of a balancing of all the arguments.
71. The Government's three exceptions were the result of the considered assessment promised to Legco and suggest that on reflection the administration was unhappy with mandatory rectification but were unwilling (probably for political reasons) to propose its removal. The exceptions were an attempt to mitigate the degree to which section 82(3) would put Hong Kong outside the mainstream. In the absence of support, the administration has not pursued that but we suspect that that it still considers deferred defeasibility the best choice and welcomes the Law Society's initiative as a means of re-opening the issue even if it does not agree with the Law Society's principal proposal.
72. We do not think that it is possible to say which of the four choices is the best. However, section 82(3) is in place and seems to us to be acceptable and not unworkable. We are not convinced that it is inferior to any of the other three.

73. Ultimately the question comes down to this: if section 82(3) remains, will it render the land titles system unworkable and defeat the purpose of the legislation, as the Law Society contends? We do not think that it would. The answer might be to leave it in place and see how it works.
74. The Law Society will want a formal answer to their letter. The Government is keen to know what stance the Bar will take. Other interested parties, and Legco members, will also be interested in our views. Consequently, the sub-committee requests authority from the Bar Council to articulate the views expressed in this paper and the conclusions contained in the two immediately preceding paragraphs.

12th August 2011

Hong Kong Bar Association

