

CHAPTER 5

Development Bureau Land Registry

Operation of the Land Registry

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This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

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OPERATION OF THE LAND REGISTRY

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OPERATION OF THE LAND REGISTRY

Executive Summary

1. The Land Registry (LR), headed by the Land Registrar, aims to provide an efficient and effective land registration system to facilitate the orderly conduct of land transactions. In addition to ensuring secure and customer friendly land registration and information services, the LR's missions also include advocating reform of Hong Kong's land registration system through introduction of title registration. The Land Registry Trading Fund (LRTF) was established under the Trading Funds Ordinance (Cap. 430) on 1 August 1993 to manage and account for the operation of the LR. The Land Registrar is the General Manager of the LRTF.

2. The LR is accountable to the Development Bureau (DEVB) and the Financial Services and the Treasury Bureau (FSTB) for its business and financial performance respectively. The DEVB provides policy steer for the LR's work and the FSTB monitors the LR's financial performance. Under the Trading Funds Ordinance, the LRTF is required to achieve a reasonable return on the fixed assets employed. During the 24-year period from 1993-94 to 2016-17, the LRTF achieved the target rates of return on Average Net Fixed Assets (ANFA) except for one year in 2015-16 (actual of 4.1% against target of 6.9%). The Audit Commission (Audit) has recently conducted a review to examine the operation of the LR.

Provision of services

3. The LR's main services include: (a) land registration services which involve the registration of documents affecting land under the Land Registration Ordinance (Cap. 128 — the LRO) and maintaining up-to-date land registers; (b) land information services for searching land registers and supplying copies of registered documents and related records; and (c) owners' corporation services which involve registration of owners' corporations and maintenance of a register of owners' corporations under the Building Management Ordinance (Cap. 344) (paras. 1.3 and 2.2).

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4. ***Need to update target completion date for tidying up exercise of land registers.*** The LR maintains over 3 million land registers involving registered particulars (accumulated since 1844) of about 23.7 million land documents. Between 1986 and 1997, a computerisation exercise had been conducted to convert the manual land registers to computerised records (which were later converted to records in the Integrated Registration Information System (IRIS) launched in February 2005). According to the LR, in the IRIS: (a) certain information was not shown in some land registers due to reasons including information that might not have been recorded on the manual land registers or not input into the computerised land registers during the computerisation exercise; and (b) some computerised land registers (before implementing the IRIS) contained partial address in the “address” field, with the remaining part of the address in the “property remarks” field, as the length of the “address” field was limited. Since June 2007, the LR has been conducting a tidying up exercise for filling up the related information. However, according to the LR, there might be a slippage in completing the exercise which was originally targeted for completion by the end of 2018 (paras. 2.4 to 2.8).

5. ***Need to enhance accuracy of information in land registers.*** According to the LR, typographical errors or discrepancies in the entries in the land registers (collectively referred to as “errors” by the LR) are identified from time to time through its quality control check and daily operation, and external parties’ amendment requests. From 2012-13 to 2016-17, the total number of errors (classified into conversion, registration and memorial errors) corrected in the land registers each year ranged from 5,737 to 7,564. There is a need for the LR to keep under review the errors corrected in the land registers and, where warranted, perform more detailed analysis (e.g. seriousness and possible causes) of the corrected errors for monitoring and taking measures to enhance the accuracy of the land registers (paras. 2.9 to 2.12 and 2.14).

6. ***Need to keep under review performance of New Territories Search Offices (NTSOs).*** The LR has three NTSOs in Tsuen Wan, Tai Po and Yuen Long providing counter search and copying, and owners’ corporation services. Audit noted that, during 2012-13 to 2016-17, the three NTSOs: (a) had incurred operating losses ranging from \$0.9 million to \$2 million each year; and (b) had low patronage. For each of the five years, the daily average number of visitors requesting search and copying services at two NTSOs was below 55 and owners’ corporation services at each NTSO was not more than 5 (paras. 2.27 and 2.28).

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Implementation of land title registration system

7. At present, Hong Kong operates a deeds registration system for recording land and property transactions under the LRO. The system only confers priority on registered deeds and serves as an index of registered instruments to the public. It provides no proof that the person registered as the owner has good title to the property and gives no guarantee to title. In order to establish title to property, it is necessary for the purchaser's solicitors in every case to check the historical title documents relating to all the transactions affecting the property that extend to not less than 15 years before entering into a new transaction of that property. Since the late nineteenth century, many common law jurisdictions have implemented a land title registration system (LTRS), which provides conclusive evidence of title to property (paras. 1.14 and 1.15).

8. In July 2004, the Land Titles Ordinance (Cap. 585 — the LTO) was enacted. The LTO aims to provide for a new LTRS that registers the titles to and the interests in land, with a view to providing greater certainty to property titles and simplifying conveyancing. However, up to September 2017, the LTO had not yet come into force and the LTRS had not been implemented. Over the years, the implementation of the LTRS involved various complex issues. In general, there were considerable deliberations and divergent views among various stakeholders on three main issues, namely conversion mechanism, rectification arrangements and indemnity arrangements. The LR had made various proposals to address the issues. Up to September 2017, it was still working towards forging a consensus with the stakeholders on the way forward in implementing the LTRS (paras. 1.16, 3.5 to 3.7 and 3.22).

9. *Under-estimation of complexity of the issues and the work involved in implementing LTO and LTRS.* In December 2002, the Government introduced a Land Titles Bill into the Legislative Council (LegCo). During the scrutiny of the Bill by the Bills Committee, the Government proposed to commence the LTO two years after its enactment, and undertook to conduct a review of the LTO during the two-year period between its enactment and commencement (post-enactment review) and to take follow-up actions on various issues raised during the scrutiny of the Bill. In the event, the LTO was enacted in July 2004. However, up to September 2017, 13 years after its enactment, the LTO had not yet been implemented. The LR's post-enactment review found that substantial amendments to the LTO were required. Apparently, the

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LR had under-estimated the complexity of the issues and the work involved in implementing the LTO and the LTRS (paras. 3.9, 3.10 and 3.23).

10. ***Need to set a target LTRS implementation date and devise an action plan.*** During 2004-05 to 2009-10, the LR had set target time and devised action plans for implementing the LTRS, and submitted them to the LTO Steering Committee (established by the LR in November 2004 to steer the review of the LTO) for information. However, since then, the LR had not set a target LTRS implementation date and devised an action plan with implementation timetable for steering and coordinating the various work for implementing the LTRS (paras. 3.12 and 3.26).

11. ***Need to make additional efforts to implement the LTRS.*** In February 2009, a Joint Subcommittee on Amendments to Land Titles Ordinance was established under the LegCo Panel on Development and the LegCo Panel on Administration of Justice and Legal Services to monitor the preparation of amendments to the LTO in a more focused manner and provide input in the bill drafting process. At the meetings of the LegCo Joint Subcommittee held in December 2010 and June 2011, LegCo Members had expressed: (a) disappointment with the poor progress of the Government's work in bringing the new LTRS into operation; (b) concerns that the Government had yet to come to any policy decision after gathering views and concerns from major stakeholders; and (c) regret with the Government's unsatisfactory progress since 2004 in taking forward the LTO amendment exercise. Up to September 2017, the LTO had not yet come into force and the LTRS had not been implemented. To reap the benefits of implementing the LTRS, there is a need for the DEVB and the LR to make additional efforts to implement the LTRS as early as possible, taking into account LegCo Members' concerns (paras. 3.16, 3.29 and 3.30).

Financial issues and performance reporting

12. ***Need to conduct regular fee reviews of all fee items.*** The LR charges customers statutory fees (specified in the Land Registration Fees Regulations (Cap. 128B)) and non-statutory fees (i.e. those fees not specified in the Regulations) for its services. Since its establishment in 1993, the LR conducted five fee reviews of all fee items at a time interval of 3 to 7 years between each review (i.e. in 1998, 2005, 2008, 2011 and 2016). Audit noted that the fee review in 2016 found that the overall cost recovery rate of non-statutory fees was only 67%. In the event, the LR revised the non-statutory fees in April 2017. The overall fee increase was 75%, with

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certain fee items increased significantly by 100% to 200%. There is scope for the LR to review fees more regularly so that the percentage of fee increase would be more moderate (paras. 4.2, 4.4, 4.7 and 4.8).

13. ***Need to keep under review the business operation and cost recovery of services.*** Registration of document is the LR's main services, which accounted for a high portion of the LR's turnover (ranging from 36% to 56% from 2010-11 to 2016-17). In recent years, the business volume of the services had dropped significantly. The number of land documents delivered for registration had dropped significantly by 45% and the related revenue dropped by 47% from 2010-11 to 2016-17. Audit noted that, for the registration of document services, there was a drastic change from over-recovery of costs of \$93 million in 2010-11 to under-recovery of costs of \$80 million in 2015-16. The significant under-recovery of costs might be one of the factors for the non-achievement of the target rate of return on ANFA in 2015-16 (actual of 4.1% against target of 6.9%). As the LR's business operation is dependent on the property market conditions, there is a need for the LR to keep under review its business operation and the cost recovery of its services, particularly the registration of document services (paras. 4.9 to 4.11).

14. ***Lack of differential pricing for different means of providing a service.*** The LR provides search and copying services by different means of delivery (e.g. counter service and online service). Although the cost for providing a service varied significantly with the means of delivery, the LR charged the same service fee. For example, in 2015-16, the LR charged \$15 for a service fee item while the cost of providing the service through counter was \$105 and online was \$11 (para. 4.12).

15. ***Need to review the compilation of actual performance information.*** Audit examination of the LR's compilation of actual performance information against the 30 performance targets for 2016-17 revealed that, for 24 performance targets, the LR compiled the actual performance information manually on a sample basis. In view of the limited sample size (e.g. 12 working days a year) in the compilation of actual performance information, Audit is concerned whether the compiled results could fairly reflect the LR's actual performance. Audit also noted that the LR relied on a manual system for compiling the actual performance information. There is merit for the LR to consider using more technology in compiling its actual performance information as far as practicable (paras. 4.17, 4.18 and 4.20).

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Audit recommendations

16. Audit recommendations are made in the respective sections of this Audit Report. Only the key ones are highlighted in this Executive Summary. Audit has recommended that the Land Registrar should:

Provision of services

- (a) update the LR's target completion date for the tidying up exercise of the land registers and endeavour to meet the target date (para. 2.22(a));
- (b) keep under review the errors corrected in the land registers and, where warranted, perform more detailed analysis of the corrected errors for monitoring and taking measures to enhance the accuracy of the land registers (para. 2.22(b));
- (c) keep under review and take measures to further improve the performance of NTSOs, taking into account the cost-effectiveness of operating these offices and the need for their services (para. 2.38(a));

Financial issues and performance reporting

- (d) conduct regular fee reviews of all fee items and revise the fees where necessary (para. 4.14(a));
- (e) keep under review the LR's business operation and the cost recovery of the LR's services, particularly the registration of document services, with a view to taking measures as far as possible to address the impact of the property market conditions on the services (para. 4.14(b));
- (f) consider adopting differential pricing for different means of providing a service (para. 4.14(c));
- (g) critically review the compilation of actual performance information for the 24 performance targets to ensure that the actual performance information is fairly presented (para. 4.26(a)); and

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- (h) **consider using more technology in compiling the LR's actual performance information as far as practicable (para. 4.26(c)).**

17. **Audit has also *recommended* that the Secretary for Development and the Land Registrar should:**

Implementation of land title registration system

- (a) **fully assess the complexity of the issues and the work involved in taking forward the implementation of the LTRS (para. 3.31(a));**
- (b) **set a target LTRS implementation date and devise an action plan with timetable for implementing the LTRS as soon as practicable, having regard to the assessment of the complexity of the issues and the work involved, views of stakeholders and the experience gained in the past years (para. 3.31(b));**
- (c) **report the target LTRS implementation date and submit the action plan to the LTO Steering Committee for consideration (para. 3.31(c)); and**
- (d) **make additional efforts to implement the LTRS as early as possible, taking into account LegCo Members' concerns and the audit findings on the implementation of the LTRS (para. 3.31(d)).**

Response from the Government

18. The Secretary for Development and the Land Registrar generally agree with the audit recommendations.

PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

Missions and functions of Land Registry

1.2 The Land Registry (LR), headed by the Land Registrar, aims to provide an efficient and effective land registration system to facilitate the orderly conduct of land transactions. Its missions are to:

- (a) ensure secure and customer friendly land registration and information services;
- (b) develop the LR's human resources, information technology and service environment so as to ensure improvement in service quality and value to its customers; and
- (c) advocate reform of Hong Kong's land registration system through introduction of title registration.

1.3 The LR performs the following main functions:

- (a) registration of documents affecting land (Note 1) under the Land Registration Ordinance (Cap. 128 — the LRO (Note 2)) and maintaining up-to-date land registers (Note 3);

Note 1: *In general, a document affects land if it calls for or prevents a change of land title or itself creates an interest in land.*

Note 2: *The LRO provides for the registration of deeds, conveyances, judgments and other instruments affecting real or immovable property, the keeping of LR records, and other matters relating to land registration.*

Note 3: *A land register records the owner particulars and incumbrances registered against each property.*

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- (b) provision of facilities for search of the land registers and supply of copies of registered documents and related records;
- (c) provision of property information to government departments and agencies; and
- (d) registration of owners' corporations and maintaining a register of owners' corporations under the Building Management Ordinance (Cap. 344 — the BMO).

Land Registry Trading Fund

1.4 On 1 August 1993, the Land Registry Trading Fund (LRTF) was established under the Trading Funds Ordinance (Cap. 430 — the TFO) to manage and account for the operation of the LR. The LRTF was financed by an initial capital injection of \$118.3 million and a loan of \$236.6 million from the Capital Investment Fund (Note 4). The loan was fully repaid in August 2003.

1.5 The Land Registrar is the General Manager of the LRTF. According to the TFO, the general manager of a trading fund is required to manage the trading fund with the objectives of:

- (a) providing an efficient and effective operation that meets an appropriate standard of service;
- (b) within a reasonable time, meeting expenses incurred in the provision of the government service and financing liabilities of the trading fund out of the income of the trading fund, taking one year with another; and

Note 4: *On 1 April 1990, the Legislative Council established the Capital Investment Fund by Resolution for the purpose of financing investments in the Mass Transit Railway Corporation (which became the MTR Corporation Limited on 30 June 2000), the Kowloon-Canton Railway Corporation, the Hong Kong Housing Authority, the New Hong Kong Tunnel Company Limited and such other bodies as the Finance Committee of the Legislative Council may specify.*

- (c) achieving a reasonable return, as determined by the Financial Secretary, on the fixed assets employed.

As a trading fund, the LR can retain the revenue generated from its business to cover the cost of service provision on a self-financing basis.

Governance framework

1.6 The LR is accountable to the Development Bureau (DEVB — Note 5) and the Financial Services and the Treasury Bureau (FSTB) for its business and financial performance respectively. The DEVB provides policy steer for the LR's work and the FSTB monitors the LR's financial performance.

1.7 A Framework Agreement, which governs the relationship between the Secretary for Development and the Land Registrar (as the head of the LR and the General Manager of the LRTF), came into effect on 1 August 1993. The Framework Agreement sets out the responsibilities of the Secretary and the Land Registrar, and the functions and objectives, services and organisation, financial planning and control, and pay and personnel of the LRTF.

1.8 According to the Framework Agreement:

- (a) the Secretary for Development is responsible for, inter alia:
 - (i) formulating and reviewing the Government's policies and aims with respect to the registration of land;

Note 5: *In July 2007, the DEVB was formed to take up, inter alia, the policy matters on the LR. Before July 2007, the policy responsibilities had been taken up by the then Housing, Planning and Lands Bureau (July 2002 to June 2007), the then Planning and Lands Bureau (January 2000 to June 2002), the then Planning, Environment and Lands Bureau (July 1997 to December 1999), and the then Planning, Environment and Lands Branch (before July 1997). For simplicity, all previous policy bureaux and branch responsible for the policy matters on the LR are referred to as the DEVB in this Audit Report.*

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- (ii) setting the policy objectives of the LRTF; and
 - (iii) setting performance targets for the LRTF in consultation with the Land Registrar; and
- (b) the Land Registrar is responsible to the Secretary for Development for, inter alia:
- (i) managing and operating the business of the LRTF and achieving the performance targets of the LRTF; and
 - (ii) advising on policy and legislative issues concerning land registration and the registration of title to land.

1.9 Under the Framework Agreement, the LRTF is required to submit annually a medium-range corporate and business plan to the Secretary for Financial Services and the Treasury for approval of the financial aspects of the plan and to the Secretary for Development for the overall approval of the plan. The plan sets out the LR's development for the coming five years and serves as the basis on which the LR's performance is evaluated.

1.10 Under the TFO, the LRTF's annual report, together with the audited financial statements, is required to be tabled in the Legislative Council (LegCo) each year.

Staff strength

1.11 The LR is organised into three functional branches and a number of supporting divisions. An extract of the LR's organisation chart is at Appendix A. As of June 2017, the LR had 583 staff, comprising 484 (83%) civil servants and 99 (17%) contract staff.

Financial performance of LRTF

1.12 Under the TFO, the LRTF is required to achieve a reasonable return on the fixed assets employed (see para. 1.5(c)). According to the FSTB, the rate of return is calculated as the LRTF's total comprehensive income (excluding interest income and interest expenses) divided by its Average Net Fixed Assets (ANFA — Note 6). The target rates of return on ANFA of the LRTF as determined by the Financial Secretary from 1993-94 to 2021-22 were as follows:

Period	Target rate of return on ANFA
1993-94 to 2005-06	10.0%
2006-07 to 2011-12	8.3%
2012-13 to 2016-17	6.9%
2017-18 to 2021-22	5.9%

During the 24-year period from 1993-94 to 2016-17, the LRTF achieved the target rates of return on ANFA except for one year in 2015-16 (see Appendix B).

1.13 Table 1 shows the financial performance of the LRTF from 2012-13 to 2016-17. Breakdowns of the turnover and operating costs of the LRTF for 2016-17 are shown in Figures 1 and 2 respectively.

Note 6: *ANFA is the average of the opening and closing balances of fixed assets in a financial year. Fixed assets for this purpose include property (e.g. land and buildings), plant and equipment, and intangible assets (e.g. computer software licences).*

Table 1

**Financial performance of LRTF
(2012-13 to 2016-17)**

Particulars	2012-13 (\$ million)	2013-14 (\$ million)	2014-15 (\$ million)	2015-16 (\$ million)	2016-17 (\$ million)
Turnover (a)	502	431	412	387	409
Operating costs (b)	362	370	384	373	382
Profit from operations (c)=(a)–(b)	140	61	28	14	27
Other income (Note 1) (d)	30	28	26	32	23
Profit before notional profits tax (e)=(c)+(d)	170	89	54	46	50
Notional profits tax (Note 2) (f)	27	14	8	7	8
Profit for the year (Note 3) (g)=(e)–(f)	143	75	46	39	42
Rate of return on ANFA	34.0%	15.8%	7.8%	4.1%	8.1%
Target rate of return on ANFA	6.9%				

Source: LRTF records

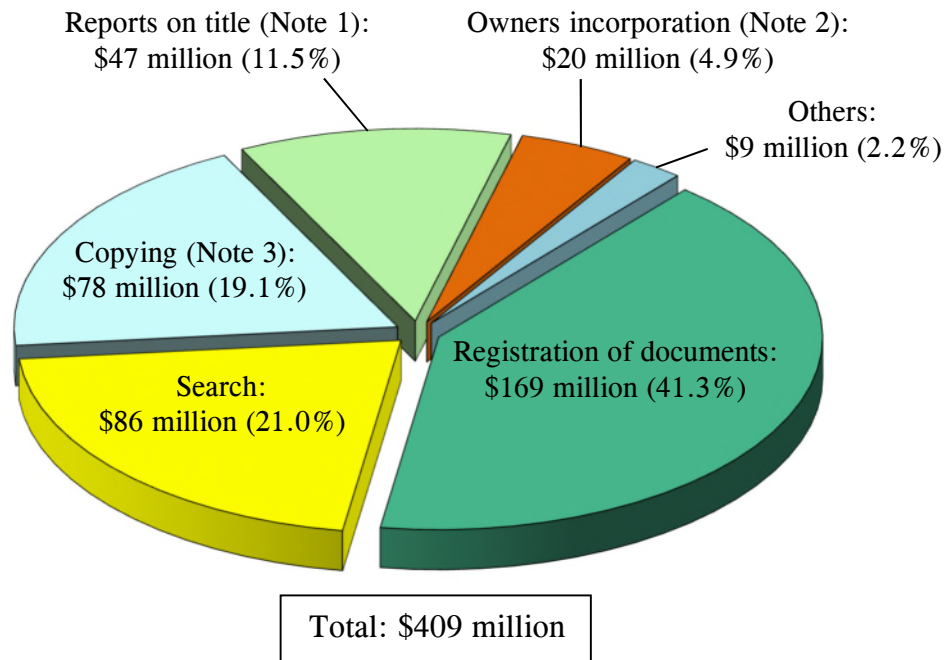
Note 1: Other income mainly included interest income.

Note 2: The LRTF does not need to pay profits tax under the Inland Revenue Ordinance (Cap. 112). However, for trading-fund purposes, it is required to pay the Government an amount equivalent to profits tax payable calculated on the basis of the provisions of the Inland Revenue Ordinance.

Note 3: Profit for the year was the same as total comprehensive income for the year (see para. 1.12) as there was no other comprehensive income.

Figure 1

**Turnover of LRTF
(2016-17)**



Source: LRTF records

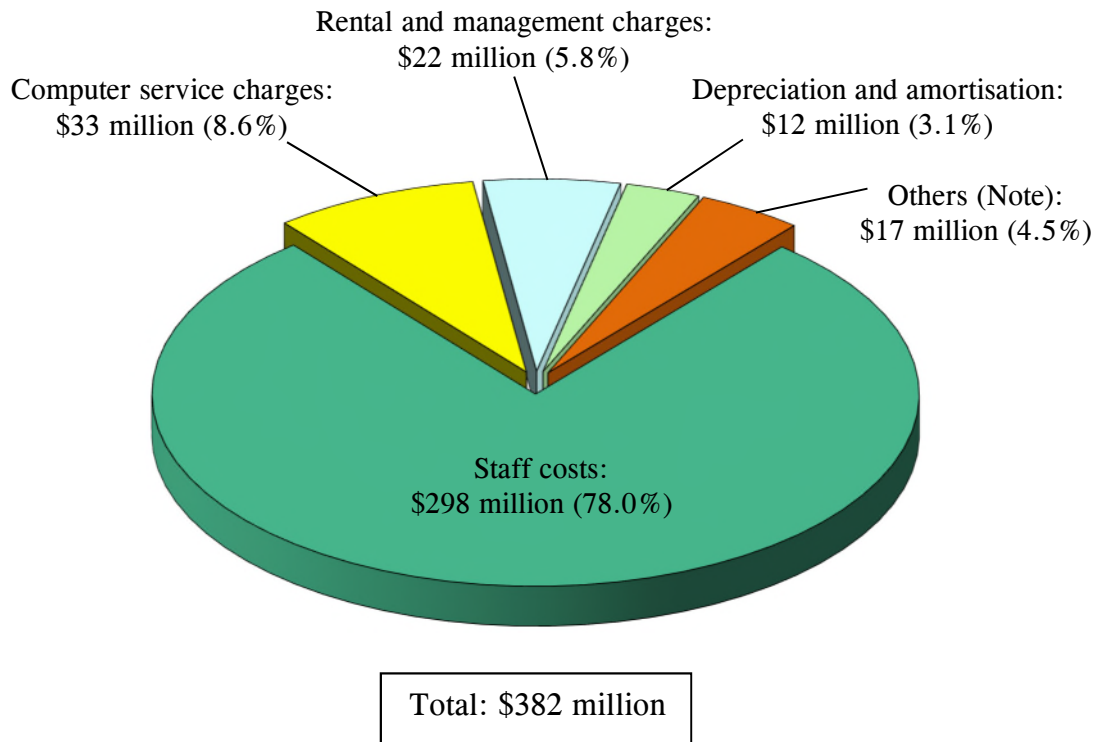
Note 1: “Reports on title” refers to services provided to government bureaux and departments such as conducting searches of the LR records, compiling reports of such searches, and preparing and verifying memorials to accompany documents for registration at the LR.

Note 2: “Owners incorporation” refers to income from services in administering the BMO. According to Financial Circular No. 3/2013 “Charging Arrangements for Trading Funds”, the LRTF collects on the Government’s behalf and pays into the general revenue such fees received from services provided under the BMO. The LRTF charges the Government for the full cost for providing the services under the BMO.

Note 3: “Copying” refers to services for supply of copies of registered documents and related records.

Figure 2

Operating costs of LRTF
(2016-17)



Source: LRTF records

Note: Others mainly included general operating expenses and central administrative overheads.

Land registration system in Hong Kong

1.14 At present, Hong Kong operates a deeds registration system (DRS) for recording land and property transactions under the LRO which was enacted in 1844 and is one of the oldest pieces of Hong Kong legislation still in use. The DRS only confers priority on registered deeds and serves as an index of registered instruments to the public. It provides no proof that the person registered as the owner has good title to the property and gives no guarantee to title. In order to establish title to property, it is necessary for the purchaser's solicitors in every case to check the historical title documents relating to all the transactions affecting the property that extend to not less than 15 years (as production of these documents is required under the Conveyancing and Property Ordinance (Cap. 219)) before entering into a new transaction of that property. According to the LR, the advantage of the DRS is its simplicity. The complexities of advice on title are left to the legal profession.

1.15 Since the late nineteenth century, many common law jurisdictions have implemented a land title registration system (LTRS). The LTRS provides conclusive evidence of title to property. It has proved to be an effective system for ensuring security and ease in dealing with property rights in jurisdictions with a high volume of property transactions.

1.16 In July 2004, the Land Titles Ordinance (Cap. 585 — the LTO) was enacted. The LTO aims to provide for a new LTRS that registers the titles to and the interests in land, with a view to providing greater certainty to property titles and simplifying conveyancing. In enacting the LTO, the Government undertook at the request of LegCo to carry out a comprehensive review before bringing the LTO into effect. Up to September 2017, the LTO had not yet been implemented.

Introduction

Audit review

1.17 In April 2017, the Audit Commission (Audit) commenced a review to examine the operation of the LR. The review focuses on the following areas:

- (a) provision of services (PART 2);
- (b) implementation of LTRS (PART 3); and
- (c) financial issues and performance reporting (PART 4).

Audit has found room for improvement in the above areas, and has made a number of recommendations to address the issues.

Acknowledgement

1.18 Audit would like to acknowledge with gratitude the full cooperation of the staff of the DEVB and the LR during the course of the audit review.

PART 2: PROVISION OF SERVICES

2.1 This PART examines the services provided by the LR, focusing on:

- (a) land registration services (see paras. 2.2 to 2.23); and
- (b) land information and owners' corporation services (see paras. 2.24 to 2.40).

Land registration services

2.2 Land registration services involve the registration of documents affecting land and maintaining up-to-date land registers. The deeds lodgement service is provided at the LR's Customer Centre in the Queensway Government Offices (QGO). According to the LR, there are currently over 3 million land registers (involving a total of about 23.7 million land documents). The number of land documents delivered for registration from 2012-13 to 2016-17 ranged from about 420,000 to 600,000 each year (see Table 2).

Table 2

**Number of land documents delivered for registration
(2012-13 to 2016-17)**

Year	Number of land documents
2012-13	598,843
2013-14	424,634
2014-15	505,894
2015-16	445,889
2016-17	468,630

Source: LR records

Land registration procedures

2.3 The LR's land registration procedures are as follows:

- (a) ***Inputting.*** Upon receipt of a deed or other document and the accompanying memorial (Note 7) lodged for registration, a Clerical Assistant will input the particulars in the memorial as required under Regulation 10 of the Land Registration Regulations (Cap. 128A) into the Integrated Registration Information System (IRIS — Note 8). The memorial entry will appear in the relevant land register under the “Deeds Pending Registration” section on the following day;
- (b) ***Checking.*** An Assistant Clerical Officer will scrutinise the document (i.e. first tier checking) to determine whether it is registrable under the LRO and its subsidiary legislation and whether the particulars required by Regulation 6 of the Land Registration Regulations are accurately contained in the memorial. The officer will also check if there are any data input errors and make necessary amendments;
- (c) ***Counter checking.*** A Clerical Officer will counter check the registration (i.e. second tier checking — Note 9) to ensure that the document is registrable. If the counter checking results are in order, the officer will endorse the registration of the document. The corresponding memorial entry will be moved from the “Deeds Pending Registration” section to the “Owner Particulars” section or “Incumbrances” section (as appropriate) of the relevant land register on the following day; and

Note 7: *A memorial in a form specified under the LRO is required to accompany each document lodged for registration. It contains the particulars of the document (e.g. date and nature of the document, address of the premises affected and name of the parties involved) as required under Regulation 6 of the Land Registration Regulations.*

Note 8: *In February 2005, the LR launched the IRIS to replace the old computer systems which were fully launched in 1997. The IRIS supports more efficient working procedures within the LR, provides Internet based services to customers and can be developed over time to meet new services and changing workload or organisational requirements.*

Note 9: *According to the LR, under the existing registration guidelines, the officer should counter check the registration of certain types of documents including Court Orders, Undertaking, Deed of Grant, Deed of Licence, and Deed of Confirmation.*

- (d) **Imaging.** The registered document will be scanned into the IRIS before it is returned to the lodging party. The imaged document is then made available for public search.

Need to update target completion date for tidying up exercise of land registers

2.4 According to the LR:

- (a) it maintains over 3 million land registers involving registered particulars of about 23.7 million land documents. The particulars entered into the land registers have been accumulated since 1844; and
- (b) throughout the years, land records were kept in different modes which had gone through various changes at different departments responsible for deeds registration, as follows:
 - (i) before 1949, registration of instruments affecting properties in Hong Kong Island and Kowloon was performed by the then Land Office (established in 1844 under the LRO) administered by different departments. In 1949, the Land Office merged with other functions (e.g. the Companies Registry and the then Office of the Official Receiver in Bankruptcy) to form the then Registrar General's Department;
 - (ii) before 1982, registration of instruments affecting properties in the New Territories was performed by the District Land Offices administered by the District Officers or District Land Officers. In 1982, the Registrar General's Department started a phased programme to take over all District Land Offices' land registration functions. Such programme was completed in 1990; and
 - (iii) in May 1993, upon the disestablishment of the Registrar General's Department, the LR was formed to take up the land registration functions of the Department.

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2.5 Before 1986, the land registers were kept manually. In 1986, a conversion exercise was commenced to convert the land registers from manual to computerised records (hereinafter referred to as the computerisation exercise). In 1997, the LR completed the computerisation exercise. The computerised records in the old computer systems were then converted to records in the IRIS which was launched in February 2005 (see Note 8 to para. 2.3(a)).

2.6 According to the LR, in the IRIS:

- (a) certain information (e.g. names of owners or nature of registered documents of historical transactions) was not shown in some land registers due to reasons including information that might not have been recorded on the manual land registers before the computerisation exercise or not input into the computerised land registers during the computerisation exercise in view of cost-effectiveness; and
- (b) some computerised land registers contained partial address in the “address” field, with the remaining part of the address in the “property remarks” field, as the length of the “address” field in computerised land registers was limited (before the implementation of the IRIS in 2005).

2.7 To address the information issue of the land registers as mentioned in paragraph 2.6, the LR conducted screening of all its land registers. Since June 2007, the LR has been conducting a tidying up exercise for filling up the related information to meet customers’ expectation of complete land registers and strengthen the reliability of the land records. As of April 2017:

- (a) of the 3.25 million memorial entries (Note 10) with possible particulars found not shown, some 2.5 million (77%) had been checked and updated as needed;
- (b) all of the 120,000 registers with possible partial address had been checked and updated as needed; and

Note 10: *A memorial entry contains major particulars disclosed in a memorial entered into the computerised land register.*

- (c) of the 110,000 registers with possible nature of documents found not shown, some 14,000 (13%) had been checked and updated as needed. The LR was exploring an approach to update the remaining registers using its information system.

2.8 According to the LR:

- (a) the tidying up exercise was originally targeted for completion by the end of 2018; and
- (b) due to high staff turnover and some vacant contract staff posts not filled, there might be a slippage in completing the exercise.

In Audit's view, in order to strengthen the completeness and reliability of land registers, the LR needs to update its target completion date for the tidying up exercise and endeavour to meet the target date.

Need to enhance accuracy of information in land registers

2.9 According to the LR, typographical errors or discrepancies in the entries in the land registers (collectively referred to as "errors" by the LR) regarding the 23.7 million land documents (see para. 2.4(a)) are identified from time to time by the following means:

- (a) ***Quality control check of LR.*** Apart from the two-tier checking mechanism (see para. 2.3(b) and (c)), LR officers randomly select 50 documents each day from those registered on the same day for checking by repeating the registration procedures for the documents selected. Any discrepancies identified will be investigated and rectified;
- (b) ***Daily operation of LR.*** From time to time, LR officers may spot errors in the land registers when carrying out daily operation (e.g. when processing the registration of documents for a particular property); and

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- (c) *External parties' amendment requests.* External parties may request amendment of registered data on the land registers.

The identified errors will be corrected after checking and approval by officers of higher rank (Land Registration Officers).

2.10 The LR classifies the identified errors into the following three types:

- (a) *Conversion errors.* They include errors made long time ago when converting the land registers from manual to computerised records in the computerisation exercise completed in 1997 and errors occurred in the manual land registers historically before computerisation which were inherited by the LR from its predecessors (see para. 2.4(b));
- (b) *Registration errors.* They are errors made during the course of registration of documents since the commencement of the LRO in 1844; and
- (c) *Memorial errors.* They are errors made primarily by the lodging solicitors when completing the memorial for lodging a document for registration (Note 11).

2.11 From 2012-13 to 2016-17, the total number of errors corrected in the land registers each year ranged from 5,737 to 7,564 (see Table 3). The number of conversion errors corrected fluctuated during the years ranging from 2,926 to 5,722. The number of registration and memorial errors in general declined from 2,820 to 1,162 and 728 to 436 respectively in the past five years.

Note 11: *Under Regulation 7 of the Land Registration Regulations, every memorial shall be verified by the lodging party that the memorial contains a just and true account of the several particulars therein set forth as required by the Regulations. According to the LR's registration procedures, its officers are required to check whether the particulars required by Regulation 6 of the Regulations are accurately contained in the memorial (see para. 2.3(b)).*

Table 3

Number of errors corrected in land registers
(2012-13 to 2016-17)

Year	Number of errors corrected			
	Conversion errors	Registration errors	Memorial errors	Total
2012-13	3,103 (47%)	2,820 (42%)	728 (11%)	6,651 (100%)
2013-14	4,309 (57%)	2,394 (32%)	861 (11%)	7,564 (100%)
2014-15	2,926 (51%)	2,061 (36%)	750 (13%)	5,737 (100%)
2015-16	3,947 (65%)	1,520 (25%)	562 (10%)	6,029 (100%)
2016-17	5,722 (78%)	1,162 (16%)	436 (6%)	7,320 (100%)

Source: Audit analysis of LR records

2.12 To facilitate the conduct of land and property transactions, it is imperative that the land registers contain accurate registered information. While the LR’s analysis of the corrected errors by the three types generally gives information of their nature, Audit considers that, to provide better management information for monitoring the accuracy of the land registers, there is merit to perform more detailed analysis of the errors identified. For example, regarding registration errors, it may be beneficial to perform analysis of:

- (a) **Seriousness of the errors.** The registration errors may, for example, involve typographical errors of name of property owners and addresses. While the information in the land registers is not conclusive evidence of title to property, errors in the information in the land registers may cause confusion and inconvenience to users of the information; and
- (b) **Possible causes of the errors.** Such analysis may also cover how the errors were made and whether any LR officer had persistently made errors for monitoring and taking follow-up actions (e.g. strengthening training for the officers concerned).

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2.13 According to the LR:

- (a) the majority of the errors were identified by LR officers during the quality control check and daily operation (see para. 2.9(a) and (b)), and the rest by external parties;
- (b) the errors were mainly minor in nature, such as typographical errors (e.g. “Agreement for Sale and Purchase” mistyped as “Agreement for Sale and Purchaser”, “XX Bank, Limited” mistyped as “XX Bank Limited” and “Ltd.” mistyped as “Ltd”);
- (c) it had implemented various measures over the years to enhance the accuracy in data input and registration which had attributed to the decline in the number of registration and memorial errors. These measures included the implementation of the e-Memorial Form (see para. 2.15), double data entry of the “consideration” and “premises affected” fields, mandatory second tier checking for certain types of instruments, separating the data input function from the registration function, provision of a comprehensive set of registration guidelines for staff’s compliance and the implementation of a Knowledge Management System for staff’s easy reference;
- (d) conversion errors included errors made long time ago (see para. 2.10(a)). As these errors were historical, it was not possible to ascertain from the manual land registers who made the errors;
- (e) regarding the errors made when converting the land registers from manual to computerised records in the computerisation exercise completed in 1997, the old land registration computer system had already been replaced by the IRIS in 2005 (see Note 8 to para. 2.3(a)). Therefore, performing analysis of these errors was impossible; and
- (f) regarding registration and memorial errors, manual checking of the errors will involve a lot of resources and is not practicable.

2.14 Audit considers that the LR needs to keep under review the errors corrected in the land registers and, where warranted, perform more detailed analysis of the corrected errors for monitoring and taking measures to enhance the accuracy of the land registers.

Need to improve usage of e-Memorial Form

2.15 A lodging party is required to submit a memorial together with the document lodged for registration at the LR (see para. 2.3(a)). In November 2007, to facilitate the lodging party in preparing the memorial, the LR launched an e-Memorial Form as an alternative to the conventional pre-printed form being provided at a cost (\$15 for each book of 100 forms). The e-Memorial Form is an electronic template of the memorial available on the LR's website for free downloading. The e-Memorial Form was enhanced in July 2009 and January 2012 (Note 12).

2.16 Table 4 shows the usage rate of the e-Memorial Form from 2012-13 to 2016-17. While its usage rate had generally increased over the years, the conventional pre-printed forms still accounted for about one-third of the total number of forms received. As the use of e-Memorial Form would improve the efficiency and accuracy of updating the land registers, Audit considers that the LR needs to take measures to further promote the use of e-Memorial Form.

Note 12: *In July 2009, the LR enhanced the e-Memorial Form by adopting the two-dimensional barcode technology so that key particulars filled up in the form were converted into a two-dimensional barcode to be printed on the form. By scanning the barcode, the data therein would be read into the IRIS. In January 2012, two versions of the e-Memorial Form were introduced, namely a basic version with an auto-fill function and another one with data import function.*

Table 4

**Usage rates of e-Memorial Forms
(2012-13 to 2016-17)**

Year	Total number of pre-printed forms and e-Memorial Forms received (a)	Number of e-Memorial Forms received (b)	Usage rate of e-Memorial Forms (c) = $\frac{(b)}{(a)} \times 100\%$
2012-13	598,843	323,048	54%
2013-14	424,634	238,875	56%
2014-15	505,894	301,986	60%
2015-16	445,889	284,848	64%
2016-17	468,630	318,957	68%

Source: Audit analysis of LR records

***Need to explore the way forward for
the one-stop stamp duty collection and deed registration service***

2.17 A document to be registered at the LR, if chargeable with stamp duty under the Stamp Duty Ordinance (Cap. 117), is required to be duly stamped at the Stamp Office of the Inland Revenue Department (IRD) before it is delivered to the LR for registration. In February 2003, with a view to providing better services to the public, the IRD proposed that the LR could collect stamp duty on behalf of the IRD and provide a one-stop stamp duty collection and deed registration service (hereinafter referred to as the one-stop service). In response, in March 2003, the LR agreed in principle to provide the one-stop service. In December 2005, the LR informed the IRD that amendments to the TFO were required to enable the LR to provide agency services to government departments.

2.18 The one-stop service was originally planned to be launched in August 2006. In June 2006, it was considered that administrative means be explored for implementing the one-stop service as the legislative amendment exercise might not be initiated until after the LTO work (see PART 3) had proceeded first. In September 2006, the LR informed the IRD that the proposed amendments to the TFO would only be taken forward after passing the amendment bill for the LTO. In December 2010, the LR invited the IRD to consider empowering the LR to collect stamp duty on the IRD's behalf through incidental amendments to the Stamp Duty Ordinance.

2.19 In September and October 2017, the IRD informed Audit that:

- (a) the Stamp Duty Ordinance did not prevent arrangements where an entity collected stamp duty on behalf of the IRD. At present, the Hongkong Post, being a trading fund, and some designated convenience stores collect stamp duty on behalf of the IRD without the need of making amendments to the Stamp Duty Ordinance;
- (b) the duty payers could also pay stamp duty via electronic means (e.g. credit card);
- (c) in 2006, the IRD considered that the one-stop service might be able to boost the take-up rate of the e-Stamping service (launched in August 2004 with the take-up rate of around 40% at that time) and would save time for stamping and registration; and
- (d) in 2016-17, the e-Stamping service take-up rate increased to 75%, which indicated that the e-Stamping service had been well received by the public. Thus, the IRD considered that there was no urgent need to implement the one-stop service.

2.20 In September and October 2017, the LR informed Audit that:

- (a) although the convenience that the one-stop service could bring to customers might not be as great as initially envisaged with the introduction of online payment of stamp duty by the IRD, the LR was still exploring the option as proposed by the IRD; and

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- (b) the Hongkong Post was empowered under the subsidiary legislation of the TFO for the Post Office Trading Fund (Cap. 430E) to provide agency services for government departments, public bodies and public utilities. Under this provision, the Hongkong Post could collect stamp duty on the IRD's behalf without any corresponding amendments to the Stamp Duty Ordinance. As there was no similar provision under the subsidiary legislation of the TFO for the LRTF (Cap. 430A) empowering the LR to provide agency services for government departments, and the services to be provided by the LRTF as specified under the subsidiary legislation included "any service that the Land Registrar may be authorised to provide under or by virtue of any Ordinance", amendments to either the subsidiary legislation or the Stamp Duty Ordinance would be required to enable the LR to collect stamp duty on behalf of the IRD.

2.21 In Audit's view, to provide better services to the public, the LR needs to, in collaboration with the IRD, explore the way forward for the one-stop service.

Audit recommendations

2.22 **Audit has recommended that the Land Registrar should:**

- (a) **update the LR's target completion date for the tidying up exercise of the land registers and endeavour to meet the target date;**
- (b) **keep under review the errors corrected in the land registers and, where warranted, perform more detailed analysis of the corrected errors (e.g. seriousness and possible causes of the errors) for monitoring and taking measures to enhance the accuracy of the land registers;**
- (c) **take measures to further promote the use of e-Memorial Form; and**
- (d) **in collaboration with the Commissioner of Inland Revenue, explore the way forward for the one-stop stamp duty collection and deed registration service.**

Response from the Government

2.23 The Land Registrar generally agrees with the audit recommendations. She has said that the LR will explore using the IRIS for tracking and monitoring the errors that were made after the implementation of the IRIS in 2005.

Land information and owners' corporation services

Search and copying services

2.24 The LR provides services for searching land registers and supplying copies of registered documents and related records. Search and copying services are provided over the Internet via the IRIS and search counters at the Customer Centre in the QGO and three New Territories Search Offices (NTSOs) in Tsuen Wan, Tai Po and Yuen Long. During 2012-13 to 2016-17, about 90% of searches had been conducted online and the remaining 10% over the counter (see Table 5).

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Table 5

**Search and copying services
(2012-13 to 2016-17)**

Service	2012-13 (No.)	2013-14 (No.)	2014-15 (No.)	2015-16 (No.)	2016-17 (No.)
<i>Search services</i>					
Online search	5,011,354 (91%)	4,260,234 (91%)	4,738,037 (92%)	4,647,371 (92%)	4,893,606 (92%)
Counter search	474,907 (9%)	410,299 (9%)	434,553 (8%)	399,435 (8%)	426,355 (8%)
Total	5,486,261 (100%)	4,670,533 (100%)	5,172,590 (100%)	5,046,806 (100%)	5,319,961 (100%)
<i>Copying services</i>					
Imaged copies and photocopies of land records supplied	795,329	829,181	778,354	797,303	747,969

Source: Audit analysis of LR records

Owners' corporation services

2.25 The LR is responsible under the BMO and the TFO for carrying out owners' corporation services, including:

- (a) processing and approval of applications for owners' corporation registration;
- (b) issuing certificates of registration;
- (c) maintenance of a register of corporations;

- (d) filing of the prescribed documents under the BMO in individual corporation files; and
- (e) provision of search services of the register of corporations and the corporation files (hereinafter referred to as the owners' corporation records) to the public.

2.26 The owners' corporation records are kept manually in the LR offices in the QGO and the three NTSOs based on the districts where the owners' corporations are situated (Note 13). These offices provide owners' corporation services on a district basis. As of June 2017, there were 10,550 owners' corporations, of which 8,780 (83%) were served by the QGO office and 1,770 (17%) by the three NTSOs.

Need to keep under review performance of NTSOs

2.27 ***Financial performance.*** The three NTSOs in Tsuen Wan, Tai Po and Yuen Long (each manned by four to five staff and located at government buildings with net floor area of 80 square metres to 146 square metres) provide counter search and copying, and owners' corporation services. Audit noted that all the three NTSOs had incurred operating losses ranging from \$0.9 million to \$2 million each year during 2012-13 to 2016-17 (see Table 6). The operating losses for the NTSOs in Tsuen Wan, Tai Po and Yuen Long had, in general, been increasing during the first four years and decreased in 2016-17. Their respective operating losses in 2016-17 were \$1.3 million, \$1.1 million and \$1.6 million.

Note 13: *The owners' corporation records are kept in the relevant LR offices as follows:*

<i>LR office</i>	<i>Districts where the owners' corporations are situated</i>
<i>QGO office</i>	<i>Hong Kong Island, Kowloon and Islands</i>
<i>Tsuen Wan Search Office</i>	<i>Tsuen Wan and Tuen Mun</i>
<i>Tai Po Search Office</i>	<i>North, Sai Kung, Sha Tin and Tai Po</i>
<i>Yuen Long Search Office</i>	<i>Yuen Long</i>

Provision of services

Table 6

**Operating losses of three NTSOs
(2012-13 to 2016-17)**

NTSO	Operating loss (\$'000)				
	(Note 1)				
	2012-13	2013-14	2014-15	2015-16	2016-17 (Note 2)
Tsuen Wan	1,412	1,776	1,977	2,031	1,328
Tai Po	1,214	1,178	1,642	1,861	1,077
Yuen Long	887	1,513	1,603	1,666	1,570

Source: LR records

Note 1: According to the LR: (a) the income of the NTSOs in Tsuen Wan, Tai Po and Yuen Long could normally cover their direct operating costs; (b) their income was not able to cover their direct operating costs only occasionally; and (c) during 2012-13 to 2016-17, the NTSO in Tsuen Wan was not able to cover its direct operating costs from 2013-14 to 2015-16 while the NTSOs in Tai Po and Yuen Long were not able to cover their direct operating costs only in 2015-16.

Note 2: According to the LR, the decrease in operating loss for each of the three NTSOs in 2016-17 was mainly due to the increase in business volume in general and the increase in reimbursement from the Home Affairs Department for administering the BMO mainly arising from the rectification of charging basis (i.e. including accommodation costs for the area of public search and storage space of owners' corporation records in the calculation) in order to recover full costs incurred in providing the required services under the BMO with effect from 2015-16 (resulting in an increase in 2016-17 reimbursement and the recovery of 2015-16 under-provision in 2016-17).

Remarks: The revenue of NTSOs included fees received from search and copying services, and reimbursement from the Home Affairs Department for administering the BMO while the expenditure included staff costs, rental and management charges, other operating expenses and allocated costs from the LR Headquarters.

2.28 ***Operational performance.*** The operational performance of each of the three NTSOs for the five-year period from 2012-13 to 2016-17 is shown at Appendix C. Audit noted that:

- (a) for each of the five years, the daily average number of visitors requesting search and copying services was below 55 for the NTSOs in Tsuen Wan and Tai Po, and below 100 for the NTSO in Yuen Long. The daily average number of visitors were 35, 40 and 76 for the respective NTSOs in 2016-17;
- (b) for each of the five years, the daily average number of visitors requesting owners' corporation services at each NTSO was not more than 5. The daily average number of visitors had been dropping from 5 to 3 for the NTSO in Tai Po. The NTSO in Yuen Long had the lowest daily average number of visitors of 2 to 3 for each of these years;
- (c) the demand for search and copying services at each NTSO had fluctuated during the five-year period. In 2016-17, each NTSO processed around 51,000 to 64,000 search requests and around 4,000 to 9,000 copying requests; and
- (d) the demand for owners' corporation services had fluctuated during the five-year period. Each NTSO processed not more than 15 registration applications during each of the five years and handled not more than 47 inspections in 2016-17.

2.29 ***Proposal to close the three NTSOs shelved.*** Before May 2009, the LR had four other NTSOs located in the North District, Sai Kung (both offices closed in April 2007), Tuen Mun (closed in May 2008) and Sha Tin (closed in May 2009). In view of the decreasing demand for counter services and cost-effectiveness in maintaining these offices, after consulting the Home Affairs Department (HAD — Note 14) and the related District Councils, the LR closed these offices. In June 2009, the LR further consulted the HAD on its proposal to close the remaining three NTSOs and centralise their services at the Customer Centre in the QGO in view of the low

Note 14: *The Secretary for Home Affairs, who is the authority of the BMO, is responsible for administering the legislation and providing the resources for the owners' corporation services. The HAD is the executive department regarding owners' corporation matters.*

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demand for their services and their continued operating losses. In July 2009, the HAD stated that it did not support the proposal because:

- (a) the LR's proposal acted against the Government's policy objective of promoting effective building management and maintenance; and
- (b) owners' corporation services should be easily accessible and the LR's proposal would cause great inconvenience and difficulty to residents in the New Territories. The HAD envisaged that there would be considerable objection and concerns from the public and LegCo.

The LR's proposal has since then been shelved.

2.30 In view of their continued operating losses and low patronage (see paras. 2.27 and 2.28), Audit considers that the LR needs to keep under review and take measures to further improve the performance of NTSOs, taking into account the cost-effectiveness of operating these offices and the need for their services.

Need to explore the feasibility of computerising owners' corporation records

2.31 At present, the LR keeps owners' corporation records manually at the offices concerned (see para. 2.26). It considers that computerisation of the records would bring about benefits (e.g. preserving records in a more secure way, enabling the provision of cross-district search services, and enhancing operational efficiency and cost-effectiveness in the maintenance, access and backup of related records).

2.32 In October 2011, the LR proposed to the HAD to computerise owners' corporation records, including the keeping, maintaining and searching of the records. In response, in April 2012, the HAD said that the proposed computerisation project was supported having regard to the growing trend towards e-services provided by the Government. In June 2012, the LR informed the HAD of the estimated cost of the feasibility study and the need for legislative amendments to the BMO to support computerisation of owners' corporation records without parallel running of the manual operations. Pending the availability of funding for the feasibility study, in July 2013, the LR further proposed to the HAD to proceed direct to system analysis and design stage of the proposal in order to save cost and time. The proposal was later shelved

because of the need to sort out the appropriate funding arrangement for the proposal. In March and May 2017, having regard to the trend towards e-services provided by the Government, the LR revisited the computerisation proposal with the HAD. In June 2017, the HAD agreed to consider incorporating suitable express enabling provisions in the BMO to pave the way for operating the electronic mode of owners' corporation services, whilst the appropriate funding arrangement should be explored in parallel. In Audit's views, the LR needs to, in collaboration with the HAD, explore the feasibility of computerising the owners' corporation records.

Low subscription of e-Alert service for property owners

2.33 In July 2015, the LR launched an e-Alert service for subscription by property owners to improve customer service. Under the service, when a document is lodged for registration against a relevant property, an e-mail notification will be sent to the owner.

2.34 According to the LR:

- (a) the majority of the start-up costs for developing the e-Alert service for property owners had been absorbed by the LR's existing resources. The costs of hiring contract staff to assist in the development of the service amounted to about \$0.95 million;
- (b) recurrent costs in providing the service had been absorbed by the LR's existing resources; and
- (c) it had carried out a number of promotional activities for the service, including issuing press release, posting related message on its website, issuing letters to owners' corporations and displaying posters and/or distributing leaflets at its offices, public libraries and community halls.

2.35 Audit noted that for the e-Alert service for property owners, in the fee proposal submitted to the FSTB for approval in February 2015, the LR estimated that the number of subscription orders would reach about 41,000 per year. However, during the two-year period from July 2015 (launch of the e-Alert service) to June 2017, the LR had only received 263 subscription orders (with revenue of some

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\$38,000) for the service, falling far short of the LR's estimate of 41,000 orders per year.

2.36 In September 2017, in response to Audit's enquiry, the LR said that:

- (a) the LR had conducted customer service survey, online survey and face-to-face interview at its customer counter to assess the potential demand for the e-Alert service for property owners. In light of the very favourable responses collected from the survey/interview, in the fee proposal first submitted to the FSTB for approval in December 2012, the LR estimated that the number of subscription orders would reach about 41,000 per year; and
- (b) since the e-Alert service for property owners was a new service and there was no previous business volume for reference, the 41,000 subscription orders per year was only a guesstimate that could be made by the LR.

2.37 In view of the low subscription of the e-Alert service for property owners, Audit considers that the LR needs to ascertain the reasons for the low subscription and make continued efforts to improve and promote the service.

Audit recommendations

2.38 **Audit has *recommended* that the Land Registrar should:**

- (a) **keep under review and take measures to further improve the performance of NTSOs, taking into account the cost-effectiveness of operating these offices and the need for their services;**
- (b) **in collaboration with the Director of Home Affairs, explore the feasibility of computerising the owners' corporation records; and**
- (c) **ascertain the reasons for the low subscription of the e-Alert service for property owners and make continued efforts to improve and promote the service.**

Response from the Government

2.39 The Land Registrar generally agrees with the audit recommendations. She has said that:

- (a) the LR will continue with efforts to improve the performance of the NTSOs. Possible measures will be explored to improve the performance of the NTSOs;
- (b) the HAD did not support the proposal to close the three NTSOs (see para. 2.29); and
- (c) maintenance of the three NTSOs for the operation and delivery of services requires a minimum number of staff. On-going performance monitoring is in place to optimise manpower utilisation in the NTSOs. For example, staff of the NTSOs have been assigned additional tasks of preparing reports on owners' corporation records for "reports on title" requested by government departments and agencies, and compiling returns to the HAD on registration of owners' corporations and filing of documents.

2.40 The Director of Home Affairs agrees with the audit recommendation in paragraph 2.38(b).

PART 3: IMPLEMENTATION OF LAND TITLE REGISTRATION SYSTEM

3.1 This PART examines the work of the DEVB and the LR in implementing the LTRS.

Background

Limitations of DRS

3.2 At present, the LR operates the DRS for recording interests in land and property in Hong Kong through a system of registering deeds. The DRS only confers priority on registered deeds and gives no guarantee to title (see para. 1.14). In order to establish title, every time there is a transaction of a property, the title documents have to be checked again.

3.3 According to the LR, although the DRS in Hong Kong has been modernised through computerisation, the DRS has inherent limitations, including the following:

- (a) over time, uncertainties can arise as to the interpretation of the various documents, which can give rise to the delays, costs of litigation and difficulty in dealing with particular properties;
- (b) there are rights over property (called unregistered interests) that are allowed by the common law even though they have not been registered. The fact that unregistered interests may exist gives rise to uncertainties, costs and complications in conveyancing; and
- (c) safekeeping of the huge volumes of historical documents on each property is a burden for banks and individual owners. There is risk of damage, loss or theft.

Converting to LTRS desirable

3.4 Many common law jurisdictions have implemented the LTRS since the late nineteenth century. Under the LTRS, the title to land and property is registered. The title register provides conclusive evidence of title to property and it is no longer necessary to review the historical title documents to prove title. The Government started to review the desirability of converting the DRS to the LTRS in May 1988 and concluded it desirable to do so in December 1988 (Note 15).

LTO not implemented long time after its enactment

3.5 The Government introduced a Land Titles Bill in 1994 and a revised one in 2002 into LegCo (see paras. 3.8 and 3.9). In July 2004, the LTO was enacted. The LTO aims to provide for the LTRS which will bring about benefits of providing greater certainty to property titles and simplifying the procedures of checking title documents upon conveyancing (see Appendix D for the main features of the two systems). However, up to September 2017, the LTO had not yet come into force and the LTRS had not been implemented.

3.6 Over the years, the implementation of the LTRS involved various complex issues. In general, there were considerable deliberations and divergent views among various stakeholders on the following three main issues:

- (a) conversion mechanism:
 - (i) the conversion mechanism is the means to bring existing land and properties to which the LRO currently applies over to the titles registered under the LTRS, and governs how the unregistered interests that may exist under the common law are to be handled during the conversion; and

Note 15: *In May 1988, a Working Party on Title Registration, chaired by the then Registrar General (head of the then Registrar General's Department — see para. 2.4(b)) with members comprising practising solicitors and academia, was set up to consider the desirability of converting the DRS to the LTRS. In December 1988, the Working Party, after considering the major types of registration systems operating in other jurisdictions, concluded that conversion to the LTRS was desirable.*

Implementation of land title registration system

- (ii) during the deliberations, there existed divergent views on the conversion mechanism among stakeholders. Some stakeholders preferred a compulsory and automatic conversion arrangement (i.e. all land registers would be converted to the LTRS immediately on the commencement day of the LTO or automatically by the end of an interim period), while other stakeholders preferred to convert the existing land registers gradually;

- (b) rectification arrangements:
 - (i) where the title register becomes inaccurate due to fraud, a void or voidable instrument, mistake or omission, it may be rectified. Rectification refers to the procedures to allow for correcting errors in the title register, including dealing with whether to restore an innocent former owner's title to a property if he has lost it as a result of fraud; and

 - (ii) during the deliberations, some stakeholders objected to the mandatory rectification rule (the MR rule — see para. 3.11(b)) as it might undermine public confidence in the title register as conclusive evidence of titles, while others considered it necessary to retain the rule so that the defrauded former owners could recover their properties; and

- (c) indemnity arrangements:
 - (i) a person who has relied on the title register and suffered loss due to its inaccuracy (as a result of fraud by any person resulting in loss of ownership, or loss due to any mistake or omission of LR officers) may claim indemnity. Indemnity is the compensation that will be paid to an innocent person if he suffers loss due to such inaccuracy in the title register; and

 - (ii) during the deliberations, the Government considered that a cap should be set on the indemnity for each case of loss of title due to fraud, while some stakeholders expressed concerns on setting a cap and the level of the cap if one had to be set.

According to the LR, the three main issues are highly complex and closely interrelated, such that proposals to address one issue would have implications on the other two issues. The LR also considers that, in addition to these three main issues, the implementation of the LTRS involves complicated legal concepts and technical issues, which require detailed consideration (e.g. treatment of existing rights under the common law and unregistered interest created prior to the implementation of the LTRS, and interface with other legislation (see para. 3.14(c)(i)).

3.7 The work of the DEVB and the LR in the implementation of the LTRS is shown in paragraphs 3.8 to 3.22 and a summary of the LR's proposals to address the three main issues is at Appendix E. Audit has found room for improvement in their work (see paras. 3.23 to 3.31).

Government's efforts in implementation of land title registration system

3.8 *Land Titles Bill introduced in 1994.* In November 1994, the Government introduced a Land Titles Bill into LegCo with a view to converting the DRS to the LTRS. The Bills Committee had concerns on certain provisions in the Bill (mainly related to the automatic conversion mechanism, known as midnight conversion — Note 16). Since the issues could not be resolved before the end of the legislative session in July 1995, the Bill lapsed.

3.9 *Revised Land Titles Bill introduced in 2002.* After the lapse of the Bill in 1995, the Government maintained dialogue with various stakeholders and a number of amendments were subsequently made to the original Bill. After consulting the then LegCo Panel on Planning, Lands and Works (in January and November 1999 and July 2002) and further consulting concerned parties, in December 2002, the Government introduced a revised Land Titles Bill into LegCo (2002 Bill). The 2002 Bill proposed to convert the land registers under the DRS to the LTRS gradually with conversion to take place upon the first transfer of the property supported by a solicitor's certificate of good title (known as gradual conversion). A Bills Committee was formed to scrutinise the 2002 Bill during March 2003 to June 2004.

Note 16: *Under the proposed midnight conversion mechanism, land registers under the DRS would be deemed to be title registers under the LTRS automatically on the day when the new system came into operation.*

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3.10 *Enactment of LTO in 2004.* During the scrutiny of the 2002 Bill by the Bills Committee, due to reservation about the requirement for a solicitor's certificate of good title, the conversion mechanism was revised to allow for automatic conversion of existing land registers. The Government proposed to commence the LTO two years after its enactment so as to allow sufficient time for putting in place the relevant regulations and finalising the guidance notes for legal practitioners and members of the public. The Government also undertook to conduct a review of the LTO during the two-year period between its enactment and commencement (post-enactment review) and to take follow-up actions on various issues (Note 17) raised during the scrutiny of the Bill by the Bills Committee. In the event, the 2002 Bill (as amended by all the amendments moved by the Government during the scrutiny by the Bills Committee) was passed by LegCo and the LTO was enacted in July 2004.

3.11 Under the enacted LTO, the three main issues are, in general, addressed as follows:

- (a) *Conversion mechanism.* Due to reservations about the requirement for a solicitor's certificate of good title under the gradual conversion mechanism (see para. 3.9), an automatic conversion mechanism known as daylight conversion is introduced, as follows:
 - (i) from the commencement day of the LTO, new land will be registered under the LTRS;

Note 17: *These issues mainly involved follow-up actions on four areas, namely: (1) making of rules and regulations; (2) preparation of guidelines and guidance notes; (3) consideration of further consequential amendments arising from the Bill; and (4) review of various clauses of the Bill after its enactment.*

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- (ii) upon the expiry of a 12-year period (from the commencement day), all existing land registered under the LRO will be brought automatically to the LTRS except where either a caution against conversion (Note 18) stands or where matters lodged for registration under the LRO have not yet completed registration; and
 - (iii) during the 12-year period, all unregistered interests could be protected by registration of a notice of a claim known as caveat under the LRO;
- (b) ***Rectification arrangements.*** The court shall order the rectification of the title register in favour of an innocent former owner who lost his title as a result of fraud and a void instrument (referred to as the MR rule) and the innocent purchaser will be protected by a capped indemnity (see (c) below). The LR may rectify any error or omission on the LR's volition if the rectification will not materially affect the owner's interest. For other cases on application, the court may order rectification if it is satisfied that the entry was obtained or omitted as a result of mistake, omission, or a void or voidable instrument; and
- (c) ***Indemnity arrangements.*** There will be an indemnity scheme for an innocent person who suffered loss due to an inaccuracy in the title register. For the loss due to an entry in or omitted from the register as a result of mistake or omission of LR officers, full compensation will be provided. For the loss due to fraud which resulted in the loss of ownership of a property, the indemnity payable would be capped at the lesser of the value of interest in land or an amount determined by the Financial Secretary by notice published in the Gazette. The proposed cap is \$30 million for each case.

Note 18: *Cautions against conversion to the title register can be registered under the LRO within the 12-year period. Such cautions may be registered only in respect of any claim of title to the land or beneficial interest in the land, and will lapse after 12 months unless the cautioner has commenced court proceedings to establish his claim. Cautioners are required to take prompt action to bring a conclusion to the dispute on title or interest.*

Implementation of land title registration system

3.12 *Post-enactment review.* In November 2004, the LR established a Land Titles Ordinance Steering Committee (the LTO Steering Committee — Note 19) to steer the review of the LTO (see Appendix F for its terms of reference).

3.13 In May 2007, the Government informed the then LegCo Panel on Planning, Lands and Works that:

- (a) the estimated time of taking at least two years to carry out the post-enactment review and preparatory work was made on the assumption that the main outstanding work was in relation to the subsidiary legislation, not the principal ordinance;
- (b) the Government had either resolved or identified solutions for most of the issues (see Note 17 to para. 3.10) raised during the scrutiny of the 2002 Bill by the Bills Committee;
- (c) however, during the post-enactment review of the LTO, further issues (Note 20) were identified. These involved significant matters where amendments to the LTO were essential before the legislation could be brought into operation; and
- (d) substantial amendments to the LTO were required to ensure the efficient operation of the new system. A Land Titles (Amendment) Bill (LT(A)B)

Note 19: *The LTO Steering Committee is chaired by the Land Registrar, and comprises 6 official members (including representatives from the DEVB, the LR, the Lands Department and the Department of Justice) and 7 non-official members (i.e. representatives from The Law Society of Hong Kong, The Real Estate Developers Association of Hong Kong, the Hong Kong Association of Banks, The Hong Kong Mortgage Corporation Limited, the Estate Agents Authority, the Consumer Council and the Heung Yee Kuk).*

Note 20: *There were a total of 18 issues which included: (1) concept of registration of instruments; (2) instruments not effectual until registered; (3) date of registration; (4) overriding interests; (5) severance of joint tenancy; (6) consequential amendments in other legislation; (7) court orders; (8) transmission; (9) cautions; (10) caveats; (11) definitions in the LTO; (12) liability of government; (13) filing of standard terms documents; (14) restriction order; (15) rectification by the Land Registrar; (16) indemnity provisions; (17) exclusion; and (18) practical implications.*

would be prepared and submitted to LegCo before commencement of the new system.

3.14 In December 2008, the Government informed the LegCo Panel on Development that, in addition to the ongoing effort to deal with matters reported in May 2007, there remained several substantial matters arising from the post-enactment review awaiting finalisation before the LT(A)B could be brought to LegCo for consideration, as follows:

- (a) ***Modifications to conversion mechanism.*** The LR found that:
 - (i) there were cases where ownership of property could not be determined from the land register known as indeterminate ownership registers (e.g. multiple registers of same lot number or single register that appears to contain more than one chain of title to the same property). Under the enacted LTO, there was no mechanism for the Government to withhold these cases from conversion or to deal with the consequences if they were converted automatically; and
 - (ii) there was a risk that, upon conversion, the title register might be inaccurate and the Government might be liable for any loss caused to parties due to inaccuracy in the title register. The Government might be exposed to unknown liabilities from the conversion day unless pre-conversion screenings of each individual land register were conducted;

- (b) ***Rectification and indemnity arrangements.*** The LR found that:
 - (i) the MR rule (see para. 3.11(b)) might have the unintended effect of reducing confidence in the title register and reducing the effectiveness of the LTRS in improving the efficiency with which conveyancing could be conducted; and
 - (ii) various provisions in the enacted LTO needed to be clarified and some new provisions needed to be added to remove ambiguities and reduce the risk of disputes that might slow down the resolution of claims for indemnity and add to costs; and

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- (c) *Other matters.* The LR found that:
- (i) *Relationship between the LTO and other legislation.* Under the enacted LTO, other legislation was allowed to prevail over the LTO. However, during the post-enactment review, the LR noted that there should be clarity as to how the provisions of the LTO would operate in relation to provisions in other legislation. For example, where another legislation could not stand together or run in parallel with the LTO, a decision should be made on which one should prevail; and
 - (ii) *Arrangements for updating land boundaries.* Under the DRS, land boundaries are not guaranteed. The enacted LTO provided an avenue for land owners to apply to the Director of Lands for determination of boundaries regarding their lots (brought under the LTO) and registration of the resultant plans in the LR (Note 21).

The Government also informed the Panel that a three-month public consultation would be launched to solicit public views and submitted the consultation papers to the Panel in December 2008.

3.15 *Public consultation in 2009.* From January to March 2009, a three-month public consultation was conducted to gauge views from the public and stakeholders regarding a modified conversion mechanism, and proposed modifications to the rectification and indemnity arrangements to address the issues mentioned in paragraph 3.14(a) and (b). Under the consultation papers, a gradual upgrading conversion approach was proposed, and exceptions to the MR rule were introduced to confine its scope of application. The consultation revealed that the public in general supported retaining the automatic conversion mechanism under the enacted LTO and preserving the MR rule (see para. 3.11(a) and (b)).

Note 21: *The Government subsequently considered it more appropriate to examine the issues of land boundaries as a separate exercise from the amendment of the LTO in view of the complexity of the issues.*

3.16 *Set up of a Joint Subcommittee in 2009.* In February 2009, in view that the preparation of amendments to the LTO involved important and complicated issues, a Joint Subcommittee on Amendments to Land Titles Ordinance (the LegCo Joint Subcommittee) was established under the LegCo Panel on Development and the LegCo Panel on Administration of Justice and Legal Services to monitor the work in a more focused manner and provide input in the bill drafting process.

3.17 *Two-stage conversion mechanism.* Subsequent to the public consultation conducted in 2009, there were divergent views from stakeholders as to the application of the MR rule (see para. 3.11(b)). A key stakeholder expressed that the MR rule would undermine the certainty of title and conclusiveness of the title register, and work against the objective of simplifying conveyancing procedures. This was because a purchaser might be encouraged to go behind the title register to investigate previous transactions in order to obtain greater assurance that his title would not be at risk. The stakeholder advocated the adoption of immediate indefeasibility of titles (Note 22) to ensure title certainty for current owners. However, the idea was opposed by another key stakeholder who strongly favoured the retention of the MR rule under the enacted LTO to protect the interests of innocent former owners. In May 2011, the Government proposed a two-stage conversion mechanism (see Appendix G for details) and modifications to the rectification and indemnity arrangements to address the conflicting views and balance the concerns of various stakeholders.

3.18 *Dissolution of LegCo Joint Subcommittee.* At the meeting of the LegCo Joint Subcommittee in June 2011:

- (a) the Government reported the latest positions of the follow-up actions taken on issues identified by the Bills Committee (see Note 17 to para. 3.10) and further issues identified during the post-enactment review (see Note 20 to para. 3.13(c));
- (b) the Government informed the LegCo Joint Subcommittee that:

Note 22: *Under the principle of “immediate indefeasibility”, a bona fide purchaser for value who relies on the title register in dealing with the registered owner, registers a transfer and takes possession of the property obtains an indefeasible title, even though the transfer instrument to the owner with whom he has dealt with is void for fraud or forged.*

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- (i) the stakeholders indicated that they would examine the proposed two-stage conversion mechanism and revert with their comments. The Government aimed to come up with a consolidated proposal that was acceptable to the stakeholders by the end of 2011, and thereafter consulted the public on the proposal for amending the LTO during the first and second quarters of 2012; and
- (ii) while the Government would simultaneously continue with the preparation of the necessary amendments to the LTO, the Government would only be able to come up with a full package of the necessary amendments after consideration of the views received from the public;
- (c) the LegCo Joint Subcommittee agreed that there should be no need to continue its work in the 2011-12 legislative session as the Government would mainly engage the stakeholders represented in the LTO Steering Committee and thereafter the public in the coming year with a view to arriving at a general consensus on the way forward for the implementation of the LTO; and
- (d) the Chairman of the LegCo Joint Subcommittee considered that it would be appropriate for the Government to report the work progress with relevant proposals to the Panel on Development and the Panel on Administration of Justice and Legal Services after formulating a full package of the necessary amendments to the LTO.

In the event, in October 2011, the LegCo Joint Subcommittee was dissolved after submitting a report to the LegCo Panel on Development and the LegCo Panel on Administration of Justice and Legal Services.

3.19 *Revised two-stage conversion mechanism.* In June 2013, taking into account comments received from members of the LTO Steering Committee on the proposed two-stage conversion mechanism (see para. 3.17), the LR further revised the conversion proposal for members' comments (Note 23).

3.20 *Four conversion options for existing land.* In developing the revised two-stage conversion mechanism proposal in 2013, the LR considered that basic screening (Note 24) of land registers to identify cases with broken or multiple title chains was necessary as it would help reduce the LR's indemnity risks in view of the unlimited liability for the indemnity payment due to mistake or omission of LR officers (see para. 3.11(c)). The LR thus explored further options for conversion of existing land registered under the LRO with basic screening incorporated. In June 2014, the LR put up four conversion options (see Appendix H for details) for comments by the members of the LTO Steering Committee. During June 2014 to November 2016, the LR had conducted various discussions and exchanged views with individual members of the LTO Steering Committee on the four conversion options.

3.21 In December 2016, the LTO Steering Committee held a meeting to discuss the four conversion options and consolidate stakeholders' views in taking forward the LTO review exercise. At the meeting, the majority of members indicated support for implementation of the LTRS on new land only at this stage (i.e. "new land first" proposal under Option D — Appendix H) as this option would secure an early implementation of the LTRS in Hong Kong and would enable early enjoyment of

Note 23: *For example, the LR proposed to amend the opt-out caution mechanism for preserving the MR rule (see item (c) in Appendix G) as follows:*

- (a) only owner of existing land registered under the LRO who is the registered owner on the date of primary conversion may register an opt-out caution once during the 12 years from primary conversion;*
- (b) once registered, the opt-out caution has to be withdrawn before subsequent transfer or transmission of the land can be accepted for registration; and*
- (c) there will not be automatic full conversion until the registration of a withdrawal of the opt-out caution.*

Note 24: *Basic screening is a simple and cursory check of the entries shown on the land registers and the memorials of the registered instruments affecting ownership of the property for identifying any apparent broken or multiple chains of title. Registered instruments would not be checked unless necessary.*

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benefits by the public. One key stakeholder expressed disagreement with the need to do any screening of the land registers and insisted that the idea of mass conversion of all titles at one time as provided in the LTO should be maintained. The Land Registrar said that:

- (a) provided that members considered Option D as a possible way forward, the LR would look into it further;
- (b) the LR was open to all conversion options but it hoped that consensus could be reached among members to screen out the less favourable options so that efforts could be focused on more probable ones;
- (c) the LR would continue to have dialogue with the key stakeholder who had concerns on the need/effectiveness of basic screening (see Note 24 to para. 3.20);
- (d) the LR was working to conduct a study on the latest developments on title registration legislation and good practices being adopted in some overseas common law jurisdictions (Note 25);
- (e) members would be updated in due course on the study findings and any refined proposals taking into account their views; and
- (f) as it would take some time to conduct the study and refine the proposals in the light of members' views and findings of the study, there was no particular implementation timetable for the LTRS at this stage.

3.22 According to the LR, up to September 2017, it was still working towards forging a consensus with the stakeholders on the way forward in implementing the LTRS.

Note 25: *Taking into account the suggestions from members of the LTO Steering Committee, the LR selected six common law jurisdictions, namely England and Wales (United Kingdom), Scotland (United Kingdom), New Zealand, New South Wales (Australia), Singapore and Penang (Malaysia) for the study.*

Under-estimation of complexity of the issues and the work involved in implementing LTO and LTRS

3.23 The Government proposed to the Bills Committee that the LTO would commence two years after its enactment in July 2004. However, up to September 2017, 13 years after its enactment, the LTO had not yet been implemented. The LR's post-enactment review found that substantial amendments to the LTO were required. Apparently, the LR had under-estimated the complexity of the issues and the work involved in implementing the LTO and the LTRS in view of the following:

- (a) in December 2006, the LR informed the DEVB that the LR:
 - (i) had made too optimistic assessment of the time needed to deal with the outstanding issues raised in 2004;
 - (ii) had not appreciated the impact of the changes of the LTO in 2004 on other legislation (see para. 3.14(c)(i)); and
 - (iii) considered introducing the LT(A)B in the 2006-07 legislative session not achievable in practice;
- (b) in May 2007, the Government informed the then LegCo Panel on Planning, Lands and Works that, as further issues were identified during the post-enactment review of the LTO, substantial amendments to the LTO were required, and the LR would prepare and submit an amendment bill to LegCo (see para. 3.13(c) and (d));
- (c) in December 2008, the Government informed the LegCo Panel on Development that there remained several substantial matters awaiting finalisation before the amendment bill could be brought to LegCo for consideration (see para. 3.14); and
- (d) in June 2011, the Government informed the LegCo Joint Subcommittee that it aimed to come up with a consolidated proposal that was acceptable to the stakeholders by the end of 2011, and thereafter consulted the public on the proposal for amending the LTO during the first and second quarters of 2012 (see para. 3.18(b)(i)). However, none of these have materialised.

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3.24 In September and October 2017, the DEVB and the LR informed Audit that:

- (a) the Government had committed to conducting a post-enactment review when the LTO was enacted in 2004. In view of the divergent views from various stakeholders and the complexity of the LTO (see paras. 3.6 to 3.22), the review was ongoing in spite of various proposals (see Appendix E) formulated by the Government to address these complicated issues;
- (b) the two-stage conversion mechanism proposed in 2011 and developed since then in consultation with stakeholders (see paras. 3.19 to 3.22) had addressed the main conflicting views of the stakeholders regarding the MR rule (see para. 3.17). However, stakeholders still had comments on certain aspects of the mechanism; and
- (c) in view of the stakeholders' inclination, the LR was exploring the "new land first" proposal (see para. 3.21) and was seeking the stakeholders' views.

3.25 In Audit's view, the DEVB and the LR need to fully assess the complexity of the issues and the work involved in taking forward the implementation of the LTRS.

Need to set a target LTRS implementation date and devise an action plan

3.26 Audit noted that in earlier years (during 2004-05 to 2009-10), the LR had set target time and devised action plans for implementing the LTRS, and submitted them to the LTO Steering Committee for information. However, since then, the LR had not set a target LTRS implementation date and devised an action plan with implementation timetable for steering and coordinating the various work for implementing the LTRS (e.g. the preparation of the LT(A)B, drafting of subsidiary legislation, preparation of rules and guidelines for staff and practitioners, and development of title registration information system).

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3.27 In September 2017, the LR informed Audit that:

- (a) despite enormous and continuous efforts made by the LR over the years, a general consensus among stakeholders on the main issues, particularly the conversion mechanism, had not been reached. As such, it was not practical to prepare a realistic implementation timetable for the LTRS at this stage; and
- (b) once a general consensus among stakeholders on the main issues had been reached, the LR would prepare an implementation timetable for the LTRS and provide it to the LTO Steering Committee for consideration.

3.28 In Audit's view, the DEVB and the LR need to set a target LTRS implementation date and devise an action plan with timetable for implementing the LTRS as soon as practicable, having regard to the assessment of the complexity of the issues and the work involved (see paras. 3.23 to 3.25), views of stakeholders and the experience gained in the past years. The DEVB and the LR also need to report the target LTRS implementation date and submit the action plan to the LTO Steering Committee for consideration.

Need to make additional efforts to implement the LTRS

3.29 Audit noted that the LegCo Joint Subcommittee had expressed concerns over the poor/unsatisfactory progress of the Government's work in implementing the LTRS. At its last two meetings held in December 2010 and June 2011, LegCo Members had expressed:

- (a) disappointment with the poor progress of the Government's work in bringing the new LTRS into operation;
- (b) concerns that the Government had yet to come to any policy decision after gathering views and concerns from major stakeholders, and that it was not possible to come up with a timetable for the LT(A)B; and

Implementation of land title registration system

- (c) regret with the Government's unsatisfactory progress since 2004 in taking forward the LTO amendment exercise despite a substantial commitment of time and public resources over the years, and considered that this was attributed to the Government's swaying policy stance on certain core issues over the years.

3.30 Up to September 2017, the LTO had not yet come into force and the LTRS had not been implemented. According to the LR, since the enactment of the LTO in July 2004, it had incurred about \$24 million per year on average in staff costs on matters concerning the review of the LTO, preparation of the LT(A)B, engagement of stakeholders on the proposed legislative amendments (including the 2009 consultation exercise — see para. 3.15) and implementation of the LTRS. To reap the benefits of implementing the LTRS, Audit considers that the DEVB and the LR need to make additional efforts to implement the LTRS as early as possible, taking into account LegCo Members' concerns and the audit findings on the implementation of the LTRS.

Audit recommendations

3.31 **Audit has *recommended* that the Secretary for Development and the Land Registrar should:**

- (a) **fully assess the complexity of the issues and the work involved in taking forward the implementation of the LTRS;**
- (b) **set a target LTRS implementation date and devise an action plan with timetable for implementing the LTRS as soon as practicable, having regard to the assessment of the complexity of the issues and the work involved, views of stakeholders and the experience gained in the past years;**
- (c) **report the target LTRS implementation date and submit the action plan to the LTO Steering Committee for consideration; and**
- (d) **make additional efforts to implement the LTRS as early as possible, taking into account LegCo Members' concerns and the audit findings on the implementation of the LTRS.**

Response from the Government

3.32 The Secretary for Development and the Land Registrar generally agree with the audit recommendations. They have said that:

- (a) the LTRS is inherently complicated involving complex legal issues and carries significant implications. Throughout the years, regarding the main issues of conversion mechanism, rectification and indemnity arrangements which are closely interrelated, different proposals have been made to address and balance the conflicting views of the stakeholders, whose stances have evolved;
- (b) conversion of land and property (involving over 3 million land registers) under the DRS dating back to over a hundred years to the LTRS is a very challenging task;
- (c) stakeholders have a strong preference for automatic conversion mechanism for Hong Kong, which is not the approach generally adopted in other common law jurisdictions. Many of these jurisdictions have converted to title registration gradually involving parallel running of title registration and their original systems over a considerable period of time;
- (d) for rectification and indemnity arrangements, there are divergent views of stakeholders regarding protection of the rights of former land/property owners versus the rights of current land/property owners; and
- (e) hence, despite enormous and continuous efforts made over the years, a general consensus among the major stakeholders over the main issues has yet to be reached.

PART 4: FINANCIAL ISSUES AND PERFORMANCE REPORTING

4.1 This PART examines the financial issues and performance reporting of the LR, focusing on:

- (a) fees and charges (see paras. 4.2 to 4.15); and
- (b) performance reporting (see paras. 4.16 to 4.28).

Fees and charges

4.2 The LR charges customers the following two types of fees for its services:

- (a) **Statutory fees.** These fees are registration, search and copying fees specified in the Land Registration Fees Regulations (Cap. 128B). As of June 2017, there were a total of 25 fee items specified in the Regulations. Their fee revisions have to be made through amending the Regulations; and
- (b) **Non-statutory fees.** These fees refer to those not specified in the Land Registration Fees Regulations in (a) above. As of June 2017, there were a total of 44 fee items for services provided to the public or exclusively to government bureaux and departments (B/Ds). These services mainly include reports on title services (exclusively available to B/Ds), supply of computerised memorial day book (Note 26) and monthly memorial information on mortgage transactions (Note 27), and e-Alert services. Fee revisions for these services have to be supported by the DEVB and approved by the FSTB.

Note 26: *Memorial day book refers to a record of essential particulars (such as memorial number, nature and date of the document, address of the premises affected and consideration) of all the memorials of the relating documents lodged for registration each day.*

Note 27: *Monthly memorial information on mortgage transactions refers to a record of essential memorial information (such as nature and date of the document, address of the premises affected and consideration) extracted from documents related to mortgage transactions and lodged for registration within a month.*

- 4.3 According to Financial Circular No. 6/2016 “Fees and Charges”:
- (a) for trading fund fees, the general principle is that fees should normally be set to recover full cost (including the cost of capital, which is measured on the basis of ANFA) on an overall basis;
 - (b) fees should generally be reviewed and, where necessary, revised on an annual basis;
 - (c) in preparing their fee proposals, Directors of Bureaux and Controlling Officers (also applicable to trading funds’ General Managers) should ensure that the fee structure and levels are conducive to achieving the target (such as full-cost recovery), and take into account fairness and user-friendliness; and
 - (d) revision of trading fund fees will be considered in the context of approving the financial aspects of their Business and Corporate Plans.

Need to conduct regular fee reviews of all fee items

4.4 Under the TFO, the LRTF is required to achieve a reasonable return on the fixed assets employed (see para. 1.5(c)). To meet this financial objective, the LR should in general set its fees at levels adequate to recover the full cost of providing the services (see para. 4.3(a)) and to attain the target rate of return on ANFA (see para. 1.12) on an overall basis. In this regard, the LR conducts a fee review on an overall basis annually in the context of formulating its Corporate-cum-Annual Business Plan. Since its establishment in 1993, the LR conducted five fee reviews of all fee items supported by costing statements (hereinafter referred to as the fee review of all fee items) at a time interval of 3 to 7 years between each review (i.e. in 1998, 2005, 2008, 2011 and 2016).

4.5 After noting that the financial projections in the LR’s Corporate-cum-Annual Business Plan for 2016-17 forecasted operating loss positions in the coming years, in April 2016, the FSTB requested the LR to conduct a fee review and submit a fee proposal by December 2016. The LR then conducted a fee review of all fee items based on 2015-16 financial results and found that:

Financial issues and performance reporting

- (a) services charged with statutory fees achieved an overall cost recovery rate of 105%; and
- (b) services charged with non-statutory fees achieved an overall cost recovery rate of 67%.

4.6 The LR considered that there was no need to revise the statutory fees. After obtaining the policy support of the DEVB and the approval of the FSTB, in April 2017, the LR revised its non-statutory fees (involving 37 fee items — Note 28). The LR estimated that, after the fee revision, the overall cost recovery rate for services charged with non-statutory fees would be 102% in 2017-18.

4.7 Audit noted that the LR reviewed the overall cost recovery rates of statutory and non-statutory fees in 2011 based on 2010-11 financial results and found that the rates were 146% and 134% respectively. Hence, no fee revision was made. The review conducted five years later in 2016 found that the overall cost recovery rate of non-statutory fees was only 67% and revision of fees was made in April 2017. The overall fee increase was 75%. There was a significant fee increase for certain items, for example, the increase for 16 of the 37 fee items reached 100% to 200% (Note 29).

4.8 In this connection, Audit noted that, in providing policy support for the LR's fee revision proposal for non-statutory fees in December 2016, the DEVB invited the LR to consider reviewing fees at regular intervals so that the percentage of fee increase would be more moderate in every fee review exercise. Audit considers that the LR needs to conduct regular fee reviews of all fee items and revise the fees where necessary.

Note 28: *In the fee revision proposal for non-statutory fees completed in December 2016, the LR reviewed 43 fee items, proposed to delete 4 fee items and maintain the fee levels of 2 fee items. Therefore, in April 2017, the LR revised 37 (43 – 4 – 2) fee items. After the launch of the e-Alert service for authorised institutions (involving 5 fee items) in February 2017, there were a total of 44 (37 + 2 + 5) non-statutory fee items as of June 2017 (see para. 4.2(b)).*

Note 29: *According to the LR, to avoid a drastic fee increase in April 2017, the fee increase for services exclusively available to B/Ds was restricted to not more than 200%, while that for services available to both B/Ds and the public restricted to not more than 50% in general.*

Need to keep under review the business operation and cost recovery of services

4.9 Registration of document is the LR’s main services. The revenue from the services accounted for a high portion of its turnover (see Table 7). In recent years, the business volume of the services had dropped significantly. The number of land documents delivered for registration had dropped significantly by 45% from 859,840 in 2010-11 to 468,630 in 2016-17 and the related revenue had also dropped significantly by 47% (from \$319 million to \$169 million).

Table 7

**Revenue from and business volume of registration of document services
(2010-11 to 2016-17)**

Year	Turnover (\$ million)	Revenue from registration of document services (\$ million)	Land documents delivered for registration (Number)
2010-11	573	319 (56%)	859,840
2011-12	427	212 (50%)	573,104
2012-13	502	214 (43%)	598,843
2013-14	431	157 (36%)	424,634
2014-15	412	183 (44%)	505,894
2015-16	387	166 (43%)	445,889
2016-17	409	169 (41%)	468,630

Source: Audit analysis of LR records

Financial issues and performance reporting

4.10 The LR conducted two fee reviews of all fee items in 2011 and 2016 (see para. 4.4). According to the results of the fee reviews, for registration of document services, there was a drastic change from over-recovery of costs of \$93 million in 2010-11 to under-recovery of costs of \$80 million in 2015-16 (see Table 8).

Table 8

**Cost recovery of registration of document services
(2010-11 and 2015-16)**

Year	Revenue (a) (\$ million)	Cost (b) (\$ million)	Over / (under) recovery of costs (c) = (a) - (b) (\$ million)	Rate of recovery (d) = $\frac{(a)}{(b)} \times 100\%$
2010-11	319	226	93	141%
2015-16	166	246	(80)	67%

Source: Audit analysis of LR records

4.11 According to the LR, the revenue from registration of document services is very much susceptible to the volatility of the property market conditions. Audit noted that the revenue and business volume of these main services of the LR had dropped significantly over the years and the services had a significant under-recovery of costs of \$80 million in 2015-16 (see paras. 4.9 and 4.10). This might be one of the factors for the non-achievement of the target rate of return on ANFA in 2015-16 (actual of 4.1% against target of 6.9%). While the target rate of return on ANFA was achieved in 2016-17 (actual of 8.1% against target of 6.9%), in view of the fact that the LR's business operation is dependent on the property market conditions, Audit considers that the LR needs to keep under review its business operation and the cost recovery of its services, particularly the registration of document services, with a view to taking measures as far as possible to address the impact of the property market conditions on the services.

Lack of differential pricing for different means of providing a service

4.12 The LR provides search and copying services by different means of delivery, including counter service and online service. Audit noted that although the cost for providing a service varied significantly with the means of delivery, the LR charged the same service fee. For example, in 2015-16, the LR charged:

- (a) \$10 for a service fee item while the cost of providing the service through counter was \$30 and online was \$5; and
- (b) \$15 for another service fee item while the cost of providing the service through counter was \$105 and online was \$11.

4.13 In this connection, Audit notes that the Companies Registry charges different fees for online and onsite image record search. For example, for image record search of a set of financial statements, the Companies Registry charges \$21 for a downloaded copy requested by a registered online user, and \$35 for a hard copy requested by an onsite user. The LR needs to consider adopting differential pricing for different means of providing a service.

Audit recommendations

4.14 **Audit has recommended that the Land Registrar should:**

- (a) **conduct regular fee reviews of all fee items and revise the fees where necessary;**
- (b) **keep under review the LR's business operation and the cost recovery of the LR's services, particularly the registration of document services, with a view to taking measures as far as possible to address the impact of the property market conditions on the services; and**
- (c) **consider adopting differential pricing for different means of providing a service.**

Response from the Government

4.15 The Land Registrar generally agrees with the audit recommendations.

Performance reporting

4.16 The LR's performance measures include:

- (a) **Performance targets.** The LR sets performance targets (a total of 30 targets for 2016-17) under 9 service types (Note 30). These targets are expressed as a compliance rate (i.e. the percentage of providing a service within a specified service standard). The LR publishes the performance targets and results in its annual reports (available on its website) and Corporate-cum-Annual Business Plans; and
- (b) **Productivity targets.** The LR sets 3 productivity targets for its registration, search and copying services. These targets are expressed as an average output per man-day and are not published.

Need to review the compilation of actual performance information

4.17 Audit examination of the LR's compilation of actual performance information against the 30 performance targets for 2016-17 revealed that:

- (a) for 6 performance targets (Note 31) involving low volume of transactions, the LR compiled the actual performance information manually based on all transactions taken place; and

Note 30: *The 9 service types are: (1) registration of land documents; (2) registration of withheld instruments redelivered for registration; (3) amendment of registered data; (4) counter search of land registers; (5) supply of imaged copies of land records; (6) supply of certified copies of land records; (7) sale of memorial day book; (8) sale of monthly memorial information on mortgage transactions; and (9) telephone enquiry services.*

Note 31: *The 6 performance targets are under 3 service types, namely (1) amendment of registered data; (2) sale of memorial day book; and (3) sale of monthly memorial information on mortgage transactions.*

- (b) for the remaining 24 performance targets (Note 32), the LR compiled the actual performance information manually on a sample basis. The samples were selected based on a pre-scheduled time (see examples in Table 9).

Table 9

**Examples of sample basis for
compilation of actual performance information**

Service	Service standard	Sample basis
Registration of land documents	15 working days	Registered documents returned to the lodging party on the last working day of each month (i.e. 12 working days a year)
Registration of withheld instruments redelivered for registration	16 working days	Instruments redelivered for registration on the third working day of each month (i.e. 12 working days a year)
Counter search of land registers	15 minutes	Customers arrived at the counter during 11:00 am to 11:30 am on Friday of each week (i.e. 52 samples a year, with each sample covered transactions taken place during a 30-minute duration)

Source: Audit analysis of LR records

Note 32: *The 24 performance targets are under 6 service types, namely (1) registration of land documents; (2) registration of withheld instruments redelivered for registration; (3) counter search of land registers; (4) supply of imaged copies of land records; (5) supply of certified copies of land records; and (6) telephone enquiry services.*

Financial issues and performance reporting

4.18 In view of the limited sample size in the compilation of actual performance information for the 24 performance targets (see para. 4.17(b)), Audit is concerned whether the compiled results could fairly reflect the LR's actual performance. In Audit's view, the LR needs to critically review the compilation of actual performance information for the 24 performance targets to ensure that the actual performance information is fairly presented.

4.19 Audit also noted that, in compiling the actual performance information for the target on registration of land documents for 2016-17, 20,563 documents should have been selected based on the LR's sample basis. However, 1,961 complicated cases (10% of the total 20,563 cases) were excluded from the compilation of actual performance. According to the LR, the complicated cases included, for example, cases requiring the advice of the LR's Legal Services Division which needed detailed consideration of the legal issues or cases pending clarifications by the lodging parties which were beyond the control of the LR. Audit considers that the LR needs to disclose the basis for compiling the actual performance information for the target.

4.20 Audit also noted that the LR relied on a manual system for compiling the actual performance information. In Audit's view, there is merit for the LR to consider using more technology (e.g. IRIS — see Note 8 to para. 2.3(a)) in compiling its actual performance information as far as practicable.

Performance targets and productivity targets

4.21 *Need to set more challenging performance targets.* The LR reviews its performance pledges and targets annually. During 2012-13 to 2016-17, the LR had raised some of its targets in 2012-13, 2013-14 and 2016-17. Audit noted that the LR had achieved all performance targets during 2012-13 to 2016-17. In particular, Audit noted that 6 performance targets (Note 33) had consistently been over-achieved. Examples are shown in Table 10.

Note 33: *The 6 performance targets which had consistently been over-achieved included 1 target for registration of land documents, 1 target for registration of withheld instruments redelivered for registration, 2 targets for amendment of registered data, and 2 targets for telephone enquiry services.*

Table 10

**Examples of performance targets with persistent over-achievement
(2012-13 to 2016-17)**

Service	Service standard	Target performance (% meeting service standard)	Actual performance (% meeting service standard)				
			2012-13	2013-14	2014-15	2015-16	2016-17
(a) Registration of land documents	15 working days	92	99.1	99.4	99.6	99.4	99.7
(b) Amendment of registered data for:							
(i) simple cases	3 working days	93 (92 for 2012-13)	99.2	99.0	99.7	99.6	100.0
(ii) complicated cases	10 working days	92	98.8	99.0	99.4	99.8	99.6

Source: LR records

4.22 According to the good practices promulgated in Civil Service Bureau (CSB) Circular No. 7/2009 “Performance Pledges in the Civil Service” issued in September 2009, performance targets should be challenging enough to drive continuous improvement while being realistic and achievable, and persistent over-achievements may provide a basis for B/Ds to review the pledges and raise standards. As 6 of the 30 performance targets have been consistently over-achieved during 2012-13 to 2016-17, the LR needs to consider setting more challenging performance targets.

Financial issues and performance reporting

4.23 *Need to set more challenging productivity targets.* The LR has three productivity targets and reviews them annually. Audit noted that the LR had achieved all productivity targets during 2012-13 to 2016-17. While the LR raised two productivity targets (i.e. items (b)(i) and (b)(ii) in Table 11) in 2012-13, Audit noted that the LR had still consistently over-achieved the two targets during 2012-13 to 2016-17. Audit considers that the LR needs to consider setting more challenging productivity targets.

Table 11

**Productivity targets
(2012-13 to 2016-17)**

Particulars	Average output per man-day (Number)									
	2012-13		2013-14		2014-15		2015-16		2016-17	
	Target	Actual	Target	Actual	Target	Actual	Target	Actual	Target	Actual
(a) Registration of deeds	37	45	37	39	37	42	37	39	37	38
(b) Provision of counter / self-service search services on:										
(i) land registers (including certified copies)	85 (Note)	96	85	93	85	91	85	93	85	94
(ii) imaged copies (including certified copies)	76 (Note)	84	76	96	76	80	76	89	76	80

Source: LR records

Note: The target average output per man-day for items (b)(i) and (b)(ii) were 82 and 74 respectively in 2011-12.

4.24 Audit noted that, prior to 2014, the LR had included the productivity targets and actual performance in its Corporate-cum-Annual Business Plans. However, no such information had been included since 2014. Audit considers that, to enhance accountability, the LR needs to consider including the productivity targets and actual performance in its Corporate-cum-Annual Business Plans.

4.25 *No performance target set for owners' corporation services.* According to the good practices promulgated in CSB Circular No. 7/2009, performance pledges should cover all departmental services that have a public interface. While the LR publishes on its website the time required for processing and approving an application for registration of owners' corporation (ranging from one to three months) for general information, it has not set performance targets for the owners' corporation services (e.g. time for registration of owners' corporation and searching of owners' corporation records). In Audit's view, the LR needs to, in consultation with the HAD, consider setting and publishing performance targets for the owners' corporation services.

Audit recommendations

- 4.26 **Audit has recommended that the Land Registrar should:**
- (a) **critically review the compilation of actual performance information for the 24 performance targets to ensure that the actual performance information is fairly presented;**
 - (b) **for registration of land documents, disclose the basis for compiling the actual performance information for the performance target;**
 - (c) **consider using more technology in compiling the LR's actual performance information as far as practicable;**
 - (d) **consider setting more challenging performance targets and productivity targets;**

Financial issues and performance reporting

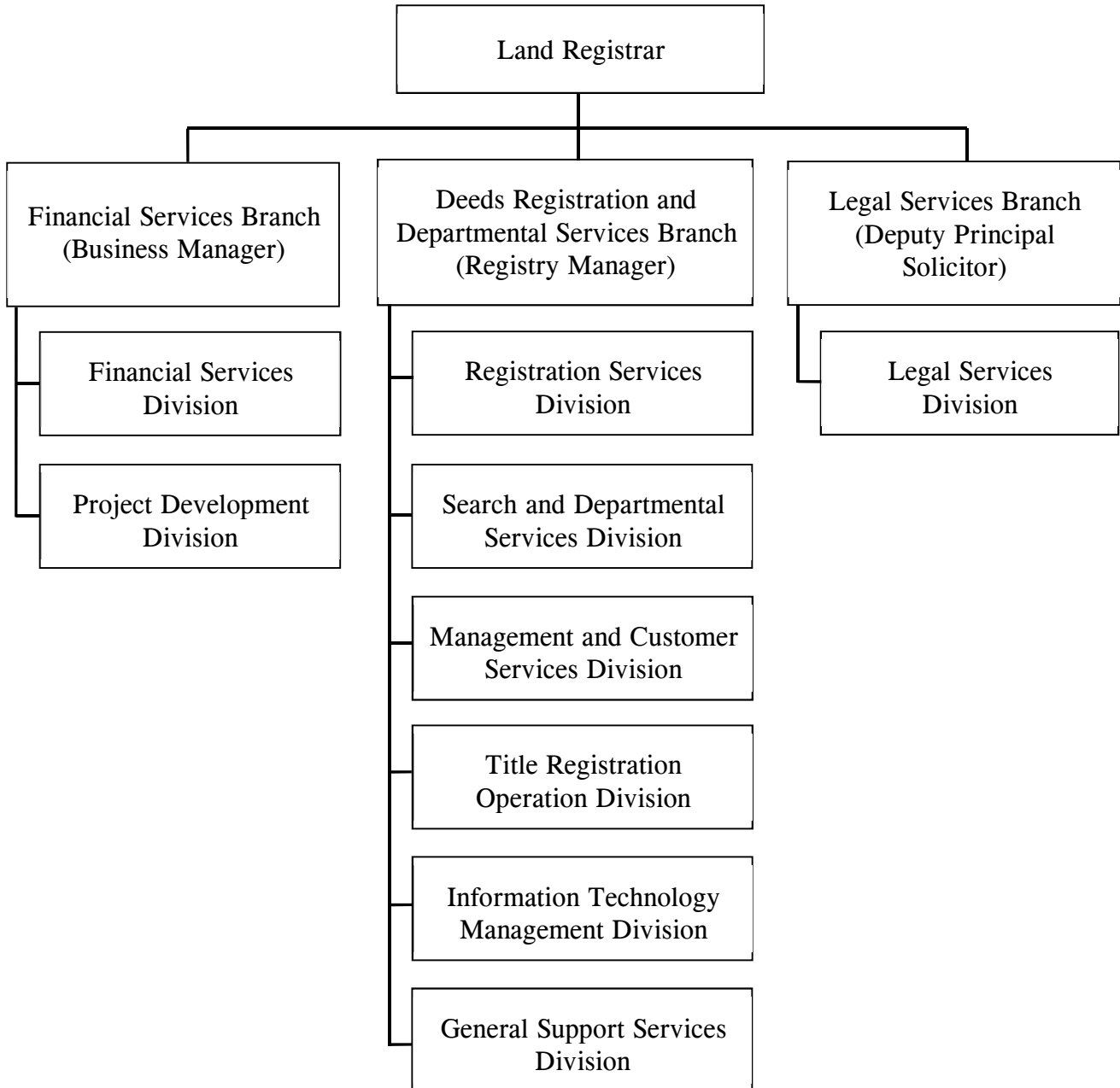
- (e) **to enhance accountability, consider including the productivity targets and actual performance in the LR's Corporate-cum-Annual Business Plans; and**
- (f) **in consultation with the Director of Home Affairs, consider setting and publishing performance targets for the owners' corporation services.**

Response from the Government

4.27 The Land Registrar generally agrees with the audit recommendations.

4.28 The Director of Home Affairs agrees with the audit recommendation in paragraph 4.26(f).

**Land Registry:
Organisation chart (extract)
(30 June 2017)**



Source: LR records

**Rates of return on ANFA of the LRTF
(1993-94 to 2016-17)**

Year	Rate of return on ANFA (Note 1)		
	Target	Actual	
1993-94	10.0%	9.0% (Note 2)	
1994-95		10.3%	
1995-96		14.7%	
1996-97		29.1%	
1997-98		37.3%	
1998-99		14.8%	
1999-00		23.6%	
2000-01		25.7%	
2001-02		26.4%	
2002-03		20.6%	
2003-04		22.0%	
2004-05		32.0%	
2005-06		31.5%	
2006-07		8.3%	20.9%
2007-08			36.0%
2008-09			18.8%
2009-10	38.5%		
2010-11	52.6%		
2011-12	6.9%	19.7%	
2012-13		34.0%	
2013-14		15.8%	
2014-15		7.8%	
2015-16		4.1%	
2016-17	8.1%		

Source: LRTF records

Note 1: Since 2006-07, the rate of return on ANFA is calculated as the LRTF's total comprehensive income (excluding interest income and interest expenses) divided by its ANFA. Before 2006-07, the LRTF had included interest income in the calculation of the rate of return on ANFA.

Note 2: For 1993-94, the actual rate of return on ANFA of 9% was calculated based on financial results for eight months from establishment of the LRTF in August 1993 to March 1994. According to the LRTF, the annualised actual rate of return on ANFA was 13.5%, exceeding the target return of 10%.

**Operational performance of the three NTSOs
(2012-13 to 2016-17)**

NTSO	2012-13 (No.)	2013-14 (No.)	2014-15 (No.)	2015-16 (No.)	2016-17 (No.)
Tsuen Wan					
<i>Search and copying services</i>					
Search	61,092	61,476	49,643	48,304	64,070
Copying	4,448	3,652	3,621	3,011	3,920
<i>Owners' corporation services</i>					
Registration application processed	12	12	8	15	10
Document filed	2,502	2,519	2,573	2,473	2,426
Inspection handled	53	35	28	37	47
<i>Daily average visitor</i>					
Search and copying services	32	30	33	33	35
Owners' corporation services	5	4	5	5	5
Total	37	34	38	38	40
Tai Po					
<i>Search and copying services</i>					
Search	62,928	47,719	60,447	49,932	62,778
Copying	9,669	8,002	7,645	8,040	7,497
<i>Owners' corporation services</i>					
Registration application processed	9	8	8	11	12
Document filed	2,243	2,147	2,006	2,124	2,345
Inspection handled	863	320	46	20	28
<i>Daily average visitor</i>					
Search and copying services	53	49	49	43	40
Owners' corporation services	5	4	4	3	3
Total	58	53	53	46	43
Yuen Long					
<i>Search and copying services</i>					
Search	50,049	46,540	52,577	38,108	51,202
Copying	13,149	9,948	10,005	9,302	8,581
<i>Owners' corporation services</i>					
Registration application processed	6	4	11	5	10
Document filed	1,101	1,006	1,309	1,095	1,392
Inspection handled	-	1	-	37	35
<i>Daily average visitor</i>					
Search and copying services	96	92	89	82	76
Owners' corporation services	3	2	3	2	3
Total	99	94	92	84	79

Source: Audit analysis of LR records

Main features of DRS and LTRS

Main feature	DRS	LTRS
(a) Certainty of title	<ul style="list-style-type: none"> • No certainty of title • Registration in the land register (being an index of registered instruments) does not confer title • Deeds are the evidence of title 	<ul style="list-style-type: none"> • Certainty of title • Registration in the title register will confer title • Title register will be the conclusive evidence of title
(b) Title checking in conveyancing	<ul style="list-style-type: none"> • Checking of historical deeds for not less than 15 years to establish title to property is necessary 	<ul style="list-style-type: none"> • Checking of historical deeds to establish title to property will no longer be necessary
(c) Indemnity	<ul style="list-style-type: none"> • No compensation is payable by the Government in fraud cases • The Government is liable for losses due to negligence of LR officers in failing to register any instrument delivered for registration that complies with the registration requirements 	<ul style="list-style-type: none"> • An indemnity will be payable to compensate an innocent person who suffers loss (by reason of an entry in/omitted from the title register) as a result of fraud resulting in loss of ownership, or loss due to mistake or omission of LR officers
(d) Completeness of registers	<ul style="list-style-type: none"> • Unwritten land interest is not registrable (Note) • An owner registered on the land register may be subject to unwritten interests 	<ul style="list-style-type: none"> • Unwritten land interest will be registrable (Note) • The title register will be more complete and accurate. In general, purchasers acquiring properties with value and registered in the title register will not be affected by unregistered interests

Source: LR records

Note: *Unregistered land interest refers to any unwritten interest (e.g. an interest by a spouse who has contributed to mortgage payments) or interest under unregistered instruments. Under the existing DRS and the LRO, unwritten land interest is not registrable and needs not be registered in order to carry legal effect, and unregistered instruments shall, as against any subsequent bona fide purchaser or mortgagee for valuable consideration of the same land, be absolutely null and void. Under the LTRS, unregistered interest is unenforceable against subsequent purchasers who obtained the property for value and registered as owner.*

Appendix E
(paras. 3.7 and
3.24(a) refer)

**Summary of the LR's proposals to address the three main issues
(September 2017)**

Year	Conversion mechanism	Rectification arrangement	Indemnity arrangement
1994 (see para. 3.8)	Midnight conversion	No mandatory rectification	For the loss of title due to fraud, compensation with a cap will be provided for the person suffered
2002 (see para. 3.9)	Gradual conversion		
2004 (see paras. 3.10 and 3.11)	Daylight conversion	Mandatory rectification	For the loss due to mistake or omission of LR officers, compensation for actual loss will be provided for the person suffered
2009 (see para. 3.15)	Modified conversion mechanism (with gradual upgrading of titles)	Mandatory rectification with proposed exceptions to confine its scope of application	
2011 (see para. 3.17 and Appendix G)	Two-stage conversion	Mandatory rectification will apply during primary conversion period. Mandatory rectification will not apply after full conversion to the LTRS. During primary conversion period, property owners who wish to preserve mandatory rectification may opt out from full conversion by registering an opt-out caution	
2013 (see para. 3.19)	Revised two-stage conversion	Mandatory rectification will apply during primary conversion period. Mandatory rectification will not apply after full conversion to the LTRS. Mandatory rectification is only available to owners who have acquired title prior to primary conversion. Such owners who wish to preserve mandatory rectification may opt out from full conversion by registering an opt-out caution. Such owners can only opt out once during the primary conversion period. The opt-out caution has to be withdrawn before subsequent transfer of the property	
2014 (see para. 3.20 and Appendix H)	Four conversion options		

Source: Audit analysis of LR records

Terms of reference of LTO Steering Committee

- (a) To consider, review and monitor progress concerning matters arising from the LTO including, but not limited to, the following:
 - (i) recommendations by the LTO Review Committee (Note 1) on amendments to the LTO, arising from or as a consequence of the review of the LTO;
 - (ii) the rules, regulations, forms, guidelines and explanatory notes for the LTO recommended by the LTO Review Committee;
 - (iii) the development of IT in support of the LTO;
 - (iv) recommendations by the LTO Education Committee (Note 2) on public education and training in preparation for the implementation of the LTO; and
 - (v) recommendations by the LTO Implementation Committee (Note 3) on the various aspects relating to implementation of the LTO.
- (b) To consider and make recommendation to the Secretary for Development on the commencement date of the LTO.
- (c) To liaise with such interested bodies as may be necessary to carry into full effect the functions and purposes of the Committee.
- (d) Such other matters as may arise from time to time concerning the LTO and its implementation as the Committee deems necessary or appropriate.

Source: LR records

Note 1: The LTO Review Committee reviews the LTO and makes recommendations to the LTO Steering Committee on the amendments to the LTO arising from or as a consequence of the review.

Note 2: The LTO Education Committee plans for and implements publicity and public education programmes for the LTRS, both locally and overseas.

Note 3: The LTO Implementation Committee is responsible for all matters necessary to prepare for implementation of the LTO, including reviewing the existing administrative and operational systems, recommending changes and preparing staff and customers for the change.

**Main features of two-stage conversion mechanism
(May 2011)**

- (a) Upon the commencement of the LTO, immediate indefeasibility (see Note 22 to para. 3.17) would forthwith apply to new land. For existing land registered under the LRO, the conversion process would involve two stages of automatic conversion, as follows:
- (i) after a preparation period from the date of commencement of the LTO, all such land except those subject to deeds pending registration would undergo the first stage of conversion (primary conversion) and would be automatically brought under the LTO on a designated date; and
 - (ii) after 12 years from the primary conversion, the land which had undergone the first stage of conversion would undergo the final stage of conversion (full conversion) and automatically be fully converted to registered land under the LTRS, except where the land was subject to, for example, an opt-out caution (see item (c) below) and a Land Registrar's Caution against Conversion (LRCAC — Note). Upon full conversion, immediate indefeasibility would apply.
- (b) During the 12 years from the primary conversion, a person having an unregistered interest in a property might give a notice of his claim by registering a warning notice.
- (c) During the 12 years from the primary conversion, a registered owner who wished to preserve the MR rule might choose to register an opt-out caution against his own property. The effect of registering an opt-out caution was to prevent the property from automatic full conversion of title, so that the MR rule would continue to apply.

Source: LR records

Note: Under the LRCAC mechanism, the Land Registrar will be empowered to exclude cases for which ownership of property could not be determined from the land register from automatic full conversion to the LTRS. The land against which an LRCAC is registered will remain under primary conversion until the LRCAC is removed.

Four conversion options for existing land registered under the LRO (June 2014)

Upon the commencement of the LTO, the LTRS will be implemented on new land immediately. The arrangements for existing land registered under the LRO under each conversion option are as follows:

- (a) **Option A.** All existing land registered under the LRO (except those subject to stopped deeds) will undergo primary conversion. Basic screening will then be performed on a gradual basis and cases for which ownership of property could not be determined from the land registers identified during the 12-year period from the primary conversion will be withheld from full conversion through the LRCAC mechanism (see Note in Appendix G);
- (b) **Option B.** Basic screening will be performed on land registers of existing land registered under the LRO before the designated date of primary conversion and identified cases where ownership of property could not be determined from the land registers will be withheld from primary conversion through the LRCAC mechanism. All cases identified would remain governed by the LRO;
- (c) **Option C.** There will be gradual primary conversion of existing land registered under the LRO as and when basic screening have been completed on individual land registers concerned for identifying cases where ownership of property could not be determined from the land registers upon applications for registration of assignments have been received. Individual land registers would have their own dates for primary conversion and full conversion; and
- (d) **Option D.** The LTRS will be implemented on new land only at the initial stage, while conversion of existing land registered under the LRO will be pursued at a later stage when possible solutions have been worked out and actual experience with the operation of the LTRS has been gained.

Source: LR records

Acronyms and abbreviations

ANFA	Average Net Fixed Assets
Audit	Audit Commission
BMO	Building Management Ordinance
B/Ds	Government bureaux and departments
CSB	Civil Service Bureau
DEVB	Development Bureau
DRS	Deeds registration system
FSTB	Financial Services and the Treasury Bureau
HAD	Home Affairs Department
IRD	Inland Revenue Department
IRIS	Integrated Registration Information System
LegCo	Legislative Council
LR	Land Registry
LRCAC	Land Registrar's Caution against Conversion
LRO	Land Registration Ordinance
LRTF	Land Registry Trading Fund
LT(A)B	Land Titles (Amendment) Bill
LTO	Land Titles Ordinance
LTRS	Land title registration system
MR	Mandatory rectification
NTSO	New Territories Search Office
QGO	Queensway Government Offices
TFO	Trading Funds Ordinance