

Syllabus for Hong Kong Land Law

1. Definitions and Formalities

The definitions of 'land' and 'legal estate' in s 2 *Conveyancing and Property Ordinance* Cap 219, the formalities for the creation, transfer and disposal of interests in land and the formalities for the sale or disposition of land (ss 3(1), 4, 5 and 6 *Conveyancing and Property Ordinance*).

2. Priority and Land Registration

The instruments registrable under the *Land Registration Ordinance* Cap 128, the dates of registration of instruments, priority under s 3(1) *LRO*, the effect of ss 3(2) and 4 *Land Registration Ordinance*, the doctrine of notice and the priority of unwritten equitable interests in land.

3. The Partition of Land in Joint Ownership

The destruction of the unity of possession, voluntary partition, application for partition under the *Partition Ordinance* Cap 352, who can apply, the court's powers to order partition or sale or to refuse an order.

4. Adverse Possession

The limitation periods under the *Limitation Ordinance* Cap 247, accrual of a right of action, the aggregation of periods, the surrender of a Government lease, the effect of renewal under the *New Territories (Renewable Government Leases) Ordinance* Cap 152 and extension under the *New Territories Leases (Extension) Ordinance* Cap 150.

5. Government Leases and Conditions

The vesting of land in the State, the right of the Chief Executive to dispose of land, the disposal of land by granting Government leases and Conditions, the nature of the interest under Conditions.

The conversion of the equitable interest held under Conditions to a legal interest, s 14 *Conveyancing and Property Ordinance*, the effect of compliance with conditions precedent to the grant of a Government lease, evidence of compliance, deemed compliance and registration of a certificate of compliance.

The sectioning of land, the subdivision of land by the sale of undivided shares in land and the creation of section and subdivision registers in the Land Registry.

The duration of Government lease terms, rights of renewal and automatic renewal under the *Government Leases Ordinance* Cap 40 and the *New Territories (Renewable Government Leases) Ordinance*. The effect of the Basic Law on the duration of Government lease terms (Articles 120, 121 and 123 of the Basic Law) and the *Government Leases (Extension) Ordinance*.

Case law on user restrictions in Government leases, waiver by Government of restrictions in Government leases, express waiver, waiver by conduct and estoppel.

6. Deeds of Mutual Covenant

The subdivision of land into undivided shares, the reallocation of undivided shares, the need for a deed of mutual covenant and the parties, the passing of the benefit and burden of covenants in respect of multi-storey buildings, the enforcement of covenants in a deed of mutual covenants under ss 39, 40 and 41 *Conveyancing and Property Ordinance*.

7. The Small House Policy

Private grants of land, free building licenses, certificates of exemption under the *Buildings Ordinance (Application to New Territories) Ordinance* Cap 121, restrictions on dealing.

8. Chinese Customary Trusts over Land

The nature and purpose of Tsos and Tongs, recognition of them under the *New Territories Ordinance* Cap 97, the rule against perpetuities applied to tongs and tsos, the entitlement to tong and tso land, the alienability of tong and tso land, the management of tongs and tsos.

9. Introduction to the *Land Titles Ordinance* Cap 585
(not applicable to the June 2009 examination)

Conversion for new land and existing land, caveats and cautions, registrable interests and overriding interests, the effect of registration, security of title and indemnity.

Reading List for Hong Kong Land Law

Texts

Sarah Nield, Hong Kong Land Law, 2nd edition, Longman, 1996

S.H.Goo and Alice Lee, Land Law in Hong Kong. 2nd edition, LexisNexis Butterworths, 2003

Judith Sihombing and Michael Wilkinson, A Student's Guide to Hong Kong Conveyancing, 4th edition, LexisNexis Butterworths, 2002

Sources

The Basic Law

Buildings Ordinance (Application to New Territories) Ordinance Cap 121

Conveyancing and Property Ordinance Cap 219

Government Leases Ordinance Cap 40

Interpretation and General Clauses Ordinance Cap 1

Land Registration Ordinance Cap 128

Land Titles Ordinance Cap 585

Limitation Ordinance Cap 347

New Territories Ordinance Cap 97

New Territories (Renewable Government Leases) Ordinance Cap 152

New Territories Leases (Extension) Ordinance Cap 150

Hong Kong cases