

## LSA Circular 4/96

### Submission of SRPs and LBPs under subsection 30(4) of the Land Survey Ordinance for Rectification of Division Plans

There was a case in which the Land Registry had rejected the division plan for a Deed of Rectification (DOR) for redefining boundaries of existing divided lots based on the reason that it did not comply with subsection 23(2) of the Land Registration Ordinance (which was added as a result of section 40 of the Land Survey Ordinance). The gist of this case lies on the interpretation of subsection 30(1) of the Land Survey Ordinance that whether a DOR is an instrument "**effecting a division of any land**". As this would have wide implications for the work of all Authorised Land Surveyors (ALS) in dealing with the rectification of division plans, advice has been sought from the Attorney General's Chambers (AGC) and the Land Registrar (LR).

2. The AGC's ruling was that "whether a Deed of Rectification (DOR) which re-defines boundaries of lots already been subdivided under a Deed Poll is an instrument effecting a division of any land (section 30(1) of the Land Survey Ordinance) depends on whether the DOR results in substantial alteration of the allocation of lot areas. If so, then it can be regarded as an instrument *effecting a division of land*, registration of which needs to be accompanied by a land boundary plan in accordance with section 23(3) of the Land Registration Ordinance". Furthermore, AGC also advised that "a DOR which results in a substantial change in the configuration of existing lots would amount to an instrument *effecting a division of land*"

3. In summary, a DOR for redefining boundaries of existing divided lots will need to be accompanied by a land boundary plan for registration in compliance with subsection 23(2) of the Land Registration Ordinance under the following two circumstances:-

- (i) when there is substantial alteration of the allocation of lot areas; and
- (ii) when there is substantial change in the configuration of existing lots.

It is a matter of degree as to whether a DOR delivered for registration falls within these two categories and LR will have the discretion to decide the matter on case basis.

4. If a DOR delivered for registration is decided by LR as an instrument which falls under subsection 23(2) of the Land Registration Ordinance, the ALS who certified the land boundary plan for the DOR should submit the land boundary plan and the corresponding survey record plan to the Land Survey Authority in accordance with subsection 30(4) of the Land Survey Ordinance.