

立法會
Legislative Council

LC Paper No. CB(1) 1453/02-03

(These minutes have been seen
by the Administration)

Ref: CB1/BC/6/01/2

Bills Committee on Companies (Amendment) Bill 2002

**Minutes of the sixteenth meeting
held on Thursday, 3 April 2003, at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Dr Hon David CHU Yu-lin, JP
Hon Albert HO Chun-yan
Hon Eric LI Ka-cheung, JP
Hon NG Leung-sing, JP
Hon CHAN Kam-lam, JP
Hon SIN Chung-kai
Hon Miriam LAU Kin-yee, JP
Hon Emily LAU Wai-hing, JP
Hon Henry WU King-cheong, BBS, JP
- Member absent** : Hon CHAN Kwok-keung
- Public officers attending** : Financial Services and the Treasury Bureau

Mr Esmond LEE
Principal Assistant Secretary for Financial Services and
the Treasury (Financial Services)⁴

Mr Arthur AU
Assistant Secretary for Financial Services and the
Treasury (Financial Services) (4)¹

Companies Registry

Mr G W E JONES
Registrar of Companies

Mr Edward LAU
Secretary
Standing Committee on Company Law Reform

Ms D SILKSTONE
Registry Solicitor

Department of Justice

Mr J E GUNTER
Senior Assistant Law Draftsman

Mr Vidy CHEUNG
Senior Government Counsel

Clerk in attendance : Miss Becky YU
Chief Assistant Secretary (1)1

Staff in attendance : Miss Monna LAI
Assistant Legal Adviser 7

Mrs Mary TANG
Senior Assistant Secretary (1)2

I Confirmation of minutes

- (LC Paper No. CB(1) 1191/02-03 -- Minutes of the meeting held on
12 March 2003
LC Paper No. CB(1) 1323/02-03 -- Minutes of the meeting held on
20 March 2003)

The minutes of meetings held on 12 and 20 March 2003 were confirmed.

II Meeting with the Administration

- (LC Paper No. CB(1) 1350/02-03(01) -- List of follow-up actions arising from
the discussion on 20 March 2003
LC Paper No. CB(1) 1350/02-03(02) -- Administration's responses to the
lists of follow-up actions arising
from the discussion on 12 and
20 March 2003
LC Paper No. CB(1) 1350/02-03(03) -- Assistant Legal Adviser 7's letters
dated 19 and 21 March 2003 to the
Administration
LC Paper No. CB(1) 1350/02-03(04) -- Updated summary of concerns
(as at 31 March 2003)
LC Paper No. CB(1) 1350/02-03(05) -- Marked-up copy of the Bill
incorporating the draft Committee
Stage amendments received so far

2. The Committee deliberated (Index of proceedings attached at **Annex A**).
3. The Administration was requested to -
 - (a) gauge the views of individual deputations on the proposed Committee Stage amendments (CSAs);
 - (b) include in the speech to be delivered by the Secretary for Financial Services and the Treasury at the resumption of Second Reading debate on the Bill an undertaking that the policy and drafting of section 157I would be looked at by the Administration and referred to the Standing Committee on Company Law Reform taking into account members' views and the UK equivalent of such provision. To also include in the speech the time-table when the issue of cost implications for requisitionists would be considered by the Administration;
 - (c) advise the average timeframe within which companies delivered returns on allotments to the Registrar of Companies for registration;
 - (d) advise the current levels of penalty in the event of non-compliance with the filing requirement of a statutory declaration or an affidavit and of provision of a false declaration. To also compare these with the proposed levels of penalty in respect of a written statement under the Bill;
 - (e) refine the proposed CSAs to clause 26 to require a company with negative equity to apply to the court for any reduction of share capital. Reference could be made to the case of South China Strategic Limited;
 - (f) provide past court cases concerning quorum of meeting of one-person companies and advise whether new section 114AA as drafted could reflect the policy intent; and
 - (g) advise the rationale behind clause 44, the types of decisions under the clause of which the sole member of a one-person company should provide written records to the company and how the latter should keep such records.
4. There being no other business, the meeting ended at 10:30 am.

**Proceedings of the meeting of the
Bills Committee on Companies (Amendment) Bill 2002
Meeting on Thursday, 3 April 2003, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000001 - 000314	Chairman	Confirmation of minutes of the meetings held on 12 and 20 March 2003 (LC Paper Nos. CB(1) 1191 and CB(1) 1323/02-03) and request for early provision of papers by the Administration	
000315 - 000942	Administration Chairman Ms Emily LAU	Administration's responses to the lists of follow-up actions arising from the discussion on 12 and 20 March 2003 (LC Paper No. CB(1) 1350/02-03(02)) (a) Chronology of discussion on existing section 157I	
000943 - 001655	Chairman Administration Ms Miriam LAU Ms Emily LAU	(b) Speech at the resumption of Second Reading debate	The Administration to include in the speech to be delivered by the Secretary for Financial Services and the Treasury at the resumption of Second Reading debate on the Bill an undertaking that the policy and drafting of section 157I would be looked at by the Administration and referred to the Standing Committee on Company Law Reform taking into account members' views and the UK equivalent of such provision
001656 - 002214	Chairman Administration	(c) Form M2 - Memorandum of Satisfaction or Release of Property from Charge	

Time marker	Speaker	Subject(s)	Action required
002215 - 002410	Chairman Administration	(d) Change of company name	
002411 - 002605	Chairman Administration	(e) Submission of printed copy of resolution or agreement	
002606 - 002745	Chairman	(f) Protection of interest of a bona fide innocent third party (g) Letter from the Real Estate Developers Association of Hong Kong (REDA) regarding section 157I	The Clerk to advise REDA on the outcome of the Bills Committee's deliberation on section 157I
002746 - 002955	Chairman	Clause-by-clause examination of the Bill	
002956 - 003324	ALA7 Chairman Administration	Clauses 8 to 12	
003325 - 004105	Chairman Administration Mr Henry WU Ms Emily LAU	Clause 13 - Return as to allotments	The Administration to advise the average timeframe within which companies delivered returns on allotments to the Registrar of Companies for registration
004106 - 004644	Chairman Administration	Clauses 14 to 17 regarding the replacement of statutory declaration by written statements	The Administration to advise the current levels of penalty in the event of non-compliance with the filing requirement of a statutory declaration or an affidavit and of provision of a false declaration. To also compare these with the proposed levels of penalty in respect of a written statement under the Bill
004645 - 005324	Chairman Administration Mr Henry WU Mr Albert HO	Clauses 18 to 25	

Time marker	Speaker	Subject(s)	Action required
005325 - 005956	Chairman Administration Ms Emily LAU	Clause 26 Concern raised by Mr Winston POON, SC on the need to require companies with negative equity to apply to court for any reduction in share capital	The Administration to refine the proposed Committee Stage amendments (CSAs) to clause 26 to require a company with negative equity to apply to the court for any reduction of share capital. Reference could be made to the case of South China Strategic Limited
005957 - 010400	Chairman Administration	Clauses 28 to 32	
010401 - 011442	Chairman Administration ALA7 Ms Emily LAU Mr Eric LI Mr Albert HO	Clause 33 Need for deputations to be made aware of CSAs proposed	The Administration to gauge the views of individual deputations on the proposed CSAs
011443 - 012055	Chairman Administration	Clauses 34 to 41	
012056 - 013413	Chairman Administration Ms Emily LAU Mr Albert HO ALA7 Ms Miriam LAU Mr Eric LI	Clause 42 Quorum of meeting of one-person companies	The Administration to provide past court cases concerning quorum of meeting of one-person companies and advise whether new section 114AA as drafted could reflect the policy intent
013414 - 014212	Chairman Administration Ms Emily LAU Mr Eric LI Ms Miriam LAU	Clause 43 The issue of cost implications for requisitionists	To also include in the speech the time-table when the issue of cost implications for requisitionists would be considered by the Administration

Time marker	Speaker	Subject(s)	Action required
014213 - 020141	Chairman Administration Mr Albert HO Ms Miriam LAU ALA7	Clause 44 Written records of decisions to be kept by one-person companies	The Administration to advise the rationale behind clause 44, the types of decisions under the clause of which the sole member of a one-person company should provide written records to the company and how the latter should keep such records
020142 - 020204	Chairman	Next meeting on 15 April 2003 to continue with clause-by-clause examination from clause 45 onwards	

Council Business Division 1
Legislative Council Secretariat
15 April 2003