

**Bills Committee on
Inland Revenue (Amendment) (No. 2) Bill 2009**

Follow-up to issues raised at the third meeting on 27 October 2009

1. In relation to members' (Hon James TO and Hon Albert HO) concern about the propriety and fairness of the Administration's proposal to empower a retired member of the Board of Review to handle a case that he has handled before in the three circumstances stated in paragraph 5 of the Legislative Council (LegCo) Brief, the Administration was requested to consider and provide its written response to Hon James TO's following suggestions:
 - (a) To allow a retired member to handle a case he had handled before only in the circumstances in paragraph 5(c) of the LegCo Brief, i.e. "when the appellant or the Inland Revenue Department (IRD), dissatisfied with the Board's decision, requests the Board to state a case on a question of law for the opinion of the Court of First Instance".
 - (b) If the Administration proposed to empower a retired member of the Board to handle a case he had handled before in all of the three circumstances stated in paragraph 5 of the LegCo Brief, statutory requirements should be imposed for the Board of Review to obtain the consent of both parties, i.e. the appellant and the Commissioner of Inland Revenue, before allowing a retired member to handle such a case.

2. In relation to the proposed extension of the prosecution period for breaches of secrecy provisions by IRD staff members from six months to six years, Hon James TO was concerned whether the proposed extension was commensurate with the severity of the offence in question, and the fairness of such a long prosecution period to the defendants concerned, in particular the difficulties in gathering evidence for defence if the defendants had left IRD when the prosecutions took place. To address Mr TO's concerns, the Administration was requested to take the following actions and provide its responses in writing:
 - (a) seek the comment of the Department of Justice on the proposal of extending the prosecution period to six years in terms of both legal and prosecution policies; and
 - (b) consider Mr TO's view of extending the prosecution period to, say one or two years only, instead of simply seeking an alignment with similar provisions under the Business Registration Ordinance (Cap. 310) and extending the period to six years.