

立法會
Legislative Council

LC Paper No. CB(1) 1704/02-03
(These minutes have been seen by
the Administration)

Ref : CB1/BC/2/02/2

**Bills Committee on
Stamp Duty (Amendment) Bill 2002**

**Minutes of the fourth meeting held on
Friday, 9 May 2003 at 10:45 am
in Conference Room A of the Legislative Council Building**

Members present : Hon SIN Chung-kai (Chairman)
Hon Eric LI Ka-cheung, JP
Hon CHAN Kam-lam, JP
Hon Howard YOUNG, JP
Hon Miriam LAU Kin-yea, JP
Hon Henry WU King-cheong, BBS, JP

Member absent : Hon Abraham SHEK Lai-him, JP

Public officers attending : **Financial Services and the Treasury Bureau**

Miss Erica NG
Principal Assistant Secretary for Financial
Services and the Treasury (Treasury)

Inland Revenue Department

Mr LUK Nai-man
Deputy Commissioner

Mrs CHU WONG Lai-fun
Acting Assistant Commissioner

Mr Richard LEUNG
Chief System Manager

Miss WONG Tsui-ling
Senior Superintendent of Stamp Office

Department of Justice

Ms Lonnie NG
Senior Government Counsel

Clerk in attendance : Mr LAW Kam-sang
Deputy Secretary General

Staff in attendance : Miss Monna LAI
Assistant Legal Adviser 7

Ms Cindy CHENG
Senior Assistant Secretary (1) 4

Action

I. Confirmation of minutes

- | | |
|-------------------------------|--|
| LC Paper No. CB(1)1579/02-03 | – Minutes of the second meeting on 11 April 2003 |
| LC Paper No. CB(1) 1589/02-03 | – Minutes of the third meeting on 22 April 2003 |

The minutes of the second and third meetings held on 11 and 22 April 2003 respectively were confirmed.

Action

II. Meeting with the Administration

2. The Bills Committee noted the following papers which had been issued after the third meeting on 22 April 2003 :

- (i) LC Paper No. CB(1)1591/02-3(01) – List of follow-up actions requested by members at the third meeting on 22 April 2003
- (ii) LC Paper No. CB(1)1591/02-03(02) – Administration's response to the list of follow-up actions requested by members at the third meeting on 22 April 2003
- (iii) LC Paper No. CB(1)1591/02-03(03) - Draft proposed Committee Stage Amendments provided by the Administration (1st draft)

3. The Bills Committee deliberated the contents of the Bill. (Index of proceedings in **Appendix**).

Follow-up actions to be taken by the Administration

Admin 4. Members of the Bills Committee requested the Administration to take the following actions:

- (a) Members requested the Secretary for Financial Services and the Treasury (SFST) to check with the Land Registry whether the cancellation of a stamp certificate for an instrument in respect of the sale of a property might be registered in the Land Registry.

Action

- (b) Members expressed concern about the proposed penalty to be imposed on persons who failed to comply with the requirement to submit the original instrument or evidence for inspection under the proposed Section 18I(1) and requested that the Administration look into the feasibility of amending the Bill to allow reasonable excuse before the proposed penalty would be imposed and consider the provision of a channel for appeal.
- (c) Members asked SFST to check, if possible, why a period of only two years and not longer had been stipulated in the existing section 49 of the Stamp Duty Ordinance within which the Collector may cancel and allow as spoiled the stamp misused under the circumstances described in that section.
- (d) Members asked that SFST give an undertaking in the resumed debate on the second reading of the Bill that the Administration would consult the securities industry before extending the application of the proposed system to stock transactions.
- (e) Members requested that, at a later stage, members be provided with a list of instruments that Part IIA would apply but applications for stamping could not be made without presenting the related instruments, and that instruments not to be covered by the proposed system be indicated clearly in its publicity efforts.

Date of next meeting

5. The Chairman reminded members that the fifth meeting of the Bills Committee would be held on Thursday, 22 May 2003 at 10:45 am.

II. Any other business

6. There being no other business, the meeting ended at 12:30 pm.

**Proceedings of the fourth meeting of the
Bills Committee on Stamp Duty (Amendment) Bill 2002
on Friday, 9 May 2003, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 000113	Chairman	Confirmation of minutes of the second and third meetings (LC Paper Nos. CB(1)1579/02-03 and CB(1)1689/02-03)	
000114 - 000900	Administration Chairman	Briefing by the Administration on its response to issues raised by members at the third meeting (LC Paper Nos. CB(1)1591/02-03(02) and (03))	
000901 - 001734	Mr CHAN Kam-lam Administration Chairman	Whether the power of the Collector of Stamp Revenue (the Collector) to request inspection of an instrument should be limited to 6 years from the expiration of the time for stamping the instrument (LC Paper No. CB(1)1591/02-03(02))	
001735 - 002713	Ms Miriam LAU Administration Chairman	(a) Circumstances and mechanism for recovering the shortfall of the stamp duty of the instruments that were insufficiently stamped	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) Random checking of the stamp certificate issued under the electronic stamping system to ascertain if there was any underpayment or undervaluation of stamp duty</p> <p>(c) Situations where the Level 2 penalty (currently \$5,000) would be imposed</p> <p>(d) Whether it would be unfair to impose penalty on the public who might be unable to submit original instrument or evidence for inspection</p> <p>(LC Paper No. CB(1)1591/02-03(02))</p>	
002714 - 002815	Chairman	<p>Clause by clause scrutiny Short title and commencement</p> <p>(Clause 1) (LC Paper No. CB(1)960/02-03(03))</p>	
002816 - 002911	Chairman Ms Miriam LAU	<p>Interpretation</p> <p>(Clause 2) (LC Paper No. CB(1)960/02-03(03))</p>	

Time marker	Speaker	Subject(s)	Action required
002912-003015	Chairman	Methods of stamping and denoting (Clause 3) (LC Paper No. CB(1)960/02-03(03))	
003016 - 003105	Chairman	Duplicates and counterparts (Clause 4) (LC Paper No. CB(1)960/02-03(03))	
003106-003148	Chairman	Adjudication of stamp duty by Collector (Clause 5) (LC Paper No. CB(1)960/02-03(03))	
003149 - 003200	Chairman	Appeal against assessment (Clause 6) (LC Paper No. CB(1)960/02-03(03))	
003201-003249	Chairman	Non-admissibility, etc. of instruments (Clause 7) (LC Paper No. CB(1)960/02-03(03))	
003250-003300	Chairman	Presentation of copies of instruments (Clause 8) (LC Paper No. CB(1)960/02-03(03))	

Time marker	Speaker	Subject(s)	Action required
003301 - 003309	Chairman	Part added (Clause 9) (LC Paper No. CB(1)960/02-03(03))	
003310 - 003407	Chairman Administration	Part II A-Stamping by way of stamp certificates (Section 18C) (LC Paper No. CB(1)960/02-03(03))	
003408 -003425	Chairman	Application of Part II (Section 18D) (LC Paper No. CB(1)960/02-03(03))	
003426-003554	Chairman Administration	(a) Stamping by way of stamp certificates (b) Whether any cancelled stamp certificates would be denoted (c) Reasons for keeping a record of stamp certificates issued by the Collector for a period of not less than 15 years (Section 18E) (LC Paper No. CB(1)960/02-03(03))	

Time marker	Speaker	Subject(s)	Action required
003555-004359	Chairman ALA 7 Administration Ms Miriam LAU	<p>(a) Whether it was necessary for the third party (e.g. the potential purchaser or tenant) to check if the relevant stamp certificate had been cancelled</p> <p>(b) Whether cancelled stamp certificates for an instrument in respect of the sale of property might be registered with the Land Registry</p> <p>(Section 18F) (LC Paper No. CB(1)960/02-03(03))</p>	Admin to check with the Land Registry whether the cancellation of a stamp certificate for an instrument in respect of the sale of property might be registered in the Land Registry
004360-004803	Mr Howard YOUNG Administration Chairman Ms Miriam LAU	<p>(a) Whether cancelled stamp certificates could be checked via Internet within a short time of cancellation of stamp certificates</p> <p>(b) Whether on-line or off-line payment for stamp duty would be accepted under the electronic stamping system</p>	
004804-004391	Chairman Ms Miriam LAU Administration	<p>(a) Whether there was any transitional period for the new system</p> <p>(b) Whether there would be savings in staffing resources with the introduction of the new system</p>	

Time marker	Speaker	Subject(s)	Action required
		(Section 18F) (LC Paper No. CB(1)960/02-03(03))	
004392-004953	Chairman	Approval for application made under section 18F (Section 18G) (LC Paper No. CB(1)960/02-03(03))	
004954-005007	Chairman	Refusal of application made under section 18F (Section 18H) (LC Paper No. CB(1)960/02-03(03))	
005008-010752	Chairman Ms Miriam LAU Administration Mr Eric LI	(a) Power of Collector to inspect instrument or evidence (b) Requiring an applicant or any other person, who possesses or controls the instrument or evidence, to present such instrument to the Collector for inspection (c) Whether a reasonable excuse should be provided under clause 18I (d) Whether a channel for appeal should be provided (e) Absolute discretion of the Collector to take action under Section 58A (Section 18I) (Section 58A)	Admin to look into the feasibility of amending the Bill to allow reasonable excuse before the proposed penalty was imposed for failure to comply with the requirement to submit original instrument for inspection under section 18I(1) and to consider the provision of a channel for appeal

Time marker	Speaker	Subject(s)	Action required
		(LC Paper No. CB(1)960/02-03(03)) (LC Paper No. CB(1)1628/02-03(01))	
010753-011027	Chairman Ms Miriam LAU Administration	Deleting the words "or more" under section 18J(2)(a) (Section 18J) (LC Paper No. CB(1)960/02-03(03)) (LC Paper No. CB(1)1628/02-03(01))	Admin to provide a Committee Stage Amendment accordingly
011028-011133	Chairman	Part heading ended (Clause 10) (LC Paper No. CB(1)960/02-03(03))	
011134-011530	Chairman Administration Mr Henry WU ALA 7	(a) Contract notes, etc. in respect of sale and purchase of Hong Kong stock (b) Commencement of the Ordinance on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette (Clause11) (LC Paper No. CB(1)960/02-03(03))	
011531-011623	Chairman	Refund of stamp duty in respect of sale and purchase of units under unit trust schemes	

Time Marker	Speaker	Subject(s)	Action required
		(Clause 12) (LC Paper No. CB(1)960/02-03(03))	
011624-011905	Chairman Administration	Stamp duty chargeable on contracts, etc. for sale of equitable estate or interest in immovable property (Clause 13) (LC Paper No. CB(1)960/02-03(03))	
011906-011945	Chairman	Chargeable agreements for sale (Clause 14) (LC Paper No. CB(1)960/02-03(03))	
011946-012000	Chairman	Conveyances on sale of residential property (Clause 15) (LC Paper No. CB(1)960/02-03(03))	
012001-012032	Chairman	Instruments specially exempted (Clause 16) (LC Paper No. CB(1)960/02-03(03))	
012033-012428	Chairman Ms Miriam LAU Mr Howard YOUNG	(a) Relief in case of gift to exempted institutions (b) Whether the instrument to which section 44 applied would be stamped with a particular stamp denoting that it was chargeable with stamp duty (Clause 17) (LC Paper No. CB(1)960/02-03(03))	

Time Marker	Speaker	Subject(s)	Action required
012429-012540	Chairman Ms Miriam LAU Administration	Relief in case of conveyance from one associated body corporate to another (Clause 18) (LC Paper No. CB(1)960/02-03(03))	Admin to provide a list of instruments that Part IIA applied but applications for stamping could not be made without presenting instruments and to indicate clearly the instruments not to be covered by the proposed system in its publicity efforts
012541-012552	Chairman	Instruments affecting immovable property made for new Government lease or exchange to be exempt (Clause 19) (LC Paper No. CB(1)960/02-03(03))	
012553-012600	Chairman	Instruments confirmatory of transactions during Japanese occupation to be exempt (Clause 20) (LC Paper No. CB(1)960/02-03(03))	
012601-012634	Chairman	Part heading amended (Clause 21) (LC Paper No. CB(1)960/02-03(03))	

Time Marker	Speaker	Subject(s)	Action required
012635-012700	Chairman Administration	Allowance for spoiled stamps and stamp certificates rendered unfit for purpose intended (Clause 22) (LC Paper No. CB(1)960/02-03(03))	
012701-012933	Chairman Ms Miriam LAU Mr Henry WU Administration	(a) Section 49 substituted by a new section (b) Reasons why a period of two years but not longer had been suggested under new section 49 (c) Whether a longer period could be provided under new section 49 (Clause 23) (Section 49 of Stamp Duty Ordinance) (LC Paper No. CB(1)960/02-03(03))	Admin to clarify why a period of two years and not longer had been stipulated in the existing section 49 of the Stamp Duty Ordinance within which the Collector might cancel and allow as spoiled the stamp misused under the circumstances described in that section
012934-013112	Chairman	Manner of making, and time for taking up, allowance (Clause 24) (LC Paper No. CB(1)960/02-03(03))	
013112-014545	Chairman Administration Ms Miriam LAU Mr Henry WU Mr CHAN Kam-lam ALA 7	(a) First Schedule amended (b) Consultation among the securities industry before extending the application of the proposed system to stock transactions	Admin to give an undertaking in the resumed debate on the second reading of the Bill that the Administration would consult the industry before extending the application of the

Time Marker	Speaker	Subject(s)	Action required
		(c) List of instruments to be applied under First Schedule (Clause 25) (LC Paper No. CB(1)960/02-03(03))	proposed system to stock transactions
014546-014555	Chairman	Explanatory memorandum	
014556-014710	Chairman Clerk	Issues to be followed-up by the Administration and to be discussed at the next meeting	
014711 - 014800	Chairman Ms Miriam LAU	Date of the next meeting	

Council Business Division 1
Legislative Council Secretariat
20 May 2003