

立法會
Legislative Council

LC Paper No. CB(1)2110/03-04
(These minutes have been seen
by the Administration)

Ref : CB1/BC/3/02

Bills Committee on Land Titles Bill

**Minutes of the thirty-second meeting held on
Tuesday, 25 May 2004, at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Margaret NG (Chairman)
Hon Albert HO Chun-yan (Deputy Chairman)
Hon Miriam LAU Kin-yee, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP
- Members absent** : Hon Andrew WONG Wang-fat, JP
Hon TAM Yiu-chung, GBS, JP
Hon LAU Ping-cheung
- Public officers attending** : Mr Kim SALKELD
Land Registrar
- Mr Parrish NG
Principal Assistant Secretary for Housing, Planning
and Lands (Planning and Lands)3
- Ms Monica LO
Senior Solicitor/Title Registration
Land Registry

Mr M K TAM
Senior Solicitor
Land Registry

Ms Florence WONG
Solicitor
Land Registry

Mr Jeffrey Ernest GUNTER
Senior Assistant Law Draftsman
Department of Justice

Mr Michael LAM
Senior Government Counsel
Department of Justice

Ms Rayne CHAI
Government Counsel
Department of Justice

Mr Denis LI
Assistant Secretary (Buildings)3
Housing, Planning and Lands Bureau

Mr John DAVISON
Land Registry's Consultant

Clerk in attendance : Miss Salumi CHAN
Chief Council Secretary (1)5

Staff in attendance : Mr KAU Kin-wah
Assistant Legal Adviser 6

Ms Sarah YUEN
Senior Council Secretary (1)6

I. Confirmation of minutes of meetings

- (LC Paper No. CB(1)1875/03-04 — Minutes of twenty-ninth meeting held on 20 April 2004
- LC Paper No. CB(1)1900/03-04 — Minutes of thirtieth meeting held on 27 April 2004)

The minutes of the two meetings held on 20 and 27 April 2004 respectively were confirmed.

II. Meeting with the Administration

- (LC Paper No. CB(1)1899/03-04(01) — “Follow-up to the twenty-ninth meeting on 20 April 2004” prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)1899/03-04(02) — “Follow-up to the thirtieth meeting on 27 April 2004” prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)1917/03-04(01) — “Follow-up to the thirty-first meeting on 11 May 2004” prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)1899/03-04(03) — Submission dated 13 May 2004 from The Hong Kong Institute of Surveyors
- LC Paper No. CB(1)1917/03-04(02) — Letter dated 21 May 2004 from Hon LAU Ping-cheung to Chairman of the Bills Committee
- LC Paper No. CB(3)210/02-03 — The Bill
- LC Paper No. CB(1)1899/03-04(04) — Draft proposed Committee Stage amendments to the Bill provided by the Administration (excluding Schedule 2)

- LC Paper No. CB(1)1899/03-04(05) — Marked-up copy of the Bill provided by the Administration (excluding Schedule 2)
- LC Paper No. CB(1)1544/03-04(01) — “Summary of the proposed amendments mentioned in the papers provided by the Administration from April 2003 to early April 2004 (Position as at 14 April 2004)” prepared by the Legislative Council Secretariat

2. The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Follow-up actions to be taken by the Administration

Admin 3. At the request of the Bills Committee, the Administration agreed to take the following actions -

- (a) In examining clause 92, members noted that The Hong Kong Institute of Surveyors (HKIS) had very different views from the Administration on the boundary issues. Given that the HKIS would be attending the Bills Committee meeting on 8 June 2004 to present its recent submission, the Administration was invited to provide a written response to the submission before the meeting.
- (b) In examining clause 96, members noted that any person who, without reasonable excuse, failed to comply with any requirement made under clause 6(2)(a), (b) or (c) committed an offence and was liable on conviction to a fine at level 3 (\$10,000) and, in the case of a continuing offence, to a daily penalty of \$1,000 (clause 96(4)), while any person who, without reasonable excuse, failed to comply with any requirement made under clause 32(1) committed an offence and was liable on conviction to a fine at level 4 (\$25,000) and, in the case of a continuing offence, to a daily penalty of \$1,250 (clause 96(5)). Given that the proposed daily fines for a continuing offence under clause 96(4) and (5) constituted 10% and 5% of the maximum fines for the two types of offences respectively, members were concerned that the proposed daily fines were not proportional to the maximum fines. The Administration was invited to provide justifications for the proposed daily fines and comparable provisions in existing legislation.

- (c) In examining clause 99, members noted that unpaid costs, charges and expenses required to be paid to the Land Registrar (clause 99(3)) or to a person other than the Registrar (clause 99(4)) should be recoverable summarily as a civil debt within the meaning of the Magistrates Ordinance (Cap. 227). To address members' concern about how the recovery of debt could be done summarily, the Administration was invited to provide details of the procedures involved and some relevant examples.
- (d) In examining clause 100, members noted that under the proposed new subclause (1)(zi), the Secretary for Housing, Planning and Lands (the Secretary) might make regulations to empower the Land Registrar to manage and invest the moneys of the indemnity fund, and to borrow for the purposes of the fund. Given that the indemnity fund and the power of the Registrar in respect of the fund were not mentioned in the main body of the Bill, the Assistant Legal Adviser (ALA) was concerned whether it was sufficient to provide such power in the regulations. He considered it more appropriate to provide in the main body of the Bill for the establishment of the indemnity fund and that the Registrar might manage and invest the moneys of the indemnity fund, and borrow for the purposes of the fund subject to the regulations to be made by the Secretary under clause 100. The Administration was invited to consider ALA's views and make reference to the legislative provisions on other similar funds.
- (e) To facilitate members to have a better understanding of the draft proposed Committee Stage amendments (CSAs), the Administration was invited to provide, before the next meeting on 1 June 2004, a paper explaining the draft CSAs, in particular those related to the daylight conversion mechanism. The Administration was invited to cover the following items in the paper:
 - (i) Background and purpose of the draft provisions (with the relevant clause numbers and references);
 - (ii) To what extent The Law Society of Hong Kong (the Law Soc) had accepted the draft provisions;
 - (iii) Procedures for the Land Registrar to process applications for registration of caveats (proposed new section 21A of the Land Registration Ordinance (LRO) (Cap. 128) provided in the proposed new Schedule 3 to the Bill) and for registration of cautions against conversion (proposed new section 21G of LRO); and
 - (iv) In connection with item (iii) above, whether there were any provisions in the Bill governing the approval and rejection of the two types of applications by the Registrar.

- (f) The Administration was invited to forward the draft proposed CSAs and the paper mentioned in item (e) above to the Hong Kong Bar Association for comments.
- (g) In examining the proposed new Schedule 3, members noted that the Court of First Instance “shall not” grant any extension of time under subsection (2) which would extend the validity of registration of a registered caution against conversion beyond the date of the 2nd anniversary of the caution against conversion’s first date of registration (the proposed new section 21J(4) of LRO), and that the Registrar “shall not” again register a caution against conversion the registration of which had previously expired (the proposed new section 21J(6)(b)(i) of LRO). Members considered that the above provisions might be too restrictive and could not cater for circumstances that warranted extension or re-registration, such as when the person concerned was absent from Hong Kong or seriously ill during the period in question. The Administration was invited to consider amending the proposed provisions to provide the court with the discretion to extend the validity of registration of a registered caution against conversion or to register again a caution against conversion under special circumstances before the property concerned was converted to the new land title registration system (LTRS).
- (h) In examining the proposed new Schedule 3, a member questioned the need for the phrase “but only if” in the proposed new section 21K(1)(b)(ii) and (iii) of LRO. The Administration agreed to delete the phrase in the two subsections.
- (i) In examining the proposed new Schedule 3, members expressed concern that under the proposed new section 21K, applications for the removal of cautions against conversion could be made to the Land Registrar as well as to the court at the same time without any restrictions. To address members’ concern, the Administration agreed to consider amending the proposed new section 21K to the effect that if an application for the removal of a caution against conversion was being considered by the court, the Registrar should not deal with the same application at the same time, and if an application had been rejected by the court, the Registrar should not deal with the same application unless the person concerned was able to present fresh grounds to support his claim.
- (j) Members noted that the proposed new clause 10A provided that where, on the date of first registration of any land, the land was subject to a relevant lease registered under LRO, then on that date the relevant lease should be deemed to be a registered long term lease, and all the

provisions of the Bill should apply to the lease accordingly. Members also noted ALA's view that the proposed deeming clause was not necessary because whether a long term lease would be a registered long term lease under the new LTRS would hinge on whether it could meet the definition of a long term lease under the LTRS. The Chairman opined that since the definition of long term lease was provided in clause 2, if the conversion of interests in land and long term leases were the same under the LTRS, it might suffice to provide in the proposed new Schedule 1A that all unregistered long term leases should become registered long term leases immediately upon the expiration of the 12-year incubation period in the same way that unregistered land should become registered land. The Administration was invited to take the following actions:

- (i) To check whether there was any difference in the conversion mechanism governing the two, in particular on whether a caution against conversion could be registered against long term lease;
- (ii) To consider, instead of adding the proposed new clause 10A, amending the proposed new Schedule 1A as proposed above to cover long term leases as well; and
- (iii) To consult Law Soc on any proposed changes.

Further examination of clauses

4. Members agreed that the Bills Committee would further examine clauses 65 to 69, Parts 8 and 9, and clause 88 later. They also agreed to examine Schedule 2 when the draft CSAs to it were available.

Meeting arrangements

5. Members noted the submission dated 13 May 2004 from The Hong Kong Institute of Surveyors (HKIS), and its request for meeting with the Bills Committee again to present its views, preferably on 8 June 2004. Members agreed that the HKIS be invited to attend the Bills Committee meeting on 8 June 2004 for half an hour for a discussion on the land boundary issues.

(Post-meeting note: A letter inviting HKIS to attend the meeting on 8 June 2004 from 8:30 am to 9:00 am was issued on 25 May 2004.)

6. The Chairman reminded members that the next meeting of the Bills Committee would be held on Tuesday, 1 June 2004, from 8:30 am to 12:30 pm.

III. Any other business

7. There being no other business, the meeting ended at 12:40 pm.

Council Business Division 1
Legislative Council Secretariat
10 June 2004

Appendix

**Proceedings of the thirty-second meeting of the
Bills Committee on Land Titles Bill
on Tuesday, 25 May 2004, at 8:30 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
I. Confirmation of minutes of meetings			
000000-000020	Chairman	(a) Welcoming and introductory remarks (b) Confirmation of minutes of the two meetings held on 20 and 27 April 2004 respectively	
II. Meeting with the Administration			
<u>Part A: Submission received since last meeting</u>			
000021-000427	Chairman Mr Albert HO	(a) Reference to the submission dated 13 May 2004 from The Hong Kong Institute of Surveyors (HKIS) (LC Paper No. CB(1)1899/03-04(03)) and the letter dated 21 May 2004 from Mr LAU Ping-cheung to the Chairman (LC Paper No. CB(1)1917/03-04(02)) (b) Discussion and agreement on invitation of HKIS to attend the Bills Committee meeting on 8 June 2004	

Time marker	Speaker	Subject(s)	Action Required
000428-000732	Administration	Brief introduction on the draft proposed Committee Stage amendments (CSAs) to the Bill (excluding Schedule 2) (LC Paper No. CB(1)1899/03-04(04)) and the marked-up copy of the Bill (excluding Schedule 2) (LC Paper No. CB(1)1899/03-04(05)) provided by the Administration	
<p>Part B: Clause-by-clause examination of the Bill</p> <p><i><u>The Bill</u></i></p> <p><i>Part 7: Transmissions and trusts - Clauses 62 to 69</i></p> <p><i>Part 8: Cautions and restraints on disposition - Clauses 70 to 79</i></p> <p><i>Part 9: Rectification and indemnity - Clauses 80 to 87</i></p>			
000733-000900	Chairman Administration	<p>(a) Discussion and subsequent agreement that the Bills Committee should first examine those parts of the Bill which were to be retained without substantial amendments</p> <p>(b) Administration's advice that clause 64 (Transmission on death of trustee) had been amended to address members' concern about when transmission took place</p>	
000901-001020	Chairman Administration	(a) Administration's confirmation that it would introduce CSAs to effect the proposed amendments	

Time marker	Speaker	Subject(s)	Action Required
		<p>to clause 65 (Effect of transmission on death) as highlighted in the “Summary of the proposed amendments mentioned in the papers provided by the Administration from April 2003 to early April 2004 (Position as at 14 April 2004)” prepared by the Legislative Council Secretariat (LC Paper No. CB(1)1544/03-04(01))</p> <p>(b) Deferral of discussion on clauses 65 to 69, Parts 8 and 9</p>	
<i>Part 10: Appeals - Clauses 88 to 91</i>			
001021-001358	Chairman Administration	<p>(a) Administration’s confirmation that it would introduce CSAs to effect the proposed amendments to clause 88 (Application to Court of First Instance by Registrar) as highlighted in LC Paper No. CB(1)1544/03-04(01)</p> <p>(b) Deferral of discussion on clause 88</p>	
001359-001720	Chairman Mr Albert HO Administration	<p>(a) Briefing by the Administration on clause 89 (Appeals against decisions made by Registrar)</p> <p>(b) Administration’s advice that the Chief Justice might</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>make appeal rules (clause 91)</p> <p>(c) Administration's confirmation that a person could appeal against any decision made by the Land Registrar (LR) and not just on points of law, and that affidavit could be filed and there could be a trial before the Court of First Instance</p>	
001721-001832	Chairman Assistant Legal Adviser Administration	<p>(a) Briefing by the Administration on clause 90 (Effect of appeal on disposition)</p> <p>(b) Assistant Legal Adviser (ALA)'s comment that clause 90 was acceptable because, although an appeal should not affect a disposition, there were other avenues available under the Bill to freeze registration</p>	
001833-002001	Chairman Administration	Briefing by the Administration on clause 91 (Appeal rules, etc.)	
<i>Part 11: Miscellaneous - Clauses 92 to 102</i>			
002002-002324	Chairman Ms Miriam LAU Administration	<p>(a) Briefing by the Administration on clause 92 (Determination of lot boundaries)</p> <p>(b) Reference to HKIS's views on boundary issues</p>	Administration to take the follow-up action under

Time marker	Speaker	Subject(s)	Action Required
			paragraph 3(a) of the minutes
002325-002540	Chairman Administration	Briefing by the Administration on clause 93 (Address for service) and clause 94 (Meaning of “opportunity of being heard”)	
002541-002917	Chairman Assistant Legal Adviser Administration	(a) Administration’s confirmation that it would introduce CSAs to effect the proposed amendments to clause 95 (Application to Court of First Instance by person other than Registrar) as highlighted in LC Paper No. CB(1)1544/03-04(01) (b) ALA’s confirmation that the Administration’s proposed amendments to clause 95 were acceptable	
002918-003330	Chairman Administration	Briefing by the Administration on clause 96 (Offences)	
003331-003754	Chairman Ms Miriam LAU Mr Albert HO Administration	Discussion on clause 96 - (a) Members’ question on why the Administration had determined that any person who, without reasonable excuse, failed to comply with any requirement made under clause 6(2)(a), (b) or (c) committed an offence and was liable on conviction to a fine at level 3 (\$10,000) and, in the case of a continuing	

Time marker	Speaker	Subject(s)	Action Required
		<p>offence, to a daily penalty of \$1,000 (clause 96(4)), while any person who, without reasonable excuse, failed to comply with any requirement made under clause 32(1) committed an offence and was liable on conviction to a fine at level 4 (\$25,000) and, in the case of a continuing offence, to a daily penalty of \$1,250 (clause 96(5))</p> <p>(b) Administration's explanation that the proposed daily fines in item (a) above had been determined with reference to the seriousness of the offences concerned, and that the Prosecutions Division of the Department of Justice had been consulted and agreed that the levels were acceptable</p> <p>(c) Members' concern that the proposed daily fines in item (a) above were not proportional to the maximum fines, given that the proposed daily fines constituted 10% and 5% of the maximum fines for the two types of offences respectively</p> <p>(d) Administration's confirmation that it would introduce CSAs to effect</p>	<p>Administration to take the follow-up action under paragraph 3(b) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		the proposed amendments to clause 96 as highlighted in LC Paper No. CB(1)1544/03-04(01)	
003755-003824	Chairman Administration	Briefing by the Administration on clause 97 (Power of Registrar to specify forms)	
003825-004200	Chairman Assistant Legal Adviser Administration	<p>(a) Briefing by the Administration on clause 98 (Regulations relating to fees and levy)</p> <p>(b) ALA's and Administration's confirmation that as was the existing practice, the fees and levy to be paid to the LR would be prescribed by subsidiary legislation that required negative vetting</p> <p>(c) Administration's advice that CSAs would be introduced to separate fees from levy instead of lumping them together as was the present case</p>	
004201-005010	Chairman Ms Miriam LAU Assistant Legal Adviser Administration	<p>(a) Briefing by the Administration on clause 99 (Unpaid fees, etc.)</p> <p>(b) How unpaid costs, charges and expenses required to be paid to the LR (clause 99(3)) or to a person other than the LR (clause 99(4))</p>	Administration to take the follow-up action under paragraph 3(c) of the minutes

Time marker	Speaker	Subject(s)	Action Required
		<p>could be recoverable summarily as a civil debt within the meaning of the Magistrates Ordinance (Cap. 227)</p>	
005011-005412	<p>Chairman Assistant Legal Adviser Administration</p>	<p>(a) Administration's confirmation that it would introduce CSAs to effect the proposed amendments to clause 100 (Regulations - general powers) as highlighted in LC Paper No. CB(1)1544/03-04(01)</p> <p>(b) Administration's explanation that under the proposed new subclause (1)(zi) of clause 100, the Secretary for Housing, Planning and Lands (the Secretary) might make regulations to empower the LR to manage and invest the moneys of the indemnity fund, and to borrow for the purposes of the fund</p> <p>(c) ALA's concern about whether it was sufficient to provide the power described in item (b) above in the regulations, given that the indemnity fund and the power of the LR in respect of the fund were not mentioned in the main body of the Bill</p>	

Time marker	Speaker	Subject(s)	Action Required
		(d) ALA’s view that it was more appropriate to provide in the main body of the Bill for the establishment of the indemnity fund and that the LR might manage and invest the moneys of the indemnity fund, and borrow for the purposes of the fund subject to the regulations to be made by the Secretary under clause 100	Administration to take the follow-up action under paragraph 3(d) of the minutes
005413-005500	Chairman Administration	(a) Briefing by the Administration on clause 101 (Amendment of Schedule 1) (b) Administration’s confirmation that it would introduce CSAs to effect the proposed amendments to clause 102 (Consequential amendments) as highlighted in LC Paper No. CB(1)1544/03-04(01)	
<i>Schedule 1: Specified provisions for purposes of section 7</i>			
<i>Schedule 2: Consequential amendments</i>			
005501-005552	Chairman Administration	(a) Reference to Schedule 1 (Specified provisions for purposes of section 7) (b) Administration’s advice that the new Schedule 1A	

Time marker	Speaker	Subject(s)	Action Required
		<p>had been added to provide for the conversion of unregistered land to registered land</p> <p>(c) Deferral of discussion on Schedule 2 (Consequential amendments)</p>	
<i>Draft proposed Committee Stage amendments to the Bill</i>			
005553-005844	Chairman	Agreement to start examination of the draft proposed CSAs to the Bill from clause 3 onwards	
005845-010520	Chairman Assistant Legal Adviser Administration	<p>(a) Reference to the “follow-up to the thirtieth meeting on 27 April 2004” prepared by the Legislative Council Secretariat (LC Paper No. CB(1)1899/03-04(02))</p> <p>(b) Briefing by the Administration on the CSAs to clause 3, and on the definition of “unregistered land” in clause 2</p> <p>(c) ALA’s query of the need for the proposed new subclause (1A) of clause 3 to provide that the Bill would apply to unregistered land subject to the provisions of Schedule 1A. This was because upon expiry of the 12-year incubation period, Schedule 1A would automatically apply</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>(d) Administration’s explanation of the need for clause 3(1A) to introduce Schedule 1A</p> <p>(e) ALA’s comment that, due to the lack of time dimensions, the definition of “unregistered land” was not precise enough. It was also confusing to say that “unregistered land” meant land which was the subject of a Government lease for which “a register has been kept”. This was because such land was considered as “registered land” under the existing deeds registration system (DRS)</p> <p>(f) Administration’s explanation that the DRS dealt with the registration of deeds, not land</p>	
010521-012023	Chairman Ms Miriam LAU Mr Albert HO Administration	<p>(a) Briefing by the Administration on the overall approach to the introduction of CSAs to provide for the daylight conversion mechanism (clauses 10A, 11, 11A and 12 in Part 2, Schedule 1A and Schedule 3)</p> <p>(b) Briefing by the Administration on</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>Schedule 1A and the clauses referred to in item (a) above</p> <p>(c) Administration's confirmation that the Bills Committee's request for the introduction of a review mechanism to enable the 12-year incubation period to be extended or shortened when necessary would be provided in clause 101</p> <p>(d) Members' view on the need to provide, before the next meeting on 1 June 2004, a paper explaining the background and purpose of the draft CSAs, in particular those related to the daylight conversion mechanism, and to state therein to what extent The Law Society of Hong Kong (the Law Soc) had accepted the draft provisions</p>	<p>Administration to take the follow-up action under paragraphs 3(e)(i) and 3(e) (ii) of the minutes</p>
012024-013050	<p>Chairman Mr Albert HO Ms Miriam LAU Administration</p>	<p>(a) Administration's reference to the definition of "caveat" in Schedule 3, and its explanation of the operational details of the mechanism for the registration of a caveat to protect unregistrable interests, namely, that a caveat would operate as a warning notice similar to a non-consent caution (paper on "Position Report on Main Issues" (LC Paper</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>No. CB(1)968/03-04(02)))</p> <p>(b) Members' question on the readiness of the specified forms for the registration of a caveat, and whether the forms had been cleared with the Law Soc</p> <p>(c) Administration's report on the consultation with the Law Soc, namely, that it had agreed to most of the draft CSAs (paper on "Report on Consultation on Revisions to Conversion Mechanism and Rectification Provisions" (LC Paper No. CB(1)1230/03-04(04)))</p> <p>(d) Administration's confirmation that wrongful registration of caveats would be liable for damages</p>	
013051-013929	Chairman Administration	Briefing by the Administration on the first part of Schedule 3 (items 1 to 3 and the part of item 4 on caveats (proposed new sections 21A to 21F of the Land Registration Ordinance (LRO) (Cap. 128)))	
013930-020022	Chairman Ms Miriam LAU Assistant Legal Adviser Administration	(a) Members' view on the need to explain the circumstances under which a caveat could be registered. They were	

Time marker	Speaker	Subject(s)	Action Required
		<p>concerned that if not properly defined, the relevant scope might be too wide (proposed new section 21A of LRO)</p> <p>(b) Administration's explanation of the policy intention that the unregistrable interests that could qualify for registration of caveats under the Bill were interests or equities in or affecting land, and that the scope of registration should not be too narrow as to block out new developments</p> <p>(c) Members' question on the procedures for the LR to process applications for registration of caveats. In particular, on when and whether the LR should notify the applicant of the reasons if he refused to grant an application (proposed new section 27A of LRO)</p> <p>(d) Administration's explanation that its intention was that the procedures for registration of non-consent cautions and the safeguards against wrongful registration of such in LRO should apply to caveats</p>	<p>Administration to take the follow-up action under paragraph 3(e)(iii) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		(e) Provisions in the Bill governing the approval and rejection by the LR of the applications for registration of caveats	Administration to take the follow-up action under paragraph 3(e)(iv) of the minutes
Break from 020023 - 021838			
021839-022156	Chairman Administration	<p>(a) Briefing by the Administration on the remaining part of Schedule 3 (the part of item 4 on cautions against conversion and item 5 (proposed new sections 21G to 21L and 27A of LRO))</p> <p>(b) Explanation of how and why the registration of a caution against conversion constituted notice of claim but did not confer priority (proposed new section 21H of LRO)</p> <p>(c) Administration's confirmation that the priority of a claim would continue to be governed by the existing common law on equity interests so that the general law position could be preserved</p>	
022157-023556	Chairman Ms Miriam LAU Administration	(a) Administration's confirmation that a lis pendens and a caution against conversion could be registered in relation to the same claim at the same	

Time marker	Speaker	Subject(s)	Action Required
		<p>time (proposed new section 21I of LRO)</p> <p>(b) Administration's confirmation that notwithstanding the registration of a caution against conversion or a lis pendens, there would not be any limitations on when court actions should complete</p> <p>(c) Administration's advice that in response to members' views expressed at previous meetings, the 12-month validity period of the caution against conversion could only be extended for another twelve months (proposed new section 21J of LRO)</p>	
023557-023839	Chairman Administration	<p>Discussion on the proposed new section 21G of LRO -</p> <p>(a) Members' question on the procedures for the LR to process applications for registration of cautions against conversion (proposed new section 21G of LRO)</p> <p>(b) Administration's explanation that the application mentioned in item (a) above should be made in a specified form and be supported by a</p>	Administration to take the follow-up action under paragraph 3(e)(iii) of the minutes

Time marker	Speaker	Subject(s)	Action Required
		<p>statutory declaration. Supporting documents might also need to be submitted where necessary</p> <p>(c) Members' question on the provisions in the Bill governing the approval and rejection by the LR of the application for registration of a caution against conversion</p>	<p>Administration to take the follow-up action under paragraph 3(e)(iv) of the minutes</p>
023840-025823	<p>Chairman Ms Miriam LAU Assistant Legal Adviser Administration</p>	<p>Discussion on the proposed new section 21J of LRO -</p> <p>(a) Member's question on the reasons for providing that the Court of First Instance "shall not" grant any extension of time under subsection (2) which would extend the validity of registration of a registered caution against conversion beyond the date of the 2nd anniversary of the caution against conversion's first date of registration (proposed new section 21J(4) of LRO)</p> <p>(b) Administration's explanation that the provision in item (a) above had been introduced to address the Bills Committee's concern that in the absence of a limit on the extension period, registration of cautions</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>against conversion might be extended endlessly</p> <p>(c) Members’ question on the reasons for providing that the LR “shall not” again register a caution against conversion the registration of which had previously expired (proposed new section 21J(6)(b)(i) of LRO)</p> <p>(d) Administration’s explanation that the provision in item (c) above was necessary to ensure smooth operation by law of the automatic conversion mechanism</p> <p>(e) Members’ view that the provision in item (c) above was misleading if conversion would take place by operation of law and the LR would have no power to reverse such</p> <p>(f) Administration’s and ALA’s explanation that the provision in item (c) above was necessary to prevent repeated registration should a caution against conversion expired before the end of the 12-year period. Moreover, automatic conversion would not affect the litigant's right to dispute</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>title, and protection could be further afforded by registration of a lis pendens</p> <p>(g) Administration's explanation that the difference between the lis pendens mentioned in item (f) above and that in the proposed new section 21J(5) of LRO was that the former could not stop conversion at the end of the 12-year period</p> <p>(h) ALA's advice that the policy intention was that the rights accrued under the DRS would not be diminished under the new land title registration system (LTRS)</p> <p>(i) Administration's explanation of the need to ensure that the registration of a caution against conversion would be made with due diligence</p> <p>(j) Members' view that the two provisions in items (a) and (c) above might be too restrictive and could not cater for circumstances that warranted extension or re-registration, such as when the person concerned was absent from Hong Kong or seriously ill during the period in question. Moreover, the fact that</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>application for extension had to be made to the court would ensure extension would be granted only when justified</p> <p>(k) Members’ invitation of the Administration to consider amending the proposed provisions in items (a) and (c) above to provide the court with the discretion to extend the validity of registration of a registered caution against conversion or to register again a caution against conversion under special circumstances before the property concerned was converted to the LTRS</p> <p>(l) The Chairman’s suggestion that the phrase “unless with the order of the court” be added to the proposed new section 21J(6)(b)(i) of LRO, so that if no other parties’ interests were involved, the court could order the LR to grant re-registration</p>	<p>Administration to take the follow-up action under paragraph 3(g) of the minutes</p>
025824-025925	Chairman Administration	Briefing by the Administration on the proposed new section 21K of LRO	
025926-031819	Chairman Mr Albert HO Assistant Legal Adviser Administration	Discussion on the proposed new sections 21G and 21K of LRO - (a) Members’ question on the	

Time marker	Speaker	Subject(s)	Action Required
		<p>actions and factors the LR should take and consider before deciding on the registrability and continued registrability of a caution against conversion</p> <p>(b) Administration’s advice that its intention was to exercise discretion on the basis of prima facie evidence instead of conducting hearings when determining whether to register a caution against conversion. Other parties could however challenge the decision by applying for withdrawal of the caution under the proposed new section 21K of LRO</p> <p>(c) A member’s view on the need to set out in the Bill the factors in item (a) above because wrongful registration might give rise to claims for damages and hence serious consequences</p> <p>(d) Administration’s advice that guidance notes would be issued and, in the relevant specified form, the applicant would be warned against the consequence of wrongful registration</p> <p>(e) Chairman’s view that it might not be desirable to</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>guide the LR on how he should exercise the discretion. Moreover, the validity of a caution against conversion was limited. The owner could also unilaterally apply for removal of any wrongful registration</p> <p>(f) ALA's view that since the LR was performing a discretionary administrative duty in the registration of cautions against conversion, there was no need to set out in detail in the Bill the criteria for registration. Moreover, the person aggrieved by LR's decision could seek judicial review. The relevant broad principles would become clearer after the relevant guidance notes were issued</p> <p>(g) A member's view that in determining the withdrawal and removal of cautions against conversion, an objective test instead of a subjective test should be applied. It might also be more desirable to adopt the regime regarding caveats registered in the probate registry, whereby probate action would be triggered by the service of a warning notice of removal if such</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>was followed by an objection thereto</p> <p>(h) In relation to item (g) above, the Chairman's view that it might be more desirable to give wider choice of actions to the parties concerned instead</p> <p>(i) Administration's assurance that applications for removal of cautions against conversion would need to be justified by higher standards, and that the LR would need to go into the crux of the matter instead of just looking at prima facie evidence</p>	
031820-033056	<p>Chairman Ms Audrey EU Ms Miriam LAU Administration</p>	<p>(a) Actions to be taken to apply for withdrawal and removal of cautions against conversion (the proposed new section 21K(1)(b)(i), (ii) and (iii) of LRO)</p> <p>(b) Administration's confirmation that under the proposed new section 21K of LRO, applications for the removal of cautions against conversion could be made to the LR as well as to the court</p> <p>(c) A member's concern about the confusion that might arise from the arrangement</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>in item (b) above, and her view that the order of sequence should be clearly set out to prevent parallel proceedings or reversal of order, such that the applicant could go to the LR again after going to the court</p> <p>(d) The Chairman's view that it was not desirable to prevent people from going to the LR if they had started in court, although she agreed that the LR could refer a case to the court if it was too complicated for him to handle</p> <p>(e) Members' agreement that there should be some restrictions on the arrangement in item (b) above to avoid duplication and hence waste of efforts</p> <p>(f) Administration's agreement to consider amending the proposed new section 21K to the effect that if an application for the removal of a caution against conversion was being considered by the court, the LR should not deal with the same application at the same time</p>	<p>Administration to take the follow-up action under paragraph 3(i) of the minutes</p> <p>Administration to take the follow-up</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>(g) Administration’s agreement that if an application had been rejected by the court, the LR should not deal with the same application unless the person concerned was able to present fresh grounds to support his claim</p> <p>(h) A member’s query of the need for the phrase “but only if” in the proposed new section 21K(1)(b)(ii) and (iii) of LRO</p>	<p>action under paragraph 3(i) of the minutes</p> <p>Administration to take the follow-up action under paragraph 3(h) of the minutes</p>
033057-033322	Chairman Administration	Briefing by the Administration on the proposed new sections 21L and 27A of LRO	
033323-033540	Chairman Ms Miriam LAU Administration	Administration’s confirmation that they would take the follow-up actions in paragraph 3(e) of the minutes	
033541-033800	Chairman Administration	Progress of the preparation of CSAs to Schedule 2	
033801-035548	Chairman Assistant Legal Adviser Administration	<p>Discussion on the proposed new clause 10A -</p> <p>(a) Administration’s advice that the proposed new clause 10A might be relocated elsewhere later</p> <p>(b) Administration’s explanation that the proposed new clause 10A provided that where, on the date of first registration of</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>any land, the land was subject to a relevant lease registered under LRO, then on that date the relevant lease should be deemed to be a registered long term lease, and all the provisions of the Bill should apply to the lease accordingly</p> <p>(c) ALA's view that clause 10A, which was a deeming provision, was not necessary because whether a long term lease would be a registered long term lease under the new LTRS would hinge on whether it could meet the definition of a long term lease under the LTRS</p> <p>(d) Administration's explanation of the need for clause 10A to clearly specify that there would be a transfer of the long term leases registered under the DRS to the Title Register under the LTRS</p> <p>(e) ALA's reference to the 1994 version of the Land Titles Bill tabled at the meeting, and his view that it was better to focus on the concept of registration of interests, as was the case in the 1994 version, than on the Title Register, as appeared to be the thinking</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>behind some of the drafting</p> <p>(f) Administration’s confirmation that the definition of long term lease under the DRS would remain unchanged in the Bill, and that the definition was provided in clause 2</p> <p>(g) Chairman’s opinion that since the definition of long term lease was provided in clause 2, if the conversion of interests in land and long term leases were the same under the LTRS, it might suffice to provide in the proposed new Schedule 1A that all unregistered long term leases should become registered long term leases immediately upon the expiration of the 12-year incubation period in the same way that unregistered land should become registered land</p> <p>(h) Administration’s explanation of the need to check whether there was any difference in the conversion mechanism governing interests in land and long term lease, in particular on whether a caution against conversion could be registered against long term lease</p>	<p>Administration to take the follow-up action under paragraph 3(j)(i) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>(i) Members' view that the Administration should consider, instead of adding the proposed new clause 10A, amending the proposed new Schedule 1A as proposed in item (g) above to cover long term leases as well, and to consult Law Soc on any proposed changes</p> <p>(j) Invitation of the Administration to forward the draft CSAs and the paper mentioned in paragraph 3(e) of the minutes to the Hong Kong Bar Association for comments</p>	<p>Administration to take the follow-up action under paragraphs 3(j)(ii) and 3(j)(iii) of the minutes</p> <p>Administration to take the follow-up action under paragraph 3(f) of the minutes</p>
035549-035852	Chairman	Meeting arrangements	