

立法會
Legislative Council

LC Paper No. CB(1)2483/03-04
(These minutes have been seen
by the Administration)

Ref : CB1/BC/3/02

Bills Committee on Land Titles Bill

**Minutes of the thirty-fourth meeting held on
Tuesday, 8 June 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 Andrew WONG Wang-fat, JP
Hon Miriam LAU Kin-ye, JP
Hon TAM Yiu-chung, GBS, 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 LAU Ping-cheung
- Member absent** : Hon Audrey EU Yuet-mee, SC, JP
- 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 Andy NGAN
Land Registry's Consultant

Attendance by invitation : The Hong Kong Institute of Surveyors

Mr LEUNG Shou-chun
Chairman
Boundary Survey Advisory Committee
Land Surveying Division

Mr Henry CHAN
Council Member
Land Surveying Division

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

Action

I. Meeting with The Hong Kong Institute of Surveyors

(LC Paper No. CB(1)1899/03-04(03) — Second submission dated 13 May 2004 from The Hong Kong Institute of Surveyors (HKIS)

LC Paper No. CB(1)2042/03-04(01) — Administration's response to the submission from HKIS

LC Paper No. CB(1)1517/02-03(06) — First submission dated 22 April 2003 from HKIS

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)

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

Follow-up actions to be taken by the Administration

Admin 2. At the request of the Bills Committee, the Administration agreed to take the following actions -

- (a) In discussing the submission from The Hong Kong Institute of Surveyors (HKIS) (LC Paper No. CB(1)1899/03-04(03)), members noted that, in response to the request of HKIS to address the problem of unclear lot boundaries in the New Territories (NT), the Administration proposed to remove clause 92(2)(b) to enable the Director of Lands (D of L) to, upon application, make a determination of the boundaries of a lot held under a block Government lease. In this connection, the Administration was invited to provide, before the meeting on 15 June 2004, a paper on the following issues related to clause 92:

- (i) Existing practice for determination of lot boundaries for urban land and NT land, and the role of the D of L in this regard;
 - (ii) How D of L would process the applications for determination of lot boundaries for urban land and NT land under clause 92, the time required to process such an application and the fees involved;
 - (iii) Whether lot owners might apply for determination of lot boundaries under clause 92 immediately after commencement of the Bill; and
 - (iv) How the problem of plan rectification in the NT would be dealt with; in this connection, the Administration was invited to respond to a member's view that the problem might be addressed under clause 92 by empowering the D of L to effect plan rectification without the need to seek agreement from all the lot owners concerned.
- (b) In connection with item (a) above, the Administration was invited to liaise with HKIS in due course on the consequential amendments that had to be made as a result of the removal of clause 92(2)(b).

II. Meeting with the Administration

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|-----------------------------------|--|
| (LC Paper No. CB(1)1987/03-04(02) | — Paper provided by the Administration on “Revisions to the Land Titles Bill” |
| LC Paper No. CB(3)210/02-03 | — The Bill |
| LC Paper No. CB(1)1899/03-04(04) | — Draft proposed Committee Stage amendments (CSAs) to the Bill provided by the Administration (excluding Schedule 2) |
| LC Paper No. CB(1)2042/03-04(02) | — Draft proposed CSAs to Schedule 2 to the Bill provided by the Administration |
| 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)

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

Follow-up actions to be taken by the Administration

Admin 4. At the request of the Bills Committee, the Administration agreed to take the following actions -

- (a) On clause 24, the Administration was invited to liaise with the Assistant Legal Adviser (ALA) on how to address his concern about subclauses (1)(c)(i), (1)(d), (1)(e) (that the relevant draft proposed Committee Stage amendments (CSAs) might have the effect of excluding easements acquired by usage) and (4)(b) (that the scope of removal thereunder was not precise enough).
- (b) In examining the draft proposed CSAs to clause 26, members noted that notwithstanding subclause (5), which provided that “if a title certificate has been issued for registered land or a registered long term lease, a transfer or transmission shall not be registered in respect of the land or lease unless the certificate is returned for cancellation”, the requirement to return a title certificate for cancellation would be exempted under certain circumstances. For example, when filing an application for dealing, a statutory declaration was made that the certificate had been lost. The Administration was invited to specify in the relevant regulations the circumstances under which the exemption would be made.
- (c) On the draft proposed CSAs to clause 29(1) and (2), the Administration was invited to liaise with ALA on how the drafting could be amended to achieve the policy intention of preserving equitable interests.

- (d) In examining the draft proposed CSAs to clause 33(7), ALA cast doubt on whether an agreement for sale and purchase (ASP) covered provisional ASPs as provided therein. ALA pointed out that a provisional ASP and an ASP were treated separately under the Stamp Duty Ordinance (Cap. 117) and other ordinances. The Administration was invited to check whether this was the case and consider the need to revise the draft proposed CSAs.
- (e) The Administration was invited to liaise with ALA on how to address his comments on the draft proposed CSAs to clause 34, namely, subclauses (1)(b), (1)(c) (that given the Administration's agreement to apply the doctrine of notice to deal with the priority issue under the new land title registration system (LTRS), the expression "relates back" in the subclauses might cause misunderstanding) and (1)(d) (that the subclause was not straightforward).
- (f) In examining clause 35, members noted that the Administration had decided to retain the term "charge" therein instead of, as suggested by ALA, replacing it by the term "legal charge" as used in the Conveyancing and Property Ordinance (CPO) (Cap. 219) to ensure consistency with CPO (paragraph 6 of the list of follow-up actions to the thirty-first meeting of the Bills Committee on 11 May 2004 (LC Paper No. CB(1)1917/03-04(01))). The reason given was that the term "charge" had a broader meaning than the term "legal charge". The Administration was invited to check whether this was really the case and consider the need to achieve consistency of terminology between CPO and the Bill.
- (g) In examining the draft proposed CSAs to clause 43, members noted the different views expressed by ALA and the Administration on when implied covenants should take effect. While ALA opined that under the LTRS, which was a system for registration of interests, implied covenants should take effect upon registration, the Administration, out of practical considerations, considered that such should take effect when the relevant Transfer was signed. The Administration was invited to liaise with ALA and explore the possibility of catering for the views of both sides, such as by mandating in the relevant Transfer the time implied covenants should take effect.
- (h) In examining the draft proposed CSAs to clause 44, members noted ALA's view that given the Administration's proposal to amend clause 81 to provide for the rectification of Title Register in favour of an innocent former owner where title had been transferred as a result of forgery, there was a need to facilitate detection of forgery by requiring the provision of the originals of the documents in subclause (1)(a)(ii) and

(iii) instead of their copies as presently drafted. Members noted that the Administration was still discussing with the Law Society of Hong Kong (Law Soc) on the documents to be retained under the LTRS. After the documents to be retained had been decided upon, the Administration was invited to respond to ALA's views above, and to explicitly specify such in the regulations referred to in subclause (1)(a)(iv).

- (i) On the draft proposed CSAs to clause 51, ALA suggested that the expression "subject of the deed" in subclause (4)(a) be amended and that a provision be added to stipulate that the registration of a deed of mutual covenant did not reflect the validity of any easement, right or covenant provided for in the deed. The Administration was invited to consider ALA's views.
- (j) On clause 61, the Administration agreed to amend subclause (1) to address ALA's concern about the need for clarification and to amend subclause (3) to make the addition after the minor's English name of the words "a minor" a mandatory requirement.
- (k) In examining the proposed new clause 61A, members noted that the Administration was considering ALA's views about the relationship between the proposed new clause with other clauses in Part 7. The Administration was invited to report the outcome to the Bills Committee in due course.
- (l) In examining the draft proposed CSAs to clause 62, members expressed concern about whether and how a surviving joint tenant, who could sign a conditional ASP, could register such under the LTRS. The Administration was invited to provide an information paper on this subject.
- (m) In examining the draft proposed CSAs to clause 65, the Administration was invited to take the following actions:
 - (i) To provide information on whether, before securing a document of title to certify the transfer upon death of an owner of registered land, an intended personal representative (PR) could sign a conditional ASP, a conditional tenancy agreement, or an equitable charge, and have such registered under the LTRS;
 - (ii) To delete the phrase "deemed to have been registered" in subclause (1)(b) because in the first part of subclause (1), it had already been stated that the PR "who in that capacity is registered as the owner of registered land"; and
 - (iii) To liaise with ALA on how to address his concern about the drafting of subclause (1)(a) (concern about the phrase "immediately prior to his death" therein and hence the uncertainty

of what would happen during the time gap between death of the deceased owner and registration of the PR).

- (n) In examining the draft proposed CSAs to clause 69, members noted that the Administration was liaising with ALA on how the drafting issues of clause 69(1)(b) and (c) could be addressed. The Administration was invited to report the outcome to the Bills Committee in due course.
- (o) In examining the draft proposed CSAs to clause 70, the Administration agreed to take the following actions:
 - (i) To amend subclause (1)(b) to improve the clarity of the provision;
 - (ii) To amend subclause (2) in line with any amendments to clause 33 pursuant to ALA's views in item (d) above;
 - (iii) To liaise with ALA on how to address his comments on subclause (5) (need to justify the need to register a non-consent caution) and subclause (6) (need to amend the subclause to enable the donee, who as presently drafted under the Bill could not register a non-consent caution, to do so); and
 - (iv) To delete the proposed new subclause (14).
- (p) In examining the draft proposed CSAs to clause 72, ALA expressed concern about the legal effect of the removal of caution in subclause (5) on priority and on the tracing of the chain of title. Members expressed concern that the trigger point of the removal, namely, "registration of a dealing relating to the subject of a caution", might be too loose. To address the above concerns, the Administration agreed to delete subclause (5), and to rely on clause 17 (Removal of obsolete entries) to empower the Land Registrar to remove a caution where justified.
- (q) In examining the draft proposed CSAs to clause 73, members and ALA opined that the scope of the expression "a person who has thereby sustained damage" in subclauses (1) and (2) was too broad, and that not any person who had sustained damage should be allowed to claim compensation. Instead, the right to claim compensation should be restricted to those who had an interest in land. The Administration was invited to consider the above views.

Meeting arrangements

5. At the Chairman's invitation, the Clerk reminded members that the next two meetings of the Bills Committee would be held from 8:30 am to 12:30 pm on Friday, 11 June 2004 and Tuesday, 15 June 2004.

Way forward

6. The Chairman pointed out that if the Second Reading debate on the Bill was to be resumed on 7 July 2004, the Administration had to issue a consultation letter to the Chairman of the House Committee on or before 15 June 2004 and the Bills Committee had to make a verbal report on its deliberations to the House Committee on 18 June 2004.

III. Any other business

7. There being no other business, the meeting ended at 12:35 pm.

Council Business Division 1
Legislative Council Secretariat
19 August 2004

Appendix

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

Time marker	Speaker	Subject(s)	Action Required
I. Meeting with The Hong Kong Institute of Surveyors			
000000-000230	Chairman	Welcoming and introductory remarks	
000231-001833	Chairman HKIS Administration	<p>(a) Briefing by The Hong Kong Institute of Surveyors (HKIS) on its submission dated 13 May 2004 (LC Paper No. CB(1)1899/03-04(03))</p> <p>(b) Briefing by the Administration on its response to the submission from HKIS (LC Paper No. CB(1)2042/03-04(01))</p> <p>(c) Administration's advice that in response to the request of HKIS to address the problem of unclear lot boundaries in the New Territories (NT), the Administration proposed to remove clause 92(2)(b) to enable the Director of Lands (D of L) to, upon application, make a determination of the boundaries of a lot held under a block Government</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>owner's interests to determine the boundaries of his lot</p> <p>(e) Discussion on how D of L would process the applications for determination of lot boundaries for urban land and NT land under clause 92 after the removal of clause 92(2)(b), the time required to process such an application and the fees involved (clauses 92(3) and 92(4))</p> <p>(f) A member's concern about the availability of sufficient authorized land surveyors to determine lot boundaries for NT land after the removal of clause 92(2)(b), and HKIS's assurance of sufficient expertise in this regard while also stressing the importance of Government involvement</p> <p>(g) Members' view on the need to allow lot owners to apply for determination of lot boundaries under clause 92 immediately after commencement of the Bill</p> <p>(h) A member's concern about how the problem of plan rectification in the NT would be dealt with, and his view that the problem</p>	<p>Administration to take the follow-up action under paragraph 2(a)(ii) of the minutes</p> <p>Administration to take the follow-up action under paragraph 2(a)(iii) of the minutes</p> <p>Administration to take the follow-up action under paragraph 2(a)(iv) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>might be addressed under clause 92 by empowering the D of L to effect plan rectification without the need to seek agreement from all the lot owners concerned (paragraph 2(I)(b) of LC Paper No. CB(1)2042/03-04(01))</p> <p>(i) Discussion on the need to provide the information relating to items (a), (c), (e), (g) and (h) above before the meeting on 15 June 2004</p>	<p>Administration to take the follow-up action under paragraph 2(a) of the minutes</p>
<p>II. Meeting with the Administration</p> <p><u>Examination of the draft proposed Committee Stage amendments (CSAs)</u></p>			
005958-010838	<p>Chairman Mr Andrew WONG Assistant Legal Adviser Administration</p>	<p>Discussion on clause 24 -</p> <p>(a) Assistant Legal Adviser (ALA)'s concern about subclauses (1)(c)(i), (1)(d) and (1)(e), namely, that the relevant draft proposed CSAs might have the effect of excluding easements acquired by usage</p> <p>(b) Administration's confirmation that its policy intention was neither to specifically recognize nor to exclude the possibility of recognizing easements acquired by usage, and it would amend the draft proposed CSA to</p>	<p>Administration to take the follow-up action under paragraph 4(a) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>subclause (1)(d) to address ALA’s concern highlighted in item (a) above</p> <p>(c) Administration’s explanation that rights of way would be covered under subclause (1)(c)(ii)</p> <p>(d) ALA’s view that the scope of removal under subclause (4)(b) was not precise enough</p>	<p>Administration to take the follow-up action under paragraph 4(a) of the minutes</p>
010839-010927	Chairman Administration	Administration’s advice that further CSAs would be proposed to clause 25	
010928-011305	Chairman Ms Miriam LAU Administration	<p>(a) Briefing by the Administration on the draft proposed CSAs to clause 26</p> <p>(b) A member’s view on the undesirability of clause 26(5), which provided that “if a title certificate has been issued for registered land or a registered long term lease, a transfer or transmission shall not be registered in respect of the land or lease unless the certificate is returned for cancellation”</p> <p>(c) Administration’s explanation that notwithstanding clause 26(5), the requirement to</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>return a title certificate for cancellation would be exempted under certain circumstances. For example, when filing an application for dealing, a statutory declaration was made that the certificate had been lost</p> <p>(d) Members' view on the need to specify in the relevant regulations the circumstances under which the exemption mentioned in item (c) above would be made</p>	<p>Administration to take the follow-up action under paragraph 4(b) of the minutes</p>
011306-011329	Chairman	Reference to clauses 27 and 28, where there was no CSA	
011330-012449	<p>Chairman Mr Abraham SHEK Mr Albert HO Assistant Legal Adviser Administration</p>	<p>(a) Briefing by the Administration on the draft proposed CSAs to clause 29, and the Administration's advice that, with the exception of the beginning of clause 29(1), clause 29(1) and (2) would be reverted to its original version to address the concern of the Law Society of Hong Kong (Law Soc) about the phrase "operate at law"</p> <p>(b) Members' and ALA's concern about how clause 29 could achieve the policy intention of preserving equitable</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>interests if it would be reverted to its original version as advised in item (a) above</p> <p>(c) Members' view on the need for the Administration to liaise with ALA on how the drafting of clause 29(1) and (2) could be amended to achieve the policy intention highlighted in item (b) above</p> <p>(d) Discussion on the need to subject clause 29(1) to clause 29(2)</p>	<p>Administration to take the follow-up action under paragraph 4(c) of the minutes</p>
012450-012638	Chairman Administration	<p>(a) Reference to members' concern about clause 28(2) expressed at the meeting on 11 May 2004 (item 4 of the list of follow-up actions to the thirty-first meeting of the Bills Committee on 11 May 2004 (LC Paper No. CB(1)1917/03-04(01)))</p> <p>(b) Administration's advice that it had decided not to propose any CSA to clause 28(2) (which provided that no solicitor, trustee or other person in a fiduciary position should be liable in damages for any loss occasioned by the inaccuracy of a document purporting to be a copy, print or extract of the Title Register or of other</p>	

Time marker	Speaker	Subject(s)	Action Required
		documents referred to in subclause (1)) because after discussion with relevant parties, the Administration could not identify any person other than the above categories of persons who required such protection	
012639-012846	Chairman Administration	Administration's advice that the original clause 30, with the phrase "without notice of the breach" deleted, had become the proposed new clause 69A, and the Administration's explanation for the above proposed changes	
012847-013130	Chairman Ms Miriam LAU Administration	(a) Briefing by the Administration on the draft proposed CSAs to clause 31 (b) Discussion on the need and implications of lengthening the grace period for registration from one month to three months, and increasing the additional fee for delayed registration to ten times the prescribed fee	
013131-013419	Chairman Administration	Briefing by the Administration on the draft proposed CSAs to clauses 32 and 33	

Time marker	Speaker	Subject(s)	Action Required
013420-014349	Chairman Ms Miriam LAU Assistant Legal Adviser Administration	<p>Discussion on clause 33 –</p> <p>(a) Administration’s clarification that all unregistered land would be converted automatically to the new land title registration system (LTRS) upon the expiry of the 12-year incubation period, and that there was no need to apply for conversion</p> <p>(b) Administration’s clarification that clause 33 only dealt with priority of matters already registered under the LTRS</p> <p>(c) ALA’s doubt on whether an agreement for sale and purchase (ASP) covered provisional ASPs as provided in subclause (7), having regard that a provisional ASP and an ASP were treated separately under the Stamp Duty Ordinance (Cap. 117) and other ordinances</p>	Administration to take the follow-up action under paragraph 4(d) of the minutes
014350-014608	Chairman Administration	<p>(a) Briefing by the Administration on the draft proposed CSAs to clause 34</p> <p>(b) ALA’s comment that given the Administration’s agreement to apply the doctrine of notice to deal</p>	Administration to take the follow-up action under paragraph 4(e) of

Time marker	Speaker	Subject(s)	Action Required
		<p>with the priority issue under the LTRS, the expression “relates back” in clause 34(1)(b) and (1)(c) might cause misunderstanding</p> <p>(c) Administration’s advice that it would propose further CSAs to clause 34 to rectify the problem highlighted by ALA in item (b) above</p> <p>(d) ALA’s comment that clause 34(1)(d) was not straightforward, and the Administration’s agreement to liaise with him to improve the drafting of the subclause</p>	<p>the minutes</p> <p>Administration to take the follow-up action under paragraph 4(e) of the minutes</p>
014609-014915	Chairman Assistant Legal Adviser Administration	(a) Administration’s advice that it had decided to retain the term “charge” in clause 35 instead of, as suggested by ALA, replacing it by the term “legal charge” as used in the Conveyancing and Property Ordinance (CPO) (Cap. 219) to ensure consistency with CPO (item 6 of the list of follow-up actions to the thirty-first meeting of the Bills Committee on 11 May 2004 (LC Paper No. CB(1)1917/03-04(01)). The reason given was that the term “charge” had a	

Time marker	Speaker	Subject(s)	Action Required
		<p>broader meaning than the term “legal charge”</p> <p>(b) Members’ and ALA’s view on the need to check whether the reason given in item (a) above was really the case and consider the need to achieve consistency of terminology between CPO and the Bill</p>	<p>Administration to take the follow-up action under paragraph 4(f) of the minutes</p>
014916-015032	Chairman Administration	<p>(a) Reference to clauses 36 to 38, where there was no CSA</p> <p>(b) Briefing by the Administration on the draft proposed CSA to clause 39</p> <p>(c) Reference to clauses 40 and 41, where there was no CSA</p> <p>(d) Briefing by the Administration on the draft proposed CSA to heading of clause 42</p>	
015033-020708	Chairman Ms Miriam LAU Assistant Legal Adviser Administration	<p>(a) Briefing by the Administration on the draft proposed CSAs to clause 43</p> <p>(b) ALA’s view that under the LTRS, which was a system for registration of interests, implied covenants should take effect upon registration</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>(c) Administration’s view that because of practical considerations and the need to consider Law Soc’s views, implied covenants should take effect when the relevant Transfer was signed (clause 29(2))</p> <p>(d) A member’s agreement with the Administration on the need for implied covenants to take effect on the date when the relevant Transfer was signed, having regard that relevant fees payable by the purchaser would be calculated from that date</p> <p>(e) Discussion on whether implied covenants would involve fee payment and if so, how to ensure fees payable by the purchaser could be calculated from the date when the relevant Transfer was signed</p> <p>(f) ALA’s view on the undesirability of expanding the scope of “assignment” to cover “transfer”</p> <p>(g) Members’ view that the Administration should liaise with ALA and explore the possibility of catering for the views of both sides, such as by</p>	<p>Administration to take the follow-up action under paragraph 4(g) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		mandating in the relevant Transfer the time implied covenants should take effect	
Break from 020709 to 021906			
021907-022008	Chairman Assistant Legal Adviser Administration	<p>(a) ALA's enquiry about the Administration's original proposal to add a new clause 43A to provide that one single registration of a matter in an instrument against the relevant title would operate to effect the registration of all the registrable matters contained in the instrument which affected the registered land</p> <p>(b) Administration's advice that it had decided not to pursue the original proposal because it would be more appropriate to place the provision in the relevant regulations</p>	
022009-023114	Chairman Ms Miriam LAU Assistant Legal Adviser Administration	<p>(a) Briefing by the Administration on the draft proposed CSAs to clause 44</p> <p>(b) ALA's view that given the Administration's proposal to amend clause 81 to provide for the rectification of Title Register in favour of an innocent former owner where title had been</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>transferred as a result of forgery, there was a need to facilitate detection of forgery by requiring the provision of the originals of the documents in clause 44(1)(a)(ii) and (iii) instead of their copies as presently drafted</p> <p>(c) Chairman's and Administration's view that clause 44(1)(a)(iv), which provided that the vendor should provide the purchaser with such other documents as might be prescribed in regulations made under clause 100, should be able to address ALA's view in item (b) above, and that there might be a need for the flexibility provided under clause 44(1)(a)(iv) because the Administration was still discussing with Law Soc on the documents to be retained under the LTRS</p> <p>(d) Invitation of the Administration to respond to ALA's views in item (b) above, and to explicitly specify in the regulations referred to in clause 44(1)(a)(iv) the documents to be retained under the LTRS after such had been decided upon</p>	<p>Administration to take the follow-up action under paragraph 4(h) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
023115-023431	Chairman Assistant Legal Adviser Administration	<ul style="list-style-type: none"> (a) Briefing by the Administration on the draft proposed CSA to clause 45 (b) Reference to clause 46, where there was no CSA (c) Briefing by the Administration on the draft proposed CSA to clause 47 (d) Administration's advice that clause 48 had become obsolete and would therefore be deleted because the proposed new Schedule 1A would provide that all relevant long term leases should become registered long term leases immediately upon the expiration of the 12-year incubation period (e) Reference to clause 49, where there was no CSA (f) Briefing by the Administration on the draft proposed CSA to clause 50 	
023432-024452	Chairman Mr Albert HO Ms Miriam LAU Assistant Legal Adviser Administration	<ul style="list-style-type: none"> (a) Briefing by the Administration on the draft proposed CSA to clause 51 (b) ALA's suggestion that the expression "subject of the deed" in clause 51(4)(a) be amended and that a provision be added to 	Administration to take the follow-up action under paragraph 4(i) of the minutes

Time marker	Speaker	Subject(s)	Action Required
		<p>stipulate that the registration of a DMC did not reflect the validity of any easement, right or covenant provided for in the deed</p> <p>(c) Administration's explanation of the legal effect of the phrase "effects the registration of" in clause 51(4)(a)</p> <p>(d) Administration's confirmation of the need to provide for each transaction a copy of the DMC according to clause 44</p>	
024453-024522	Chairman Administration	<p>(a) Reference to clauses 52 to 56, where there was no CSA</p> <p>(b) Administration's advice that a new subclause (d) would be added to clause 57 in response to the Bills Committee's request to clearly set out in the Bill how "tso" and "tong" land in the NT, which belonged to a special category of land in the NT, would be dealt with under the LTRS, and to confirm that the dealings of this special category of land under the LTRS would be subject to the consent of the Secretary for Home Affairs (item 10</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>of the list of follow-up actions to the thirty-first meeting of the Bills Committee on 11 May 2004 (LC Paper No. CB(1)1917/03-04(01))</p> <p>(c) Briefing by the Administration on the draft proposed CSAs to clauses 58 and 59</p> <p>(d) Reference to clause 60, where there was no CSA</p>	
024523-024919	<p>Chairman Ms Miriam LAU Assistant Legal Adviser Administration</p>	<p>(a) Reference to clause 61, where there was no CSA</p> <p>(b) Administration's agreement to amend clause 61(1) to address ALA's concern about the need for clarification and to amend clause 61(3) to make the addition after the minor's English name of the words "a minor" a mandatory requirement</p> <p>(c) Administration's advice that a new subclause (3) would be added to clause 80 to put in place a mechanism for the removal of the words "a minor" when the minor concerned attained the age of majority</p>	<p>Administration to take the follow-up action under paragraph 4(j) of the minutes</p>
024920-025238	<p>Chairman Assistant Legal Adviser Administration</p>	<p>(a) Briefing by the Administration on the proposed new clause 61A</p>	

Time marker	Speaker	Subject(s)	Action Required
		(b) ALA's advice that the Administration was considering his views about the relationship between the proposed new clause 61A with other clauses in Part 7	Administration to take the follow-up action under paragraph 4(k) of the minutes
025239-030708	Chairman Ms Miriam LAU Mr Albert HO Assistant Legal Adviser Administration	(a) Briefing by the Administration on the draft proposed CSAs to clause 62 (b) Discussion on whether clause 62, as amended, could clearly spell out the policy intention that transmission on death of a joint tenant would take effect on the date of death of the deceased joint tenant although the surviving joint tenant could deal with the property concerned only upon proof of the death of the joint tenant and payment of estate duty (c) Members' concern about whether and how a surviving joint tenant, who could sign a conditional ASP, could register such under the LTRS (clause 44(1)(c))	Administration to take the follow-up action under paragraph 4(1) of the minutes
030709-030852	Chairman Administration	Briefing by the Administration on the draft proposed CSAs to clauses 63 and 64	

Time marker	Speaker	Subject(s)	Action Required
030853-031324	Chairman Mr Albert HO Ms Miriam LAU Assistant Legal Adviser Administration	<p>(a) Briefing by the Administration on the draft proposed CSAs to clause 65</p> <p>(b) Discussion on whether, before securing a document of title to certify the transfer upon death of an owner of registered land, an intended personal representative (PR) could sign a conditional ASP, a conditional tenancy agreement, or an equitable charge, and have such registered under the LTRS (clause 65(1)(a) and 65(1)(b))</p> <p>(c) Members' view that the phrase "deemed to have been registered" in clause 65(1)(b) should be deleted because in the first part of clause 65(1), it had already been stated that the PR "who in that capacity is registered as the owner of registered land"</p> <p>(d) ALA's concern about the phrase "immediately prior to his death" in clause 65(1)(a) and hence the uncertainty of what would happen during the time gap between death of the deceased owner and registration of the PR</p>	<p>Administration to take the follow-up action under paragraph 4(m)(i) of the minutes</p> <p>Administration to take the follow-up action under paragraph 4(m)(ii) of the minutes</p> <p>Administration to take the follow-up action under paragraph 4(m)(iii) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
031325-031502	Chairman Administration	<p>(a) Briefing by the Administration on the draft proposed CSAs to clauses 66 and 67</p> <p>(b) Administration's explanation that the original clause 68 with some modifications had been moved to the beginning of Part 7 as the new clause 61A</p>	
031503-031517	Chairman Administration	<p>(a) Briefing by the Administration on the draft proposed CSAs to clause 69</p> <p>(b) Administration's advice that it was liaising with ALA on how the drafting issues of clause 69(1)(b) and (c) could be addressed</p>	Administration to take the follow-up action under paragraph 4(n) of the minutes
031518-031650	Chairman Administration	Reference to the proposed new clause 69A, which was the original clause 30	
031651-033340	Chairman Ms Miriam LAU Mr Albert HO Assistant Legal Adviser Administration	<p>(a) Briefing by the Administration on the draft proposed CSAs to clause 70</p> <p>(b) Administration's advice that it would amend clause 70(1)(b) to improve the clarity of the provision</p> <p>(c) Administration's advice</p>	Administration to take the follow-up action under paragraph 4(o)(i) of the minutes Administration to

Time marker	Speaker	Subject(s)	Action Required
		<p>that it would amend clause 70(2) in line with any amendments to clause 33 pursuant to ALA's views</p> <p>(d) A member's and ALA's view on the need to justify the need to register a non-consent caution, and the Administration's agreement to liaise with ALA on how to address his comments on clause 70(5)</p> <p>(e) Administration's agreement to address ALA's comment on clause 70(6), namely, that there was a need to amend the subclause to enable the donee, who as presently drafted under the Bill could not register a non-consent caution, to do so</p> <p>(f) Members' and ALA's query of the need for the addition of the proposed new subclause (14) to clause 70, and the Administration's agreement to delete the subclause</p> <p>(g) Administration's explanation of the reason for excluding bankruptcy from clause 70(3)(b), namely, that such should be dealt with in the context of lis pendens</p>	<p>take the follow-up action under paragraph 4(o)(ii) of the minutes</p> <p>Administration to take the follow-up action under paragraph 4(o)(iii) of the minutes</p> <p>Administration to take the follow-up action under paragraph 4(o)(iii) of the minutes</p> <p>Administration to take the follow-up action under paragraph 4(o)(iv) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
033341-033758	Chairman Administration	<p>(a) Briefing by the Administration on the draft proposed CSAs to clause 71</p> <p>(b) Administration's advice that the phrase "Subject to section 70(1)(b) and without prejudice to the generality of section 6(2)," would be deleted from clause 71(1)</p>	
033759-034634	Chairman Ms Miriam LAU Assistant Legal Adviser Administration	<p>(a) Briefing by the Administration on the draft proposed CSAs to clause 72</p> <p>(b) ALA's concern about the legal effect of the provisions on removal of caution in clause 72(5) on priority and on the tracing of the chain of title</p> <p>(c) Members' concern that the trigger point of the removal of caution, namely, "registration of a dealing relating to the subject of a caution", might be too loose</p> <p>(d) Discussion on the justification for providing for the removal of caution in clause 72(5)</p> <p>(e) Administration's suggestion to address the</p>	Administration to take the follow-up

Time marker	Speaker	Subject(s)	Action Required
		<p>concerns highlighted in items (b) and (c) above by deleting clause 72(5), and to rely on clause 17 (Removal of obsolete entries) to empower the Land Registrar to remove a caution where justified</p>	<p>action under paragraph 4(p) of the minutes</p>
034635-035340	<p>Chairman Ms Miriam LAU Mr Albert HO Assistant Legal Adviser Administration</p>	<p>(a) Briefing by the Administration on the draft proposed CSAs to clause 73</p> <p>(b) Members' and ALA's view that the scope of the expression "a person who has thereby sustained damage" in clause 73(1) and (2) was too broad, and that not any person who had sustained damage should be allowed to claim compensation. Instead, the right to claim compensation should be restricted to those who had an interest in land</p>	<p>Administration to take the follow-up action under paragraph 4(q) of the minutes</p>
035341-035936	<p>Chairman Mr Albert HO Ms Miriam LAU Assistant Legal Adviser Administration</p>	<p>(a) Briefing by the Administration on the draft proposed CSA to clause 74</p> <p>(b) Discussion on whether the applicants for inhibitions should be required to give undertakings to pay compensation for wrongful applications</p>	

Time marker	Speaker	Subject(s)	Action Required
035937-040210	Chairman Mr Albert HO Ms Miriam LAU Mr Andrew WONG Clerk	(a) Meeting arrangements (b) Critical dates to observe to enable the Second Reading debate on the Bill to resume on 7 July 2004	

Council Business Division 1
Legislative Council Secretariat
19 August 2004