

**立法會**  
**Legislative Council**

LC Paper No. CB(1)2517/03-04  
(These minutes have been seen  
by the Administration)

Ref : CB1/BC/3/02

**Bills Committee on Land Titles Bill**

**Minutes of the thirty-sixth meeting held on  
Tuesday, 15 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-yee, 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  
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

Mr Gary YEUNG  
Principal Assistant Secretary for Housing, Planning and Lands  
(Planning and Lands)1

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

Mr P K AU YEUNG  
Deputy Director/Survey & Mapping  
Lands Department

Mr L F KWAN  
Senior Land Surveyor/Legislation  
Lands Department

Mr Denis LI  
Assistant Secretary (Buildings)<sup>3</sup>  
Housing, Planning and Lands Bureau

Mr Andy NGAN  
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. Meeting with the Administration**

- (LC Paper No. CB(1)2140/03-04(01) — “Follow-up to the thirty-fourth meeting on 8 June 2004” prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)2140/03-04(02) — Paper provided by the Administration on “Determination of lot boundaries under the Land Titles Bill”
- LC Paper No. CB(3)210/02-03 — The Bill
- LC Paper No. CB(1)2042/03-04(02) — Draft proposed Committee Stage amendments to Schedule 2 to the Bill provided by the Administration
- LC Paper No. CB(1)2109/03-04(02) — Marked-up copy of Schedule 2 to the Bill provided by the Administration
- LC Paper No. CB(1)2140/03-04(03) — Revised marked-up copy of the Bill provided by the Administration (excluding Schedule 2)

Members noted the following papers tabled at the meeting -

- (a) Revised marked-up copy of the Bill provided by the Administration (excluding Schedule 2);
- (b) Letter dated 14 June 2004 from Hon TAM Yiu-chung; and
- (c) Letter dated 14 June 2004 from the Hong Kong Bar Association.

*(Post-meeting note: The above papers were issued to members vide LC Paper No. CB(1)2170/03-04 on 16 June 2004.)*

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) The Administration was invited to provide the following papers for the Bills Committee's consideration at the meeting on 18 June 2004:
    - (i) Administration's written response to the letter dated 14 June 2004 from Hon TAM Yiu-chung;
    - (ii) Administration's written response to the submission dated 14 June 2004 from the Hong Kong Bar Association; and
    - (iii) The Law Society of Hong Kong (Law Soc)'s written comments on the draft Committee Stage amendments (CSAs) proposed by the Administration.
  - (b) In examining the proposed amendments to section 16 of the Conveyancing and Property Ordinance (CPO) (Cap. 219) set out in section 91 of Schedule 2 to the Bill (page 139 of the marked-up copy of Schedule 2 to the Bill (LC Paper No. CB(1)2109/03-04(02))), the Assistant Legal Adviser (ALA) opined that if the transfer of interests by registration had been sufficiently provided for under clauses 14 and 21 of the Bill, it should be stated in section 16 that it "shall not apply to land which is registered land within the meaning of the Land Titles Ordinance ( of 2002)", or else there would be confusion. The Administration agreed to amend section 16 of the CPO as proposed.
  - (c) On section 17 of the CPO (section 92 of Schedule 2 to the Bill (page 140 of LC Paper No. CB(1)2109/03-04(02))), the Administration agreed to amend section 17 in accordance with the amendment to section 16 mentioned in item (b) above.
  - (d) In examining the proposed amendment to section 37 of the CPO set out in section 93 of Schedule 2 to the Bill (page 141 of LC Paper No. CB(1)2109/03-04(02)), members noted that the standard forms under the Bill would be similar to those under the CPO with some modifications. In this regard, ALA opined that the existing standard forms specified under the CPO should not be "subject to sections 58 and 97 of the Land Titles Ordinance", as new forms for the implementation of the new land title registration system (LTRS) would be prescribed under the Bill. The Administration agreed to consider ALA's views.
  - (e) In examining the draft proposed CSAs to section 42 of the CPO set out in section 95 of Schedule 2 to the Bill (page 144 of LC Paper No. CB(1)2109/03-04(02)), members noted that the Administration would propose a CSA to remove the amendment in the blue bill which

added the new subsection (4). ALA considered subsection (4) unnecessary but because the subsection provided that the section “shall be subject to the provisions of the Land Titles Ordinance ( of 2002)”, there was no harm to keep the subsection. The Administration accepted ALA’s views.

- (f) In examining the proposed amendments to Schedule 2 to the CPO set out in section 98 of Schedule 2 to the Bill (page 147 of LC Paper No. CB(1)2109/03-04(02)), ALA opined that the reference to the Land Titles Ordinance in the proposed amendments should be deleted. The Administration accepted ALA’s views.
- (g) On the draft proposed CSA to section 52AB of the District Court Ordinance (Cap. 336) set out in section 110 of Schedule 2 to the Bill (page 167 of LC Paper No. CB(1)2109/03-04(02)), the Administration confirmed that the reference to certificates of removal would be deleted from the revised section 52AB(6).
- (h) On the draft proposed CSA to Order 47 of the Rules of the District Court (Cap. 336H) set out in section 111 of Schedule 2 to the Bill (page 168 of LC Paper No. CB(1)2109/03-04(02)), the Administration confirmed that as in the case of Order 47 of the Rules of the High Court (Cap. 4A) (item 21 of the list of follow-up actions to be taken by the Administration arising from the thirty-fifth meeting of the Bills Committee on 11 June 2004), the expression “shall be taken and deemed to be a valid transfer of such right, title and interest and” would be deleted from rule 7(4)(b) of Order 47.
- (i) In examining the draft proposed CSAs to section 2 of the Building Management Ordinance (BMO) (Cap. 344) set out in section 119 of Schedule 2 to the Bill (page 178 of LC Paper No. CB(1)2109/03-04(02)), ALA opined that the original and proposed revised definitions of “common parts” therein were not comprehensive enough to cover all relevant cases. For example, supplemental deeds of mutual covenant might not fall under these definitions. The definitions might also fail to exclude the case where certain parts of the building were dedicated to public use and hence were not common parts. Since the proposed CSAs only sought to introduce consequential amendments to the BMO arising from the Bill, the Administration was invited to relay ALA’s comments to the Secretary for Home Affairs for his consideration of introducing amendments to the definition of “common parts”.
- (j) In examining the draft proposed CSA to section 40B(10) of the Water Pollution Control Ordinance (Cap. 358) set out in section 131 of Schedule 2 to the Bill (page 194 of LC Paper No. CB(1)2109/03-04(02)), members expressed concern about the expression “certificate of

satisfaction”. The Administration agreed to consider revising the wording.

- (k) In examining the proposed revised definition of “section” in section 2 of the Government Rent (Assessment and Collection) Ordinance (Cap. 515) set out in section 154A of Schedule 2 to the Bill (page 236 of LC Paper No. CB(1)2109/03-04(02)), ALA opined that the Administration should consider providing clearly in the Bill how mere division of land could be done under the LTRS. The Administration was invited to consider his views.
- (l) The Administration was invited to liaise with ALA to ensure that all other drafting comments he might have on Schedule 2 to the Bill would be properly addressed.
- (m) In examining the revised draft proposed CSAs to clause 2, ALA expressed concern that the term “equitable interest” in the revised paragraph (b) of the definition of “charge” was not defined in the Bill. Noting the Administration’s advice that the term had the same meaning as that defined in the CPO, some members were concerned that the revised paragraph (b) of the definition of “charge” in the Bill might have a narrower scope than that in the CPO. Members requested the Administration to confirm whether its policy intent was that the scope of the term “equitable interest” in the Bill should be the same as that in the CPO; if it was, the Administration was invited to consider the need of referring in the Bill to the definition of “equitable interest” in the CPO.
- (n) In examining the revised draft proposed CSAs to clause 2, ALA was concerned that the words in brackets of the revised paragraph (a) of the definition of “owner” were redundant. Some members were concerned that the definition did not provide room for managers of t’ong to be registered as owners, and some other members were concerned that the definition did not cover t’so. Members were advised by the Administration that managers of t’ong would not be registered as owners in the Title Register under the LTRS, and that clause 57(d) provided that nothing in the Bill should be construed as affecting the operation of section 15 or 18 of the New Territories Ordinance (NTO) (Cap. 97). Noting that section 15 of NTO only governed cases relating to clan, family or t’ong, members invited the Administration to consider outside the context of the Bill how cases relating to t’so should be dealt with.
- (o) In relation to the revised draft proposed CSAs to clause 5, a member opined that the reference in the Bill to the register kept under the existing deeds registration system (DRS), namely, “the land register kept in the Registry” or “the land register kept under the Land Registration Ordinance”, should be simplified, and that the exercise should be carried

out in the 2-year period between the enactment and commencement of the Bill. The Administration was invited to consider the member's views.

- (p) When examining the proposed new clause 5A, members noted that the applications register under the LTRS was equivalent to the Memorial Day Book under the DRS but was less significant because the relating back provision would be taken out from the Bill. In this connection, a member requested the Administration to consult Law Soc on the applications register under the LTRS, so that legal practitioners would in future know how to deal with it. The Administration was invited to follow up in due course.
- (q) In examining the revised draft proposed CSAs to clause 6, members noted that the Administration would make further revisions to subclauses (2) and (1)(c) to ensure consistency in the references to the exercise of power by the Land Registrar. A member pointed out that the proposed new clause 6A and other related clauses should be revised along the same line. The Administration was invited to take actions accordingly.
- (r) In examining the proposed new clause 15, ALA opined that it was not clear from the clause whether under the LTRS the initial registration of the Government lease itself would require an application. In response to ALA's comments, the Administration advised that there was no need to make such an application because, according to clause 3 of the proposed new Schedule 1A, "the Registrar shall register the title to new land by...making an entry in the Title Register to the effect that the Government lessee is the first owner of the land". Having regard that the above arrangement under clause 3 of Schedule 1A would be a permanent one, and that all permanent provisions should as a matter of drafting principle be placed in the main body of the Bill, members opined that the arrangement should be mentioned in clause 15. This proposed change could be effected by making reference to Schedule 1A in clause 15. The Administration agreed to amend clause 15 accordingly.
- (s) In examining the proposed new clause 15, ALA cast doubt on whether in the case of registration of a caution, which involved a claim of interests, the relevant application could "be verified, both as to the application and the matter in question... by a solicitor" as required under subclause (2)(a)(i). In his view, unlike verification of documents, the solicitor might have difficulties in verifying a claim of interests. To allow time for the Administration to consider how the issue should be dealt with, ALA suggested that subclause (2)(a)(i) be revised to the effect that applications for registration were required to comply with the provisions of the relevant regulations. In this connection, some members

highlighted the importance of ensuring solicitors' role in such applications, e.g. by requiring every such application to be signed by a solicitor. The Administration was invited to consider the above views of members and ALA, and report back to the Bills Committee at its next meeting on 17 June 2004.

#### Way forward

4. The Chairman pointed out that if the Second Reading debate on the Bill was to be resumed at the last Council meeting of the current legislative term on 7 July 2004, the Administration had to issue a consultation letter to the Chairman of the House Committee on 15 June 2004 (i.e. the same day of this meeting). The Chairman sought members' views on whether they would agree to the Administration's proposal of issuing the consultation letter after this meeting.

5. Given that there were still outstanding issues to be resolved, Ms Audrey EU considered it difficult to decide at this stage whether she would support the resumption of the Second Reading debate on the Bill on 7 July 2004. The Chairman pointed out that members' agreement for the Administration to issue the consultation letter would not have any implications on their final decision on whether they would support the resumption of the Second Reading debate on the Bill. Members might make the final decision on or before 18 June 2004, the day on which the Chairman would give a verbal report on the Bills Committee's recommendations to the House Committee.

6. Ms Miriam LAU said that subject to Law Soc's indication that it was in support of the Bill and the Administration's undertaking that it would continue to work with Law Soc to address any subsisting points of concern before the implementation of the Land Titles Ordinance (if enacted), she would agree to the Administration's proposal of issuing the consultation letter.

7. The Land Registrar advised that Law Soc had yet to confirm whether the draft proposed CSAs to the Bill were agreeable to them. To facilitate members' consideration, he undertook to provide before the Bills Committee meeting on 18 June 2004 a written statement from Law Soc on its comments on the draft proposed CSAs.

8. After deliberations, members agreed to the Administration's proposal of issuing the consultation letter to the Chairman of the House Committee.

#### Meeting arrangements

9. In order to ensure that the Bills Committee would be able to complete scrutiny of the Bill and the draft proposed CSAs before 18 June 2004, the Chairman proposed and members agreed that an additional meeting be scheduled for Thursday, 17 June 2004 at 4:30 pm.

*(Post-meeting note: The notice of the additional meeting was issued to*



members vide LC Paper No. CB(1)2168/03-04 on 15 June 2004 and issued to the Administration on the same day.)

**II. Any other business**

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

Council Business Division 1  
Legislative Council Secretariat  
16 September 2004

## Appendix

**Proceedings of the thirty-sixth meeting of the  
Bills Committee on Land Titles Bill  
on Tuesday, 15 June 2004, at 8:30 am  
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000252	Chairman	Welcoming and introductory remarks	
<b>I. Meeting with the Administration</b>			
<b><u>Part A: Matters arising from previous meetings</u></b>			
000253-001008	Chairman Administration	Briefing by the Administration on the paper on “Determination of lot boundaries under the Land Titles Bill” (LC Paper No. CB(1)2140/03-04(02))	
001009-002531	Chairman Ms Audrey EU Administration	(a) A member’s concern that under clause 92(2)(a) and (c), the Director of Lands (D of L) should not make a determination under clause 92(1) in respect of any subdivision of a lot which was made by a person other than the Government; or where the application concerned did not have the consent of all the owners of the lot, and the member’s view that clause 92 should also provide for the determination of boundaries in respect of subdivisions of a lot even	

Time marker	Speaker	Subject(s)	Action Required
		<p>without the consent of all the owners concerned</p> <p>(b) Administration's explanation that subdivision before the enactment of the Land Survey Ordinance (Cap. 473) in 1996 had essentially been agreed among the owners concerned with no involvement of land surveyors and the Government. Hence there was no basis upon which the Government could adjudicate disputes over subdivision and such disputes should be resolved through legal proceedings outside the context of the Bill</p>	
002532-003000	Chairman Ms Miriam LAU Administration	<p>(a) Chairman's enquiry about the timetable for the Administration to introduce a provision similar to clause 92 under a suitable Ordinance that would apply to land not yet registered under the Bill (paragraph 7 of LC Paper No. CB(1)2140/03-04(02))</p> <p>(b) Administration's advice that there was no concrete timetable at the present stage because of the need to consult the relevant departments</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>(c) A member's concern about how combination of registered and unregistered lots as a result of carving out would be dealt with under the new land title registration system (LTRS) if the provision highlighted in item (a) above would not be ready before the commencement of the Bill</p> <p>(d) Administration's confirmation that combination of registered and unregistered lots was not permitted under the Bill, but such combination could be achieved indirectly by converting unregistered land to registered land through the "surrender and re-grant" process made available by the Committee Stage amendments (CSAs) to add the definition of "new land"</p> <p>(e) Members' agreement to revisit the issue in item (c) above when examining the proposed definition of "new land"</p>	
003001-003018	Chairman	Chairman's invitation of the Administration to provide before the meeting on 18 June 2004 its written response to the letter dated 14 June 2004 from Hon TAM Yiu-chung (tabled at	Administration to take the follow-up action under paragraph 3(a)(i) of the minutes

Time marker	Speaker	Subject(s)	Action Required
		the meeting and issued vide LC Paper No. CB(1)2170/03-04(01) on 16 June 2004)	
<b>Part B: <u>Examination of the draft proposed Committee Stage amendments</u></b> <u>Examination of draft Committee Stage amendments to Schedule 2 to the Bill</u> (Marked-up copy of Schedule 2 to the Bill (LC Paper No. CB(1)2109/03-04(02)))			
003019-004529	Chairman Ms Miriam LAU Assistant Legal Adviser Administration	(a) Reference to the proposed amendment to section 13 of the Conveyancing and Property Ordinance (CPO) (Cap. 219) set out in section 88 of Schedule 2  (b) A member's question on whether solicitors would be required under the LTRS to look at the power of attorney referred to in an underlying document in support of title, and what should be done in the event that the relevant power of attorney could not be produced  (c) Administration's explanation that according to the proposed new subsection (6) of section 13 of the CPO and clause 44 of the Bill, solicitors would not be required under the LTRS to look at the power of attorney (clauses 44(1)(a)(i), 44(1)(a)(ii) and 44(3))	

Time marker	Speaker	Subject(s)	Action Required
		<p>(d) A member's question on whether the power of attorney would be included in the documents to be retained under the LTRS, and the Administration's advice that such had yet to be decided in consultation with the Law Society of Hong Kong (Law Soc). Once decided, such would be set out in the regulations referred to in clause 44(1)(a)(iv)</p> <p>(e) A member's view that the power of attorney should be included in the documents to be retained under the LTRS</p> <p>(f) Assistant Legal Adviser (ALA)'s view that it had yet to be clarified as to how problems associated with important title supporting documents such as the power of attorney would affect title. For example, it was not certain whether a resolution voided because of fraud and a resolution voided because of non-compliance with the relevant articles of association would have the same effect on title (clause 81)</p>	

Time marker	Speaker	Subject(s)	Action Required
004530-004617	Chairman	<p>(a) Reference to section 89 of Schedule 2 and the draft proposed CSAs</p> <p>(b) Reference to section 90 of Schedule 2</p>	
004618-005334	<p>Chairman            Ms Miriam LAU            Ms Audrey EU            Assistant Legal Adviser            Administration</p>	<p>(a) Reference to the proposed amendments to section 16 of the CPO set out in section 91 of Schedule 2</p> <p>(b) ALA’s view that if the transfer of interests by registration had been sufficiently provided for under clauses 14 and 21 of the Bill, it should be stated in section 16 of the CPO that it “shall not apply to land which is registered land within the meaning of the Land Titles Ordinance ( of 2002)”, or else there would be confusion</p> <p>(c) Administration’s explanation that the draft proposed CSAs to section 16 of the CPO had been introduced to address ALA’s earlier concern about the time when the vesting of interest in land took place (clause 29(1)), and the Administration’s agreement to amend section 16 of the CPO as proposed by ALA in item (b) above</p>	<p>Administration to take the follow-up action under paragraph 3(b) of the minutes</p>





Time marker	Speaker	Subject(s)	Action Required
		<p>(b) Administration’s advice that it would propose a CSA to remove the amendment in the blue bill which added the new subsection (4) to section 42</p> <p>(c) ALA’s view that the proposed new subsection (4) was unnecessary but because the subsection provided that section 42 “shall be subject to the provisions of the Land Titles Ordinance ( of 2002)”, there was no harm to keep the subsection, and the Administration’s acceptance of ALA’s view</p>	<p>Administration to take the follow-up action under paragraph 3(e) of the minutes</p>
005725-005812	Chairman	Reference to sections 96 and 97 of Schedule 2	
005813-010239	Chairman Assistant Legal Adviser Administration	<p>(a) Reference to the proposed amendments to Schedule 2 to the CPO set out in section 98 of Schedule 2</p> <p>(b) ALA’s view that the reference to the Land Titles Ordinance in the proposed amendments should be deleted, and the Administration’s acceptance of ALA’s view</p> <p>(c) Reference to sections 99, 101 and 102 of Schedule 2</p>	<p>Administration to take the follow-up action under paragraph 3(f) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		(d) Reference to sections 100, 103, 104 and 105 to Schedule 2 and the draft proposed CSAs	
010240-011005	Chairman Assistant Legal Adviser Administration	<p>(a) Reference to section 3(3) of the Hong Kong Airport (Control of Obstructions) Ordinance (Cap. 301) set out in section 106 of Schedule 2 and the draft proposed CSA</p> <p>(b) ALA's query of the introduction of a separate mechanism for registering orders referred to in subsection (1)(c) of Cap. 301, and his suggestion that such orders be registered as non-consent cautions under the LTRS</p> <p>(c) Administration's explanation that certain orders, such as orders on reduction of height, were not related to claims of interests in land and hence could not be registered as non-consent cautions (clause 70(3))</p>	
011006-011030	Chairman	<p>(a) Reference to sections 107 and 109 of Schedule 2</p> <p>(b) Reference to section 108 of Schedule 2 and the draft proposed CSA</p>	

Time marker	Speaker	Subject(s)	Action Required
011031-011342	Chairman Ms Miriam LAU Assistant Legal Adviser Administration	<p>(a) Reference to section 52AB of the District Court Ordinance (Cap. 336) set out in section 110 of Schedule 2 and the draft proposed CSA</p> <p>(b) Administration's confirmation that the reference to certificates of removal would be deleted from the revised section 52AB(6)</p>	Administration to take the follow-up action under paragraph 3(g) of the minutes
011343-011432	Chairman Administration	<p>(a) Reference to Order 47 of the Rules of the District Court (Cap. 336H) set out in section 111 of Schedule 2 and the draft proposed CSA</p> <p>(b) Administration's confirmation that as in the case of Order 47 of the Rules of the High Court (Cap. 4A) (item 21 of the list of follow-up actions to be taken by the Administration arising from the thirty-fifth meeting of the Bills Committee on 11 June 2004), the expression "shall be taken and deemed to be a valid transfer of such right, title and interest and" would be deleted from rule 7(4)(b) of Order 47</p>	Administration to take the follow-up action under paragraph 3(h) of the minutes

Time marker	Speaker	Subject(s)	Action Required
011433-011649	Chairman Assistant Legal Adviser Administration	<p>(a) Reference to section 112 of Schedule 2 and the draft proposed CSA</p> <p>(b) Reference to section 113 of Schedule 2</p> <p>(c) Reference to sections 3(2) and 4(2) of the Demolished Buildings (Re-development of Sites) Ordinance (Cap. 337) set out in sections 114 and 115 of Schedule 2 and the draft proposed CSAs</p> <p>(d) ALA's reiteration of his views previously expressed on section 106 of Schedule 2, and the Administration's explanation that the notices and orders referred to in sections 3(2) and 4(2) of Cap. 337 were not related to any claims of interests in land</p> <p>(e) Reference to section 116 of Schedule 2 and the draft proposed CSA</p> <p>(f) Reference to sections 117 and 118 of Schedule 2</p>	
011650-013820	Chairman Ms Miriam LAU Ms Audrey EU Mr Andrew WONG Assistant Legal Adviser	<p>(a) Reference to section 2 of the Building Management Ordinance (BMO) (Cap. 344) set out in section 119 of Schedule 2 and the draft proposed CSAs</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>(b) A member’s concern about the proposed deletion of the definition of “Land Registry” from section 2 of BMO, and the Administration’s explanation that the deletion had been proposed to minimize confusion, as the definition of the same term was provided under the Bill</p> <p>(c) ALA’s view that the original and proposed revised definitions of “common parts” in section 2 of BMO were not comprehensive enough to cover all relevant cases. For example, supplemental deeds of mutual covenant (DMC) might not fall under these definitions. The definitions might also fail to exclude the case where certain parts of the building were dedicated to public use and hence were not common parts</p> <p>(d) Members’ view that since the proposed CSAs only sought to introduce consequential amendments to the BMO arising from the Bill, the Administration should be invited to relay ALA’s comments to the Secretary for Home Affairs for his consideration of</p>	<p>Administration to take the follow-up action under paragraph 3(i) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		introducing amendments to the definition of “common parts”	
013821-014045	Chairman	<p>(a) Reference to sections 120, 123, 124, 125 and 126 of Schedule 2 and the draft proposed CSAs</p> <p>(b) Reference to sections 121, 122, 127, 128, 129 and 130 of Schedule 2</p>	
014046-014739	Chairman Assistant Legal Adviser Administration	<p>(a) Reference to section 40B(9) and (10) of the Water Pollution Control Ordinance (Cap. 358) set out in section 131 of Schedule 2 and the draft proposed CSA</p> <p>(b) Members’ concern about the expression “certificate of satisfaction” in the revised section 40B(10)</p> <p>(c) Administration’s explanation of the reason for providing for registration of a certificate of satisfaction, and that such had been worked out in consultation with relevant departments</p> <p>(d) Administration’s advice that it would consider revising the wording of section 40B(10)</p>	Administration to take the follow-up action under paragraph 3(j) of the minutes

Time marker	Speaker	Subject(s)	Action Required
014740-015129	Chairman Ms Miriam LAU Administration	(a) Members' concern about whether the draft proposed CSAs to the Bill were agreeable to Law Soc  (b) Administration's advice that it was going to meet with Law Soc to address the latter's concern	
<b>Break from 015130 to 020320</b>			
020321-020645	Chairman	(a) Reference to sections 132, 133, 137, 138, 139, 142, 143, 144, 148, 149, 150 and 153 of Schedule 2  (b) Reference to sections 134, 135, 136, 140, 141, 145, 146, 147, 151, 152 and 154 of Schedule 2 and the draft proposed CSAs	
020646-020735	Chairman Assistant Legal Adviser Administration	(a) Reference to the proposed revised definition of "section" in section 2 of the Government Rent (Assessment and Collection) Ordinance (Cap. 515) set out in section 154A of Schedule 2  (b) ALA's view that the Administration should consider providing clearly in the Bill how mere division of land could be done under the LTRS	Administration to take the follow-up action under paragraph 3(k) of the minutes
020736-020815	Chairman	(a) Reference to sections 155, 156, 158, 159 and 160 of Schedule 2 and the draft	

Time marker	Speaker	Subject(s)	Action Required
		<p>proposed CSAs</p> <p>(b) Reference to sections 157 and 161 of Schedule 2</p>	
020816-021111	Chairman Assistant Legal Adviser Administration	<p>(a) ALA’s query of the need to define “lis pendens” in section 2(1) of the Land (Compulsory Sale for Redevelopment) Ordinance (Cap. 545) set out in section 162 of Schedule 2</p> <p>(b) Administration’s explanation of the need to define “lis pendens” as a lis pendens registered under the Land Registration Ordinance (LRO) (Cap. 128) or the Bill</p> <p>(c) Chairman’s view that since the definition of “lis pendens” was provided in the original section 2(1), the Bill should only seek to introduce the necessary consequential amendments to other ordinances</p>	
021112-021313	Chairman Administration	<p>(a) Reference to sections 163 to 166 of Schedule 2</p> <p>(b) Reference to section 167 of Schedule 2 and the draft proposed CSA</p> <p>(c) Administration’s agreement to liaise with ALA to ensure that all other drafting comments he</p>	Administration to take the follow-up action under paragraph 3(l) of the



Time marker	Speaker	Subject(s)	Action Required
		might have on Schedule 2 to the Bill would be properly addressed	minutes
<u>Examination of revised draft Committee Stage amendments (excluding Schedule 2)</u>			
021314-021512	Chairman Administration	Brief introduction by the Administration on the revised marked-up copy of the Bill (excluding Schedule 2) (LC Paper No. CB(1)2140/03-04(03) tabled at the meeting and issued vide LC Paper No. CB(1)2170/03-04 on 16 June 2004)	
021513-022431	Chairman Mr Andrew WONG Ms Audrey EU Ms Miriam LAU Mr LAU Ping-cheung Administration	(a) Administration's report on the progress of its consultation with Law Soc on the draft proposed CSAs to the Bill, namely, that Law Soc had yet to confirm whether the draft proposed CSAs were agreeable to them  (b) Solicitation of members' views on whether they would agree to the Administration's proposal of issuing a consultation letter to the Chairman of the House Committee on 15 June 2004, i.e., on the same day of this meeting, on the resumption of the Second Reading debate on the Bill on 7 July 2004  (c) A member's view that	

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		<p>given that there were still outstanding issues to be resolved, it was difficult for her to decide at this stage whether she would support the resumption of the Second Reading debate on the Bill on 7 July 2004</p> <p>(d) Chairman's explanation that members' agreement for the Administration to issue the consultation letter would not have any implications on their final decision on whether they would support the resumption of the Second Reading debate on the Bill</p> <p>(e) A member's view that subject to Law Soc's indication that it was in support of the Bill and the Administration's undertaking that it would continue to work with Law Soc to address any subsisting points of concern before the implementation of the Land Titles Ordinance (if enacted), she would agree to the Administration's proposal of issuing the consultation letter</p> <p>(f) Administration's advice that it would provide before the Bills Committee meeting on 18 June 2004 a</p>	<p>Administration to take the follow-up action under paragraph 3(a)(iii)</p>

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		<p>written statement from Law Soc on its comments on the draft proposed CSAs</p> <p>(g) Members' agreement to the Administration's proposal of issuing the consultation letter to the Chairman of the House Committee</p> <p>(h) Reference to the submission dated 14 June 2004 from the Hong Kong Bar Association (tabled at the meeting and issued vide LC Paper No. CB(1)2170/03-04(02) on 16 June 2004)</p>	<p>of the minutes</p> <p>Administration to take the follow-up action under paragraph 3(a)(ii) of the minutes</p>
022432-022715	Chairman Administration	<p>(a) General introduction of LC Paper No. CB(1)2140/03-04(03)</p> <p>(b) Reference to clause 1, where there was no CSA</p>	
022716-024441	Chairman Ms Miriam LAU Ms Audrey EU Assistant Legal Adviser Administration	<p>(a) Briefing by the Administration on the revised draft proposed CSAs to clause 2 up to the definition of "charge"</p> <p>(b) Administration's explanation that the revised draft proposed CSAs to the definition of "charge" had been proposed to address Law Soc's concern about the scope of "charge" under the Bill. In Law</p>	

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		<p>Soc’s view, the scope of the term should be wider than that under the LRO</p> <p>(c) Administration’s provision of examples to explain the need for the revised paragraph (b) of the definition of “charge”</p> <p>(d) Discussion on whether a charge by way of deposit of title certificate could be effected and if so, whether the definition of “charge” covered such</p> <p>(e) ALA’s concern that the term “equitable interest” in paragraph (b) of the definition of “charge” was not defined in the Bill, and the Administration’s advice that the term had the same meaning as that defined in the CPO</p> <p>(f) Some members’ concern that the revised paragraph (b) of the definition of “charge” might have a narrower scope than that in the CPO</p> <p>(g) Members’ request of the Administration to confirm whether its policy intent was that the scope of the term “equitable interest” in the Bill should be the same as that in the CPO; and if it</p>	<p>Administration to take the follow-up action under paragraph 3(m) of the minutes</p>

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		<p>was, to consider the need of referring in the Bill to the definition of “equitable interest” in the CPO</p>	
024442-030736	<p>Chairman Ms Miriam LAU Mr Albert HO Assistant Legal Adviser Administration</p>	<p>(a) Briefing by the Administration on the revised draft proposed CSAs to clause 2 up to the definition of “owner”</p> <p>(b) ALA’s concern that the words in brackets of the revised paragraph (a) of the definition of “owner” were redundant, and the Administration’s explanation of the need of the words for clarification purposes (clause 21(1A))</p> <p>(c) Some members’ concern that the definition of “owner” did not provide room for managers of t’ong to be registered as owners, and some other members’ concern that the definition did not cover t’so</p> <p>(d) Administration’s advice that managers of t’ong would not be registered as owners in the Title Register under the LTRS, and that clause 57(d) provided that nothing in the Bill should be construed as affecting the operation of section 15 or 18 of the New Territories Ordinance</p>	

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		<p>(NTO) (Cap. 97). As such, managers of t'ong could not deal with t'ong land unless with the consent of the relevant District Officer</p> <p>(e) Members' invitation of the Administration to consider outside the context of the Bill how cases relating to t'so should be dealt with having regard that section 15 of NTO only governed cases relating to clan, family or t'ong</p>	<p>Administration to take the follow-up action under paragraph 3(n) of the minutes</p>
030737-031534	<p>Chairman Mr Andrew WONG Clerk Administration</p>	<p>(a) Briefing by the Administration on the revised draft proposed CSAs to the remaining part of clause 2</p> <p>(b) Scheduling of an additional meeting for 17 June 2004 at 4:30 pm</p>	
031535-032214	<p>Chairman Ms Miriam LAU Assistant Legal Adviser Administration</p>	<p>(a) Briefing by the Administration on the revised draft proposed CSAs to clause 3</p> <p>(b) ALA's comment that there was no need to mention "Subject to Schedule 1A" in clause 3(1), and the Administration's explanation that the phrase was necessary to introduce Schedule 1A, and that such an approach was a standard</p>	

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		<p>drafting practice</p> <p>(c) ALA’s query of the revised draft proposed CSAs to clause 3(3) having regard that it would give rise to uncertainty as to whether, as a result of clause 3(3), the Bill would be overridden by section 4 of the CPO, which provided that a legal estate should be disposed of only by deed</p> <p>(d) Administration’s explanation that the revised draft proposed CSAs to clause 3(3) were introduced to address Law Soc’s concern and were accepted by Law Soc</p>	
032215-032440	Chairman Administration	Administration’s advice that the original clause 4 had been moved to clause 14 with some modifications	
032441-032806	Chairman Ms Miriam LAU Administration	<p>(a) Briefing by the Administration on the revised draft proposed CSAs to clause 5</p> <p>(b) A member’s view that the reference in the Bill to the register kept under the existing deeds registration system (DRS), namely, “the land register kept in the Registry” or “the land register kept under the Land Registration</p>	Administration to take the follow-up action under paragraph 3(o) of the minutes

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		Ordinance”, should be simplified, and that the exercise should be carried out in the 2-year period between the enactment and commencement of the Bill	
032807-033036	Chairman Ms Miriam LAU Administration	<p>(a) Briefing by the Administration on the proposed new clause 5A</p> <p>(b) Administration’s confirmation that the applications register under the LTRS was equivalent to the Memorial Day Book under the DRS but was less significant because the relating back provision would be taken out from the Bill</p> <p>(c) A member’s request of the Administration to consult Law Soc on the applications register under the LTRS, so that legal practitioners would in future know how to deal with it</p>	Administration to take the follow-up action under paragraph 3(p) of the minutes
033037-033106	Chairman Administration	Briefing by the Administration on the proposed new clauses 5B and 5C	
033107-033807	Chairman Ms Miriam LAU Assistant Legal Adviser Administration	(a) Briefing by the Administration on the revised draft proposed CSAs to clause 6 and the proposed new clause 6A	



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		<p>(b) Administration’s explanation that it would make further revisions to clause 6(2) and (1)(c) to ensure consistency in the references to the exercise of power by the Land Registrar, and a member’s view that the proposed new clause 6A and other related clauses should be revised along the same line</p> <p>(c) ALA’s comment that the proposed new clause 6A (i.e. the modified version of the original clause 88) could not address members’ earlier concern about whether regulations would be made to govern the exercise of power by the Land Registrar under the new clause 6A and to provide for the procedures for implementation (item 6 of the list of follow-up actions to the thirty-third meeting of the Bills Committee on 1 June 2004), but the Administration had undertaken to exercise the power in a reasonable manner</p>	<p>Administration to take the follow-up action under paragraph 3(q) of the minutes</p>
033808-033930	<p>Chairman Assistant Legal Adviser Administration</p>	<p>(a) Reference to clause 7, where there was no CSA</p> <p>(b) Briefing by the Administration on the</p>	

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		<p>revised draft proposed CSAs to clause 8(3)</p> <p>(c) ALA's view that the revised draft proposed CSAs to clause 8(3) were not necessary but that he would not insist on removing such</p>	
033931-034128	Chairman Administration	<p>(a) Reference to clause 9, where there was no CSA</p> <p>(b) Administration's advice that the original clause 10 had been merged into clause 5 with modifications</p> <p>(c) Administration's advice that the original clause 11 had been moved to section 13 of Schedule 1A with modifications</p> <p>(d) Administration's advice that the original clauses 12 and 13 were proposed to be deleted as a result of the adoption of the daylight conversion mechanism</p> <p>(e) Briefing by the Administration on the draft proposed CSA to the heading of the proposed new Part 2A</p> <p>(f) Administration's advice that the original clause 14 was proposed to be deleted, and that the proposed new clause 14 was the modified</p>	

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		version of the original clause 4	
034129-035656	Chairman Ms Miriam LAU Assistant Legal Adviser Administration	<p>(a) Briefing by the Administration on the proposed new clause 15</p> <p>(b) ALA's view that it was not clear from the proposed new clause 15 whether under the LTRS the initial registration of the Government lease itself would require an application, and the Administration's advice that there was no need to make such an application because, according to clause 3 of the proposed new Schedule 1A, "the Registrar shall register the title to new land by...making an entry in the Title Register to the effect that the Government lessee is the first owner of the land"</p> <p>(c) Members' view that having regard that the above arrangement under clause 3 of Schedule 1A would be a permanent one, and that all permanent provisions should as a matter of drafting principle be placed in the main body of the Bill, the arrangement should be mentioned in clause 15</p>	

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		<p>(d) Members’ view that the change proposed in item (c) above could be effected by making reference to Schedule 1A in clause 15, and the Administration’s agreement to amend clause 15 accordingly</p> <p>(e) ALA’s doubt on whether in the case of registration of a caution, which involved a claim of interests, the relevant application could “be verified, both as to the application and the matter in question... by a solicitor” as required under clause 15(2)(a)(i)</p> <p>(f) Administration’s advice that the policy intention was to preserve the present position under the LRO, and at present any memorial would be signed by solicitors</p> <p>(g) ALA’s view that, unlike verification of documents, solicitors might have difficulties in verifying a claim of interests</p> <p>(h) ALA’s suggestion that, to allow time for the Administration to consider how the issue highlighted in items (e) and (g) above should be dealt with, clause 15(2)(a)(i) should be</p>	<p>Administration to take the follow-up action under paragraph 3(r) of the minutes</p>

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		<p>revised to the effect that applications for registration were required to comply with the provisions of the relevant regulations</p> <p>(i) In connection with item (h) above, some members' emphasis of the importance of ensuring solicitors' role in such applications, e.g. by requiring every such application to be signed by a solicitor</p> <p>(j) Chairman's invitation of the Administration to consider the views of members and ALA in items (e), (g), (h) and (i) above, and report back to the Bills Committee at its next meeting on 17 June 2004</p>	<p>Administration to take the follow-up action under paragraph 3(s) of the minutes</p>
035657-035716	Chairman	Meeting arrangements	