

立法會
Legislative Council

LC Paper No. CB(1)2522/03-04
(These minutes have been seen
by the Administration)

Ref: CB1/BC/3/02

Bills Committee on Land Titles Bill

**Minutes of the thirty-eighth meeting held on
Friday, 18 June 2004, at 8:30 am
in the Chamber of the Legislative Council Building**

Members present : Hon Margaret NG (Chairman)
Hon Albert HO Chun-yan (Deputy Chairman)
Hon Miriam LAU Kin-yee, JP
Hon TAM Yiu-chung, GBS, JP
Hon WONG Sing-chi
Hon IP Kwok-him, JP
Hon Audrey EU Yuet-mee, SC, JP

Members absent : Hon Andrew WONG Wang-fat, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon Albert CHAN Wai-yip
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

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

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 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)2171/03-04(01) — “Follow-up to the thirty-fifth meeting on 11 June 2004” prepared by the Legislative Council Secretariat

- LC Paper No. CB(1)2182/03-04(01) — “Follow-up to the thirty-sixth meeting on 15 June 2004” prepared by the Legislative Council Secretariat
- LC Paper No. CB(1)2182/03-04(02) — Administration’s written response to the two submissions dated 9 June and 16 June 2004 from The Real Estate Developers Association of Hong Kong
- LC Paper No. CB(1)2171/03-04(02) — Submission dated 16 June 2004 from The Real Estate Developers Association of Hong Kong
- LC Paper No. CB(1)2120/03-04(01) — Submission dated 9 June 2004 from The Real Estate Developers Association of Hong Kong
- LC Paper No. CB(1)2182/03-04(03) — Administration’s written response to the submission dated 14 June 2004 from the Hong Kong Bar Association
- LC Paper No. CB(1)2170/03-04(02) — Letter dated 14 June 2004 from the Hong Kong Bar Association
- LC Paper No. CB(1)2182/03-04(04) — Administration’s written response to the letter dated 14 June 2004 from Hon TAM Yiu-chung
- LC Paper No. CB(1)2170/03-04(01) — Letter dated 14 June 2004 from Hon TAM Yiu-chung
- LC Paper No. CB(1)2182/03-04(05) — Paper provided by the Administration on “Responses to Bills Committee on Outstanding Matters”

- LC Paper No. CB(1)2182/03-04(06) — “List of outstanding issues which require Administration’s written response (Position as at 16 June 2004)” prepared by the Legislative Council Secretariat
- LC Paper No. CB(3)210/02-03 — The Bill
- 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) Chinese version of the paper on “Responses to Bills Committee on Outstanding Matters”; and
- (b) Further draft proposed Committee Stage amendments (CSAs) to the Bill.

(Post-meeting note: The above papers were issued to members vide LC Paper No. CB(1)2201/03-04 on 18 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) On the revised draft proposed CSAs to clause 33, the Administration confirmed that it would consult the Law Society of Hong Kong (Law Soc) on the Assistant Legal Adviser (ALA)’s concern that the proposed deletion of the phrase “under a provisional agreement for sale and purchase or an agreement for sale and purchase” in the new subclause (8) might have the effect of bringing the relation back provision into the Bill again (item 11 of the list of follow-up actions to be taken by the Administration arising from the thirty-seventh meeting of the Bills Committee on 17 June 2004).
 - (b) On the revised draft proposed CSAs to clause 70, the Administration confirmed that further CSAs would be introduced to address the following concerns of Law Soc:

- (i) It was not sufficiently clear from the proposed subclause (1) as to whom a person who intended to effect a dealing in registered land should approach for consent to effect registration of a consent caution; and
- (ii) It was not sufficiently clear from the proposed subclause (1) that the owner of a property or a consent cautioner could give as many consent cautions to other people as he wished, and he was not bound to deal with only one person.

The Administration was invited to report back to the Bills Committee at its meeting on 21 June 2004 on how the proposed subclause (1) should be amended.

- (c) On the revised draft proposed CSAs to clause 77, the Administration confirmed that the phrase “the making of” would be deleted from subclause (1)(a).
- (d) In examining the definition of “interested person” in the proposed new subclause (5) of clause 77, members invited the Administration to put in place the regulations prescribing the class of persons referred to in paragraph (c) of the definition before the commencement of the Land Titles Ordinance (LTO). The Administration agreed to do so. The Administration also indicated that it would make reference to the relevant provisions in the UK Land Registration Rules in drafting the above regulations.
- (e) In connection with item (d) above, members requested the Administration:
 - (i) to put in place all the relevant regulations before the commencement of LTO; and
 - (ii) to consult the LegCo Panel on Planning, Lands and Works in due course on the proposed commencement date of LTO before the commencement notice for the Ordinance was published in the Gazette.

Members also considered that the commencement notice should be subsidiary legislation subject to the vetting of the Legislative Council. The Administration undertook to follow up accordingly.

- (f) On the revised draft proposed CSAs to clause 81, the Administration was invited to consider, in consultation with Law Soc, the following views expressed by a member and ALA:
 - (i) ALA expressed reservation about the expression “or voidable” in subclauses (1) and (2). He pointed out that the state of being “voidable” did not mean it was void, and that a voidable instrument would not be void until it was avoided. In his view, by defining “a void instrument” as an instrument which was void or had become void at the date of application, the need to make

- reference to “voidable” could be obviated;
- (ii) ALA was concerned that with the expression “or voidable” in subclauses (1) and (2), an owner might act according to his own interests, so that he might deliberately cause an instrument to be voidable by his own default so as to defeat a transaction he had entered into;
 - (iii) ALA pointed out that while the expression “or voidable” was used in subclauses (1) and (2), only “void instrument” was mentioned in subclause (3); and
 - (iv) A member found the inclusion of the expression “or voidable” in subclauses (1) and (2) agreeable because the expression would enable the court to exercise discretion and take all circumstances into consideration in deciding whether to rectify the Title Register. This would have the effect of ensuring that no person would be inadvertently and unfairly precluded from applying for rectification.
- (g) On the revised draft proposed CSAs to clause 81, members reiterated their concern about how the proposed expressions “substantially contribute” and “lack of proper care” in subclauses (2)(b) and (3)(c) would be interpreted by the court (item 20 of the list of follow-up actions to be taken by the Administration arising from the thirty-seventh meeting of the Bills Committee on 17 June 2004).
- (i) Noting as explained by the Administration that Law Soc was satisfied with the proposed expressions but The Real Estate Developers Association of Hong Kong (REDA) had expressed its concern, members requested the Administration to ascertain whether the Hong Kong Bar Association (the Bar) was agreeable to the proposed expressions; and
 - (ii) Noting as explained by the Administration that the proposed expressions were adopted from relevant provisions in the UK and that there was relevant case law in the UK on how the court interpreted the expression “lack of proper care”, members invited the Administration to provide the relevant UK case law in due course.
- (h) On the revised draft proposed CSAs to clause 81, ALA opined that because of the reference to “the entry in the Title Register” in subclause (4), it was not clear whether a fraud or voidable transaction that would give rise to a claim for rectification in relation to land which was registered under the Land Registration Ordinance (LRO) (Cap. 128) could be rectified after the commencement of LTO. The Administration agreed to consider after enactment of the Bill how to address ALA’s concern.

- (i) On the revised draft proposed CSAs to clause 81, ALA opined that subclause (8) could be interpreted to mean that the Land Registrar did not need to bear the cost at all. To address ALA's view, the Administration assured members that it would clarify that indemnity payments made under clause 82(1)(b) and costs connected with such payments would be reimbursed by the Land Registry Trading Fund.
- (j) On the revised draft proposed CSAs to add the new clause 81A, the Administration reaffirmed that further CSAs would be introduced to the new clause to address REDA's concern about the limitation period as stated in its submission dated 9 June 2004 (LC Paper No. CB(1)2120/03-04(01)).
- (k) On the revised draft proposed CSAs to clause 82, members were concerned that the reference to "fraud or negligence" in subclause (2)(a) seemed to be inconsistent with other clauses of the Bill. The Administration agreed to consider how this concern could be addressed.
- (l) On the revised draft proposed CSAs to clause 82, ALA pointed out that subclause (4)(d), as presently drafted, would not exclude LRO land affected by fraud before the first registration. He suggested that the Administration should consider whether to tighten up or to delete the subclause if subclause (4)(c) was considered sufficient.
- (m) On the revised draft proposed CSAs to clause 92, the Administration advised that in the light of the comments of the Director of Lands, the words "or area or measurement" in subclause (4) would be retained and the proposed CSAs to subclause (6) would be withdrawn. The Administration would review the provisions in clause 92 after introducing a similar provision in a suitable ordinance that would apply to land not yet registered under LTO.
- (n) On the revised draft proposed CSAs to clause 98, the Administration confirmed that the word "made" would be added after the word "whether" in subclause (1)(a).
- (o) On the revised draft proposed CSAs to clause 100, the Administration confirmed that it had to review the whole clause in the light of the proposed CSAs to other clauses.
- (p) On the proposed new clause 20A (draft CSAs tabled at the meeting), ALA pointed out that the proposed definition of "new land" would have the effect that title registration would only apply to land granted under a Government lease. The Administration confirmed that title registration would not apply to some categories of land, such as the government land held by the Kowloon-Canton Railway Corporation. Noting such,

members considered that the above policy intention should be clearly made known to the public. The Administration confirmed that it would consider amending clause 3 for the purpose.

- (q) On the proposed new clause 20B (draft CSAs tabled at the meeting), ALA was concerned that it was not specified in the proposed new clause when the Land Registrar should register the title to new land. The Administration was invited to consider how this concern could be addressed.
- (r) In connection with the proposed new clause 20B (draft CSAs tabled at the meeting), the Administration confirmed that it would add the phrase “Except as otherwise expressly provided for in this Ordinance” at the beginning of clause 15 to link it with the proposed new Part 2B, in particular the proposed new clause 20B, so as to achieve the effect that no application would be required for registration of new land.
- (s) In examining clause 1 of the proposed new Schedule 1A (draft CSAs tabled at the meeting), ALA was concerned that the definition of “relevant lease” seemed to have been drafted on the assumption that long term leases granted before the date of first registration were not long term leases. The Administration was invited to consider how this concern could be addressed.
- (t) In examining clause 8 of the proposed new Schedule 1A (draft CSAs tabled at the meeting), the Administration agreed to redraft subclauses (2) and (3) so that the detailed provisions would be set out in the relevant regulations to address ALA’s concern that the subclauses were not comprehensive enough. In this connection, the Administration also undertook to ensure that the entries in the register under the deeds registration system would fit in under the new land title registration system.
- (u) In examining clause 9 of the proposed new Schedule 1A (draft CSAs tabled at the meeting), the Administration agreed to redraft subclauses (2) and (3) so that the detailed provisions would be set out in the relevant regulations to address ALA’s concern that the subclauses were not comprehensive enough.
- (v) On the proposed new section 21B of LRO (the proposed new Schedule 3), the Administration confirmed that the phrase “does not confer” in subclause (3) would be amended to “does not prejudice” pursuant to Law Soc’s request.
- (w) On the proposed new section 21H of LRO (the proposed new Schedule 3), the Administration confirmed that subsection (4) would be amended

in the same way as the proposed new section 21B(3) of LRO as described in item (v) above. In the light of this proposed change, ALA pointed out that there was also a need to amend subsection (5).

- (x) On the proposed new section 21J of LRO (the proposed new Schedule 3), the Administration advised that the word “the” would be inserted between “of” and “registration” in subsections (4), (5) and (6).
- (y) On item 1 of the paper on “Responses to Bills Committee on Outstanding Matters” provided by the Administration (LC Paper No. CB(1)2182/03-04(05)), the Administration confirmed that it would reply to Heung Yee Kuk shortly and would then provide the Bills Committee with a copy of the reply.

Way forward

4. The Chairman pointed out that she would give a verbal report to the House Committee in the afternoon of 18 June 2004 (i.e., the same day of this meeting) on whether the Bills Committee supported the resumption of the Second Reading debate on the Bill at the last Council meeting of the current legislative term on 7 July 2004. To facilitate members’ consideration of the issue, the Chairman invited the Administration to brief members on the stance of Law Soc on the Bill.

5. The Land Registrar advised that Law Soc had agreed to provide a letter to the Administration by lunch time on the day of this meeting confirming its support for the enactment of the Bill before the end of the current legislative term subject to the undertaking being given by the Administration that it would continue to work with Law Soc to address any subsisting points of concern before the commencement of LTO and subject to the agreement of the Board of the Solicitors Insurance Fund for the Bill to go forward.

6. Ms Miriam LAU said that she would support the resumption of the Second Reading debate on the Bill on 7 July 2004 subject to Law Soc’s written confirmation that it was in support of the Bill and subject to the undertakings being given by the Administration that a review of LTO would be conducted during the two-year period between its enactment and commencement, and that the relevant regulations would be put in place before the commencement of LTO.

7. After deliberations, members agreed that subject to Law Soc’s written confirmation that it was in support of the Bill and subject to the undertakings being given by the Administration pursuant to the requests of the Bills Committee and Law Soc, the Chairman would report to the House Committee that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting on 7 July 2004.

(Post-meeting note: The Law Soc’s letter dated 18 June 2004 to the

Administration was received minutes after the meeting and issued to members vide LC Paper No. CB(1)2203/03-04 before the House Committee meeting held on the same day.)

Meeting arrangements

8. The Chairman reminded members that the next meeting of the Bills Committee would be held on Monday, 21 June 2004, at 10:45 am.

II. Any other business

9. There being no other business, the meeting ended at 11:45 am.

Council Business Division 1
Legislative Council Secretariat
27 September 2004

Appendix

**Proceedings of the thirty-eighth meeting of the
Bills Committee on Land Titles Bill
on Friday, 18 June 2004, at 8:30 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action Required
000000-000057	Chairman	(a) Welcoming and introductory remarks (b) Chairman's advice that an additional meeting had been scheduled for 21 July 2004 at 10:45 am	
<p>I. Meeting with the Administration <u>Part A: Examination of the revised draft proposed Committee Stage amendments</u> <u>Further examination of the revised draft proposed Committee Stage amendments (CSAs) to clause 33</u> Revised marked-up copy of the Bill (excluding Schedule 2) (LC Paper No. CB(1)2140/03-04(03))</p>			
000058-000252	Chairman Administration	(a) Reference to the revised draft proposed CSAs to clause 33, and the Assistant Legal Adviser (ALA)'s concern that the proposed deletion of the phrase "under a provisional agreement for sale and purchase or an agreement for sale and purchase" in the new subclause (8) might have the effect of bringing the relation back provision into the Bill again (item 11 of the list of follow-up actions to be taken by the	

Time marker	Speaker	Subject(s)	Action Required
		<p>Administration arising from the thirty-seventh meeting of the Bills Committee on 17 June 2004)</p> <p>(b) Administration's confirmation that it would consult the Law Society of Hong Kong (Law Soc) on ALA's concern mentioned in item (a) above</p>	<p>Administration to take the follow-up action under paragraph 3(a) of the minutes</p>
<p><u>Examination of revised draft Committee Stage amendments to Parts 7 and 8 of the Bill (clauses 61A to 79)</u> (LC Paper No. CB(1)2140/03-04(03))</p>			
000253-000807	Chairman Administration	<p>(a) Briefing by the Administration on the revised proposed new clause 61A</p> <p>(b) Briefing by the Administration on the revised draft proposed CSAs to clauses 62 to 66</p> <p>(c) Reference to clause 67, where there was no revised CSA</p> <p>(d) Reference to clause 68, which was proposed for deletion</p> <p>(e) Briefing by the Administration on the revised draft proposed CSAs to clause 69</p> <p>(f) Briefing by the</p>	

Time marker	Speaker	Subject(s)	Action Required
		Administration on the revised proposed new clause 69A	
000808-001317	Chairman Administration	<p>(a) Briefing by the Administration on the revised draft proposed CSAs to clause 70</p> <p>(b) Administration's confirmation that further CSAs would be introduced to address Law Soc's concern that it was not sufficiently clear from the proposed subclause (1) of clause 70 as to whom a person who intended to effect a dealing in registered land should approach for consent to effect registration of a consent caution</p> <p>(c) Administration's confirmation that further CSAs would be introduced to address Law Soc's concern that it was not sufficiently clear from the proposed subclause (1) of clause 70 that the owner of a property or a consent cautioner could give as many consent cautions to other people as he wished, and he was not bound to deal with only one person</p> <p>(d) Chairman's invitation of the Administration to</p>	<p>Administration to take the follow-up action under paragraph 3(b)(i) of the minutes</p> <p>Administration to take the follow-up action under paragraph 3(b)(ii) of the minutes</p> <p>Administration to take the follow-up</p>

Time marker	Speaker	Subject(s)	Action Required
		report back to the Bills Committee at its meeting on 21 June 2004 on how the proposed subclause (1) of clause 70 should be amended	action under paragraph 3(b) of the minutes
001318-001843	Chairman Administration	<p>(a) Briefing by the Administration on the revised draft proposed CSAs to clauses 71 to 74</p> <p>(b) Reference to clause 75, where there was no CSA</p> <p>(c) Briefing by the Administration on the draft proposed CSA to clause 76</p>	
001844-002133	Chairman Ms Miriam LAU Administration	<p>(a) Briefing by the Administration on the revised draft proposed CSAs to clause 77</p> <p>(b) Administration's confirmation that the phrase "the making of" would be deleted from clause 77(1)(a)</p> <p>(c) In relation to the definition of "interested person" in the proposed new subclause (5) of clause 77, members' request the Administration to put in place the regulations prescribing the class of persons referred to in paragraph (c) of the definition before the</p>	<p>Administration to take the follow-up action under paragraph 3(c) of the minutes</p> <p>Administration to take the follow-up action under paragraph 3(d) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>commencement of the Land Titles Ordinance (LTO)</p> <p>(d) Administration's indication that it would make reference to the relevant provisions in the UK Land Registration Rules in drafting the regulations referred to in item (c) above</p> <p>(e) In connection with item (d) above, members' request of the Administration to put in place all the relevant regulations before the commencement of LTO</p> <p>(f) Members' request of the Administration to consult the LegCo Panel on Planning, Lands and Works in due course on the proposed commencement date of LTO before the commencement notice for the Ordinance was published in the Gazette</p> <p>(g) Members' view that the commencement notice for the LTO should be subsidiary legislation subject to the vetting of the Legislative Council</p>	<p>Administration to take the follow-up action under paragraph 3(d) of the minutes</p> <p>Administration to take the follow-up action under paragraph 3(e)(i) of the minutes</p> <p>Administration to take the follow-up action under paragraph 3(e)(ii) of the minutes</p> <p>Administration to take the follow-up action under paragraph 3(e) of the minutes</p>
002134-002231	Chairman Administration	Briefing by the Administration on the draft proposed CSAs to clauses 78 and 79	

Time marker	Speaker	Subject(s)	Action Required
<p>Further examination of revised draft Committee Stage amendments to Part 9 (clauses 80 to 81A) and the new Part 9A (clauses 82 to 87A) (LC Paper No. CB(1)2140/03-04(03))</p>			
002232-002308	Chairman Administration	Briefing by the Administration on the revised draft proposed CSAs to clause 80	
002309-003415	Chairman Ms Audrey EU Mr Albert HO Assistant Legal Adviser Administration	<p>(a) Briefing by the Administration on the revised draft proposed CSAs to clause 81(1)</p> <p>(b) ALA’s reservation about the expression “or voidable” in clause 81(1) and (2). He pointed out that the state of being “voidable” did not mean it was void, and that a voidable instrument would not be void until it was avoided. In his view, by defining “a void instrument” as an instrument which was void or had become void at the date of application, the need to make reference to “voidable” could be obviated</p> <p>(c) Administration’s explanation of the need to retain the word “voidable” in clause 81, namely, that the word “voidable” was also used in clause 60 of the Conveyancing and Property Ordinance (CPO)</p>	Administration to take the follow-up action under paragraph 3(f)(i) of the minutes

Time marker	Speaker	Subject(s)	Action Required
		<p>(Cap. 219), and that it was safer to keep it so as not to preclude any circumstances other than fraud in which the court might wish to rule that an instrument was void (clause 81(1) and (3))</p> <p>(d) ALA’s concern that with the expression “or voidable” in subclauses (1) and (2), an owner might act according to his own interests, so that he might deliberately cause an instrument to be voidable by his own default so as to defeat a transaction he had entered into</p> <p>(e) Administration’s explanation of the undesirability of taking away the court’s power to decide whether an instrument which was potentially voidable was void or not</p> <p>(f) ALA’s view that while the expression “or voidable” was used in clause 81(1) and (2), only “void instrument” was mentioned in subclause (3)</p> <p>(g) A member’s view that the inclusion of the expression “or voidable” in clause 81(1) and (2) was agreeable because the</p>	<p>Administration to take the follow-up action under paragraph 3(f)(ii) of the minutes</p> <p>Administration to take the follow-up action under paragraph 3(f)(iii) of the minutes</p> <p>Administration to take the follow-up action under paragraph 3(f)(iv) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>expression would enable the court to exercise discretion and take all circumstances into consideration in deciding whether to rectify the Title Register. This would have the effect of ensuring that no person would be inadvertently and unfairly precluded from applying for rectification</p> <p>(h) Request for the Administration to consider, in consultation with Law Soc, the views expressed by a member and ALA in items (b), (d), (f) and (g) above</p>	<p>Administration to take the follow-up action under paragraph 3(f) of the minutes</p>
003416-004741	Chairman Mr Albert HO Administration	<p>(a) Briefing by the Administration on the revised draft proposed CSAs to clause 81(2)</p> <p>(b) Members' reiteration of their concern about how the proposed expressions "substantially contribute" and "lack of proper care" in clause 81(2)(b) and (3)(c) would be interpreted by the court (item 20 of the list of follow-up actions to be taken by the Administration arising from the thirty-seventh meeting of the Bills Committee on 17 June 2004)</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>(c) Administration’s advice that Law Soc was satisfied with the proposed expressions “substantially contribute” and “lack of proper care” but The Real Estate Developers Association of Hong Kong (REDA) had expressed its concern</p> <p>(d) Members’ request of the Administration to ascertain whether the Hong Kong Bar Association (the Bar) was agreeable to the proposed expressions “substantially contribute” and “lack of proper care”</p> <p>(e) ALA’s enquiry about how knowledge of the voidness of an instrument would affect the court’s decision on whether to rectify the Title Register, and the Administration’s assurance that a higher standard of proof would be set in the circumstances, namely, that the person concerned had to be aware of the relevant consequences</p> <p>(f) Administration’s explanation of the difference between the formulation of the present clause 81(2)(b)(i)(C), 81(2)(b)(ii)(C) and</p>	<p>Administration to take the follow-up action under paragraph 3(g)(i) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>81(2)(b)(iii)(C) and its previous formulation of “negligence”, namely, that the former set a higher threshold by establishing the standards for the court to look at</p> <p>(g) Administration’s advice that the proposed expressions “substantially contribute” and “lack of proper care” were adopted from relevant provisions in the UK and that there was relevant case law in the UK on how the court interpreted the expression “lack of proper care”</p>	<p>Administration to take the follow-up action under paragraph 3(g)(ii) of the minutes</p>
004742-005444	Chairman Assistant Legal Adviser Administration	<p>(a) Briefing by the Administration on the revised draft proposed CSAs to clause 81(3) to (9)</p> <p>(b) ALA’s view that because of the reference to “the entry in the Title Register” in clause 81(4), it was not clear whether a fraud or voidable transaction that would give rise to a claim for rectification in relation to land which was registered under the Land Registration Ordinance (LRO) (Cap. 128) could be rectified after the commencement of LTO, and the Administration’s agreement to consider after</p>	<p>Administration to take the follow-up action under paragraph 3(h) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>enactment of the Bill how to address ALA's concern</p> <p>(c) ALA's view that clause 81(8) could be interpreted to mean that the Land Registrar did not need to bear the cost at all, and the Administration's assurance that it would address ALA's view by clarifying that indemnity payments made under clause 82(1)(b) and costs connected with such payments would be reimbursed by the Land Registry Trading Fund</p>	<p>Administration to take the follow-up action under paragraph 3(i) of the minutes</p>
005445-005720	Chairman Administration	<p>(a) Briefing by the Administration on the revised proposed new clause 81A</p> <p>(b) Administration's reaffirmation that further CSAs would be introduced to the new clause 81A to address REDA's concern about the limitation period as stated in its submission dated 9 June 2004 (LC Paper No. CB(1)2120/03-04(01))</p>	<p>Administration to take the follow-up action under paragraph 3(j) of the minutes</p>
005721-005933	Chairman Assistant Legal Adviser Administration	<p>(a) Briefing by the Administration on the revised draft proposed CSAs to clause 82</p> <p>(b) Members' concern that the</p>	<p>Administration to</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>reference to “fraud or negligence” in clause 82(2)(a) seemed to be inconsistent with other clauses of the Bill</p> <p>(c) ALA’s view that clause 82(4)(d), as presently drafted, would not exclude LRO land affected by fraud before the first registration, and his suggestion that the Administration should consider whether to tighten up or to delete the subclause if subclause (4)(c) was considered sufficient</p>	<p>take the follow-up action under paragraph 3(k) of the minutes</p> <p>Administration to take the follow-up action under paragraph 3(l) of the minutes</p>
005934-010310	Chairman Assistant Legal Adviser Administration	<p>(a) Briefing by the Administration on the revised draft proposed CSAs to clauses 83 and 84</p> <p>(b) Reference to clause 85, where there was no CSA</p>	
010311-010323	Chairman Administration	<p>(a) Briefing by the Administration on the draft proposed CSAs to clause 86</p> <p>(b) Administration’s reaffirmation of its undertaking that clause 86(1) and (2) would be recast along the line of the relevant provisions of the English Land Registration Act 1925</p>	

Time marker	Speaker	Subject(s)	Action Required
		(item 22 of the list of follow-up actions to be taken by the Administration arising from the thirty-seventh meeting of the Bills Committee on 17 June 2004)	
010324-010344	Chairman Administration	(a) Briefing by the Administration on the draft proposed CSAs to clause 87 (b) Briefing by the Administration on the draft proposed CSAs to add the new clause 87A	
<u>Examination of revised draft Committee Stage amendments to Parts 10 and 11 (clauses 88 to 102)</u> (LC Paper No. CB(1)2140/03-04(03))			
010345-010547	Chairman Administration	(a) Briefing by the Administration on the draft proposed CSA to the heading of Part 10 (b) Reference to clause 88, which was proposed for deletion (c) Briefing by the Administration on the revised draft proposed CSAs to clauses 89 to 91	
010548-010915	Chairman Administration	(a) Briefing by the Administration on the revised draft proposed CSAs to clause 92	

Time marker	Speaker	Subject(s)	Action Required
		(b) Administration's advice that in the light of the comments of the Director of Lands, the words "or area or measurement" in clause 92(4) would be retained and the proposed CSAs to subclause (6) would be withdrawn. The Administration would review the provisions in clause 92 after introducing a similar provision in a suitable ordinance that would apply to land not yet registered under LTO	Administration to take the follow-up action under paragraph 3(m) of the minutes
010916-011005	Chairman Mr Albert HO Administration	(a) Reference to clause 93, where there was no CSA (b) Briefing by the Administration on the draft proposed CSA to clause 94	
011006-011023	Chairman Administration	Briefing by the Administration on the revised draft proposed CSAs to clause 95	
011024-011353	Chairman Administration	(a) Briefing by the Administration on the revised draft proposed CSAs to clause 96 (b) Administration's confirmation that the court had discretion in determining whether a person was liable to daily penalty (clause 96(4) and (6))	

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011354-011420	Chairman Administration	Briefing by the Administration on the draft proposed CSA to clause 97	
011421-011530	Chairman Administration	(a) Briefing by the Administration on the revised draft proposed CSAs to clause 98 (b) Administration's confirmation that the word "made" would be added after the word "whether" in clause 98(1)(a)	Administration to take the follow-up action under paragraph 3(n) of the minutes
011531-011630	Chairman Administration	Briefing by the Administration on the draft proposed CSAs to clause 99	
011631-012149	Chairman Mr Albert HO Assistant Legal Adviser Administration	(a) Briefing by the Administration on the revised draft proposed CSAs to clause 100 (b) Administration's confirmation that it had to review the whole of clause 100 in the light of the proposed CSAs to other clauses (c) Discussion on whether the Land Registrar's power to borrow moneys for the purposes of the Indemnity Fund should be provided for in the proposed new clause 87A (clause 100(1)(zi)(i)) (d) Administration's confirmation that the Land	Administration to take the follow-up action under paragraph 3(o) of the minutes

Time marker	Speaker	Subject(s)	Action Required
		Registrar's power to invest the moneys of the Indemnity Fund would be provided in the regulations (clause 100(1)(zi)(ii))	
012150-012216	Chairman Administration	Briefing by the Administration on the revised draft proposed CSAs to clauses 101 and 102	
<u>Examination of further Committee Stage amendments to the Bill (main body and Schedule 1A) tabled at the meeting and issued vide LC Paper No. CB(1)2201/03-04(01) on 18 June 2004</u>			
012217-012307	Chairman Administration	(a) Tabling of further CSAs to the Bill (issued vide LC Paper No. CB(1)2201/03-04 on 18 June 2004) (b) Reference to further CSAs to clauses 2 and 3	
012308-014632	Chairman Assistant Legal Adviser Administration	(a) Briefing by the Administration on the proposed new clause 20A (b) ALA's view that the proposed definition of "new land" would have the effect that title registration would only apply to land granted under a Government lease (c) Administration's confirmation that title registration would not apply to some categories of land, such as the Government land held by the Kowloon-Canton	Administration to take the follow-up action under paragraph 3(p) of the minutes

Time marker	Speaker	Subject(s)	Action Required
		<p>Railway Corporation</p> <p>(d) Administration’s explanation of the reasons for excluding from the Bill land not held under a Government lease, namely, that there would not be any dealings in them, and that there might be some legal implications to extend title registration to them</p> <p>(e) Members’ view that the policy intention described in item (c) above should be clearly made known to the public, and the Administration’s confirmation that it would consider amending clause 3 for the purpose</p> <p>(f) Explanation of why the definition of “short term tenancy” in the proposed new clause 20A referred to a lease instead of a Government lease</p>	<p>Administration to take the follow-up action under paragraph 3(p) of the minutes</p>
014633-015831	Chairman Assistant Legal Adviser Administration	<p>(a) Briefing by the Administration on the proposed new clauses 20B to 20E</p> <p>(b) ALA’s concern that it was not specified in the proposed new clause 20B when the Land Registrar should register the title to new land</p>	<p>Administration to take the follow-up action under paragraph 3(q) of the minutes</p>

Time marker	Speaker	Subject(s)	Action Required
		<p>(c) Discussion on the need to ensure by law the prompt registration of title to new land</p> <p>(d) Administration's confirmation that it would add the phrase "Except as otherwise expressly provided for in this Ordinance" at the beginning of clause 15 to link it with the proposed new Part 2B, in particular the proposed new clause 20B, so as to achieve the effect that no application would be required for registration of new land</p>	<p>Administration to take the follow-up action under paragraph 3(r) of the minutes</p>
Break from 015832 to 020320			
020321-022703	<p>Chairman Ms Miriam LAU Assistant Legal Adviser Administration</p>	<p>(a) Briefing by the Administration on the revised proposed new Schedule 1A to the Bill (tabled at the meeting)</p> <p>(b) ALA's concern that the definition of "relevant lease" in clause 1 of the revised proposed new Schedule 1A seemed to have been drafted on the assumption that long term leases granted before the date of first registration were not long term leases</p> <p>(c) In relation to clause 8 of</p>	<p>Administration to take the follow-up action under paragraph 3(s) of the minutes</p> <p>Administration to</p>

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		<p>the revised proposed new Schedule 1A, the Administration's agreement to redraft subclauses (2) and (3) so that the detailed provisions would be set out in the relevant regulations to address ALA's concern that the subclauses were not comprehensive enough</p> <p>(d) In relation to item (c) above, the Administration's undertaking to ensure that the entries in the register under the deeds registration system would fit in under the new land title registration system</p> <p>(e) In relation to clause 9 of the revised proposed new Schedule 1A, the Administration's agreement to redraft subclauses (2) and (3) so that the detailed provisions would be set out in the relevant regulations to address ALA's concern that the subclauses were not comprehensive enough</p>	<p>take the follow-up action under paragraph 3(t) of the minutes</p> <p>Administration to take the follow-up action under paragraph 3(u) of the minutes</p>
<p><u>Examination of the revised proposed new Schedule 3 to the Bill</u> (LC Paper No. CB(1)2140/03-04(03))</p>			
022704-024745	Chairman Ms Miriam LAU Assistant Legal Adviser	(a) Briefing by the Administration on the revised proposed new	

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	Administration	<p>Schedule 3 to the Bill (consequential amendments to LRO)</p> <p>(b) ALA’s comment that the proposed new section 1A(2) of LRO was in order</p> <p>(c) In relation to the proposed new section 21B of LRO, the Administration’s confirmation that the phrase “does not confer” in subsection (3) would be amended to “does not prejudice” pursuant to Law Soc’s request</p> <p>(d) In relation to the proposed new section 21H of LRO, the Administration’s confirmation that subsection (4) would be amended in the same way as the proposed new section 21B(3) of LRO</p> <p>(e) In the light of the change proposed in item (d) above, ALA’s view that there was also a need to amend subsection (5) of the proposed new section 21H of LRO</p> <p>(f) In relation to the proposed new section 21J of LRO, the Administration’s advice that the word “the” would be inserted between “of”</p>	<p>Administration to take the follow-up action under paragraph 3(v) of the minutes</p> <p>Administration to take the follow-up action under paragraph 3(w) of the minutes</p> <p>Administration to take the follow-up action under paragraph 3(w) of the minutes</p> <p>Administration to take the follow-up action under paragraph 3(x) of the minutes</p>

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		and “registration” in subsections (4), (5) and (6)	
Part B: Matters arising from previous meetings			
024746-030350	Chairman Ms Miriam LAU Clerk Administration	<p>(a) Briefing by the Administration on its written response to the two submissions dated 9 June and 16 June 2004 from REDA (LC Paper No. CB(1)2182/03-04(02))</p> <p>(b) Administration’s explanation of the reason for providing for a test of the bona fides of a former owner claiming rectification in a case where his name had been removed from the register due to a void instrument or false entry (clause 81(3) and item 1 of the Administration’s paper on “Responses to Bills Committee on Outstanding Matters” (LC Paper No. CB(1)2182/03-04(05))</p> <p>(c) Briefing by the Administration on its written response to the submission dated 14 June 2004 from the Bar (LC Paper No. CB(1)2182/03-04(03))</p> <p>(d) Reference to the Administration’s written</p>	

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		<p>response to the letter dated 14 June 2004 from Hon TAM Yiu-chung (LC Paper No. CB(1)2182/03-04(04))</p> <p>(e) Administration's advice on Law Soc's stance on the Bill</p> <p>(f) Briefing by the Administration on the paper on "Responses to Bills Committee on Outstanding Matters" (LC Paper No. CB(1)2182/03-04(05))</p> <p>(g) Reference to the list of outstanding issues which require Administration's written response (Position as at 16 June 2004) prepared by the Secretariat (LC Paper No. CB(1)2182/03-04(06))</p> <p>(h) Administration's confirmation that it would reply to Heung Yee Kuk shortly and would then provide the Bills Committee with a copy of the reply</p>	<p>Administration to take the follow-up action under paragraph 3(y) of the minutes</p>
030351-030843	Chairman Ms Miriam LAU Administration	(a) Chairman's invitation of members' views on whether they would support the resumption of the Second Reading debate on the Bill on 7 July 2004	

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		<p>(b) A member's view that she would support the resumption of the Second Reading debate on the Bill subject to three conditions (paragraph 6 of the minutes)</p> <p>(c) Members' agreement to support the resumption of the Second Reading debate on the Bill subject to some conditions (paragraph 7 of the minutes)</p> <p>(d) Meeting arrangements</p> <p>(e) Administration's expression of thanks to the Chairman, members of the Bills Committee and ALA for their efforts in scrutinizing the Bill</p> <p>(f) Chairman's expression of thanks to the Administration, ALA and the Clerk for their support provided to the Bills Committee</p>	