

立法會
Legislative Council

LC Paper No. CB(1)142/17-18
(These minutes have been seen
by the Administration)

Ref : CB1/BC/1/16

Bills Committee on Stamp Duty (Amendment) Bill 2017

Minutes of sixth meeting
on Tuesday, 13 June 2017, at 2:45 pm
in Conference Room 2B of the Legislative Council Complex

Members present : Hon WONG Ting-kwong, SBS, JP (Chairman)
Hon James TO Kun-sun
Hon Paul TSE Wai-chun, JP
Hon CHUNG Kwok-pan
Hon Alvin YEUNG
Hon Wilson OR Chong-shing, MH
Hon Kenneth LEUNG
Hon Holden CHOW Ho-ding

Members absent : Hon Abraham SHEK Lai-him, GBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WU Chi-wai, MH
Hon Alice MAK Mei-kuen, BBS, JP
Hon KWOK Wai-keung
Dr Hon YIU Chung-yim

[According to the Judgment of the Court of First Instance of the High Court on 14 July 2017, LEUNG Kwok-hung, Nathan LAW Kwun-chung, YIU Chung-yim and LAU Siu-lai have been disqualified from assuming the office of a member of the Legislative Council, and have vacated the same since 12 October 2016, and are not entitled to act as a member of the Legislative Council.]

**Public officers
attending**

: Agenda Item II

Transport and Housing Bureau

Miss Agnes WONG
Deputy Secretary for Transport and Housing
(Housing)

Miss Joyce KOK
Principal Assistant Secretary for Transport and
Housing (Housing)(Private Housing)

Mr Andrew FAN
Senior Administrative Officer (Private Housing) 1

Inland Revenue Department

Mr TAM Tai-pang
Deputy Commissioner of Inland Revenue
(Operations)

Ms TSE Yuk-yip
Assistant Commissioner of Inland Revenue

Mr WONG Kai-cheong
Chief Assessor (Stamp Office)

Department of Justice

Ms Françoise LAM
Senior Assistant Law Draftsman

Miss Wendy HO
Government Counsel

Clerk in attendance:

Mr Desmond LAM
Chief Council Secretary (1)3

Staff in attendance:

Miss Winnie LO
Assistant Legal Adviser 7

Ms Connie HO
Senior Council Secretary (1)3

Miss Zoe YIP
Clerical Assistant (1)3

Action

I. Meeting with the Administration

Matters arising from previous meeting

(LC Paper No. CB(1)1119/16-17(01) -- List of follow-up actions arising from the discussion at the meeting on 5 June 2017

LC Paper No. CB(1)1119/16-17(02) -- Administration's responses to issues raised at the meeting on 5 June 2017

Draft Committee stage amendments

LC Paper No. CB(1)1095/16-17(01) -- Draft Committee stage amendments proposed by Hon James TO Kun-sun

LC Paper No. CB(1)1119/16-17(03) -- Administration's responses to draft Committee stage amendments proposed by Hon James TO Kun-sun

LC Paper No. CB(1)1117/16-17(01) -- Draft Committee stage amendments proposed by the Administration

LC Paper No. CB(1)1119/16-17(04) -- Mark-up version of the draft Committee stage amendments proposed by the Administration

Relevant papers issued previously

LC Paper No. CB(3)295/16-17 -- The Bill

- LC Paper No. CB(1)603/16-17(01) -- Mark-up copy of the Bill prepared by the Legal Service Division (Restricted to members only)
- File Ref: HDCR4-3/PH/1-10/0-1 -- Legislative Council Brief issued by the Transport and Housing Bureau
- LC Paper No. LS31/16-17 -- Legal Service Division Report
- LC Paper No. CB(1)603/16-17(02) -- Paper on Stamp Duty (Amendment) Bill 2017 prepared by the Legislative Council Secretariat (background brief)
- LC Paper No. CB(1)603/16-17(03) -- Assistant Legal Adviser's letter dated 8 February 2017 to the Administration
- LC Paper No. CB(1)603/16-17(04) -- Administration's reply to Assistant Legal Adviser's letter dated 8 February 2017
- LC Paper No. CB(1)620/16-17(01) -- Assistant Legal Adviser's letter dated 27 February 2017 to the Administration
- LC Paper No. CB(1)706/16-17(03) -- Administration's reply to Assistant Legal Adviser's letter dated 27 February 2017)

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

2. The Chairman reminded members that under Rule 83A of the Rules of Procedure, they should disclose the nature of any direct or indirect pecuniary interest before they spoke. Members who had disclosed the nature of their pecuniary interest relating to the subject of the Bill at the previous Bills Committee meetings should disclose the same interest at each of the subsequent meetings before they spoke.

Stamp Duty (Amendment) (No. 2) Bill 2017

3. The Chairman advised the Bills Committee that the House Committee had, at its meeting held on 9 June 2017, agreed that the Bills Committee should also study the Stamp Duty (Amendment) (No. 2) Bill 2017 ("No. 2 Bill"), which aimed

to give effect to the tightening of the prevailing exemption arrangement for Hong Kong permanent residents under the New Residential Stamp Duty regime with effect from 12 April 2017 in respect of acquisition of multiple residential properties under a single instrument. It was also agreed that the membership of the Bills Committee would be re-opened. In this connection, the Secretariat would issue a circular to invite Members to join the Bills Committee and indicate their attendance to the first meeting of the Bills Committee to study the No. 2 Bill.

(Post-meeting note: A circular on the re-opening of the membership of the Bills Committee was issued to Members vide LC Paper No. CB(1)1140/16-17 on 14 June 2017.)

Committee stage amendments

4. The Bills Committee raised no objection to the draft Committee stage amendments ("CSAs") proposed by the Administration [LC Paper No. CB(1)1117/16-17(01)].

5. The Bills Committee noted Mr James TO's draft CSAs [LC Paper No. CB(1)1095/16-17(01)] and the Administration's response [LC Paper No. CB(1)1119/16-17(03)].

Legislative timetable

6. The Bills Committee completed scrutiny of the Bill. The Bills Committee raised no objection to the resumption of the Second Reading debate on the Bill at the Council meeting of 12 July 2017. The Chairman informed members that the Bills Committee would submit a written report to the House Committee at its meeting on 23 June 2017. He also reminded members that the deadline for giving notice to move CSAs to the Bill was 3 July 2017.

7. The Bills Committee noted that Mr James TO would move his proposed CSAs [LC Paper No. CB(1)1095/16-17(01)] at the relevant Council meeting. The Bills Committee would not propose any CSAs to the Bill.

8. The Chairman reminded members that the next meeting would be held on Monday, 20 June 2017 at 4:45 pm.

II. Any other business

9. There being no other business, the meeting ended at 3:42 pm.

Council Business Division 1
Legislative Council Secretariat
30 October 2017

**Proceedings of the sixth meeting of
the Bills Committee on Stamp Duty (Amendment) Bill 2017
on Tuesday 13 June 2017, at 2:45 pm
in Conference Room 2B of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000000 – 000723	Chairman	<p>Opening remarks.</p> <p>The Chairman's reminder to members on the requirements of disclosure of pecuniary interest under Rule 83A of the Rules of Procedure.</p>	
000724 – 003055	Chairman Mr James TO Mr Kenneth LEUNG Administration	<p>Briefing by the Administration on its response to the list of follow-up actions arising from discussion at the meeting on 5 June 2017 (LC Paper No. CB(1)1119/16-17(02)).</p> <p><u>Persons liable for the payment of New Residential Stamp Duty</u></p> <p>Mr James TO's views that –</p> <p>(a) there would be situations where parties other than buyers and sellers, such as estate agents, and tenants in the case of transfer of properties subject to existing tenancy, might need to sign on the relevant instruments. In some cases, estate agents might be required to present such instruments in law suits to recover the agent commission in default; and</p> <p>(b) it was considered unfair for parties other than buyer and seller of a residential property to bear the liability of stamp duty payment if they had used the relevant instrument for legitimate purposes.</p> <p>Mr James TO indicated his intention to propose Committee stage amendments ("CSAs") to clause 10(4) of the Bill to delete the phrase "and all other persons executing" in the proposed amended Part 1(C) of Scale 1 of Head 1(1) in the First Schedule to the Stamp Duty Ordinance (Cap.117), to the effect that parties other than buyers and sellers of the residential property concerned, such as estate agents and tenants, would bear no liability to pay New Residential Stamp Duty.</p>	

Time marker	Speaker	Subject(s)	Action required
003056 – 003208	Chairman Assistant Legal Adviser ("ALA7") Administration	In response to the Chairman's enquiry, ALA7 said that she had expressed her views on both the Chinese and English text of the Bill at the last meeting.	
003209 – 003834	Chairman Administration	<u>Committee stage amendments proposed by the Administration</u> Briefing by the Administration on its proposed CSAs to the Bill to amend the proposed sections 29AI, 29BA, 29AIA and 29BAB [LC Paper No. CB(1)1117/16-17(01)]. Members raised no objection to the Administration's proposed CSAs.	
003835 – 004417	Chairman Mr James TO Administration	<u>Draft Committee stage amendments proposed by Mr James TO</u> Briefing by Mr James TO on his draft proposed CSAs which sought to amend clauses 5 and 7 of the Bill [LC Paper No. CB(1)1095/16-17(01)]. Mr James TO informed members that he would not seek members' support for his CSAs to be moved by the Chairman on behalf of the Bills Committee.	
004418 – 004900	Chairman Administration	<u>Administration's response to the draft CSAs proposed by Mr James TO</u> The Administration briefed members on its response [LC Paper No. CB(1)1119/16-17(03)] to the draft CSAs proposed by Mr James TO.	
004901 – 005109	Chairman ALA7 Administration	At the invitation of the Chairman, ALA7 briefed members on her initial views, subject to the ruling of the President, in respect of the scope and drafting aspects of Mr James TO's proposed draft CSAs.	
005110 – 005525	Chairman Mr James TO Administration	Mr James TO's feedback to the Administration's response on his draft proposed CSAs [LC Paper No. CB(1)1119/16-17(03)].	
005526 – 005621	Chairman Mr CHUNG Kwok-pan Administration	Mr CHUNG Kwok-pan reiterated his views that the six-month specified period provided for under the existing ad valorem stamp duty ("AVD") refund mechanism of the doubled AVD regime should be extended to 12 months, so as to allow more time for Hong Kong Permanent Resident buyers to proceed	

Time marker	Speaker	Subject(s)	Action required
		with property replacement.	
005622 – 005909	Chairman Mr James TO Administration	Mr James TO said that he might propose CSAs to clause 10(4) of the Bill to delete the phrase "and all other persons executing" in the proposed amended Part 1(C) of Scale 1 of Head 1(1) in the First Schedule to the Stamp Duty Ordinance (Cap.117). The relevant CSAs would be circulated to members for perusal once available. Legislative timetable.	
005910 – 010103	Chairman Administration	The Chairman advised that pursuant to the decision at the House Committee meeting held on 9 June 2017, the Bills Committee should also study the Stamp Duty (Amendment) (No. 2) Bill 2017 ("No. 2 Bill") and reopen its membership. The Secretariat would issue a circular to invite Members to join the Bills Committee and indicate their attendance to the first meeting of the Bills Committee to study the No. 2 Bill.	