

**Government's response to the issues raised at
the meeting of the Bills Committee on
Stamp Duty (Amendment) Bill 2017 held on 5 June 2017 –
Proposed Committee Stage Amendments**

At the meeting held on 5 June 2017, Members asked the Government to consider amending clauses 5 and 7 of the Stamp Duty (Amendment) Bill 2017 (the 2017 Bill), which seeks to amend sections 29AI and 29BA of the Stamp Duty Ordinance, in response to the Legal Adviser's view (LC Paper No. CB(1)603/16-17(03) refers). This paper sets out the Government's response.

2. Having taken into account views of the Legal Adviser and Members, the Government will amend the proposed sections 29AI and 29BA by moving committee stage amendments (CSAs) to the 2017 Bill. The ad valorem stamp duty (AVD) rates applicable to residential property transactions and non-residential property transactions will be clearly set out, and the reference to "in any other cases" will be deleted. The Government will also amend sections 29AIA and 29BAB to prescribe the applicable AVD rates under different scenarios of exchange between residential property and non-residential property. The draft text of CSAs is set out at **Annex**.

3. The Government's response to other views raised by Members at the above meeting will be set out in another paper.

**Transport and Housing Bureau
June 2017**

Stamp Duty (Amendment) Bill 2017

Committee Stage

Amendments to be moved by the Secretary for Transport and Housing (Draft)

<u>Clause</u>	<u>Amendment Proposed</u>
5	<p>In the proposed section 29AI, by deleting everything after “duty—” and substituting—</p> <p>“(a) if the property concerned is residential property, under Part 1 of Scale 1 of head 1(1) in the First Schedule; or</p> <p>(b) if the property concerned is non-residential property, under Part 2 of Scale 1 of head 1(1) in the First Schedule.”.</p>
6	<p>By deleting the proposed section 29AIA and substituting—</p> <p>“29AIA. Scale of rates applicable to instruments effecting exchange between residential property and non-residential property</p> <p>(1) An instrument falls within this subsection if—</p> <p>(a) the instrument effects the exchange of a residential property for a non-residential property; and</p> <p>(b) consideration is paid or given for equality.</p> <p>(2) Except as provided in section 29AO, an instrument that falls within subsection (1) is chargeable with stamp duty as a conveyance on sale by reference to the consideration mentioned in subsection (1)—</p> <p>(a) if the consideration is paid or given by the person to whom the residential property is transferred, under Part 1 of Scale 1 of head</p>

1(1) in the First Schedule; or

- (b) if the consideration is paid or given by the person to whom the non-residential property is transferred, under Part 2 of Scale 1 of head 1(1) in the First Schedule.”.

7 In the proposed section 29BA, by deleting everything after “duty—” and substituting—

- “(a) if the property concerned is residential property, under Part 1 of Scale 1 of head 1(1A) in the First Schedule; or
- (b) if the property concerned is non-residential property, under Part 2 of Scale 1 of head 1(1A) in the First Schedule.”.

8 By deleting the proposed section 29BAB and substituting—

“29BAB. Scale of rates applicable to agreements for exchange between residential property and non-residential property

- (1) An agreement falls within this subsection if—
 - (a) the agreement provides for the exchange of a residential property for a non-residential property; and
 - (b) consideration is paid or given, or agreed to be paid or given, for equality.
- (2) Except as provided in section 29BG, an agreement that falls within subsection (1) is chargeable with stamp duty as an agreement for sale by reference to the consideration mentioned in subsection (1)—
 - (a) if the consideration is paid or given, or agreed to be paid or given, by the person to whom the residential property is to be transferred, under Part 1 of Scale 1 of head 1(1A) in the First Schedule; or
 - (b) if the consideration is paid or given, or agreed to be paid or given, by the person to whom the non-residential property is to be transferred, under Part 2 of Scale 1 of head 1(1A) in the First Schedule.”.