

**REPORT OF THE
PUBLIC ACCOUNTS COMMITTEE
ON
THE REPORTS OF THE DIRECTOR OF AUDIT
ON
THE ACCOUNTS OF THE GOVERNMENT OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION
FOR THE YEAR ENDED
31 MARCH 2000
AND THE RESULTS OF
VALUE FOR MONEY AUDITS (Report No. 35)**

February 2001

P.A.C. Report No. 35

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of Housing

I. INTRODUCTION

The Establishment of the Committee The Public Accounts Committee are established under Rule 72 of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region, a copy of which is attached in *Appendix 1* to this Report.

2. **Membership of the Committee** The following Members are appointed by the President under Rule 72(3) of the Rules of Procedure to serve on the Committee:

Chairman	The Hon Eric LI Ka-cheung, JP
Deputy Chairman	The Hon Emily LAU Wai-hing, JP
Members	The Hon David CHU Yu-lin The Hon Fred LI Wah-ming, JP The Hon LAU Kong-wah The Hon Abraham SHEK Lai-him, JP The Hon Tommy CHEUNG Yu-yan, JP
Clerk	Ms Miranda HON Lut-fo
Legal Adviser	Mr Jimmy MA Yiu-tim, JP

II. PROCEDURE

The Committee's Procedure The practice and procedure, as determined by the Committee in accordance with Rule 72 of the Rules of Procedure, are as follows:

- (a) the public officers called before the Committee in accordance with Rule 72 of the Rules of Procedure, shall normally be the Controlling Officers of the Heads of Revenue or Expenditure to which the Director of Audit has referred in his Report except where the matter under consideration affects more than one such Head or involves a question of policy or of principle in which case the relevant Bureau Secretary of the Government or other appropriate officers shall be called. Appearance before the Committee shall be a personal responsibility of the public officer called and whilst he may be accompanied by members of his staff to assist him with points of detail, the responsibility for the information or the production of records or documents required by the Committee shall rest with him alone;
- (b) where any matter referred to in the Director of Audit's Report on the accounts of the Government relates to the affairs of an organisation subvented by the Government, the person normally required to appear before the Committee shall be the Controlling Officer of the vote from which the relevant subvention has been paid, but the Committee shall not preclude the calling of a representative of the subvented body concerned where it is considered that such a representative can assist the Committee in its deliberations;
- (c) the Director of Audit and the Secretary for the Treasury shall be called upon to assist the Committee when Controlling Officers or other persons are providing information or explanations to the Committee;
- (d) the Committee shall take evidence from any parties outside the civil service and the subvented sector before making reference to them in a report;
- (e) the Committee shall not normally make recommendations on a case on the basis solely of the Director of Audit's presentation;
- (f) the Committee shall not allow written submissions from Controlling Officers other than as an adjunct to their personal appearance before the Committee; and

PROCEDURE

- (g) the Committee shall hold informal consultations with the Director of Audit from time to time, so that the Committee can suggest fruitful areas for value for money study by the Director of Audit.

2. **The Committee's Report** This Report by the Public Accounts Committee corresponds with the Reports of the Director of Audit on:

- the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2000; and
- the results of value for money audits (Report No. 35),

which were tabled in the Legislative Council on 15 November 2000. Value for money audits are conducted in accordance with the guidelines and procedures set out in the Paper on Scope of Government Audit in the Hong Kong Special Administrative Region - 'Value for Money Audits' which was tabled in the Provisional Legislative Council on 11 February 1998. A copy of the Paper is attached in *Appendix 2*.

3. This Report also takes stock of the progress of the action taken by the Administration on the recommendations made in the Committee's Reports Nos. 32, 33 and 33B and offers the Committee's views on the action taken. These are detailed in Sections III to V of this Report.

4. **The Government's Response** The Government's response to the Committee's Report is contained in the Government Minute, which comments as appropriate on the Committee's conclusions and recommendations, indicates what action the Government proposes to take to rectify any irregularities which have been brought to notice by the Committee or by the Director of Audit and, if necessary, explains why it does not intend to take action. It is the Government's stated intention that the Government Minute should be laid on the table of the Legislative Council within three months of the laying of the Report of the Committee to which it relates.

**III. REPORT OF THE PUBLIC ACCOUNTS COMMITTEE
ON REPORT NO. 32 OF THE DIRECTOR OF AUDIT ON THE RESULTS
OF VALUE FOR MONEY AUDITS AND SUPPLEMENTAL REPORTS OF THE
PUBLIC ACCOUNTS COMMITTEE ON REPORT NOS. 30 AND 31
OF THE DIRECTOR OF AUDIT ON THE RESULTS OF VALUE FOR MONEY AUDITS**

Laying of the Report Report No. 32 of the Director of Audit on the results of value for money audits was laid in the Legislative Council on 21 April 1999. The Committee's subsequent Report (Report No. 32) was tabled on 7 July 1999, thereby meeting the requirement of Rule 72 of the Rules of Procedure of the Legislative Council that the Report be tabled within three months of the Director of Audit's Report being laid.

2. The Public Accounts Committee's Report No. 32 also contains the Committee's supplemental reports on two chapters in Report Nos. 30 and 31 of the Director of Audit on the results of value for money audits which were laid in the Legislative Council on 18 November 1998. The Committee's Report Nos. 30 and 31 were tabled in the Legislative Council on 10 February 1999.

3. **The Government Minute** The Government Minute in response to the Committee's Report No. 32 was laid in the Legislative Council on 13 October 1999. A progress report on matters outstanding in the Government Minute was issued on 20 October 2000. The latest position and the Committee's further comments on these matters are set out in paragraphs 4 to 15 below.

4. **Management services in public rental housing estates** (Chapter 3 of Part V of P.A.C. Report No. 32). The Committee were informed that:

Review on the refurbishment process and revision of the rate of liquidated damages

- the Housing Department (HD) had completed this review and improved the refurbishment process. In the first six months of 2000, the HD took 68 days on average to complete the refurbishment process. The HD aimed to achieve a revised target of 50 days on average by March 2001;
- the HD had adopted the revised rate for liquidated damages at \$76 per day for new contracts;

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Handing over hawker control duties in public housing estates to the Food and Environmental Hygiene Department (FEHD) and Review of staff requirements of the Mobile Operations Unit (MOU) teams

- the discussion between the HD and the FEHD on the issue was in progress. As the issue would have wider policy and resource implications, the HD and the FEHD needed more time to consider the implications before taking the matter further;
- following the implementation of a new system whereby Workmen II of the MOU teams were required to work in two shifts, the strength of the MOU in each shift was halved. The HD considered that the existing establishment of MOU teams should remain unchanged because illegal hawking activities in a number of public housing estates were still rampant;

Transfer of duties from the maintenance and horticulture service contractors to the Estate Artisans

- all Estate Artisans had taken up horticultural work and part of the work of the term maintenance contractors whose service contracts had been cancelled. The HD would continue to provide training on horticulture for all Estate Artisans;
- all serving Artisans had already attended the course organised by the Construction Industry Training Authority on minor maintenance works. As recruitment to the rank had been frozen, no more training courses on minor maintenance works needed to be arranged;

Review on the manning scales and redeployment of Workmen II, Estate Artisans and Estate Assistants

- the HD would continue to deploy Estate Assistants to estates where the security systems were upgraded to Grade A to replace Tower Guard Supervisors and Guard Controllers employed by security services contractors. There might be a further review on the three grades depending on the pace of implementation of the Phased Service Transfer (PST) of Estate Management and Maintenance Services and the associated Voluntary Departure Scheme (VDS);

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Review on the new staffing complement in Tenants Purchase Scheme (TPS)

- starting from October 2000, a competitive model had been implemented in TPS estates and public rental housing estates affected by the PST programme. Under the new model, tenancy management-related matters would be handled by district-based tenancy management offices. Staffing complements for these offices would be determined on the basis of anticipated workload rather than the size of the estate in terms of number of flats and area of non-domestic premises. The HD would be able to achieve manpower saving under this new arrangement;

Review of the staffing structure of the HD

- the consultant commissioned by the HD for carrying out a study on streamlining HD's organisational structure had submitted an executive version of the final technical report. The report, however, still required improvement in a number of key areas. The HD had been in close liaison with the consultant to iron out the outstanding issues as early as possible; and

Study of the Task Force on the recommendations of the consultancy report on increasing private sector involvement in estate management and maintenance services

- the HD had rolled out the PST programme smoothly. A new and expanded list of over 20 property services companies had been drawn up. In July 2000, the HD awarded the first batch of four property services contracts under the PST programme. The contractors would commence service in October 2000. The second batch of another four contracts had been awarded in October 2000 for commencement in December 2000. Since the commencement of the VDS in March 2000, the HD had received more than 3,000 applications, among which about 950 staff had confirmed that they would leave between September 2000 and May 2001. The HD would ensure an orderly departure of staff without unduly affecting its operational requirements and service quality.

5. The Committee wish to be kept informed of the findings and recommendations of the report of the consultant who was commissioned by the HD for carrying out a study on streamlining the HD's organisational structure.

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6. **Control of obscene and indecent articles by the Television and Entertainment Licensing Authority** (Chapter 5 of Part V of P.A.C. Report No. 32). The Committee were informed that:

- in 2000, the Television and Entertainment Licensing Authority (TELA) had implemented a series of measures to strengthen its enforcement and publicity efforts in controlling obscene and indecent articles. On the enforcement side, in January 2000, the TELA had issued a guidance manual for its inspection staff on how to carry out enforcement action. The TELA continued to organise weekly and monthly case conferences for its inspection staff, and updated training materials on classification standards for articles from time to time. Its inspections of retail outlets had been carried out in accordance with the new enforcement strategies targeting high risk outlets;
- on publicity and public education, in July 2000, the TELA had launched a large-scale publicity campaign for 2000-01 on the Control of Obscene and Indecent Articles Ordinance (COIAO). The campaign included: a nine-month roving exhibition at shopping centres of various public housing estates; seminars for parents, teachers, social workers and the public; an inter-school debate; and a Ten Good Websites Competition. The campaign aimed to arouse public awareness of the problem of young people being exposed to objectionable materials and to promote a better understanding of the operation of the COIAO;
- on public opinion survey, in August 2000, the TELA had commissioned a public opinion survey to gauge the moral standards generally accepted by reasonable members of the community for the purpose of article classification under the COIAO. The opinion survey would be completed by the end of January 2001. The opinion survey report would be passed to the Judiciary Administrator for the Obscene Articles Tribunal's reference; and
- on the policy level, in April 2000, the Administration had issued a consultation paper entitled "Protection of Youth from Obscene and Indecent Materials: The 2000 Review of the COIAO". The paper contained a package of policy proposals to improve the operation and effectiveness of the COIAO. During the two-month public consultation period, over 3,700 submissions had been received. The Administration was examining these submissions with a view to finalising the policy proposals. The intention was to introduce the necessary legislative amendments into the Legislative Council in the 2000-01 legislative session so as to implement the policy proposals at an early date.

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7. The Committee wish to be kept informed of:

- the progress of the public opinion survey commissioned by the TELA; and
- the policy proposals and the legislative amendments after the completion of the Administration's 2000 Review of the COIAO.

8. **The Administration of the Comprehensive Social Security Assistance and Social Security Allowance Schemes** (Chapter 6 of Part V of P.A.C. Report No. 32). The Committee were informed that:

Outcome of the Director of Social Welfare's investigation of the suspected fraudulent cases detected in the experimental data-matching exercises

- the overpayments in these cases were being recovered and cases involving fraud had been referred to the Hong Kong Police Force for prosecution action;

Progress of the Director of Social Welfare's action to expand the scope of the data-matching arrangements

- the Social Welfare Department (SWD) had obtained the approval of the Privacy Commissioner for Personal Data to carry out data matching for Comprehensive Social Security Assistance (CSSA) and Social Security Allowance (SSA) cases with the Treasury, the Correctional Services Department (CSD), the Land Registry (LR), the Companies Registry (CR), the Housing Authority and the Hospital Authority. The SWD had commenced conducting data matching with the Treasury, CSD, LR and CR since September 1999, January 2000, March 2000 and June 2000 respectively. Data matching with the Housing Authority and the Hospital Authority was pending the completion of the user acceptance tests of the computer programme by the parties concerned;
- the SWD would continue to liaise with other departments and organisations on the question of data matching, including the Transport Department and the Housing Society;

Progress of the implementation of risk management in the SWD's business operations

- a small scoping study on risk management had been completed in January 2000. The SWD had examined the scoping study report and decided to conduct a full scale study. The SWD had secured the necessary funding, and the detailed study would tentatively commence before the end of 2000;

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Special functions in the Computerised Social Security System (CSSS) to keep track of and report unusual and frequent claims for special grants by individual beneficiaries

- the SWD had requested the CSSS contractors to include special functions in the CSSS to keep track of and report unusual and frequent claims for special grants by individual beneficiaries under the CSSA Scheme. The CSSS would generate on-line warning messages to alert the officers who were considering such claims. For monitoring purpose, management information reports would also be produced; and

Current position as regards conducting an ageing analysis of the outstanding overpayments

- the CSSS, which would replace the current Social Security Payment System (SSPS) in October 2000, would support ageing analysis. As the existing SSPS would soon be replaced, it was not cost-effective to enhance the system now to cater for ageing analysis reports. As an interim measure, the SWD would pay close attention to the existing SSPS quarterly "Outstanding Repayment Report" to detect long overdue cases and cases with large outstanding amounts so that recovery action could be vigorously pursued.

9. The Committee wish to remind the Director of Social Welfare of the need to conduct a review on the effectiveness of the SWD's increased efforts to combat welfare fraud after a reasonable period of time and to be kept informed of the results of the review.

10. **Management of telecommunications services under the 1988 Technical Services Agreement** (Chapter 9 of Part V of P.A.C. Report No. 32). The Committee were informed that:

Monitoring of Technical Services Agreement (TSA) services

- the Civil Aviation Department (CAD) and the Radio Television Hong Kong (RTHK) had continued their effort to closely monitor the performance and deployment of staff engaged under the TSA;
- on maintenance of time records, both departments had been progressing satisfactorily under their time logging/record scheme for TSA staff. In addition, the RTHK had further fine-tuned its management information system for its television and radio operations. The upgraded system, which had been put into operation since April 2000, allowed more effective monitoring of the TSA manpower usage;

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- the CAD had completed the trials of its revised maintenance schemes for major air traffic control system and equipment. It was now assessing, in consultation with the Electrical and Mechanical Services Department (EMSD), the TSA staffing requirements for the preventive and corrective maintenance of the concerned systems/equipment. The assessment was expected to be completed by the end of 2000 as targeted. The RTHK had revised the preventive and corrective maintenance schedule for its broadcasting systems and equipment since August 2000. The RTHK had estimated that there would be a reduction of around 5,700 TSA man-hours per annum which could be re-deployed for other purposes;
- to better allocate, control and monitor the use of TSA staff resources, the CAD had extended the budget time management system to the maintenance of all navigational aids since June 2000 and the results had been satisfactory. Similar management systems were being introduced in phases to cover other ATC equipment such as radar and communication systems as appropriate;
- regarding the Committee's concern over the cost-effectiveness of engaging TSA staff to perform non-telecommunications duties, the RTHK had worked out an initial plan to phase out the TSA staff and will discuss with the Pacific Century Cyberworks-Hong Kong Telecom (PCCW-HKT) and the Finance Bureau on how to take it forward;

Review of the TSA

- the Management Services Agency (MSA) had completed the review on the TSA. After examining various options to replace the TSA and considering their implications on costs, staff redundancy and disruption to services, the MSA concluded that alternatives for replacing the TSA services were available, with varying degrees of readiness among different users for sourcing the required services from within the Government or the private sector. To minimise the possible disruption to services and cost implications, the MSA recommended that:
 - (a) early termination of all TSA services before the expiry date was neither practicable nor cost-effective given the varying degrees of readiness for change among different users and substantial implications on costs, staff redundancy and disruption to services;
 - (b) before the expiry of the existing TSA in 2006, a phased approach should be adopted to replace those TSA services the termination of which was cost-effective and with only minimal disruption to services;

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- (c) different service sourcing options should be weighed and adopted to meet individual department's service requirements; and
 - (d) the existing TSA should not be renewed in any form upon its expiry on 30 September 2006 and user departments should plan ahead to prepare for the termination; and
- the Finance Bureau (FB) had accepted the recommendations of the MSA and initiated discussion with the PCCW-HKT to early terminate some of the existing TSA services which were no longer cost-effective to be provided under the TSA mode. After much negotiation, the Government and the PCCW-HKT had mutually agreed the early termination of existing TSA services provided for the Security Bureau and the Civil Aid Service and part of the services for the Customs and Excise Department and the Hong Kong Observatory with effect from 1 October 2000. The PCCW-HKT had also agreed to waive any redundancy claim on the Government arising from the termination. For the remaining services, user departments would consider each case on its own merits having regard to the viability and cost-effectiveness of the changeover plan. The FB would issue a circular to all Controlling Officers stating clearly that the TSA would not be renewed after its expiry in September 2006 and users should prepare for the termination of TSA services by 2006, if not earlier.

11. The Committee wish to be kept informed of further development on the subject.

12. **Services provided by the Social Welfare Department for offenders and children/juveniles in need of care or protection** (Chapter 11 of Part V of P.A.C. Report No. 32). The Committee were informed that:

Action taken by the Social Welfare Department (SWD), in collaboration with the Security Bureau (SB), to improve the operation and usefulness of the Integrated Law and Order Statistical System (ILOSS)

- the SWD, in collaboration with the SB and other user departments of the ILOSS, had completed a feasibility study on the redevelopment of the ILOSS. Subject to the availability of funds, the actual redevelopment work would start in April 2001. Under the new ILOSS, record linkage among subsystems would be improved, and flexibility in performing data analysis enhanced;

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- the SWD had dealt with the 200 unprocessed cases. With the assistance of the SB and other departments, the SWD had completed the verification/rectification work of unmatched cases for the five years from 1994 to 1998. For example, the percentages of unmatched records for 1995, 1996 and 1997 had been reduced from 17% to 9%, from 17% to 6% and from 24% to 6% respectively. Improved measures had been adopted in processing records to enhance the quality of record matching. Following these improvements, relevant statistics on reconviction were reproduced for the SWD's reference;

Progress of making more use of the ILOSS data and the reconviction rate of offenders for the assessment of the effectiveness of the SWD's services for offenders

- since 1 April 2000, information on the reconviction rate and profiles of offenders served by the SWD had been obtained from the ILOSS for reference on a regular basis. Additional information had also been identified to be useful for the analysis of reconviction rate and profiles of offenders. The SWD had requested the SB to produce the relevant data accordingly;

Progress made in comparing the success rates of various services for offenders, taking into account the differences in the client groups, the emphasis and the objectives of the services

- the SWD had started assessing the effectiveness of services for offenders by ascertaining the percentage of offenders who had re-integrated into mainstream education/vocational training, or taken up employment after discharge. Since November 1999, the statistics had been included as an additional indicator in the Controlling Officer's Report for 2000-01. In April 2000, the SWD had issued questionnaires to collect parents' feedback on the offenders' behavioural changes upon discharge. Feedback collected would be taken into account by the respective homes for making immediate improvements and an annual review;

Results of Government Property Agency (GPA) review to explore the redevelopment opportunities of sites occupied by the SWD's residential homes

- the SWD, the GPA and the Planning Department were working together proactively to explore the redevelopment opportunities of sites occupied by the SWD's residential homes. The GPA had taken over the ex-Pui Yin Juvenile Home in To Kwa Wan and the ex-Castle Peak Boys' Home in Castle

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Peak. The former site was scheduled for disposal for housing development later in 2000. The latter had been allocated to the Independent Commission Against Corruption as a temporary training camp pending the SWD's review of the possibility of moving other social welfare institutions to the site. The release of other sites awaited the SWD's operational review. The GPA had made regular progress reports to the Property Strategy Group;

- the SWD was exploring the feasibility of reprovisioning the Ma Tau Wei Girls' Home (MTWGH), the Pui Chi Boys' Home (PCBH) and the Begonia Road Boys' Home (BRBH), to release the sites for other developments. The SWD was considering the feasibility of various alternatives;

Progress of implementing the measures proposed in the MSA and the GPA reviews

- the SWD had already implemented the following recommendations:
 - (a) to achieve effective management of correctional/residential homes and enhance flexibility in deployment of resources, with effect from September 1999, the SWD had transferred the management of these homes from the Headquarters to the respective Regional Offices;
 - (b) the capacities of correctional/residential homes had been adjusted with a reduction of 142 residential places;
 - (c) the Steering Group for the Implementation of Recommendations of the Review of Management of Correctional/Residential Homes had critically examined the feasibility, difficulties and implications of implementing the new staffing standard in these homes. Having further considered the operational requirements and the problems of staff redundancy, the SWD had modified the proposed new staffing provision of social work and supporting staff for individual homes. Together with the adjustment of the capacities, it had resulted in a net deletion of 25 posts;
 - (d) the re-grading of teaching staff was underway in consultation with the Health and Welfare Bureau and the Civil Service Bureau. The SWD expected that nine posts would be saved; and
 - (e) to prepare the staff concerned for the changes arising from the MSA Review, meetings and briefing sessions had been conducted for staff of various ranks; and

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- the SWD had critically examined the feasibility of merging the PCBH and the MTWGH, as recommended by the MSA and the Director of Audit. It had decided not to pursue the plan, because there was insufficient space at the MTWGH to accommodate all residents in the two homes after merging. Furthermore, the resulting staff-cost saving was insignificant. The SWD would soon take action to transfer the Unit for the Disabled from the MTWGH to the Wing Lung Bank Golden Jubilee Sheltered Workshop and Hostel in 2000-01. The SWD was considering other relocating alternatives for more cost-effective delivery of services to meet the needs of different residents.

13. The Committee wish to be kept informed of further progress on this subject.

14. **Use of information technology in schools** (Chapter 12 of Part V of P.A.C. Report No. 32). The Committee were informed that:

Implementation and use of the School Administration and Management System (SAMS)

Promoting the use of the SAMS

- the Education Department (ED) had been strengthening measures such as providing training, organising workshops and forming user help groups since 1999 to improve the usage of the SAMS. As a result, the usage rate had increased. According to a survey conducted in the end of 1999, some 90% of public sector schools had sent student data to the ED electronically through the SAMS and 80% of secondary schools used the system to send students' registration details to the Hong Kong Examination Authority for entries to public examinations. The comparable figures were 30% and 40% respectively in 1997;

Future enhancement of SAMS

- the Finance Committee of the Legislative Council had approved in June 2000 a new commitment of \$316 million to enhance the SAMS. The project comprised the replacement and upgrading of computers of the SAMS, the integration of the SAMS network and computers in schools provided for information technology (IT) in education and conversion of the SAMS into a web-based application;

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- the upgrading of computers would improve the efficiency of the SAMS, thus further reducing the time and efforts teachers had to spend on school administration tasks. Through integration of the SAMS with computers provided for IT in education in schools, IT resources available in schools could be pooled together and put to optimal use for both administrative work and teaching and learning activities. Conversion of the SAMS into a web-based application would enhance the system flexibility as it made future upgrading of the system much easier. The ED would only need to upgrade the programme once at the ED's server and schools could immediately download the upgraded version through the Internet. The web would also provide a convenient platform for software developers to promote and develop add-on school administrative software, thus providing schools with easier access to more choices on such software tailored to their own needs;
- the ED was providing schools with more flexibility in the replacement and upgrading of computers of the SAMS. Schools that wished to procure computers themselves might apply to the ED for a cash grant in October 2000. For those schools which preferred to have computers procured by the Government centrally, the ED aimed to complete the installation work by August 2002 the latest. As regards the web-based SAMS, the new application would be ready by January 2002 and would be rolled out to all schools by October 2002;
- the ED would provide additional support services to schools to encourage a greater use of the SAMS after its enhancement. Apart from training for teachers, the ED would provide technical support services and security audit for all schools. Enquiry hotline would also be set up. ED officers would visit those schools which required additional support in using the SAMS and provide on-site advice;

Establishing a measurable target of the SAMS usage and monitoring mechanism

- the Administration expected that, after enhancement, the usage of the SAMS would increase further;
- the Administration would put in place a monitoring mechanism to ensure that the enhanced SAMS was well-used. The ED would set up a steering committee to monitor the progress of the enhancement project and how schools used the SAMS in their administrative tasks. School representatives would be invited to sit on the committee to provide feedback from users'

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viewpoint;

Use of IT in education

Progress of implementation of IT in education initiatives

- the progress of the major initiatives as at October 2000 was summarised in *Appendix 3*;

Preparation of IT plans

- as at the end of September 2000, some 900 schools had prepared IT plans and were actively implementing different initiatives. The ED would continue to provide assistance and advice to schools on the implementation of IT plans;
- the Administration would conduct a two-stage evaluation of the IT in education initiatives. The first study would be conducted in the first half of 2001 to review the progress of IT in education initiatives and to propose necessary fine-tuning of various initiatives. A steering committee and a working group had been set up in May 2000 to monitor the progress of the study. The overall evaluation would be conducted in the second half of 2003;

Flexibility in procurement of IT equipment

- the Administration would give cash grants and maximum flexibility to schools to purchase IT equipment. Each school might decide on its own timing for purchasing IT equipment and the model of equipment to be procured, having regard to, for example, the progress of site preparation works, the IT-readiness of its teachers, and the school-based IT plans. Schools might place orders and negotiate purchase prices with any of the five contractors shortlisted by the ED through an open and competitive process. The ED had made an initial cash grant (about 30% of the total amount) to schools in June 1999. Schools might apply for the remaining cash grant upon completion of site preparation works and submission of IT plans to the ED. So far, about 150 schools had applied for the balance. The ED had issued guidelines and circulars on the procurement of IT equipment. Over 17,000 teachers had attended seminars, workshops and experience sharing sessions organised by the ED on the procurement of equipment;

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Curriculum support to schools

- the Curriculum Development Council (CDC) had endorsed in June 2000 a set of learning targets that students should attain at different stages of schooling. The learning targets had been implemented as from the 2000-01 school year onwards;
- separately, the CDC was conducting a holistic review of the school curriculum and would take into account implications of IT developments. The first stage of the review on the broad direction of the school curriculum had been completed in 1999. A public consultation on the second stage of the review on the curriculum framework and key learning areas would be conducted in October 2000. The preliminary idea was to combine related subjects into key learning areas, and technology education would be one of the key learning areas;
- a computer awareness programme was introduced to primary schools in the 2000-01 school year. The programme consisted of eight modules and was aimed at introducing basic computer knowledge to primary students. CD-ROMs were distributed to schools to assist them in integrating the programme into the curriculum;
- to help school and teachers incorporate IT in the curriculum, the ED had organised some 400 seminars and workshops for teachers. Eight packages of educational software on various subjects had been distributed to schools. Another 11 packages were being developed;
- to further enrich the teaching and learning resources for teachers and students, a comprehensive education website on the Internet, the HKeducationCITY.net, had been launched in August 2000. The website collated online education packages produced by the ED, teaching materials contributed by schools and teachers, as well as software produced by publishers and developers. The website also provided a forum where teachers, students and parents could form peer groups for mutual sharing. Educational software developed by the ED would be put on the website in future;

Co-operation with the Information Technology and Broadcasting Bureau (ITBB)

- the ITBB had all along been providing valuable input at the policy level to the Education and Manpower Bureau on promoting the use of IT in education.

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For example, it took part in an inter-departmental working group on implementation of IT in education initiatives; and
Security risk of computer equipment in schools

- to further strengthen the security of computer equipment in schools, the ED had provided a cash grant at a rate of \$8,500 per room to all aided schools in February 2000 to install a burglar alarm system in rooms with 21 or more computers. A similar system had been installed in government schools by the Electrical and Mechanical Services Department.

15. The Committee wish to be kept informed of further development on the subject.

IV. REPORT OF THE PUBLIC ACCOUNTS COMMITTEE ON THE REPORTS OF THE DIRECTOR OF AUDIT ON THE ACCOUNTS OF THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION FOR THE YEAR ENDED 31 MARCH 1999 AND THE RESULTS OF VALUE FOR MONEY AUDITS (REPORT NO. 33)

Laying of the Report The Director of Audit's Report on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 1999 and the Report on the results of value for money audits were laid in the Legislative Council on 17 November 1999. The Committee's subsequent Report (Report No. 33) was tabled on 16 February 2000, thereby meeting the requirement of Rule 72 of the Rules of Procedure of the Legislative Council that the Report be tabled within three months of the Director of Audit's Report being laid.

2. **The Government Minute** The Government Minute in response to the Committee's Report No. 33 was laid in the Legislative Council on 10 May 2000. A progress report on matters outstanding in the Government Minute was issued on 20 October 2000. The latest position and the Committee's further comments on these matters are set out in paragraphs 3 to 44 below.

3. **Acceleration of works in the Strategic Sewage Disposal Scheme Stage I** (5 - 6 of Part III of P.A.C. Report No. 33). The Committee were informed that:

- in August 2000, the Drainage Services Department had issued a technical circular to advise staff to critically assess the risk and cost of contract arrangements for time-critical projects;
- excavation of the tunnel from Kwun Tong to To Kwa Wan had been completed in April 2000; and
- the other three tunnels were under active excavation using three tunnel boring machines. As at the end of September 2000, approximately 22.4 km or 95% of the total length had been excavated. The progress of part of the tunnelling works had suffered some delay because of the need to carry out additional ground treatment at certain locations, and the traversing of a longer-than-expected fault zone in the tunnel from Tsing Yi to Stonecutters Island. Based on experience, the Administration estimated that works on all tunnels could still be completed by the second half of 2001.

4. The Committee noted that Audit would consider conducting a review in due course to ascertain the full cost of the Strategic Sewage Disposal Scheme (SSDS) Stage I and the factors leading to the budget overrun. The Committee wish to be kept informed of the progress of the remaining works of the SSDS Stage I.

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5. **Maintenance and procurement of government vehicles** (7 - 9 of Part III of P.A.C. Report No. 33). The Committee were informed that:

- since the release of the Audit Report No. 30 in November 1998, the Administration had not purchased any large saloon cars other than the 26 large saloon grade B cars bought in January 1999 to meet the long-standing and urgent requirement of government departments. The contracts for the supply of large saloon grade A and grade B cars had expired on 22 January and 19 January 2000 respectively. The Administration had not extended the contracts beyond these dates; and
- the Government Land Transport Agency (GLTA) had completed the market research for the procurement of large saloon cars and was finalising the revised tender specifications for the procurement of such cars.

6. The Committee wish to be informed of the specifications and assessment methodology for the coming tender exercise for large saloon cars.

7. **Beneficial use of construction waste for reclamation** (7 - 8 of Part IV of P.A.C. Report No. 33). The Committee were informed that:

- for the first three quarters of 2000, about 5.4 Mm³ of construction and demolition (C&D) material had been produced and about 80% (compared with 79% for 1999) had been reused as public fill in three reclamation projects — Tseung Kwan O Area 137, Pak Shek Kok Phase 2 and Tung Chung Development Phase 3A;
- as a result of development and redevelopment programmes, the demand for C&D material disposal outlets was expected to remain high in the coming decade. To facilitate greater reuse of C&D material in reclamation, the Civil Engineering Department (CED) had secured an additional 6.8 Mm³ of public filling capacity at Tseung Kwan O Town Centre Reclamation Phase 3 Stage 2, Penny's Bay Reclamation Stage 1 and Tuen Mun Area 38 Reclamation Stage 2. The approved projects would provide sufficient public filling capacity until mid-2002;
- four temporary public fill barging points had been established at Sai Ying Pun, Quarry Bay, Tseung Kwan O Area 137 and Tuen Mun Area 38 to provide convenient outlets for public fill and to minimise its disposal at landfills;

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- the Eastern, Southern and Kwai Tsing District Councils had been briefed on the planned long-term barging points and/or sorting facilities at Chai Wan, Ap Lei Chau and Kwai Chung. The CED would further consult the District Councils on their implementation;
- the Administration would continue to explore ways to reduce disposal of C&D material at landfills. A temporary sorting facility had been established in August 2000 at Tseung Kwan O Area 137 to recover suitable material for reuse as granular material in trial construction projects;
- the Works Bureau was preparing guidelines for waste management and finalising specifications for allowing the wider use of recycled aggregates in public works projects and would examine their implementation by end-2000. The CED was also considering a pilot recycling facility for inert C&D material at Kai Tak to produce aggregates for reuse in construction. Studies to examine the environmental and traffic impacts and financial arrangements for the facility would start in early 2001; and
- the Administration was consulting the waste collection trades and interested parties on the implementation of landfill charges and would consult the Legislative Council Panel on Environmental Affairs in the 2000-01 legislative session.

8. The Committee wish to be kept informed of the progress of the Administration's measures to promote reduction, reuse and recycle of C&D material.

9. **Part I: Inspections of places of public assembly by the regional offices and Part II: Revision of fees and charges** (9 - 10 of Part IV of P.A.C. Report No. 33). The Committee were informed that:

- the Food and Environmental Hygiene Department (FEHD) was examining two scenarios by which the cost of services incurred by the Buildings Department (BD) could be recovered: (a) either directly by the BD; or (b) through the FEHD either in the form of an application fee at the processing stage or as part of the licence fees upon issue of the food and trade licences; and

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- in both scenarios, the FEHD considered that it might be necessary to make amendments to the relevant legislation prior to implementation. In this connection, the FEHD was conducting a costing review on the work of processing food and trade licences (including services provided by other government departments). The costing review was expected to be completed by January 2001.

10. The Committee wish to be kept informed of the progress of introducing a charging system for recovering the cost of the services provided by the BD for restaurant licensing.

11. **Chemical Waste Treatment Centre** (12 - 13 of Part IV of P.A.C. Report No. 33). The Committee were informed that the Administration was studying in detail the proposals of the operator of the Chemical Waste Treatment Centre (CWTC) before recommending a way forward.

12. The Committee wish to be kept informed of the outcome of the Administration's negotiation with the operator of the CWTC.

13. **The provision of government wholesale food markets** (14 - 16 of Part IV of P.A.C. Report No. 33). The Committee were informed that:

- in view of the concerns expressed by the traders, the Administration was reconsidering the various options for the development of the Cheung Sha Wan Wholesale Food Market Complex (CSWWMC) Phase II project;
- five additional vacant trade offices in the CSWWMC Phase I had been allocated to government departments for storage. As a result, two trade offices at the market remained vacant. The Agriculture, Fisheries and Conservation Department and the Government Property Agency would continue their efforts to put the remaining two vacant trade offices to use; and
- the Planning Department continued to actively pursue the proposal to look for a new wholesale market site in the context of mapping out a development strategy for the Western District, with a view to releasing the existing Western Wholesale Food Market (WWFM) site for better utilisation.

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14. The Committee wish to be kept informed of:

- the progress of the development of the CSWWMC Phase II project;
- the improvement in the utilisation of trade offices and ancillary facilities in the existing wholesale food market complexes; and
- the progress of exploring the possibility of maximising the utilisation of the WWFM site.

15. **Departmental quarters for the disciplined services** (17 - 18 of Part IV of P.A.C. Report No. 33). The Committee were informed that:

Police leased quarters

- the Government Property Agency (GPA) and the Hong Kong Police Force (HKPF) had since May 2000 further reduced the number of leased quarters retained by the HKPF from 36 to 32. The Administration would continue such effort;

Criteria for allocation of Departmental Quarters (DQs)

- the GPA would consult relevant bureaux and departments on the proposed amendments to the Accommodation Regulations regarding the eligibility criteria for and classification of DQs; and

Review of the grading of DQs

- the GPA had updated the initial proposals on re-grading of DQs in the light of recent property market trend and was drawing up an implementation plan.

16. The Committee wish to be kept informed of further progress on the subject.

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17. **Monitoring of charities: fund-raising and tax allowances** (21 - 22 of Part IV of P.A.C. Report No. 33). The Committee were informed that:

- the Health and Welfare Bureau (HWB) was finalising a new series of administrative measures to enhance the accountability and transparency of charitable fund-raising activities. It intended to consult the social welfare sector on the proposed measures over the next months. As part of this process, the HWB would also consult the Legislative Council Panel on Welfare Services;
- the first phase of the Electronic Service Delivery Scheme scheduled to be launched in late 2000 was progressing smoothly. With the assistance of the Information Technology and Broadcasting Bureau, the Social Welfare Department (SWD) was testing its computer system to take part in the Scheme. The Scheme would facilitate public access to, among other things, information provided by the SWD on charitable fund-raising activities; and
- the Hong Kong Society of Accounts (HKSA) had issued to its members a practice note on auditing flag-day accounts. The SWD was working closely with the HKSA to prepare a practice note on auditing other charitable fund-raising activities.

18. The Committee wish to be kept informed of further progress of the legislative amendments for new control measures to enhance the accountability and transparency of charitable fund-raising activities.

19. **The monitoring and control of air pollution** (23 - 24 of Part IV of P.A.C. Report No. 33). The Committee were informed that:

Air Quality Objectives (AQOs)

- the Administration was reviewing the AQOs taking into account the findings in a report of the Working Group on the Health Effects of Air Pollution and a set of air quality guidelines published by the World Health Organisation. The Administration would in parallel consider the measures required to achieve and maintain the new set of AQOs;

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- the study on air pollution in the Pearl River Delta Region was making good progress and was expected to be completed in early 2001;

Cleaner vehicle diesel

- the Administration had introduced in July 2000 a concessionary duty on Ultra Low Sulphur Diesel (ULSD) to encourage diesel vehicles to switch to environmentally cleaner fuel. The ULSD was now available at all petrol filling stations in Hong Kong. The Administration was considering ways to reduce the amount of diesel not meeting Hong Kong's standards carried by cross-boundary vehicles into Hong Kong;

Reducing reliance on diesel vehicles

- a diesel taxi replacement programme was being implemented. A one-off grant of \$40,000 was provided to the owner of a diesel taxi to facilitate the replacement of the vehicle by one using Liquefied Petroleum Gas (LPG). Seven LPG filling points were in operation and five dedicated LPG filling stations would be open by November 2000 to provide filling capacity for about 8,000 LPG taxis. The Administration aimed to provide sufficient LPG filling capacity for the entire taxi fleet by the end of 2001;
- a trial scheme of LPG and electric public light buses was being conducted to assess the operational viability of replacing diesel light buses with cleaner fuel vehicles. The Administration was also considering incentives to encourage the introduction of vehicles using alternative fuel or cleaner technology;

Vehicle emission inspection and maintenance programme

- the Transport Department had extended the tests on engine speed and air filter to all commercial vehicles starting from October 2000 as part of the annual inspection programme. The Environmental Protection Department intended to introduce chassis dynamometer tests for large diesel vehicles spotted to be smoky to all designated emission testing centres by the end of 2000; and
- a resolution to increase the fixed penalty for smoky vehicles from \$450 to \$1,000 was passed by the Legislative Council in May 2000. The Administration intended to bring the new fine into effect on 1 December 2000.

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20. The Committee wish to be kept informed of the progress and outcome of the various measures being implemented by the Administration.

21. **Urban Council public markets** (27 - 28 of Part IV of P.A.C. Report No. 33). The Committee were informed that:

- the Administration had allocated the Central Market site to the Director of Food and Environmental Hygiene for another nine months up to 30 June 2001 and would renew the allocation on a monthly basis thereafter, subject to six months' prior notice of termination; and
- the Secretary for Planning and Lands would consider the timing for the sale of the Central Market site taking into account relevant factors, such as market condition, the expiry date of the temporary land allocation and the need for six months' advance notice for taking back the site.

22. The Committee wish to be kept informed of the progress of the proposed sale of the Central Market site.

23. **Relocation of the General Post Office** (29 - 30 of Part IV of P.A.C. Report No. 33). The Committee were informed that:

- the Administration was making funding and other arrangements for the reprovisioning of the General Post Office (GPO) facilities, which involved reprovisioning the present Sorting Centre, the GPO Headquarters, the GPO Counter/PO Box Section and the Delivery Office;
- for the Sorting Centre and the GPO Headquarters, the Administration had identified a site in Chai Wan and had already put in hand a preliminary project feasibility study. Separately, provision for the Counter/PO Box Section had been made in the lease conditions for the disposal of the Central Market site. The Administration was to do the same with the Delivery Office on other new commercial sites. According to the Administration's timetable, it should be possible to release the site by 2005 as targeted; and

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- according to the Central District (Extension) Outline Zoning Plan, the existing GPO site was within a “Comprehensive Development Area”, a large part of which had yet to be reclaimed. According to the Central Reclamation III programme, the new Comprehensive Development Area was scheduled for completion around 2006. The Administration would therefore work towards this new target and synchronise its efforts accordingly.

24. The Committee wish to be kept informed of the further development on the subject.

25. **Recoverability of the outstanding advances to the UNHCR** (31 - 32 of Part IV of P.A.C. Report No. 33). The Committee were informed that:

- as at 30 September 2000, the amount of the outstanding advances to the UNHCR stood at \$1,162 million. The Administration had continued to press the UNHCR to repay the outstanding advances and to make effort to raise funds from the international community in order to fully settle the amount;
- in July 2000, when the Director for the Bureau for Asia and the Pacific of the UNHCR attended the reception to commemorate the closure of the last Vietnamese refugee (VR) centre in Pillar Point of Tuen Mun, the Secretary for Security had met with him and urged the UNHCR to make renewed efforts to secure donations from other countries with a view to settling the advances. The Administration had rehearsed that the implementation of the widened Local Resettlement Scheme for the remaining VRs and Vietnamese migrants (VMs) did not put an end to the issue of the outstanding advances, and that it remained the legitimate expectation of the Government of the Hong Kong Special Administrative Region (HKSAR) that the amount owed by the UNHCR would be settled;
- when the new Head of the UNHCR sub-office in Hong Kong arrived in September 2000 to assume her duties, the Security Bureau had impressed upon her during a meeting that Hong Kong expected recovery of the outstanding balances as soon as possible;

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- at the inauguration ceremony of the 5th Annual Plenary Meeting of the Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants held in Hong Kong on 13 and 14 November 2000, which was attended by the Deputy High Commissioner for Refugees and some 20 participating governments, the Secretary for Security had stated that the Hong Kong community was still awaiting reimbursement from the UNHCR for the outstanding advances, and the Secretary for Security had appealed to all donor countries that they made their contributions to the UNHCR earmarked for such purpose; and
- although feedback from the UNHCR offered little ground for optimism that full or partial recovery could be made in the near future, the Administration would continue to do what it reasonably could to pursue the matter.

26. The Committee wish to be kept informed of the results of the action taken by the Administration to:

- press the UNHCR to fully repay as soon as possible the outstanding advances to the HKSAR Government; and
- appeal to the international community to make donations to the UNHCR earmarked for repaying the HKSAR Government the outstanding advances.

27. **Footbridge connections between five commercial buildings in the Central District** (35 - 36 of Part IV of P.A.C. Report No. 33). The Committee were informed that:

- the construction work of Footbridge C had been completed in May 2000. The footbridge was now open to public use;
- the construction work of Footbridge B had also been completed. The installation of services and internal finishing were in progress. The footbridge was expected to be open to public use in November or December 2000; and
- the Administration had maintained a regular dialogue with the owner of Building I on the design for Footbridge A. The owner of Building I aimed to finalise the architectural design of the footbridge by the end of January 2001. They would then prepare and submit General Building Plans by the end of February 2001 to the Buildings Department for approval.

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28. The Committee wish to be kept informed of:

- the progress made in the provision of Footbridge A; and
- the progress of the Administration's consideration of determining whether an underground pedestrian network along Queen's Road Central should be investigated further.

29. **Management of electricity consumption by the Government** (37 - 38 of Part IV of P.A.C. Report No. 33). The Committee were informed that:

- under the two-year pilot programme started in June 1999 for testing innovative energy efficient equipment, the Electrical and Mechanical Services Department (EMSD) had further installed T5 luminaires at 27/F Arsenal House, Police Headquarters, and T5 luminaires and "intelligent" lighting control systems at the new Environment and Food Bureau offices. Preliminary results of these pilot projects revealed a minimum energy saving of 10% for the lift and escalator systems and 35% for T5 lighting installations. A contract had also been awarded to install an automatic condenser tube cleaning system for the government offices at the China Ferry Terminal. The results of the pilot programme would be published in due course to promote wider use of the innovative energy efficient equipment;
- the Task Force on Energy Performance Contracting had recommended to conduct pilot energy performance contracting projects by employing energy services companies for three police stations. The Administration was preparing the contract documents and would start the tendering process in late 2000;
- the Energy Efficiency Office of the EMSD had established a team to conduct independent energy audits for government buildings. The team was conducting energy audits for 27 buildings in 2000 and another 25 buildings would be audited in 2001;
- the Water Supplies Department (WSD) continued to conduct detailed energy audits on major installations as scheduled. Energy audits on the Fanling Pumping Station and the Sha Tin Treatment Works and Pumping Station had been completed in March and June 2000 respectively. The WSD had also requested the EMSD to conduct energy audit on the Hong Kong and Island

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- Regional Office. Two other office buildings would also be audited in 2000;
- between January and September 2000, the WSD had completed 160 pump efficiency tests. The maintenance schedule and replacement programme for salt water pumpsets had been advanced. The pump replacement at Peninsula Salt Water Pumping Station had been completed in July 2000. Rehabilitation or replacement of another ten installations were in progress. The WSD was also planning such work for 20 other aged installations;
 - the Hong Kong Police Force (HKPF) had implemented all the Energy Management Opportunities at Arsenal House Phases I and II as recommended by the EMSD. Installation of split-type package units for areas in Caine House that required 24-hour air-conditioning had been completed in May 2000. Energy consumption was reduced by shutting down the main plant during non-peak hours. The EMSD would recommend further energy saving measures relating to the existing air-conditioning system in the Stage 3 Energy Audit Report for Arsenal House Phases I and II;
 - the energy retrofit works recommended by the EMSD for the Kowloon West Region of the HKPF, including replacement of ordinary ballasts with electronic ballasts, power factor corrections and installation of fresh-air-unit speed controllers, would be completed by October 2000. The replacement of electric hot water heaters with instantaneous gas water heaters had also been completed by September 2000; and
 - the EMSD had submitted energy saving proposals after the walk-through on 36 police buildings. The Police would implement two of the most cost-effective proposals for 24 police stations in the Hong Kong Island, Kowloon East, New Territories North, New Territories South and Marine Regions. These included the installation of dual speed motor controls for fresh-air-unit in air-conditioning systems and power factor correction in capacitor bank systems.

30. The Committee wish to be kept informed of further development on the subject, including the results and energy saving of the pilot programme for testing innovative energy equipment, and conducting pilot energy performance contracting projects.

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31. **Information technology projects, staff productivity and central registration of documents** (39 - 40 of Part IV of P.A.C. Report No. 33). The Committee were informed that:

- there were currently 581 permanent staff and 32 non-civil service contract staff in the Land Registry (LR). The numbers of permanent posts and contract/temporary posts had been reduced by 43 and 17 respectively since the publication of the PAC Report No. 31. In order to ensure speedy and accurate registration of land documents in the event of a sudden increase of workload, the LR had to maintain a core team of experienced staff to meet customers' demand for services. The LR would closely monitor the trend of the property market to cater for fluctuations in workload and liaise with the Civil Service Bureau on arrangements to redeploy surplus clerical staff to other departments;
- there had been a significant improvement in the average staff output of the LR as compared to the average output of 13.7 in 1998 (from January 1998 to September 1998) and the productivity standard of 15 deeds per man-day adopted by the LR;
- in 1999, the consultants engaged by the Government had completed an Information Systems Strategy Study for the LR and submitted an Information Systems Strategic Plan (ISSP) to the LR. The purpose of the ISSP was to map out an information technology (IT) strategy for a central registration system and the implementation of a land title registration system for the next five years and beyond. The ISSP recommended the LR to develop, in two phases, a more cost-effective integrated computer system — the Integrated Registration Information System (IRIS) to replace the existing fragmented core business computer systems. This meant a complete redesign of the LR's current operation process including registration, search and copying. The scope of the IRIS was therefore wider than that of central registration. Accordingly, the implementation timetable for the IRIS had been revised to the end of 2002; and
- in early 2000, the LR had engaged a consultant to conduct a Security Risk Assessment on the Registry's future business procedures, workflows and IT systems. This was an important exercise along the critical path of the IRIS. The LR was the first government department to conduct such an overall assessment. The consultant recommended a comprehensive range of systems security measures and special features to tighten the security of

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registration operations. These measures would be incorporated into the IRIS tender document currently under preparation in the LR and would be forwarded to the Department of Justice and the Government Supplies Department for comments later in 2000. The Administration expected that the system development contract could be issued in mid-2001 and Phase I of the IRIS be delivered by the end of 2002. The LR would continue to monitor the progress of the IRIS.

32. The Committee wish to be kept informed of further progress on the subject.

33. **Canteens in government premises** (41 - 42 of Part IV of P.A.C. Report No. 33).
The Committee were informed that:

Provision of canteens in government premises

- the canteens not justified to be retained on operational grounds were being phased out upon the expiry of their current contracts;

Charges for operation of canteens in government premises

- the Government Property Agency (GPA) had advised all concerned departments that new canteen contracts would be offered for bid rental through open tender, and was making arrangements for implementation;
- the Security Bureau had completed a survey on the existing provision and operation of messes in the disciplined services;
- in the light of the findings, the Finance Bureau was, in consultation with relevant parties, reviewing the policy and formulating guidelines on the provision and charging arrangements for messes and canteens;

Management of canteens in government premises

- the GPA had set up a management information system in August 2000 to monitor the essential operating conditions stipulated in the canteen contracts; and

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Allocation of space for use by police officers

- the Hong Kong Police Force had completed a comprehensive survey on the utilisation of police canteens. Arrangements had been made for the under-utilised space to be partitioned off where practicable and made available to patrol officers for minor administrative work.

34. The Committee wish to be kept informed of the outcome of the review of the policy and formulation of guidelines on the provision and charging arrangements for messes and canteens.

35. **The use of energy-efficient air-conditioning systems in Hong Kong** (Chapter 2 of Part VII of P.A.C. Report No. 33). The Committee were informed that:

- the Administration would start both the territory-wide implementation study for the planned implementation of water-cooled air-conditioning systems (WACS) and the district-based cooling system implementation study for the South East Kowloon Development in the end of 2000 for completion by the end of 2001. The Finance Committee of the Legislative Council had approved the funding in April and May 2000. The Administration was selecting the consultants;
- based on the findings of the territory-wide implementation study to be available towards the end of 2001, the Administration would work out a programme for relaxing the restriction on the use of fresh water for WACS and the setting up of a registration and licensing system to ensure proper design, operation and maintenance of cooling towers. A pilot scheme had been launched on 1 June 2000 on six selected areas in which the public might apply to use fresh water for non-domestic WACS;
- to step up the monitoring of the operation and maintenance of existing cooling towers, the WSD would report any recent installation or recent removal of cooling towers found in the course of routine inspections to the Electrical and Mechanical Services Department (EMSD) for monitoring, and to the Buildings Department (BD) when cooling towers were suspected to rest on unsafe structures. The BD would continue the action plan to remove unauthorised appendages, including cooling towers supporting frameworks attached to external walls of 1,500 target buildings in the coming three years;

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- the EMSD had started the promulgation of the Code of Practice for the Prevention of Legionnaires' Disease to the owners, users and operators of existing cooling towers, together with an application form for joining a voluntary registration scheme which had started since September 2000; and
- the Administration would keep the Committee informed of the findings of the territory-wide implementation study for the planned implementation of WACS and the district-based cooling system implementation study for the South East Kowloon Development, as well as the action plan for relaxing the restriction on the use of fresh water for WACS in non-domestic developments.

36. The Committee wish to be kept informed of further development on the subject.

37. **Management of on-street parking spaces and parking facilities** (Chapter 5 of Part VII of P.A.C. Report No. 33). The Committee were informed that:

On-street parking

- in line with the policy to extend metering to all parts of the urban area and New Towns where on-street parking was permitted, the Transport Department (TD) aimed to install a total of 3,300 additional parking meters in the built-up areas from 2000-01 to 2002-03. Another 700 parking meters would be installed in 2003-04, whereupon all on-street parking spaces in the urban areas and New Towns would had been metered. The TD had already installed some 300 new meters between March and September 2000;
- the TD had conducted periodic utilisation surveys of both metered and non-metered parking spaces and consulted the local community in prioritising the extension programme. The TD aimed to complete the programme to extend meter operations to Sundays and public holidays for 9,300 on-street parking spaces with a high utilisation rate (i.e. 85% or above) by the end of 2001. The TD aimed to extend some 3,000 existing meters to operate on Sundays and public holidays in 2000, and the remaining 6,300 meters in 2001. Between March and September 2000, 2,500 existing meters had been converted to operate on Sundays and public holidays;
- in respect of metering parking spaces for motorcycles, the TD and the Hong Kong Police Force would continue to keep in view the development of new technologies and conduct trials to identify measures to overcome the operational and enforcement problems involved;

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- the TD had taken on board the Hong Kong Motorcycle Association's suggestion to provide casual parking for motorcycles in off-street car parks at a reasonable price. Since 1 August 2000, the TD had commissioned a three-month trial of a Day Pass (\$40) and Night Pass (\$15) system for motorcycle parking at the TD's 13 multi-storey car parks. Subject to the results of the trial, the TD would seek to promote the provision of casual parking for motorcycles in off-street car parks as a long-term measure. In addition, the Housing Department had also undertaken to expedite the provision of casual parking spaces for motorcycles at its housing estate car parks as far as practicable to cope with demand;

Contract for the management of parking meters

- the TD was reviewing the terms of the next parking meter management contract. The revenue sharing formula and the scope of the contract would be examined in this context. The Administration aimed to complete the review by March 2001;

Electronic parking devices

- a six-month trial of Mondex and VisaCash cards for use on parking meters was launched on 25 March 2000. A similar trial of the Octopus card had started in October 2000. Subject to the results of the trials, the electronic parking meter system would be upgraded in phases from 2001 to accept reloadable smart cards to offer greater convenience to meter users; and

Special parking facilities

- the Hong Kong Planning Standards and Guidelines (HKPSG) was reviewed by the Administration from time to time to meet the community's changing needs. In May 2000, the TD had commissioned a Second Parking Demand Study in May 2000 to review, inter alia, the parking standards in the HKPSG and recommend amendments where appropriate. The Study was expected to be completed in September 2001.

38. The Committee wish to be kept informed of the progress of the outstanding issues in respect of on-street parking, contract for the management of parking meters, electronic parking devices, and special parking facilities.

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39. **Administration of allowances in the civil service** (Chapter 7 of Part VII of P.A.C. Report No. 33). The Committee were informed that:

Policy and review mechanism

- the Civil Service Bureau (CSB) continued to review and update various civil service allowances and fringe benefits. The CSB had completed the review on various fringe benefits provided to civil servants and implemented a new fringe benefits package for civil service recruits offered appointments on or after 1 June 2000. The new fringe benefits package contained revised leave entitlement, leave passage and housing benefits which were more in line with private sector practice. The provision of local education allowance had ceased;
- the CSB had invited the Standing Commission on Civil Service Salaries and Conditions of Service (Standing Commission) and the Standing Committee on Disciplined Services Salaries and Conditions of Service (Standing Committee) to review the job-related allowances provided for civil servants. The Standing Commission and the Standing Committee had completed the review and submitted reports to the Administration. The CSB was studying the review recommendations and would consult the staff side on the way ahead;

ICAC post allowance

- in May 1999, the Administration had invited the Standing Committee to conduct a review on job-related allowances for disciplined services, which also covered the ICAC post allowance;
- the Standing Committee had completed the review. It recommended, among other things, that the ICAC post allowance should be retained for serving officers for both their current and any subsequent contracts but that it should not be paid to new recruits. After consulting the staff side, the ICAC had implemented the Standing Committee's recommendation with effect from the current financial year;

Home-to-office travelling allowance and mileage allowance

- the provision of supplementary travel allowance had been implemented on 1 April 2000. The CSB would review the system at regular intervals having regard to experience and improvements in transportation network;

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- the CSB was collecting relevant data on the payment formula for duty mileage allowance as part of the review of the system to see whether the provision was up-to-date and reasonable;

Furniture and domestic appliances allowance (FDAA)

- the CSB had consulted the staff side on the proposal to cease payment of the FDAA to serving officers who would, under current provision, become eligible on reaching Master Pay Scale Point 34 or its equivalent. The proposal had been implemented on 1 July 2000;

Dialect allowance

- the CSB and the respective Heads of Grade would examine the allowance in the light of the recommendations of the Standing Commission on its review of job-related allowances;

Overtime allowance

- the CSB had completed a review on the payment criteria and administration of overtime allowance and was consulting the staff side on the proposed changes; and

Acting allowance

- having reviewed and re-affirmed the need to maintain the acting appointment system as an effective management tool to meet operational need, the Administration had introduced various changes to simplify the rules and ensure a more vigilant approach in making acting appointments. The CSB had provided detailed guidelines to Bureau Secretaries and Heads of Department on acting appointments to ensure that such appointments were made only when necessary and justified. The CSB would continue to monitor closely the implementation of the revised rules.

40. The Committee wish to be kept informed of further development on the administration of allowances in the civil service, including the policy and review mechanism, and the payments of mileage allowance, dialect allowance and overtime allowance.

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41. **The Government's administration of sale of land by tender** (Chapter 8 of Part VII of P.A.C. Report No. 33). The Committee were informed that:

Purchasers' failure to complete land sale contract

- after consulting the Real Estate Developers Association of Hong Kong and on the advice of the Land and Building Advisory Committee, the Lands Department (Lands D) had invited views from the Hong Kong Institute of Surveyors, the Law Society of Hong Kong and the Hong Kong Institute of Real Estate Administration on the Committee's proposal to impose additional requirements in all land sale tenders. These associations had expressed the following major concerns:
 - (a) it was a common practice for developers to form a new company to undertake each new project. New companies would have no track records to demonstrate their ability to discharge their obligations under the tender conditions. The parent company's track records might not be a reliable measure of the new company's ability, because the new company might be owned by more than one parent company, and since shares in the new company might be freely transferable, the new company's ownership might change subsequently;
 - (b) if the assessment was based on parent companies' track records and financial strength, big developers were more likely to be chosen than small developers, which might give the impression that the Government favoured the former over the latter;
 - (c) to require a guarantee from a bank or a parent company might make it more difficult for small developers to participate in land tenders;
 - (d) many development projects were undertaken through joint ventures formed either before or after the purchase of land from the Government. Shares in a joint venture might be sold subsequently. To require a guarantee before a land purchase would make it difficult for shares to change hands. This might discourage the formation of joint ventures to submit bids and reduce the number of tenderers competing for a lot; and
 - (e) the existing practice of requiring a deposit upon the submission of a tender should be a sufficient security for the Government. Should the purchaser default, the deposit would be forfeited.

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The Lands D would report these views to the Land and Building Advisory Committee for further advice in late 2000;

- in a recent award of the land sale tender for New Kowloon Inland Lot No. 6280, the Purchaser had been required to procure from its parent company or other associated company a guarantee in accordance with Clause 8 of the Tender Notice. On 9 October 2000, the required guarantee had been submitted to the Director of Lands;

Progress of sale of Tsuen Wan hotel site

- the Tsuen Wan hotel site had been on the 1999-2000 Land Sale Application List. The Lands D had received no application for the sale of the site in that year. The Administration had been reviewing the appropriate use of the site in the context of the pilot scheme for zoning sites specifically for hotel uses, having regard to the latest developments and trends in the tourism industry. The review was expected to be completed in 2000; and

Progress of rezoning the third site in Shatin for Private Sector Participation Scheme (PSPS) development

- the Administration had initiated rezoning of the Shatin site from commercial to residential use to permit PSPS development. After considering all the objections received during the statutory exhibition period of the draft Ma On Shan Outline Zoning Plan No. S/MOS/6, the Town Planning Board had decided not to propose any amendment to the plan in relation to the proposed PSPS site. One of the objections had subsequently been withdrawn. The plan and the unwithdrawn objections would shortly be submitted to the Chief Executive in Council for approval.

42. The Committee urge the Administration to continue to invoke Clause 8 of the Tender Notice of requiring the purchaser to procure from its parent or associated company a written guarantee so as to adequately protect the Government's interest in case of default by the purchaser. The Committee wish to be kept informed of the progress of:

- the sale of the Tsuen Wan hotel site for hotel use and the rezoning of the Shatin site for PSPS development; and
- the progress of the Administration's implementation of the Committee's

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recommendations.

43. **Review of the financial reporting of the Government** (Chapter 10 of Part VII of P.A.C. Report No. 33). The Committee were informed that:

- the Task Force chaired by the Secretary for the Treasury set up to review the financial reporting of the Government (the Task Force) had continued its programme of regular meetings. The Task Force's deliberations were proceeding as scheduled. The Task Force remained confident that it would be able to recommend to the Financial Secretary by the end of calendar year 2000 an appropriate standard and style of financial reporting for the Government. The Task Force would take into account the Director of Audit's comments when arriving at its recommendations; and
- in order to solicit views from concerned parties on the review of government financial reporting, the Director of Accounting Services had organised a symposium on 7 March 2000. Attendees included, among other interested parties, the Director of Audit, the President and Council Members of the Hong Kong Society of Accountants (HKSA), Members of the Public Sector Committee of the HKSA and accountancy academics from the universities in Hong Kong. The Task Force would take into account the views expressed during the symposium when formulating its recommendations.

44. The Committee wish to be kept informed of further progress of the Task Force's review and the actions taken on this subject.

**V. SUPPLEMENTAL REPORT OF THE PUBLIC ACCOUNTS COMMITTEE
ON REPORT NO. 33 OF THE DIRECTOR OF AUDIT ON THE
RESULTS OF VALUE FOR MONEY AUDITS**

Laying of the Report Report No. 33 of the Director of Audit on the results of value for money audits was laid in the Legislative Council on 17 November 1999. The Committee's supplemental report (Report No. 33B) on Chapters 1, 4 and 12 of the Director of Audit's Report was tabled on 12 April 2000.

2. **The Government Minute** The Government Minute in response to the Committee's Report No. 33B was laid in the Legislative Council on 21 June 2000. A progress report on matters outstanding in the Government Minute was issued on 20 October 2000. The latest position and the Committee's further comments on these matters are set out in paragraphs 3 to 6 below.

3. **Management practices of the Vocational Training Council** (Chapter 2 of Part IV of P.A.C. Report No. 33B). The Committee were informed that:

Framework agreement and performance indicators

- the Administration had entered into a new Memorandum of Administrative Arrangement (MAA) with the Vocational Training Council (VTC) in June 2000. In accordance with the MAA, the VTC had submitted to the Government its three-year strategic plan covering the period from 2001 to 2004 and the Annual Plan for 2001-02 in October 2000. The Annual Plan laid down output and outcome performance indicators for planning and measuring the progress of the activities undertaken by the VTC, in order to justify the subvention for the VTC. These indicators would be promulgated in the Government's Annual Estimates of Expenditure;
- the VTC had reviewed its Financial Rules and had sought the Finance Bureau's (FB's) advice on their compliance with the Government subvention rules. The revised Financial Rules had come into effect from October 2000;

Administration of remuneration and fringe benefits

- the VTC had reviewed its Staff Loan Scheme and had modified some of the terms for new loans to be offered under the Scheme. Under the modified terms, the VTC staff were required to specify the intended purposes of the loans and loans were only granted for specific purposes such as home purchase or home improvement. Repayment of principal in addition to interest on a monthly basis had also been introduced with effect from October 2000. The VTC was also exploring the feasibility of arranging its staff members to borrow from the banks direct rather than through the VTC;

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- the all-in pay package of a senior staff member (i.e. the Director of Marketing and Public Relations) had expired in October 2000. The VTC had renewed the contract on a normal package following the prevailing subvention rules;

Procurement of goods and services

- the VTC working party tasked to review the rules and procedures relating to the procurement of goods and services was rounding up its work. New measures would be put in place after the review was completed;

Building and use of senior staff quarters

- as a result of the VTC's promotional effort, the utilisation of the swimming pools on the Chai Wan and Tsing Yi campuses had increased significantly. For the Chai Wan campus swimming pool, the number of users during the summer of 2000 had increased to 8,108, a 69% increase over the corresponding period in 1999. The number of users for the Tsing Yi campus swimming pool had shown a 57% increase; and
- the VTC had been exploring various options with both the commercial sector and the Government on the disposal of its surplus quarters. The FB had obtained further data (e.g. the staff profile) from the VTC which was necessary for updating the cost and benefit analysis of introducing a Home Finance Scheme for the VTC staff. The Administration would consider the appropriate housing benefits to be introduced to the VTC staff having regard to the housing benefits available to new recruits to the civil service, and the potential of putting the VTC's surplus quarters to alternative use. The Administration would keep the Committee informed of the progress.

4. The Committee wish to be kept informed of:

- the measures that will be put in place after the review of the rules and procedures relating to the procurement of goods and services has been completed; and
- the progress of introducing a Home Financing Scheme for the staff of the VTC, and the disposal arrangements for the VTC's surplus senior staff quarters.

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5. **Water purchased from Guangdong Province** (Chapter 3 of Part IV of P.A.C. Report No. 33B). The Committee were informed that:

Seeking to incorporate more flexibility in future water supply agreements

- in the 1998 Loan Agreement for the closed aqueduct, the Administration had achieved an agreement to defer the time of reaching the design capacity of 1,100 million cubic metres per year beyond 2008, and obtained the agreement to enable further negotiation in 2004 on the annual supply quantities for future supply. Furthermore, notwithstanding the limitations in the existing agreements, the Administration had started some preliminary discussions with the Guangdong Authority in early 2000 in response to the Committee's recommendation on the introduction of more favourable terms in future agreements, as follows:
 - (a) regarding flexible supply, the Administration had pointed out that water supply to Hong Kong was excessive especially during the wet years and there was a need for a more flexible supply arrangement to suit the demand and the reservoir storage position of Hong Kong. The Guangdong Authority had responded that according to the existing agreements, the Hong Kong side had to pay for the agreed yearly quantities in full even if only part of the quantities was taken, and the undrawn quantity for one year could not be rolled over to the next year. However, the Guangdong Authority had agreed to consider adopting a more flexible approach in making the daily supply arrangements, on the condition that such arrangements were technically possible and would not violate the existing agreement. As from April 2000, the Administration was able to seek the co-operation of the Guangdong Authority to implement a short-term arrangement to reduce the daily supply rate. In times when the reduced supply was still more than needed, surplus water would be discharged to Shenzhen River in a controlled manner, so as to save the energy cost of pumping the water to the reservoirs and to reduce the amount of water overflow. From April to August 2000, a total of about 100 million cubic metres of overflow from reservoirs have been avoided. A reduction of about 12% of energy cost for pumping water from Muk Wu to reservoirs had been achieved. The Administration would continue to discuss with the Guangdong Authority on the medium to long-term flexible supply arrangements;

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- (b) with regard to water quality, the Administration would continue to urge the Guangdong Authority to make improvements. The Guangdong Authority had already taken a series of effective measures to control pollution of the Dongjiang water, including the desilting of the Shenzhen Reservoir, the completion of the biological nitrification plant in Shenzhen, the implementation of various treatment works projects and the moving of the water intake point upstream to Tai Yuen. With the completion of the closed aqueduct in 2003, the Guangdong Authority would strive to ensure that the quality of the water supplied to Hong Kong met the 1988 Environmental Quality Standard for Surface Water. The Administration would join hand with the Guangdong Authority to closely monitor the water quality and take effective improvement measures to ensure satisfactory water quality;
- (c) the Administration had indicated to the Guangdong Authority that future water prices should take into account the additional treatment cost required for maintaining a satisfactory standard of water quality. The Guangdong Authority stated that if the Administration insisted on the proposal, there should be a comprehensive review of the water prices to account for all relevant factors since the commencement of the supply of water to Hong Kong in the 1960's. The Guangdong Authority had also pointed out that the mechanism of adjusting the water prices was set out in the 1989 Water Supply Agreement. The proposal of taking the additional treatment cost into consideration would violate the principle stipulated in the Agreement. The Guangdong Authority stressed that the water supply agreement was made with the prime objective of resolving Hong Kong's water supply problem with mutual understanding and co-operation. If compensation was to be included, the co-operative spirit would be hampered. The Guangdong Authority was of the view that the long-term solution was to combat pollution at source and maintain the quality of Dongjiang water; and
- (d) the Administration had also proposed to appoint an independent accredited body to monitor and report on the quality of Dongjiang water to reinforce the confidence of the public. The Guangdong Authority had pointed out that the Guangdong Provincial Bureau of Environmental Protection was the national authority responsible for environmental monitoring and pollution control, and it had the duty to ensure proper appraisal of the water quality. The Guangdong Authority would not permit a third party to perform the duties of the Guangdong Provincial Bureau of

The Public Accounts Committee

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Environmental Protection on environmental monitoring and pollution control;

- the Administration would continue to discuss with the Guangdong Authority on the supply and quality of Dongjiang water in a pragmatic and constructive manner;

Adoption of a more pragmatic approach in storage and supply strategy

- the Administration had already adopted a more pragmatic approach in determining the storage level and planning water supply. Towards the end of each month, monthly draw-off patterns would be worked out taking into account the current storage of the reservoirs in Hong Kong, projected water demand of the following month and the daily rate of water supply from Guangdong. If the situation required, the Administration would request the Guangdong Authority to make appropriate adjustments to reduce the supply and this would save the pumping cost;

Consultation on the recommendation of a consultancy study on alternative sources of water supply

- the consultancy study on new fresh water resources had reviewed all possible alternative water resources for Hong Kong and identified desalination of sea water, water supply from Guangdong and expansion of Hong Kong's catchment areas as the preferred options. The Administration would continue to examine and appraise these options in detail;

Closely monitoring and formulating action plans to improve the quality of Dongjiang water at the Joint Working Group

- the first meeting of the Joint Working Group on Sustainable Development and Environmental Protection had been held on 8 June 2000. The quality of Dongjiang water had been one of the standing items on the agenda. The Guangdong Provincial Bureau of Environmental Protection had indicated that a series of actions would be taken in controlling and minimising pollution to Dongjiang and the Dongshen Water Supply System. It had been noted that the quality of Dongjiang water supplied to Hong Kong had improved remarkably since the completion and commissioning of the biological nitrification plant in Shenzhen in early 1999. The Administration would continue to monitor the situation and discuss cross-border environment protection issues with the Guangdong Authority;

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Allowing public monitoring on the quality of treated water through dissemination of test results

- the Advisory Committee on the Quality of Water Supplies had held its second meeting in July 2000. The Advisory Committee had noticed that the quality of Dongjiang water received at Muk Wu in 1999/2000 was largely satisfactory except for some minor non-compliance and the treated water quality complied with the World Health Organisation (WHO) Guidelines. Taking into consideration the international practice, the consistent compliance of monitoring data with the WHO Guidelines, and striking a balance between resources input and the need to publish the quality data, the Advisory Committee agreed to publish annually the water quality data of both the raw water at Muk Wu and the treated water. The water quality data were now available at the Water Supplies Department website. Moreover, the Guangdong Authority had recently agreed to provide the Administration with Dongjiang water quality data at a major monitoring station just upstream of Hong Kong's intake point at the Taiyuan Pumping Station for publication. The details would be announced in due course;

Introduction of a new contingency plan on Cryptosporidiosis and Giardiasis

- if Cryptosporidiosis and Giardiasis were detected in treated water, the Administration would immediately inform the Department of Health of the testing results and take appropriate measures. When necessary, consumers would be advised to boil the water before consumption so as to ensure safety. The Administration would continue to take effective measures to minimise the risk of Cryptosporidiosis and Giardiasis; and

Shifting of the Annual Business Meetings towards the end of the wet seasons

- the Administration had proposed to the Guangdong Authority to shift the Annual Business Meetings to the end of the wet season. This proposal had received a positive response from the Guangdong Authority. The coming Annual Business Meeting would be held after the wet season.

6. The Committee wish to be kept informed of:

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- the Administration's further efforts to incorporate more favourable terms in future water supply agreements, including medium to long-term flexible supply arrangements;
- the progress of the measures taken to ensure that the quality of the water supplied to Hong Kong meets the 1988 Environmental Quality Standard for Surface Water;

- the outcome of the consultancy study on alternative sources of water supply; and

- the progress of action plans formulated to improve the quality of Dongjiang water at the Joint Working Group on Sustainable Development and Environmental Protection.

VI. COMMITTEE PROCEEDINGS

Consideration of the Director of Audit's Reports tabled in the Legislative Council on 15 November 2000 As in previous years, the Committee did not consider it necessary to investigate in detail every observation contained in the Director of Audit's Reports. The Committee have therefore only selected those chapters in the Director of Audit's Report No. 35 which, in their view, referred to more serious irregularities or shortcomings. It is the investigation of those chapters which constitutes the bulk of this Report.

2. **Meetings** The Committee held 14 meetings and 7 public hearings. During the public hearings, the Committee heard evidence from a total of 38 witnesses, including 5 Bureau Secretaries and 10 Heads of Department. The names of the witnesses are listed in *Appendix 4* to this Report. A copy of the Chairman's Introductory Remarks at the first public hearing on 5 December 2000 is in *Appendix 5*.

3. **Arrangement of the Report** The evidence of the witnesses who appeared before the Committee, and the Committee's specific conclusions and recommendations, based on the evidence and on their deliberations on the relevant chapters of the Director of Audit's Reports, are set out in Chapters 1 to 7 below.

4. A verbatim transcript of the Committee's public proceedings will be placed in the Library of the Legislative Council for inspection by the public.

5. **Acknowledgements** The Committee wish to record their appreciation of the co-operative approach adopted by all the persons who were invited to give evidence. In addition, the Committee are grateful for the assistance and constructive advice given by the Secretary for the Treasury, the Legal Adviser and the Clerk. The Committee also wish to thank the Director of Audit for the objective and professional manner in which he completed his Reports, and for the many services which he and his staff have rendered to the Committee throughout their deliberations.

**VII. OBSERVATIONS OF THE PUBLIC ACCOUNTS COMMITTEE
ON THE ACCOUNTS OF THE GOVERNMENT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
FOR THE YEAR ENDED 31 MARCH 2000**

The Committee noted the Report of the Director of Audit on the Accounts of the Government of the Hong Kong Special Administrative Region (HKSAR) for the year ended 31 March 2000.

**General Revenue Account -
Investments with the Exchange Fund**

2. According to Note 3 of the Notes on the Accounts, there is a new agreement between the Government of the HKSAR and the Hong Kong Monetary Authority which provides that interest to be distributed by the Exchange Fund should as far as possible take into account any diminution in the value of investments that may have occurred prior to distribution.

3. The Committee asked about the details of the new agreement, and the differences between the previous agreement and the new agreement. In his letter of 13 December 2000, in *Appendix 6*, the **Director of Audit** informed the Committee that:

Details of the new agreement

4. Since 1 April 1998, the rate of return on the investments with the Exchange Fund had directly been linked to the return achieved by the entire Fund. This arrangement was announced by the Financial Secretary in the 1998 Budget Speech. The annual rate of return achieved by the entire Exchange Fund was calculated by reference to the value of the Exchange Fund's investment portfolio as at 31 December (i.e. the end of the Fund's financial year). This rate of return was used to calculate the investment income payable in March by the Exchange Fund to the Government in respect of the investments with the Fund.

5. Because of the different accounting periods adopted by the Exchange Fund (1 January to 31 December) and the Government (1 April to 31 March), the change in the value of the Exchange Fund's investment portfolio in the months of January to March was not reflected in the rate of return used to calculate the investment income to the Government for that financial year. In the event of a material diminution in the value of the investments with the Exchange Fund in the months of January to March of a financial year because of a negative investment return by the Fund, it was necessary to write down the value of the investments with the Exchange Fund in the government accounts for that financial year.

**OBSERVATIONS OF THE PUBLIC ACCOUNTS COMMITTEE
ON THE ACCOUNTS OF THE GOVERNMENT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
FOR THE YEAR ENDED 31 MARCH 2000**

6. Under the new agreement made in March 2000, the previous agreement for calculating the investment income payable to the Government continued but, in the event of a negative investment performance by the Exchange Fund in the months of January and February, the Exchange Fund was required to pay the Government in March an amount equivalent to the investment income for the previous financial year minus the loss incurred as a result of the negative performance in January and February. The unpaid investment income would accrue in the form of "Interest Payable" from the Exchange Fund to the Government and would be taken into account when calculating the investment income on the investments with the Exchange Fund for the subsequent financial year.

7. The above arrangements had been discussed thoroughly among the Secretary for the Treasury, the Hong Kong Monetary Authority, the Director of Accounting Services and the Director of Audit. All parties agreed to adopt the new approach from 1999-2000 onwards.

Differences between the previous agreement and the new agreement

8. The main difference was that the new agreement was more prudent than the previous agreement. The new agreement reduced the likelihood for the Director of Accounting Services to write down the value of the investments with the Exchange Fund at the end of a financial year. This was because any loss in value of the investments arising from negative investment performance by the Exchange Fund in January and February would be cushioned by the investment income achieved in the preceding financial year. The Director of Accounting Services would need to write down the value of the investments with the Exchange Fund in the government accounts for any financial year only when there was a loss in March following a net loss in January and February or when the loss in March exceeded a net gain in January and February.

**Capital Works Reserve Fund -
Revenue**

9. According to Note 7 of the Notes on the Accounts, the original estimate of the investment income for the year 2000 was \$1,707,000,000 while the actual amount was \$3,647,027,000. The Committee asked for details of the components of the investment income and the reasons for the significant variance between the original estimate and the actual amount.

**OBSERVATIONS OF THE PUBLIC ACCOUNTS COMMITTEE
ON THE ACCOUNTS OF THE GOVERNMENT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
FOR THE YEAR ENDED 31 MARCH 2000**

10. In his letter of 13 December 2000, the **Director of Audit** informed the Committee of the components of the investment income for 1999-2000, as follows:

	\$'000
Hong Kong Monetary Authority	
Income from investment with the Exchange Fund	3,469,960
Interest from call account with the Exchange Fund	82,739
Interest from the Hospital Authority	86,507
Interest on land premium instalment payment	4,416
Interest from bank deposits	2,425
Interest from current accounts	582
Interest from the Trade Development Council	343
Penalty interest on delay in land premium instalment payment	54
Others	1
	3,647,027

11. The **Director of Audit** further explained that the variance was mainly due to the higher than expected yield from the investment of the Capital Works Reserve Fund with the Exchange Fund.

**SIGNATURES OF THE CHAIRMAN, DEPUTY CHAIRMAN AND
MEMBERS OF THE COMMITTEE**

Eric LI Ka-cheung
(*Chairman*)

Emily LAU Wai-hing
(*Deputy Chairman*)

David CHU Yu-lin

Fred LI Wah-ming

LAU Kong-wah

Abraham SHEK Lai-him

Tommy CHEUNG Yu-yan

2 February 2001

**CHAPTERS IN THE DIRECTOR OF AUDIT'S REPORT NO. 35
DEALT WITH IN THE PUBLIC ACCOUNTS COMMITTEE'S REPORT**

Director of Audit's Report No. 35 <u>Chapter</u>	<u>Subject</u>	P.A.C. Report No. 35 <u>Chapter</u>
2	The Government's efforts to control flooding in urban areas	1
4	Government's support and administration of kindergarten education	2
7	The use of employers' returns and notifications for assessing and collecting salaries tax	3
8	Interdiction of government officers	4
9	Employees Retraining Scheme	5
10	Construction of two bridges	6
12	Comprehensive Redevelopment Programme of the Housing Authority	7

**RULES OF PROCEDURE OF
THE LEGISLATIVE COUNCIL OF
THE HONG KONG SPECIAL ADMINISTRATIVE REGION**

72. Public Accounts Committee

(1) There shall be a standing committee, to be called the Public Accounts Committee, to consider reports of the Director of Audit –

- (a) on the accounts of the Government;
- (b) on such other accounts required to be laid before the Council as the committee may think fit; and
- (c) on any matter incidental to the performance of his duties or the exercise of his powers as the committee may think fit.

(2) The committee shall also consider any report of the Director of Audit laid on the Table of the Council which deals with examinations (value for money audit) carried out by the Director relating to the economy, efficiency and effectiveness of any Government department or public body or any organization to which his functions as Director of Audit extend by virtue of any Ordinance or which receives public moneys by way of subvention.

(3) The committee shall consist of a chairman, deputy chairman and 5 members who shall be Members appointed by the President in accordance with an election procedure determined by the House Committee. In the event of the temporary absence of the chairman and deputy chairman, the committee may elect a chairman to act during such absence. The chairman and 2 other members shall constitute a quorum.

(4) A report mentioned in subrules (1) and (2) shall be deemed to have been referred by the Council to the committee when it is laid on the Table of the Council.

(5) Unless the chairman otherwise orders, members of the press and of the public shall be admitted as spectators at meetings of the committee attended by any person invited by the committee under subrule (8).

(6) The committee shall meet at the time and the place determined by the chairman. Written notice of every meeting shall be given to the members and to any person invited to attend a meeting at least 5 clear days before the day of the meeting but shorter notice may be given in any case where the chairman so directs.

(7) All matters before the committee shall be decided by a majority of the members voting. Neither the chairman nor any other member presiding shall vote, unless the votes of the other members are equally divided, in which case he shall have a casting vote.

(8) The chairman or the committee may invite any public officer, or, in the case of a report on the accounts of or relating to a non-government body or organization, any member or employee of that body or organization, to give information or any explanation or to produce any records or documents which the committee may require in the performance of its duties; and the committee may also invite any other person to assist the committee in relation to any such information, explanation, records or documents.

(9) The committee shall make their report upon the report of the Director of Audit on the accounts of the Government within 3 months (or such longer period as may be determined under section 12 of the Audit Ordinance (Cap. 122)) of the date on which the Director's report is laid on the Table of the Council.

(10) The committee shall make their report upon the report of the Director of Audit mentioned in subrule (2) within 3 months (or such longer period as may be determined by the Council) of the date on which the Director's report is laid on the Table of the Council.

(11) Subject to these Rules of Procedure, the practice and procedure of the committee shall be determined by the committee.

**Paper presented to the Provisional Legislative Council
by the Chairman of the Public Accounts Committee
at the meeting on 11 February 1998 on
Scope of Government Audit in the
Hong Kong Special Administrative Region -
'Value for Money Audits'**

SCOPE OF WORK

1. The Director of Audit may carry out examinations into the economy, efficiency and effectiveness with which any bureau, department, agency, other public body, public office, or audited organisation has discharged its functions.

2. The term "audited organisation" shall include -
 - (i) any person, body corporate or other body whose accounts the Director of Audit is empowered under any Ordinance to audit;
 - (ii) any organisation which receives more than half its income from public moneys (this should not preclude the Director from carrying out similar examinations in any organisation which receives less than half its income from public moneys by virtue of an agreement made as a condition of subvention); and
 - (iii) any organisation the accounts and records of which the Director is authorised in writing by the Chief Executive to audit in the public interest under section 15 of the Audit Ordinance (Cap. 122).

3. This definition of scope of work shall not be construed as entitling the Director of Audit to question the merits of the policy objectives of any bureau, department, agency, other public body, public office, or audited organisation in respect of which an examination is being carried out or, subject to the following Guidelines, the methods by which such policy objectives have been sought, but he may question the economy, efficiency and effectiveness of the means used to achieve them.

GUIDELINES

4. The Director of Audit should have great freedom in presenting his reports to the Legislative Council. He may draw attention to any circumstance which comes to his knowledge in the course of audit, and point out its financial implications. Subject to these Guidelines, he will not comment on policy decisions of the Executive Council and the Legislative Council, save from the point of view of their effect on the public purse.

5. In the event that the Director of Audit, during the course of carrying out an examination into the implementation of policy objectives, reasonably believes that at the time policy objectives were set and decisions made there may have been a lack of sufficient, relevant and reliable financial and other data available upon which to set such policy objectives or to make such decisions, and that critical underlying assumptions may not have been made explicit, he may carry out an investigation as to whether that belief is well founded. If it appears to be so, he should bring the matter to the attention of the Legislative Council with a view to further inquiry by the Public Accounts Committee. As such an investigation may involve consideration of the methods by which policy objectives have been sought, the Director should, in his report to the Legislative Council on the matter in question, not make any judgement on the issue, but rather present facts upon which the Public Accounts Committee may make inquiry.

6. The Director of Audit may also -

- (i) consider as to whether policy objectives have been determined, and policy decisions taken, with appropriate authority;
- (ii) consider whether there are satisfactory arrangements for considering alternative options in the implementation of policy, including the identification, selection and evaluation of such options;
- (iii) consider as to whether established policy aims and objectives have been clearly set out; whether subsequent decisions on the implementation of policy are consistent with the approved aims and objectives, and have been taken with proper authority at the appropriate level; and whether the resultant instructions to staff accord with the approved policy aims and decisions and are clearly understood by those concerned;

- (iv) consider as to whether there is conflict or potential conflict between different policy aims or objectives, or between the means chosen to implement them;
- (v) consider how far, and how effectively, policy aims and objectives have been translated into operational targets and measures of performance and whether the costs of alternative levels of service and other relevant factors have been considered, and are reviewed as costs change; and
- (vi) be entitled to exercise the powers given to him under section 9 of the Audit Ordinance (Cap. 122).

PROCEDURES

7. The Director of Audit shall report his findings on value for money audits in the Legislative Council twice each year. The first report shall be submitted to the President of the Legislative Council within seven months of the end of the financial year, or such longer period as the Chief Executive may determine. Within one month, or such longer period as the President may determine, copies shall be laid before the Legislative Council. The second report shall be submitted to the President of the Legislative Council by the 7th of April each year, or such date as the Chief Executive may determine. By the 30th April, or such date as the President may determine, copies shall be laid before the Legislative Council.

8. The Director's report shall be referred to the Public Accounts Committee for consideration when it is laid on the table of the Legislative Council. The Public Accounts Committee shall follow the rules governing the procedures of the Legislative Council in considering the Director's reports.

9. A Government minute commenting on the action Government proposes to take in respect of the Public Accounts Committee's report shall be laid on the table of the Legislative Council within three months of the laying of the report of the Committee to which it relates.

10. In this paper, reference to the Legislative Council shall, during the existence of the Provisional Legislative Council, be construed as the Provisional Legislative Council.

**Witnesses who appeared before the Committee
(in order of appearance)**

Mr Joseph WONG Wing-ping, GBS, JP	Secretary for the Civil Service
Miss Jennifer MAK, JP	Deputy Secretary for the Civil Service
Mr Christopher WONG	Principal Assistant Secretary (Civil Service)
Mrs Regina IP LAU Suk-yea, JP	Secretary for Security
Mr HUI Ki-on	Commissioner of Police <i>(Proceeded on pre-retirement leave on 2 January 2001)</i>
Dr CHENG Hon-kwan, GBS, JP	Chairman, Hong Kong Housing Authority
Mr John Anthony Miller, JP	Director of Housing
Mr LAU Kai-hung	Business Director (Allocation and Marketing), Housing Department
Mr LEE Shing-see, JP	Secretary for Works
Mr John Collier, JP	Director of Drainage Services
Mr Keith Murrells	Assistant Director (Operations and Maintenance), Drainage Services Department
Mr WONG Hung-kin, JP	Director of Territory Development
Mrs Rita LAU NG Wai-lan, JP	Director of Food and Environmental Hygiene
Mrs Fanny LAW FAN Chiu-fun, JP	Secretary for Education and Manpower
Mr John LEUNG	Principal Assistant Secretary (Education and Manpower)
Mr Matthew CHEUNG Kin-chung, JP	Director of Education

Mr LEE Hing-fai, JP	Senior Assistant Director (Support), Education Department
Mr Peter LEUNG Pak-yan	Assistant Director (Special Duties), Education Department
Mr Andrew POON Chung-shing	Assistant Director (Chief Inspector of Schools), Education Department
Mr J D Willis	Controller, Student Financial Assistance Agency
Mrs Carrie LAM CHENG Yuet-ngor, JP	Director of Social Welfare
Mr Ivan K B LEE	Principal Assistant Secretary (Education and Manpower)
Mr KWONG Sing-szee	Executive Director, Employees Retraining Board
Mr Patrick PANG Bing-hung	Deputy Executive Director (Course Administration and Development), Employees Retraining Board
Miss Denise YUE Chung-yee, JP	Secretary for the Treasury
Mr Elmo Charles D'Souza, JP	Acting Commissioner of Inland Revenue
Mr SHUM Man-to, JP	Director of Accounting Services
Miss Eliza YAU Kwai-chong	Principal Assistant Secretary (Security)
Mr TSANG Yam-pui	Commissioner of Police
Mr SO Kam-tong	Superintendent (Discipline), Hong Kong Police Force
Mr Larry LUNG Hung-cheuk	Chairman, Superintendents' Association
Mr Victor LO Yik-kee	Vice-Chairman, Superintendents' Association
Mr LIU Kit-ming	Chairman, Local Inspectors' Association

Mr LAU Tat-keung	Vice-Chairman, Local Inspectors' Association
Mr Mark Ford-McNicol	Chairman, Overseas Inspectors' Association
Mr Francis Carroll	Vice-Chairman, Overseas Inspectors' Association
Mr LAU Kam-wah	Chairman, Junior Police Officers' Association
Mr KONG Kin-chung	1st Vice-Chairman, Junior Police Officers' Association

**Introductory Remarks by
Chairman of the Public Accounts Committee,
the Hon Eric LI Ka-cheung, JP,
at the First Public Hearing of the Committee
on 5 December 2000**

Good morning, ladies and gentlemen. Welcome to this public hearing of the Public Accounts Committee.

For the benefit of the members of the public and other concerned parties who are interested, I would like to give a brief outline about the role and function of the Public Accounts Committee.

The Public Accounts Committee is a standing committee of the Legislative Council. It plays the role of a watchdog over public expenditure through consideration of the reports of the Director of Audit laid before the Council on the accounts and the results of value for money audits of the Government and of organisations which receive funding from the Government. The purposes of the Committee's considering the Director's report are to receive evidence relevant to the report in order to ensure that the facts ascertained are accurate, and to make conclusions and recommendations in a constructive spirit and forward-looking manner. I also wish to stress that the objective of the whole exercise is such that the lessons learned from past experience and our comments on the performance of public officers concerned will enable the Government to improve its control over the expenditure of public funds, with due regard to economy, efficiency and effectiveness.

The consideration of the Director's report follows an established process of public hearing, where necessary, internal deliberations and publication of the Committee's report. The Committee has adopted procedures for ensuring that all parties concerned have a reasonable opportunity to be heard. After the Committee is satisfied that it has ascertained the relevant facts, it will proceed to making a judgement on those facts followed by a process of formulating its conclusions and recommendations. In accordance with Rule 72 of the Rules of Procedure of the Legislative Council, the Committee is required to make its report upon the Director's report to the Legislative Council within three months of the date on which the Director's report is laid on the Table of the Council.

The Director of Audit's Report on the Accounts of the Government of the Hong Kong Special Administrative Region for the year ended 31 March 2000 and his Report on the results of value for money audits completed between March and September 2000 i.e. Report No. 35, were tabled in the Legislative Council on 15 November 2000. Following our preliminary study of Report No. 35, the Committee has decided to invite the public officers and relevant parties to appear before the Committee and answer our questions in respect of seven chapters of the Report. Apart from this morning, we have also set aside the mornings of 7 and 8 December for our public hearings. After we have studied the issues and taken the necessary evidence, we will produce our conclusions and recommendations which will reflect the independent and impartial judgement of the Committee. These recommendations will be made public when we report to the Legislative Council within three months' time. Before then, we will not, as a committee or individually, be making any public comment on our conclusions.

I now declare the Committee to be in formal session.

Chapter 1

The Government's efforts to control flooding in urban areas

Audit conducted a review to examine the economy, efficiency and effectiveness of the Government's efforts to control flooding in urban areas, with particular reference to West Kowloon where there had been serious and frequent flooding. The review focused on the adequacy of:

- management control over the Drainage Master Plan study for the overall planning of drainage improvement works for West Kowloon;
- management control over the detailed design of key flood control schemes planned for resolving the flooding problem in Mong Kok; and
- planning and co-ordination of the maintenance arrangements for urban stormwater drains.

Drainage Master Plan Study for West Kowloon

2. The Committee noted from Part 2 of the Audit Report that in November 1995, the Drainage Services Department (DSD) had accepted the West Kowloon Stormwater Drainage Improvement Study (WKS) recommendation made by Consultant A to implement a three-stage drainage improvement scheme at the cost of \$2.5 billion. However, the DSD had not carried out a check on the hydraulic model of the WKS some eight months after accepting the WKS Final Report. It was discovered only about two years later in the adoptive review by Consultant C that there was an omission of flow data in the hydraulic model. Owing to the omission, even after the completion of all the drainage improvement works, the drainage system could not meet the design standard for flood protection. Additional cost had been incurred to rectify the flow data omission problem. Against this background, the Committee asked whether the data omission had been caused solely by negligence on the part of the DSD or because the DSD had been hoodwinked by Consultant A.

3. **Mr John Collier, Director of Drainage Services**, said that:

- the WKS aimed at formulating a strategy for the drainage works in West Kowloon. There was an unfortunate error in omitting catchment data. But the error was detected in the adoptive review when detailed design was carried out for the stage 2 works. The WKS was the first of a series of Drainage Master Plan studies undertaken by the DSD. The DSD had embarked on seven studies since then and had learnt a lesson from the incident of the flow data omission in the WKS;

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- the DSD now had an in-house team to check computer models produced by consulting engineers for drainage master plans; and
- there was no negligence on the part of the DSD. The DSD was not hoodwinked by Consultant A. The error was not major. When the DSD pointed out the error to Consultant A, it re-ran the hydraulic model, which resulted in the upgrading of only an additional 4% of the stormwater drains.

4. In his letter of 29 December 2000 in *Appendix 7*, the **Director of Drainage Services** supplemented that:

- in carrying out computer simulation modeling, it was necessary to prepare a large number of computer files containing information on all the relevant criteria. Consultant A had recognized that the upland areas in West Kowloon were part of the drainage system and had correctly defined these areas in the model data files. However, the areas had mistakenly not been defined in the runoff files. As a consequence, when the computer model was run, the calculations did not allow for any stormwater flow entering the drainage system from these upland catchments; and
- it was reasonable to say that the omission of flow data had resulted from an error by Consultant A in setting up the runoff input files for the upland areas of the catchments.

5. The Committee noted from paragraph 2.24 of the Audit Report that the DSD had to employ consultants because of the lack of the necessary staff resources or expertise. Nevertheless, the Committee considered that the DSD still had the responsibility to ensure the accuracy of the findings by the consultants. Due to the absence of an in-house team, the DSD did not verify the findings by Consultant A. The Committee asked whether the Director of Drainage Services admitted that that was dereliction of duty.

6. The **Director of Drainage Services** replied that no negligence was involved. At the time the DSD did not have the tools required for checking the computer models. When the error was detected, Consultant A rectified the error and no abortive works had been carried out as a result of the error.

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7. Referring to the percentage of area omitted from runoff calculation by Consultant A, the Committee noted from Table 2 of the Audit Report that it was 27% of the total area as defined in the hydraulic model. The Committee considered it to be a material omission. The **Director of Drainage Services** responded that it was significant, but, in terms of the project, it was not a catastrophic error.

8. Paragraph 2.14 of the Audit Report revealed that the DSD was unable to run the hydraulic model of the WKS on its computer due to incompatible of computer software. The Committee queried why the DSD did not seek assistance from outside the department. The **Director of Drainage Services** said that this must have been an oversight at the time.

9. Paragraph 2.13 of the Audit Report observed that due to the omission of flow data, the DSD instructed Consultant C to carry out additional tasks and therefore incurred an additional cost of \$5.1 million. The Committee asked why the DSD had not taken legal action against Consultant A for the additional cost.

10. In his letter of 18 December 2000 in *Appendix 8*, the **Secretary for Works** explained that the various items of the expenditure of \$5.1 million were not related to the rectification of the data omission problem.

11. The **Director of Drainage Services**, in his letter of 29 December 2000 in *Appendix 7*, supplemented that:

- after reviewing the traffic requirements, utility obstructions, interface problems with other public works and inconvenience to the public, the DSD decided to review the original West Kowloon drainage improvement strategy with a view to minimising the extent of road opening works in the heavily congested area. Consultant C was engaged to further develop the most cost-effective and practical engineering solution that would involve the least disruption to the community;
- with respect to the legal issue, the DSD's view was that there was no doubt that Consultant A had made an error but, on close examination of the circumstances, the DSD could not identify any direct monetary loss to the Government due to the omission of the flow data. Consultant A rectified the error at its own cost. Also, no abortive site works had been carried out, because the error had been identified and rectified at the early design stage; and

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- according to the legal advice obtained by the DSD, in a negligence action, the plaintiff was to be returned to the same position, in so far as money could compensate for the loss, as he would have been had it not been for the defendant's negligence. The common law principle, on which damages for negligence were assessed, was that they were to be regarded as compensation for an injury sustained and not as a punishment for a wrong inflicted. As such, it would not be worthwhile for the DSD to take legal action against Consultant A.

12. According to paragraph 2.22 of the Audit Report, at the time of writing the performance reports, the DSD had no knowledge of the problem of omission of flow data as it was only identified in late 1997. Hence the reports to the Engineering and Associated Consultants Selection Board (EACSB) did not fully reflect Consultant A's performance in the WKS. However, there was no mechanism for adding supplementary information to the performance reports on a consultant which had already been submitted to the EACSB. The EACSB and the Works Bureau (WB) were recommended to jointly conduct a review of the existing EACSB procedures. In this regard, the Committee asked what progress had been made.

13. The **Secretary for Works**, in his letter of 30 December 2000 in *Appendix 9*, said that the review concluded that supplementary reports on a consultant's performance could be submitted to the EACSB even after submission of the final report of the consultant's performance. The EACSB had issued a circular in September 2000 to remind departments that a supplementary report with an updated appraisal on a consultant's performance should be submitted to the EACSB if the consultant's performance had not been adequately reflected in the previous reports submitted to the EACSB.

14. On the question of the potential overflow from the Kowloon group of reservoirs in the drainage design of the Lai Chi Kok catchment, the Committee noted from paragraph 2.17 of the Audit Report that Consultant A proposed to solve the problem by controlling the operational water level of the reservoirs through the Water Supplies Department (WSD). However, the WSD considered the proposal impracticable. At the time of completion of the WKS in November 1995, the design issue of the potential overflow from the Kowloon Group of reservoirs remained unresolved. The DSD instructed Consultant C to address the overflow issue only after Consultant C had advised the DSD in September 1997 that there was inadequate drainage capacity in the Lai Chi Kok catchment to cope with the potential reservoir overflow. Moreover, in March 1998, the DSD commissioned a quantitative assessment of the risk of flood damages due to the reservoir overflow, which confirmed that the risk was unacceptable. The Committee asked why there was a delay in resolving the issue.

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15. The **Director of Drainage Services** stated that:

- the DSD's correspondence with the WSD had not yielded an agreement, and there had been a lapse of some time; and
- when he became aware of the issue in 1997, he instructed Consultant C to conduct a risk assessment which took into account the potential overflow from the Kowloon group of reservoirs. He then approached the Director of Water Supplies direct, which resulted in an agreement to use the reservoirs as flood storage until the DSD could implement a diversion scheme in the downstream of the reservoirs.

16. In the light of the Director of Drainage Services' remarks, the Committee enquired whether the Secretary for Works accepted the practice that the works departments would shelve the matter in case of an interdepartmental dispute.

17. **Mr LEE Shing-see, Secretary for Works**, responded that:

- the arrangements were quite clear in this regard. If there was a dispute between two works departments, the WB would encourage them to resolve the matter at the working level. If the matter could not be resolved and was of a serious nature, the departments concerned should inform their respective Directors. If the Directors failed to reach an agreement, the matter should be brought to the attention of the Secretary for Works as soon as possible so that the three parties could find a solution; and
- in May 1998, the WB had issued a circular memorandum to remind the works departments of how interdepartmental disputes should be handled. In September 2000, the WB issued a technical circular to the effect that the unresolved interdepartmental works issues should be promptly brought to the attention of the Directors concerned or the Secretary for Works.

18. The Committee understood from paragraph 4.30 of the Audit Report that the Lands and Works Branch Technical Circular No. 7/88 also provided guidance on managing and co-ordinating multi-disciplinary projects and on resolving interface and maintenance issues. The Committee requested the Secretary for Works to provide a flow chart showing how the WB, the DSD and the WSD co-ordinated their efforts in dealing with the potential reservoir overflow.

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19. The **Secretary for Works** provided the flow chart in his letter of 18 December 2000, in *Appendix 8*, which showed that:

- there was discussion between the DSD and the WSD during the course of the West Kowloon Drainage Master Plan Study;
- the Director of Drainage Services restarted the discussion with the Director of Water Supplies in September 1998; and
- the Secretary for Works was not involved in the resolution of the issue.

20. Noting that the guidelines on the resolution of interdepartmental disputes had been in place for more than two years, the Committee asked whether works departments' failure to follow the guidelines would be considered as dereliction of duty.

21. The **Secretary for Works** said that the WB maintained close liaison with the works departments. They held regular meetings to discuss interdepartmental issues. The departments might be able to resolve the issues by themselves. As a consequence, it might not be necessary for the departments to follow the guidelines and bring the matter to the attention of the Secretary for Works.

22. According to paragraphs 3.12 to 3.14 of the Audit Report, based on the hydraulic model files provided by the DSD, Audit considered in September and October 1999 that the performance of the Mong Kok drainage system would not be entirely satisfactory even after the implementation of the Tai Hang Tung Flood Storage Scheme and the Kai Tak Transfer Scheme proposed for resolving the flooding problem in Mong Kok. Audit also found errors and discrepancies in the pipe sizes and the storage tank configuration of the Tai Hang Tung Flood Storage Scheme in the DSD's hydraulic model files. The revised hydraulic model files given to Audit for review showed that the design criteria would still not be fully met.

23. Against this background, the Committee enquired whether the DSD had revised the design of the drainage improvement works only after Audit's detection of errors in the hydraulic model files.

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24. The **Director of Drainage Services** stated that:

- the original design recommended by Consultant A, i.e. the design consultant, allowed for the upgrading of 103 kilometres of the existing stormwater drains downstream. One aspect of that was the nullah that went through Mong Kok, was a covered nullah. The nullah caused a lot of problems in 1997 and 1998 when there were nine severe rainstorms, causing overflow from the Flower Market Road open section of the nullah;
- after examining the recommendation for a new box culvert through Mong Kok Road, Consultant C, i.e. the implementation consultant, considered the recommendation impractical as the DSD would never be able to get permission from the Hong Kong Police Force and the Transport Department to close Mong Kok Road for two years. Therefore, Consultant C came up with the joint solution of the Kai Tak Transfer Scheme and the Tai Hang Tung Flood Storage Scheme; and
- during the period between July and December 1999, when Consultant C started conducting some design runs on his computer models, Audit's engineering consultant was conducting a review of the DSD's hydraulic model files. In response to Audit's request for copies of model runs, the DSD provided the data which was produced during the production of the design. Consultant C had not finalised the design and was making refinements to it when Audit informed the DSD of its findings. The DSD had also had a plan to verify the hydraulic model results for the Kai Tak Transfer Scheme and the Tai Hang Flood Storage Scheme using physical modeling.

Maintenance of new drainage works in the West Kowloon Reclamation

25. The Committee noted that the Territory Development Department (TDD), as the project manager of the West Kowloon Reclamation, was responsible for the construction of seven major culvert extensions under two main capital works contracts, i.e. Contract A and Contract B. The culvert extension works were completed by stages from 1993 to 1996. A lot of problems arose between the completion of works by the TDD and the taking over of the new culverts by the DSD. For instance, a cause of the flooding in Mong Kok in 1997 was due to the lack of co-ordination between the two departments in the matter. According to the paragraph 4.5 of the Audit Report, the DSD wrote to the TDD in November and again in December 1993 reiterating its position that the DSD would not accept maintenance responsibilities for the completed culverts if they lay within other active work sites. The DSD urged for clarification of the matter. However, the TDD did not respond to the DSD's letters.

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26. Against this background, the Committee asked why the TDD and the DSD were unwilling to take up the maintenance responsibilities for the completed culverts, causing delay in the handing-over arrangements and resulting in the accumulation of silt in the completed culverts, especially the Cherry Street culvert, which was a cause of the flooding in Mong Kok.

27. **Mr WONG Hung-kin, Director of Territory Development**, stated that:

- the TDD and the DSD held different views on the handing over of the new culverts. As the culverts were completed in phases, the TDD wanted to hand them over to the DSD in phases. However, the DSD was of the view that it would not take over the culverts for maintenance until all of them were fully completed;
- the TDD had had difficulties in meeting the DSD's taking-over requirements, because once completed, a culvert would be in operation. Without proper maintenance, silt would accumulate in the new culvert;
- there was a lack of co-ordination between the TDD and the DSD at that time. Nevertheless, the two departments reviewed the situation afterwards and reached a compromise. There was a proper handing over of the new culverts although it was delayed; and
- he was not the then Director of Territory Development. He had made enquiries with his staff about the TDD's failure to reply to the DSD's letters, but they could not give him a good explanation. He guessed that the TDD and the DSD could not reach an agreement in their discussions at that time, resulting in the lack of full co-operation. He hoped that this would not happen again.

28. The **Director of Territory Development**, in his letter of 18 December 2000 in *Appendix 10*, supplemented that there was a number of handing-over inspections by the DSD with assistance from the TDD on the completed culverts during the period from December 1993 to December 1994. Although the TDD could find no written record specifically addressing the DSD's concerns for taking over the completed culverts by the DSD, it did have continuous dialogue and attempts to achieve a more practical solution with the DSD during that period.

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29. The Committee understood that during the construction of the new airport, because many other Airport Core Programme (ACP) projects were carried out in the vicinity of the culverts, the culverts were prone to siltation. Nevertheless, the Committee queried why the departments concerned did not tackle the problem until a few years later.

30. At the request of the Committee, the **Director of Territory Development** provided in his letter of 18 December 2000, in *Appendix 10*, a flow chart and a chronology of events on the handing-over arrangements for the new culverts.

31. The Committee asked whether the Secretary for Works was aware of the dispute at that time.

32. The **Secretary for Works** explained in his letter of 15 January 2001, in *Appendix 11*, that:

- the New Airport Projects Coordination Office (NAPCO) under the auspices of the Secretary for Works was responsible for the co-ordination of the ACP projects on technical matters. Since early 1996, the NAPCO had been actively involved in facilitating the departments concerned in the resolution of the handing over of completed culverts; and
- in April 1996, on the advice of the NAPCO, the TDD prepared a draft paper to seek the directive of the Subcommittee of the Airport Development Steering Committee of the ACP in case of an escalation of the matter to the Secretary for Works. However, under the co-ordination of the NAPCO, the TDD and the DSD were able to arrive at mutually acceptable courses of action, including the funding arrangement, in the end of April 1996 to achieve the proper handing over of the new culverts. Hence the TDD and the DSD considered it unnecessary to bring the matter to the personal attention of the Secretary for Works.

33. The Committee noted from the flow chart provided by the Director of Territory Development that the WB did not participate in the resolution of the issue until mid-1997. The Committee questioned why the Secretary for Works had not intervened earlier.

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34. The **Secretary for Works** advised the Committee in his letter of 15 January 2001, in *Appendix 11*, that :

- although it had taken some longer than expected time to achieve the handing over, the matter was satisfactorily resolved in the end of April 1996 under the co-ordination of the NAPCO. The TDD and the DSD were then of the view that it was no longer necessary to refer the case to the Secretary for Works for resolution; and
- the Secretary for Works' involvement in the matter was in fact first prompted by the flooding incidents in mid-1997, when the Secretary for Works directed interdepartmental efforts to expeditiously and effectively implement every possible measure to alleviate the flooding problem in West Kowloon at the earliest possible time.

35. Paragraph 4.3 of the Audit Report revealed that in 1990 and 1992, the TDD consulted the DSD about the design of the culvert extension works. However, the consultation at that stage did not cover the handing-over arrangements for the new culverts. The Committee noted that the lack of handing-over arrangements resulted in the accumulation of silt in some of these culverts. According to paragraph 4.17, the DSD and Consultant C found that the siltation in the new culverts of the West Kowloon Reclamation, especially the Cherry Street culvert, was one of the contributing factors to the serious flooding incidents in June and July 1997 in West Kowloon. The Committee also noted from the conclusion of the consultancy report provided in the **Director of Drainage Services'** letter of 19 December 2000, in *Appendix 12*, that the principal cause of the flooding was the presence of a significant amount of silt in the main drainage system downstream of Nathan Road.

36. Against this background, the Committee asked whether the Administration had taken into account public interest because the residents and shop owners suffered in the flooding incidents due to the lack of co-ordination between the departments.

37. The **Secretary for Works** replied that:

- if there was a risk of flooding, the WB would give priority to the projects concerned as far as possible. With the implementation of the West Kowloon Reclamation project, many culverts had to be upgraded. According to the previous guidelines, the DSD was responsible for maintaining drainage works upon their completion. Nevertheless, this case was different from normal works as many works were in progress in the site at the same time, prolonging the handing over of the new culverts; and

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- although the siltation was one of the causes of the flooding incidents according to Consultant C, the TDD's consultant had stated in its report that the flooding was caused mainly by heavy rainfall and the inadequacy of the existing drainage system to cater for heavy rainstorms. The siltation in the new culverts downstream prolonged the flooding but was not the major cause of the flooding. It was only a prolonging factor.

38. In order to ascertain whether the siltation in the new culverts was a contributing factor or a prolonging factor of the flooding incidents, the Committee asked why the respective consultants engaged by the DSD and the TDD had come to different conclusions regarding the causes of the flooding incidents.

39. The **Director of Territory Development** said in his letter of 18 December 2000, in *Appendix 10*, that:

- in late 1997, the TDD had engaged its consultant to conduct a study on the drainage analysis for Mong Kok catchment. The study had analysed, among other areas, the critical drainage path between downstream of Nathan Road and upstream of Cherry Street regarding the effect of different scenarios of levels of siltation, ranging from 10% up to 80%, inside the jacked pipe section of the existing network; and
- the analysis of the study had revealed that the volume of overflow water from the area upstream of the jacked pipe section varied only slightly with different scenarios of levels of siltation. The Mong Kok catchment area would be flooded in heavy rainstorms and the extent of flooding was not susceptible to the levels of siltation inside the jacked pipes. This was because the prevailing (as at mid-1997) drainage system, constructed some 30 years ago, was inadequate to cater for heavy rainstorms.

40. In his letter of 30 December 2000 in *Appendix 9*, the **Secretary for Works** said that:

- the computer modelling of the flood events in 1997 and 1998, conducted by the DSD using latest validated parameters, had shown that the floodings were due to the very restricted capacity of the nullah where it had been decked in Nullah Road immediately downstream of the open nullah near the Mong Kok Stadium. This bottleneck caused the overflow from the open nullah;

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- the DSD's modelling results had further shown that, even without any siltation in the box culvert, the overflow from the open nullah and consequent floodings would still have occurred in the 1997 events because of the bottleneck restriction. The modelling results were supported by the fact that, during similar rainfall and tidal events in 1998, floodings did occur in Mong Kok in the similar extent even though the silt had been removed from the culvert before the 1998 wet season. The modelling results also matched well with site observations that the flood water mainly originated from the open nullah near the Mong Kok Stadium; and
- it was reasonable to conclude that the condition of the culvert in 1997 (i.e. with reported siltation) bore no relevance to the true cause of the flooding incidents in 1997.

41. The **Director of Audit** commented in his letter of 9 January 2001, in *Appendix 13*, that:

- it was not surprising that the consultants engaged by the TDD and the DSD had come to different conclusions, because the consultancies were conducted with different objectives in mind;
- it should be noted that the purpose of the TDD's consultancy study was to analyse the hydraulic performance of the completed drainage improvement works within the Mong Kok catchment. In other words, this was not a specific investigation into the causes of flooding incidents in 1997;
- admittedly, the more obvious contributory factors were heavy rainfall and the bottleneck of the drainage system. However, bearing in mind that there was a combination of factors involved, it was questionable whether computer model runs, which were based on broad assumptions, could simulate the actual situation in 1997. There were other factors which needed to be taken into account, such as the period of flooding and the speed of flood water recession;
- the Secretary for Works, in reaching his conclusion, had chosen to ignore the qualified view of the Director of Drainage Services that the high siltation levels might have resulted in the flood water taking longer to drain away than would otherwise have been the case. To exclude important aspects, such as the speed of flood water recession from the exercise, would not give a true picture of the actual situation. Therefore, the Secretary for Works' statement that flooding had occurred in the similar extent even without siltation was an oversimplification of the actual situation; and

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- siltation must have been a contributory factor, though to a lesser extent relative to other factors such as rainfall and the drainage bottleneck, because its effect would invariably have increased the flood volume and prolonged the time of inundation.

42. The **Secretary for Works** said in his letter of 15 January 2001, in *Appendix 11*, that:

- since the first investigations and preliminary reports were undertaken by the DSD's Consultant C in 1997, the analysis on the causes of the flooding had been subject to further review by refining the parameters and criteria used in the analysis in order to validate the initial assumptions against actual rainfall and tidal events. With the additional verified data after the flooding events in 1997 and 1998, Consultant C had conducted follow-up studies at no additional cost to the Government and produced a further report to the DSD in February 1999 on the causes of flooding in Mong Kok. The principal conclusion of this report was as follows:

“Flooding in Mong Kok is caused by inadequacies in the drainage system. The piped drainage system in Nathan Road and adjacent streets has insufficient capacity and localized flooding can occur in moderate rainstorms. In more severe rainstorms such as those which occurred in 1997 and 1998, flooding is made much worse as the nullah which flows from Tai Hang Tung Road to Cherry Street has insufficient capacity. The decked sections at Boundary Street and from Flower Market Road to Cherry Street cause a bottleneck which results in overflowing from the opening sections of the nullah at Tai Hang Tung and Flower Market Road during heavy rainstorms. The water flows overland to flood the low area of Nathan Road from Boundary Street to Prince Edward Road.”; and

- Consultant C's assessment had in fact subsequently been verified by the DSD and was found reasonable based on the latest validated parameters and the actual observations on site. When assessing the real causes of the flooding in Mong Kok and whether Consultant C had provided value for money service, it was highly important and more reasonable to consider both the 1997 and 1999 reports as a whole.

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43. On the question of whether there were guidelines on the handing over of culverts, the **Secretary for Works** said that:

- according to the WB's guideline at that time, the works department had the duty to hand over the completed works to the department concerned for maintenance. Therefore, the works department would discuss with the maintenance department at the design and planning stage so as to take into account the difficulties of the maintenance department. As such, the TDD had consulted the DSD in 1990 and 1992; and
- as the maintenance department might encounter difficulties in maintaining the completed works, it could decide when or whether it should take over the works. As pointed out in paragraph 4.4 of the Audit Report, the DSD had informed the TDD of its difficulties. The two departments have expeditiously resolved the issue together at that time.

44. The Committee noted from paragraphs 4.15 and 4.16 of the Audit Report that it had been agreed among NAPCO, the TDD and the DSD that the TDD would arrange the contractor for Contract B to carry out desilting works for all the culverts in the West Kowloon Reclamation to meet the DSD's taking-over requirements. In March 1997, the TDD's consultant instructed the works contractor for Contract B to desilt the culverts in order of priority. However, the consultant did not give instructions to carry out desilting works for the Cherry Street culvert because the contractor said that the works could not be completed before the expiry of the maintenance period in April 1997. Although in April 1997, the TDD requested the DSD to consider whether its term contractor could be employed to desilt the Cherry Street culvert, no agreement on the desilting arrangement was reached before the rainy season of 1997.

45. The Committee considered that the WB was fully aware of the culvert siltation problem, but the departments concerned tried to shirk the responsibility for the desilting works. The Committee asked why, with the approach of the rainy season, the WB did not employ a contractor to carry out the desilting works as soon as possible so as to prevent flooding in West Kowloon. The **Secretary for Works** said that the departments were aware of the culvert siltation problem at that time and intended to make desilting arrangements as soon as possible. Therefore, the TDD had been negotiating with its contractor about the arrangements. As such works were not included in the original contract, the contractor did not agree to take up the desilting works. In the end, the works were completed a year after the flooding.

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46. The **Director of Territory Development** added that:

- he was working in the NAPCO at that time. As far as the Government was concerned, the siltation in the culverts would have an implication on flooding. The NAPCO was in a co-ordinating position. Although the NAPCO was aware of the urgent need to remove the silt in the culverts, it did not have the funding to pay for the desilting works. As either the TDD or the DSD had to carry out the works at its own cost, both departments were unwilling to take up the desilting works; and
- if the TDD's contractor was required to take up the desilting works, the TDD would have to pay the contractor an enormous amount of money. The TDD considered that the arrangement was not cost-effective and that it would be better for the DSD, which had the expertise, to desilt, than for the TDD to carry out the works.

Maintenance of urban road drainage system

47. The Committee noted from paragraphs 5.16 and 5.17 of the Audit Report that the existing six-weekly frequency of the Food and Environment Hygiene Department's gully cleansing service was rigid and unsatisfactory because many highways did not have a single flooding complaint in the past three consecutive years. While in 1985, the Management Services and Audit Unit of the then Urban Services Department (USD) had recommended a review of the gully cleansing frequency, no follow-up review was undertaken. The Committee asked whether the Administration would conduct the review now.

48. **Mrs Rita LAU NG Wai-lan, Director of Food and Environmental Hygiene**, informed the Committee that:

- the USD's records did not have information on the follow-up on the recommendations of the report;
- when the Food and Environmental Hygiene Department (FEHD) took over from the USD and the Regional Services Department gully cleansing for the urban area and the New Territories, the FEHD decided to adhere to the procedures, guidelines and policies of the two municipal councils to ensure continuity and maintain the quality of service; and

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- in response to the Audit recommendation, the FEHD was carrying out a critical review of the frequency of gully cleansing of highways at night, with due regard to the flooding complaint statistics, to ascertain the actual requirement before finalising arrangements for contracting out the service. The FEHD expected to complete the review in a few months' time so as to achieve an optimal deployment of staff resources.

49. Referring to the involvement of the WB, the Environment and Food Bureau, the FEHD, the Highways Department and the DSD in the maintenance of urban road drainage system, the Committee asked whether the WB would streamline gully cleansing work.

50. The **Secretary for Works** replied that the departments concerned had reached a consensus on the division of work many years ago. The WB recently discussed improvements to the existing arrangements for the maintenance of drainage system with the FEHD, and the discussion was still in progress. Gully cleansing was about the clearing of refuse, which was different from the maintenance of drains. Nevertheless, the WB would continue the discussions with the relevant bureau and departments to work out an improvement proposal.

51. **Conclusions and recommendations** The Committee:

Drainage Master Plan study for West Kowloon

- express serious dismay at the neglect of duties on the part of the Director of Drainage Services, because:
 - (a) the Drainage Services Department (DSD) had not carried out a check on the hydraulic model of the West Kowloon Stormwater Drainage Improvement Study (WKS) some eight months after it accepted the WKS Final Report;
 - (b) the omission of significant flow data in the hydraulic model had gone unnoticed for two years after acceptance of the WKS Report, which the Director of Drainage Services admitted to be an oversight at the time;
 - (c) there was a delay of almost two years in addressing the design issue concerning the potential overflow from the Kowloon group of reservoirs, the risk of flood damages of which was assessed to be unacceptable; and

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- (d) there will be a delay of three years in the completion of all the drainage improvement works for West Kowloon, from 2007 to 2010;
- express dismay that there was no mechanism for requiring the provision of supplementary information to the performance reports on a consultant submitted to the Engineering and Associated Consultants Selection Board (EACSB);
- note that:
 - (a) the DSD now has an in-house team to check computer models produced by consulting engineers for drainage master plans;
 - (b) the DSD and the Water Supplies Department have agreed to adopt an interim measure to increase the storage capacity of the Kowloon group of reservoirs to reduce the potential overflow; and
 - (c) the EACSB issued a circular in September 2000 to remind departments that they should file a supplementary report with an updated appraisal on a consultant's performance to the EACSB if the consultant's performance had not been adequately reflected in the previous reports submitted to the EACSB;
- express concern that the Director of Drainage Services relies heavily on consultants in many facets of his work;
- consider that the Secretary for Works has the responsibility to ensure that the Director of Drainage Services has the ability and procedures to monitor the consultants;

Maintenance of new drainage works in the West Kowloon Reclamation

- consider that having a responsible attitude when discharging public duties is as important as a properly documented procedure;
- condemn the DSD and the Territory Development Department (TDD) for their dereliction of duties in the handing over of new culverts in the West Kowloon Reclamation, because:
 - (a) the delayed handing over of the new culverts was caused by the lack of co-operation between the DSD and the TDD which tried to shirk the responsibility for the desilting works in order to avoid cost, ignoring the public interest, as evidenced by the following:

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- (i) the DSD which is responsible for the maintenance of culverts, had refused to take over the new culverts;
 - (ii) the TDD did not formally reply to the DSD's letters seeking clarification of taking-over requirements with a view to concluding the matter;
 - (iii) the indifferent attitude of the government officials concerned; and
 - (iv) the Director of Drainage Services and the Director of Territory Development had not been personally involved in the matter at the earliest possible time, and the dispute had not been brought to the attention of the Secretary for Works for an early resolution;
- (b) the delay in the handing over of new culverts in the West Kowloon Reclamation to the DSD for proper maintenance had resulted in the accumulation of silt in some of these culverts, aggravating the flooding problem in West Kowloon in 1997; and
- (c) the urgency of the desilting works to reduce the risk of further flooding in West Kowloon had precluded the use of an economical method prescribed in the term contract, resulting in an additional cost of \$26 million more than that required if the original term contract rate had been used;
- note that:
- (a) in August 1999, the Director of Territory Development issued a technical memorandum emphasising the importance of adequate consultation with the DSD on handing-over arrangements at the planning stage of the works; and
 - (b) in September 2000, the Secretary for Works issued a new technical circular to remind works departments to refer unresolved interdepartmental works issues to heads of departments and the Works Bureau for an early resolution of the issues;

Maintenance of urban road drainage system

- note that the Food and Environmental Hygiene Department is carrying out a critical review of the frequency of the mechanical gully cleansing of highways at night to ascertain the actual requirement before finalising arrangements for contracting out the service; and
- wish to be kept informed of the progress of the review.

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Chapter 2

Government's support and administration of kindergarten education

Audit reviewed the Government's support and administration of kindergarten education in the following areas:

- the control of miscellaneous fees charged by kindergartens;
- the services provided by the Advisory Inspectorate of the Education Department (ED);
- the administration of the refund of rent, rates and government rent and the Kindergarten Subsidy Scheme;
- the adequacy of management information of kindergarten education; and
- the administration of the Kindergarten Fee Remission Scheme.

Control of kindergartens' miscellaneous fees

2. The Committee noted from paragraph 2.11 of the Audit Report that, while school fees charged by kindergartens were subject to the ED's assessment and approval, miscellaneous fees charged by kindergartens were not. Paragraph 2.8 revealed that the average profit margin in the miscellaneous fees charged by the kindergartens examined by Audit was as high as 159%. Although the ED had issued guidelines on the profit limit of 15% in selling school items, many kindergartens did not follow those guidelines. Moreover, the ED had not issued any specific guidelines on the profit limit on the provision of paid services, such as parties and graduation ceremonies.

3. In the light of the above, and as private kindergartens were normally not required to submit audited accounts to the ED (paragraph 2.7 of the Audit Report), the Committee queried whether there was a loophole which allowed many kindergartens to derive substantial profits from miscellaneous fees. They also asked how the ED could ensure that kindergartens complied with the 15% profit limit guidelines and whether the ED would consider applying the profit limit to paid services provided by kindergartens.

4. In reply, **Mr Matthew CHEUNG Kin-chung, Director of Education**, said that:

- as private kindergartens did not receive government subsidy, they were not required to submit audited accounts to the ED. However, the ED still had knowledge of their operation through two channels, namely, inspections and complaints;

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- the ED inspected the kindergartens once every three years. During the inspections, the ED staff would also vet the kindergartens' accounts and checked whether they had informed parents of the charging of miscellaneous fees in writing; and
- upon receipt of parents' complaints, the ED would take follow-up action and liaise with the kindergartens concerned.

5. **Mrs Fanny LAW FAN Chiu-fun, Secretary for Education and Manpower,** supplemented that:

- the accounts of private kindergartens were vetted by the ED as all kindergartens were required to submit their applications for fee increase to the ED for assessment and approval. The kindergartens had to list all the expenditure items directly related to teaching and learning. As such, Audit was able to obtain the audited accounts of private kindergartens from the ED. However, the ED only focused on those items in the accounts which were subject to monitoring, and not each and every item;
- the ED did not directly monitor miscellaneous fees because it believed that parents had a choice of whether or not to purchase such items;
- as miscellaneous fees had been exploited by some kindergartens, the ED would define more clearly the components of school fees to incorporate those items which were essential to a child's education and over which parents had no choice, so that such items would be subject to the approval of the Director of Education in future; and
- the 15% profit limit for the sale of school items was stipulated in the Code of Practice issued by the ED vide School Miscellaneous Circular No. 45/95 in April 1995. The ED was now revising the Code to make it explicit that the profit limit of 15% applied to both the purchases of items and paid services.

6. In response to the Committee's enquiries about whether private kindergartens were required to submit audited accounts to the ED, **Mr Dominic CHAN Yin-tat, Director of Audit,** said that:

- non-profit-making kindergartens were Audit's focus in the current review because they received government subsidies; and
- as for private kindergartens, they only submitted audited accounts if required.

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7. Since many kindergartens had not followed the ED's guidelines on the profit limit of 15% in the sale of school items, the Committee queried the use of the guidelines. The Committee also noted from Appendix A of the Audit Report that some kindergartens charged miscellaneous fees that were four times higher than the costs. They asked whether the Administration would consider charging such exorbitant amounts as profiteering.

8. In response, the **Secretary for Education and Manpower** admitted that due to manpower constraints in the past, the ED had focused its efforts on monitoring school fees and other items that were subject to its scrutiny. It had not monitored the charging of miscellaneous fees. However, since the Consumer Council had expressed concern about this, the ED had issued guidelines in this regard in early 2000. She further said that:

- the ED had taken a series of actions to remedy the situation. Discussions had been held with the Consumer Council to identify those fee items that should be subject to ED's monitoring. Kindergartens had been required to provide a breakdown of their optional fees and charges not regarded as school fees, and inform parents of such information. That would provide parents with a basis for choosing kindergartens;
- parents had a degree of choice with regard to private kindergartens. If they considered that the miscellaneous fees charged by a kindergarten were reasonable, they could choose such kindergartens. It would be difficult to define whether a certain level of profit was reasonable or not. It was really up to the consumers to determine whether a kindergarten was profiteering; and
- the Administration considered that it should not set profit ceilings for each and every item. Instead, it would be more appropriate to incorporate into school fees those items which were essential and over which parents did not have a choice of opting out.

9. Noting that the ED would require kindergartens to list out the optional fee items, the Committee were concerned that there were some items, such as birthday parties, over which parents did not really have a choice of opting out. They considered that any activities in the kindergarten was part of the education process that the children could enjoy. The Committee asked how the ED would define those items that were essential to a child's education.

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10. The **Secretary for Education and Manpower** responded that:

- it was agreed that there were some activities, such as graduation ceremonies, which were supposed to be optional but were in fact not. The ED might include them as essential items; and
- the Administration would consult the Kindergarten Education Consultative Committee regarding the provision of a breakdown of the miscellaneous fee items charged. The objective was to enhance transparency as far as possible by making more information public. A decision would be made in early 2001.

11. The Committee noted from paragraphs 2.7 to 2.10 of the Audit Report that the 40 kindergartens which did not comply with the 15% profit limit guideline were all non-profit-making kindergartens under the Kindergarten Subsidy Scheme (KSS). The Committee asked:

- whether these non-profit-making kindergartens collected fees from profiteering services, such as birthday parties and graduation ceremonies, in order to keep their school fees at a level lower than that of private kindergartens; or
- whether they had allocated the profits from miscellaneous fees to their sponsoring organisations for non-education related activities.

12. The **Secretary for Education and Manpower** said that:

- there should be no need for non-profit-making kindergartens to use other incomes to maintain a lower level of school fees because they could apply for government subsidy through the KSS. Parents-in-need could apply for financial assistance under the Kindergarten Fee Remission Scheme;
- in fact, the kindergartens' school fee levels were determined on the basis of their estimated income and expenditure. For non-profit-making kindergartens, a profit margin of 5% of their expenditure had already been provided for in their school fees. If their income could not meet their expenses, they could list out their actual expenses and the ED would approve a higher level of school fee;

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- the Administration would study whether the profits made by non-profit-making kindergartens were spent on the kindergartens' activities or allocated to their sponsoring organisations for other activities; and
- the accounts analysed by Audit were those of 1998-99. Since 1999-00, the ED had introduced some measures to improve the situation. For instance, in April 2000, the ED issued Administration Circular No. 18/2000 on "Rules on Selling School Items or Providing Paid Services by Kindergartens" to remind kindergarten supervisors of the guidelines they should observe in conducting trading activities in schools.

13. The Committee enquired about the effectiveness of new guidelines promulgated vide Administration Circular No. 18/2000 and whether the ED had conducted inspections to ascertain the compliance situation. In response, the **Director of Education**, in his letter of 22 December 2000 in *Appendix 14*, said that:

- since the issue of Administration Circular No. 18/2000 on 19 April 2000, no non-compliance case had been found by the ED during school inspections; and
- through verbal complaints made to the ED, two kindergartens had been found not to have complied with the guidelines on the provision of detailed breakdown of their charges by items. The irregularities were rectified upon the ED's advice. The ED would closely monitor the two kindergartens.

14. On the question of defining the components of school fees, the Committee understood that the Director of Education was empowered under section 14(1)(d) of the Education Ordinance (Cap. 279) and regulation 65 of the Education Regulation to control and approve the school fees charged by kindergartens. However, according to the Education Ordinance, school fee was referred to as "inclusive fee", which was the total sum of money charged in respect of the education of a pupil in a school. The law did not distinguish between essential or non-essential components of school fee. As such, the Committee asked what the ED's interpretation of "inclusive fee" and its authority in this respect were.

15. The **Secretary for Education and Manpower** and **Mr Peter LEUNG Pak-yan, Assistant Director (Special Duties)**, said that "inclusive fee" was the total amount of money charged for the education of a pupil in a school and was directly related to teaching and learning. Such fee was subject to the Director of Education's approval.

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16. In her letter of 22 December 2000, in *Appendix 15*, the **Secretary for Education and Manpower** provided the Committee with the legal interpretation of “inclusive fee”. She stated that:

- as defined in section 3 of the Education Ordinance, “inclusive fee” meant the total sum of money charged in respect of the education of a pupil in a school. According to legal advice, the definition covered fees charged for expenses directly related to the teaching and learning of pupils in a school. Examples were teaching aids and consumables for teaching. Furthermore, in the light of section 14(1)(d), the definition also covered fees charged for expenses related to the cost of maintaining and operating the school and to the standard of education to be provided. Examples were salary, rent, rates, repair and maintenance of school premises, furniture and equipment, electricity, telephone and water charges;
- miscellaneous fees were optional fees outside the scope of “inclusive fee”. They included items such as school uniform, textbooks, school bus and lunch. By definition, purchase of such items should strictly be on a voluntary basis; and
- the ED noted that certain miscellaneous fee items charged by some kindergartens (e.g. birthday parties and graduation ceremonies) were arguably not in fact optional because of their nature. In practice, most parents would choose to pay for these items. The ED was therefore reviewing whether these items should be included in the list of components of “inclusive fee”. The Department intended to consult the Board of Education in January 2001, and make any necessary revision to the list before the start of the 2001 fee revision exercise.

17. The Committee considered that although the components of “inclusive fee” would be defined more clearly and a revised list would be issued, the effectiveness would be doubtful if the ED did not take any action to ensure compliance by the kindergartens. The Committee therefore asked:

- what penalty actions the ED had taken against those kindergartens which did not comply with the profit limit in the past; and
- what mechanism the ED would put in place in future to enable it to monitor the kindergartens' compliance with the guidelines, particularly as not all kindergartens were required to submit detailed accounts with breakdowns of the incomes and expenditures for miscellaneous fee items.

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18. The **Secretary for Education and Manpower** informed the Committee that if the kindergartens in breach of the guidelines were non-profit-making kindergartens, especially if they were subsidised by the Government, warning letters would be issued. Also, the Administration would not rule out the possibility of reducing the subsidy and, more importantly, revoking their registration.

19. In her letter of 22 December 2000, in *Appendix 15*, the **Secretary for Education and Manpower** supplemented that:

- kindergartens were not required by law to prepare audited statements for vetting by the ED. However, as education service providers, kindergarten operators should be held responsible to parents for ensuring that profits obtained from trading activities was reasonable and that parents had been informed of the voluntary nature of the purchase and acquisition of the services;
- parents could play an effective monitoring role on trading activities in kindergartens. To this effect, kindergartens were required to set out any miscellaneous fees they charged in their school leaflets or application forms. The ED would also include information on major miscellaneous fee items charged by each kindergarten in the kindergarten profile for the 2000-01 school year;
- the ED maintained regular contact with the Consumer Council in conducting surveys on the collection of miscellaneous fees by kindergartens, and educating parents of their rights as regards the purchase or otherwise of miscellaneous fee items. The ED would continue to work with the Consumer Council in naming kindergartens in serious non-compliance cases; and
- generally, kindergartens were not allowed to collect miscellaneous fees for "inclusive fee" items. In the longer run, when all essential items were included in "inclusive fee", and when purchase of items and services charged as miscellaneous fees were genuinely optional, it would be for consideration whether there was still a need to retain the 15% profit limit.

20. The Committee enquired about the ED's approach in implementing the measures for monitoring the collection of miscellaneous fees, including the naming kindergartens in serious non-compliance cases. They further asked about the legal basis for the ED to cancel the registration of those kindergartens which failed to comply with the ED's guidelines on the charging of miscellaneous fees.

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21. The **Secretary for Education and Manpower** informed the Committee in her letter of 12 January 2001, in *Appendix 16*, that:

- the ED adopted a proactive approach in monitoring the collection of miscellaneous fees. It had a regular programme of school inspections to examine, amongst other things, records related to the sale of school items and paid services. It would also conduct investigations in response to complaints about failure to comply with the guidelines on the charging of miscellaneous fees issued by the ED;
- in case a kindergarten failed to comply with the guidelines, the Director of Education would normally, depending on the nature and seriousness of the case concerned, issue one or more warnings, demanding immediate remedial action; and
- if the kindergarten failed to remedy the situation, the Director of Education might consider publicising its name, or issuing a notice in writing, under section 82 of the Education Ordinance, giving directions as he thought necessary in order that the school would be operated satisfactorily. The Director might, under section 22(1)(d) of the Education Ordinance, consider cancelling the registration of any kindergarten which failed to comply with his notice.

Services provided by the Advisory Inspectorate of the ED

22. According to paragraph 3.27 of the Audit Report, the performance of many kindergartens had consistently been assessed to be less than satisfactory. At the same time, the Advisory Inspectorate's work had not been entirely effective in assisting these kindergartens in improving their performance. Audit revealed that for the 31 kindergartens that had been regularly assessed to have less than satisfactory performance, follow-up inspections were not carried out until some three years after follow-up inspections had been recommended. Moreover, while the Advisory Inspectorate provided post-inspection support to primary and secondary schools, similar support was not provided to kindergartens.

23. The Committee further noted from paragraph 3.12 that kindergartens with satisfactory performance had been inspected more frequently than those with less than satisfactory performance.

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24. Against the above background, the Committee queried:

- whether it was the Government's current policy to attach less importance to kindergarten education;
- why follow-up inspections had not been taken timely;
- whether the ED would consider providing support to kindergartens in the same way as primary and secondary schools; and
- whether the ED would inspect more frequently those kindergartens with less than satisfactory performance.

25. The **Secretary for Education and Manpower** admitted that, in the past, the Administration had not supervised kindergartens as rigorously as primary and secondary schools. She further said that:

- as primary and secondary schools were comprehensively subsidised by the Government, they were the focus of the ED's monitoring efforts. However, following a review of the overall education system, the Administration now recognised that pre-primary education was the foundation of education and more time and resources should be committed to kindergarten education;
- the ED had developed a set of performance indicators for kindergartens. Moreover, starting from 2000-01, the ED would adopt Quality Assurance Inspection (QAI) for kindergartens. Kindergartens would be selected for QAI on a stratified random sample basis, according to their past performance results. The QAI reports would be published on the Internet, as those of primary and secondary schools, so as to enhance transparency; and
- in future, the ED would inspect more frequently those kindergartens with less than satisfactory performance and give more support to them.

26. The Committee further asked whether the ED would provide post-inspection support to kindergartens and advise the teachers as to how improvements could be made, similar to that for primary and secondary schools.

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27. The **Secretary for Education and Manpower** stated that:

- such services had been provided by the Kindergarten Section of the Advisory Inspectorate Division of the ED. Workshops and seminars were organised to disseminate good practices and share experience. However, the frequency of such workshops and seminars would depend on the resources available; and
- experience-sharing sessions and the provision of advice by the ED's officers would not be sufficient for improving the kindergartens' performance. Upgrading the qualifications of kindergarten teachers and principals were equally important. Hence, a comprehensive set of complementary measures was required.

28. The Committee noted that the ED adopted a "pressure and support" approach for the purpose of achieving quality education. They asked about the ED's initiatives to encourage individual kindergartens to strive for self-improvement. Given that the role of the Inspectorate was to ensure the quality of kindergarten education, the Committee were also concerned that, as revealed in paragraph 3.14 of the Audit Report, the inspectors had spent less time on inspections.

29. The **Secretary for Education and Manpower** replied that:

- apart from developing performance indicators for kindergartens' reference and organising workshops and seminars, the ED had also given kindergartens resources for purchasing books and teaching aids, organised training programmes for teachers and principals, and helped kindergartens to hold parent/teacher meetings in order to enhance communication;
- the inspectors had spent less time on inspections because they were involved in the development of the performance indicators. The task had to be taken up by Kindergarten Inspectors as they had knowledge of early childhood education. There had also been a lot of consultation work; and
- starting from 2000-01, the ED had re-organised its Regional Education Offices so that inspections would not only be conducted by the 10 inspectors of the Inspectorate, but also by the district staff.

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30. While appreciating that the Administration should improve the quality of education, the Committee also noted that there were concerns among the education circle that the Administration's intervention in the education sector was increasing. The Committee therefore asked how the Administration would strike a balance between the need to ensure the provision of quality education and to refrain from intervention.

31. The **Secretary for Education and Manpower** responded that:

- the overall principle of the education reform was to help schools to take ownership and to promote a culture of self-evaluation among them. The Administration only intervened with a view to identifying problems and helping the schools to improve, but not controlling them; and
- the comment that the Administration was intervening too much might have arisen because the Administration had collected more information in order to ascertain the situation and enhance transparency. It should also be noted that the Administration had increased its support and assistance to schools.

32. The Committee were concerned about the 31 kindergartens which had been assessed as performing at a less than satisfactory level for nine consecutive years from 1990-91 to 1998-99. The Committee asked for the reasons for their unsatisfactory performance and the follow-up action that had been taken by the ED. They also enquired whether the ED would publish the inspection results on the Internet for the information of the general public.

33. The **Secretary for Education and Manpower** said that, with effect from September 2000, the ED would publish inspection reports on the Internet.

34. As regards the follow-up actions in respect of the 31 kindergartens, the **Director of Education** informed the Committee in his letter of 22 December 2000, in *Appendix 14*, that:

- Kindergartens Inspectors had conducted 113 full inspections of the 31 kindergartens during the period between the 1990-91 and 1998-99 school years, giving professional advice for improvement;

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- these kindergartens had been regularly assessed as having less than satisfactory performance because they had “systemic weaknesses”, such as weak leadership, frequent change of head teachers and staff, low percentage of trained teachers, unsatisfactory physical environment and inadequate resources. Inspections alone could not lead to immediate improvements in such systemic areas;
- in general, the kindergartens did consider the advice given during inspections and made improvements in some aspects, such as curriculum planning and implementation, more use of teaching aids, a reduction in the amount of mechanical drills for children and the development of an assessment system more geared to children's development;
- as the overall inspection grading of the performance of kindergartens took into account all relevant aspects of curriculum processes, kindergartens which had made improvements in some aspects might fail to reach the standard required in other aspects. Thus, they might still be assessed as less than satisfactory in the inspection reports;
- of the 31 kindergartens, two had already closed. In the 1999-00 school year, full inspections had been conducted on six of the kindergartens. Two warning letters had been issued to two of them for consistently unsatisfactory performance; and
- in the 2000-01 school year, the ED would conduct 14 school development visits and one QAI to the kindergartens. School development visits to the remaining kindergartens would be planned for the 2001-02 school year.

Refund of rent, rates and government rent and the Kindergarten Subsidy Scheme

35. It was stated in paragraph 4.2 of the Audit Report that the Government had been providing financial assistance to non-profit-making kindergartens in the form of reimbursement of rent and rates since 1982. The objective was to provide financial assistance to kindergartens so that they did not have to charge the parents higher fees to meet their rental expenses. However, according to the first inset of paragraph 4.11, the Director of Education had said that the purpose of rates reimbursement was to encourage the establishment of non-profit-making schools. As the two objectives were different, the Committee asked about the rationale behind the reimbursement policy.

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36. Furthermore, the Committee noted from paragraph 4.9 that many kindergartens had operating profits far in excess of the amounts of rent and rates reimbursement. The Committee therefore queried:

- whether the Government should continue to reimburse such kindergartens; and
- whether the savings achieved by kindergartens because of reimbursement could be used for subsidising the non-education related activities of their sponsoring organisations.

37. The **Secretary for Education and Manpower** and **Mr LEE Hing-fai, Senior Assistant Director (Support)**, said that the objective of the reimbursement policy was to help keep down school fees for students' benefits. A kindergarten in receipt of rent and rates reimbursement had to reduce its school fee by an amount commensurate with the reimbursement. As such, its school fee would be reduced.

38. In their respective letters of 22 December 2000, in *Appendices 15 and 14*, the **Secretary for Education and Manpower** and the **Director of Education** supplemented that:

- the objective of reimbursing rent to non-profit-making kindergartens was to alleviate the impact of rental upon the fee levels of such kindergartens so that children from low income families were not denied access to kindergarten education because of their inability to pay the fees;
- in determining the level of school fee of a kindergarten, the ED took into account the expenditure on rent, rates and Government rent the kindergarten would incur. If a kindergarten received reimbursement on rents, rates and/or Government rent (as the case might be), the ED would correspondingly adjust the "approved expenditure" of the kindergarten and, in turn, the approved school fee. There should therefore be no question of recipient kindergartens achieving savings because of the reimbursement; and
- the ED was conducting a review of the policy of reimbursing kindergartens with rent, rates and Government rent. As part of the review, the Department would consider the wider issue of whether the Government should limit the use of a school's surplus to activities that would benefit its pupils only. In the process, the ED would consult widely among various stakeholders, including major sponsoring bodies, kindergartens and parents.

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39. As revealed in paragraphs 4.14 and 4.15 of the Audit Report, some kindergartens that had joined the KSS had consistently been assessed to have less than satisfactory performance. According to the third inset of paragraph 3.31, the Director of Education had said that for those schools with continuous less than satisfactory performance, the ED would not rule out the possibility of cancelling their registration, where circumstances so warranted. The Committee asked about the legal basis for the ED to do so.

40. In his letter of 11 January 2001, in *Appendix 17*, the **Director of Education** stated that:

- there were various provisions in the Education Ordinance under which the Director of Education might cancel the registration of a school. For instance, section 22(1)(e) of the Ordinance empowered the Director to cancel a school's registration where it appeared to him that the management committee was not managing the school satisfactorily. Section 32 of the Ordinance required every school to be managed by its management committee and section 33(a) stipulated that one of the responsibilities of the management committee was to ensure that the school was managed satisfactory;
- under section 82 of the Ordinance, the Director might by notice in writing give directions as he thought necessary if it appeared to him that, for example, a school was not being managed satisfactorily, in order that the school would be operated satisfactorily. As stipulated in section 87(1)(i), failure to comply with such a notice was an offence; and
- the ED would step up action against kindergartens being operated in an unsatisfactory manner. For those kindergartens which continually performed at a less than satisfactory level, written warnings would be issued. For those in receipt of rent and rates reimbursement or which had joined the KSS, the ED might also consider withdrawing government financial assistance as an additional deterrence. If no improvement was made and the circumstances so warranted, the ED might then consider cancelling the school's registration by invoking one the provisions above.

Management information of kindergarten education

41. The Committee understood from paragraph 5.7 of the Audit Report that the ED was developing a centralised "School Dossier" system and that crucial kindergarten information would be included for retrieval and analysis in strategic management exercises. In this connection, the Committee enquired about the nature of the crucial information to be included and when the system would be functional.

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42. The **Director of Education**, in his letter of 22 December 2000, in *Appendix 14*, informed the Committee that:

- as part of its efforts to upgrade its management information capabilities, the ED had recently put in place a “School Dossier” system for primary and secondary schools. It was strictly for internal reference. A similar system would be developed for the kindergarten sector. The following data on kindergartens would be stored in the system:
 - (a) basic school information, including the category and school fees of individual kindergartens;
 - (b) information on the supply and demand of school places, such as permitted accommodation and enrolment by level;
 - (c) information on the non-compliance of regulatory requirements, such as over-enrolment, over-charging school fees and admission of under-aged pupils;
 - (d) information on the performance of kindergartens in teaching and learning;
 - (e) information on teaching staff, including the number of teaching staff and their qualifications; and
 - (f) information on the ED's support to kindergarten education, such as the amount and types of subsidies provided and reports of inspections/visits;
- the data of the “School Dossier” system would be useful for planning the supply of kindergarten places, allocating kindergarten premises, assessing the trend of kindergartens' performance by category, and evaluating the progress of initiatives and the effectiveness of monitoring measures. The information would also be useful for identifying areas for improvement, formulating new initiatives and developing implementation strategy; and
- as much time would be required for the system design and development, data conversion and system testing, it was estimated that the part on kindergartens would be completed in 2002. Nevertheless, some readily available basic information could be retrieved from the system in 2001. During the transition period, the data currently stored in individual systems would still be employed for the purpose of strategic planning and management.

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Kindergarten Fee Remission Scheme

43. According to paragraphs 6.10 to 6.12 of the Audit Report, many applicants of the Kindergarten Fee Remission Scheme (KFRS) had used self-certified income statements as income proof, which were not entirely reliable. However, in 1998-99, the Student Financial Assistance Agency (SFAA) had only conducted 35 home visits to verify the details of the applications, representing less than 0.1% of the 67,513 successful applications in the year. The visits were selected on a random basis.

44. The Committee understood from paragraph 6.13 that the Controller, SFAA had agreed to Audit's recommendation that a risk-based approach for conducting home visits should be adopted by conducting more visits to those applicants who had used self-certified income statements as income proof. The Committee asked about the progress made by the SFAA in implementing the recommendation.

45. **Mr J D Willis, Controller, SFAA** said that:

- the existing practice of selecting home visits on a random basis was made on the advice of the Independent Commission Against Corruption (ICAC). Its concern then was to ensure that no officer should have any discretion over the selection of applicants for home visits. Hence, it recommended that the selection should be performed randomly by computer;
- he had consulted the ICAC regarding Audit's recommendation. If the SFAA was to target a certain type of cases for home visits, as long as the selection was made on a random basis, the concerns of both Audit and the ICAC could be satisfied; and
- he appreciated the need to conduct more home visits. Since the publication of the Audit Report, he had tried to streamline internal procedures in order to release staff resources for home visits. As a result, the SFAA could possibly conduct 600 more visits. However, it would be difficult to determine an appropriate extent of home visits. In any case, he would try to increase the sample size.

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46. Noting that 600 home visits would only be about 1% of the successful applications in 1998-99, the Committee were concerned whether the ratio was appropriate. They considered that Audit had required the SFAA to classify the applications into two strata. The ratio for conducting home visits in respect of the two strata should be determined having regard to the risk associated with each of them. What the ICAC had requested was that a random sampling should be done on each of the two strata. As such, conducting home visits on 1% of all cases would not be meaningful.

47. In response to the Committee's enquiry, **Mr Stanley YING, Deputy Secretary for the Treasury**, said that it would be difficult to determine whether a certain ratio for conducting home visits was appropriate or not without considering the actual circumstances. He understood that Audit had recommended a risk-based approach and the SFAA was working on it. He would look into the SFAA's proposals in this regard to see if the ratio was appropriate.

48. The Committee noted from the third inset of paragraph 6.11 of the Audit Report that although the SFAA had only conducted 35 home visits in 1998-99, it had already detected two cases of inaccurate declaration of incomes based on the self-certified statements, indicating that the problem was quite serious. However, the SFAA had so far not initiated prosecutions against any fraudulent cases. The Committee asked why no prosecution actions had been taken.

49. The **Controller, SFAA** explained that:

- actually, that was one case involving two kindergarten pupils from the same family. When the applicant first applied for kindergarten fee remission, she was a casual worker and did not have regular income. She declared her income to be of a certain amount and fee remission was granted. Subsequently, a home visit was conducted and she was asked what her income was at the time of application. She said that she was not too sure and gave a different answer. The SFAA staff then asked whether the income she had reported at the time of the home visit was the correct one. She replied that it ought to be, but not too sure. She felt that she was earning the current amount for the past 12 months. As she confirmed that she had earned a higher income, the SFAA reduced the level of fee remission granted to her;
- the SFAA considered that there was no fraudulent intent in that particular case. Hence, the applicant was warned and no prosecution action was taken; and

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- the SFAA had strengthened its internal reporting procedures so that, in future, all suspected cases of fraudulent claims would be channeled upwards to senior officers for a decision as to whether or not legal action should be initiated.

50. Paragraph 6.27 of the Audit Report revealed that there had been cases of duplicate claims for assistance and overpayment as both the SFAA and the Social Welfare Department (SWD) processed applications for school fee assistance, and as no data matching was conducted between the records of SFAA applicants and the Comprehensive Social Security Assistance (CSSA) database.

51. The Committee noted from paragraphs 6.30 to 6.32 that the Education and Manpower Bureau would explore the possibility of having one organisation (i.e. either the SFAA or the SWD) responsible for making payments for similar types of assistance, and that arrangements would be made for data matching between the SFAA and the SWD. The Committee asked what the progress so far was.

52. **Mrs Carrie LAM CHENG Yuet-ngor, Director of Social Welfare**, responded that:

- the SWD had been liaising with the SFAA to make arrangements for data matching. By April 2001, the CSSA system would be fully computerised and comprehensive data matching could be conducted between the KFRS applicants and the CSSA families who also received kindergarten fee assistance; and
- in the end, cross-checking information among various systems might not be the best approach for preventing duplicate claims for assistance. Indeed, the Government was operating two systems for providing assistance to needy families with children enrolled in kindergartens. It might be more effective to merge the two systems so that, in future, only one system would deal with kindergarten fee remission. However, there would be technical difficulties. Under the KFRS, there were only two levels of fee remission, at 50% or 100% of kindergarten fee, whereas under the CSSA scheme, the SWD could exercise its discretion to grant an amount higher than the maximum allowed.

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53. The **Secretary for Education and Manpower** said that:

- from an integrity protection angle, risks of overpayment or double payment could be significantly reduced if only one organisation was responsible for making payments for similar types of assistance. Currently, the Government operated two systems under the CSSA scheme and the KFRS. There were different arrangements both in terms of eligibility and the amount of assistance. The Administration would explore the issue; and
- the ED and the SWD had formed a group to study issues related to the monitoring and subsidising of kindergartens and nurseries. The group's recommendations in the future might be able to solve part of the problem.

54. In response to the Committee's enquiries, the **Director of Social Welfare** confirmed that the SWD informed CSSA applicants via the CSSA application forms that the information provided by them would be cross-checked with other agencies or departments. In fact, since the publication of a previous Audit Report on the CSSA scheme, the SWD had been conducting data matching with many government departments, including the Immigration Department, the Treasury and the Correctional Services Department.

55. **Conclusions and recommendations** The Committee:

Control of kindergartens' miscellaneous fees

- express dismay that:
 - (a) there was a lack of control on miscellaneous fees and charges and many kindergartens derived substantial profits from such fees and charges;
 - (b) although the Education Department (ED) had issued guidelines on the profit limit of 15% in the sale of school items, many kindergartens did not follow these guidelines;
 - (c) the ED had not established any mechanism for ensuring compliance with the guidelines; and
 - (d) the ED did not issue any specific guidelines on the profit limit in the provision of paid services by kindergartens;

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- urge the Director of Education to take such expeditious measures to fulfil the undertakings given by the Secretary for Education and Manpower during the public hearing to strengthen the control on miscellaneous fees and charges, including:
 - (a) defining more clearly the components of “inclusive fee” referred to in section 14(1)(d) of the Education Ordinance (Cap. 279) by:
 - (i) identifying, in collaboration with the Consumer Council, the fee items which should be subject to the ED’s assessment and approval;
 - (ii) revising the list of components of “inclusive fee”; and
 - (iii) considering whether to make legislative amendments, where appropriate, to clarify the statutory definition of “inclusive fee”;
 - (b) in consultation with the kindergartens, requiring them to provide a breakdown of their optional fees and charges not regarded as the “inclusive fee”, and including such information in the 2000-01 kindergarten profiles for parents’ reference; and
 - (c) taking actions against those kindergartens which have failed to comply with the ED’s guidelines on the charging of miscellaneous fees, such as by issuing warning letters, publicising the names of kindergartens in serious non-compliance cases, reducing the amount of government financial assistance and cancelling their registration;

Services provided by the Advisory Inspectorate

- express dismay that the kindergartens with less than satisfactory performance had not been inspected more frequently;
- note the Secretary for Education and Manpower’s admission that, in the past, the ED had inspected more frequently those schools to which the Administration had committed more resources;
- acknowledge that the ED now hoped to supervise kindergartens in the same way as primary and secondary schools by:
 - (a) adopting the Quality Assurance Inspection (QAI) mode for kindergartens;

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- (b) selecting kindergartens for QAI on a stratified random sample basis, according to past performance results;
 - (c) publishing the QAI reports on the Internet starting from 2001-02; and
 - (d) inspecting more frequently those kindergartens with less satisfactory performance;
- express concern that many kindergartens' performance had consistently been assessed to be less than satisfactory and that the Advisory Inspectorate's work has not been entirely effective in assisting these kindergartens to improve their performance;
 - recommend that the Director of Education should ensure that the Advisory Inspectorate conducts follow-up inspections on a timely basis;

Refund of rent, rates and government rent and the Kindergarten Subsidy Scheme

- express concern that the ED had not taken any action against some of the kindergartens in the Kindergarten Subsidy Scheme (KSS) that had consistently been assessed to have less than satisfactory performance;
- note that, for those kindergartens in the KSS or those receiving rent and rates reimbursement, where their performance is consistently less than satisfactory, the ED will consider withdrawing the government financial assistance and, where circumstances so warrant, cancelling their registration;
- acknowledge that the ED is reviewing the policy on reimbursing kindergartens with rent, rates and government rents. As part of the review, the ED will consider whether the Government should limit the use of a kindergarten's surplus to activities that will benefit its pupils only. Other stakeholders, including major sponsoring bodies, kindergartens and parents, would be consulted in the process;

Management information of kindergarten education

- express concern that there has been a lack of adequate management information to facilitate the planning and decision making of the ED's senior management;

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- note that the ED is developing a centralised “School Dossier” system and that crucial kindergarten information will be included for retrieval and analysis in strategic management exercises;

Kindergarten Fee Remission Scheme

- express concern that:
 - (a) many fee remission applicants had used self-certified income statements, which were not entirely reliable, as income proof; and
 - (b) there have been cases of duplicate claims for assistance and overpayment when the Student Financial Assistance Agency (SFAA) and the Social Welfare Department (SWD) both granted payments for school fee assistance because no data matching has been conducted between the records of the SFAA applicants and the Comprehensive Social Security Assistance database;
- acknowledge that, in the short term, the SWD will conduct data matching with the SFAA in order to prevent duplicate claims for assistance;
- urge the Secretary for Education and Manpower to explore the possibility of having either the SFAA or the SWD responsible for making payments for similar types of assistance;
- note that the Controller, SFAA will conduct an internal benchmarking exercise to identify opportunities for improving the performance of the SFAA's operations;
- recommend that the Controller, SFAA should critically assess the manpower needs of the SFAA following the benchmarking exercise; and
- wish to be kept informed of:
 - (a) the progress of the measures taken by the Director of Education to define more clearly the components of “inclusive fee”;
 - (b) the progress of the Administration's deliberations on the need for legislative amendments to clarify the definition of “inclusive fee”;
 - (c) the measures taken to improve the services provided by the ED's Advisory Inspectorate;

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- (d) the progress of the actions taken to improve the administration of the KSS;
- (e) the results of the review on the policy on reimbursing kindergartens with rent, rates and government rents;
- (f) the progress of the measures to improve the management information of kindergarten education; and
- (g) the actions taken by the Controller, SFAA and the Director of Social Welfare to improve the administration of school fee assistance.

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Chapter 3

The use of employers' returns and notifications for assessing and collecting salaries tax

Audit conducted a review to ascertain:

- whether the Inland Revenue Department (IRD) had made effective use of employers' returns and notifications for assessing and collecting salaries tax; and
- whether government departments had effectively submitted returns and notifications to the IRD.

2. The Committee noted from paragraph 2.11 of the Audit Report that since 1996, the salaries tax unit of the IRD had discontinued the regular examination of employers' returns. In response to the Committee's enquiry about the reasons for this, **Mr Elmo Charles D'SOUZA, Acting Commissioner of Inland Revenue**, said that:

- based on past experience, the IRD found that the regular examination of employers' returns had just been a routine check. It was very unproductive in terms of revenue and was not cost-effective in terms of the number of staff engaged. For instance, in the three years to 31 March 1989, the wage audits had resulted in an additional tax of only \$130,000;
- the IRD had replaced such a routine exercise with a strategic approach to deal with particular problems that the IRD encountered. For example, as a consequence of releasing the staff from the examination of employers' returns, the IRD had adopted the field audit approach. Field auditors would look into the employers' returns and the way the employers had complied with the requirement. In addition, since the IRD had focused on more high-risk areas, it had been dealing with share option schemes for multi-nationals. As a result, the IRD had generated some \$22 million in revenue. Since 1995, the IRD had been looking at disguised employment cases. As a consequence, the IRD raised about \$228 million; and
- in response to the Audit recommendation for cost-effective procedures for examining employers' returns, the IRD had set up an ad hoc committee, chaired by an Assistant Commissioner, to look into the matter, with a view to determining whether there were more effective alternative means of achieving the same objectives.

3. The Committee noted that in eight of the 10 random samples of employers' returns for 1998-99 examined by Audit, the employers did not provide details of staff remuneration in their profits tax returns. The Committee queried whether there would be more omission cases in the absence of checks by the IRD on employers' returns.

The use of employers' returns and notifications for assessing and collecting salaries tax

4. The **Acting Commissioner of Inland Revenue** said that the IRD had investigated nine of the 10 cases and found that there were four cases in which the employees would have been within the tax bracket and for whom their employers did not submit a return. There were four cases in which the employees earned below the basic allowance. As for the remaining one case, the employer made an error in grouping salaries and wages of two related companies. The actual tax liability was less than \$16,000, notwithstanding the significant discrepancies shown in Table 2 of the Audit Report.

5. The Committee considered that if employers had been aware that the IRD would check their returns, they would have provided all the information. The Committee asked whether the IRD could test-check a randomly selected sample of employers' returns so as to maintain a deterrence against inaccurate returns by employers.

6. The **Acting Commissioner of Inland Revenue** responded that:

- regardless of what information employers provided in their returns, employees were obliged to file true and accurate returns. Nevertheless, the IRD would take the Committee's suggestion on board. In future, it would carry out a compliance check, that is, examining a random sample of cases, so that it could keep people honest; and
- the IRD did conduct a matching exercise by comparing employers' returns with individuals' tax returns. In the past two years, the IRD had recovered tax and penalties of \$34 million and \$38 million respectively.

7. The Committee noted from paragraph 2.22(a) of the Audit Report that the Commissioner of Inland Revenue said that he needed time to consider the Audit recommendation of requiring employers to submit reconciliation statements. The Committee asked whether such a requirement would increase the tax compliance costs to employers.

8. The **Acting Commissioner of Inland Revenue** said that:

- reconciliation statements included not only amounts of remuneration and salaries but also other items like fringe benefits which appeared in different sections of the accounts. As a consequence, preparation of reconciliation statements would cause a considerable additional cost to employers; and

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- as many businesses closed their annual accounts on dates other than 31 March, they would encounter problems in reconciliation. The IRD would need to consult employer associations on the additional requirements recommended by Audit. The IRD would probably not implement the Audit recommendations in totality but would look for more practical ways of dealing with the issues.

Employers' notifications and departure prevention directions

9. The Committee noted from Table 4 of the Audit Report that the largest portion of write-off cases was related to taxpayers who had left Hong Kong on termination of their employment without first paying their tax. According to paragraph 3.12 of the Audit Report, the write-off of tax due from such employees was \$59 million in 1997-1998, \$77 million in 1998-1999 and \$77 million in 1999-2000. In view of the substantial amounts of write-off in these cases, Audit examined a random sample of 20 write-off cases in 1999-2000 involving the departure from Hong Kong of such employees. Paragraph 3.16 of the Audit Report revealed that in one case, the IRD failed to make a timely assessment of tax and issue the demand note to the employee concerned although the IRD had received the employer's notification before the date of departure of the employee. The Committee enquired whether concrete measures had been put in place to prevent the recurrence of the incident.

10. The **Acting Commissioner of Inland Revenue** stated that:

- there were situations in which the employees left all of a sudden without giving any notice to the employers. As a consequence, the employers were unable to withhold money payable to the employees. In some cases, the employers had withheld money but it was not sufficient to cover the tax due from the employees who had left early. There was also the possibility that the employers actually became untraceable or their business had been wound up;
- the IRD would ensure that the employers took their obligation more seriously. When the employers informed the IRD that the employees had left suddenly, the IRD would ascertain the veracity of the information. It was important to educate the employers, so that they understood their obligation and would discharge it;

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- in the case of visiting entertainers and sportsmen, their sponsors were required under the Inland Revenue Ordinance (Cap. 112) to withhold sufficient funds for the payment of their profits tax liabilities relating to their performance in Hong Kong. This practice might provide a model for dealing with certain taxpayers who were more likely to evade tax;
- the IRD did have urgent teams to deal with employers' notifications. In the majority of cases, if no tax was payable, the employers would receive a letter of release to pay the employees the monies the employers had withheld. In those cases with tax liabilities, most of the employees would go to the IRD to pay their tax, and the IRD would issue a letter of release; and
- regarding the 20 write-off cases examined by Audit, in 17 of the cases, the employers said that they had no knowledge of the impending departure of the employees. Prosecution was in progress in one case. The IRD had issued warning letters to the employers in the remaining two cases.

11. According to paragraph 3.19 of the Audit Report, as at 30 June 2000 the IRD had obtained departure prevention directions in 10 of the 20 write-off cases examined by Audit. The Committee noted from paragraph 3.26 of the Audit Report that the IRD took an average of 821 days to obtain a departure prevention direction. In several cases, the employees had subsequently returned to Hong Kong and left again without hindrance. Noting that the ad hoc committee of the IRD was reviewing the relevant procedures, the Committee asked how far the IRD could shorten the time taken to obtain a departure prevention direction.

12. The **Acting Commissioner of Inland Revenue** advised the Committee that:

- prior to 1993, it was a relatively simple matter. The Commissioner of Inland Revenue merely provided a certificate to a District Judge and informed him that the IRD had knowledge about an individual who was about to leave Hong Kong without paying all the tax due from him and the individual should be stopped from leaving;
- with the introduction of the regulations on the liberty of movement under the Hong Kong Bill of Rights Ordinance (Cap. 383), the Inland Revenue Ordinance was amended accordingly. Since then, the IRD had to ensure that an individual was aware of his outstanding tax liability and intended to leave or had left Hong Kong permanently before the IRD could apply for a departure prevention direction;

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- in many cases, it had been difficult for the IRD to have the necessary clear evidence to satisfy a District Judge for the issue of a departure prevention direction. For instance, if an individual had left Hong Kong without notifying his employer or the IRD, or if he had not received the demand note or the demand note was returned to the IRD undelivered, the IRD could not establish whether he had knowledge of his tax liabilities. Nevertheless, the IRD would speed up its procedures as much as possible to ensure that it could obtain a departure prevention direction at the earliest possible time; and
- there were taxpayers in every line of business flitting between Hong Kong and the Mainland. Taxpayers' entering and leaving Hong Kong was not a good reason for obtaining a departure prevention direction, unless the IRD had knowledge and could satisfy a District Judge that the defaulting taxpayer intended to leave Hong Kong permanently. Therefore, it might take a week or a year to gather the relevant evidence for making an application to a District Judge.

13. The Committee were concerned that, as stated in paragraph 3.9 of the Audit Report, the IRD did not take any follow-up action or take any action to impose penalties on the employers found to have failed to submit notifications of commencement/impending cessation of employment of employees. The Committee also noted from Note 1 of Table 4 of the Audit Report that write-off cases with an amount up to \$250,000 were approved by the Commissioner of Inland Revenue or authorised IRD directorate officers, whereas write-off cases with an amount in excess of \$250,000 were approved by the Secretary for the Treasury. Against this background, the Committee asked:

- why the IRD did not take any follow-up action or take any action to impose penalties on such employers;
- whether the IRD would impose heavier penalties on employers who failed to comply with the requirements of notification or withholding money; and
- what the Finance Bureau (FB)'s criteria were regarding the approval of write-off cases.

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14. The **Acting Commissioner of Inland Revenue** stated that:

- at present, the Inland Revenue Ordinance provided for a maximum penalty of \$10,000 for failure on the part of an employer to submit a notification of commencement or cessation of employment. If an employer lodged a return late, he had complied, though not strictly, with the requirements of the Ordinance. Based on the IRD's experience, if the IRD prosecuted such an employer, it would be accused of being vindictive. In a court, the judge was more concerned with whether the employer had in fact filed the return;
- although no prosecution action was taken, the IRD had been issuing warning letters to such employers. The IRD would step up actions against employers who did not fully comply with the requirements of the Ordinance; and
- the ad hoc committee was considering the issue and would seek policy approval in this regard.

15. Regarding the approval of write-off cases with an amount in excess of \$250,000, **Miss Denise YUE Chung-ye, Secretary for the Treasury**, advised the Committee that:

- in every write-off case, the Commissioner of Inland Revenue provided the FB with detailed information showing that the IRD had exercised all its power but could not trace the taxpayer over the past seven years, or that there was reason to believe that the taxpayer was no longer in Hong Kong; and
- even if the tax was written off, it did not mean that the taxpayer had been relieved of his obligation to pay tax. In future, if the taxpayer would reappear in Hong Kong and the Commissioner was able to serve a demand note on him, he still had to pay the tax due.

16. With reference to the substantial amounts of tax written off due to the departure from Hong Kong of employees who had not paid the salaries tax due, the Committee asked about the number of such write-off cases approved by the Secretary for the Treasury and whether she had made any recommendations or taken any remedial measures to protect public revenue.

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17. In reply, the **Secretary for the Treasury** said that:

- as far as she could remember, the write-off cases that she had approved were mainly related to profits tax. There were not many salaries tax write-off cases with an amount in excess of \$250,000; and
- the FB was considering the matter at the policy level and had yet to make a final decision. In fact, many expatriates were law-abiding people. If only a minority of the expatriates was in breach of the law, the FB had to determine whether there was a need to introduce some measures which would affect all the expatriates.

18. According to Table 4 of the Audit Report, there were 739 individuals whose tax due was written off due to their departure from Hong Kong. Paragraph 3.11 of the Audit Report revealed that the IRD had found out their departure after making enquiries with the Immigration Department (Imm D) about these individuals' arrival/departure information. The Committee enquired:

- whether the IRD had obtained departure prevention directions in all the 739 cases;
- whether the information obtained from the Imm D was useful in the recovery of tax; and
- what difficulties the IRD encountered in requesting the Imm D to provide such information for tax recovery purposes.

19. The **Acting Commissioner of Inland Revenue** informed the Committee that:

- departure prevention directions had been issued in respect of 96 of the 739 taxpayers. These 96 cases had been accumulated over the years;
- prior to the enactment of the Personal Data (Privacy) Ordinance (Cap. 486), the IRD had kept a watch list of tax defaulters. When an individual's tax was written off, the IRD automatically advised the Director of Immigration to place the individual on the watch list. Then every time he entered or left Hong Kong, the Imm D would inform the IRD of such movements and his current address; and

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- since the enactment of the Personal Data (Privacy) Ordinance, this information was not so readily available. It was more difficult for the IRD to trace the movements of taxpayers.

20. In the light of the Acting Commissioner of Inland Revenue's remarks, the Committee queried how the IRD could trace a defaulting taxpayer if it did not know when he entered or left Hong Kong. They also asked whether the IRD could take any actions against a defaulting taxpayer if he re-entered Hong Kong as a tourist or passed through Hong Kong.

21. The **Acting Commissioner of Inland Revenue** said that:

- if a defaulting taxpayer returned to Hong Kong and took up employment, went into business or earned any income from Hong Kong again, the IRD would be in a position to recover the tax due from him;
- the IRD did have a database which enabled the Collection Enforcement Section to know all the taxpayer's sources of income and their property ownership;
- after the IRD had detected the defaulting taxpayer, very often it would send a tax inspector to serve on him a copy of the tax demand note and inform him that he had outstanding tax liability. The IRD would also immediately seek to obtain a departure prevention direction;
- there were cases in which a defaulting taxpayer who wanted to come to Hong Kong again would settle his tax liability before he did; and
- the IRD did use whatever resources and means available to identify and track down taxpayers. It had a group of Tax Inspectors which assisted tax collectors in searching for untraceable taxpayers. The IRD followed up taxpayers' addresses and telephone numbers and made enquiries with their neighbours.

22. The Committee asked if the Administration had a database on the number of defaulting taxpayers and the amounts of tax owed by these taxpayers, so that the IRD could recover tax from them upon their return to Hong Kong.

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23. The **Secretary for the Treasury** said that the FB did not have such a database. The database was with the IRD. The Commissioner of Inland Revenue was not required to report to the Secretary for the Treasury the number of successful cases in tax recovery.

24. The Committee noted from paragraph 3.29(i) of the Audit Report that the Commissioner of Inland Revenue had agreed that there was a need to put in place practicable arrangements to ensure the due and timely collection of salaries tax from high-risk employees (e.g. people recruited from outside of Hong Kong). The Committee also noted that it was the IRD's policy to maintain a simple and non-discriminatory tax system in Hong Kong. In this regard, the Committee enquired whether the IRD had taken legal advice regarding tax treatments for employees recruited from outside of Hong Kong.

25. The **Acting Commissioner of Inland Revenue** said that:

- the tax treatment for visiting entertainers and sportsmen seemed to work reasonably efficiently. This model could be a possible solution in respect of high-risk employees; and
- the ad hoc committee was considering the possible solutions and would seek legal advice. The IRD would submit progress reports to the Committee on the various issues identified by Audit.

26. In response to the Committee's view that it would be more acceptable to identify the characteristics of certain taxpayers who were more likely to evade tax by leaving Hong Kong, in his letter of 18 December 2000 in *Appendix 18*, the **Acting Commissioner of Inland Revenue** advised that taxpayers who were more likely to evade tax by leaving Hong Kong shared the following characteristics:

- not being a permanent resident of Hong Kong;
- having a place of abode outside Hong Kong;
- sponsorship for working in Hong Kong; and
- the employment on contract terms.

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27. On the undertaking by the **Acting Commissioner of Inland Revenue** that the ad hoc committee would seek legal advice, the Committee asked:

- what the views of the ad hoc committee were regarding tax treatments for employees recruited from outside of Hong Kong; and
- whether access to information for the investigation of tax offences was exempt from the Personal Data (Privacy) Ordinance.

28. The **Acting Commissioner of Inland Revenue** informed the Committee in his letter of 18 December 2000, in *Appendix 18*, that:

- the IRD had held discussions with the Imm D on the possibility of identifying this group of taxpayers from their records. The initial thinking was to confine any special measures to taxpayers who were not permanent residents of Hong Kong within the meaning of the Immigration Ordinance (Cap. 115). Considerations were being given to various proposals on securing payment of tax from this group of taxpayers. The operational aspects and the likely impact on employers and employees of these proposals were being examined. The IRD was in the process of seeking advice on the legal implications;
- under sections 58(1)(c) and 58(2) of the Personal Data (Privacy) Ordinance, personal data required for the “assessment or collection of any tax or duty” were exempt from data protection principle 3 (use of personal data) and data protection principle 6 (access to personal data). Since the IRD and the data owners, including the Imm D, could usually agree on the interpretation and application of these provisions, no legal advice had been sought; and
- the crux of the matter was that since the enactment of the Personal Data (Privacy) Ordinance, the IRD had to comply with more stringent procedures for obtaining personal data for tax recovery purposes. Previously, if a tax defaulter who was on the watch list had entered or left Hong Kong, the immigration officer would give the IRD the defaulter’s movement particulars and the reported current address over the phone immediately. However, after the enactment of the Ordinance, the Imm D no longer provided such information over the phone and taxpayers’ addresses were only given against memos which specifically quoted the said section 58(2) of the Ordinance and were personally signed by certain authorized IRD officers at the rank of Assessor or above. Inevitably, the process of obtaining information was slower with the consequential detrimental impact on the speed with which the IRD officers could act in particular cases.

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29. In the light of the reply of the Acting Commissioner of Inland Revenue, the Committee asked:

- how far the “more stringent procedures” had caused delay in the tax recovery process;
- whether a watch list of tax defaulters still existed after the enactment of the Personal Data (Privacy) Ordinance; and
- what the time difference was between the Imm D’s provision of a taxpayer’s movement particulars and the reported current address over the phone and against memos.

30. The **Acting Commissioner of Inland Revenue** said in his letter of 8 January 2001, in *Appendix 19*, that:

- since requests for taxpayers’ personal data were also required to be in writing before the enactment of the Personal Data (Privacy) Ordinance, the “more stringent procedures” had not in themselves caused any undue delay in the tax recovery process. Nevertheless, the stoppage of the practice of providing the taxpayer’s reported current address over the phone had slowed down the IRD’s recovery work. It was the latest address of the tax defaulter which was of most use in recovery work;
- there had always been an arrangement between the IRD and the Imm D whereby the IRD were notified of the movements of tax defaulters for tax recovery purposes. Such an arrangement was in compliance with the law, including the Personal Data (Privacy) Ordinance. Therefore, the arrangement continued after the enactment of Ordinance and no alternative system was in place;
- when the IRD wrote to the Imm D to request a defaulting taxpayer’s address, that information that was supplied was not the information according to the reported current address shown on the arrival/departure card, but according to some other records, such as the Registration of Persons records, etc. According to the IRD’s understanding, this was because (i) arrival/departure cards were mostly dispensed with by the Imm D since 1987 under the Easy Travel Scheme, except for persons not holding valid Hong Kong Identity Cards; and (ii) since September 1995, even if an arrival/departure card was completed, the card was not microfilmed by the Imm D due to the streamlining of procedures and hence, in the absence of a computerized

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microfilm index, it was virtually impossible to retrieve such card afterwards. After the enactment of the Personal Data (Privacy) Ordinance, the Imm D continued to give the IRD the movement particulars of tax defaulters over the phone. Although no statistics had been maintained, the experience of the IRD's operations staff was that prior to 1987 the reported current address of a taxpayer as declared on the arrival/departure card was provided over the phone within minutes after the taxpayer's arrival or departure. Since then and especially after 1995, the IRD had to send memos to the Imm D to obtain the taxpayer's address as contained in the Imm D's records and it took an average of about three weeks for the Imm D to supply the address. For urgent cases, the Imm D could reply within a much shorter time frame. There had not been any problem in this respect so far; and

- the IRD and the Imm D had a meeting on 29 December 2000. In view of the significance and usefulness of the reported current address shown on the arrival/departure card (if one was completed), the Imm D had agreed to adjust its procedures and to provide such information in future over the phone regarding tax defaulters who were not Hong Kong residents. The new system would be implemented after the necessary enhancement was made to the Imm D's computer systems.

31. In order to ascertain whether the difficulty in tracing the movements of taxpayers was caused by the Imm D's procedures, the Committee invited the Director of Immigration to provide information on the procedures involved in the provision of taxpayers' movement particulars and addresses to the IRD. The **Director of Immigration** advised the Committee in his letter of 5 January 2001, in *Appendix 20*, that:

- there were about 1,000 requests per month for taxpayers' movement records from the IRD. While the average turnaround time was four working days, replies were issued on the next day in more than 20% of the cases. The procedure had been the same before the enactment of the Personal Data (Privacy) Ordinance;
- with the introduction of the Easy Travel Scheme in 1987, Hong Kong residents using their identity cards for immigration clearance were exempt from completing the arrival/departure cards. Therefore, the Imm D did not provide the IRD with the addresses of tax defaulters encountered at the control points. At a recent meeting with the IRD, this had been identified as an area where improvements could be made. Positive steps were being taken in this regard; and

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- if the IRD wanted to have a tax defaulter's address or other information that was kept on the paper file or microfilm at the Immigration Headquarters, the request would have to be in writing as a standard record management practice. The handling procedure was the same as that for requests for movement records. An average response took about three weeks. If the case was urgent, the Imm D could provide the required information on the same day. This arrangement had been working well for many years.

32. In the light of the Director of Immigration's comments, the Committee wondered whether the enactment of the Personal Data (Privacy) Ordinance had any impact on the time taken to trace the movements of taxpayers.

33. The **Acting Commissioner of Inland Revenue** responded in his letter of 13 January 2001, in *Appendix 21*, that:

- as the reported current addresses were the most up-to-date ones, any delay in obtaining such information would inevitably have an impact on the speed with which IRD officers could act in particular cases;
- most of the IRD's requests for information were not treated as urgent cases because:
 - (a) the taxpayer's address requested was not based upon the information in the arrival/departure card, but was obtained from some other records kept by the Imm D for which there was no point for the urgency; and
 - (b) the movement records often requested was part of the information gathering process for the case officer to determine whether a departure prevention direction might be issued. Thus, there was normally no urgency in such requests prior to the issue of a departure prevention direction; and
- it was a combination of the Personal Data (Privacy) Ordinance and technological change which had impacted on how readily the IRD gained access to the most current address of a tax defaulter. The IRD and the Imm D were working to see how this impact could be minimised.

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Returns and notifications submitted by government departments

34. Regarding the incorrect coding of the government departments concerned, the Committee noted from paragraphs 4.24 to 4.27 of the Audit Report that the Heads of Department concerned had admitted that the omissions involved were due to an oversight or clerical mistakes. The Committee were aware of the fact that while the private sector was penalised for errors in filing employers' returns and notifications, there was no equivalent penalty clause to ensure that the civil service filed the returns and notifications properly.

35. In response, the **Acting Commissioner of Inland Revenue** said that the IRD operated within the constraints of the law. Under the Interpretation and General Clauses Ordinance (Cap. 1), the IRD was not able to take legal action against the Director of Accounting Services.

36. **Mr SHUM Man-to, Director of Accounting Services**, said that:

- the Treasury would remind government departments again to follow the procedure for coding all taxable earnings paid through the Treasury's Payment of Creditors System (POCS); and
- the Treasury had improved the POCS so that there would be a prompt warning on the computer screen to remind government departments to identify the salaries paid to part-time employees as the taxable income.

37. The **Secretary for the Treasury** supplemented that:

- the IRD, as well as other government departments, were part of the Government. The IRD could not initiate legal proceedings against other departments for their failure to work properly;
- the Administration was stepping up education and had kept on reminding the civil servants to do their work properly. As these tasks were mainly undertaken by clerical staff, the training for them would be enhanced; and
- if there was gross negligence on the part of a civil servant, the Administration would follow up the matter in accordance with the Civil Service Regulations.

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38. In response to the Committee's concern over the different treatment for the Government as provided in the Interpretation and General Clauses Ordinance, the **Secretary for the Treasury** stated that the Government had never had the intention to put itself above the law. The Administration accepted the Audit observation that certain government departments had made some errors. The departments concerned would certainly try to make improvements. Although the Inland Revenue Ordinance did not bind the Government, the Government would comply with the law.

39. **Conclusions and recommendations** The Committee:

Employers' returns

- recommend that the Commissioner of Inland Revenue should require the Inland Revenue Department (IRD) to test-check a randomly selected sample of employers' returns to ensure their accuracy and to maintain a deterrence against inaccurate returns by employers;

Employers' notifications and departure prevention directions

- express serious concern that:
 - (a) the write-off of tax, due from employees who were recruited from outside of Hong Kong and who left Hong Kong on termination of their employment without first paying their tax, was \$213 million for the three years 1997-1998 to 1999-2000;
 - (b) none of the employers in the 20 write-off cases examined by Audit had fully complied with the requirements of notifying the IRD and withholding monies on the IRD's behalf; and
 - (c) in 10 of the 20 write-off cases, the IRD had taken a long time, ranging from 348 days to 1,854 days (with an average of 821 days), to obtain a departure prevention direction from a District Judge;
- recommend that the Commissioner of Inland Revenue should:
 - (a) strengthen publicity and education to employers and, in accordance with the Inland Revenue Ordinance (Cap. 112), exercise his power to take vigorous action against those employers who fail to comply with the requirements of notification or withholding money under section 52 of the Ordinance; and

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- (b) regularly review the amounts of tax written off due to the departure from Hong Kong of employees who are more likely to evade tax to determine whether further measures can be taken to protect the revenue;
- consider that the Acting Commissioner of Inland Revenue's response is misleading and are seriously dismayed that he used the Personal Data (Privacy) Ordinance (Cap. 486) as an excuse and shifted the blame to the Immigration Department (Imm D) in order to cover up the IRD's inefficiency in the recovery of tax;
- note that:
 - (a) the Imm D has all along had a procedure to provide to the IRD a defaulting taxpayer's address or other information the same day an urgent request is made to the Imm D; and
 - (b) under the Personal Data (Privacy) Ordinance, personal data required for the "assessment or collection of any tax or duty" are exempt from the relevant data protection principles;
- urge the Commissioner of Inland Revenue to take expeditious action to recover tax without further excuse;
- note that the IRD has set up an ad hoc committee, chaired by an Assistant Commissioner, to examine how best to implement the audit recommendations, including the tax treatments for employees who are more likely to evade tax by leaving Hong Kong and the shortening of the time taken to obtain departure prevention directions;
- urge the Commissioner of Inland Revenue to ensure that the ad hoc committee, in considering the various proposals for securing payment of tax from taxpayers who are more likely to evade tax, will seek legal advice on whether such proposals are in compliance with human rights protection of individuals;
- wish to be kept informed of the recommendations of the ad hoc committee;

Returns and notifications submitted by government departments

- express concern that due to the incorrect coding of the government departments concerned, certain payments of salary and wages in 1998-1999 to non-civil service contract officers and government officers for their part-time jobs were not included in the computerised returns submitted to the IRD;

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- urge the Commissioner of Correctional Services, the Director of Education, the Director of Environmental Protection and the Director of Fire Services to investigate whether there are any cases of gross negligence on the part of individual officers involved in the above cases and, if there are, take follow-up actions against the officers involved;
- express concern that the IRD did not state clearly in its circular memorandum to all government departments the notification requirements for reporting to the IRD the impending cessation of employment and the impending departure from Hong Kong of a government officer;
- recommend that the Commissioner of Inland Revenue should:
 - (a) in consultation with the Director of Accounting Services:
 - (i) spell out the roles of the Treasury and government departments and the notification requirements for reporting to the IRD the impending cessation of employment and the impending departure from Hong Kong of a government officer; and
 - (ii) ensure that all taxable earnings of an officer (i.e. in addition to those items of payment made through the Treasury's Payroll System) are promptly reported to the IRD for the assessment and collection of tax before the officer departs from Hong Kong;
 - (b) in the light of the circumstances leading to the write-off of tax in the cases where the IRD had failed to take urgent action to process submissions of impending departure notifications by departments and to assess and collect the salaries tax in a timely manner, improve the assessment and collection procedures to prevent recurrence of similar cases in future; and
 - (c) examine the feasibility of requiring all government departments, like employers in the private sector, to withhold for a specified period monies due to a government officer who is about to depart from Hong Kong permanently (except for officers leaving Hong Kong on retirement who are entitled to future payments of monthly pension);

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- recommend that the Director of Accounting Services should:
 - (a) regularly remind government departments of the requirement that they should properly code all taxable earnings paid through the Treasury's Payment of Creditors System (POCS) so as to ensure that these payments are all reported to the IRD;
 - (b) in the light of the audit findings and as additional back-year assessments can be made up to the past six years, consider the need to ask all government departments to review their records to ascertain if there had been taxable earnings paid in or after 1994-1995 through the POCS but not properly coded, with a view to reporting all these payments to the IRD for follow-up action; and
 - (c) consider enhancing the POCS so that, at the on-line input stage, the system will automatically display a reminder message to government departments that they should properly code the Creditor Reference Number of a non-civil service contract officer;
- recommend that the Commissioner of Correctional Services, the Director of Education, the Director of Environmental Protection and the Director of Fire Services should file manual returns to the IRD to report the taxable earnings identified by Audit as having been omitted from the Treasury's computerised returns and ascertain if there are other similar cases of omission which have not been reported to the IRD; and
- wish to be kept informed of the follow-up actions taken by the relevant government departments on the cases of gross negligence.

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Chapter 4

Interdiction of government officers

Part I: Introduction

Audit conducted a review of interdiction of government officers with the focus on the administrative arrangements for interdiction as part of the disciplinary mechanism of the civil service.

2. The Committee held a public hearing on 5 December 2000 to receive evidence from the Administration on the findings and observations of the Director of Audit. After the hearing, the Police Force Council Staff Associations (PFCSA) made a request to appear before the Committee to present their views on interdiction of officers under the Police Force Ordinance (Cap. 232). The Committee subsequently held another public hearing on 2 February 2001 to receive representations from the PFCSA and further evidence from the Administration in respect of the views of the PFCSA.

Part II: Evidence taken at the public hearing held on 5 December 2000

Profile and duration of interdiction cases

3. The Committee noted from Table 2 of the Audit Report that there was a slight increase in the number of interdiction cases in the years 1997-98 to 1999-2000. There were 130 new cases in 1997-98, 152 new cases in 1998-99 and 159 new cases in 1999-2000. According to Tables 6 and 7 of the Audit Report, there was an increase in the average duration of interdiction cases in these three years. For the released interdiction cases in 1999-2000, the average duration was slightly more than a year. The Committee asked whether the Secretary for the Civil Service had considered how the situation could be improved.

4. **Mr Joseph WONG Wing-ping, Secretary for the Civil Service**, stated that:
- although there was a slight increase in the number of interdiction cases, he did not detect any upward trend vis-à-vis the size of the civil service. The Civil Service Bureau (CSB) attached much importance to the integrity and conduct of civil servants. The CSB would monitor the situation closely;
 - the longer period of time taken in investigation was a matter of concern in the Civil Service Reform. The CSB would find ways to reduce the time taken up for dealing with disciplinary cases; and

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- in April 2000, the Secretariat on Civil Service Discipline was set up to co-ordinate the processing of disciplinary cases of the various government departments. The CSB had just received a preliminary report from the Secretariat, which showed that the time required for hearings or investigation in disciplinary cases had been reduced by about three months. As the Secretariat had only been in operation for six months, the CSB would conduct an overall review in a year's time with a view to streamlining the disciplinary procedures and further reducing the duration of the disciplinary process.

5. In the light of the Secretary for the Civil Service's reply, and because in interdiction cases which lasted for three years, reducing the duration of disciplinary proceedings by only three months was still not satisfactory, the Committee enquired whether the CSB could further shorten the duration.

6. The **Secretary for the Civil Service** said that:

- if an officer breached the Civil Service Regulations, the CSB would have to conduct a disciplinary hearing and the officer concerned might be interdicted. Where a civil servant committed a criminal offence or breached the Prevention of Bribery Ordinance (Cap. 201), he would be prosecuted. For interdiction cases which involved criminal offences, the time required to complete the legal proceedings was beyond the CSB's control;
- for internal disciplinary cases which did not involve court proceedings, the CSB would normally complete the case within a few months or 18 months at most;
- the CSB would ensure that the hearings were conducted in a fair manner. The civil servants concerned were entitled to certain rights, including seeking information from the CSB and attending the hearings; and
- the CSB was not complacent about having achieved a reduction of three months in the duration of disciplinary proceedings. It would consider the possibility of further reducing the duration of disciplinary proceedings in the overall review.

7. The Committee requested the Secretary for the Civil Service to submit a report on the overall review, setting out the reductions in the duration of different types of interdiction cases. The **Secretary for the Civil Service** undertook to report the outcome of the review to the Committee in a year's time.

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8. In his letter of 27 December 2000 in *Appendix 22*, the **Secretary for the Civil Service** provided the Committee with an analysis of the interdiction cases in 1999-2000, with a breakdown of the time taken up respectively by criminal proceedings and disciplinary proceedings for 43 cases in which interdiction had lasted for more than a year. The breakdown revealed that there were cases in which the duration of the disciplinary proceedings had lasted even longer than criminal proceedings.

9. In response to the Committee's request for further details about the 43 interdiction cases, the **Secretary for the Civil Service** provided more information in his letter of 13 January 2001 in *Appendix 23*. The Committee noted that it was not uncommon that disciplinary proceedings in interdiction cases lasted for more than a year.

10. The Committee noted from paragraph 2.11 of the Audit Report that eight interdiction cases in 1999-2000 lasted for more than three years, of which the two longest cases had lasted for 8.9 years and 10.9 years. Paragraph 2.3 of the Audit Report revealed that the Hong Kong Police Force (HKPF) accounted for 48.3% of the interdiction cases in 1999-2000. The Committee asked whether all the eight prolonged cases concerned police officers.

11. The **Secretary for the Civil Service** said that most of the eight prolonged cases concerned police officers, whereas the remaining cases involved officers in other disciplined services.

12. **Mr HUI Ki-on, Commissioner of Police**¹, said that:

- most of the interdiction cases in the HKPF involved legal proceedings. In one of the cases, a Senior Inspector of Police was arrested by the Independent Commission Against Corruption (ICAC) in January 1993 and was released in the same month. The HKPF immediately started an internal investigation, and in January 1994, the Organized Crime and Triad Bureau of the HKPF arrested him. He was again arrested in June 1994 by the ICAC. Then in February 1996, he was found not guilty by the court. As evidence used in criminal prosecution could not be used again, the HKPF had to conduct an investigation again. In August 1997, the HKPF reinstated him to non-sensitive duty. In the course of disciplinary hearings, he was interdicted again. After the disciplinary hearings, the HKPF decided in January 1999 to dismiss him. In May 2000, before the Chief Executive made the final decision on his dismissal, the interdicted officer resigned. Therefore, the case had dragged on for six to seven years, during which he had been reinstated temporarily to perform duty;

¹ Mr HUI Ki-on proceeded on pre-retirement leave on 2 January 2001.

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- in some cases, the officers were convicted, but their appeals were successful. Their cases were tried again. Hence the long duration of these cases was well justified; and
- he agreed in principle with Audit's view that interdiction should only be resorted to when it was essential to do so. However, in considering whether an officer should be interdicted, the HKPF had difficulties in applying three of the general principles on interdiction stated in paragraph 1.4 of the Audit Report, i.e. (c) possible conflict between the officer's misconduct and his official duties; (f) availability of alternative suitable posting; and (i) likely harm or risk posed to the general public. Referring to factor (c), in many cases, there was a conflict between the officer's misconduct and his official duties. As for factor (f), there was a lack of alternative suitable postings for the interdicted officers in the HKPF. Regarding factor (i), if an officer was not interdicted, he still possessed the police warrant card and could exercise constabulary powers to deal with members of the public. This would not be appropriate. Although civil servants in other government departments would not be interdicted prior to prosecution, due to the above consideration the HKPF would interdict officers at the stage of investigation. As a result, there were more interdiction cases in the HKPF than in other departments, and the duration of interdiction cases was also longer.

13. The Committee noted from paragraph 1.11 of the Audit Report that the Police Force Working Group on Discipline, formed in October 1998, was reviewing the HKPF's disciplinary procedures with a view to streamlining the proceedings. Towards the end of 1999, the HKPF undertook an overall review of the interdiction policy. Consultation within the HKPF was currently in progress. Against this background, the Committee enquired:

- why the review had not yet been completed after more than two years; and
- whether the HKPF could place an officer in a civilian post, instead of interdicting him.

14. The **Commissioner of Police** explained that:

- the HKPF had conducted a review of interdiction in 1997. At that time, the number of interdicted officers was much higher, and many interdicted officers had been reinstated to duty that year. Although there was an increase in the number of new cases in the civil service as a whole, the number of new cases involving police officers had decreased, i.e. there were 83 in 1997-98, 77 in 1998-99 and 65 in 1999-2000; and

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- the review in 1997 focused on the need for interdiction and the circumstances under which officers had to be interdicted. The review did not cover Audit's latest recommendation on the withholding of salary during interdiction. The HKPF was consulting the staff side in this regard. That was why the present review was ongoing.

Withholding of salary during interdiction

15. The Committee noted from paragraph 3.1 of the Audit Report that the CSB had promulgated in the Procedural Manual on Discipline (PMD) that, as a general guideline, 50% of the salary of an interdicted officer should be withheld. According to paragraph 3.3 of the Audit Report, under the Police Force Ordinance, the Commissioner of Police was the interdicting authority for police officers below the rank of Superintendent, whereas under the Public Service (Administration) Order (PS(A)O), the Secretary for the Civil Service was the interdicting authority for police officers at the rank of Superintendent and above. The discretion to withhold an interdicted officer's salary was vested in the interdicting authority. Paragraph 3.6 of the Audit Report revealed that whilst the guideline of withholding 50% of an officer's salary on interdiction had been followed by all the interdicting authorities since July 2000, the HKPF alone had continued to grant full pay to police officers on interdiction below the rank of Superintendent.

16. Against this background, the Committee asked whether in the ongoing review of its interdiction policy, the HKPF would consider changing the practice of not withholding any of the salary of interdicted police officers.

17. The **Commissioner of Police** said that:

- according to paragraph 3.1 of the Audit Report, where an officer was interdicted under section 13(1)(c) of the PS(A)O for an enquiry into his conduct, he received his salary in full. Where a police officer was interdicted under section 17(1)(b) of the Police Force Ordinance for an enquiry into his conduct, he would not receive less than his full pay. The Commissioner of Police had to comply with the law;
- the Commissioner of Police had the statutory authority to withhold up to 50% of the salary of a police officer interdicted under section 17(1)(a) of the Police Force Ordinance. In this regard, he would consider bringing his practice of not withholding any of the salary of interdicted police officers in line with the policy adopted by the rest of the civil service; and

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- at present, three of the 56 police officers on interdiction were of the Superintendent rank and they were handled by the CSB. Two of these three were receiving full pay, and the remaining one was receiving half pay after criminal proceedings had been instituted against him. As for the 53 police officers interdicted by the Commissioner of Police, 18 had been convicted, and payments of their salaries had been stopped. Consideration would be given to withhold 50% of the salary of 18 who had been prosecuted. The remaining 17 officers were under investigation and were therefore receiving full pay.

18. The Committee noted from paragraph 3.14 of the Audit Report that there were different regulations that empowered different interdicting authorities to exercise their discretion whether to withhold the salary of an interdicted officer, and the amount to be withheld. For instance, the Commissioner of Police was empowered to make directions in respect of all officers interdicted under section 17(1)(a) of the Police Force Ordinance. Thus, if the HKPF did not follow the detailed guidelines on interdiction procedures provided in the PMD promulgated by the CSB, the CSB could only discuss with the HKPF the inconsistency in the practice. The Committee asked whether the CSB would conduct a review to ensure, through legislative amendments, consistency in practice and compliance throughout the civil service.

19. The **Secretary for the Civil Service** replied that:

- the PMD had provided the guidelines for general compliance by all government departments on interdiction arrangements. However, individual Heads of Department were allowed under the PMD to exercise discretion for those cases under their jurisdiction after examining the merits of the cases, as provided in the relevant legislation;
- owing to the huge establishment of the civil service, different departments had different modes of operation. In particular, the frontline staff of disciplined services had a lot of contacts with the public. Thus, granting Heads of Disciplined Service a degree of discretion for withholding salary during interdiction was appropriate;
- if the review of the interdiction policy in the HKPF would conclude that the existing practice of withholding of salary could be adjusted to follow that of the rest of the civil service, legislative amendments would not be necessary; and

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- if in future, the Commissioner of Police would conduct a review which might have an impact on other disciplined services, the CSB might have to closely examine the issue with the Commissioner of Police and the Secretary for Security.

20. The Committee noted from paragraph 3.26 of the Audit Report that the Secretary for the Treasury agreed that the different practices in withholding salaries of interdicted officers by different interdicting authorities were undesirable and likely to be subject to challenge by the officers concerned for unfair treatment. The Committee asked whether, in view of the Secretary for the Treasury's remarks, the Commissioner of Police would expedite the ongoing review of the interdiction policy in the HKPF.

21. In response, the **Commissioner of Police** assured the Committee that the direction of the review was to bring the practice of withholding salary of interdicted police officers below the rank of Superintendent during interdiction in line with that of the rest of the civil service. Consultation was currently in progress. He would make a decision and submit the relevant information to the Committee before his retirement.

Part III: Evidence taken at the public hearing held on 2 February 2001

Withholding of salary during interdiction

22. Before the second public hearing on 2 February 2001, the Committee had received a submission from the PFCSA (in *Appendix 24*).

23. At the public hearing, **Mr LIU Kit-ming, Chairman of the Local Inspectors' Association**, made an opening statement on behalf of the PFCSA. He said that:

- interdiction was not the same as taking leave. Although interdicted police officers were not allowed to perform their duties, they were required to report to police stations regularly and were not permitted to leave Hong Kong;
- interdiction was an administrative measure taken unilaterally by the management. The accused officer was presumed innocent until and unless he was proven guilty. Presumption of innocence was the fundamental principle of the Hong Kong legal system and was the bedrock of the rule of law. The foundation of the rule of law would be undermined if the salary of interdicted police officers was withheld before conviction;

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- Audit estimated that the potential reduction in interdiction pay would have been \$3.53 million if the HKPF had withheld 50% of the salary of interdicted police officers below the rank of Superintendent in 1999-2000. However, the PFCSA considered that Audit had made mistakes in its estimation. According to the PFCSA's estimation, the potential reduction would have been \$1.75 million instead. This was a small amount compared to the amount of saving of more than \$550 million made by the HKPF in 1999-2000;
- according to the third inset of paragraph 3.11 of the Audit Report, the Commissioner of Police said that any action taken to reduce an officer's salary before he was found guilty of a criminal or disciplinary offence would have a significant impact on the morale of the officer as well as the HKPF as a whole. If police morale was undermined, it would have a bearing on law and order in society;
- the most effective solution was to streamline the HKPF's disciplinary mechanism and to deploy interdicted police officers to non-sensitive duties;
- according to the Police Force Ordinance, it was the duty of the Commissioner of Police to manage the HKPF. The Commissioner of Police had the power to make the best arrangements as he was required to manage the finance of the HKPF under the one-line vote system. The Commissioner of Police should be allowed to retain the practice of granting full pay to interdicted police officers below the rank of Superintendent in order not to weaken his authority at the same time as he controlled the expenditure of public funds; and
- the PFCSA urged the Commissioner of Police to:
 - (a) deploy police officers to conduct disciplinary proceedings on a full-time basis; and
 - (b) review the HKPF's existing disciplinary mechanism.

24. In his opening statement, **Mr TSANG Yam-pui, Commissioner of Police**, said that:

- at the public hearing on 5 December 2000, Mr HUI Ki-on, the then Commissioner of Police, had undertaken to consider bringing the practice of withholding of salary of police officers interdicted under section 17(1)(a) of the Police Force Ordinance in line with that of the rest of the civil service;

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- a new procedure had been proposed to ensure compliance on the part of the Commissioner of Police with the principles of natural justice in exercising the power conferred by section 17(2)(a) of the Police Force Ordinance. Under the new procedure, an interdicted officer might appeal against the Commissioner of Police's decision to withhold 50% of his salary. The officer would be required to provide documentary proof to support his claim of financial hardship. The Force Welfare Officer would examine the appeal, and the Commissioner of Police would make the final decision on the withholding of salary of the interdicted officer. In exercising the power, the Commissioner of Police would take into account the public interest, the personal circumstances of the interdicted officer and the principles of natural justice;
- on 7 December 2000, the then Commissioner of Police had issued a consultation paper to the various Formations of the HKPF, setting out details of the proposed policy revision and seeking the comments of all staff on the proposal. On 18 December 2000, the Formations forwarded their submissions to the Force Management. The Force Management noted that most of the Formations had raised objections to the proposal, and their argument was based on the principle of presumption of innocence;
- the Force Management was of the view that those police officers who objected to the proposed revised policy might not fully understand section 17(1) to (3) of the Police Force Ordinance. In fact, only police officers interdicted under section 17(1)(a) might be affected by the proposal as the Commissioner of Police might withhold up to 50% of their salary in those cases;
- the then Commissioner of Police had sought legal advice on section 17(1)(a) and (2)(a) of the Police Force Ordinance to determine whether the provisions were in violation of the principles of natural justice. According to the legal advice, the legislation was in order, and the Commissioner of Police should not violate the principles of natural justice when enforcing the provisions;
- in some cases, it would not be in the public interest to grant full pay to the interdicted police officers. For instance, an officer might be caught red-handed in a robbery or might have shot a person in police custody. In those cases, the Commissioner of Police would not have confidence in the officer's integrity to undertake his duties. The officer had to be interdicted;

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- according to the HKPF's statistics, more than 50% of the police officers prosecuted for criminal offences were found to be innocent in the end. Hence consideration should be given to the financial position of individual officers. For example, an officer might have to borrow money to repay his mortgage loan or suspend his children's overseas education. If the Commissioner of Police ordered the reduction of 50% of the officer's salary, it might be against the principles of natural justice;
- the number of interdicted police officers had dropped from 120 in 1996 to 47 at present. The HKPF would strive to reduce the number of interdiction cases. On the one hand, the HKPF would look at the circumstances under which interdicted officers should not receive full pay. On the other hand, the HKPF would make improvements to interdiction procedures so as to plug the loopholes of the existing mechanism; and
- some interdiction cases were complicated, and a lot of time was needed for investigation. Therefore, it would not be practical to set a time limit for processing an interdiction case. Justice should not be looked at from a monetary perspective. Quick justice might not be true justice.

25. According to the second inset of paragraph 3.11 of the Audit Report, the Commissioner of Police had said that an interdicted officer was deemed to be innocent until proven guilty. Therefore, the officer should not be penalised financially until the time he was found guilty. The Committee asked about the Commissioner of Police's stance on the matter.

26. The **Commissioner of Police** replied that:

- after seeking legal advice, the HKPF had changed its stance. According to the legal advice, the relevant provisions in the Police Force Ordinance were in order, but the Commissioner of Police was required to comply with the principles of natural justice in the enforcement of the provisions; and
- the legal advice had been sought after the publication of the Audit Report but before the then Commissioner of Police attended the public hearing on 5 December 2000.

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27. At the request of the Committee, in his letter of 3 February 2001 in *Appendix 25*, the **Commissioner of Police** provided the said legal advice which stated that:

- the Commissioner of Police needed not argue/justify the legality of section 17(2)(a) of the Police Force Ordinance; and
- the power conferred on the Commissioner of Police by section 17(2)(a) to reduce the pay of an officer interdicted under section 17(1)(a) did not permit him to act unreasonably or in bad faith. Therefore, in exercising the power the Commissioner was required to follow the principles of natural justice.

28. The Committee asked whether the CSB had sought legal advice before promulgating the PS(A)O and whether the principles of natural justice had been taken into account in the consideration of the matter.

29. The **Secretary for the Civil Service** said, in his letter of 5 February 2001 in *Appendix 26*, that the CSB had studied the legal advice obtained prior to the formal promulgation of the PS(A)O in July 1997. Apart from the advice that had been couched in general terms (including the Department of Justice's confirmation that, in its opinion, the provisions in the PS(A)O were not inconsistent with the provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong), the CSB had also studied its exchanges with the Department of Justice leading up to clearance of the PS(A)O for promulgation. The CSB could not find anything which shed added light on the fine legal point which the staff side representatives had put before the Committee and which the Commissioner of Police had fully addressed in his letter of 3 February 2001, in *Appendix 25*.

30. The Committee noted from paragraph 1.11 of the Audit Report that towards the end of 1999, the HKPF commenced an overall review of the interdiction policy, and consultation within the HKPF was currently in progress. The Committee also noted from the opening statement by the Commissioner of Police that a consultation paper had been issued to various Formations of the HKPF on 7 December 2000. The Committee enquired whether the two consultation exercises were different.

31. In reply, the **Commissioner of Police** said that the previous consultation was different from that conducted in December 2000. The previous exercise concerned the proposal to reduce the pay for certain categories of interdicted police officers, such as those who had been granted an award of the punishment of dismissal in disciplinary proceedings.

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32. In his letter of 3 February 2001 in *Appendix 25*, the Commissioner of Police provided the relevant documents of the two consultation exercises. The Committee noted from the documents that the previous exercise, conducted in August 2000, contained proposals to defer the granting of annual salary increments to interdicted police officers and reduce the pay to certain categories of interdicted police officers. The consultation exercise conducted in December 2000 dealt with the withholding of salary of police officers interdicted under section 17(1)(a) of the Police Force Ordinance.

33. Referring to the principles of natural justice, the Committee asked whether the practice of granting full pay to interdicted police officers without examining the merits of each case had violated the principles of natural justice.

34. The **Commissioner of Police** responded that the practice of granting full pay to all interdicted police officers without examining the merits of each case was not appropriate and should be rectified. He further elaborated on his understanding of the principles of natural justice, as follows:

- the first principle was that if the HKPF intended to implement a new policy, it should consult its staff on details of the new policy;
- the second principle was that the Commissioner of Police should examine the merits of each interdiction case when deciding the percentage of pay to be withheld;
- the third principle was that there should be an appeal mechanism for interdicted police officers to lodge a claim of financial hardship with the Commissioner of Police; and
- he would strike a balance between public interest and the officer's personal circumstances when deciding the withholding of the salary of interdicted police officers.

35. Noting that the Commissioner of Police had proposed a new mechanism to allow interdicted police officers to appeal against his decision to withhold 50% of their salary, the Committee asked whether there was a similar mechanism in other government departments.

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36. **Miss Jennifer MAK, Deputy Secretary for the Civil Service**, informed the Committee that the guideline for government departments was to withhold 50% of an interdicted officer's salary. In case an officer experienced financial hardship while under interdiction, he could apply for a review of the decision to withhold 50% of his salary. In fact, the CSB had agreed to withhold less than 50% of the salary in some cases.

Shortening of the duration of disciplinary proceedings

37. The Committee noted from paragraph 16 of the submission of 2 February 2000 from the PFCSA, in *Appendix 24*, that the staff side had proposed that the Adjudicating Officer, the Prosecuting Officer and the Defence Representative should conduct disciplinary hearings on a full-time basis with a view to shortening the duration of disciplinary proceedings. The Committee asked whether such an arrangement could be put in place in the HKPF.

38. The **Commissioner of Police** said that:

- following a review of the disciplinary proceedings, the HKPF had launched a pilot scheme under which a police officer was deployed to conduct certain disciplinary proceedings on a full-time basis. However, in view of the complexity of legal procedures and lengthy proceedings, it would be a waste of resources for the HKPF to deploy a lot of officers to undertake such duties on a full-time basis;
- the present practice was that, as soon as disciplinary proceedings started, the Adjudicating Officer and the other relevant parties would be deployed to concentrate on the disciplinary proceedings; and
- the CSB had issued new guidelines to streamline disciplinary proceedings. Under the new guidelines, departments could accept oral statements from the accused officers. Such an arrangement would help reduce the duration of disciplinary proceedings.

39. The Committee requested the Commissioner of Police to keep them informed of the outcome of the pilot scheme. The **Commissioner of Police** undertook to conduct a review of the scheme and report the outcome to the Committee.

Interdiction of government officers

Deployment of interdicted police officers to non-sensitive duties

40. The Committee noted that the PFCSA had proposed to the Force Management that interdicted police officers be deployed to handle non-sensitive duties. The Committee asked whether the Commissioner of Police agreed with the proposal.

41. The **Commissioner of Police** responded that at present there were only 47 officers on interdiction. This did not mean that only 47 officers had committed offences. As a matter of fact, many accused police officers had in fact been deployed to non-sensitive duties. As regards the 47 officers, there was a real need to interdict them and, in the circumstances, it was not possible to allow them to take up any work in the HKPF. Thus, they could not be deployed to non-sensitive duties.

42. **Conclusions and recommendations** The Committee:

Profile and duration of interdiction cases

- express concern that:
 - (a) the amount of interdiction pay and the number of interdiction days increased considerably in the years 1997-98 to 1999-2000; and
 - (b) there was an increase in the average duration of interdiction cases in the years 1997-98 to 1999-2000 and that there were many prolonged interdiction cases;
- find it unacceptable that there are interdiction cases in which disciplinary proceedings last even longer than criminal proceedings and that it is not uncommon for disciplinary proceedings to last for more than a year;
- acknowledge the undertaking given by the Secretary for the Civil Service at the public hearing that he would monitor the situation closely and conduct an overall review in a year's time;
- urge the Secretary for the Civil Service to:
 - (a) expeditiously streamline the existing disciplinary procedures with a view to speeding up the processing of disciplinary cases to facilitate early release of interdiction cases; and

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- (b) regularly review the progress of all interdiction cases and take necessary follow-up action with the Heads of Department concerned on prolonged interdiction cases;

Withholding of salary during interdiction

- express concern that whilst all other interdicting authorities follow the general guideline for implementing legal provisions authorising the withholding of pay in respect of officers who are interdicted when disciplinary or criminal proceedings are being instituted or are about to be instituted against them, the Hong Kong Police Force (HKPF) alone grants full pay to all police officers below the rank of Superintendent who are interdicted for the same reason;
- acknowledge that the Commissioner of Police had admitted that the current practice of granting full pay to all interdicted police officers below the rank of Superintendent until they were convicted of disciplinary or criminal offences should be rectified because by applying such a practice to all cases the Commissioner had failed to exercise his discretion appropriately;
- consider that the Commissioner of Police's proposed revised policy for making a direction on the proportion of pay to be withheld from a police officer below the rank of Superintendent interdicted under section 17(1)(a) of the Police Force Ordinance is in line with the policy applicable to the rest of the civil service and should be supported;

Granting of annual increments to officers on interdiction

- express concern that annual increments are granted to officers on interdiction although they render no active service during the interdiction period;
- consider that an annual increment should not be granted automatically but should be earned by a year of satisfactory service;
- express dismay that the Civil Service Bureau (CSB) had not taken prompt action to rectify the anomaly of granting annual increments to officers on interdiction;
- recommend that the Secretary for the Civil Service should, as soon as possible, take necessary action to cease the practice of granting annual increments to officers on interdiction;

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Ensuring consistency in policy and monitoring of interdiction cases by the CSB

- express concern that the CSB does not have a management information system for consolidating all the interdiction cases, including the released cases, on a regular basis, for detailed analysis of their profile and trend over the years;
- note that there are anomalies and inconsistencies in the administrative arrangements for handling interdiction cases in the following areas:
 - (a) duration of interdiction cases;
 - (b) withholding of salary during interdiction;
 - (c) stoppage of salary after an officer has been found guilty of the offence;
 - (d) withholding of salary of interdicted officers in disciplined services during the appeal period; and
 - (e) granting of annual increments to officers on interdiction;
- expect that the Secretary for the Civil Service, as the policy secretary for discipline matters in the civil service, will ensure consistency in practice and compliance throughout the civil service, such as by issuing to all Heads of Department detailed guidelines on interdiction, notwithstanding the fact that the relevant ordinances have granted the heads of the five disciplined services a certain degree of discretion for withholding salary during interdiction;
- urge the Secretary for the Civil Service to:
 - (a) conduct, in conjunction with the Secretary for Security, a comprehensive review of, and consult Heads of Disciplined Service and relevant staff associations on, the ordinances of the disciplined services and the rules and practices for interdiction with a view to:
 - (i) rectifying the above anomalies and inconsistencies in practices; and
 - (ii) implementing sound and robust administrative arrangements so as to ensure compliance by departments;
 - (b) strengthen the present system of monitoring interdiction cases by requesting departments to submit quarterly returns on all interdiction cases, including the released cases; and

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- (c) conduct detailed analyses of all interdiction cases on a regular basis to monitor the profile and trend of interdiction cases; and
- wish to be kept informed of the outcome of the following:
 - (a) the overall review of the processing of disciplinary cases by the Secretariat on Civil Service Discipline;
 - (b) the ongoing review of the interdiction policy in the HKPF, including the practice of allowing interdicted police officers below the rank of Superintendent to receive their full pay;
 - (c) the review of the pilot scheme on the deployment of a police officer to conduct disciplinary proceedings on a full-time basis; and
 - (d) the comprehensive review of the ordinances of the discipline services and the interdiction rules and practices.

Interdiction of government officers

Chapter 5

Employees Retraining Scheme

The Employees Retraining Scheme is administered by the Employees Retraining Board (ERB). Since the inception of the Scheme in 1992 and up to March 2000, the ERB had received \$1,600 million grants from the Government, and \$490 million levies from employers of imported workers. In 1999-2000, the expenditure of the Scheme was \$384 million. In his policy address of 11 October 2000, the Chief Executive proposed that, starting from the next financial year, an annual recurrent subvention of \$400 million be allocated to the ERB. Audit conducted a review on the administration of retraining courses of the ERB.

2. Before the public hearing, the ERB submitted to the Committee a report, in *Appendix 27*, on the progress of implementing the recommendations of the Audit Report. At the Committee's invitation, the Director of Audit provided his comments on the report vide his letter of 16 December 2000, in *Appendix 28*. The Committee's enquiries and concerns are set out in the ensuing paragraphs.

Provision of job-specific-skill and general-skill retraining courses

3. According to paragraph 2.13 of the Audit Report, section 4 of the Employees Retraining Ordinance (Cap. 423) stated that one of the functions of the ERB was to identify occupations that had high vacancy rates, and then engage the services of training bodies to provide corresponding retraining courses to unemployed people to assist them in securing jobs in those occupations. As revealed in paragraph 2.14, in 1999-2000, there were on average 2,711 job vacancies relating to sales personnel registered with the Labour Department (LD) every month. However, the ERB did not organise any job-specific-skill courses in this job category. Audit considered that the under-provision of retraining courses in this job category could have been caused by training bodies conducting their own market researches and determining the retraining courses individually.

4. The Committee asked whether the ERB would perform a coordinating role to ensure that different retraining courses provided by different training bodies would correspond with the demand in the labour market, instead of relying on individual training bodies to identify job vacancies according to the information available to them.

5. **Mrs Fanny LAW FAN Chiu-fun, Secretary for Education and Manpower**, said that the ERB had already strengthened its market research efforts in the past two years and had worked more closely with the industries to identify employment opportunities. Most of the ERB's full-time training programmes could fulfil the 70% placement rate requirement. This proved that the programmes were relevant to the job market situation.

Employees Retraining Scheme

6. **Mr KWONG Sing-szee, Executive Director, ERB**, added that:

- the LD was only one of the sources of information on job vacancies. For example, there were about 3,000 vacancies for domestic helpers registered with the LD but the ERB knew that there were some 8,000 vacancies in this job category per year;
- the ERB monitored the labour market situation closely and collected employment information through various channels, including the employers' hotline, the 62 training bodies and their regional networks. The staff members of the training bodies had extensive contacts with employers and each training body had set up employers' consultation groups. Staff in the ERB collected job vacancy information from newspapers and trade associations; and
- sales personnel jobs were mainly commission based, requiring people of a younger age with Form 5 educational standard and relevant working experience. On the other hand, the ERB's target trainees were people aged 30 or above, with Form 3 or lower secondary education standard. They also needed regular income. Hence, the ERB considered that it was inappropriate to provide retraining courses in that job category.

7. As there were only three staff members in the ERB's Research and Development Department (paragraph 2.10 of the Audit Report), the Committee asked whether the ERB would increase the manpower for research and analysis. The **Executive Director, ERB** responded that:

- because the ERB did not have the Government's long-term financial commitment in the past, it only employed 55 staff members and spent most of the resources on retraining courses; and
- as the ERB had had access to a lot of information on the labour market, it hoped to maintain the existing manpower for research and development, although consideration would be given to adding one or two more staff. It would be more effective to rely on the training bodies' existing networks.

8. The Committee further enquired whether the conclusion that the requirements of sales personnel vacancies were unlikely to be met by the ERB's retrainees was based on the training bodies' market research findings, and whether the ERB had verified the research findings.

Employees Retraining Scheme

9. In his letter of 29 December 2000, in *Appendix 29*, the **Executive Director, ERB** informed the Committee that:

- the conclusion was based on ERB's own market researches, placement results of retraining courses for sales personnel, feedback from employers in the trade, information about the sales and retail trade in the media, as well as observations by staff of ERB and training bodies through their extensive networks and contacts with all walks of life;
- the ERB had regularly analysed relevant data collected by other bodies such as the Census and Statistics Department, the Vocational Training Council (VTC) and the LD. According to the VTC's survey and the LD's analysis, most vacancies for sales representatives required an education standard of Secondary 5 or above. It was also observed that most retail shops, especially chain stores, preferred younger sales staff; and
- ERB had experienced deteriorating placement outcome of its normal retraining courses for sales personnel in 1998-99. Of the 187 retrainees who had completed training for sales jobs in the year, only 59 (31.5%) were placed in jobs directly related to sales training, whereas in 1997-98, 507(53%) of the 960 retrainee graduates were placed in jobs related to sales training. In view of such placement results, coupled with the mass retrenchment in the retail trade, the ERB was cautious in providing courses for sales personnel, especially when the market demand and placement rates for other courses, such as domestic helpers and security/property management, were very high.

10. In view of the mismatch between the retrainees' skills and the requirements of the occupations with high vacancy rates, such as sales personnel, the Committee asked about the actions taken by the ERB to improve the situation.

11. In his letter of 29 December 2000, the **Executive Director, ERB** stated that:

- under the Executive Council's (ExCo's) policy directives on age and education, as well as the 70% placement rate requirement for ERB full-time courses, the ERB could not provide retraining courses for sales personnel on a large scale. It was also a matter of priority and optimum utilisation of resources. The ERB was inclined to focus more on those retraining courses with good placement rates and suitable for its main target retrainees;

Employees Retraining Scheme

- the ERB had all along responded quickly to market demand. It promptly reshuffled its resources and mobilised training bodies to provide more retraining courses for occupations with good placement outcomes and clear evidence of high vacancy rates;
- the ERB had embarked on a standardisation exercise of all major courses in modular forms in order to ensure uniform quality of courses and skills by different training bodies, to facilitate cost control, and to establish common assessments leading to certification and recognition of retrainees. The standardisation and quality assurance process would ensure that the retrainees would be able to meet the needs of employers and fill up the vacancies;
- multi-skills training was provided to enhance the employability of retrainees, their adaptability and stability in new jobs. Training bodies were encouraged to provide integrated services for full-time retrainees, including pre-training counselling, multi-skills training, post-training follow-up and placement services. ERB had also set up two Retraining Resource Centres to provide follow-up services for retrainees to update their skills and sustain their employment; and
- the ERB had worked closely with training bodies to provide relevant retraining courses to ameliorate the situation of mismatch through various measures, including:
 - (a) in collaboration with training bodies and employers, conducting tailor-made courses for sales personnel to help individual employers with specific manpower needs;
 - (b) strengthening its research functions and providing on a regular basis statistics and analyses of labour market information to training bodies for planning retraining courses;
 - (c) sharing job vacancy information and retraining course information between the ERB, training bodies and the LD through the newly developed computer programme, Retraining Networking System (Rnet); and
 - (d) establishing better information exchange and coordination with training bodies to ensure that provision of retraining courses would meet the market needs.

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12. As regards the provision of general-skill retraining courses, the Committee noted from paragraph 2.23 of the Audit Report that there were variations in the course names, although the nature of these courses was similar. Such variations created difficulties for the ERB in ensuring that retrainees would not repeatedly attend courses of the same type. The Committee asked why the ERB had allowed such a situation to occur and whether it reflected unsatisfactorily on the performance of the ERB.

13. In response to the Committee's concern, the **Executive Director, ERB** said that:

- the ERB agreed that the variations in course names were undesirable. Following an overall review of the issue in 1998, the ERB decided that the major programmes should be standardised. So far, more than 10 courses had already been standardised. After standardisation, the problem of a retrainee repeatedly attending the same retraining course could be prevented; and
- the ERB and training bodies were now linked up by the Rnet. The ERB would be able to spot those trainees who did not meet the ERB's attendance rules or those who repeated the same course.

14. According to paragraphs 3.29 to 3.44 of the Audit Report, some retrainees had attended more retraining courses than those allowed by the ERB's rules. As revealed in paragraph 3.38, a retrainee had attended eight different job-specific-skill courses within six years. The courses he attended included Chinese Dim Sum Making, Office Assistant, Security Guard, Bookkeeping, Decorative Painting, Assistant Electrician (Installation) and so on. The Committee wondered whether the situation reflected that the courses were not useful and so, after attending them, the retrainees were still unable to secure stable employment.

15. The **Executive Director, ERB** said that:

- these were isolated cases. Some retrainees had particular employment difficulties. Others might not like particular jobs or might have been laid off in certain trades and needed to attend other job-specific-skill courses. There were also some trainees who just wanted to learn different skills with no intention to find jobs; and
- the ERB had taken measures to ascertain applicants' motivation to seek employment. It had requested training bodies to conduct interviews with applicants and vet the applicants' employment history.

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16. The Committee asked why the four retrainees (K, L, M and O) mentioned in paragraph 3.38 and Appendix O of the Audit Report were unable to secure a stable job after attending a large number of retraining courses. In his letter of 15 December 2000, in *Appendix 30*, the **Executive Director, ERB** stated that:

- of the four retrainees, two (K and O) were Comprehensive Social Security Assistance (CSSA) recipients and one (L) was aged over 60. They were more vulnerable in the job market and could not stay in jobs for long because of their lack of relevant working experience, social prejudice against them and their own psychological barrier in looking for jobs. Training bodies tended to be more sympathetic towards these disadvantaged groups and allow them to attend retraining courses so as to enhance their employability and to help them come out of the welfare net;
- retrainee M was observed by the training body to have too high expectation and still had illusion about his former higher-paid clerical job of \$8,000 a month. He could not accept and stay in jobs with lower salary and longer working hours; and
- frequent attendance of the courses by these retrainees took place before 1998 when there was no ERB restriction on the number of short full-time courses (one week or less) to be taken. With the operation of the Rnet, all applicants/retrainees in breach of the ERB's rules would be automatically detected by the computer and followed up by the ERB.

17. The Committee were concerned that some people might be abusing the retraining programmes. For example, they might attend a dim sum making course in order to prepare themselves for emigration. Employers were frustrated because a retrainee might work for only one day, quit and then enroll in another course. The Committee asked how the ERB could ensure that the ERB's work achieved value for money.

18. In response, the **Secretary for Education and Manpower** said that:

- retraining the unemployed so that they could find jobs was not an easy task. The ERB trained some 110,000 people per year and it was impossible to ensure that there was no abuse. The placement rate of tailor-made programmes was very high. However, there were indeed some individuals who had special employment difficulties, were too choosy or lacked the motivation to find jobs. It was necessary to conduct follow-up surveys to ascertain the reasons why some people were not able to find jobs and why they quitted the jobs;

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- to ensure the quality of the training programmes, the ERB would conduct questionnaire surveys to ascertain the views of the retrainees on the course contents, and to ascertain whether employers considered that the retrainee graduates they employed could meet their requirements; and
- apart from the unemployed, there were people who had jobs but found that their skills were not adequate. The Administration had to study and coordinate the various facets of the issue, including training, retraining, placement and skills upgrading.

Allocation of courses and defraying training costs to training bodies

19. According to paragraph 2.42 of the Audit Report, under the ERB's system of defraying training costs incurred by training bodies, there was little incentive for training bodies to be cost-conscious because training costs were reimbursed by the ERB in full so long as they did not exceed the approved budgets. Paragraphs 2.42 to 2.45 revealed that there were wide variations in the average unit costs charged by different training bodies. Taking family-care courses as an example, the highest unit cost claimed by a training body was 160% higher than the lowest unit cost claimed by another training body.

20. The Committee noted from paragraphs 2.47 to 2.49 that the Executive Office/ERB (EO/ERB) had recently introduced an indicative common unit cost (ICUC) system to replace the cost-defraying system. Under the system, the EO/ERB had calculated that the unit costs for full-time family-care courses range from \$25 to \$54 an hour per retrainee. The EO/ERB had proposed that the ICUC for family-care course should be set at \$41 an hour per retrainee. In order to ascertain whether the ICUC set by the EO/ERB was reasonable, the Committee asked how the ICUC of \$41 compared with the training costs incurred by the 20 training bodies listed in Figure 3 of the Audit Report.

21. The **Executive Director, ERB** said that:

- the reasons for the wide variations in unit costs were twofold. First, there were historical reasons. When the Employees Retraining Scheme was first implemented, the ERB wanted to expand its network in order to get into contact with people from different walks of life. Hence, the ERB engaged training bodies with different background. Some were trade unions and some were social organisations. As their service targets were different, their expenses, such as staff salaries and rents, varied. Secondly, training courses with different focuses were provided by different training bodies to meet the

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different demands in society. For example, for family-care courses, some training bodies might focus on training domestic helpers to work for upper-class employers, whereas other training bodies might aim at training domestic helpers to work for employers from the lower class. As such, the costs of the training courses would be different, although they were both family-care courses;

- the ERB was concerned about the wide variations in unit costs. In its Three-year Strategic Plan, which was approved in November 1998, the ERB had included in its work plan “Redesign budgeting cycle and unit costs”. The ERB had also reviewed the reasons behind the wide variations. It considered that due to variations in course contents and the training bodies’ target retrainees, the variations in unit costs were not unreasonable; and
- the ERB’s foremost task was to standardise all the training programmes by setting the basic modules of the programmes. The adoption of the ICUC system would also help narrow the variations in unit costs.

22. Regarding the unit costs for family-care courses, the **Executive Director, ERB**, in his letter of 15 December 2000 in *Appendix 30*, informed the Committee that:

- after course standardisation, family-care courses (now called domestic helper retraining courses) with the required modules had a standard duration of 84 hours. The ICUC for the standardised 84-hour domestic helpers retraining course was \$41 per trainee hour, which pitched roughly with the previous unit costs per trainee hours of training bodies E, C and A in Figure 3 of the Audit Report; and
- after course standardisation, 16 of the 20 training bodies listed in Figure 3 of the Audit Report were now running domestic helper training courses at a unit cost per trainee hour at or below the ICUC.

23. The Committee asked whether the ERB had considered suspending the services of those training bodies which charged extremely high unit costs. In his letter of 29 December 2000, in *Appendix 29*, the **Executive Director, ERB** said that:

- the unit costs charged by different training bodies had been time-tested and considered reasonable under the previous cost-defraying system, with due regard to the differences in the background of the training bodies, course contents and duration, class size as well as the range of services provided; and

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- normally the training bodies with higher unit costs were those with the largest training capacity (the 10 largest training bodies provided over 80% of the total training capacity). Therefore, in the short term, it would be impractical and undesirable to suspend their services, especially when their performance outcomes met the ERB's requirements. Any drastic action would only victimise ERB's target groups who needed immediate assistance in retraining to re-enter the employment market.

24. According to paragraph 2.54 of the Audit Report, Audit recommended that in the longer term, the ERB should explore the option of adopting a competitive tender system for appointing training bodies. The Committee asked why the ERB had not established a competitive tender system for bidding of retraining courses.

25. The **Executive Director, ERB** responded that:

- the ERB had looked into the feasibility of competitive tendering and considered it not suitable. As retraining courses were delivered by different training bodies at different locations and times, and the training bodies' target retrainees were different, the costs of the courses were bound to be different. Those with lower costs were small organisations and would not be able to meet the training capacity required. Hence, the ERB had to allow the training bodies with higher costs to provide the courses; and
- the ICUC funding system was indeed a modified form of competitive tendering. With the setting of an ICUC for each type of courses, the ERB would request those training bodies with costs higher than the ICUCs to lower their costs. If the performance of those training bodies were up to the ERB's requirements, the ERB might allow them to operate the courses at a higher cost. For training bodies which did not perform well, even if their costs were lower, the ERB would allocate less courses to them instead of allowing them to increase their costs.

26. According to paragraph 2.38 of the Audit Report, some training bodies might not have professional accounting staff to maintain the accounting records required under the ERB's cost-defraying system. Paragraph 2.39 revealed that one of the shortcomings of the cost-defraying system was that some training bodies did not maintain a separate set of book of accounts for retraining courses. The Committee asked:

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- whether the training bodies were now required to engage professional accounting staff; and
- how the ERB would assist the training bodies in meeting its requirements.

27. The **Executive Director, ERB** said that:

- the irregularities had occurred under the previous cost-defraying system which had its shortcomings. The ERB had issued financial and accounting guidelines to the training bodies requesting them to list clearly the expenditures for retraining courses. The ERB had decided to replace it with the ICUC funding system from 2000-01; and
- the ERB had signed a Memorandum of Understanding (MOU) with the training bodies who were now required to engage qualified accountants or auditors to audit their accounts and ensure that appropriate costs were charged to the retraining accounts. The accounts would be vetted by the ERB regularly.

28. The **Secretary for Education and Manpower** supplemented that:

- when the ERB was first set up, it engaged a lot of training bodies to run a large number of retraining courses. The ERB had now taken measures to screen and remove those training bodies with unsatisfactory performance;
- the ICUC system was one of the ERB's new initiatives and the ERB would explore whether it was the best approach. The ERB had also issued guidelines to the training bodies. If a training body failed to comply with the guidelines, it would not be allowed to run courses. Moreover, the courses would be standardised to facilitate monitoring by the ERB; and
- as the Government would allocate a recurrent subvention of \$400 million to the ERB from the next year, it would consider signing a MOU with the ERB. The Government would also discuss with the ERB as to how it could step up the monitoring of training bodies by cost-effective measures.

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29. Paragraph 2.40 of the Audit Report revealed that in 1999-2000, the ERB's financial audit team had conducted site audits on the accounts of 15 training bodies. A number of anomalies had been identified. For instance, some training bodies had charged inappropriate, irrelevant and excessive costs to the retraining accounts. The Committee were very concerned about the situation and asked about the details of the anomalies, the punitive actions taken against the training bodies concerned, and the measures in place to prevent the recurrence of similar incidents. The Committee further enquired whether the ERB had considered deleting any of the 15 training bodies from its approved list of training bodies.

30. The **Executive Director, ERB** said that the ERB had issued warning letters to the training bodies involved. Guidelines had been issued and training bodies were now required to submit their accounts of expenses to the ERB for vetting on a quarterly basis.

31. The **Secretary for Education and Manpower** assured the Committee that in future, under the new system, the ERB would not assign any course to a training body if it did not comply with the guidelines.

32. In his letters of 15 and 29 December 2000, in *Appendices 30 and 29* respectively, the **Executive Director, ERB** supplemented that:

- the anomalies were mainly on incomplete records and procedural deficiencies, which had subsequently been rectified by the training bodies concerned on ERB's advice. For the two cases observed to have anomalies in specific expenditure items, the ERB had successfully recovered a total of \$137,997 from the two training bodies concerned;
- the ERB had taken various measures to prevent recurrence of similar incidents. For instance, a comprehensive monitoring mechanism had been put in place since January 2000 to ensure the quality of training bodies and training courses. The ERB had required training bodies to sign an MOU with performance indicators to spell out clearly their rights and obligations as well as the expected outcomes from them. New or revised guidelines on financial, accounting and course administration had been issued to all training bodies. The ERB had also strengthened its auditing and monitoring function;

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- as the anomalies identified were mainly procedural in nature or inadvertent errors made by staff of the training bodies under the cost-defraying system, it was considered premature to delete any of them from the ERB's approved list of training bodies. However, the ERB would intensify its monitoring efforts. It would put training bodies in an "observation list", "suspension list" or "deletion list", depending on the extent and seriousness of non-compliance with the ERB's guidelines and requirements. The lists would be reviewed by the Management Audit Sub-committee and the Course Vetting Sub-committee (CVSC) of the ERB; and
- ERB had planned to conduct site audits to the remaining 24 training bodies (other than the 15 training bodies). The ERB had audited eight of them in 2000 and would audit the others in 2001-02. With the existing manpower, ERB aimed at auditing all training bodies at least once in a two-year cycle. Subject to availability of financial resources to appoint additional professional accounting/auditing staff, the ERB planned to complete the audit cycle of all training bodies in one year.

33. As regards whether the ERB had conducted any pre-qualification assessments on the training bodies before appointing them, the **Executive Director, ERB**, in his letter of 29 December 2000 in *Appendix 29*, said that:

- the ERB had conducted pre-qualification assessments on the organisations before appointing them as training bodies; and
- any organisation applying to become the ERB's training body would be required to furnish the necessary information in accordance with the guidelines in a proposal to be submitted to the EO/ERB for initial vetting. The analysis would be presented to the CVSC. Representatives of the applicant organisation would be invited to present their proposal and answer questions from the CVSC. Following approval by the CVSC and endorsement by the Course Development Committee, the new training body would be put on probation for six months before it was formally accepted for inclusion in the ERB's approved list of training bodies.

Registration of training bodies under the Education Ordinance (Cap. 279)

34. According to paragraph 2.63 of the Audit Report, some training bodies had not applied to the Director of Education for registration in order to conduct educational retraining courses under the Education Ordinance. As many premises used for conducting educational retraining courses had not been registered with the Education Department (ED), the Committee asked how the ERB ensured the safety of the persons attending retraining courses.

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35. The **Secretary for Education and Manpower** stated that:

- schools were regulated by the Education Ordinance. Under the Ordinance, a school was where there were 20 or more persons during any one day, or eight or more persons at any one time, attending class together. Normally, schools were considered as places where children attended class for a long time. Thus, the registration requirements for schools were strict. As some retraining courses such as computer, English, accounting and commerce courses were educational in nature, the training bodies were considered as operating schools and were governed by the Education Ordinance;
- on the other hand, there were many courses such as flower arrangement and social dance classes on the market which were attended by adults but were not required to be registered with the Director of Education. Hence, it was for consideration whether premises for retraining programmes should be subject to the same registration requirements as those for schools under the Education Ordinance. If so, the cost of the programmes would be much higher; and
- the Administration was inclined to amend the Education Ordinance to the effect that a general exemption was granted to the training bodies offering educational retraining courses. As legislative amendments took time and the Administration wanted to submit this and other amendments to the Education Ordinance in a batch, the amendment in question might not be introduced within the current legislative session. In the interim, the training bodies concerned would apply for an exemption from the Director of Education under the Education Ordinance.

36. As regards the progress of the training bodies' application for exemption from registration, **Mr Matthew CHEUNG Kin-chung, Director of Education**, said that the problem had been resolved at the moment as he had granted an exemption under the Education Ordinance to the training bodies up to 30 September 2001.

37. The Committee further asked whether the ED had consulted and obtained the consent of relevant government departments before granting the exemption and what the conditions for the exemption were. In his letters of 28 December 2000 and 16 January 2001, in *Appendices 31 and 32* respectively, the **Director of Education** replied that:

- the Education Ordinance did not require the Director of Education to consult or obtain the consent of any relevant government departments before granting exemption for registration. However, upon granting exemption, the ED would, as a matter of course, inform the Fire Services Department, the Buildings Department and the Department of Health of the premises being exempted;

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- some of the educational courses in question were conducted in registered school premises. For these premises, the loading, design, structural and fire safety standards should be in compliance with standards laid down by the Government for school premises. Training bodies operating courses in premises not registered for school purpose were required to make an undertaking in their applications that the premises in use satisfied the following conditions before exemptions were granted:
 - (a) the venue should normally be situated at a height of not more than 24 metres above ground level;
 - (b) the venue should not be on the upper floors of a single staircase building;
 - (c) the venue should not be situated in/over factory, warehouse, cinema or other premises which might endanger the lives or the safety of the students;
 - (d) a minimum of two exits should be provided for any room or storey which could accommodate more than 30 persons; and
 - (e) the venue should not have any unauthorised building works; and
- the above conditions were formulated in accordance with some essential requirements that school operators had to meet when applying for registration of schools. They were conditions provided in the Education Regulations, the Building Ordinance, and the Code of Practice for Provision on Means of Escape in case of Fire 1996 issued by the Buildings Department. The conditions had been promulgated since 2000.

The ExCo's policy directives on target retrainees

38. According to paragraphs 3.4 to 3.17 of the Audit Report, the ExCo's policy directives on target retrainees required that the ERB's retraining places should be primarily allocated to people who are unemployed, aged 30 or above, with no more than lower secondary education. However, Audit found that half of the retrainees admitted to employment oriented courses in 1999-2000 did not meet the age and/or educational criteria for the target retrainees.

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39. The Committee noted that the ExCo's policy directives were set in June 1997 when the unemployment rate was low and the economy was prosperous. As the present-day circumstances were different and the current unemployment rate was higher compared to that in 1997, the Committee asked whether the Administration should report the situation back to the ExCo and review the criteria for admission to the ERB's programmes.

40. The **Executive Director, ERB** said that:

- according to the ERB's record, 93% of the retrainees were unemployed, 89% were aged 30 years or above, and 56% were with lower secondary education; and
- the unemployment rate had been high in the past few years and many people with Form 4 standard were unemployed. It was difficult to verify whether a person had attained Form 3 or Form 4 standard. Hence, the ERB could only target on serving the unemployed. 7% of the retrainees were employed on a part-time basis but would like to seek full-time jobs. People who were employed but faced the danger of being laid off might also be accepted.

41. The **Secretary for Education and Manpower** said that:

- the ExCo directives stated that the Employees Retraining Scheme should primarily focus on providing retraining for the unemployed with no more than lower secondary education and aged 30 or above, with flexibility on age and educational attainment in individual cases. The ExCo also required that employment be provided for new arrivals to Hong Kong. Some of them had high educational attainment in the Mainland but their qualifications were not recognised in Hong Kong. These people should also be offered assistance;
- the ExCo directives allowed certain flexibility as long as the ERB did not tolerate too extreme a proportion of non-compliance with the admission criteria. Based on the statistics, the ERB had not departed from the admission criteria laid down in the ExCo directives; and
- the Administration had recently conducted a manpower demand survey and found that not only people with lower than Form 3 educational attainment needed to be retrained, but also those who had Form 5 standard. The Education and Manpower Bureau (EMB) had set up a committee to focus on those who needed skill upgrading and retraining. In the light of the committee's findings, the EMB would conduct an overall review, including the functions of the ERB

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and the training bodies as well as the coordination between them. It would be more appropriate to report to the ExCo after the review had been completed, instead of dealing with this matter on a separate basis.

42. The Committee enquired whether the admission of people who did not meet the criteria indicated that there was insufficient enrolment in some courses. In response, the **Secretary for Education and Manpower** said that:

- sometimes it would be necessary to offer assistance to people who did not meet the admission criteria. In this regard, the trade unions had reflected their opinions to the EMB. When a company closed down and a group of people became unemployed, some of the people had attained Form 3, some had attained Form 4 or Form 5 standard. As they did not have other skills, they wanted to receive retraining in a certain field together. The ERB would find it difficult to deal with the situation because all the people needed help. Hence, the ERB would have to exercise flexibility; and
- to open up the courses too much to other people would not be appropriate. Otherwise, in order to meet the 70% placement rate requirement and the retention rate, training bodies would be selective in providing courses. There was thus a need to give priority to particular groups of people.

Payment of CSSA allowance to retrainees in receipt of retraining allowance

43. Paragraph 3.49 of the Audit Report revealed that a substantial number of retrainees in receipt of CSSA allowances had not reported their retraining allowances to the Social Welfare Department (SWD), which resulted in overpayment of CSSA allowances to them. Audit estimated that the overpayment of CSSA allowances amounted to \$2 million a year. The Committee asked about the follow-up actions taken by the SWD.

44. **Mrs Carrie LAM CHENG Yuet-ngor, Director of Social Welfare** replied that:

- the SWD followed up all the 2,112 cases referred by Audit. Up to 30 November 2000, the SWD had investigated 90% of the cases, and 197 cases were still pending. The SWD found that 260 cases involved overpayment while the other 1,655 cases did not involve over-payment. In other words, these 1,655 CSSA recipients had reported to the Department that they had been receiving retraining allowances. However, the amount of the retraining allowances were disregarded in the CSSA allowance payable to them as they did not receive more than \$1,805 of retraining allowance;

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- according to the SWD's investigation, instead of Audit's estimation of 39%, only about 14% of cases might involve overpayment. Hence, the amount of overpayment should be less than \$2 million;
- the amount of overpayment of CSSA allowances involved in the 260 cases was \$464,900. The SWD had requested the recipients concerned to refund the amounts overpaid. Repayment would be made on an installment basis so that the families would not be affected; and
- so far the SWD could not confirm that the recipients concerned had intentionally deceived the SWD. Thus, the SWD did not consider prosecuting them.

45. The Committee understood from paragraph 3.48 of the Audit Report that it was the SWD's rule that it disregarded, for the purpose of assessing the amount of CSSA payable, all types of training or retraining allowances received by CSSA recipients up to \$1,805 a month. As a corollary, all the training or retraining allowances received by a CSSA recipient in excess of \$1,805 a month were regarded as income and hence deducted from the CSSA payments. The Committee enquired whether the SWD considered that the line of \$1,805 was drawn at an appropriate level or whether it would inhibit CSSA recipients from taking retraining courses.

46. The **Director of Social Welfare** responded that:

- the demarcation point of \$1,805 applied to other types of income other than retraining allowances. For example, it applied to low-income families which worked for a short period of time. The amount of \$1,805 was the same as the CSSA allowance payable to a singleton adult and was considered an appropriate demarcation point. It provided an incentive for CSSA recipients to find jobs or to receive retraining so that they would not stay in the CSSA net; and
- in fact, the policy on the payment of retraining allowances to CSSA recipients had changed over the years. Before 1995, even a retraining allowance of \$1 was regarded as part of the recipient's income and would be deducted from his CSSA entitlement. That was too harsh. Between 1995 and 1999, any allowances (even those up to \$5000) were disregarded for calculating his CSSA entitlement. That was too loose. Therefore, from June 1999, the current policy was adopted and it struck a proper balance.

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Evaluation of effectiveness of retraining courses and monitoring of training bodies' performance

47. According to paragraph 4.8 of the Audit Report, even though a retrainee had only worked for a short time within three months after attending a retraining course, he was considered as having obtained a job placement. Job placements of such short durations were taken into account in calculating the overall average placement rate of 68%, as stated in the second inset of paragraph 4.1. The Committee asked:

- whether a job placement rate calculated on such a basis was misleading and had indeed inflated the rate; and
- whether the ERB accepted Audit's recommendation that a minimum period of employment was required for the compilation of job placement rates.

48. The **Executive Director, ERB** responded that:

- Audit recommended that a person would have to hold down a job for three months before it was regarded as a successful placement. As the retraining courses were short-term and at basic-skill level, it was very difficult to expect a retrainee to hold down a new job after attending the courses. Moreover, people in Hong Kong switched jobs frequently, which might not be a bad thing if they could secure a better job; and
- a more effective way to help retrainees to retain their jobs was by conducting skill-upgrading training. However, such training was beyond the ERB's resources and scope of work.

49. The **Secretary for Education and Manpower** said that:

- the ERB's existing method of calculating job placement rates was acceptable because it was a successful placement if a person could find a job immediately after completing a retraining course;
- the Administration agreed that it was important to follow up on how well retrainees could hold down their jobs. Therefore, the retention rate was also important. In the MOU to be signed with the ERB, the Administration would request the ERB to conduct retention surveys periodically to ascertain how well retrainees were able to hold down their employment; and

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- there were many indicators for evaluating the effectiveness of retraining courses, such as placement rate, retention rate, and whether the person was working full-time or part-time. Instead of relying on a minimum duration of employment, the evaluation should take all these into account.

50. The Committee considered that the ERB should be held accountable to the public for the public funds allocated to it and for its work. They asked whether the Administration agreed that credible and objective criteria would help establish the real value of the ERB's work.

51. The **Secretary for Education and Manpower** replied that figures were subject to distortion and misinterpretation. There could be many reasons for the retention rate of a particular course being not high, or people's failure to hold down jobs. It would be necessary to study the reasons behind. Otherwise, there would be the undesirable consequence that only certain courses would be offered by retraining bodies but not those that were genuinely in need.

52. In regard to the ERB's monitoring of training bodies, in view of paragraph 4.30 of the Audit Report which stated that many training bodies had breached the ERB's rules in relation to the provision of retraining courses or accounts, the Committee asked whether the training bodies were competent enough to provide retraining courses and whether the ERB had been monitoring the training bodies effectively.

53. The **Secretary for Education and Manpower** and the **Executive Director, ERB** responded that:

- when the ERB was first set up, the unemployment rate was not very high. In 1998 and 1999, unemployment became a very serious problem. The ERB had to expand rapidly and engage the service of many training bodies in order to meet the needs of the unemployed;
- since the end of 1998, the ERB had formulated a Three-year Strategic Plan with a view to enhancing the quality and cost-effectiveness of the training programmes, and strengthening the monitoring of training bodies; and

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- training bodies were the ERB's partners. The ERB hoped to enhance the communication with training bodies and helped them establish a self-regulatory system. The ERB had also stepped up the monitoring of training bodies by devising a comprehensive monitoring framework, setting performance indicators for evaluating their effectiveness, and assessing whether their unit costs were reasonable.

54. In his letter of 15 December 2000, in *Appendix 30*, the **Executive Director, ERB** elaborated on how the ERB would assist training bodies in meeting the requirements of its new initiatives under the Three-year Strategic Plan. He stated that:

- a two-pronged approach was adopted by the ERB. Under the "soft" approach, the ERB treated training bodies as its strategic partners. It believed that effective communication with training bodies was the key to mutual understanding and for training bodies to comply with requirements. ERB had introduced various communication channels with all its training bodies, for example:
 - (a) training bodies' views were sought before implementing new guidelines and initiatives so that they were sufficiently involved in reforms, development and implementation of the new initiatives;
 - (b) to enhance quality of training, the ERB had so far set up 11 Course Steering Groups (CSGs) comprising representatives from various training bodies to review and standardise major course types, prepare training manuals and work out common assessments in the course standardisation exercise;
 - (c) special working groups, such as Research and Development Working Group and Placement Services Working Group, had been set up. This partnership would ensure that training bodies would endorse and comply with the ERB's requirements, course improvement as well as other reforms; and
 - (d) ERB had regularly conducted briefing sessions and experience sharing workshops for front-line staff of training bodies in order to enable them to understand clearly the new or revised administrative guidelines and procedures; and

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- on the “hard” side, the ERB had strengthened its auditing and monitoring functions:
 - (a) it had revamped its overall monitoring mechanisms to ensure that only quality training bodies and training courses were approved;
 - (b) training bodies were required to sign an MOU which clearly spelt out their rights and obligations, expected outcome and performance indicators;
 - (c) course administration and financial guidelines had been issued;
 - (d) a Management Audit Unit had been established to carry out management and financial audits of training bodies and training courses, and to advise training bodies on areas for improvement; and
 - (e) a Management Audit Sub-committee and a Management Audit Working Group had been formed to review site-visit findings and recommendations by the ERB’s audit teams, and monitor the progress of the rectification measures taken by training bodies.

55. The Committee asked whether the ERB would consider removing those training bodies which failed to perform up to the new standards. In his letter of 15 December 2000, in *Appendix 30*, the **Executive Director, ERB** informed the Committee that:

- the ERB was considering deleting four training bodies from its approved list in view of their inactive status over the past years. As one of the new initiatives under its Three-year Strategic Plan, the ERB had deleted 10 training bodies from the approved list in the past two years;
- training bodies were given some time to improve their administrative and accounting operation as well as quality of training. All the training bodies were evaluated against the various performance indicators and the extent of compliance with the ERB’s stipulated requirements; and
- in the event of serious or repeated breaches of the requirements and/or failure to achieve the prescribed standards and outcomes, training bodies concerned would be put on probation for close observation and warned against possible deletion from the approved list. The ERB would remove from its approved list those training bodies which had committed serious offences or repeatedly failed to meet the ERB’s requirements even after probation. The ERB would review the list of approved training bodies regularly.

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56. **Conclusions and recommendations** The Committee:

- express dismay and serious concern over the unsatisfactory performance of the Employees Retraining Board (ERB), as demonstrated by the following:
 - (a) the failure of the Executive Office of the ERB (EO/ERB) to verify, on a regular basis, the accuracy of job placement information compiled by training bodies;
 - (b) the failure of the ERB to define the minimum period of employment before calculating job placement rates thereby inflating the rates and the value of its retraining programmes;
 - (c) the failure of the ERB to adequately monitor the expenditure incurred by the training bodies in operating retraining programmes; and
 - (d) the failure of the ERB to exercise sufficient controls over the frequency of retrainees attending full-time course;

Provision of job-specific-skill retraining courses

- express serious concern that:
 - (a) job-specific-skill retraining courses conducted by the ERB did not correspond with the demand in the labour market; and
 - (b) the ERB had not performed a coordinating role to ensure that different retraining courses provided by different training bodies corresponded with the demand in the labour market;
- express dismay that the ERB would rather commit more resources to the provision of retraining courses than taking the lead to conduct independent market research to ensure that the retraining courses provided would correspond with market needs;
- recommend that the Executive Director, ERB should:
 - (a) make structured and comprehensive forecasts of job vacancies in different job categories on a regular basis, based on the labour market information collected from various sources;

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- (b) coordinate the efforts in research and development of different training bodies, as well as their promotion and advertisement of retraining courses, to ensure that there is no duplication of resources, and to prevent the provision of retraining courses that do not meet the demand in the labour market; and
- (c) adopt more objective and credible criteria, such as a minimum period of employment, for arriving at job placement rates, so as to establish the real value of its work;

Provision of general-skill retraining courses

- express concern that:
 - (a) there were wide variations in the course names of general-skill retraining courses, which caused confusions to retrainees when applying for these retraining courses, and created difficulties for the ERB in its efforts to ensure that retrainees would not repeatedly attend courses of the same type; and
 - (b) some retrainees were allowed to repeatedly attend courses of the same type;
- note that the EO/ERB will:
 - (a) implement course standardisation by early 2001; and
 - (b) use the new Retraining Networking System (Rnet) to check all applications to ensure compliance with the ERB's attendance rule;

Allocation of courses and defraying training costs to training bodies

- express grave dismay that some training bodies charged inappropriate, irrelevant and excessive costs to the retraining accounts;
- express grave dismay and alarm that the ERB had allowed the above situation to occur and prevail by:
 - (a) taking only weak and ineffective follow-up actions against the defaulting training bodies; and

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- (b) allocating retraining programmes to such training bodies indiscriminately without seriously considering deleting them from the approved list;
- express concern that:
 - (a) the cost-defraying system was ineffective in ensuring that the ERB would obtain value for money in deploying its retraining resources; and
 - (b) there were wide variations in unit costs claimed by different training bodies;
- note that the ERB will implement an indicative common unit cost (ICUC) system to replace the cost-defraying system;
- express concern that, as the determination of the ICUC is based on training bodies' past cost records, and there is a lack of objective criteria for determining the costs of providing retraining courses, the ICUC cannot provide adequate assurance that the ERB will obtain the best value for money in deploying its retraining resources;
- note that the ERB will explore the feasibility of adopting a competitive tender system for appointing training bodies;
- recommend that the Executive Director, ERB should, if a competitive tender system is adopted, draw up tender procedures by making reference to the best practices to ensure that the system is fair and cost-effective and that the quality of retraining courses is not jeopardised;

Registration of training bodies under the Education Ordinance (Cap. 279)

- express concern that 17 training bodies conducting educational retraining courses had not applied to the Education Department (ED) for registration under the Education Ordinance;
- express concern that the ERB had not clarified with and sought advice from the ED on the registration of training bodies under the Education Ordinance;
- note that:
 - (a) the Administration is considering introducing amendments to the Education Ordinance to grant a general exemption to the training bodies offering educational retraining courses;

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- (b) in August 2000, the ERB signed a Memorandum of Understanding with all training bodies to require them to ensure the loading, design and structural safety of the premises on which retraining courses are conducted; and
- (c) the Director of Education has granted exemption from registration up to 30 September 2001 to the operators of retraining courses which are educational;
- consider that the safety of the persons inside the premises in which the ERB conducts retraining courses is of paramount importance;
- recommend that the Executive Director, ERB should take action to ensure that the premises on which retraining courses are conducted meet the loading, design, structural and fire safety standards of the Government;

The Executive Council's (ExCo's) policy directives on target retrainees

- consider that present-day circumstances are different from those when the ExCo's policy directives were set;
- note the Secretary for Education and Manpower's statement that the Education and Manpower Bureau would report back to the ExCo in due course with regard to the ExCo's policy directives on target retrainees, which state that the Employees Retraining Scheme should primarily focus on retraining those who are unemployed, aged 30 or above, with no more than lower secondary education;
- urge the Secretary for Education and Manpower to review the criteria for admission to the ERB's programmes in order to identify other more effective and efficient options, in the light of job placement experience and the current higher unemployment rate compared to that in 1997;

Payment of Comprehensive Social Security Assistance (CSSA) allowance to retrainees in receipt of retraining allowance

- express concern that:
 - (a) a large number of CSSA recipients did not report their retraining allowance to the Social Welfare Department (SWD), which resulted in overpayment of a substantial amount of the CSSA allowance to them; and

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- (b) the SWD did not make arrangements with the ERB to conduct checks on retrainees who received both the retraining allowance and CSSA allowance, so as to prevent and detect overpayment of the CSSA allowance;
- note that the EO/ERB:
 - (a) has, since May 2000, required retrainees to declare whether they are CSSA recipients and to give consent to the ERB to pass their personal particulars to the SWD for conducting checks against the CSSA data;
 - (b) conducted a comprehensive data-matching exercise with the SWD in early October 2000 to check whether there were retrainees receiving both the retraining allowance and the CSSA allowance at the same time. A similar data-matching exercise will be conducted in March/April 2001; and
 - (c) will, when the data-matching program is completed by the SWD in early 2001, supply retrainees' data to the SWD for conducting periodic data matching;
- urge the Secretary for Education and Manpower to critically review the anomalies that have been identified and ensure that the ERB has taken effective corrective actions on a timely basis, in advance of the next funding application; and
- wish to be kept informed of:
 - (a) the ERB's decision regarding the setting of a minimum period of employment for the purpose of calculating the job placement rate of retrainees;
 - (b) the progress of the verification of evaluation forms completed by retrainees, review of the system of performance indicators, user-opinion survey, and retrainees' skills development;
 - (c) in relation to the ExCo's policy directives on target retrainees, the progress of reporting back to the ExCo;
 - (d) the progress of the implementation of course standardisation;
 - (e) the progress of the review on the adoption of a competitive tender system for appointing training bodies;

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- (f) the progress of the implementation of the Rnet system for checking the frequency of retrainees attending different full-time job-specific-skill courses, and the production of exception reports on retrainees who have attended a certain number of courses;
- (g) the progress of the data-matching exercises and the SWD's follow-up actions;
- (h) the progress of the retention surveys, job placement surveys, and analyses of retrainees' job placement profile; and
- (i) the progress of publishing in the ERB's annual reports summaries of analyses of the retrainees' job placement rates in relation to different retrainees' profile.

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Chapter 6

Construction of two bridges

The Committee originally scheduled to hold a public hearing on this subject on 7 December 2000. However, the Committee received a request from the Director of Highways for the hearing to be conducted in camera. The request was made on two grounds:

- (a) the Government should honour the confidentiality provision of the construction contracts to avoid making public sensitive materials provided by the contractors of the two bridges during the dispute resolution process; and
- (b) releasing any sensitive materials unilaterally by the government to the public domain would unfairly jeopardise the resolution of outstanding disputes between the parties concerned.

2. In order to consider the request, the Committee have sought information from the Administration, including justifications for making the request and information relevant to their examination of the Director of Audit's report. To allow themselves more time to consider the various issues involved and the additional information provided by the Director of Highways, the Committee have decided to defer a full report on this subject.

**The use of employers' returns and notifications
for assessing and collecting salaries tax**

Chapter 7

Comprehensive Redevelopment Programme of the Housing Authority

Audit conducted a review of the Comprehensive Redevelopment Programme (CRP) of the Housing Authority (HA) to examine whether economy, efficiency and effectiveness had been achieved and whether there was room for improvement in the management and delivery of the CRP.

Delays of CRP projects and vacancy of new flats in reception estates

2. The Committee noted from paragraph 1.3 and the first inset of paragraph 5.2 in the Audit Report that the main objective of the CRP was to improve the living conditions of affected tenants of the older public housing blocks, and not to keep costs and subsidies down by delaying CRP projects. However, according to the last inset of paragraph 5.2, the Director of Housing had said that in strict monetary terms, the HA would often save considerable costs if there were delays in the CRP. Against this background, the Committee asked what the HA's primary objective in launching the CRP was.

3. **Dr CHENG Hon-kwan, Chairman, HA**, said that:

- the objective of the CRP was to improve the living environment of the residents and the environment in the community, not to achieve savings; and
- in some older public housing estates, the environment was very bad and needed to be redeveloped.

4. The Committee understood from paragraph 3.4 of the Audit Report that in CRP projects where multiple reception estates were involved, a significant number of new flats in the reception estates had been left vacant for more than six months. According to Audit's estimation, the total rental income forgone was \$19 million. The Committee were concerned that the vacancy situation had not only resulted in a loss of a substantial amount of rental income, but families on the waiting list for public housing would also have to wait for a longer time. They asked whether improvement could be made to minimise the vacant period of flats in the reception estates.

5. In response to the Committee's concern, the **Chairman, HA** said that the vacant period could be shortened, but only to a very limited extent. Where multiple reception estates were involved, the affected tenants very often wished to wait before deciding on the new estate to choose, thereby delaying the evacuation process.

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6. In the light of the Chairman, HA's remarks, the Committee referred to paragraphs 2.13 to 2.17 of the Audit Report. It was stated that, among the 18 CRP projects for which the Housing Department (HD) was unable to meet the target evacuation date, the delays of some projects were caused by the longer time taken for completing the evacuation of the affected tenants which, in turn, was mainly due to the handling of hard-core cases (i.e. cases where the affected tenants refused to move or failed to select a flat in a reception estate for whatever reason). In some cases, HD staff had not complied with the time target set out in the Procedure Guidelines on the Advance Allocation System to issue Notices to Quit to the tenants concerned within two months after the completion of the last reception estate.

7. The Committee queried whether the delay in completing the evacuation process was indeed caused by the tenants taking longer time to make a choice, and not by the HD's failure to comply with the time target for issuing Notices to Quit.

8. **Mr John Anthony Miller, Director of Housing**, said that:

- the CRP involved the removal of people on an enormous scale. In the past 10 years, nearly 500,000 persons living in sub-standard flats were moved to new accommodation. The CRP had not caused much disruption to their lives;
- the causes of CRP project delays were multifarious, including delays in building programmes which might be the result of inclement weather, and contractual problems on a particular site. At the estate level, the HD tried to provide tenants with a reasonable choice to suit their circumstances. Hence, there was a need to provide multiple reception estates which were located within the district and were convenient for the tenants; and
- the redevelopment of an estate was announced five years before demolition. From three years before demolition, affected tenants were encouraged to move out, apply for the Home Ownership Scheme (HOS) or mortgage subsidies, or choose alternative accommodation. The target evacuation date was announced from two years forth and most families decided on their options during that period. Practically, it was impossible to achieve a perfect match with all affected tenants being able to move into the new flats by the evacuation day.

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9. In order to ascertain whether the vacant period of flats in the reception estates could be shortened, the Committee referred to the Shek Lei Estate Phase 9 project. According to paragraphs 3.5 and 3.6 of the Audit Report, the first reception estate (Shek Yam East Estate Phase 1) was completed in January 1996 while the flat allocation process could only be completed in March 1997. As a result, the 522 new flats at Shek Yam East Estate Phase 1, which had been reserved for the rehousing operation of Shek Lei Estate Phase 9, were left vacant for 13 months. The Committee asked:

- when the HD offered the flats at Shek Yam East Estate Phase 1 to the tenants; and
- why the HD had not advanced the flat allocation process so that interested tenants could move into some of the flats at Shek Yam East Estate Phase 1 at an earlier date.

10. The **Director of Housing** and **Mr LAU Kai-hung, Business Director (Allocation and Marketing)**, explained that:

- when the redevelopment of Shek Lei Estate Phase 9 was formally announced in December 1995, the affected tenants were already informed that they could choose from among four major reception estates, including Shek Yam East Estate Phase 1. Actually, if the tenants so wished, they could choose Shek Yam and move in immediately. As it turned out, most of the tenants preferred the other three estates;
- Shek Yam East Estate Phase 1 was not so popular as the other three estates because it was the main reception estate for other earlier phases. The tenants of those phases had already opted for the more popular flats. As the remaining flats were not so desirable, the tenants would rather wait for the completion of the other reception blocks;
- since the HD wanted to allow the tenants a degree of choice in where they preferred to live, there was bound to be a certain extent of mismatch; and
- as revealed in Appendix H of the Audit Report, the net total delay for the 22 CRP projects examined by Audit was 19 months. If the time savings achieved in some projects (e.g. Pak Tin Estate Phase 3, Upper Ngau Tau Kok Estate Phase 1 and Shek Pai Wan Estate Phase 2) were taken into account, the average delay was only about three weeks.

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11. As housing flats were very precious resources, the Committee asked whether:
- the HD could guarantee that the delay of CRP projects would be no more than three weeks; and
 - the HA had established any pledges regarding the vacant period of reception flats.
12. The **Director of Housing** replied that the HD would make its best efforts to ensure that the number of flats that remained vacant pending redevelopment was kept to an absolute minimum, and reduce the period of CRP project delays to below three weeks.
13. In his letter of 12 December 2000 in *Appendix 33*, the **Director of Housing** informed the Committee of the HD's key performance indicators and the relevant targets on the management of vacant public housing rental flats, as set out in the HA's Corporate Plan. For the year 2000/01, the target vacancy rate in respect of public rental housing was below 1.5%. The target vacant period of vacated public rental housing was 10 weeks.
14. The Committee understood that some tenants would only opt for their preferred reception flats at a very late stage. Sometimes this was due to a mismatch between the flat mix in reception estates and the demands of tenants. For instance, three-bedroom flats not available in the first completed reception estate would be available in those to be completed later. Under the circumstances, tenants who needed such flats would have no option but to wait until the other reception estates were completed. Very often, there was a long time lag between the completion dates of different reception estates. It thus appeared that the mismatch was caused by inadequate planning of the HD. The Committee asked:
- how the HD would ensure that the design of reception estates matched the demands of tenants; and
 - whether the HD would start allocating flats prior to the completion of the first reception estate so as to speed up the evacuation process.
15. The **Chairman, HA** undertook to review the situation, including the following aspects:
- the coordination between the completion of the reception estates and the evacuation process; and

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- the match between the design of reception estates (including the provision of flats of different sizes) and the tenants' demand.

16. Responding to the Committee's enquiry about the details of the review, the **Director of Housing**, in his letter of 8 January 2001 in *Appendix 34*, said that:

- a standing departmental committee on flat mix for new housing production had been set up since 1999. Besides, flexibility in allocation had been allowed for splitting of tenancies, new changes of family circumstances and tenants' individual choices on rehousing. The HD would keep the matter under constant review;
- although there was still a need to have multiple reception estates to allow for flexibility in meeting the affected tenants' demand on local rehousing, arrangements had been made to let such flats immediately to the affected tenants, thereby reducing the vacant period of the flats; and
- the HD would ensure that the completion dates of the multiple reception estates were as close as possible.

17. The Committee enquired whether the HD would adopt the private sector practice of setting up model flats of the reception blocks to enable prospective tenants to gain a better understanding of what they would be offered, in order to expedite the flat allocation process.

18. The **Director of Housing** and the **Business Director (Allocation and Marketing)** said that:

- nine model flats for both rental units and HOS units had been set up in the HD's customer centre in Wang Tau Hom since its commissioning in September 1999. The tenants affected by redevelopment and HOS buyers could view the model flats in the customer centre; and
- under the Advance Allocation System, the tenants affected by CRP would have chosen their flats two months before the completion of the reception blocks.

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19. Referring to paragraph 2.13 of the Audit Report, the Committee enquired whether the hard-core cases involved those cases where two elderly persons refused to accept a flat of only 16 square meters.

20. The **Business Director (Allocation and Marketing)** replied that:

- according to the HD's record, the hard-core cases did not involve such cases. Instead, hard-core cases usually concerned requests for splitting of tenancies, and cases where the tenants' applications for adding new members to the households were turned down. Such tenants might lodge appeals against the HD's decision; and
- to shorten the present five-month evacuation period, the HD would consider Audit's recommendation on shortening the three-month period for the issue of Notices to Quit and the determination of appeal cases.

21. The Committee understood from paragraph 3.19 of the Audit Report that unauthorised persons were residing in the estates of 20 of the 22 completed CRP projects. According to paragraph 3.23, the Director of Housing had said that the tenants had the responsibility of asking the unauthorised persons to leave the premises. Noting that allowing unauthorised persons to reside in the estates was against the existing policy and unfair to people on the waiting list, the Committee asked whether the HD would consider evicting all unauthorised persons from the housing estates upon detection.

22. In response, the **Business Director (Allocation and Marketing)** said that:

- it was agreed that unauthorised persons should not reside in the housing estates;
- in September 2000, the HD had launched a territory-wide publicity programme to urge tenants to be co-operative. The Department had also put in place a prosecution mechanism to ensure that such cases would be dealt with expeditiously;
- indeed, it was expressly stated in the Housing Ordinance (Cap. 283) that it was a breach of the tenancy agreement for tenants to allow unauthorised persons to stay in their rental flats, and their tenancies could be terminated. The tenants concerned could appeal against the termination by proving their relationship with the unauthorised persons. Under the law, the HD must allow the tenants to appeal before taking more drastic action to evict the unauthorised persons from the premises; and

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- it was the Government's current policy that nobody should be rendered homeless as a result of government action, such as redevelopment. In the event that the unauthorised persons were rendered homeless due to redevelopment, they would be rehoused in interim housing.

23. The Committee enquired whether the unauthorised persons were mostly the tenants' family members and, if so, whether the HD could make any special arrangements rather than splitting the families by evicting and rehousing the unauthorised residents in interim housing.

24. The **Business Director (Allocation and Marketing)** stated that:

- in most cases, the unauthorised persons did not have any relations with the tenants. Hence, under the law, the HD should take action to terminate the tenancies, if warranted;
- where the unauthorised persons and the tenants were related, the HD would take appropriate action depending on the circumstances. For example, if there was an elderly person who needed care and attention by an unauthorised person, the HD would allow the person to stay on a temporary basis; and
- as for a tenant's wife and children from the Mainland, there would be no problem of including them in the existing tenancy.

Vacancy of CRP flats

25. The Committee understood that under the pre-redevelopment transfer scheme (PDTS), tenants in the CRP blocks were encouraged to move out and vacate their flats. Flats vacated would be frozen from re-letting. According to paragraphs 3.12 and 3.13 of the Audit Report, as at 31 December 1999, there were 11,300 CRP flats left vacant for an average of 17 months under the PDTS. The Committee further noted the Director of Housing's response that the vacant CRP flats should not be re-let as that would create operational difficulties for the HD (paragraph 3.18 of the Audit Report).

26. The Committee were concerned that a large number of flats in CRP estates were left vacant for a very long time while many families were waiting for public housing. As most CRP estates were located in the urban areas and many people preferred living in such areas, the Committee asked whether the HD would consider letting out the vacant CRP flats to people in poor living conditions and the families on the waiting list on a short-term basis, instead of leaving the flats vacant.

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27. The **Director of Housing** said that:

- while he appreciated the Committee's concerns, the suggestion was not practical or economic. The blocks had to be demolished because they were essentially non-self-contained and very old blocks. The flats required much refurbishment if the HD was to let them out. The cost of refurbishment would be greater than the amount of rental that could be generated over a short period of time, such as 18 months; and
- if the HD really offered to a family on the waiting list the choice of spending 18 months in a redevelopment block, it was very likely that the family would prefer to wait for its turn for a new estate. Even if there were people who accepted the offer, they would have to move again at the end of the 18 months. Such double moves would incur more expenses for the tenants and the HD.

28. In view of the difficulties perceived by the Director of Housing, the Committee enquired whether the HD would consider testing the market by:

- including restriction clauses in the tenancy agreements to ensure that the short-term tenants would move out upon the expiry of the tenancies; and
- only letting out the 2,800 flats that had been frozen for two to four years.

29. The **Director of Housing** and the **Business Director (Allocation and Marketing)** replied that:

- the flats in the redevelopment blocks were re-let to overcrowded families living in the same CRP estate;
- before the CRP flats were formally frozen from re-letting, the flats could be allocated. From the HD's experience, offering to families on the waiting list flats in estates which were known to be subject to redevelopment did not attract a good response. They preferred to wait; and
- if the HD were to offer the flats to people not on the waiting list, such as those living in squatter areas or on the rooftops, at the end of the tenancy period, there would inevitably be people who requested rehousing by the HD despite their earlier undertaking to leave upon the expiry of the tenancy. By then, the HD could only offer them interim housing in some remote areas such as Tin Shui Wai. The consequences would be undesirable.

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30. To ascertain the feasibility of letting out the CRP flats, the Committee further asked:

- whether the HD would consider letting out, on a short-term basis, to the public and families on the waiting list, those CRP flats that were situated at popular locations, did not need much refurbishment and could be leased for at least two years prior to redevelopment;
- whether the HA had been consulted on the matter; and
- the number of flats that had been allocated to overcrowded families in CRP blocks since 1997-98.

31. In his letters of 12 December 2000 and 8 January 2001, in *Appendices 33 and 34* respectively, the **Director of Housing** informed the Committee that:

- out of the 11,300 vacant CRP flats, 8,500 (or 75%) had been frozen from re-letting for less than two years. The vacancies were mainly caused by tenants moving out to new reception estates through the redevelopment process. The freeze of such vacant flats from re-letting was in accordance with the HA's policies and met the desired objectives of redevelopment of the older estates;
- the policy of freezing vacant flats in redevelopment blocks from re-letting was first introduced by the HA in 1984 and further endorsed in 1989;
- the letting of CRP flats to the public and applicants on the waiting list was considered not suitable, both on financial and operational grounds. Most of the CRP blocks were over 30 years of age. After years of occupation, those flats were generally in poor conditions. Normally, outgoing tenants would not spend money on renovating their flats. Therefore, the majority of those flats required intensive refurbishment works before they were fit for occupation. The average refurbishment cost of a vacant flat was about \$24,000, including rewiring works to meet the minimum requirements of the utility companies. Thus, the rents collected in such a short period were not sufficient for recovering the costs incurred; and

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- the numbers of flats accepted by overcrowded families in blocks affected by the CRP since 1997-98 were as follows:

1997-98	562
1998-99	683
1999-00	692
2000-01	345
(up to 31 October 2000)	

Maintenance of tenancy information

32. According to paragraph 4.5 of the Audit Report, home visits were required to be paid once every two years to verify the latest personal data of tenants living in public rental housing estates. However, the Audit analysis of 75 home visit records revealed that, in 64% of the cases HD staff did not comply with the requirement. The Committee queried whether the situation had contributed to unauthorised persons residing in public housing estates.

33. The **Director of Housing** and the **Business Director (Allocation and Marketing)** said that:

- the problem had been studied by the HD and the Independent Commission Against Corruption in 1996. Since 1998, tenants were required to declare their occupancy position every two years. Estate management staff then performed home visits to verify the information provided thereon. It was a criminal offence for the tenants to provide false information;
- internal guidelines and instructions had been issued to remind management staff to update the tenancy database and ensure that the information provided by tenants was accurate. A campaign had been launched to publicise against the abuse of public housing resources. Those measures were not only applicable to the redevelopment estates, but also to all public housing estates;
- as for unauthorised persons in redevelopment estates, some of them might be the tenants' relatives from the Mainland. After the elderly members of the households had passed away, the flat was filled entirely with unauthorised residents. It would take time and patience to rectify the situation. The HD considered that the appropriate time for dealing with the problem was during the redevelopment process; and

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- the situation was not so bad in the newer estates because the tenancy information was gathered afresh and the records were up-to-date.

34. The Committee further asked whether the HD had a target date for the completion of updating the tenancy information in respect of all public housing estates. The **Director of Housing** responded that:

- for the new estates, the tenancy information would be updated; and
- for the 17 estates which were undergoing redevelopment, sorting out the tenancy information was indeed part of the five-year redevelopment process. Carrying out a separate exercise solely for updating the tenancy record would not be effective.

35. The Committee questioned how the HD could ensure, without up-to-date tenancy database, the reliability of its forecast of the demand for flats of different sizes in the reception estates.

36. In his letter of 8 January 2001 in *Appendix 34*, the **Director of Housing** stated that:

- as only 75 records were studied by Audit against the HA's total stock of over 640,000 tenancies, the rate of non-compliance of home visits derived from such a small sample did not represent the overall situation; and
- the Biennial Declaration System was introduced in June 1998 to achieve better operational efficiency. As at the end of October 2000, the HD had already verified 97% of all tenancies covered in the first declaration cycle. With such a new initiative, the HD had more up-to-date tenancy information of its housing stock for management purposes.

37. **Conclusions and recommendations** The Committee:

Housing resources

- consider that housing resources are important and scarce resources of the community, as already pointed out in the Committee's Report No. 28 of June 1997 and recognised by the Chief Secretary for Administration when presenting the Government Minute in response to that Report;

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- do not accept the view that as the average length of Comprehensive Redevelopment Programme (CRP) project delays was short and the number of vacant reception and CRP flats was low, the problems of CRP project delays and vacant flats are not serious. Rather, any delay should be dealt with squarely because families on the waiting list for public housing will have to wait for a longer time as a result;

Delays of CRP projects

- find the Director of Housing's statement that delays in the CRP projects could save considerable costs to the Housing Authority (HA) unacceptable because, as stated by the Chairman, HA, the primary objective of CRP is to improve the living environment of the residents and the environment in the community, not to achieve savings. The saving of costs is only incidental to the Housing Department's (HD's) unwarranted delays in those projects;
- express serious concern that:
 - (a) the Director of Housing has not taken any effective action to identify the causes of delays of the 18 CRP projects for which the HD was unable to meet the target evacuation date, with a view to avoiding delays in future projects; and
 - (b) HD staff had not taken prompt action to issue Notices to Quit to ensure that cases where the tenants refused to accept the HD's rehousing offers were promptly dealt with;
- urge the Director of Housing to strictly comply with the time target specified in the Procedure Guidelines on the Advance Allocation System for issuing Notices to Quit (i.e. within two months after the completion of the last reception estate);
- recommend that the Director of Housing should conduct a review to ascertain whether there is further scope for shortening the present evacuation period of five months by streamlining the procedures of the rehousing operation, and for further shortening the period for the determination of appeals to less than two months;
- wish to be kept informed of the progress of the above review;

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Vacancy of new flats in reception estates and CRP flats

- express grave concern that in CRP projects where multiple reception estates were involved, a large number of new flats in the reception estates had been left vacant for many months;
- note that the Director of Housing has said that where multiple reception estates are involved, the HD's current practice is to let out the earlier-completed reception estates;
- note the Chairman, HA's pledge that the HA will review the coordination between the completion of the reception estates and the evacuation process, and the coordination between the design of reception estates (including the provision of flats of different sizes) and the demand of tenants;
- urge the HA to conduct a comprehensive review and ensure that the design of reception estates will match the tenants' demand;
- wish to be kept informed of the vacancy situation of new flats of reception estates for CRP projects and the results of the above review;
- express dismay that while many people were in poor living conditions and many families were waiting for public housing, a significant number of vacant CRP flats were frozen from re-letting for a very long time;
- note the Director of Housing's pledges to:
 - (a) take early action (e.g. speeding up the registration and verification process and advancing the flat allocation process) to complete the rehousing operation before the completion of the first reception estate, in cases where multiple reception estates are involved; and
 - (b) arrange for tenants affected by the CRP to view the model flats well in advance of the completion of the first reception estates in order to speed up the flat allocation process;
- note that the HA's policy of freezing vacant flats in redevelopment blocks from re-letting was first introduced in 1984 and further endorsed in 1989;

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- urge the Director of Housing to:
 - (a) review the feasibility of letting out vacant CRP flats to the public and families on the waiting list on a short-term basis, especially those vacant flats that are situated at popular locations, do not require much refurbishment and can be leased for at least two years prior to redevelopment; and
 - (b) critically review whether there is scope for reducing the freeze period of three years under the pre-redevelopment transfer scheme;
- wish to be kept informed of the actions taken to make economic use of vacant CRP flats;
- express concern that there were many unauthorised persons residing in the estates involved in the CRP projects, and that the HD had not taken prompt action to evict these unauthorised persons;
- recommend that the Director of Housing should ensure that all unauthorised persons are evicted from the housing estates upon detection;

Maintenance of tenancy information

- express concern that the database for tenancy information was not up-to-date because home visits had not been paid by the HD staff as frequently as they should in accordance with the HD's internal instruction;
- express dismay that the rate of failure to comply with the instruction to pay home visits once every two years was as high as 87% in respect of two public housing estates; and
- urge the Director of Housing to take action to ensure that the HD staff comply with the home visits requirement, and that the database for tenancy information is always kept up-to-date.

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